

At: Aelodau'r Pwyllgor Llywodraethu
Corfforaethol

Dyddiad: 9 Mehefin 2016

Rhif Union: 01824706204

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Annwyl Gyngorydd

Fe'ch gwahoddir i fynychu cyfarfod y **PWYLLGOR LLYWODRAETHU CORFFORAETHOL, DYDD MERCHER, 15 MEHEFIN 2016** am **9.30 am** yn **YSTAFELL BWYLLGORA 1A, NEUADD Y SIR, RHUTHUN.**

Yn gywir iawn

G Williams
Pennaeth Gwasanaethau Cyfreithiol, AD a Democrataidd

AGENDA

1 PENODI CADEIRYDD

Penodi Cadeirydd y Pwyllgor Llywodraethu Corfforaethol am y flwyddyn i ddod.

2 PENODI IS-GADEIRYDD

Penodi Is-Gadeirydd y Pwyllgor Llywodraethu Corfforaethol am y flwyddyn i ddod.

3 YMDDIHEURIADAU

4 DATGANIADAU O GYSYLLTIAD

Dylai'r Aelodau ddatgan unrhyw gysylltiad personol neu gysylltiad sy'n rhagfarnu mewn unrhyw fater a nodwyd i'w ystyried yn y cyfarfod hwn.

5 MATERION BRYD

Rhybudd o eitemau y dylid, ym marn y Cadeirydd, eu hystyried yn y cyfarfod fel materion brys yn unol ag Adran 100B(4) Deddf Llywodraeth Leol 1972.

- 6 COFNODION** (Tudalennau 5 - 18)

Derbyn cofnodion cyfarfod y Pwyllgor Llywodraethu Corfforaethol a gynhaliwyd ar 27 Ebrill 2016.
- 7 CYFANSODDIAD Y CYNGOR** (Tudalennau 19 - 356)

I ystyried adroddiad gan y Swyddog Monitro (copi'n amgaeedig) yn ceisio sylwadau ac arsylwadau ar y Cyfansoddiad drafft.
- 8 STRATEGAETH AR GYFER ATAL A CHANFOD TWYLL, LLYGREDIGAETH A LLWGRWOBRWYAETH** (Tudalennau 357 - 400)

I ystyried adroddiad gan y Swyddog Monitro (copi'n amgaeedig) ar y diwygiadau i strategaeth y Cyngor ar gyfer atal a chanfod twyll, llygredigaeth a llwgrwobrwyath.
- 9 DIWEDDARU RHEOLIADAU ARIANNOL Y CYNGOR** (Tudalennau 401 - 470)

Ystyried adroddiad gan y Prif Swyddog Cyllid (copi'n amgaeedig) ar y Diweddaru Rheoliadau Ariannol y Cyngor.
- 10 PROSES Y GYLLIDEB 2017/18** (Tudalennau 471 - 486)

Ystyried adroddiad gan y Prif Swyddog Cyllid (copi'n amgaeedig), sy'n rhoi diweddariad ar y broses i gyflawni'r gyllideb referniw ar gyfer 2017/18.
- 11 ADRODDIAD SIRO BLYNYDDOL** (Tudalennau 487 - 496)

I ystyried adroddiad gan y Pennaeth Gwella Busnes a Moderneiddio (copi'n amgaeedig) sy'n manylu ar achosion o dorri'r Ddeddf Diogelu Data a chwynion yn ymwneud â deddfwriaeth Rhyddid Gwybodaeth.
- 12 ADRODDIAD ARCHWILIO - RHEOLI CRONFEYDD YSGOLION GWIRFODDOL** (Tudalennau 497 - 512)

I ystyried adroddiad gan y Pennaeth Archwilio Mewnol sy'n rhoi manylion ar yr adroddiad Archwilio Mewnol diweddar ar Reoli Cronfeydd Ysgol a gafodd sgôr sicrwydd 'Isel' (copi'n amgaeedig).
- 13 HUNANWERTHUSO'R PWYLLGOR LLYWODRAETHU CORFFORAETHOL** (Tudalennau 513 - 528)

I dderbyn cyflwyniad ar Hunanwerthuso'r Pwyllgor Llywodraethu Corfforaethol (copi'n amgaeedig).
- 14 RHAGLEN WAITH Y PWYLLGOR LLYWODRAETHU CORFFORAETHOL** (Tudalennau 529 - 530)

I ystyried rhaglen gwaith i'r dyfodol y pwyllgor (copi'n amgaeedig).

AELODAETH

Y Cynghorwyr

Stuart Davies
Peter Duffy
Alice Jones

Jason McLellan
Win Mullen-James

Aelod Lleyg

Paul Whitham

COPIAU I'R:

Holl Gynghorwyr er gwybodaeth
Y Wasg a'r Llyfrgelloedd
Cynghorau Tref a Chymuned

Mae tudalen hwn yn fwriadol wag

PWYLLGOR LLYWODRAETHU CORFFORAETHOL

Cofnodion cyfarfod o'r Pwyllgor Llywodraethu Corfforaethol a gynhaliwyd yn Ystafell Bwyllgora 1a, Neuadd y Sir, Rhuthun, Dydd Mercher, 27 Ebrill 2016 am 9.30 am.

YN BRESENNOL

Y Cynghorwyr Ann Davies, Stuart Davies, Peter Duffy, Jason McLellan (Cadeirydd) ac Mr Paul Whitham (Aelod Lleyg).

Mynychodd y Cynghorydd J. Thompson-Hill fel arsylwr.

HEFYD YN BRESENNOL

Cyfarwyddwr Corfforaethol: Cymunedau (NS), Pennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democrataidd (GW), Pennaeth Archwilio Mewnol (IB), Pennaeth Gwella Busnes a Moderneiddio (AS), Pennaeth Priffyrdd a Gwasanaethau Amgylcheddol (SP), Prif Swyddog Cyllid (RW), Prif Gyfrifydd (SG), Uwch Swyddog Caffael (AA), Rheolwr Rhaglen Caffael (TB), Uwch Archwilydd (LH), Cynrychiolwyr Swyddfa Archwilio Cymru (GB, MP) a Gweinyddwr Pwyllgorau (SLW).

Hysbysodd y Cadeirydd yr Aelodau bod y Cynghorydd J.A. Davies wedi derbyn cwyn gan aelod o'r cyhoedd a oedd wedi mynegi pryder bod Aelod Etholedig wedi bod yn aelod o'r Grŵp Tasg a Gorffen tra'n Aelod o'r Pwyllgor Archwilio hefyd. Eglurodd Pennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democrataidd y dylai Grŵp Tasg a Gorffen gynnwys aelodau o'r Pwyllgor Archwilio a oedd wedi gofyn, neu benodi, Grŵp Tasg a Gorffen i gynnal gwaith manwl ar ei ran gyda'r bwriad o adrodd yn ôl ar ei ganfyddiadau. Cytunodd Pennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democrataidd i anfon yr wybodaeth at yr achwynydd priodol.

Eglurodd y Cadeirydd mai dyma oedd cyfarfod olaf y Cynghorydd J.A. Davies cyn ei phenodi yn Gadeirydd y Cyngor, a mynegodd ei werthfawrogiad am ei chyfraniad fel aelod o'r Pwyllgor.

1 YMDDIHEURIADAU

Derbyniwyd ymddiheuriadau am absenoldeb oddi wrth y Cynghorwr(wyr) Alice Jones.

2 DATGAN CYSYLLTIAD

Ni fu i unrhyw Aelod ddatgan cysylltiad personol na chysylltiad sy'n rhagfarnu ag unrhyw fusnes a oedd i'w ystyried yn y cyfarfod.

3 MATERION BRYD

Ni chodwyd unrhyw eitemau y dylid, ym marn y Cadeirydd, eu hystyried yn y cyfarfod fel mater o frys yn unol ag Adran 100B(4) Deddf Llywodraeth Leol, 1972.

4 COFNODION

Cofnodion cyfarfod y Pwyllgor Llywodraethu Corfforaethol a gynhaliwyd ar 23 Mawrth, 2016.

Cywirdeb: - Nodwyd fod yr Aelod Lleyg Mr Paul Whitham yn bresennol yn y cyfarfod.

PENDERFYNWYD – yn amodol ar yr uchod, derbyn a chymeradwyo'r cofnodion fel cofnod cywir.

5 UNO GWASANAETHAU ADDYSG A GWASANAETHAU PLANT

Roedd adroddiad gan y Cyfarwyddwr Corfforaethol: Cymunedau (CDC) eisoes wedi cael ei ddsbarthu.

Eglurodd y CCC y gofynnwyd i'r Pwyllgor nodi adroddiad Prawf Sicrwydd a oedd yn cyflwyno canfyddiadau'r Prawf Sicrwydd ar gyfer uno Gwasanaeth Addysg a Gwasanaethau Plant a Theuluoedd yng Nghyngor Sir Ddinbych. Mae'r ddau wasanaeth wedi bod yn gweithredu fel un gwasanaeth, gwasanaethau Addysg a Phlant, ers mis Ionawr, 2016.

Mae'r adroddiad wedi cael ei gyflwyno i'r Pwyllgor er gwybodaeth ac i gynnig sicrwydd bod y broses o drosglwyddo i'r gwasanaeth newydd wedi cael ei reoli'n dda a risgiau wedi'u lliniaru. Ym mis Medi 2014, datganodd y Prif Swyddog Gweithredol newidiadau arfaethedig i strwythur sefydliad y Cyngor, gan gynnwys dwyn ynghyd y Gwasanaeth Addysg a'r Gwasanaethau Plant a Theuluoedd i greu gwasanaeth newydd, Gwasanaethau Addysg a Phlant. Mae hyn wedi bod yn orfodol yn Lloegr ers dros ddegawd ac mae'n dod yn fwyfwy cyffredin yng Nghymru.

Cytunwyd y dylid datblygu Prawf Sicrwydd a'i gynnal fel rhan o'r broses o drosglwyddo i'r strwythur sefydliad newydd. Nod y Prawf Sicrwydd oedd darparu sicrwydd y byddai dyletswyddau statudol y Cyngor tuag at blant a phobl ifanc yn cael eu cynnal a'u cryfhau drwy'r strwythur sefydliad newydd. Bydd ailadrodd y Prawf Sicrwydd yn cynnig sicrwydd dros gyfnod o amser bod y gwasanaeth newydd yn cydymffurfio â'r atebolrwydd statudol.

Eglurodd y CCC fod y Prawf Sicrwydd yn darparu sicrwydd ar:-

- ✓ gyflawni dyletswyddau statudol y Cyfarwyddwr Gwasanaethau Cymdeithasol a'r Cyfarwyddwr Addysg.
- ✓ penderfyniadau dirprwyedig ac unrhyw risgiau cysylltiedig a sut y byddai'r rhain yn cael eu rheoli.
- ✓ cryfderau a meysydd i ganolbwyntio arnynt yn y dyfodol ar gyfer y gwasanaeth newydd, o ran bodloni a rhagori ar ddyletswyddau statudol, a gwneud y mwyaf o botensial tîm Addysg a Phlant cyfunol.
- ✓ mewnbwn i adolygiad parhaus y Gwasanaethau Cyfreithiol a Democrataidd o gyfansoddiad y Cyngor, yn benodol o amgylch atebolrwydd dirprwyedig swyddogion allweddol.

Roedd yr offerynnau statudol allweddol a oedd wedi llywio datblygiad y Prawf Sicrwydd wedi'u rhestru yn y Prawf Sicrwydd sydd wedi'u cynnwys yn Atodiad 1 yr adroddiad.

Roedd y Prawf Sicrwydd yn cynnwys y canlynol:-

- Adolygiad pen-desg a dogfennaeth o bob atebolrwydd statudol
- Proses o gyfweiliadau strwythuredig gydag uwch reolwyr Gwasanaethau Addysg a Phlant a Theuluoedd a'r Cyfarwyddwr, Cymunedau
- Adolygiad o gyfarfodydd a fynychwyd gan aelodau'r ddau dîm rheoli
- Adolygiad o'r penderfyniadau dirprwyedig ar gyfer y ddau dîm rheoli
- Ymgynghori parhaus gyda staff yn gysylltiedig â newidiadau sefydliadol
- Ymgysylltiad parhaus ag aelodau etholedig, gan gynnwys y ddau aelod Arweiniol a'r Arweinydd yn uniongyrchol, a mynychu pob Grŵp Ardal Aelodau yn hydref 2015.

Roedd canfyddiadau allweddol/camau gweithredu wedi'u eu cynnwys yn y Prawf Sicrwydd yn Atodiad 1.

- Cafodd strwythur y sefydliad ei ddiwygio a dyrannwyd swyddi uwch fel y nodir ar dudalen 4 yn Atodiad A.
- Cafodd presenoldeb mewn cyfarfodydd allanol eu hadolygu a chytunwyd ar ddirprwyaethau
- Cafodd cyfarfodydd rheoli mewnol eu hadolygu a chytunwyd ar strwythur
- Cafodd penderfyniadau dirprwyedig eu bwydo i mewn i'r adolygiad gan y gwasanaethau Cyfreithiol, o Gyfansoddiad y Cyngor
- Cafodd y risgiau a chamau lliniaru eu nodi a'u cytuno arnynt.

Roedd canfyddiadau allweddol Asesiad Effaith Cydraddoldeb yn cynnwys:-

- Ar y cyfan, gwelwyd rhai canlyniadau cadarnhaol mewn perthynas â diogelu plant a phobl ifanc, er enghraifft.
- Dylai'r gwaith colegol ar draws y gwasanaeth alluogi mwy o gyfle cyfartal ar gyfer y grŵp diamddiffyn hwn
- Roedd risg posibl i'r tîm rheoli o'r llwyth gwaith ychwanegol a'r newidiadau mewn strwythur rheoli. Byddai hyn yn cael ei adolygu ar sail barhaus drwy gyfarfodydd rheoli rheolaidd.

Roedd unrhyw risgiau a chamau i'w lliniaru wedi'u hamlinellu yn y Gofrestr Risg.

Darparodd y CCC yr ymatebion canlynol i gwestiynau a gyflwynwyd gan Aelodau o'r Pwyllgor:-

- Cadarnhawyd na fyddai uno'r ddau wasanaeth yn cael ei weld fel meddiannu gan un gwasanaeth. Mae'r ddau dîm rheoli wedi cael sicrwydd y byddai elfennau o'r gwaith a oedd yn waith cymdeithasol neu addysg yn unig yn aros yr un fath.

Fodd bynnag, byddai elfen o gydweithio a oedd eisoes ar waith yn parhau a fyddai'n cynorthwyo i wella lefel y gwasanaeth a ddarperir.

- Nid oedd modd i'r CCC gadarnhau y bu effaith ar y gwasanaeth CAMHS a oedd y tu allan i'r strwythur priodol gan ei fod yn wasanaeth iechyd. Fodd bynnag, roedd mynediad at wybodaeth bellach ar gael yn fwy hwylus, ac roedd mesurau i leihau'r rhestr aros yn cael eu harchwilio.
- Eglurwyd y byddai meini prawf llwyddiant yr uno, o ran cynllunio prosiect, yn cael ei asesu drwy dair ffrwd gwaith yn seiliedig ar Ddiogelu, Plant ag Anableddau ac Anghenion Addysgol Arbennig, ac Ymyrraeth Gynnar ac Ataliaeth.
- Cafodd rolau'r Swyddogion Adolygu, tudalen 28 yr adroddiad, eu hamlinellu a'u crynhoi gan y CCC.
- Eglurodd Cynrychiolydd Swyddfa Archwilio Cymru nad oedd yn ymwybodol o unrhyw bryderon sydd wedi'u nodi gan AGGCC mewn perthynas â diogelu a Gwasanaethau Plant, ac amlinellodd rôl AGGCC wrth fonitro strwythurau a'r trefniadau a oedd wedi'u cychwyn.

Yn ystod y drafodaeth a ddilynodd gofynnodd y Pwyllgor fod yr adroddiad Herio Gwasanaeth, fel yr amlinellir gan y Pennaeth Gwella a Moderneiddio Busnes, yn cael ei gyflwyno i Grŵp Cadeiryddion ac Is-Gadeiryddion Archwilio ym mis Medi 2016. Cytunodd yr Aelodau y dylai adroddiad cynnydd ar ddatblygiad y gwasanaeth gael ei gynnwys yn y rhaglen waith i'r dyfodol ar gyfer mis Tachwedd 2016.

PENDERFYNWYD - bod y Pwyllgor Llywodraethu Corfforaethol:-

- (a) yn derbyn ac yn nodi cynnwys yr adroddiad.
 - (b) yn cytuno bod adroddiad cynnydd yn cael ei gynnwys yn rhaglen waith i'r dyfodol y Pwyllgor ar gyfer mis Tachwedd, 2016, a
 - (c) gofyn bod adroddiad Herio Gwasanaethau cael ei gyflwyno i'r Grŵp Cadeiryddion ac Is-Gadeiryddion Archwilio ym mis Medi, 2016.
- (NS i weithredu)**

6 ADRODDIAD GWELLA BLYNYDDOL SAC - 2015/16

Cyflwynodd y Cynrychiolydd Swyddfa Archwilio Cymru (GB) (CSAC) yr adroddiad ac eglurodd y byddai'r adroddiad yn cael ei gyflwyno yn y dyfodol mewn fformat newydd a fyddai'n cynnwys pedwar adroddiad yn ymdrin â:-

- Gwydnwch ariannol
- Trefniadau ar gyfer Trawsnewid
- Trefniadau llywodraethu
- Archwiliad sy'n seiliedig ar risg o Drefniadau Corfforaethol

Fe eglurodd fod yr adroddiad wedi cael ei lunio ar adroddiad perfformiad y Cyngor yn seiliedig ar waith a wnaed gan Reoleiddwyr eraill megis AGGCC, Estyn a gwaith Swyddfa Archwilio Cymru a gwaith a gynhaliwyd yn ystod y flwyddyn yn ymwneud â chraffu, llywodraethu a gwytnwch ariannol a threfniadau ar gyfer darparwyr gwasanaeth amgen.

Gyda chymorth cyflwyniad PowerPoint rhoddodd Gynrychiolydd Swyddfa Archwilio Cymru grynodedd fanwl o bob un o'r meysydd canlynol o fewn Adroddiad Gwella Blynyddol Swyddfa Archwilio Cymru 2015/16:-

- Cyfranwyr Asesu Perfformiad
- Canfyddiadau Asesu Perfformiad
- Defnyddio adnoddau
- Llywodraethu
- Casgliadau cyffredinol

Eglurodd Gynrychiolydd Swyddfa Archwilio Cymru mai'r casgliad cyffredinol oedd bod gan y Cyngor drefniadau rheoli ariannol ac archwilio cadarn, ac yn parhau i wneud cynnydd o ran cyflawni gwelliannau yn y rhan fwyaf o'i feysydd blaenoriaeth, ac roedd hyn wedi cyflwyno neges gadarnhaol iawn.

Ategodd y Pennaeth Gwella Busnes a Moderneiddio, yn gyffredinol roedd yr adroddiad wedi bod yn dda iawn. Serch hynny, fe dynnodd sylw at dri maes lle mae materion wedi cael eu hamlygu:-

- Materion AGGCC yn ymwneud â Gwasanaethau Cymdeithasol:-
 - Roedd trefniadau ar gyfer diogelu oedolion diamddiffyn wedi cael eu cwestiynu mewn perthynas â rheoli'r broses a chadernid y gweithdrefnau a fabwysiadwyd. Er ei bod wedi ei nodi nad yw defnyddwyr gwasanaethau wedi cael eu rhoi mewn perygl, cyflwynwyd trefniadau i fynd i'r afael â'r pryderon a amlygwyd a byddai'r rhain yn cael eu profi gan AGGCC. Cafodd yr aelodau wybod bod y safonau cenedlaethol ar gyfer derbyn atgyfeiriadau wedi ei fabwysiadu erbyn hyn.
 - Fe ystyriwyd fod lefel y ddarpariaeth Gofal Cartref yn foddhaol. Fodd bynnag, gellid trafod cyflogi swyddogion monitro ychwanegol os bydd yr adolygiad, sy'n cael ei gynnal ar hyn o bryd, yn dynodi camau o'r fath.
- Presenoldeb aelodau mewn cyfarfodydd Archwilio:-
 - Amlinellodd Pennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democrataidd (HLHRDS) y camau a gymerwyd i fynd i'r afael â'r pryderon a amlygwyd, a oedd wedi cael eu derbyn. Eglurodd fod newidiadau strwythurol wedi cael eu harchwilio er mwyn cynorthwyo â phresenoldeb Aelodau mewn cyfarfodydd, megis adolygu'r Cyfansoddiad, ffurfio Gweithgor i edrych ar amser a hyblygrwydd lleoliad, defnyddio dirprwy Aelodau a chael gwared ar gyfyngiadau eraill.
- Trefniadau Ariannol:-
 - Eglurodd y HPPB bod nifer o fodolau cyflwyno llwyddiannus gwahanol wedi cael eu datblygu, ac ymagwedd gorfforaethol wedi ei baratoi er mwyn asesu a chymeradwyo'r datblygiad gyda'r bwriad o ddeall costau ac effeithiau priodol.
 - Cyfeiriwyd at incwm y gwasanaeth a'r prosesau codi tâl blaenorol, a datblygu a chyflwyno Cofrestr Corfforaethol Ffioedd a Thaliadau. Mae'r Pennaeth Archwilio Mewnol a'r Uwch Archwilydd yn cydnabod bod gwelliannau wedi'u nodi.

Mewn ymateb i gwestiwn gan Mr P. Whitham, cadarnhaodd y Pennaeth Gwella Busnes a Moderneiddio y byddai'r meysydd o bryder a amlygwyd yn cael ei gynnwys yng Nghofrestrau Risg y Gwasanaeth perthnasol.

Mynegodd y Cynghorydd J.A. Davies ei siom, er iddo gael ei nodi bod y broses archwilio'n gweithio'n dda roedd pryderon yn parhau yn ymwneud â'r asiantaethau gofal, ac roedd hi'n cwestiynu os oedd nifer digonol o asiantaethau gofal. Eglurodd y Pennaeth Gwella Busnesa Moderneiddio nad oedd y pryderon a godwyd yn ymwneud â safon y gofal a ddarperir, ond at y ffordd y mae'r asiantaethau gofal a darparu trefniadau gofal cartref yn cael eu monitro a'u rheoleiddio. Amlinellodd Gynrychiolydd Swyddfa Archwilio Cymru y broses a fabwysiadwyd a'r meysydd a archwiliwyd wrth asesu perfformiad archwilio.

Mewn ateb i gwestiwn gan y Cadeirydd mewn perthynas â rhwydwaith o gynghorau cydweithredol a chomisiynu modelau cydweithredol a'r angen am strategaeth hirdymor, eglurodd Gynrychiolydd Swyddfa Archwilio Cymru bod ymagwedd gwasanaeth wedi'i fabwysiadu gan y Cyngor.

Yn ystod y drafodaeth a ddilynodd, eglurodd y Cadeirydd y byddai Adroddiad Gwella Blyneddol Swyddfa Archwilio Cymru 2015/16 yn cael ei gyflwyno i'r Cyngor Llawn i'w ystyried, cyn ei gyflwyno i'r Grŵp Cadeiryddion ac Is-gadeiryddion Archwilio i'w drafod.

PENDERFYNWYD - *bod y Pwyllgor Llywodraethu Corfforaethol yn derbyn ac yn nodi cynnwys yr adroddiad.*
(AS i weithredu)

7 ARDYSTIO GRANTIAU A FFURFLENNI 2014/15

Roedd adroddiad gan y Prif Swyddog Cyllid wedi cael ei ddsbarthu yn flaenorol.

Cafodd yr aelodau wybod bod adroddiad o'r enw 'Ardystio Grantiau a Ffurflenni 2014 – 15 Cyngor Sir Ddinbych' wedi cael ei baratoi gan Swyddfa Archwilio Cymru (SAC) ac mae wedi'i ddsbarthu gyda'r papurau ar gyfer y cyfarfod. Mae'r adroddiad yn nodi crynodeb o'r canlyniadau allweddol o waith ardystio Swyddfa Archwilio Cymru ar grantiau a ffurflenni'r Cyngor yn 2014/15. Roedd y SAC wedi gofyn i'r adroddiad mewnol gael ei gyflwyno yn flynyddol i'r Pwyllgor Llywodraethu Corfforaethol er gwybodaeth.

Cyflwynodd cynrychiolydd Swyddfa Archwilio Cymru yr adroddiad sy'n nodi crynodeb o'r canlyniadau allweddol o waith ardystio Swyddfa Archwilio Cymru ar grantiau a ffurflenni'r Cyngor 2014/15, ac roedd at ddefnydd mewnol Cyngor Sir Ddinbych.

Roedd yr adroddiad yn crynhoi prif gasgliadau ac argymhellion o'r gwaith, ac yn nodi bod gan y Cyngor drefniadau digonol ar waith ar gyfer cynhyrchu a chyflwyno ceisiadau grant 2014/15. Roedd y prif addasiad a nodwyd yn ymwneud â Chymhorthdal y Cyfrif Refeniw Tai. Nododd y CA bod diwygiad o £78,791 wedi'i nodi gan Lywodraeth Cymru, ar ôl i'r hawliad gael ei gadarnhau i ddechrau gan

Swyddfa Archwilio Cymru. Fel y nodwyd yn yr adroddiad, roedd y ffigur hwn yn ymwneud â'r hawliad yn 2013/14 ac felly, roedd yn fater amseru rhwng blynyddoedd ariannol ac nid arweiniodd at golled o gymhorthdal i'r Cyngor.

Fe eglurwyd bod Cyllid Grant yn hanfodol wrth ariannu'r gwariant mewn meysydd megis addysg ac ysgolion, priffyrdd a'r amgylchedd ac adfywio. Mae adroddiad Swyddfa Archwilio Cymru wedi helpu i roi sicrwydd bod trefniadau digonol yn eu lle o fewn y Cyngor i weinyddu'r broses grant.

Darparodd Gynrychiolydd Swyddfa Archwilio Cymru fanylion cefndir i'r argymhellion sy'n codi o'r gwaith a wnaed a oedd yn ymwneud â R1 ar Dudalen 12 o'r adroddiad, Grant Refeniw Dechrau'n Deg (FSRG), a R2 a oedd yn argymhell bod yn rhaid i'r Cyngor sicrhau bod yr holl staff sy'n gyfrifol am agor ac arfarnu tendrau ac yna dyfarnu contractau, yn cydymffurfio'n llawn â Rheolau Gweithdrefn Contractau'r Cyngor. Darparodd y CA fanylion am y newidiadau i'r rheoliadau mewn perthynas â'r FSRG, a chyfeiriodd at yr anawsterau a gafwyd wrth gael cadarnhad ysgrifenedig o gytundebau llafar a gafwyd gan Lywodraeth Cymru. Cytunwyd y byddai camau a gymerwyd i fynd i'r afael â'r broblem yn cael ei fonitro a byddai'r canlyniad yn cael ei gyflwyno i'r Pwyllgor. Mynegwyd pryderon gan Aelodau'r Pwyllgor ynghylch y methiant i ddod o hyd i'r copi wedi'i lofnodi o'r cytundeb priodol. Rhoddodd y CA gadarnhad o ran R2, bod set newydd o Reolau Caffael Contract a ffurflenni wedi cael eu cyflwyno, ynghyd â rhaglen hyfforddiant helaeth.

Mae'r manylion ar gyfer y ffioedd ar gyfer gwaith a wnaed gan Swyddfa Archwilio Cymru mewn perthynas ag ardystio grantiau a ffurflenni ar gyfer 2014-15 wedi cael eu cynnwys yn yr adroddiad, ac roedd yn ymrwymiad cyllideb presennol ar gyfer yr Awdurdod. Roedd yr Adroddiad Swyddfa Archwilio Cymru ar grantiau a ffurflenni'r Cyngor at ddefnydd mewnol y Cyngor er mwyn helpu iddo ganolbwyntio ar unrhyw feysydd o risg neu wendid. Daeth yr adroddiad i'r casgliad fod gan y Cyngor drefniadau digonol ar waith, ac roedd argymhellion a sylwadau wedi cael eu hadolygu a'u gweithredu arnynt lle bo hynny'n bosibl.

Yn dilyn trafodaeth bellach mynegodd y Pwyllgor y farn y byddai gweithredu'r Drefn Contractau a Rheolau Caffael newydd, a rhaglen hyfforddi helaeth ar waith, o gymorth wrth fynd i'r afael â'r pryderon a oedd wedi eu nodi a'u nodi gan y Pwyllgor.

PENDERFYNWYD – yn dibynnu ar yr uchod, fod y Pwyllgor Llywodraethu Chorfforaethol yn derbyn yr adroddiad ac yn nodi'r argymhelliad gan y SAC.
(RW, SG i Weithredu)

8 PROSES Y GYLLIDEB 2015/16

Roedd adroddiad gan y Prif Swyddog Cyllid, a oedd yn rhoi diweddariad ar y broses i gyflawni'r gyllideb refeniw ar gyfer 2017/18, wedi ei ddsbarthu eisoes.

Rhoddodd y Cynghorydd J. Thompson-Hill, gyda chymorth y Prif Gyfrifydd (CA), grynoded fanwl o'r adroddiad. Yn ei gyfarfod blaenorol mynegodd y Pwyllgor y dylai fod gan y broses gyllideb ragor o ymgysylltiad Aelodau yn gynnar, a chytunwyd ar y newidiadau canlynol i amserlen y gyllideb:-

- Cyflwyno papur ar broses y gyllideb arfaethedig i Arweinwyr Grwpiau ar 4 Ebrill.
- Ychwanegu diweddariad pellach i raglen Briffio'r Cyngor ar gyfer 6 Mehefin 2016.

Cafodd y broses gyllideb arfaethedig ei drafod yng nghyfarfod Arweinyddion Grwpiau ar 4 Ebrill. Roedd yr adborth cychwynnol wedi bod yn gadarnhaol a rhoddwyd cyfle i Arweinwyr Grwpiau drafod y cynigion ymhellach gyda'u cydweithwyr a darparu sylwadau adborth erbyn 15 Ebrill. Cadarnhawyd na chafwyd unrhyw adborth pellach.

Cafodd proses y gyllideb ddiwygiedig ei gynnwys fel Atodiad 1 ac roedd prif ragdybiaethau ac egwyddorion Hysbysu Datblygu Cynllun Ariannol Tymor Canolig wedi eu hamlinellu yn yr adroddiad. Roedd Amserlen y Gyllideb yn crynhoi'r pedwar cam canlynol o broses y gyllideb:-

- 1) Diffinio a datblygu'r broses
- 2) Nodi cynigion cychwynnol
- 3) Ymgynghori ar a chwblhau cynigion
- 4) Y camau cymeradwyo terfynol

Roedd pob cam yn caniatáu ar gyfer ymgynghori ac ymgysylltu â'r budd-ddeiliaid perthnasol. Yn seiliedig ar dybiaethau presennol, rhagwelwyd bwlch o £4.4 miliwn yng nghyllideb 2017/18. Mae adroddiadau blaenorol wedi tynnu sylw manwl at y broses ymgynghori sylweddol a wnaed i gyflawni cyllidebau 2015/16 a 2016/17.

Mae Atodiad 1 yn rhoi crynodeb o broses y gyllideb arfaethedig ar gyfer 2017/18 ac yn tynnu sylw at bedwar cam y broses sef diffinio'r broses. Byddai angen ymgynghori pellach ar gynigion penodol gyda budd-ddeiliaid penodol a fyddai'n cael ei nodi gan y gwasanaethau yn nhempledi'r cynigion.

Cafodd nod proses y gyllideb ei amlinellu yn yr adroddiad, ac roedd ansicrwydd ynghylch lefel setliadau ariannol yn y blynyddoedd diwethaf wedi gwneud cynllunio ariannol hyd yn oed yn fwy heriol. Roedd y setliad refeniw ar gyfer 2016/17 yn well na'r hyn a ragwelwyd ond roedd diffyg arwyddion cynllunio ariannol ystyrlon ar gyfer y dyfodol. Y gobaith oedd mynd i'r afael â hyn yn dilyn yr etholiadau ym mis Mai 2016, ac y byddai'r broses gyllideb arfaethedig ar gyfer 2017/18 yn helpu i gyflwyno cyllideb gytbwys a galluogi'r Cyngor i ystyried rhagdybiaethau cyllido allweddol, pwysau gwasanaeth, lefelau arian parod cronfeydd wrth gefn a lefel y ffioedd a thaliadau o fewn y Cyngor.

Dywedodd y Cadeirydd wrth y Pwyllgor ei fod yn falch gyda'r cynnig i gynyddu ymgysylltiad yr Aelodau, a phwysleisiodd bwysigrwydd presenoldeb Aelodau yn y cyfarfodydd cyllideb.

PENDERFYNWYD - bod y Pwyllgor Llywodraethu Corfforaethol yn derbyn ac yn nodi cynnwys yr adroddiad ar y datblygiadau diweddaraf.
(RW, SG i Weithredu)

Roedd adroddiad gan y Pennaeth Archwilio Mewnol wedi'i ddsbarthu'n flaenorol.

Cyflwynodd y Pennaeth Archwilio Mewnol adroddiad sy'n cynnwys manylion Adroddiad Archwilio Mewnol Blynyddol i'r Pwyllgor ar gyfer 2015-16. Mae'n cynnwys barn gyffredinol y Pennaeth Archwilio Mewnol ar effeithiolrwydd fframwaith llywodraethu, risg a rheolaeth y Cyngor yn ystod y flwyddyn sy'n llywio'r 'datganiad llywodraethu blynyddol'.

Mae Safonau Archwilio Mewnol y Sector Cyhoeddus (PSIAS) yn ei gwneud yn ofynnol i'r 'Prif Weithredwr Archwilio' ddarparu barn archwilio mewnol blynyddol ac adroddiad lle mae'r sefydliad yn gallu ei ddefnyddio i lywio ei ddatganiad llywodraethu.

Mae Adroddiad Archwilio Mewnol 2015-16, Atodiad 1, yn nodi:-

- bod y Pennaeth Archwilio Mewnol wedi rhoi 'sicrwydd canolig' ar ddigonolrwydd ac effeithiolrwydd cyffredinol amgylchedd rheolaeth fewnol y Cyngor, gan gynnwys ei drefniadau ar gyfer llywodraethu a rheoli risg;
- nid oedd unrhyw beth ynghlwm wrth 'farn' y Pennaeth Archwilio Mewnol;
- lefel y gwaith a wnaeth yr Archwilwyr Mewnol i gyrraedd y 'farn' gyffredinol;
- sut y mae Archwilio Mewnol yn cydymffurfio â'r PSIAS; a
- chrynodeb o berfformiad Archwilio Mewnol yn ystod y flwyddyn.

Cyfeiriodd y Pennaeth Archwilio Mewnol at 29 barn archwilio a gyhoeddwyd yn ystod y flwyddyn, a chadarnhaodd y byddai'r 7 a nodwyd yn y categori sicrwydd isel yn cael eu monitro. Rhoddodd fanylion am y broses asesu allanol a fydd yn cael ei gynnal ar gydymffurfiaeth Archwiliadau Mewnol â PSIAS a fyddai'n cael eu hadrodd yn ôl i'r Pwyllgor.

Hysbyswyd yr Aelodau nad oedd y prosiect Rheoli Risg wedi ei gwblhau i gam adroddiad drafft. Fodd bynnag, roedd y prosiect yn mynd rhagddo a byddai'n cael ei gwblhau yn gynnar yn 2016/17.

Nododd y Cadeirydd nifer o dueddiadau posibl o fewn meysydd penodol a thynnodd sylw at yr angen i fonitro a mynd i'r afael â'r meysydd a'r materion hyn. Mewn ymateb i bryderon a fynegwyd gan Mr P. Whitham ynglŷn â'r cynnydd yng nghanran y safbwyntiau a nodwyd yn y categori sicrwydd isel, eglurodd y Pennaeth Archwilio Mewnol y gallai unrhyw thema benodol gael ei nodi ar gyfer y cynnydd, ond byddai hyn yn cael ei fonitro. Cadarnhaodd hefyd y byddai'r diffiniad ar gyfer categoreiddio barn hefyd yn cael ei archwilio.

Yn dilyn trafodaeth bellach:-

PENDERFYNWYD - y dylid derbyn Adroddiad Blynyddol y Pennaeth Archwilio Mewnol a derbyn a nodi 'barn' gyffredinol.
(**IB i Weithredu**)

Roedd adroddiad gan y Pennaeth Archwilio Mewnol, a oedd yn cynnwys manylion Cynllun Sicrwydd Archwilio Mewnol Blynyddol ar gyfer 2016-17, wedi cael ei ddsbarthu ymlaen llaw.

Roedd y Cynllun yn darparu manylion y prosiectau Archwilio Mewnol arfaethedig ar gyfer y flwyddyn a fyddai'n caniatáu i'r Pennaeth Archwilio Mewnol ddarparu 'barn' ar ddigonolrwydd ac effeithiolrwydd fframwaith lywodraethu, risg a rheolaeth y Cyngor yn ystod y flwyddyn. Mae Safonau Archwilio Mewnol y Sector Cyhoeddus (PSIAS) yn ei gwneud yn ofynnol i'r 'Prif Swyddog Archwilio' ddatblygu cynllun archwilio mewnol yn seiliedig ar risg sy'n cymryd i ystyriaeth y gofyniad i ddarparu barn ac adroddiad archwilio mewnol blynyddol y gall y sefydliad ei ddefnyddio i lywio ei ddatganiad llywodraethu.

Roedd y Cynllun, Atodiad 1, yn darparu cefndir i'r gwasanaeth archwilio mewnol ynghyd â'r cynllun gwaith arfaethedig ar gyfer y flwyddyn yn seiliedig ar asesiad risg ac ymgynghori â gwasanaethau. Byddai'r cynllun arfaethedig o waith yn caniatáu i'r Pennaeth Archwilio Mewnol ddarparu 'barn' gyffredinol yn ei adroddiad blynyddol ar gyfer 2016-17, a byddai'r Pwyllgor yn derbyn adroddiadau gwybodaeth gyson am gynnydd wrth gyflawni'r Cynllun. Roedd y Pennaeth Archwilio Mewnol wedi cyfarfod â Thimau Rheoli'r holl wasanaethau i drafod gwaith arfaethedig Archwilio Mewnol.

Fe eglurwyd y gall methu â chyflwyno lefel ddigonol o archwilio mewnol olygu na allai'r Pennaeth Archwilio Mewnol roi 'barn' flynyddol ar ddigonolrwydd ac effeithiolrwydd fframwaith y Cyngor ar lywodraethu, risg a rheolaeth yn ystod y flwyddyn. Byddai hyn o bosibl yn arwain at broblem llywodraethu sylweddol yn cael ei godi yn 'natganiad llywodraethu blynyddol' y Cyngor ar ddiwedd y flwyddyn ariannol.

Eglurodd y Pennaeth Archwilio Mewnol fod strwythur y gwasanaeth wedi newid, fel y nodir ar dudalen 2 o'r adroddiad, a rhoddodd fanylion am y meysydd o waith a gynlluniwyd, gan gyfeirio'n benodol at weithio mewn perthynas â thaliadau i ddarparwyr Gwasanaethau Cymdeithasol a monitro trefniadau contract o fewn gwasanaethau amrywiol. Byddai meysydd gwaith eraill i'w cynnwys yn y dyfodol yn ymdrin â sicrwydd gwrth-dwyll a llygredd corfforaethol, a oedd wedi ei nodi fel maes risg yn y sector cyhoeddus. Mewn ymateb i gwestiwn oddi wrth y Cynghorydd J.A. Davies, amlinellodd y Pennaeth Archwilio Mewnol ddarpariaeth monitro o ran y CAB a chontractau sy'n ymwneud ag asiantaethau gofal preifat.

Mewn ymateb i gwestiynau gan Mr P. Whitham esboniodd y Pennaeth Archwilio Mewnol:-

- Byddai taliadau trydydd parti yn amodol ar gydymffurfio â CPR.
- Nid oedd unrhyw drefniadau wrth gefn ar waith i ddelio â materion Sicrwydd Gwrth-dwyll a Llygredd Corfforaethol ar hyn o bryd. Fodd bynnag, byddai unrhyw gamymddygiad yn cael ei drin a'i ymchwilio'n briodol, a chafodd manylion y broses ar gyfer delio ag achosion o'r fath ei ddarparu gan Bennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democraidaidd.
- Y trefniadau gwaith a'r broses ar gyfer delio â'r Chyllid/PLASC 6^{ed} Dosbarth Llywodraeth Cymru.

Mewn ateb i gwestiwn gan y Cadeirydd, cadarnhaodd y Pennaeth Archwilio Mewnol nad oedd capasiti na sgôp ar hyn o bryd i gaffael unrhyw waith am dâl allanol ychwanegol.

PENDERFYNWYD - *Bod y Pwyllgor Llywodraethu Corfforaethol yn cymeradwyo Cynllun Sicrwydd Blynyddol Archwilio Mewnol 2016-17, Atodiad 1 i'r adroddiad.*
(IB i Weithredu)

11 DRAFFT O'R DATGANIAD LLYWODRAETHU A GWELLIANT BLYNYDDOL 2015/16

Roedd adroddiad gan y Pennaeth Archwilio Mewnol a oedd yn cynnwys adroddiad hunanasesu drafft ar drefniadau llywodraethu a gwella'r Cyngor ar gyfer 2015/16 wedi ei ddsbarthu ymlaen llaw.

Roedd yr adroddiad yn cynnwys yr adroddiad hunanasesu drafft ar drefniadau llywodraethu a gwella'r Cyngor ar gyfer 2015/16, ac yn rhoi cyfle i'r Pwyllgor roi sylw am ddrafft cyntaf 'Datganiad Llywodraethu Blynyddol'.

Roedd Datganiad Llywodraethu a Gwella Blynyddol 2015/16 yn cynnwys hunanasesiad o drefniadau llywodraethu'r Cyngor ac yn dangos meysydd gwella yn ystod y flwyddyn ariannol flaenorol. Roedd yn tynnu sylw at unrhyw wendidau mewn cynllun gweithredu, y byddai'r Pwyllgor hwn yn eu monitro i sicrhau gweithrediad y gwelliannau angenrheidiol.

Eglurwyd bod hwn yn ddrafft cynnar a oedd yn waith ar y gweill ac oedd â meysydd sydd dal angen eu hychwanegu a'u cwblhau. Bydd y fersiwn derfynol y cytunwyd arni yn cael ei llofnodi gan y Prif Weithredwr a'r Arweinydd erbyn 30 Mehefin 2016, ac yn cael ei chyflwyno i'r Pwyllgor Llywodraethu Corfforaethol gyda'r Datganiad o Gyfrifon.

Rhodddwyd cadarnhad bod y Tîm Gweithredol Corfforaethol wedi ymgynghori ar y Datganiad drafft ac ni dderbyniwyd unrhyw sylwadau. Fe eglurwyd pe na bai'r Cynllun Gwella Llywodraethu yn cael ei weithredu, byddai gwendidau yn parhau yn nhrefn lywodraethol y Cyngor, a allai arwain at:-

- adroddiadau rheoleiddiol niweidiol;
- defnydd gwael o arian cyhoeddus;
- methiant i wella meysydd corfforaethol a meysydd gwasanaeth allweddol;
- colli hyder budd-ddeiliaid; ac
- effaith andwyol ar enw da'r Cyngor.

Esboniodd Mr P. Whitham, wrth ystyried gwerth a nifer y trafodion caffael, a'r rhaglen hyfforddiant helaeth oedd wedi'i drefnu, dylid cyfeirio at hyn yng Nghynllun Gweithredu Gwella Llywodraethu i ddangos fod y broses yn cael ei weithredu a'i fonitro. Cytunodd y Pennaeth Archwilio Mewnol gyda'r cais y dylai'r Datganiad Llywodraethu Blynyddol Drafft gael ei gyflwyno yng nghyfarfod y Cyngor ym mis Gorffennaf 2016.

Yn ystod y drafodaeth a ddilynodd, cytunodd y Pwyllgor y dylai'r Cam Gweithredu Gwella Llywodraethu gynnwys gwelliannau parhaus o ran Caffael Corfforaethol.

PENDERFYNWYD - bod y Pwyllgor Llywodraethu Corfforaethol:-

- (a) yn derbyn ac yn nodi'r adroddiad.
- (b) yn gofyn i'r Datganiad Llywodraethu Blynyddol Drafft gael ei gyflwyno i gyfarfod y Cyngor Sir ym mis Gorffennaf 2016, a
- (c) yn cytuno y dylai'r Cynllun Gwella Lywodraethu gynnwys gwelliannau parhaus o ran Caffael Corfforaethol.
(IB i Weithredu)

12 ARCHWILIAD MEWNOL O GYNLLUN AMDDIFFYN GORLLEWIN Y RHYL CAM 3

Roedd adroddiad gan y Pennaeth Archwilio Mewnol, a oedd yn nodi'r adroddiad Archwiliad Mewnol diweddar ar y prosiect Amddiffyn Arfordirol a gafodd sgôr sicrwydd 'Isel', eisoes wedi'i ddsbarthu.

Eglurodd y Pennaeth Archwilio Mewnol fod y Pwyllgor yn derbyn adroddiad cynnydd Archwilio Mewnol ar gyfer pob cyfarfod a oedd yn cynnwys manylion yr adroddiadau Archwilio Mewnol a gyhoeddwyd. Roedd y rhain fel rheol yn adroddiadau sicrwydd 'Uchel' neu 'Canolig'. Fodd bynnag, pan fydd adroddiad sgôr sicrwydd 'Isel' neu 'Na' yn cael ei gyhoeddi, roedd y Pwyllgor yn derbyn adroddiad, yn rhan o'i raglen i sicrhau ei fod yn gwbl ymwybodol o'r sefyllfa ac yn cael cyfle i drafod y gwelliannau i'w gweithredu gyda'r rheolwr perthnasol. Roedd yr adroddiad Archwilio Mewnol llawn wedi'i gynnwys yn Atodiad 1.

Eglurodd yr Uwch Archwilydd fod archwiliad cymhleth a oedd wedi'i wneud wedi canolbwyntio'n bennaf ar agwedd caffael y prosiect. Roedd rhestr wirio archwilio contractau wedi cael ei lunio gyda chyfraniad gan y Gwasanaeth Caffael Cydweithredol sy'n ymwneud â'r meysydd canlynol:-

- Pwyllgor Llywodraethu
- Cyn-dendro
- Cyllido
- Tendre
- Rheoli'r contract

Cadarnhaodd yr Uwch Archwilydd nad y cylch gorchwyl oedd rhoi sylwadau ar lwyddiant Cam 3 cynllun Amddiffyn Arfordir Gorllewin y Rhyll, ac esboniwyd mai dyma oedd y prosiect cyntaf i gael ei adolygu gan ddefnyddio'r rhestr wirio. Cyfeiriodd at y materion canlynol a meysydd a amlygir yn y Cynllun Gweithredu, Atodiad 1, a oedd yn cynnwys:-

- Yr angen i ystyried hanes y rhaglen waith, a oedd yn cynnwys Camau 1 a 2, a dau gontract sydd wedi cynyddu cymhlethdod yr archwiliad.
- Diffyg argaeledd cadarnhad ysgrifenedig o amserlen Llywodraeth Cymru i gwblhau'r gwaith amddiffyn rhag llifogydd, a oedd wedi'i gwblhau yn ôl-weithredol ar ddiwedd yr adolygiad.

- Nid oedd modd cael dogfennau contract gyda'r prif contractwr tan Awst 2015, gan godi pryderon yn ymwneud â sylwadau cytundebol.
- Materion corfforaethol wedi eu hamlygu mewn perthynas â rôl y cyllid, caffael a materion cyfreithiol.

Darparodd y Pennaeth Priffyrdd a Gwasanaethau Amgylcheddol (HHES) yr wybodaeth ganlynol sy'n ymwneud â'r prosiect:-

- Roedd Sir Ddinbych wedi cydweithio'n agos â Llywodraeth Cymru i amddiffyn nifer sylweddol o gartrefi ar gyllideb resymol a rhad gan ddefnyddio datrysiad arloesol i fynd i'r afael â'r problemau a wynebir.
- Manylwyd ar y deunyddiau a ddefnyddiwyd a oedd wedi ei nodi gan Sir Ddinbych.
- Roedd y rhaglen waith wedi ei wneud mewn tri cham hylaw mawr. Roedd gwaith wedi cychwyn yng Ngorllewin y Rhyl, ac nid Splash Point, gan fod Camau 1 a 2 wedi cael ei nodi fel meysydd risg uchel.
- Cafwyd cadarnhad er bod fframwaith Asiantaeth Cefnffyrdd wedi cael ei ddefnyddio, ni chawsant eu cynnwys yn y broses gaffael
- Roedd y gwaith a wnaed yn Nwyrain y Rhyl yn gynllun dros dro i ddarparu diogelwch ar gyfer yr ardal, a byddai cynllun llawer mwy yn cael ei gynnal.
- Cafodd manylion yn ymwneud â'r broses dendro eu darparu, cyfeiriwyd yn benodol at dderbyn a llofnodi contractau. Hysbyswyd yr aelodau bod caffael nawr yn digwydd yn electronig a thynnwyd sylw at y ffaith fod yr agwedd amseru o'r broses yn hanfodol mewn perthynas â chychwyn y gwaith.

Amlinellodd Pennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democrataidd bwysigrwydd ac amseriad agwedd amseru'r broses ddogfennaeth, a chadarnhawyd, er bod llythyrau o fwriad yn dal i gael eu defnyddio, nid oeddynt yn cymryd lle contract ffurfiol. Eglurodd Pennaeth y Gyfraith, Adnoddau Dynol a'r Gwasanaethau Democrataidd ei bod yn bwysig i sicrhau nad yw gwaith yn cychwyn ar y safle cyn cwblhau'r broses gaffael electronig.

Rhoddodd y Rheolwr Rhaglen Caffael sicrwydd y byddai'r CPR diwygiedig yn mynd i'r afael â'r materion o bryderon a godwyd, a Phennaeth y Gyfraith, Adnoddau Dynol a Gwasanaethau Democrataidd y byddai cyfranogiad cynnar y Gwasanaethau Cyfreithiol a Chaffael yn hanfodol yn y dyfodol.

Yn ystod y drafodaeth a ddilynodd cytunodd yr Aelodau, yn dilyn y dyddiadau cwblhau a nodwyd ym mis Hydref, 2016, y dylai adroddiad cynnydd gael ei gyflwyno i'r Pwyllgor ym mis Ionawr, 2017 mewn perthynas â Chynllun Amddiffyn Arfordir Rhyl.

PENDERFYNWYD - bod y Pwyllgor Llywodraethu Corfforaethol:-

- yn derbyn ac yn nodi adroddiad yr Archwiliad Mewnol.*
- yn cadarnhau'r gweithrediad effeithiol y Cynllun Gweithredu, o fewn y terfynau amser y cytunwyd arnynt, a*
- chytuno bod adroddiad cynnydd yn cael ei gyflwyno i gyfarfod o'r Pwyllgor ym mis Ionawr 2017.*

(SP, IB, LH i Weithredu)

13 **ADBORTH O'R CYFARFOD CYDRADDOLDEB CORFFORAETHOL**

Dywedodd Pennaeth y Gyfraith, Adnoddau Dynol a Gwasanaethau Democrataidd wrth yr Aelodau fod y Grŵp Cydraddoldeb Corfforaethol wedi cyfarfod ac wedi ystyried materion ynglŷn â Deddf Lles Cenedlaethau'r Dyfodol a'r Strategaeth Cydraddoldeb Drafft.

PENDERFYNWYD – *y dylid derbyn yr adroddiad a nodi'r safbwynt.*
(GW i Weithredu)

14 **RHAGLEN WAITH Y PWYLLGOR LLYWODRAETHU CORFFORAETHOL**

Cyflwynwyd Rhaglen Gwaith i'r Dyfodol y Pwyllgor Llywodraethu Corfforaethol (a gylchredwyd eisoes) i'w ystyried.

Cadarnhaodd y Pwyllgor Llywodraethu Corfforaethol Rhaglen Gwaith i'r Dyfodol y Pwyllgor yn amodol ar gynnwys yr adroddiadau canlynol:-

15 Mehefin 2016:-

- Bod Diweddariad ar Adroddiad Rheoliad Ariannol yn cael eu cynnwys yn y Rhaglen Waith i'r Dyfodol ar gyfer Mehefin, 2016

28 Medi 2016:-

- Cynnwys yr Adroddiad Diweddariad Diogelu Corfforaethol yn y Rhaglen Waith i'r Dyfodol ar gyfer mis Medi, 2016.

- Cynnwys yr Adroddiad Diweddariad Rheoli Fflyd yn y Rhaglen Waith i'r Dyfodol ar gyfer mis Medi, 2016.

Cytunodd Pennaeth y Gyfraith, Adnoddau Dynol a Gwasanaethau a Democrataidd i drafod â'r Pennaeth Gwella Busnes a Moderneiddio ynghylch cyflwyno adroddiad i'r Pwyllgor ar yr Arolwg Preswylwyr.

PENDERFYNWYD - *yn amodol ar yr uchod bod y Pwyllgor yn cymeradwyo'r Rhaglen Gwaith i'r Dyfodol.*
(CW i Weithredu)

Daeth y Cyfarfod i ben am 12.40pm.

Adroddiad i: Pwyllgor Llywodraethu Corfforaethol

Dyddiad y Cyfarfod: 15 Mehefin 2016

Aelod / Swyddog Arweiniol: Gary Williams, Swyddog Monitro/ Pennaeth y Gwasanaethau Cyfreithiol, Adnoddau Dynol a Democrataidd

Awdur yr Adroddiad: Lisa Jones/ Gary Williams

Teitl: Cyfansoddiad y Cyngor

1. Beth yw cynnwys yr adroddiad?

1.1 I ddarparu copi i'r Pwyllgor o'r Cyfansoddiad drafft i gael sylwadau ac arsylwadau cyn y cyflwynir hwn i'r Cyngor Llawn yn ei gyfarfod ym mis Gorffennaf.

2. Beth yw'r rheswm dros lunio'r adroddiad hwn?

2.1 Mae cylch gorchwyl y Pwyllgor Llywodraethu Corfforaethol yn gofyn bod unrhyw newidiadau a fwriedir i Gyfansoddiad y Cyngor yn cael eu hystyried yn gyntaf cyn y caiff ei fabwysiadu'n ffurfiol gan y Cyngor Llawn.

3. Beth yw'r Argymhellion?

3.1 Bod y Pwyllgor Llywodraethu Corfforaethol yn ystyried y Cyfansoddiad drafft sydd ynghlwm fel Atodiad 1 ac yn argymhell i'r Cyngor ei fabwysiadu.

4. Manylion yr Adroddiad

4.1 Bydd Aelodau'r Pwyllgor yn cofio nifer o adroddiadau blaenorol a oedd yn ystyried y newidiadau arfaethedig i Erthyglau'r Cyfansoddiad, cynigion mewn perthynas â dirprwyo i aelodau'r Cabinet wneud penderfyniadau (mewn perthynas â phenderfyniadau anallweddol) a newidiadau i Reolau Cyflogaeth Swyddog a Thâl yr Aelodau: y Cynllun Dirprwyo Swyddog wedi'i ddiweddarau sy'n adlewyrchu ailstrwythuro newydd o'r uwch swyddog a'r Protocol ar Gysylltiadau Aelod/ Swyddog.

4.2 Yn ystod y deuddeg mis diwethaf, mae Gweithgor y Cyfansoddiad sy'n cynnwys cynrychiolaeth drawsbleidiol wedi cyfarfod i ystyried y newidiadau arfaethedig; cyn i'r Swyddog Monitro adrodd ar bob cam o gynnydd i'r Pwyllgor hwn. Cafodd nifer o feysydd eu trafod gan gynnwys mwy o dryloywder a hysbysiad ymlaen llaw i wneud penderfyniad gan naill ai Aelod neu Uwch Swyddog, mewn perthynas â phenderfyniadau penodol yr oeddynt ar fin eu gwneud dan bwerau dirprwyedig; a ddylai aelodau o'r cyhoedd allu cyflwyno cwestiynau i'r Cabinet neu'r cyngor llawn; cyfyngiadau ar amser ar gyfer cyfarfod: Cadeirydd yn llofnodi pob dogfen gyfreithiol dan sêl; dirprwyo pwyllgorau a newid y protocol ar gysylltiadau swyddog aelod.

4.3 Cynhaliwyd gweithdy Aelodaeth ar 1 Mawrth 2016 er mwyn cyflwyno aelodaeth ehangach i'r Cyfansoddiad newydd arfaethedig.

4.4 Mae'r ddogfen ynghlwm fel Atodiad 1 ac mae sylwadau Aelodau yn cael eu cynnwys gyda'r newidiadau canlynol:

- Adran Diffiniad Estynedig
- Adran 3 yn nodi sut y gall aelodau o'r cyhoedd gael gwybodaeth a bod yn gysylltiedig
- Adran 4 Fframwaith Polisi wedi'i ddiweddarau
- Adran 9 – Rhestru pob rheoliadau a phwyllgorau eraill, gan gynnwys y Pwyllgorau ar y Cyd.
- Adran 11 – yn nodi pwy yw'r Swyddogion statudol 'Priodol' y Cyngor a'u swyddogaethau a meysydd cyfrifoldeb.
- Adran 12 – Cyllid, Cytundebau a Materion Cyfreithiol a chael gwared â gofyniad y Cadeirydd y Cyngor i lofnodi pob cytundeb yn unigol neu drafodion eiddo a wneir dan sêl.
- Adran 13 yn nodi Cynllun Dirprwyo Aelod Cabinet diwygiedig a Chynllun Diwygio Swyddog diwygiedig.

Mae'r Cyfansoddiad newydd yn cynnwys y Codau a Phrotocolau; nid yw'r rhain wedi newid gan fod y broses ymgynghori wedi cadarnhau yr oeddent yn addas i'r diben ac yn gweithio'n barod:

- Gweithdrefnau gwrandawriadau'r Pwyllgor Safonau
- Cod Ymddygiad Gweithwyr
- Disgrifiadau Rôl i Aelodau
- Protocol Hunanreoleiddiol Aelodau
- Protocol Cyswllt ag Aelodau
- Protocol ar Fynediad at Wybodaeth i Aelodau
- Cod Arferion Gorau i Gynghorwyr a Swyddogion sy'n delio â Materion Cynllunio
- Protocol ar Swyddogaeth Cadeirydd ac Arweinydd wrth Gynrychioli'r Cyngor
- Protocol ac Arweiniad i Aelodau Etholedig a Benodwyd i Gyrff Allanol

Mae'r Cyfansoddiad newydd yn cynnwys y canlynol sydd wedi eu diweddarau a'u cymeradwyo yn ddiweddar gan y Cyngor Llawn:

- Polisi Rhannu Pryderon
- Rheolau'r Weithdrefn Gontractau
- Cod Ymddygiad diwygiedig i Aelodau

5. Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?

5.1 Bydd cyfansoddiad modern sy'n addas at ei bwrpas yn cyfrannu at y flaenoriaeth i fod yn Gyngor sy'n perfformio'n dda gan ddarparu sicrwydd ar faterion llywodraethu a gwneud penderfyniadau, ymddygiad moesegol, rheolau contractio a phartneriaeth gadarn a chaniatáu i'r cyhoedd a thrydydd parti weld pwy sy'n gyfrifol am wneud y penderfyniad ar faterion sy'n effeithio arnynt.

6. Faint fydd hyn yn ei gostio a sut y bydd yn effeithio ar wasanaethau eraill?

6.1 Nid oes unrhyw gostau uniongyrchol yn gysylltiedig â'r adroddiad hwn.

7. Pa ymgynghori a wnaed?

7.1 Hyd yma dim ond Gweithgor Cyfansoddiad y Cyngor, y Pwyllgor hwn a'r Uwch Dîm Arweinyddiaeth, drwy weithdy, sydd wedi bod yn rhan o'r drafodaeth ar y cynigion allweddol yn y cyfansoddiad newydd.

8. Datganiad y Prif Swyddog Cyllid

8.1 Nid oes unrhyw oblygiadau ariannol o ganlyniad i'r adroddiad hwn.

9. Pa risgiau sydd ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?

9.1 Mae perygl y bydd Cyfansoddiad sydd heb ei ddiwygio i fod yn gyfredol â newidiadau corfforaethol a deddfwriaethol yn methu â bod yn addas at y diben.

10. Pŵer i wneud Penderfyniad

10.1 Mae Deddf Llywodraeth Leol 2000 yn mynnu bod gan bob cyngor gyfansoddiad.

Mae tudalen hwn yn fwriadol wag

MODEL WELSH CONSTITUTION

DRAFT

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MODEL WELSH CONSTITUTION

SECTION 1

1. INTRODUCTION

1.1 Purpose and Content of the Constitution

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

1.2 How the Council Operates

- 1.2.1 The Council is comprised of 47 Councillors elected every four years or such time as the Welsh Government legislates. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in Denbighshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.
- 1.2.2 All Councillors have agreed to follow a mandatory Code of Conduct, to ensure high standards in the way they undertake their

duties. The Standards Committee is responsible for training and advising on the Code of Conduct.

- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council for the term of the Council. The Leader then decides the size and Membership of the Cabinet ie the role of individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions. The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

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

Head of HR, Legal and Democratic Services, County Hall Ruthin, LL151YN

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

SECTION 2

2. PURPOSE, DEFINITION INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

2.1 Purpose of the Constitution

The purpose of the Constitution is to:

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

2.2 Definitions in the Constitution

2.2.1 The Constitution of the Council is this document (Sections 1 to 23).

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

“Budget”	the overall revenue and capital budget approved by Full Council (Section 4);
“Chief Officer”	any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who: <ul style="list-style-type: none"> • reports directly to the Head of Paid Service in respect of all or most of his/her duties; or • the Head of Paid Service is directly responsible for;
“Corporate Team”	the senior management body for Officers (Section 11). It includes those Officers designated by the Head of Paid Service from time to time as Members of the Corporate Team;
“Councillor”	a person elected to the Council to represent an area (called an electoral division) within Denbighshire County Council;
“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function”	(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and

associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.

- (b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.

It should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;

“Forward Programme”	Work	the Forward Work Programme is a document which lists all of the decisions that the Council and the Cabinet intend to take and what business the Head of Legal and Democratic Services will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;
“Full Council”		the body where all Councillors act to exercise functions of the Council;
“Head of Paid Service”		an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Paid Service;
“Local Functions”	Choice	there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion;
“Local (Wales) 2011”	Government Measure	referred to as “The Measure”. Legislation introduced, inter alia, to strengthen local democracy, deal with changes to executive arrangements, overview and scrutiny, county councils and Member payments;
“Member”		either a Councillor or a person chosen by the Council to serve on one of its Member Bodies (called “a Co-Opted Member”);
“Member Body”		any of the following: <ul style="list-style-type: none"> • Full Council; • Cabinet; • an Overview and Scrutiny Committee ; • Licensing Committee; • Standards Committee (or one of its sub-committees); • Planning Committee; • Appeals Panel; • Audit Committee; • Democratic Services Committee; <p>Note - references to Committee also includes Sub-Committee;</p>

“Monitoring Officer”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member body other than the Cabinet;
“Planning Application”	any of the following: <ul style="list-style-type: none"> • application for planning permission (including renewal); • application for approval of reserved matters; • application for listed building consent; • application relating to trees; • proposal to serve an urgent works notice or acquire a listed building in need of repair; • application for conservation area consent; • application for advertisement consent; • application to vary or remove conditions on a planning condition;
“Policy Framework”	See Section 4;
“Section 151 Officer”	an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;
“Service”	one of the services provided by the Council;
“Single Integrated Plan (SIP)”	this is the single plan for the area that reflects the needs of the local population. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young Peoples and the Health Social Core and Wellbeing Partnership Plan.

2.3 Interpretation of the Constitution

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

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

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

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

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

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

2.6 **Changes to the Constitution**

2.6.1 Approval

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

2.6.2 Minor Changes

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

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

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

2.6.3 Legislative Change

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

2.7 **Suspension of the Constitution**

2.7.1 Limit to Suspension

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

2.7.2 Procedure to Suspend

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

of the purposes of the Constitution set out in this Section and also the guidance at the time delivered by the Monitoring Officer.

2.8 Publication

- 2.8.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.
- 2.8.2 The Monitoring Officer will provide a link to a copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.
- 2.8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 2.6.

SECTION 3

3. GETTING INFORMATION AND GETTING INVOLVED

3.1 Getting Information

3.1.1 Information Available to Members of the Public

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

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

(b) *Forward Work Programme*

The Forward Work Programme sets out what decisions will be taken by the Cabinet or Council and what issues the Overview and Scrutiny Committee will be considering and when these matters will be discussed.

(c) *Information Available Prior to a Meeting*

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

(d) *Information Available at a Meeting*

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

(e) *Information Available After a Meeting*

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

(f) *Council's Accounts*

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

Information which is confidential or exempt (as defined in section 14) will not be disclosed to members of the public at any time, unless required by law.

3.1.2 Information Available to Members of the Council

(a) Members can see any information, which is available to a member of the public.

(b) In addition, a Member may see any information which he or she needs to know in order to fulfil his or her role as a Member of the Council (otherwise known as "need to know"). A Member will not make public information which is confidential or exempt (as defined in Section 14) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it. Such actions may be held to be a breach of the Members' Code of Conduct.

3.1.3 Members of an Overview and Scrutiny Committee

A Member of an Overview and Scrutiny Committee may also see any document containing material relating to:

- (a) any business transacted at a meeting of the Cabinet;
- (b) any decision taken by an individual Member of the Cabinet.
- (c) any document in draft form;
- (d) any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Committee's Forward Work Programme.

3.1.4 Information Available to Officers

Officers may see any information held by the Council provided:

- (a) they need to see the information to do their job; and
- (b) that information is processed lawfully in accordance with the Data Protection Act 1998 and
- (c) subject to any common law duty of confidentiality existing at the time.

3.2 Getting Involved

3.2.1 Members of the Public

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

(a) *Voting for Councillors*

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

(b) *Suggesting Items of Business for Meetings*

There is provision for a member of the public to seek to get a matter included in an Overview and Scrutiny Committee agenda (see section 7.18 of this Constitution)

(c) *Taking Part in Meetings*

- (i) Members of the public can come to and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Section 4.
- (ii) Members of the Public may not currently speak at Full Council or Cabinet.

(d) *Views of the Public*

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

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

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See section 14 for definition of exempt information and section for definition of public interest.)

(f) *Making Comments/Complaints*

- (i) A member of the public may comment or complain about Council services by:
- (A) contacting their local councillor;
 - (B) contacting the Member of the Cabinet responsible for the service;
 - (C) contacting the Officer responsible for delivering the service or their manager;
 - (D) using the Council's complaints procedure;
 - (E) contacting the Public Services Ombudsman for Works at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website www.ombudsman-wales.org.uk.
- (ii) Comments or complaints can be made about an Officer or Member by:
- (A) *Officer*
Contacting the Officer or the Officers manager or using the Council's Complaints Procedure.
 - (B) *Members*
If the complaint is against a Member then the complaint should be referred to the Monitoring Officer or the Public Services Ombudsman for Wales (contact details above).

(g) *Engage with Overview and Scrutiny*

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

3.3 **Getting Involved – Members**

Members can get involved by:

3.3.1 Suggesting Items of Business for the Agenda

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

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

Column A	Column B
Democratic Services Committee	Council
Overview and Scrutiny Committee	Cabinet
Corporate Governance Committee	Any relevant Overview and Scrutiny Committee, Cabinet or Council.

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

3.3.2 Participating in Meetings

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

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

3.3.3 Comments and Complaints

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

- (i) talking to Officers;
- (ii) talking to the Leader or Member of the Cabinet;
- (iii) talking to the Chair of an Overview and Scrutiny Committee .

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

Officer

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

Member

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

SECTION 4

4. FULL COUNCIL

4.1 Introduction

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

4.2 The Policy Framework

The Policy Framework means the following plans and strategies:

Corporate Plan

Well-Being Plan

Crime and Disorder Reduction Strategy

Plans and alterations which together comprise the Local Development Plan

Welsh Language Scheme

Local Housing Strategy

Rights of Way Improvement Plan

4.3 The Well-Being Plan

This is the Public Service Board's plan, which is required by the Well-Being of Future Generations Act. The Council is responsible for leading its development on behalf of the PSB and along with its partners, should approve the final plan.

4.4 The Budget

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

4.5 Housing Land Transfer

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

4.6 Functions of the Full Council

Only the Full Council will exercise the following functions:

4.6.1 adopting and changing the Constitution subject to sections 2.6.2 and 2.6.3

4.6.2 approving or adopting the Single Integrated Plan, Policy Framework, the Budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;

4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 14 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a

manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;

- 4.6.4 appointing and removing the Leader;
- 4.6.5 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
- 4.6.6 changing the name of the area or conferring the title of freedom of the County;
- 4.6.7 making or confirming the appointment of the Head of Paid Services; s151 Officer and the Monitoring Officer.
- 4.6.8 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;
- 4.6.9 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- 4.6.10 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.11 appointing representatives to outside bodies unless the appointment is an Executive function or the appointment has been delegated by the Council.
- 4.6.12 Making appointments of certain senior officers in accordance with any Officer Employment Rules and those earning a salary over £100,000.

4.7 **Membership**

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

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

 - (a) *Ceremonial Role*

The Chair of the Council:

 - (i) is the civic leader of Denbighshire County Council;
 - (ii) promotes the interests and reputation of the Council and Denbighshire County Council as a whole and acts as an ambassador for both; and
 - (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.
 - (b) *Responsibilities of the Chair*
 - (i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;

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

4.8 **Council Meetings**

There are three types of Council meeting:

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

4.9 **Rules of Procedure and Debate**

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

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

4.10.1 Timing and Business

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

- (a) elect a person to preside if the Chair and Vice Chair of the Council is not present;
- (b) elect the Chair of the Council;
- (c) elect the Vice Chair of the Council;
- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chair and/or the Head of Paid Service;
- (f) elect the Leader of the Council, except where the Leader was appointed for a period of four years at the initial annual meeting of the Council;
- (g) be informed by the Leader of the number of Members to be appointed to the Cabinet;
- (h) appoint the Overview and Scrutiny Committees, a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 13 of this Constitution);
- (i) receive from the Leader the scheme of delegations (as set out in Section 13 of this Constitution);
- (j) approve a programme of ordinary meetings of the Council for the year; and
- (k) consider any business set out in the notice convening the meeting.

4.10.2 Committee and Political Balance Arrangements

At the annual meeting, the Council meeting may:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;

4.11 Ordinary Meetings

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

- 4.11.1 elect a person to preside if the Chair and Vice Chair are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4 receive any announcements from the Chair;
- 4.11.5 receive a report from the Leader and receive questions and answers on the report;
- 4.11.6 receive a report from the Cabinet and receive questions and answers on the report;
- 4.11.7 receive reports from the Council's committees and receive questions and answers on those reports;
- 4.11.8 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.9 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Overview and Scrutiny Committee ;
- 4.11.10 consider motions; and
- 4.11.11 deal with questions from Members in accordance with Rule 4.19
- 4.11.12 [receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions.]

4.12 Extraordinary Meetings

4.12.1 Calling Extraordinary Meetings

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

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

4.12.2 Business

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

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

4.13.1 Time and Place of Meetings

The time and place of meetings will be determined by the Head of Legal, HR and Democratic Services and notified in the summons.

4.13.2 Duration of Meetings

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

4.14 **Notice of and Summons to Meetings**

The Head of Legal, HR and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution. At least five clear days before a meeting, the Head of Legal, HR and Democratic Services will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4.15 **Chair of Meeting**

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

4.16 **Quorum**

The quorum of a meeting will be 50% of the whole number of Members, rounded down. For the avoidance of doubt, the whole number of members does not include vacancies. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

4.17 **Remote Attendance**

Remote attendance is not allowed at any meeting, committee or sub-committee at the present time.

4.18 **Questions by the Public**

4.18.1 General

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

4.18.2 Order of Questions

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

4.18.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal HR and Democratic Services no later than midday 2 working days before the day of the meeting. Each question must give the name and address of the questioner.

4.18.4 Number of Questions

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

4.18.5 Scope of Questions

The Head of Legal, HR and Democratic Services may reject a question if it:

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

4.18.6 Record of Questions

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

4.18.7 Asking the Question at the Meeting

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

4.18.8 Supplementary Question

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

4.18.9 Written Answers

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

4.18.10 Reference of Question to the Cabinet or a Committee

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

4.19 Questions by Members

4.19.1 On Reports of the Cabinet or Committees

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

4.19.2 Questions on Notice at Full Council

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

- (a) the Chair;
- (b) a Member of the Cabinet;
- (c) the chair of any committee or sub-committee;

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

4.19.3 Questions on Notice at Committees and Sub-Committees

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

4.19.4 Notice of Questions

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

- (a) they have given at least 2 working days' notice in writing of the question to the Head of Legal, HR and Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Head of Legal, HR and Democratic Services by 09:00 on the day of the meeting.

4.19.5 Maximum Number of Questions

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

4.19.6 Order of Questions

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

4.19.7 Content of Questions

Questions under Rule 4.19.2 or 4.19.3 must, in the opinion of the Chair:

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

4.19.8 Response

An answer may take the form of:

- (a) a direct oral answer at the meeting;

- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within ten working days to the questioner.

4.19.9 Supplementary Question

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

4.19.10 Length of Speeches

A Member asking a question under Rule 4.19.2 or 4.19.3 and a Member answering such a question may speak for no longer than five minutes unless the Chair consents to a longer period.

4.19.11 Time Allowed for Questions at Council Meetings

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

4.20 Motions on Notice

4.20.1 Notice

Except for motions which can be moved without notice under Rule 4.21 and in cases of urgency, written notice of every motion, must be delivered to the Head of Legal, HR and Democratic Services not later than 16:00 on the 10th working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

4.20.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

4.20.3 Scope

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

4.20.4 Motion to Remove the Leader

4.20.5 One Motion per Member

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

4.20.6 Time Allowed for Motions

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed thirty minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

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

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

4.21 **Motions without Notice**

The following motions may be moved without notice:

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

4.22 **Rules of Debate**

4.22.1 No Speeches until Motion Seconded

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

4.22.2 Right to Require Motion in Writing

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

4.22.3 Seconder's Speech

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

4.22.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order no speech may exceed 5 minutes without the consent of the Chair.

4.22.5 When a Member may Speak Again

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

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

4.22.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) to leave out words;
 - (iii) to leave out words and insert or add others; or
 - (iv) to insert or add words
 as long as the effect of (ii) to (iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

4.22.7 Alteration of Motion

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

4.22.8 Withdrawal of Motion

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

4.22.9 Right of Reply

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

4.22.10 Motions which may be Moved During Debate

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

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

4.22.11 Closure Motions

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

4.22.12 Point of Order

A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chair on the matter will be final.

4.22.13 Personal Explanation

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

4.23 **State of the County Debate**

4.23.1 Calling of Debate

The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chair.

4.23.2 Form of Debate

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

As part of the debate Council will consider short written reports from members on outside bodies as to the number of meetings attended, the costs of attendance, the amount of the Council's financial support (if any), the benefits derived from membership and a recommendation on whether the Council should continue to be represented. The Council will also consider progress in respect of the Council's Improvement Plan and Priorities.

4.23.3 Chairing of Debate

The debate will be Chaired by the Chair.

4.23.4 Results of Debate

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

4.24 **Previous Decisions and Motions**

4.24.1 Motion to Rescind a Previous Decision

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

4.24.2 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 20 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.25 **Voting**

4.25.1 Majority

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

4.25.2 Chair's Casting Vote

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

4.25.3 Method of Voting

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

4.25.4 Ballots

The vote will take place by ballot if half of the members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

4.25.5 Recorded Vote

If 1/6th of the Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

4.25.6 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.

4.25.7 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. In the case of officer appointments to be made by full Council voting shall be by ballot and Rule 4.25.5 shall not apply.

4.26 **Minutes**

4.26.1 Signing the Minutes

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

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

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

4.26.3 Form of Minutes

Minutes will contain all motions and amendments in the form and order the Chair put them.

4.27 **Record of Attendance**

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

4.28 **Exclusion of Public**

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

4.29 **Members' Conduct**

4.29.1 Speaking at Meetings

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

4.29.2 Chair Speaking

When the Chair speaks during a debate, any Member speaking at the time must stop and sit down.

4.29.3 Member not to be Heard Further

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

4.29.4 Member to Leave the Meeting

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

4.29.5 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as the Chair thinks necessary.

4.30 **Disturbance by Public**

4.30.1 Removal of Member of the Public

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

4.30.2 Clearance of Part of Meeting Room

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

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

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

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

4.32.1 Suspension

All of these Council Rules of Procedure except Rule 4.20.5, 4.25.6 and 4.26.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Rule 4.20.5 can only be suspended by motion on notice and the motion must have the support of at least two thirds of those Members present and voting.

4.32.2 Amendment

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

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

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

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

There shall be named, trained substitutes for the Adoption and Fostering Panel. Subject to the provisions of this paragraph, a substitute may attend and take part in a meeting if the member for whom he or she is the named substitute is not available.

Substitutes shall not be permitted in the Planning Committee. Substitutes shall be permitted in other standing committees of the Council only if the member of the standing committee is absent for a significant period because of ill health and the Chair of the Council has agreed in advance that a substitute may be appointed.

Except for the Adoption and Fostering Panel any member may attend a meeting of a standing committee subject to the requirements of the Members' Code of Conduct to declare any interest in any matter under consideration and if necessary to leave the meeting where the member has a personal and prejudicial interest in that matter.

A member who is not a member of a standing committee or a substitute for such a member may speak at the meeting of such a committee only if invited to do so by the Chair of the meeting.

SECTION 5

5. THE CABINET

5.1 Introduction

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

5.2 Form and Composition of the Cabinet

. 5.2.1 The Cabinet shall be politically balanced.

5.2.2 The rules of political balance in respect of the Cabinet will only apply to political groups which are comprised of 5 or more members of the Council.

5.2.3 The Cabinet will consist of the Leader together with 7 Councillors appointed to the Cabinet by the Leader after consultation with the leaders of the political groups which have 5 or more members.

5.2.4 In the event of a political group with 5 or more members declining, at the time when the Cabinet is being appointed, to take up any or all of its seats on the Cabinet the Leader may appoint councillors to fill the vacancies following further consultation with the Leaders of the other political groups with 5 or more members. The rules of political balance will not apply to the filling of such vacancies.

5.2.5 In the event of a political group which is entitled to a seat or seats in the Cabinet in accordance with paragraph 5.2.1 deciding to take up that seat or those seats (having previously decided not to do so), the Leader shall make such changes to the membership of the Cabinet as to ensure, so far as is reasonably possible, compliance with paragraph 5.2.1 above.

5.3 Leader

5.3.1 Election

The Leader will be a Councillor elected to the position of Leader by the Council in accordance with the provisions of Section 6 of this Constitution.

5.3.2 Term of Office

The Leader will hold office until the next ordinary election of Councillors.

5.3.3 Role of the Leader

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

5.4 Deputy Leader

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

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

5.5 Other Cabinet Members

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

5.5.1 he/she resigns from that office; or

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

5.5.3 he/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

5.6 **Delegation of Functions**

The Cabinet may exercise Executive Functions itself or may otherwise make arrangements to delegate responsibility for their discharge. The Cabinet may delegate Executive Functions to:

5.6.1 The Leader;

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

5.6.3 an individual Cabinet Member;

5.6.4 a joint committee;

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

5.6.6 A delegated Officer.

5.7 **Rules of Procedure and Debate**

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Section 5.8 below.

5.8 **Cabinet Procedure Rules**

5.8.1 **Meetings**

The Cabinet shall meet at least 12 times a year at such venues dates and times as shall be:

- (a) determined by the Cabinet; or
- (b) determined by the Chief Executive where possible after consultation with the Leader (or in his absence, the Deputy Leader or Deputy Leaders), being within 15 days following receipt of a written requisition signed by at least three members of the Cabinet stating the matter or matters to be considered at that meeting, or
- (c) exceptionally, determined by the Chief Executive where in his opinion, where possible after consultation with the Leader (or in his absence, the Deputy Leader or Deputy Leaders) there is an urgent matter or urgent matters which require the consideration of the Cabinet but no convenient meeting of the Cabinet has been arranged.

The Chief Executive shall maintain a diary of all future meetings of the Cabinet, and shall ensure that the dates of meetings of the Cabinet for the coming months are notified to all members of the Council and made available to the public.

5.8.2 **Quorum**

The quorum at any meeting of the Cabinet shall be 50% of the whole number of members, rounded down.

5.8.3 **Access to information**

Meetings of the Cabinet shall be convened in accordance with the Access to Information Rules in Section 14 of this Constitution.

5.8.4 **Chairing of Cabinet meetings**

The Leader shall decide who chairs meetings of the Cabinet except that, in the absence of both the Leader and the Deputy Leader(s), the members of the Cabinet present shall choose a person to chair the meeting.

5.8.5 Public access

The Press and public shall be entitled to attend all meetings of the Cabinet except:

- (a) where the Cabinet resolves that the Press and public be excluded for the consideration of all or part of the consideration of a matter because the discussion of that matter is likely to result in the disclosure of exempt or confidential information, or
- (b) where the person chairing the meeting has ordered their removal in order to prevent disruption of the meeting.

5.8.6 Attendance by members who are not Cabinet members

5.8.6.1 Rights to attend

All Councillors have the right to attend Cabinet and Cabinet Committee meetings - therefore there is no restriction to observers attending except during consideration of any matter where the member having declared a personal and prejudicial interest would have been required by the Members' Code of Conduct to leave the meeting.

5.8.6.2 Rights to address meetings

There should be no automatic right for observers to speak on any issue. The right of someone who is not a Cabinet member to speak is solely at the discretion of the chair of the meeting.

Accordingly it would be helpful for any Councillor who is not a Cabinet member to inform the Chair, in advance of the meeting, of that Member's wish to address the meeting, together with an explanation of the reasons behind the request.

Cabinet Members will always be called to speak first on an item. Whilst the Chair has discretion as to who else should be called, it is expected that priority would be given to a request from a Chair of a Scrutiny Committee or the Chair of Corporate Governance Committee to speak on a matter that was of direct concern or interest to that committee.

5.8.6.3 Questions

Members who wish to ask formal questions of the Cabinet that are not related to items on the agenda should give at least three working days' notice of the question(s) upon which answers will be required.

5.8.7 Attendance by officers

The Statutory Officers of the Council, or their nominees, shall be entitled to attend all meetings of the Cabinet and to speak on issues affecting their statutory responsibilities.

Corporate Directors shall be responsible for ensuring that they are present or represented at meetings of the Cabinet when necessary in order to assist the Cabinet in the conduct of its business and enable the efficient discharge of the decisions of the Cabinet

5.8.8 Absence of Cabinet members

Substitutes are not permitted for Cabinet members. The absence of a Cabinet member for any reason shall not prevent consideration and determination of a matter.

5.8.9 Business to be transacted

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

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules set out in Part 4 of this Constitution;
- (ch) consideration of reports from Scrutiny Committees; and
- (d) matters set out in the agenda for the meeting including,.

5.8.10 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Reports to the Cabinet will normally appear in the name of the Cabinet member incorporating advice from appropriate officers. Exceptions will include a report from a Statutory Officer. The originator of a report will ensure that draft reports are the subject of consultation with the Chief Executive and any relevant Corporate Directors and Heads of Service, including in all cases the Chief Finance Officer and the Monitoring Officer.

5.8.11 Cabinet Committees

These rules apply to Cabinet Committees, other than 5.8.1, 5.8.2 and 5.8.4

There are currently no cabinet committees however in the event that there shall be the quorum for a Cabinet Committee shall be two.

SECTION 6

6. THE LEADER

6.1 Election

- 6.1.1 The Leader will be elected by Full Council.
- 6.1.2 The Leader will usually be elected at the first Council meeting following the ordinary election of councillors. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

6.2 Term of Office

The Leader will hold office until the next ordinary election of Councillors

6.3 Resignation, Dismissal, Disqualification and Suspension

- 6.3.1 The Leader may resign the position of Leader by writing to the Chair.
- 6.3.2 The Leader and Cabinet can be removed from office by resolution of the Council on receipt of a Notice of Motion signed by at least 10 Councillors after having given at least 10 working days' notice of the same to the Chief Executive.
- 6.3.3 The Leader shall cease to be Leader if he/she is suspended or disqualified as a Councillor, or, for other such reasons, cannot fulfil the role of Leader.
- 6.3.4 The Leader shall cease to be Leader if he/she ceases to be a Councillor.

6.4 Deputy Leader

6.4.1 Appointment

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

6.4.2 Duties of the Deputy Leader

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

6.4.3 Removal from Office

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

6.5 Functions and Delegated Authority

6.5.1 Membership of the Cabinet

The Leader appoints and dismisses the Members of the Cabinet subject only to there being a minimum of two, and a maximum of seven, Members of the Cabinet (not counting the Leader) at any time.

6.5.2 Role of the Leader

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

6.5.3 The Cabinet Scheme of Delegations

The Leader will prepare and submit for approval a Cabinet Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the Cabinet, and thereafter keep this under review and submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under

others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.

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

6.5.4 Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting three clear days before it takes place, and other conditions contained in Section 14, the Leader can call meetings of the Cabinet at such times and places as he/she chooses (NB: the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the Cabinet as well).

6.5.5 Chairing Cabinet Meetings

The Leader shall chair Cabinet meetings. In the Leader's absence the Deputy Leader will chair. If the Deputy Leader is not available the Cabinet will appoint a Member of the Cabinet to Chair the meeting on their behalf.

SECTION 7

7. SCRUTINY COMMITTEES

7.1 Introduction

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

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

7.2 Scrutiny Committees

In order to achieve this, the Council have appointed 3 Scrutiny Committees which between them will:

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

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

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

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

7.3 Role, Scope and Membership

The role, scope and Membership of the Overview and Scrutiny Committee are described in the table below:

Committee and Membership	Role and Scope
Performance Scrutiny Committee	The Performance Scrutiny Committee meets regularly to scrutinise the performance of the Council and the achievement of its objectives.
Partnerships Scrutiny Committee	The Partnerships Scrutiny Committee meets regularly and is responsible for ensuring that the Council's interests, resources and priorities are reflected in the work of partnerships involving the Council
Communities Scrutiny Committee	The Communities Scrutiny Committee meets regularly and is responsible for scrutinising area focused service delivery and developments

7.4 Specific Functions

7.4.1 Policy Development and Review

Scrutiny Committees may:

- (a) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues;

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

7.4.2 Scrutiny

Scrutiny Committees may:

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

7.4.3 Finance

[Add what is relevant for your authority]

7.4.4 Annual Report

Scrutiny Committees must report annually to the Full Council on their workings with recommendations for their future work programme and amended working methods if appropriate.

7.5 **Head of Democratic Services**

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

7.6 **Who May Sit on Scrutiny Committees?**

All Councillors except Members of the Cabinet and the Chair of the Council may be Members of Scrutiny Committees. However, no Member may be involved in scrutinising on decisions in which he has been directly involved.

7.7 **Co-Optees**

Each Scrutiny Committee shall be entitled to recommend to Council the appointment of a maximum of [insert no] people as non-voting co-optees. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of The Measure, have regard to guidance given by the Welsh Ministers and comply with directions given by them.

7.8 **Education Representatives**

When a Scrutiny Committee is considering an education matter, it shall include in its membership the following voting representatives:

- (a) 1 representative of the Church in Wales;
- (b) 1 representative of the Roman Catholic Church; and
- (c) maximum of 5 parent governor representatives;

These representatives shall not vote on matters other than education, though they may stay in the meeting and speak.

7.9 **Who Chairs?**

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

7.10 **Role of the Chairs of Scrutiny Committee**

7.10.1 The role of the Chairs of Scrutiny Committees will be essential in implementing an effective method of working. The Chairs will liaise with the Cabinet and supervise the Scrutiny Work Programme and identify cross cutting themes arising from the various Scrutiny Committees.

7.10.2 In summary, therefore, the Chairs will:

- (a) be accountable for delivering effective scrutiny;
- (b) will meet regularly to monitor Work Programmes;
- (c) will liaise with the Cabinet on issues affecting the Scrutiny Work Programme; and
- (d) report to Council through the annual report of Scrutiny.

7.11 **Work Programme**

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

7.12 **Meetings**

7.12.1 Scrutiny Committees will have regular meetings each year as agreed by Full Council and the Committees themselves.

7.12.2 Extraordinary meetings may be called from time to time in order to deal with call ins or other urgent items where the Chair of Scrutiny Committee agrees it is necessary for that Scrutiny Committee to consider the called in decision or urgent item before the Committee's next programmed meeting.

7.12.3 The quorum of a Scrutiny Committee will be 50% rounded down of the Members appointed to the Committee.

7.13 **Joint Scrutiny Committees**

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

7.14 **Rules of Procedure and Debate**

Scrutiny Procedure Rules will apply to meetings of Scrutiny Committees.

7.15 **What will be the Number and Arrangements for Scrutiny Committees?**

7.15.1 The Council will have 3 Scrutiny Committees set out in the table in Section 7.3, and will appoint to them as it considers appropriate from time to time. The Committees may appoint smaller groups (e.g. Task and Finish Groups) to carry out detailed examination of particular topics for report back to them. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

7.15.2 The terms of reference of the various Scrutiny Committees will be:

Terms of Reference

There shall be three Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 (other than subsection (5)) in relation to the matters set out in the right hand column of the table.

Scrutiny Committee	Matters to be considered by the Committee
Partnerships	<p>Ensuring that the Council's interests, resources and priorities are reflected in the work of partnerships involving the Council, including:</p> <ul style="list-style-type: none"> • Local Service Board • The 'Big Plan' • Partnership arrangements with other Local Authorities or Public Sector agencies such as Health • Safeguarding Children • Regional Partnership arrangements • Emergency Planning • Community Safety Partnership • Health & wellbeing partnership • Collaborations with Conwy • Regional Waste Management
Communities	<p>Scrutinising area focussed service delivery and developments, including:</p> <ul style="list-style-type: none"> • Local Development Plan • Roads & Highways • Town Plans • Local impact of service delivery • School Modernisation • Community development • Libraries • Regeneration & sustainable development

Performance	<p>Scrutinising the performance of the Council and the achievement of its objectives, including:</p> <ul style="list-style-type: none"> • Budget and Corporate financial matters • Performance Management • Financial performance of schools • Corporate Plan • Corporate Policies • Capital Programme • Information and Communications technology • Health & Safety • Equalities, Complaints and Communications Strategy and Welsh Language Policy
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Where a matter overlaps between two or more Scrutiny Committees, this will not limit the area of responsibility of either Committee, but the Chairs and Vice-Chairs Group should agree on a programme of work to avoid duplication.

7.15.3 Each Scrutiny Committee will be Chaired by a Chair appointed from the membership of that Scrutiny Committee in accordance with the Local Government (Wales) Measure 2011[check]:

- (a) Membership of all Scrutiny Committees shall be politically balanced ;
- (b) Scrutiny Committees shall undertake the following:
 - (i) investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Council or Cabinet as appropriate;
 - (ii) conduct research, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships;
 - (iii) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;
 - (iv) question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County;
 - (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
 - (vi) question and gather evidence from any person (with his/her consent) whilst conducting investigative and reporting processes.

7.16 **Meetings of Scrutiny Committees**

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

7.17 Quorum

The quorum shall be as set out in section 12.3

7.18 Agenda Items

7.18.1 Any Member of a particular Scrutiny Committee shall be entitled to submit items for the Scrutiny Committee using the appropriate Scrutiny Proposal Form. Each item submitted will be considered by the Scrutiny Chairs and Vice-Chairs Group or the relevant Scrutiny Committee who may decide to include the item on a future agenda.

7.18.2 Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the particular Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee at their next available meeting, usually within one month of receiving the report.

7.19 Policy Review and Development

7.19.1 The role of Scrutiny Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Section 15.

7.19.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

7.19.3 Scrutiny Committees may hold inquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

7.20 Reports from Scrutiny Committees

7.20.1 All formal reports from Scrutiny Committees will be submitted to the Head of Legal, HR and Democratic Services for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).

7.20.2 If Scrutiny Committees cannot agree on one single final report to the Council or Cabinet as appropriate, one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

7.20.3 The Council or Cabinet shall consider the report of Scrutiny Committees at their next available meeting – usually within one month of it being submitted to the Head of Legal, HR and Democratic Services.

7.21 Making sure that Scrutiny Reports are considered by the Cabinet

7.21.1 The forward work programme for Cabinet meetings shall include an item entitled "Issues Arising from Scrutiny". The reports of the Scrutiny Committee referred to the Cabinet shall be included in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet within two months, the Cabinet will give an explanation of the reasons to the Chair of the relevant Scrutiny Committee as soon as practicable.

7.21.2 Where the Cabinet has delegated decision making power to another individual Member of the Cabinet, the Scrutiny Committee will submit a copy of their report to him or her for consideration. At the time of doing so the Scrutiny Committee shall serve a copy on the Head of Legal, HR and Democratic Services. The Member with delegated

decision making power must consider the report and respond in writing to the Scrutiny Committee within four weeks of receiving it. A copy of the written response to it shall be sent to the Head of Legal, HR and Democratic Services and the Leader. The Member will also attend a future meeting of that Scrutiny Committee to present their response.

7.22 Rights of Members of Scrutiny Committees to Documents

- 7.22.1 In addition to their rights as Councillors, Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in this Constitution.
- 7.22.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and Scrutiny Committees as appropriate depending on the particular matter under consideration.

7.23 Members and Officers Giving Account

- 7.23.1 Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Cabinet, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:
- (a) any particular decision or series of decisions;
 - (b) the extent to which the actions taken implement Council policy; and/or
 - (c) their performance
- and it is the duty of those persons to attend if so required.
- 7.23.2 For this purpose, senior Officer includes any Chief Officer, Deputy Chief Officer and other appropriate senior Officer. Where there are concerns about the appropriateness of the Officer who should attend, the relevant Chief Officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- 7.23.3 Where any Member or Officer is required to attend Scrutiny Committee under this provision, the Chair of that Committee will inform the Head of Legal, HR and Democratic Services. The Head of Legal, HR and Democratic Services shall inform the Member or Officer, if necessary in writing, giving at least 3 working days' notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.
- 7.23.4 Where the account to be given to Scrutiny Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.
- 7.23.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

7.24 Attendance by Others

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

7.25 CALL-IN PROCEDURE – GUIDANCE NOTE

Introduction

The Procedure Rules allow for any 5 non-Executive members (councillors who are not members of the Cabinet) to initiate a call in of a decision – usually one taken by Cabinet or individual Cabinet members (described as the ‘decision maker’). To facilitate this process a ‘Notice of Call-in of Decision’ form has been produced which is signed by the 5 members and submitted to the Head of Legal and Democratic Services. Five working days are allowed for a decision to be called-in following its publication on the Council’s web-site and notification to Members of the Council. A decision taken will not be implemented by officers until the expiry of this period.

Members who have a prejudicial interest in the decision may not be a signatory to a Notice of Call-In.

Publication of Decisions

The 5 working day period will not begin until the decision has been published on the Council’s website and emailed to all members of the Council. Decisions must be publicised within 2 working days of the decision being taken in accordance with the Council’s Constitution. This could be in the form of draft minutes of the meeting, a summary of decisions taken or a record of a delegated decision taken.

Implementation of Decisions

Decisions may be implemented from the sixth working day following their publication unless a valid Call-in has been received by the Head of Legal and Democratic Services.

Urgent Decisions

Urgent decisions may proceed despite a call-in if the decision-maker has the agreement of:

- (i) the chair of the relevant scrutiny committee, or
- (ii) if there is no such person or that person is unable to act, the Chair of the Council, or
- (iii) if there is no chair of the relevant scrutiny committee or Chair of the Council, the Vice Chair of the Council.

In exceptional circumstances there may be urgent decisions that must be implemented immediately upon the decision being taken and a call-in is therefore not possible. These must be identified by the Cabinet / decision-maker at the time the decision is taken and the reasons behind their urgency explained and reported in the record of decision.

The Procedure

A duly completed ‘Notice of Call-In of Decision’ must be submitted to the Head of Legal and Democratic Services (who also holds the post of Monitoring Officer). The notice must contain the signatures of the 5 non-Executive members calling in the decision along with the reasons for the call in.

The Head of Legal and Democratic Services will notify the Leader of the Council, the delegated decision taker (if relevant) and the Chief Executive of the receipt of the Notice of Call-In and confirm with them that the decision may not be implemented until further notice from the Head of Legal and Democratic Services

Which Scrutiny Committee?

The Head of Legal and Democratic Services will decide the most appropriate scrutiny committee to consider the call in – if necessary in consultation with the Scrutiny Chairs and Vice Chairs Group. A special meeting of the committee will be

arranged to be held within 5 working days of the receipt of the Notice of Call-In of Decision unless the committee has a scheduled meeting within that period, or if an extension to the time period is agreed between the decision maker and the chair of the scrutiny committee.

All Members will be notified of the call in and the details of the meeting being held to consider it.

Signatories to attend

The signatories to the call in will normally be expected to attend the scrutiny committee and justify the reasons for the call in to the scrutiny committee.

What happens if the Committee does not meet in time?

Should the scrutiny committee not convene within the 5 working days of the receipt of the Notice of Call In, and without an extension to the time period being agreed, the Head of Legal and Democratic Services will inform the Leader of the Council, the Chief Executive and (if appropriate) the delegated decision taker that the call-in has ceased.

No case to answer?

Should the scrutiny committee upon meeting to consider the call-in, decide that the decision should not be referred back to the decision maker (e.g. Cabinet or lead member) for reconsideration, the Head of Legal and Democratic Services will advise the Leader of the Council, the Chief Executive and (if appropriate) the delegated decision taker, that the decision may be implemented.

Recommendations from Scrutiny

If the scrutiny committee agrees that there is a case for the decision to be reviewed, the scrutiny committee's recommendations will be considered by Cabinet at its next available meeting, or in the case of a delegated decision by a Lead Member within 5 working days.

What of the original decision is re-confirmed?

Should the decision maker confirm the original decision, the decision may be implemented immediately and may not be subject to a further call in. The decision maker should demonstrate that appropriate consideration has been given to the recommendations from Scrutiny.



NOTICE OF CALL IN OF DECISION

To: Head of Legal and Democratic Services

We, the undersigned, wish to call in the following decision (*see note 1*).

Decision taken by (*see note 2*): _____

Date decision was taken: _____

Report Title: _____

Decision (*see note 3*): _____

Reason for Call In:

We (*see note 4*) request that according to the Council’s approved ‘call-in’ procedure rules (*see note 5*) a meeting of the most appropriate Overview and Scrutiny Committee be held within 5 working days (*see note 6*) of the date of your receipt of this notice.

1. _____ (print) _____ (signature)
2. _____ (print) _____ (signature)
3. _____ (print) _____ (signature)
4. _____ (print) _____ (signature)
5. _____ (print) _____ (signature)

Dated: _____

Guidance Notes

1. Five working days are allowed for a decision to be called-in following its publication on the Council's web-site and notification to Members of the Council. Urgent decisions may proceed despite a call-in if the decision-maker has the agreement of:
 - (i) the chair of the relevant scrutiny committee, or
 - (ii) if there is no such person or that person is unable to act, the Chair of the Council, or
 - (iii) if there is no chair of the relevant scrutiny committee or Chair of the Council, the Vice Chair of the Council.

2. Please state the name of the decision maker e.g. Cabinet or the Lead Member for.....

3. If the decision contains more than one part, please state which are to be called-in, e.g. parts (a), (b), and (d) of the Resolution.

4. Signatories must be non-executive members. Councillors with a prejudicial interest in the decision may not be a signatory to the Notice of Call-in.

5. The Denbighshire Call-in Procedure Rules appear in the Council's Constitution *Part 4.5 – Scrutiny Procedure Rules*.

6. Timescales may be extended in exceptional circumstances with the agreement of the decision-maker and the chair of the relevant scrutiny committee.

For Office use only		
Received by:	_____	Date: _____
Date decision was published:	_____	
Notification sent to Leader and the Decision taker (date):	_____	
Notification sent to Chief Executive (date):	_____	
Relevant Scrutiny Committee:	_____	
Date:	_____	Time: _____ Venue: _____

7.25 **The Party Whip**

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

7.26 **Procedure at Scrutiny Committee Meetings**

7.26.1 Scrutiny Committees shall consider the following business:

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

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

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

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

7.26.3 Following any investigation or review, Scrutiny Committees may prepare a report, for submission to the Cabinet and/or Council as appropriate and may make its report and findings public.

7.27 **Matters within the Remit of more than one Scrutiny Committee**

Where a matter for consideration by a Scrutiny Committee also falls within the remit of one or more other Committee, the decision as to which Committee will consider it will be resolved by the Chairs and Vice-Chairs of Scrutiny Group or, if they fail to agree, the decision will be made by Head of Legal, HR and Democratic Services.

SECTION 8**8. THE STANDARDS COMMITTEE****Composition****8.1 Membership**

The Standards Committee is composed of 7 Members. Its Membership includes:

- 8.1.1 4 “independent” Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 8.1.2 2 Councillors other than the Leader and not more than one Member of the Executive; and
- 8.1.3 1 Community Council Member(s).

8.2 Term of Office

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

8.3 Quorum

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

- 8.3.1 at least 3 Members, including the Chairperson, are present; and
- 8.3.2 at least half the Members present (including the Chairperson) are Independent Members.

8.4 Voting

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

8.5 Chairing the Committee

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

8.6 Role and Function

The Standards Committee will have the following roles and functions:

- 8.6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 8.6.2 assisting the Councillors and co-opted Members to observe the Members’ Code of Conduct;
- 8.6.3 advising the Council on the adoption or revision of the Members’ Code of Conduct;
- 8.6.4 monitoring the operation of the Members’ Code of Conduct;
- 8.6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members’ Code of Conduct;

- 8.6.6 granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- 8.6.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter referred to that officer by the Public Services Ombudsman for Wales.
- 8.6.8 the exercise of (a) to (e) above in relation to the County Council and the Community Councils wholly or mainly in the area of the County Council.
- 8.6.9 in consultation with the Monitoring Officer, considering such other matters as are appropriate and necessary to maintain the highest standards of conduct by the Council, its members and co-opted members. (This includes approved roles under the Protocol for Member/Officer relations, the Self Regulatory Protocol or any other relevant Protocol)
- 8.6.10 undertaking an Annual Review of findings of breaches of the Members Code of Conduct by the Public Services Ombudsman for Wales and reporting its views (if any) to the Council.
- 8.6.11 to receive references from the Councils Corporate Governance Committee regarding issues of attendance by Members at training on the Code of Conduct.
- 8.6.12 any member of the Standards Committee may attend proceedings of the Council, the Cabinet and standing committees from which the press and public have been excluded, as long as he or she has signed the Members' Code of Conduct.

8.7 **Work Programme**

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

8.8 **Rules of Procedure and Debate**

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

SECTION 9**9. (A) REGULATORY AND OTHER COMMITTEES****9.1 Regulatory and Other Committees**

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

9.2 The Corporate Governance Committee

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

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

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

9.2.4 Members of the Corporate Governance Committee may vote on any matter before the Committee.

9.3 The Democratic Services Committee

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

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

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

9.4 Other Committees and Sub-Committees

9.4.1 The Council will appoint such other Committees as it considers appropriate to the exercise of its functions. These will include the following Committees: -

Licensing Committee.

Planning Committee

Partnerships Scrutiny Committee

Communities Scrutiny Committee

Performance Scrutiny Committee

Adoption and Fostering Panel

Corporate Health, Safety and Welfare Committee

Local Joint Consultative Committee

Standing Advisory Committee on Religious Education (SACRE)

9.4.2 Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year. The terms of reference and delegation of powers to them shall be explicit and within the appointment Committees terms of reference. These are set out in Section 13.

9.5 Rules of Procedure and Debate

The Council Procedure Rules in Section 4 will apply.

9 (B) MEMBER AREA GROUPS

There shall be six advisory Members Area Groups covering between them the whole area of the County. There shall be a group for Rhyl, Prestatyn, Central Denbighshire, and Ruthin and the Dee Valley, the areas of each group being defined in the following table:

	COMMUNITIES
RHYL	Rhyl
PRESTATYN	Prestatyn Meliden
ELWY	Bodelwyddan Bodfari Cefn Meiriadog Dyserth Rhuddlan St. Asaph Trefnant Tremeirchion, Cwm and Waen
RUTHIN	Efenechtyd Llandegla Llangynhafal Ruthin Llanfair DC Betws Gwerfil Goch Llanarmon Yn Ial Bryneglwys Llanbedr DC Llanelidan Llanferres Clocaenog Gwyddelwern
DEE VALLEY	Llangollen Corwen Llandrillo Cynwyd Glyndyfrdwy Carrog Derwen Llantysilio
DENBIGH	Aberwheeler Denbigh Llandyrnog Llanrhaeadr yng Nginmeirch Nantglyn Henllan Rhewl Cyfylliog Llanynys

10.2 Membership

Councillors for a ward which lies wholly or partly in the area of an Member Area Group shall be entitled to be members of that Area Group.

10.3 Functions of Area Member Groups

- To provide consultation and feedback mechanisms for the Council and its partners
- To help plan service delivery
- To assist with service provision and service performance reviews.
- To develop with the community local regeneration strategies.
- To engage with Town and Community Councils within their area to discuss service delivery at regular intervals as determined by the Area Group.
- With the community to review progress of the local area regeneration strategy.
- To oversee the coordination of the community strategy as it impacts on the local area.

To provide evidence to Policy Review and Scrutiny Committees on the operation of the Community Strategy in their area.

SECTION 10**10. JOINT COMMITTEES****10.1 Introduction**

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

10.2 Arrangements to Promote Wellbeing

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

- 10.2.1 enter into arrangements or agreements with any person or body;
- 10.2.2 co-operate with, or facilitate or co-ordinate the activities of any person or body; and
- 10.2.3 exercise on behalf of that person or body any functions of that person or body.

10.3 Joint Arrangements

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

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

10.3.3 The Council currently has the following joint committees in place:

NMWTRA (North and Mid Wales Trunk Road Agency)

NWRWP (North Wales Residual Waste Partnership)

GwE (Regional School Effectiveness Service for North Wales)

Clwydian Range and Dee Valley Area of Outstanding Natural Beauty. (CRDV AONB)

10.4 Access to Information

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

10.5 Delegation to and from Other Local Authorities

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

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

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

10.6 Contracting Out

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

- 10.6.1 which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
- 10.6.2 under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

SECTION 11**11. OFFICERS****11.1 Management Structure****11.1.1 General**

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

11.1.2 Statutory Officers

Certain posts are required under either the Local Government Finance Act 1988 or the Local Government and Housing Act 1989 and the Local Government (Wales) Measure 2011.

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal HR and Democratic Services	Monitoring Officer
Head of Finance	Chief Finance Officer (s.151)
Democratic Services Manager	Head of Democratic Services
Statutory Director of Education	Head of Education and Childrens Services.
Statutory Director of Social Services	Corporate Director: Communities

Such posts will have the functions described in Sections 11.2 to 11.

11.2 Functions of the Head of Paid Service**11.2.1 Discharge of Functions by the Council**

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

11.2.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer (s.151 Officer) if a qualified accountant as per s6 of the Local Government and Housing Act 1989.

11.3 Functions of the Monitoring Officer

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

11.3.1 Maintaining the Constitution

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

11.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to any Function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration.

Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

11.3.3 Supporting the Standards Committee

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

11.3.4 Receiving Reports

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

11.3.5 Conducting Investigations

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

11.3.6 Proper Officer for Access to Information

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

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

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

11.3.8 Providing Advice

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

11.3.9 Restrictions on Posts

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

11.4 **Functions of the s.151 Officer**

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

11.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

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

11.4.2 Administration of Financial Affairs

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

11.4.3 Contributing to Corporate Management

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

11.4.4 Providing Advice

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

11.4.5 Give Financial Information

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

11.4.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

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

11.4.7 Restrictions on Posts

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

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

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

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

11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 11.5.5) and the members of those committees, subject to paragraph 11.5.10;

11.5.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to paragraph 11.5.10;

11.5.4 to promote the role of the authority's Overview and Scrutiny Committee ;

11.5.5 to provide support and advice to:

(a) the authority's Overview and Scrutiny Committee and the members of those Committee; and

(b) the authority's Democratic Services Committee and the members of that committee;

(c) to provide support and advice in relation to the functions of the authority's Overview and Scrutiny Committee to each of the following:

(i) members of the authority;

(ii) members of the executive of the authority;

(iii) officers of the authority;

11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 11.5.11;

11.5.7 to make reports and recommendations in respect of any of the following:

(a) the number and grades of staff required to discharge democratic services functions;

(b) the appointment of staff to discharge democratic services functions;

(c) the organisation and proper management of staff discharging democratic services functions;

11.5.8 such other functions as may be prescribed by law.

11.5.9 Restrictions on Posts

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

11.5.10 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Overview and Scrutiny Committee and Democratic Services Committee.

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

11.5.12

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

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

11.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections **Error! Reference source not found.** and **Error! Reference source not found.** of this Constitution.

11.8 Employment

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

11.9 Officer Employment Procedure Rules

11.9.1 Recruitment and Appointment

(a) *Declarations*

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer, to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece or close personal friend of an existing councillor, officer, or of the partner of such persons.
- (ii) No candidate so related to a councillor or an officer will be appointed without the authority of the Head of Strategic HR or an officer nominated by him/her.

(b) *Seeking Support for Appointment*

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

11.9.2 Recruitment of Chief Officers

Where the Council proposes to appoint a Head of Paid Service, a Corporate Director, Monitoring Officer, Chief Finance Officer or other statutory or non statutory Chief Officer as defined in Section 2(6) and (7) of the Local Government Act 1989 (Chief Officers) and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:

- (i) the duties of the Officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
 - (d) where the post has been advertised as provided in paragraph (b):-
 - (i) interview all qualified applicants for the post or
 - (ii) select a short list of such qualified applicants and interview those included on the short list
 - (e) where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council will make further arrangements for advertisement in accordance with paragraph (b)
- (2) (a) The Council must take the steps set out in 2(i)(a) – (d) above wherever it proposes to appoint a Chief Officer and the remuneration which it proposes to pay to that Chief Officer is £100k or more per annum.
- (b) Paragraph 2(2)(a) does not apply if the period of the relevant appointment is for no longer than 12 months.

11.9.3 Appointment of Head of Paid Service, Corporate Directors, Monitoring Officer and Chief Finance officer

The full Council will make appointments to these posts although the Council may appoint a joint committee with one or more other councils where it is intended to make an appointment that will serve Denbighshire County Council and one or more other councils.

11.9.4 Other Appointments

- (a) Subject to paragraph 3 and sub-paragraph (c), appointment of statutory and non-statutory chief officers as defined in Section 2(6) and (7) of the Local Government and Housing Act 1989 shall be made by an appointments panel consisting of not more than 5 councillors (at least one of, but not more than two of whom shall be Cabinet members), the Head of Paid Service (or his/her nominee) and the relevant Corporate Director.
- (b) The appointment of all other officers is the responsibility of the Head of Paid Service or his/her nominee.
- (c) Where an appointment described in sub-paragraph (a) is to be made by Denbighshire County Council but the person appointed will serve the council and one or more other councils, the appointment shall be made by a joint committee on which the number of councillors from Denbighshire shall be equal to the number of councillors from each other council. The councillors from Denbighshire shall include a member or members of the Cabinet but shall not consist solely of members of the Cabinet. There shall also be equal representation on the committee by or on behalf of the Head of Paid Service of each council.

11.9.5 Changes to Remuneration of Chief Executive, Corporate Directors and Chief Officers

Decisions to determine or vary the remuneration of the Chief Executive, Corporate Directors and Chief Officers are to be made by Council and cannot be delegated to a committee.

11.9.6 Disciplinary Action

The Head of Paid Service or an officer nominated by him will, subject to paragraphs 7 and 8 below, discharge the Council's functions in respect of dismissal of, and taking disciplinary action (as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006) against a member of staff other than a Chief Officer, an assistant for a political group or person to whom regulations made under Section 35(4) and (5) of the Education Act 2002 apply. Subject to this, the Council's disciplinary, capability, redundancy and grievance procedures, as adopted from time to time, set out councillors' and officers' involvement in such procedures, and may allow a right of appeal or representation in respect of action which has been taken.

- 11.9.7** Disciplinary Action – Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services
- (a) No disciplinary action (other than action to which para (2) below applies) in respect of the Council’s Head of Paid Service, its Monitoring Officer, its Chief Finance Officer or Head of Democratic Services, may be taken by the Council, or by a Committee, a Sub-Committee, a Joint Committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under Regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct), as amended by The Local Authorities (Standing Orders)(Wales)(Amendment) Regulations 2014. The detailed rules appear in Section 8 below.
 - (b) 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.
- 11.9.8** Investigation of alleged misconduct – Head of Paid Service, Chief Finance Officer, Monitoring Officer and Head of Democratic Services
- (1) Where it appears to the Council that an allegation of misconduct which may lead to disciplinary action has been made against –
 - (a) the Head of the Council’s Paid Service;
 - (b) its Monitoring Officer;
 - (c) its Chief Finance Officer
 - or
 - (d) The Head of Democratic Services.
 hereinafter referred to as ‘the relevant officer’, the Council must appoint a committee (“an investigation committee”) to consider the alleged misconduct).
 - (2) The investigation committee must:
 - (a) consist of a minimum of 3 members of the Council;
 - (b) be politically balanced in accordance with Section 15 of the 1989 Act; and must, within 1 month of its appointment , consider the allegation of misconduct and decide whether it should be further investigated.
 - (3) For the purpose of considering the allegation of misconduct, the investigation committee:
 - (a) may make such enquiries of the relevant officer or any other person it considers appropriate;
 - (b) 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
 - (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.
 - (4) 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”).
 - (5) The designated independent person who is appointed –
 - (a) must be such person as may be agreed between the Council and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or
 - (b) where there is no such agreement; must be such person as is nominated for the purpose by the National Assembly for Wales.
 - (6) The designated independent person –

- (a) may direct –
 - (i) that the relevant authority terminate any suspension of the relevant officer;
 - (ii) that any such suspension is to continue after the expiry of the period referred to in Section 7 (2) above;
 - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; 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 sub-paragraph (d);
 - (b) 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 the designated independent person to inspect;
 - (c) may require any member or member of staff of the Council to answer questions concerning the conduct of the relevant officer;
 - (d) 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 officer; and
 - (ii) recommending any disciplinary action which appears appropriate for the relevant authority to take against the relevant officer; and
 - (e) must no later than the time at which the report is made under sub-paragraph (d) send a copy of the report to the relevant officer.
- (7) Subject to paragraph (8), the relevant officer and the Council must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.
 - (8) Where there is no agreement under paragraph (7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
 - (9) The Council must consider the report prepared by the independent person under paragraph (6) (d) above within 1 month of receipt of that report.
 - (10) The Council must pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under these rules.

SECTION 12**12. FINANCE CONTRACTS AND LEGAL MATTERS****12.1 Financial Management**

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

12.2 Contracts

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

12.3 Legal Proceedings

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

12.3.2 The Head of Legal HR and Democratic Services has delegated powers to authorise Officers to appear in court on the Council's behalf.

12.4 Authentication of Documents

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

12.4.2 Any contract with a value exceeding £100,000.00, entered into on behalf of the Council shall be made in writing. Subject to the Contracts Procedure Rules, such contracts must be signed by at least two Officers of the Council or made under common seal of the Council attested by at least one Officer if they exceed £250,000.00 in value.

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

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

12.5 Common Seal of the Council**12.5.1 Common Seal**

(a) The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal HR and Democratic Services.

(b) A decision of the Council, including decisions under delegated powers, will be sufficient authority for sealing any document necessary to give effect to the decision.

12.5.2 Sealing and Execution of Documents

(a) The Head of Legal HR and Democratic Services or officers authorised by him shall have authority to affix the Common Seal and execute under Seal any deed or document subject to the Contract Procedure Rules and the Officer Scheme of Delegation.

(b) The Officers of the Council referred to in (a) above shall have authority to execute any deed or document not required by law to be under seal which is necessary to effect the decisions of the Council.

(c) This function can be delegated further by the named persons.

12.5.3 Record of Sealing of Documents

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

SECTION 13**13. RESPONSIBILITY FOR FUNCTIONS - SUMMARY**

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

13.1 Who can be Decision Makers?

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

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

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

13.2 Principles of Decision Making

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

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

13.3 Functions fall into the following categories:**13.3.1 Functions of the Full Council**

The Council is a decision making body for all non executive functions, and those functions that are reserved by law to the Full Council. It may also delegate many of those functions to a Committee, Sub-Committee or Officer. The functions of the Full Council are set out in Section 4.

13.3.2 Non-Executive Functions

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

13.3.3 "Local Choice" Functions

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

13.3.4 Executive Functions

All other functions are Executive Functions.

13.4 Other Bodies

13.4.1 Advisory Bodies

The Council can also set up Advisory Committees and Joint Advisory Committees.

13.4.2 Overview and Scrutiny Committee

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

13.4.3 Officer Delegations

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

13.5 Who Decides – Non-Executive Functions?

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

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

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

13.6 Who Decides – Executive Functions?

The Cabinet may decide whether to delegate Executive Functions to a committee of the Cabinet, an individual Cabinet Member, a delegated Officer or a joint committee. The Member Scheme of Delegations is set out at Appendix 2 (a) of this section 13.

13.7 Removal of Delegation

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

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

13.8 Who May Exercise Officer Delegations?

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

Appendix 1 to Section 13**Non-Executive Functions**

Council Body	Membership	Functions

Certain functions have been delegated to Officers. Details of those delegations can be found in the Tables in Appendix 3 of this Section 13. The Committees set out above may from time to time add to or alter those delegations, as appropriate, within their functional responsibilities.

Appendix 2 (a) to Section 13

Responsibility for Executive Functions

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

The table below indicates how the Leader has allocated portfolios (lead responsibilities) for particular Executive Functions among individual Member of the Cabinet.

Key Decisions will be taken collectively by the Cabinet .

Appendix 2 (b) sets out those decisions which have been delegated to individual Cabinet Members. If there is uncertainty as to whether a matter falls within a particular portfolio, the Leader will make a determination as to which is the relevant Cabinet Member.

The Leader can make urgent decisions in the absence of the appropriate portfolio holder.

Name	Portfolio	Main Functional Areas
<p>Councillor Hugh H Evans OBE</p>	<p>Leader and Lead Member for the Economy</p>	<p>Lead Member responsible for: Economy, Wellbeing Plan, Development of the new Children's Services, External Relationships, Collaboration Partnerships, Regional Lead, Local and Regional Economic Strategy, Work with local businesses, Strategic Partnerships; Management of Cabinet.</p> <p>Member of: <i>Coastal Facilities Board, Strategic Investment Group; North Wales Regional Leadership Board; North Wales Economic Ambition Board; Denbighshire Economic and Community Ambition Programme Board; West Rhyl Housing Improvement Board; Local Service Board; Member of the WLGA Council and WLGA Co-ordinating Committee; WLGA Political Spokesperson on Improvement and Performance, WLGA Independent Group Leader; Clwydian Range and Dee Valley Area of Outstanding Natural Beauty Joint Committee.</i></p>
<p>Councillor Eryl Williams</p>	<p>Deputy Leader and Lead Member for Education</p>	<p>Lead Member responsible for: School Standards, Modernising Education, Regional & National Lead on Education, Lead on Children and Young People, WJEC, GwE, Community Learning Centres.</p> <p>Deputy Leader responsible for: deputising for the Leader at meetings with North Wales Leaders, Major Projects; North Wales Residual Waste Food Boards; supporting the Leader with external relations.</p> <p>Member of: Chair of North Wales Education Consortium (GwE), Denbighshire Leadership Partnership Board; Modernising Education Board; LDP Steering Group; Schools Budget Forum; Schools Standards Monitoring Group; Welsh in Education Strategic Group; North Wales Residual Waste Treatment Project, Vice-Chair of WJEC.</p>
<p>Councillor Bobby</p>	<p>Lead Member for Social</p>	<p>Member of: Modernising Social Services</p>

Feeley	Care, Adult and Children's Services	and Wellbeing Programme Board; Early Years Partnership Board; National Social Services Partnership Forum; National & Regional Social Services Policy Group; Chair of Cefndy Healthcare; Denbighshire Health and Social Care Board; Older People's Reference Group; Corporate Safeguarding Board Third Sector Liaison Group; School Standards Monitoring Group, Corporate Parenting Forum.
Councillor Hugh Irving	Lead Member for Customers and Libraries	<p>Lead Member responsible for: Customer Service – Customer Service Strategy, Digital Choice Programme, Website Development and Libraries/One Stop Shops, Communications and Marketing, City, Town and Community Councils, Third Sector; Volunteering Strategy; Homelessness, Welfare Reform Benefits, Anti-Poverty Strategy.</p> <p>Anti Poverty Champion and Armed Forces Champion.</p> <p>Member of: Strategic Corporate Communications Group; Family Information Services Steering Group; Gypsy and Traveller Working Group; Cefndy Healthcare; Armed Forces Covenant Working Group; Third Sector Liaison Group.</p>
Councillor Huw Ll. Jones	Lead Member for Community Development	<p>Lead Member responsible for: Leisure, Destination Management, Youth, Arm's Length Companies, Town and Area Plans, Rural Development, Countryside and Biodiversity, Tourism, Heritage, Welsh Language, Pontcysyllte World Heritage Site.</p> <p>Member of: Denbighshire Rural Development Plan Partnership; Menter Iaith Sir Ddinbych; Denbighshire Destination Partnership; Bodelwyddan Castle Trust; Clwyd Pension Panel; Clwydian Range and Dee Valley Area of Outstanding Natural Beauty Joint Committee, Creating an Active Denbighshire Group, Coastal Facilities Board; Denbighshire Economic and Community Ambition Programme Board</p>
Councillor Barbara Smith	Lead Member for Modernisation and Housing	<p>Lead Member responsible for: Business Transformation, HR, ICT, Equalities, Diversity, Housing Revenue Account and Housing Strategy, Democratic Services, Corporate Governance, Member Training and Development, Regional Lead on 'Support Services'.</p> <p>Member of: Modernisation Programme Board; Modernising Social Services and Wellbeing Programme Board; Regional Lead on Support Services; LJCC and Joint Council for Wales; Member of WLGA</p>

		Member Training; Strategic Investment Group; EDRMS Project Board; Change Management Group; Flexible Working Project Board; Outlook Project Board; Corporate Equalities Group; Corporate Parenting Forum; Strategic Housing Partnership; New Telephone System Project Board
Councillor David Smith	Lead Member for Public Realm	<p>Lead Member responsible for: Environment, including Waste, Highways and Infrastructure, Planning and Public Protection, Licensing, Private Sector Housing, Empty Homes; Housing Grants; Housing Enforcement, Sub-regional/Regional Lead on Public Realm, Safer Communities, Local Development Plan.</p> <p>Member of: TAITH; Community Safety Partnership; North and Mid Wales Trunk Road Agency; North Wales Residual Waste Transfer Plan; North Wales Safer Communities Board; YJS Management Board; Denbighshire Economic and Community Ambition Programme Board</p>
Councillor Julian Thompson-Hill	Lead Member for Finance, Corporate Plan and Performance	<p>Lead Member responsible for: Revenue and Capital Budgets and Financial Legislation, Treasury Management, Risk Assessments, Revenue and Benefits, Assets Strategy, Corporate Plan, Performance and Service Challenges, Health and Safety, Procurement, Internal Audit; Property Services.</p> <p>Member of: Chair of Strategic Investment Group; Member of the WLGA Council, CLAW, Modernising Education Board, Modernisation Programme Board, Service Challenge; Cefndy Healthcare Board, Coastal Facilities Board; Asset Management Group; Chair of Agricultural Estate Group; Denbighshire Health and Social Care Board, Welsh Purchasing Consortium.</p>

APPENDIX 2 (b) MEMBER SCHEME OF DELEGATION

Delegations to Cabinet Members

Key decisions will be determined by the Cabinet collectively; **non-key** decisions which relate to a particular Cabinet member portfolio will be determined by the individual Cabinet member.

A key decision is defined as:-

- The Council incurring expenditure or making savings that are significant in its budget for the service or function relating to the decision and/ or
- Having a significant effect on communities living or working in a particular area and/or
- Matters of corporate policy or high level strategic issues relating to Executive Functions.

The Cabinet Member portfolios can be found in appendix 2(a) to section 13 above. These will include decisions relating to matters which would otherwise be delegated to an Officer but which have been referred by that Officer to the Cabinet member concerned.

The Cabinet Member to whom a function is allocated may decline to make a decision in connection with the discharge of that function on any particular matter, and may instead refer the matter to the full Cabinet, for example where the matter is considered to be politically contentious or is likely to have a significant impact on services or is in the public interest to do so.

Before making a Delegated Decision the Cabinet member shall have regard to the principles of decision making set out in Section 13.2 of this Constitution.

All Executive Decisions must be in writing and the Member shall complete the prescribed form and send a copy to the [Democratic Services] to enable them to make the decision available for inspection by Council Members and the Public, subject to any lawful exemption from public disclosure.

Member Delegated Decisions are subject to the Councils Call In procedures in accordance with Section [] of the Constitution.

Member Delegated Decisions cannot be implemented until the Call In period has expired, (5 working days), unless the decision meets the urgency conditions as set out in Section [] of the Call In Rules.

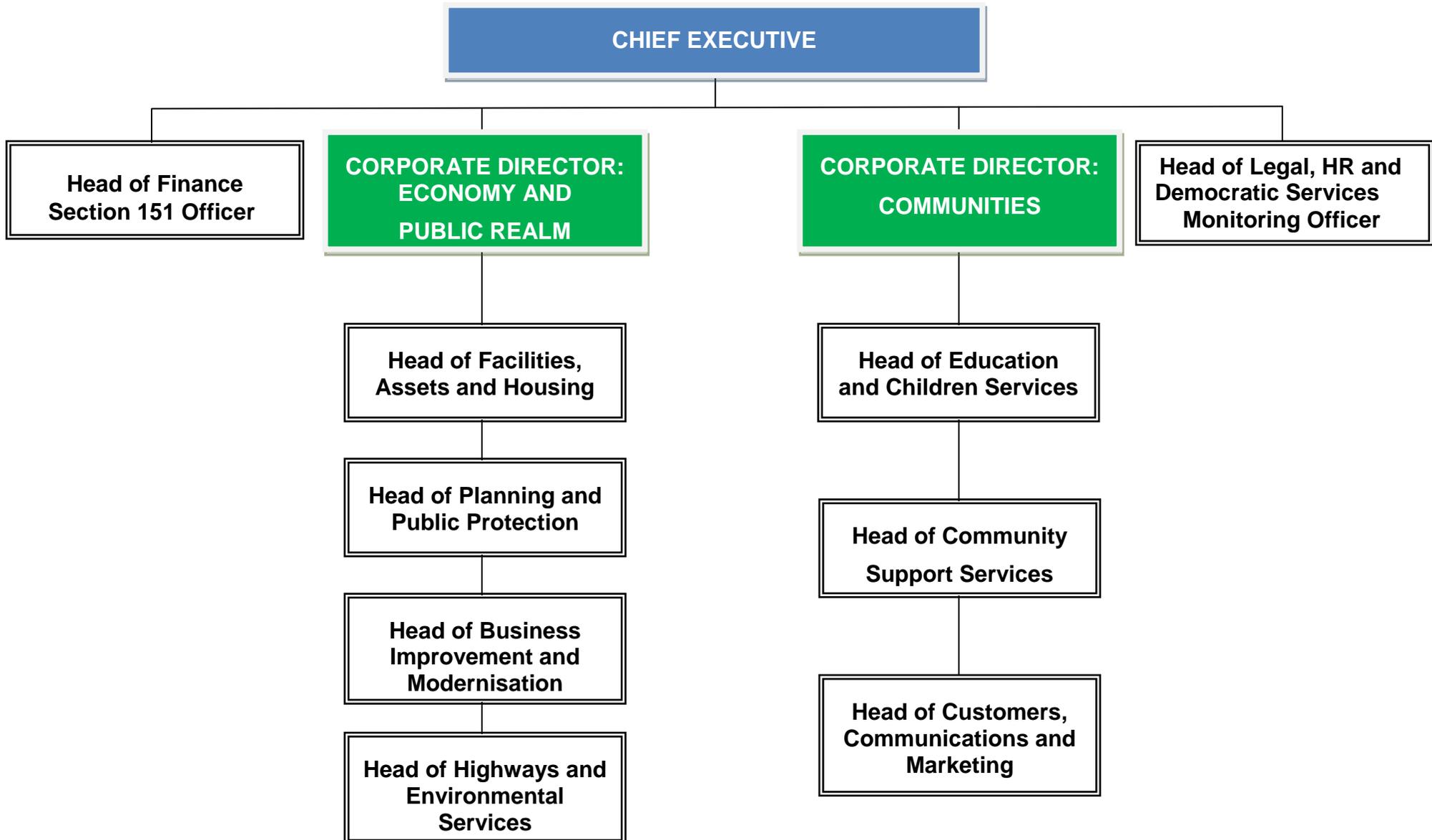
Individual Cabinet members may consult with the Cabinet or other Cabinet members or the Chairman of the relevant Committee; or ward members on the exercise of any delegated powers or determine not to exercise a delegated power in any particular case.

Where an individual Cabinet member has a personal and prejudicial interest as defined in the Members Code of Conduct in relation to any delegated decision, the Member shall not take the decision but will ask the relevant Officer to refer the matter to the Cabinet for determination.

Appendix 3 to Section 13

Officer Scheme of Delegations

The purpose of this Section of the Constitution is to bring together delegations to Officers and roles and responsibilities of Officers together with the current Senior Leadership Team structure chart.



SCHEME OF DELEGATION FOR OFFICERS

1. Definition

- 1.1 In this scheme, 'Chief Officer' means the Chief Executive, Corporate Director and Head of Service.
- 1.2 'Departmental Delegated Scheme' means that scheme which is held and managed by the Chief Officer and sets out the sub-delegations (where appropriate) made by that Chief Officer to those Officers who form part of his or her service (whether employed on a permanent or temporary basis; under a shared service or collaborative arrangement with another body or in the public interest such as authorizing police officers to issue fixed penalty notices or under contractual or commissioned arrangements delivered by a third party) or where there is indirect responsibility for the delivery of some of that service, in the event the officer receiving the sub-delegation does not sit within that particular Chief Officer's service.
- 1.3 Any reference to an Act in this scheme includes reference to any amendment thereto, or re-enactment thereof, of any order or secondary legislation made under it.
- 1.4 Function or power means all relevant functions, powers and duties of the Council, whether under any specific legislation identified in the scheme or not expressly referred to in it, but by implication, given the nature of the function itself as the case may be.
- 1.5 Any reference to a Chief Officer or officers being delegated to carry out or perform any functions in this scheme shall be deemed to include a reference to performing any other functions, even if not specifically referred to, which are necessary or incidental to, or required to facilitate or be conducive to the performance of the function in question.
- 1.6 Subject to any specific restriction in writing, a function or power which may be discharged by a Chief Officer or Officer, may also be discharged by any person formally acting up into that post or interim post holders.
- 1.7 Subject to any specific restriction in writing, a function or power which may also be discharged by any person who is deputizing (whether on a full, part time or an absence basis) for that post.
- 1.8 Any interpretation of this Scheme of Delegation shall be in accordance with the Council's wish that the powers granted to officers under the scheme shall not be construed restrictively.

2. General Provisions

- 2.1 Under this scheme, each Chief Officer is authorised to act on behalf of the Council in relation to any matter within the service areas for which they are responsible. Any exercise of delegated powers shall comply with, and be subject to :-
- 2.1.1 Any statutory provisions
- 2.1.2 The Councils overall policy and budget framework
- 2.1.3 Protocol on Member/Officer Relations, the Officers Code of Conduct and where appropriate in liaison with local members.
- 2.1.4 The Constitution and relevant Rule of Procedure

- 2.1.5 Financial Regulations
 - 2.1.6 Contract Procedure Rules
 - 2.1.7 The duty of achieving Best Value and Continuous Improvement
 - 2.1.8 Agreed arrangements for recording the decisions.
 - 2.1.9 The taking of and compliance with any legal or other professional advice.
 - 2.1.10 Have regard to sustainability generally and the well-being of current and future generations.
 - 2.1.11 Having regard to the Council's obligations under the Welsh Language Standards and it's Welsh Language Policy.
- 2.2 Where the exercise of delegated powers is likely to affect more than one service, the Chief Officer must consult with any other Chief Officer whose service may be so affected.
- 2.3 Without prejudice to his/her delegated powers or to that of the relevant Committee, and in appropriate circumstances only, each Chief Officer should, when exercising his/her powers : -
- 2.3.1 keep the Cabinet fully informed, in particular members of the Cabinet who are the Portfolio Holders for the service area in question and also have due regard to any comments made in the relevant scrutiny committee regarding the matter in question.
 - 2.3.2 ensure, where appropriate, that he/she consults with/or informs the local member(s) in advance;
 - 2.3.3 ensure that he/she consults with/or informs, where appropriate, the Chief Executive. Before exercising a delegated power, each Chief Officer must consider whether the decision is one that should be referred to the appropriate Committee for input or referred to the Cabinet, or appropriate Committee or sub-Committee.
- 2.4 In deciding whether to refer a matter to the Cabinet, Committee or sub-Committee the Chief Officer shall have regard to the following considerations:-
- 2.4.1 day to day decisions on technical or professional issues will normally be taken without reference to Members.
 - 2.4.2 the views of the local member, Portfolio Holder and Chief Executive must be taken into account, where appropriate.
 - 2.4.3 if a decision is likely to have a significant impact on the Councils' profile, is likely to attract unfavourable comment in the news media, or may have substantial financial implications there will be a presumption in favour of referring it to members.
- 2.5 Functions are not delegated where:
- 2.5.1 they are reserved by law or by this Constitution to the Council
 - 2.5.2 they may not by law be delegated to an Officer
 - 2.5.3 they are reserved to a Cabinet Member or Members.
- 2.6 The powers listed in this Scheme shall be construed in conjunction with any powers delegated by any Committee.

- 2.7 The Chief Executive and Directors are authorised, in the absence of or inability to act of the Chief Officers reporting to them, to exercise all powers delegated from time to time to those Chief Officers except where specifically prevented from so acting by limitation of statute, professional qualification or where other arrangements have been made in the relevant delegation.
- 2.8 The Chief Executive and Directors are authorised to take or authorise in consultation with the relevant Committee or Sub-Committee Chair or Vice-Chair, or in their absence the Chair or Vice-Chair of the Cabinet, any action on any matter within the Terms of Reference of the relevant Committee or Sub-Committee which they consider to be of such urgency that it cannot await a meeting of that Committee or Sub-Committee provided that such action shall be reported for information to the next available meeting of the relevant Committee or Sub-Committee.
- 2.9 The Chief Executive and Directors are authorised to take or authorise in consultation with the Chair and Vice-Chair of the Cabinet, any action on any matter within the Terms of Reference of the Cabinet which they consider to be of such urgency that it cannot await a meeting of the Cabinet provided that such action shall be reported for information to the next available meeting of the Cabinet.
- 2.10 The relevant Director and each Head of Service is responsible for ensuring compliance with the Data Protection Act 1998, Freedom of Information Act 2000, Environmental Information Regulations 2004, Human Rights Act 1998, the Health and Safety at Work etc. Act 1974 and the Safeguarding of Vulnerable Groups Act 2006 (as amended by the Protection of Freedoms Act 2012) in so far as his/her service is concerned, including compliance with any decision of the Councils' Freedom of Information Exemptions Panel.

3. General Delegations

- 3.1 Each Chief Officer (having consulted with the relevant Portfolio Holder where appropriate) is authorised to take any action necessary to protect or promote the Councils interests, subject to the restrictions in 2 above.
- 3.2 Without prejudice to the generality of the provisions in 2 above, this includes exercising his/her professional judgment to take such decisions as are necessary to implement the Councils policies and to promote the management and delivery of the services which are his/her responsibility.
- 3.3 Any powers granted to a Chief Officer may be discharged either in his/her absence by such Officers as may be authorised by him/her in accordance with any general or specific instructions given. In the absence of the Chief Officer, any Officer appointed by him/her to deputise on his/her behalf may also authorise the exercise of delegated powers, subject to any statutory provision preventing any deputy from acting. For the avoidance of doubt such authorizations may not be granted to persons who are not Officers of the Council unless there is an arrangement facilitating joint working with the relevant person's employing authority. Such authorisations under this paragraph shall include authorization to issue and sign statutory notices in the name of the relevant chief officer or other person with delegated functions.

It shall be the responsibility of the Chief Officer to maintain an up to date list of Departmental Delegations where this is appropriate. Where a Chief Officer holds such a Departmental Scheme of Delegation, this shall be provided to the Monitoring Officer on an annual basis and changes notified within 25 days to enable the Monitoring Officer to keep the central register updated.

- 3.4 Authority to serve requisitions for information under the Local Government (Miscellaneous Provisions) Act 1976 or other enabling legislation.

- 3.5 Each Chief Officer is authorised to manage assets, vehicles and equipment belonging to the Service for which he/she has responsibility.
- 3.6 Each Chief Officer is authorised to act on financial matters, in accordance with the Financial Regulations and Contract Procedure Rules.
- 3.7 In consultation with Head of Legal, HR and Democratic Services. where appropriate, each Chief Officer is authorised to act in relation to staffing matters in accordance with any relevant HR Policies and to appoint staff below Chief Officer level.
- 3.8 Each Chief Officer is entitled to submit planning applications in pursuance of approved schemes (but not the determination of the application)
- 3.9 To approve fees and charges, (and subject to any limit on such charge or fee set by statute) including any subsidies and concessions, in accordance with the policy adopted by Cabinet on the setting of Fees and Charges. Decisions on these matters are subject to the agreement of the Head of Finance and Assets, and subject to the provisions of the Local Government Act 2003 in respect of lawful charging and trading provisions. (this does not include fees and charges that are set by the Planning and Licensing Committees or Housing Rents which are set by reference to Housing Rents Setting Policy or subsequent amendment)
- 3.10 All Chief Officers may approve the submission of bids for grant funding and to accept any grant offered, subject to any funding requirement from the Council being contained within existing budgets. Where such a funding requirement cannot be afforded from existing budgets, the consent of the Head of Finance and Assets must be obtained before a bid is made or a grant is accepted. Where appropriate, the advice of the Head of Legal, HR and Democratic Services should be sought on the terms and conditions of acceptance or submission of a grant.
- 3.11 In accordance with any policy adopted by the Cabinet on grants, to determine grants to other bodies or individuals (including determining parameters or criteria for decisions by Officers on such grants.
- 3.12 Subject to any specific restriction in writing, a function or power which may be discharged by a Chief Officer, may also be discharged by any person who holds a post which is a successor post to that of the original Chief Officer following any reorganisation, restructure or similar process including any changes made to the job titles of Chief Officer posts.
- 3.13 Any reference in this Scheme to any legislation or to any Council procedure or rule shall be deemed to include a reference to any successor legislation, procedure or rule as may be introduced or enacted by way of substitution, revision or amendment. This provision shall be interpreted as in addition to the provisions of paragraph 1.6
- 3.14 All Chief Officers exercise their delegated authority within their own area. However, due to the urgency of the circumstances, where the matter cannot wait and it is not practicable for a Corporate Director to exercise their authority under 2.7, another Chief Officer may carry out the delegation where there are not specific restrictions on them doing so.
- 3.15 If the Council acquires a new function it may be necessary for this to be reported to the Cabinet so that a decision can be taken on any new delegations to officers. However, in the absence of such a decision, the Chief Officer with responsibility for the relevant services shall be deemed to have full delegated authority to discharge the function on the Council's behalf in accordance with these General Provisions and Functions unless it is a function reserved to the Cabinet or a Committee of the Council.

- 3.16 In the event of a local government reorganisation, where an officer of any transferor authority was , before reorganisation day, specifically authorised to enter into a contract, prepare and execute a document (subject to contract procedural rules) or take any other action; if that contract is not entered into, document not executed, or as the case may be, action not taken before reorganisation day, the officer of the Council holding the corresponding office shall, on and after reorganisation day, be deemed to have the authority previously granted to the former officer.

4. To The Chief Executive (Head of Paid Service)

- 4.1 Any decision, whether it is normally the responsibility of the Cabinet, Cabinet committee or individual Cabinet Member, where the decision has to be taken immediately in response to a major civil emergency as defined in the Major Emergency Management Plan.
- 4.2 Authorising Officers to undertake particular roles on behalf of the Council, where such authorisation is an executive function and has been delegated to the Head of Paid Service.
- 4.3 To represent the views of the Council in responding to consultations with the Council by any outside body.
- 4.4 As Returning Officer, to apply the annually agreed uplift in respect of election fees for local government purposes in consultation with colleagues in other authorities in North Wales.

- 4.5 Carrying out the following functions imposed on the Council by emergency planning regulations:-

- Civil Defence (General Local Authority Functions) Regulations 1993 - preparation, exercise and implementation of plans for civil defence purposes, including complying with directions from the designated Minister
- Public Information for Radiation Emergencies Regulations 1992 - supplying information to the public in the event of a radiation emergency involving transport of radioactive substances
- Pipelines Safety Regulations 1996 - preparation of and charges for a plan in respect of a major accident hazard pipeline
- Control of Major Accident Hazards Regulations 1999 - preparation, testing and charges for off-site emergency plan for major accident hazards

Radiation (Emergency Preparedness and Public Information) Regulations 2001 - preparation of, testing and charges for off-site emergency plan and supplying information to the public in the event of radiation emergencies involving premises.

- 4.6 To act on a day to day basis, as appropriate, as the Head of Paid Service and in the following areas: -

- Strategic Development and Leadership
- Management of the Council as a whole
- Performance Management of the Council as a whole
- Service Modernisation and Continuous Improvement
- Major Projects
- Communication with the Media
- Medium and Major Corporate Risks
- External Relationships

- Civil Contingency

- 4.7 To act as an Authorised Officer for the purposes of the Regulation of Investigatory Powers Act 2000, in particular in respect of the acquisition of confidential private information within the meaning of this Act.
- 4.8 In consultation with the Leader of the Council, to give instructions for the flying of the relevant flag or flags on Council Offices on significant occasions either high in celebration or half mast as appropriate.
- 4.9 In the absence or inability of the Chief Executive to act he/she will designate a Corporate Director to exercise the above delegations and other functional responsibilities as he/she deems appropriate.

5. To the Head of Facilities, Assets and Housing.

- 5.1 To have responsibility for the operation, maintenance and strategy in respect of all Council facilities, assets, housing, leisure and library buildings and public conveniences, catering, civic arrangements relating to facility management and council allotments.
- 5.2 To act as the proper officer representing the Corporate Landlord.
- 5.3 To institute and conduct civil proceedings for the recovery of monies (whether from tenanted premises or otherwise) owed to the Council in consultation with the Head of Legal, HR and Democratic Services.
- 5.4 To negotiate and settle rentals and other terms for short term licences, easements and wayleaves, including those required by statute upon terms agreed by statutory formula or otherwise, subject to appropriate consultation with Local Members.
- 5.5 To make home loss payments under the provisions of the Land Compensation Act 1973 (amount calculated by statutory formula related to rateable value)
- 5.6 To make disturbance payments under the provisions of the Land Compensation Act 1973.
- 5.7 In consultation with the Corporate Director: Economy and Public Realm, to negotiate the acquisition and/or disposal of land for all purposes, in conjunction with the Councils Asset Management Group and/or the Strategic Investment Group and subject to the results thereof being reported to all Members for information, where appropriate.
- 5.8 To value all property assets of the Council
- 5.9 To value properties for mortgage or grant and for other approved purposes, including the property assets of elderly persons entering the care of Social Services, where their assets are taken into consideration.

- 5.10 To recommend and negotiate rents and rent reviews and appropriate terms for all managed property, including any agricultural estate land and buildings, but not any property falling within the purview of the Housing department.
- 5.11 To negotiate and agree lease agreements, including rent reviews leased by and to the Council, subject to reports to any Asset Management Group and to Members, where appropriate.
- 5.12 To take action upon reports concerning mortgage defaulters.
- 5.13 To manage all allotment sites including the allocation of and the taking of action against tenants of untidy allotments.
- 5.14 To exercise the following powers in respect of property matters in consultation with and on terms and conditions agreed by the Head of Legal, HR and Democratic Services: -
 - 5.14.1 Disposals of freehold interest in land up to the market value is up to £30k, to include disposals at an undervalue.
 - 5.14.2 Disposals of freehold interest in land, including disposals at an undervalue (taking into account any local policy adopted), where the market value is between £30,001 and £1,000,000 (one million) in consultation with the S.151 Officer, the Monitoring Officer and the Lead Member.
 - 5.14.3 To undertake all other disposals, following a decision by the Cabinet or the Lead Member in accordance with their delegated functions.
 - 5.14.4 Granting leases at market value, or under market value (taking into account any local policy adopted), up to a rental commitment of £1,000,000 for the term; including renewal of leases not longer than the original lease. This delegation includes (but not limited to) all matters to do with agricultural estate leases and tenancies, and all other tenancies, wayleaves, easements, licences, change of user or assignments. This delegation includes powers to terminate tenancies and licences, and to sign tenancy agreements and licences, except:
 - a) granting tenancies for agricultural estate. Officers to conduct interviews and make recommendations to the Lead Member.
 - b) Notices to quit for tenants of agricultural estate, such decision to be taken by the Lead Member on advice from Officers.
 - 5.14.5 Acquisitions of land by freehold or leasehold, up to a market value or rental commitment for the term of the lease up to £30,000 if funding is available.
 - 5.14.6 Acquisitions of land by freehold or leasehold, up to a market value or rental commitment for the term of the lease from £30,001 and £1,000,000; if funding is available and in consultation with the Lead Member, S.151 Officer and the Monitoring Officer.

- 5.14.7 Purchase of land/easements for highway and drainage schemes and the making of stopping up orders, subject to a) the cost of the acquisitions being available within the capital funding scheme or b) in cases where the acquisition is in order to facilitate the disposal of land and property under 6.31.1, the cost being covered by the capital receipts being generated.
- 5.14.8 The renewal of any lease or tenancy, subject to budget provision being available to continue to pay charges under the lease or tenancy.
- 5.14.9 To undertake all other acquisitions and taking of leases or tenancies, following a decision by Cabinet or the Lead Member in accordance with their delegated functions.
- 5.14.10 Miscellaneous powers in respect of property:
- The Service of Statutory Notices
 - Appropriation of property between services.
 - Lodging and settlement of rating appeals, including representation in the Valuation Tribunal
 - Other property management and emergency matters including granting consent for tenants improvements, reallocation and apportionment of milk quota and settlement of end of tenancy and dilapidation claims.
- 5.15 Authorising Officers to appear on the Authority's behalf to conduct proceedings in the Magistrates Court under s.223 Local Government Act 1972.
- 5.16 To act in accordance with any powers set out in the Council's Contract Procedure Rules and generally, as the senior leadership officer for procurement; and in accordance with any obligations set out therein to make decisions in consultation with the Monitoring Officer.
- 5.17 Power to vary charges or to agree promotional packages or to introduce minor new charges to cover the cost of all departmental activities and facilities in compliance with s.19 Local Government (Miscellaneous Provisions) Act 1976 in relation to certain leisure functions.
- 5.18 Authority to accept or reject gifts, bequests or loans to the Council's Museum Service within the terms of the Policy
- 5.19 To comply with the Activity Centres (Young Persons Safety) Act 1995 and any regulations made thereunder, including holding any licence required by virtue of these provisions, or designating an appropriate Officer for such purposes.
- 5.20 To keep under review (and ensure relevant staff awareness) any safeguarding practices and procedures including registration (if required) with any Safeguarding Authorities and reporting matters on safeguarding to the Statutory Lead Director for Children and Young People and/or the Statutory Director of Social Services, where appropriate.
- 5.21 To have overall responsibility pursuant to the Health and Safety At Work etc Act 1974 including carrying out any risk assessments and taking steps to minimise such risks to health and safety, or designating an appropriate Officer for such purposes in accordance with the Management of Health and Safety at Work Regulations 1999.

- 5.22 To ensure the provision of statutory youth services jointly with the Head of Education and Children's Services.
- 5.22 To ensure the provision of facilities and organized leisure time occupation connected with any training and education pursuant to the Council's duties as set out in the Learning and Skills Act 2000 in consultation with the Head of School Improvement and Inclusion.
- 5.23 To authorise in writing all officers of the Housing Services department who may from time to time be employed to discharge the specific duties and functions delegated to the Head of Facilities, Assets and Housing, subject to such officers being suitably qualified for the discharge of those duties and functions.

To undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, service of notices, (including suspension notices), notifications, waivers, transfers, authorisations, licensing, registrations and legal proceedings as are within the purview of the Housing department under the legislation applicable thereto set out below, together with any regulations made thereunder, and any amendments or additions thereto and to exercise all other relevant powers, including powers of entry provided under such legislation set out below in a non exhaustive list:

Legislation

Accommodation Agencies Act 1953
 Administration of Justice Act 1970
 Anti Social Behaviour Act 2003
 Children and Young Persons Act 1933
 County Courts Act 1984
 Crime and Disorder Act 1998
 Health Act 2006
 Homelessness Act 2002
 Housing Act 1985 (as amended by the Local Government and Housing Act 1989)
 Housing Act 1996 (including amendments made under the Anti Social Behaviour Act 2003)
 Housing Act 2004
 Housing (Wales) Act 2014
 Housing Grants, Construction and Regeneration Act 1996
 Local Government Act 1972
 National Assistance Act 1948
 National Assistance (Amendment) Act 1951
 Noise Act 1996
 Noise and Statutory Nuisance Act 1993
 Protection from Eviction Act 1977
 Social Services and Well Being (Wales) Act 2014

- 5.24 To issue Certificates of Approval of Works carried out for works of improvement, repair, conversion and adaptations under Part I of the Housing Grants, Construction and Regeneration Act 1996, including payments by instalments.

5.25 To deal with all matters arising from applications for grants under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 including approval and rejection of applications, subject to consultation with the Head of Finance in respect of financial aspects, and to any financial allocation available for this purpose in any one year not being exceeded.

5.26 To deal with all aspects of approval and payments for unforeseen work above currently agreed limits in respect of House Renovation Grants.

5.27 To administer the housing needs register (waiting list, transfer list etc.)

5.28 To let Council dwellings and to nominate to other social landlords including temporary non-secure lets, waiting list applicants, transfers, exchanges, key workers, tied tenancies and mobility schemes.

5.29 not used.

5.30 To make determinations in respect of applicants considered unsuitable to be a tenant.

5.31 To sign and serve all relevant notices under the Housing Act, 1985 (and any other relevant Housing Acts) pertaining to:-

- The setting and collection of rents and charges
- Varying terms and conditions of tenancies
- All matters under the 'Right to Buy' Provisions (not otherwise specifically delegated)
- Consultation with tenants
- Right to Repair
- Compensation for tenants' improvements

5.32 To sign and serve all relevant Notices to Quit, Notices Seeking Possession and, in consultation with the Head of Legal HR and Democratic Services, authorise legal proceedings for Possession, Costs and Warrants of Execution and to secure the eviction of Secure, Demoted and Introductory tenants (if relevant).

5.33 To carry out or arrange for the carrying out of repairs and maintenance of all Council owned properties.

5.34 To carry out or arrange for the carrying out of repairs, improvements and adaptations in accordance with the Housing Capital programme or revenue estimates.

5.35 To authorise legal proceedings for nuisance in consultation with the Head of Legal and Democratic Services and the Local Member(s)

5.36 To authorise Housing Officers to exercise the right of audience in the County Court under Section 60(2) of the County Courts Act 1984.

- 5.37 To exercise functions under the Anti-Social Behaviour Act 2003 or the Anti Social Behaviour Crime and Policing Act 2015 on behalf of the Council in its capacity as landlord, to deal with instances of anti-social behaviour.
- 5.38 To review decisions to seek an order for possession of dwelling houses let under introductory and demoted tenancies, in accordance with the Introductory Tenants (Review) Regulations 1997 and the Demoted Tenancies (Review of Decisions) (Wales) Regulations 2005.
- 5.39 In consultation with Local Members and the Lead Member to approve, where there are no objections, future disposal schemes in accordance with the Council's policy for the fencing in of open plan gardens on Council housing estates.
- 5.40 To act as the Authorised Officer under the Housing Act 2004.
- 5.41 To provide a Certificate of Housing Authority under the Schedule 15 Part iv of the Rent Act 1977
- 5.42 To issue a Certificate of Housing Authority under Schedule 4 Rent (Agriculture) Act.

6. To the Head of Finance

- 6.1 To undertake all duties assigned to him or her by Financial Regulations which relate to the provision of his/her service*
- 6.2 To act as Chief Finance Officer under s.151 of the Local Government Act 1972 and any other statutory functions assigned to the s.151 Officer.
- 6.3 To be the Proper Officer for the purpose of s.114 Local Government and Finance Act 1988 and the power to appoint a deputy to act in their absence.
- 6.4 To be the proper Officer for the purposes of s.115 and 146 Local Government Act 1972.
- 6.5 The right to sign a certificate that contracts comply with the Local Government (Contracts) Act 1997 and that a lease or contract does not constitute credit arrangements. *
- 6.6 Subject to a policy for such writing off having been established, to write to determine whether repayment of a grant may be waived, subject to the agreement of the Lead Member for Finance, where the amount of the repayment waived in an individual case exceeds 10k.
- 6.7 Nominate authorised officers under the Social Security Administration Act 1992 or subsequent amendment.
- 6.8 Nominate authorised officers under the Social Security Administration (Fraud) Act 1997.
- 6.9 Authorising Officers to appear on the Authority's behalf to conduct proceedings in the Magistrates Court under s.223 Local Government Act 1972.

- 6.10 Organising the Council's banking arrangements.
- 6.11 Authorising leasing arrangements.
- 6.12 Authorising the use of electronic financial systems to transfer money.
- 6.13 To institute and conduct civil proceedings for the recovery of monies owed to the Council in consultation with the Head of Legal, HR and Democratic Services.
- 6.14 To act as the Councils' Money Laundering Officer for the purposes of the Money Laundering Regulations 2003.
- 6.15 To act on a day to day basis in the following areas: -
- Accountancy (including Revenue budgeting and final accounts and Capital budgeting and final accounts)
 - Risk Management and Insurance
 - Creditor Payments
 - The Pension Scheme including the teacher's pension scheme
 - Treasury Management (including investments and borrowing for revenue and capital purposes and investment for funds for which the Council is custodian)
 - Payroll (including car allowances, expenses, employee benefits, income tax, national insurance and all other deductions)
 - Car Leasing/Purchase Scheme
 - Tax matters including the Councils income tax and VAT.
 - Council Mortgage Interest rate calculations
 - Revenues and Benefits
- 6.16 Determining the instalment dates for Council Tax and NNDR payments for financial years beginning in and after 2004.
- 6.17 To secure the safe custody of policies and to make claims under the Council's insurances.
- 6.18 To act as an Authorising Officer under the Regulation of Investigatory Powers Act 2000.
- 6.19 To authorise the write off of bad debts up to the amounts noted in the Financial Procedure Rules.
- 6.20 Authorising and managing petty cash payments.
- 6.21 Authorising the use of electronic financial systems to transfer money.
- 6.22 To act as the Proper Officer in respect of the Proceeds of Crime Act 2002 and any regulations made thereunder.

- 6.23 To secure the safe custody of policies and to make claims under the Council's insurances.
- 6.24 To authorise investment decisions following recommendations from Strategic Investment Group and their terms of reference.

*may be exercised by the deputy s.151 Officer in the absence of the s.151 Officer.

7. To the Head of Legal, HR and Democratic Services

- 7.1 To act as the Monitoring Officer under the Local Government and Housing Act 1989.
- 7.2 To authenticate Documents for Legal Proceedings.*
- 7.3 To institute and conduct all civil, criminal and administrative proceedings, (including settlement of claims out of Court) and tribunal hearings of a quasi-judicial nature (other than matters specifically delegated to another Officer).*
- 7.4 To secure the safe custody of policies and to make claims under the Council's insurances in conjunction with the S.151 Officer*
- 7.5 To maintain records, including Minutes and Conveyances, Leases, Mortgages and other securities.*
- 7.6 To authorise the settlement of all claims for compensation whether from tenants, Council employees or other members of the public where such claims are the result of damage caused by Council or allied services and are not covered by insurance.*
- 7.7 To affix the seal and execute documents on behalf of the Council. *
- 7.8 To serve all Notices under the Town and Country Planning Acts not otherwise specifically delegated.*
- 7.9 To issue warrants to the High Sheriff to deliver possession of properties included in confirmed Compulsory Purchase Orders, where the Council have served notice of entry but where the occupiers have refused to grant possession to the Council.*
- 7.10 To take all appropriate legal action to secure the eviction of 'squatters' from Council property that is to say any persons occupying such property without the Council's authority and in contravention of its policies governing the letting of the same, in consultation with the Head of Housing and the Head of Adult Services.*
- 7.11 To enter into Agreements with developers for the adoption of amenity areas on private housing estates.*
- 7.12 To apply to the Court for a Prohibition Order under the provisions of the Food Safety Act, 1990, in consultation with the Head of Planning, Regeneration and Regulatory Services.*

7.13 To issue and serve the following Notices under the provisions of the Housing Act, 1985, namely:-*

Notices requiring tenants to complete transactions (Sections 140 and 141).

7.14 To undertake and conclude all the necessary legal formalities in connection with the disposal of Council dwellings and to recover possession of Council dwellings in appropriate cases, pursuant to the provisions of the Housing Act, 1985.*

7.15 To serve all appropriate notices in connection with the Rents to Mortgage Scheme under the provisions of the Leasehold Reform, Housing and Urban Development Act, 1993. *

7.16 To exercise the powers of direction available to the Council under Section 77 of the Criminal Justice and Public Order Act, 1994, and also to make complaints to the Magistrates' Court on behalf of the Authority under Section 78 of the Act. *

7.17 To vary the fees payable under Part VA of the Local Government Act 1972 (Access to Information) *

7.18 To sign contracts for the acquisition and disposal of interests in land in accordance with the Council's policy. *

7.19 To sign and serve requisitions for information under Section 16 of The Local Government (Miscellaneous Provisions) Act, 1976. *

7.20 To negotiate, conclude and execute on behalf of the Council any document or agreement required to give effect to any decision taken by the Council, Cabinet, other Committee, Sub-Committee or Officer whether or not specifically so authorised by such decision. *

7.21 To exercise the Council's functions relating to the approval of premises under the Marriage Act 1994 and Marriages (Approved Premises) Regulations 1995 and the registration of civil partnerships under the Civil Partnerships Act 2004 in consultation with the Local Member)

7.22 To amend the Councils Constitution document to accord with decisions of the Council, Cabinet or Committees.

7.23 To authorise a Council Officer to appear on behalf of the Council in proceedings under section 60 of the County Courts Act 1984 and in the Magistrates Court under s.223 of the Local Government Act 1972.

7.24 To act as the Proper Officer for the purposes of s100B Local Government Act 1972 i.e. to exclude access by the public to reports in respect of which, in his/her opinion, the meeting is not likely to be open to the public.

7.25 In consultation with the members of the Access to Information Panel and the Deputy Monitoring Officer (together forming the FOI Exemptions Panel) to decide whether information may be withheld under exemptions contained in the Freedom of Information Act 2000, the Data Protection Act 1998 or the Environmental Information Regulations 2004 on behalf of the Council.

7.26 To act as an Authorising Officer, in particular with regard to the surveillance of Council Staff and act as the Councils' Senior Responsible Officer under the Regulation of Investigatory Powers Act 2000; including reporting annually to the Council's Corporate Governance Committee on its ripa activities.

7.27 To act as the Authority's 'qualified person' under s. 36 of the Freedom of Information Act 2000.

7.28 not used

7.29 To act on a day to day and be responsible for the strategic and operational delivery of the following areas:-

- Legal Services
- Human Resources
- Elections/Electoral Registration
- Member Support and Services
- Committee and Democratic Services (jointly with the Head of Democratic Services)
- Translation

* in the absence or inability of the Head of Legal, HR and Democratic Services to act, the Deputy Monitoring Officer/Legal Services Manager or in their absence a Team Leader for the Places or People Team are authorised to exercise these functions.

7.30 To prepare and maintain a list of those posts which are considered to be politically restricted under the provisions of the Local Government and Housing Act 1989.

7.31 To review and update the Council's Constitution from time to time, to include any incidental changes emanating from amended, substituted or new legislation, any restructure of the organisation and where appropriate to reflect the provisions of paragraph 3.15 of this Scheme.

7.32 To ensure the Council's decision making processes are robust.

8. To the Head of Planning and Public Protection

The following delegations relate to public protection and regulatory functions:-

To have the power:-

8.1. To authorise in writing all officers of the Planning and Public Protection department and certain Housing Officers who may from time to time be employed to discharge the specific duties and functions delegated to the Head of Planning and Public Protection, subject to such officers being suitably qualified for the discharge of those duties and functions.

8.2 To undertake inspections (including the inspection of a licence or operator records), authentications, investigations, interviews, sampling, testing (including the testing of vehicles), prohibitions and applications to court for prohibition orders, seizures (including the removal of plates upon expiry or revocation), detentions, recording, service of notices, (including suspension notices), notifications, waivers, transfers, authorisations, licensing, registrations and legal proceedings as are within the purview of the Planning and Public Protection department, including certain Housing Officers under the legislation

applicable to it and set out below (as a non-exhaustive list), together with any regulations made thereunder, and any amendments or additions made to it, or any subsequent new or current functions which can properly be regarded as incidental to the functions of the Planning and Public Protection department and to exercise all other relevant powers or duties, including powers of entry provided under such legislation.

Legislation

Accommodation Agencies Act 1953
 Activity Centres (Young Persons Safety) Act 1995
 Administration of Justice Act 1970
 Agriculture (Miscellaneous Provisions) Act, 1968, 1972 and 1976
 Agriculture Act, 1970
 Agriculture Produce (Grading and Marking) Act, 1928
 Animal Boarding Establishments Act, 1963
 Animal Health Act 1998
 Animal Health Act 2002
 Animal Health Act, 1981
 Animal Health and Welfare Act, 1984
 Animal Welfare Act 2006
 Anti Social Behaviour Crime and Policing Act 2014
 Anti Social Behaviour Act 2003
 Anti-Terrorism, Crime and Security Act 2001
 Banking Act, 1987
 Breeding and Sale of Dogs (Welfare) Act 1999
 Breeding of Dogs Act, 1973 and 1991
 Building Act, 1984
 Burial Act 1857
 Business Names Act, 1985
 Cancer Act, 1939
 Caravan Sites Act 1968
 Caravan Sites and Control of Development Act, 1960
 Celluloid and Cinematographic Film Act, 1922
 Children and Families Act 2014
 Children and Young Persons (Protection from Tobacco) Act, 1991
 Children and Young Persons Act 1933
 Christmas Day (Trading) Act 2004
 Cinemas Act, 1985
 Civic Amenities Act 1967
 Civil Contingencies Act 2004
 Clean Air Act, 1993

Clean Neighbourhoods and Environment Act 2005
Companies Act 2006
Companies Act, 1985
Consumer Credit Act, 1974
Consumer Credit Act, 2006
Consumer Protection Act, 1987
Consumer Rights Act 2015
Contaminated Land (Wales) Amendment Regulations 2012
Contaminated Land (Wales) Regulations 2006
Control of Horses (Wales) Act 2014
Control of Pollution (Amendment) Act, 1989
Control of Pollution Act, 1974
Copyright, Designs and Patents Act, 1988
Copyright, Etc and Trade Marks (Offences and Enforcement) Act, 2002
Corporate Manslaughter and Corporate Homicide Act 2007
County Courts Act 1984
Court and Legal Services Act, 1990
Crime and Disorder Act 1998
Criminal Attempts Act, 1981
Criminal Justice Act, 1988
Criminal Justice and Public Order Act 1994
Criminal Procedures and Investigations Act 1996
Crossbow Act, 1987
Dangerous Dogs Act, 1991
Dangerous Wild Animals Act 1976 (Modification) (No.2) Order 2007
Dangerous Wild Animals Act, 1976
Defective Premises Act 1972
Development of Tourism Act, 1969
Disability Discrimination Act 1995
Dog (Fouling of Land) Act 1996
Dogs (Amendment) Act 1928
Dogs Act, 1906
Energy Act, 1976
Energy Conservation Act, 1981
Enterprise Act 2002
Environment Act, 1995
Environmental and Safety Information Act, 1968
Environmental Protection Act, 1990
Estate Agents Act, 1979
European Communities Act, 1972
Explosives (Age of Purchase) Act, 1976

Explosives Act, 1875 and 1923
Factories Act, 1961
Fair Trading Act, 1973
Farm and Garden Chemical Act, 1967
Financial Services and Markets Act 2000
Fire Safety and Safety at Places of Sports Act 1987
Firearms Act 1968
Fireworks Act 2003
Fireworks Act, 1951
Food and Environmental Protection Act, 1985
Food Hygiene Rating (Wales) Act 2013
Food Safety Act, 1990
Forgery and Counterfeiting Act, 1981
Fraud Act 2006
Gambling Act 2005
Guard Dogs Act, 1975
Hallmarking Act 1973
Health Act 2006
Health and Safety at Work, etc. Act, 1974
Healthy Eating in Schools (Wales) Measure 2009
Hire Purchase Act, 1964
Home Safety Act 1961
Homelessness Act 2002
House to House Collections Act 1939
Housing Act 1985
Housing Act 1985 (as amended by the Local Government and Housing Act 1989)
Housing Act 1996
Housing Act 1996 (including amendments made under the Anti Social Behaviour Act 2003)
Housing Act 2004
Housing Grants Construction and Regeneration Act 1996
Housing (Wales) Act 2014
Insurance Brokers (Registration) Act, 1977
Insurance Companies Act, 1982
Intellectual Property Act 2014
Intoxicating Substances (Supply) Act, 1985
Knives Act, 1997
Landlord and Tenant Act 1985
Litter Act 1983
Law of Property (Miscellaneous Provisions) Act, 1989
Legislative and Regulatory Reform Act 2006
Licensing Act 2003

Local Government (Miscellaneous Provisions) Act, 1976 and 1982 (as amended)
Local Government (Wales) Act 1994
Local Government Act 1972
Local Government Act 2003
Local Government and Housing Act 1989
London Olympic and Paralympic Games Act 2006
Magistrates Court Act, 1980
Malicious Communications Act, 1988
Medicines Act, 1968
Mines and Quarries (Tips) Act 1969
Mines and Quarries Act, 1954
Mobile Homes (Wales) Act 2013
Mock Auctions Act, 1961
Motor Cycles Noise Act, 1987
Motor Vehicles (Safety Equipment for Children) Act, 1991
National Assistance (Amendment) Act 1951
National Assistance Act 1948
National Assistance Act 1951
Noise Act 1996
Noise and Statutory Nuisance Act 1993
Nurses Agencies Act, 1957
Offices, Shops and Railway Premises Act, 1963
Olympic Symbol etc (Protection) Act 1995
Opticians Act, 1989
Performing Animals (Regs) Act, 1925
Pet Animals Act, 1951
Petroleum (Consolidation) Act, 1928
Petroleum (Consolidation) Regulations 2014
Plant Health Act, 1967
Poisons Act, 1972
Police and Criminal Evidence Act 1984
Police, Factories, Etc (Miscellaneous Provisions) Act 1916
Pollution Prevention and Control Act 1999
Prevention of Damage by Pests Act, 1949
Prices Act, 1974 and 1975
Proceeds of Crime Act 2002
Property Misdescriptions Act, 1991
Protection Against Cruel Tethering Act, 1988
Protection from Eviction Act 1977
Protection from Harassment Act 1997
Protection of Animals (Amendment) Act, 1954

Protection of Animals (Anaesthetics) Act, 1954
Protection of Animals Act 2000
Protection of Animals Act, 1911 and 1934
Psychoactive Substances Act 2016
Public Health (Control of Diseases) Act, 1984
Public Health Acts, 1875, 1936 and 1961
Radioactive Substances Act 1993
Rag Flock and Other Filling Materials Act, 1951
Refuse Disposal (Amenity) Act 1978
Registered Designs Act, 1949
Regulation of Investigatory Powers Act 2000
Regulatory Enforcement and Sanctions Act 2008
Regulatory Reform (Fire Safety) Order 2005
Riding Establishments Acts, 1964 and 1970
Road Traffic (Consequential Provision) Act, 1988
Road Traffic (Foreign Vehicles) Act, 1972
Road Traffic Act, 1988 and 1991
Road Traffic Offenders Act, 1988
Safety of Sports Grounds Act 1975
Scotch Whisky Act, 1988
Scrap Metal Dealers Act 2013
Scrap Metal Dealers Act, 1964
Slaughter of Poultry Act, 1967
Smoke-Free Premises etc (Wales) Regulations 2007
Social Services and Well Being Act (Wales)2014
Solicitors Act, 1974
Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011
Sunbeds (Regulations) Act 2010
Sunday Trading Act, 1994
Telecommunications Act, 1984
The European Communities Act 1972
The Products of Animal Origin (Import and Export) Regulations 1996 (as amended)
The Tobacco Advertising and Promotion Act 2002
The TSE (Wales) Regulations 2002 (As amended)
The Violent Crime Reduction Act 2006
Theatres Act, 1968
Theft Act, 1968 and 1978
Timeshare Act, 1992
Town Police Clauses Act, 1847
Town Police Clauses Act, 1889
Trade Descriptions Act, 1968

Trade Marks Act, 1994
 Trading Representation (Disabled Persons) Act, 1958 and 1982
 Trading Schemes Act, 1996
 Trading Stamps Act, 1964
 Transport Act, 1982
 Unsolicited Goods and Services Act, 1971 (as amended)
 Vehicle (Crime) Act 2001
 Vehicle (Excise) Act, 1971
 Video Recordings Act, 1984
 Water Act 2003
 Water Act, 1989
 Water Industry Act, 1991
 Water Resources Act 1991
 Water Resources Act 1991 (Amendment) (England and Wales) Regulations 2009
 Weights and Measures Act, 1985
 Weights and Measures etc. Act, 1976
 Wildlife and Countryside Act, 1981
 Young Persons (Employment) Acts, 1938 and 1964
 Zoo Licensing Act, 1981

- 8.3. To arrange burials under Section 46 of the Public Health (Control of Disease) Act, 1984.
- 8.4 To discharge the duties imposed on the Council under the provisions of Section 149 of the Environmental Protection Act, 1990, and any amendments made thereon or any regulations made thereunder.
- 8.5 To ensure the appointment of a suitably qualified person who shall be designated The Chief Inspector of Weights and Measures for the Authority.
- 8.6 In consultation with the Head of Legal, HR and Democratic Services to authorise and commence legal proceedings in respect of those matters for which the Head of Service has operational responsibility including the decision to prosecute the obstruction of an authorised Officer exercising properly delegated powers under this scheme.
- 8.7 To nominate others to accompany officers in the course of their duty, as provided in the relevant legislation.
- 8.8 To provide a consumer advice and assistance service under the provisions of the Weights and Measures Act, 1985.
- 8.9 To authorise in writing Officers of the Planning and Public Protection department to issue Fixed Penalty Notices under Section 88 of the Environmental Protection Act, 1990, subject to those Officers being suitably trained to carry out the duties authorised.

- 8.10 To authorise in writing Officers of the Planning and Public Protection department to issue fixed penalty notices under Section 43 of the Anti Social Behaviour Act 2003 (graffiti) and Section 8 of the Noise Act 1996 (excessive noise), subject to such Officers being suitably trained and qualified to carry out the duties authorised.
- 8.11 To authorise in writing Officers of the Planning and Public Protection Services department to issue fixed penalty notices under Section 59 (offences under dog control order) and Section 73 (offences relating to audible intruder alarms) of the Clean Neighbourhoods and Environment Act 2005, subject to such Officers being suitably trained to carry out the duties authorised; or in the alternative and subject to any thresholds under the Contract Procedure Rules of the Council to enter into arrangements with third party suppliers to exercise such functions his or her behalf.
- 8.12 To undertake the gathering of evidence, issuing of Fixed Penalty Notices and allied action including legal proceedings in respect of offences relating to litter under the Environmental Protection Act 1990.
- 8.13 To issue Variations of Authorisations under Sections 10 and 11 of the Environmental Protection Act, 1990 and permits under Regulation 17 of the Pollution Prevention and Control Regulations 2000, which do not involve a substantial change in consultation with the Local Members.
- 8.14 To act as the Home Authority Officer for the Council.
- 8.15 To authorise designated Officers of the Planning and Public Protection department for the Purposes of Enforcement of the Intoxicating Substances (Supply) Act 1985 and the Psychoactive Substances Act 2016.
- 8.16 To maintain registers of Licences issued and to approve the grant or refusal of licences (and renewals if permitted under the legislation) under the following Acts, subject to any licence or decision that is reserved to the Licensing Committee as set out in Part 3 of the Constitution and within Council Policy:-
- Police, Factories etc (Miscellaneous Provisions) Act, 1916
and House to House Collections Act, 1939 (House to House and Street Collections)
Charities Act 1992 (or such other legislation as may replace or supersede such Act)
- Local Government (Miscellaneous Provisions) Act 1982 (power to renew sex shop and cinema licence where no representations received and the power to deal with Street Trading Consent applications, in consultation with the Chair of Licensing Committee if no representations received)
- 8.17 To undertake inspections, investigations, interviews, service of notices, notifications, waivers, transfers, authorisations, licensing, registrations and legal proceedings as are within the purview of the Licensing Committee under the relevant legislation applicable thereto and to exercise all other relevant powers, including powers of entry provided under such legislation.
- 8.18 To approve the grant of licences under the Town Police Clauses Act, 1847 and 1889 and the Local Government (Miscellaneous Provisions) Act, 1976 Part II in respect of hackney carriages and private hire vehicles, operators and drivers in accordance with the Council's policies and to act as the Council's authorised officer for the purpose of Part II of the Act.
- 8.19 To refuse applications for Private Hire Vehicle Licences.

- 8.20 To enforce any provisions of the Licensing Act 2003.
- 8.21 To approve each advertisement to be displayed on Denbighshire Hackney Carriages.
- 8.22 To appoint Proper/Alternate Proper Officers for medical matters under all sections of the Public Health (Control of Diseases) Act 1984 and associated regulations.
- 8.23 To enforce the powers contained in the Products of Animal Origin (Third Country Imports) (Wales) Regulations 2009 and any other regulations made in relation to this function under the enabling legislation of the European Communities Act 1972
- 8.24 Power to appoint Officers as Inspectors under Section 19 (1) of the Health and Safety at Work, etc. Act, 1974.
- 8.25 not used.
- 8.26 Powers in respect of registration and enforcement of motor salvage operators contained in The Vehicles (Crimes) Act 2001 (as remains in force) and the Scrap Metal Dealers Act 2013.
- 8.27 To enforce the powers contained in The Caravan Sites Act 1968
- 8.28 To license premises for acupuncture, tattooing, cosmetic piercing, electrolysis .and semi-permanent skin colouring
- 8.29 To authorise in writing Officers of the Planning and Public Protection department to issue Penalty Notices under the Smoke-Free Premises etc. (Wales) Regulations 2007, subject to those Officers being suitably trained to carry out the duties authorised.
- 8.30 To authorise the enforced sale of empty properties under the provisions of Part III of the Law of Property Act 1925 and Local Land Charges Act 1975.
- 8.31 Undertake inspections, investigations, interviews, recording, service of notices and legal proceedings as are applicable to the Licensing Act 2003, together with any regulations made thereunder, and any amendments or additions thereto and to exercise all other relevant powers, including powers of entry provided under such legislation, and to maintain registers of Licences issued thereunder.
- 8.32 The power to suspend and revoke licenses in respect of hackney carriages, private hire vehicles, private hire vehicle operators and hackney carriage/private hire vehicle drivers.
- 8.33 Approve all applications for the grant or transfer of a premises licence or club premises certificate where there are no relevant representations.
- 8.34 Approve all applications for a personal licence, variation of a designated premises supervisor or notices given in respect of an activity taking place under the authorisation of a temporary event notice where there is no police objection.

- 8.35 Determine whether a complaint is irrelevant, frivolous, vexatious, excluded or repetitive.
- 8.36 Determine all requests to be removed as a designated premises supervisor.
- 8.37 Determine whether a Hearing should take place pursuant to the Licensing Act 2003 if all parties are in agreement that no Hearing is necessary.
- 8.38 Request information from a party to clarify a point to be considered at a Hearing pursuant to the Licensing Act 2003 (Hearings) Regulations 2005.
- 8.39 To determine the following applications under the Gambling Act 2005 where no representations are received or where representations are withdrawn:
- Application for a premises licence
 - Application for a variation to a licence
 - Application for a provisional statement
 - Application for club gaming/club machine permits
- 8.40 To determine the following matters:
- Applications for permits other than club gaming/club machine permits
 - The cancellation of licensed premises gaming machine permits
 - Consideration of temporary use notice
- 8.41 To determine applications for a transfer of a licence where no representations are received from the Gambling Commission.
- 8.42 To give consent for the operation of loudspeakers under Schedule 2 of the Noise and Statutory Nuisance Act 1993.
- 8.43 To exercise the authority's functions under the Anti Social Behaviour Act 2014 (with the exception of the making of a Public Space Protection Order which shall be made by the relevant Lead Member).
- 8.44 To exercise the Authority's powers to deal with dangerous structures under the Building Act 1984.
- 8.45 To lodge objections in consultation with the Chair and Vice-Chair of the Licensing Committee and the Local Member regarding a Vehicle Operating License.
- 8.46 The following delegations relate to Planning or other Applications:-
- 8.46.1.1 All types of planning or other applications on which Officers are recommending approval where 3 or less individual written objections have been received from different neighbours/residential properties raising material planning objections.
 - 8.46.1.2 All types of planning or other application on which Officers are recommending refusal.

- 8.46.1.3 All types of prior determinations, neighbouring authority notifications, the need for Environmental Impact Assessments (screening and scoping opinions) and other notifications.
- 8.46.1.4 Authority to enter into agreements or obligations which arise from planning applications decided under delegated powers and power to discharge or modify such agreements or obligations.
- 8.46.1.5 Compliance cases which have been investigated by a Planning Compliance Officer and require no further action.
- 8.46.1.6 Authority to issue a notice under Section 215 of the Town and Country Planning Act 1990.
- 8.46.1.7 Authority to take all enforcement action authorized under the Town and Country Planning Act 1990, the Planning Hazardous Substances Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 2004 including (but without prejudice to the generality of the foregoing) the issue, variation and withdrawal of enforcement notices and listed contravention notices, breach of condition notices, completion notices, hazardous substances contravention notices, building preservation notices, urgent works notices and the carrying out of works in default and the recovery of expenses in connection therewith.
- 8.46.1.8 Decide the type of planning appeal, subject to consultation with the Local Ward Member(s), and undertake to defend the Council's position in accordance with the Protocol for Member Involvement in Planning Appeals.
- 8.46.1.9 To submit observations on behalf of the Council on external consultations or draft documents
- 8.46.1.10 Minor amendments to the terms of a Section 106 legal agreement where the substance of the authorized terms has not significantly altered, submit to informal consultation with the Local Ward Member(s).
- 8.46.1.11 Minor amendments to the working of planning conditions/notes to applicants on applications approved at Planning Committee, including minor amendments to Committee authorized enforcement notices where the substance of the suggested condition/note to applicant/notice has not significantly altered, subject to informal consultation with the Local Ward Member(s).
- 8.46.1.12 To submit observations on behalf of the Council on the following pre-application stages of major renewable energy infrastructure projects:
 - Responding to the Infrastructure Planning Commission (IPC's) environmental impact assessment (EIA) scoping opinion consultation.
 - Responding to the developer's consultation on the draft Statement of Community Consultation (SoCC).
 - Responding to the IPC's consultation on the adequacy of the developer's pre-application consultation.
- 8.46.1.13 .To make and serve Tree Preservation Orders and deal with applications for works to trees having a Tree Preservation Order or works to Trees in Conservation Areas. To confirm unopposed Tree Preservation Orders.

8.46.2. To carry out the following functions:

Listed Buildings*

- (i) To determine applications for internal works only to buildings listed as of Special Architectural or Historic Interest of Grade II.
- (ii) To pass to CADW, with observations on behalf of the Council, applications for alterations/extensions to buildings listed Grade II.
- (iii) To determine applications for demolition of unlisted buildings in Conservation Areas in consultation with CADW.

- (iv) To determine within the guidelines laid down by the Council, applications for grant aid in respect of buildings of special architectural or historic interest. **
- 8.46.3. To determine deemed consent applications under the Planning (Hazardous Substances) Act, 1990 in consultation as necessary with the relevant Chief Officer with such Housing responsibilities.
- 8.46.4. To determine, following notification, whether the prior approval of the Council will be required for the demolition of buildings which are not already protected by listed building and conservation area legislation and in cases where it is determined that approval is required to approve the application unless objections to the proposal have been received.*
- 8.46.5 To determine applications for Certificates of Lawfulness of Existing Use or Development and Certificates of Lawfulness of Proposed Use or Development under Sections 191 and 192 respectively of the Town and Country Planning Act, 1990, in consultation with the Head of Legal HR and Democratic Services.*
- 8.46.6. To serve Breach of Condition Notices under Section 187A of the Town and Country Planning Act, 1990, subject to prior consultation with the Chair and Vice-Chair of the Planning Committee and the Local Member in line with the Member Officer Protocol. *
- 8.46.7 To deal with and respond to Telecommunication Development Notifications, in consultation with the Chair and Local Member whether or not objections are received.*
- 8.46.8 To pass or reject all plans deposited under Building Regulations for the time being in force, or s.16 Building Act 1984. ***
- 8.46.9 .To arrange for the protection or demolition of dangerous structures, including the service of Notices under Section 77 and 78 of the Building Act, 1984. ***
- 8.46.10. To serve Notices, where appropriate under the relevant provisions of the Building Act 1984 and/or Section 16 of the Local Government (Miscellaneous) Provisions Act 1976 (including the service of notices in respect of demolitions under s.81 of the Building Act 1984 ***
- 8.46.11 Not used.
- 8.46.12. Not used.
- 8.46.13. To arrange and approve the numbering of houses and the naming of streets providing, where legislative provisions allow ***
- 8.46.14. To issue the standard completion certificates to certify that completed works are in accordance with Building Regulations.***
- 8.46.15. To negotiate and establish appropriate Building Control and Pre-Planning Application Advice fees and charges in response to market forces***
- 8.46.16. To take enforcement action in respect of non-compliance with the Building Regulations for the time being in force. ***
- 8.46.17. To determine applications under the Hedgerow Regulations 1997.*
- 8.46.18. To authorise other Officers to have the powers of entry under Section 95 of the Building Act, 1984 and Sections 196A, 214B and 324 of the Town and Country Planning Act, 1990.
- 8.46.19. To authorise other Officers to have the powers of entry under Section 88 of the Planning (Listed Buildings and Conservation Areas) Act, 1990 and Section 36 of the Planning (Hazardous Substances) Act, 1990.
- 8.46.20. To determine whether proposed developments require Appropriate Assessments and the giving of opinions on tests of likely significance, under the European Habitat Directive 1992, the Conservation (Natural Habitats, & c.) Regulations 1994 and any associated legislation/regulations, following consultation with the Chair of the Planning Committee and relevant Local Members. **
- 8.46.21. To review annually the commuted sum payable for future maintenance of public open spaces in new housing developments and to set a new sum if it is deemed appropriate.
- 8.46.22. To vary or revoke Tree Preservation Orders subject to prior consultation with and the agreement of the Local Member(s).**

8.46.23. To make all necessary arrangements to set up and convene meetings of the Design Panel and to expand the membership of the Panel as considered appropriate. **

8.46.24. To update from time to time:

- (a) the Building Cost Multipliers and Contributions as shown in the Council's approved Local Planning Guidance Note on Developer Contributions to Schools in line with Government advice;** and
- (b) the list of schools with a current shortage of places based on the Denbighshire Schools Organisation Plan.**

8.46.25. To exercise all the functions of the Council in respect of high hedges under the provisions of Part 8 of the Anti-Social Behaviour Act 2003 and any Regulations made thereunder, including authority to charge the maximum fee permissible under the relevant Regulations in connection with complaints made to the Council, or any concessionary rate in accordance with Council policies.**

In the absence or inability to act of the Head of Planning and Public Protection, these delegations may be exercised in accordance with the service's departmental delegations as agreed by the Head of Planning and Public Protection or by:

- * the Development Manager
- ** the Strategic Planning and Housing Policy Manager
- *** the Built Environment Manager

In the absence or inability to act of the Head of Planning and Public Protection and the other three officers referred to above that these delegations may be exercised by the Corporate Director – Economy and Public Realm.

8.47 To issue Certificates of Approval of Works carried out for works of improvement, repair, conversion and adaptations under Part I of the Housing Grants, Construction and Regeneration Act 1996, including payments by instalments

8.48 To deal with all matters arising from applications for grants under Part 1 of the Housing Grants, Construction and Regeneration Act 1996 including approval and rejection of applications, subject to consultation with the Head of Finance and Assets in respect of financial aspects, and to any financial allocation available for this purpose in any one year not being exceeded.

8.49 To deal with all aspects of approval and payments for unforeseen work above currently agreed limits in respect of House Renovation Grants.

To carry out the following functions in respect of car parks and highways :

8.50 To have responsibility for the management of the enforcement function for parking contraventions, both on-street and off-street and any other contraventions covered by the road traffic and traffic management legislation, including responsibility for setting parking charges and penalty charge levels.

8.51 To waive or amend car parking charges for special promotions.

8.52 To take all necessary action to provide additional temporary car parks as required, in consultation with the Local Member(s).

8.53 In consultation with the Local Member(s) to undertake all necessary action following consideration of objections to Off Street Parking Places Orders.

8.54 To act on a day to day basis and within the Scheme in the following areas relating to highways :-

- Agreements, deposits, licences, consents and enforcements under the Highways Act 1980 and all other relevant highways legislation.
- Recovery of charges for licences for highway works
- Service of all appropriate notices in respect of highway matters
- Delegated functions under the Trunk Road Agency Agreement in accordance with the North East Wales Trunk Road Agency Partnership Agreement

- Under Part VII A of the Highways Act 1980 and any adopted highway within the County, after consultation with the relevant Cabinet and Local Members.
- Authority to determine the programme of revenue works (other than those included in the Council's capital programme and pre-programme schedules) for each financial year and to execute those works.
- Authority to comment on behalf of the Council on proposals or draft Orders initiated by other public authorities for the extinguishment or diversion of highways or public footpaths.
- To authorise the letting of contracts for works associated with highways, transportation and drainage, general engineering, land remediation, land reclamation, and building and construction, in accordance with Financial Regulations and the Contract Procedure Rules.
- In consultation with the Head of Legal HR and Democratic Services to sign and serve notices, give consents and take any other action, including authorising prosecutions for offences, as may be appropriate under any statute, including specifically the Highways Act, 1980, or any other legislation relating to the Highway or other functions, duties and powers within the purview of the Highway Services department, and additionally, in consultation with the Head of Environment in so far as Local Rights of Way (as defined by Section 60(5) of the Countryside and Rights of Way Act 2000) are concerned.
- To undertake such functions as are within the purview of the Highway Services department and as are required of the Council under the Joint Trunk Road Agency Agreement with the National Assembly for Wales.
- To determine the commuted sum to cover the cost of maintenance, for a 10 year period, to be levied on developers who, as part of a development, create a highway verge.
- To select contractors to undertake works in relation to the various categories of work falling within the purview of the Highways and Infrastructure department from the approved Select List of Contractors, and acting on behalf of other clients using the department for such works, in accordance with Financial Regulations.
- To have the power to authorise (in writing) persons to enter onto land pursuant to, and for the purposes of, Sections 289 and 291 of the Highways Act 1980.
- To set the level of charges for the issuing of consents for highway works and obstructions and other matters pursuant to the Local Authorities (Transport Charges) Regulations 1998 and to apply discretionary annual adjustments to such charges in line with inflation.
- To set the level of charges for the issuing of consents for highway works and obstructions and other matters pursuant to the Local Authorities (Transport Charges) Regulations 1998 and to apply discretionary annual adjustments to such charges in line with inflation.
- To arrange for the making of temporary traffic regulation orders under the Road Traffic Regulation Act 1984 as amended.
- To approve the making of orders under S.21 Town Police Clauses Act 1847, following consultation with Local Members.
- Safe routes to schools
- Road safety, education and training
- Adoption of roads
- Traffic Regulations and/or Orders
- The undertaking of statutory consultations with the Police in relation to proposed Traffic Orders.

- Disabled Parking Orders.
- Provision of road markings, rails, barriers and signs not requiring Assembly approval.

In respect of economic and business development:

- 8.55 To authorise the establishment of a Business Loan Scheme in consultation with the s.151 Officer, Corporate Director: Economy and Public Realm; and in line with the terms of reference (where applicable) of the Council's Strategic Investment Group.
- 8.56 To authorise the establishment of a Business Development Grant Scheme in consultation with the s.151 Officer and the Corporate Director: Economy and Public Realm and in line (where applicable) with the terms of reference of the Council's Strategic Investment Group.

9. To the Head of Customers, Communications and Marketing

9.1 To act on a day to day basis and within this scheme in the following areas:

- Customer Services
- One Stop Shops
- Communications (external)
- Marketing
- Media Relationships
- Partnerships
- Library Services and Standards

10. To the Head of Highways and Environmental Services

10.1 To have power to operate cleansing and waste and grounds maintenance responsibilities within the purview of the Environment Department from time to time under the following legislation as amended or re-enacted or substituted with new legislation

- Control of Pollution Act 1974
- Criminal Damage Act 1971
- Environmental Protection Act 1990
- Litter Act 1983
- Local Authority (Goods and Services) Act, 1970
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government Act 1988
- Local Government Planning and Land Act 1980
- Refuse Disposal (Amenity) Act 1978
- Town and Country Planning Act 1990
- Transport Act 1968

10.2 To initiate Horticultural schemes within the Council's estimates.

10.3 To organise floral displays for Civic and Charitable functions.

10.4 To manage all cemeteries controlled by the Council.

10.5 To supervise and manage the Countryside Service and Country Parks including maintenance of park, amenity areas and children's playgrounds and all other outdoor recreation facilities, including pavilions and changing accommodation incidental thereto.

- 10.6 To exercise the Council's powers to deal with dangerous trees pursuant to Section 23 and Section 24 of the Local Government (Miscellaneous Provisions) Act 1976.
- 10.7 To make arrangements for the collection of domestic and commercial waste and for its safe disposal.
- 10.8 To prepare a plan of the Council's arrangements for recycling and to provide litter bins
- 10.9 To grant consents to Community Councils for the placing of litter bins within the highway.
- 10.10 To institute action for the cleansing of street litter and refuse, including publicity for litter campaigns.
- 10.11 In consultation with the Head of Legal, HR and Democratic Services, to authorise the institution of legal proceedings in respect of those matters for which the Head of Environment has operational responsibility.
- 10.12 To maintain the public register for the principal litter authority.
- 10.13 To take action to control abandoned vehicles and trolleys, to remove fly posting and graffiti.
- 10.14 To classify various types of waste for collection and disposal and streets requiring cleansing
- 10.15 The prohibition of street parking to facilitate street cleansing.
- 10.16 With the Head of Planning and Public Protection to control and monitor closed disposal sites to prevent pollution or environmental nuisance.
- 10.17 To carry out the Council's functions and duties in connection with the collection, reclamation, recycling and disposal of waste, street cleaning and litter, including the negotiation of terms for commercial waste collection.
- 10.18 To determine in consultation with Local Members applications for the temporary use of land under the control of the Environment Department for periods not exceeding one year.
- 10.19 To exercise, on behalf of the Council, the powers and duties arising from the statutory provisions relating to the service of notices for those functions for which he has responsibility.
- 10.20 To approve from time to time the scale of charges recommended by the Council's Refuse Collection Contractor for the commercial refuse collection service and the price of charges recommended by the Refuse Collection Contractor for the sale or rental by the contractor of commercial refuse containers
- 10.21 To exercise the power to authorise the erection of stiles, etc, on footpaths and bridleways pursuant to Section 147 of the Highways Act 1980 in consultation with the Local Members concerned.
- 10.22 In consultation with the Head of Legal HR and Democratic Services, to take action under Section 130 (protection of public rights in respect of highway) and Section 149 (removal of items deposited on a highway) of the Highways Act 1980, in relation to highways which are Local Rights of Way as defined in Section 60(5) of the Countryside and Rights of Way Act 2000.
- 10.23 To authorise in writing Officers of the Environment department to issue Fixed Penalty Notices under Section 88 of the Environmental Protection Act, 1990, subject to those Officers being suitably trained to carry out the duties authorised.
- 10.24 To undertake the gathering of evidence, issuing of Fixed Penalty Notices and allied action including legal proceedings in respect of offences relating to litter under the Environmental Protection Act 1990
- 10.25 To approve applications for grant aid under the Environmental Community Grants Scheme (or equivalent) in consultation with the appropriate Local Member(s).
- 10.26 To determine individual applications for an additional refuse bin for households of 5 or more persons.
- 10.27 To act on a day to day basis, and within the scheme of delegation in the following areas:-
- Agreements, deposits, licences, consents and enforcements under the Highways Act 1980 and all other relevant highways legislation.
 - Recovery of charges for licences for highway works
 - Recovery of costs for public footpath orders
 - Decisions on footpath diversion orders where there are no objections.
 - Enforcement in respect of deposits and obstructions on the highway
 - Highway nuisance

- Surveys of public rights of way
- Operation of the Councils' Advance Payment Code
- Service of all appropriate notices in respect of highway matters
- Drainage in respect of the highway
- Delegated functions under the Trunk Road Agency Agreement in accordance with the North East Wales Trunk Road Agency Partnership Agreement
- Maintenance of Highways (including Rights of Way)

10.28 Authority to determine the following applications:-

- Under the New Roads and Street Works Act 1991
- The deposit of contractors skips on the highway
- To obtain consent under Section 1 of the Local Government (Miscellaneous Provisions) Act 1976 in respect of erection of flagpoles and the positioning of cut or tub trees on the highway
- In respect of proposed public footpath Orders where they are unopposed
- Under Part VII A of the Highways Act 1980 and any adopted highway within the County, after consultation with the relevant Cabinet and Local Members.
- From Public Utilities to undertake work on the highway
- In relation to activities in pedestrianised areas and adopted highways, in consultation with Local Members.
- Unopposed applications for stopping up orders.
- To authorize the making of road traffic regulation orders and to determine residents parking schemes, disabled parking spaces, parking orders, waiting restrictions, weight limits, speed limits, bus and other priority lanes and traffic calming measures.

10.29 Authority to take action under section 230 Highways Act 1980, in relation to urgent repairs to private streets.

10.30 Authority to determine the programme of revenue works (other than those included in the Council's capital programme and pre-programme schedules) for each financial year and to execute those works.

10.31 Authority to comment on behalf of the Council on proposals or draft Orders initiated by other public authorities for the extinguishment or diversion of highways or public footpaths.

10.32 To receive all notices and information from water undertakers, and to maintain the registers in accordance with the Reservoirs Act 1975.

10.33 To undertake all necessary action under the Reservoirs Act 1975 in connection with enforcement.

10.34 In consultation with the Local Member to select bus stop sites and to select suitable sites for the erection of bus shelters, and grant consent to Community Councils for the erection of bus shelters within the highway under Section 4 of the Local Government (Miscellaneous Provisions) Act 1953.

10.35 To authorise the letting of contracts for works associated with highways, transportation and drainage, general engineering, land remediation, land reclamation, and building and construction, in accordance with Financial Regulations and the Contract Procedure Rules.

10.36 To arrange for the making of permanent traffic regulation orders under the Road Traffic Regulation Act 1984 as amended and to consider objections to permanent traffic regulation orders in consultation with the Local Members.

10.37 In consultation with the Head of Legal HR and Democratic Services to sign and serve notices, give consents and take any other action, including authorising prosecutions for offences, as may be appropriate under any statute, including specifically the Highways Act, 1980, or any other legislation relating to the Highway or other functions, duties and powers within the purview of the Highway Services department, and additionally, in consultation with the Head of Environment in so far as Local Rights of Way (as defined by Section 60(5) of the Countryside and Rights of Way Act 2000) are concerned.

- 10.38 To undertake inspections (including the inspection of a licence or operator records), authentications, investigations, interviews, sampling, testing (including the testing of vehicles), prohibitions, seizures (including the removal of plates upon expiry or revocation), detentions, recording, service of notices, (including suspension notices), notifications, waivers, transfers, authorisations, licensing, registrations and legal proceedings as are within the purview of the Highways and Environmental Services department under the legislation applicable and incidental to its functions, together with any regulations made thereunder, and any amendments or additions made to it, or any subsequent new functions which can properly be regarded as incidental to the functions of the department and to exercise all other relevant powers or duties, including powers of entry provided under such legislation.
- 10.39 To grant consent to Community Councils for the placing of seats within the highway under section 5 of the Parish Councils Act 1957.
- 10.40 To grant consent to the Post Office for the erection of post boxes within the highway, in consultation with Local Members.
- 10.41 To grant consent for the erection of telephone kiosks within the highway in consultation with Local Members.
- 10.42 To undertake such functions as are within the purview of the Highway Services department and as are required of the Council under the Joint Trunk Road Agency Agreement with the National Assembly for Wales.
- 10.43 To exercise the powers of the Council under Section 15 of the Clwyd County Council Act, 1985 where appropriate.
- 10.44 To authorise entry into Agreements under Section 278 of the Highways Act, 1980 were appropriate.
- 10.45 To authorise the making of applications to the Magistrates Court for the stopping up or diversion of highways under Section 116 of the Highways Act, 1980, in consultation with the Local Member(s).
- 10.46 In consultation with the Local Member(s) to undertake all necessary action following consideration of objections to Off Street Parking Places Orders.
- 10.47 To determine the commuted sum to cover the cost of maintenance, for a 10 year period, to be levied on developers who, as part of a development, create a highway verge.
- 10.48 To select contractors to undertake works in relation to the various categories of work falling within the purview of the Highways and Infrastructure department from the approved Select List of Contractors, and acting on behalf of other clients using the department for such works, in accordance with Financial Regulations.
- 10.49 To have the power to authorise (in writing) persons to enter onto land pursuant to, and for the purposes of, Sections 289 and 291 of the Highways Act 1980.
- 10.50 To set the level of charges for the issuing of consents for highway works and obstructions and other matters pursuant to the Local Authorities (Transport Charges) Regulations 1998 and to apply discretionary annual adjustments to such charges in line with inflation.
- 10.51 To authorise in writing Officers of the Highways and Infrastructure department to act for the purposes of enforcing Schedule 4 of the Environmental Protection Act 1990.
- 10.52 To serve written notices in accordance with the provisions of Part II of the Traffic Management Act 2004 on any Works Promoter or Contractor directly employed by the Council to prohibit or suspend planned works on any road within the County for any period of time where such prohibition secures the expeditious movement of traffic within the County.
- 10.53 To have the overall responsibility pursuant to the Transport Act 1968 for the proper operation and maintenance of the Council's transport fleet and to hold the relevant Operators Licence, or to designate an appropriate officer for such purpose.
- 10.54 To operate the testing of private hire and hackney carriage vehicles as well as operating a MOT service.
- 10.55 To exercise the function of making Public Path Extinguishment Orders under Section 118 of the Highways Act 1980 in consultation with the Local Members.

- 10.56 (i) To exercise the function of making Public Path Diversion Orders under Section 119 of the Highways Act 1980 and Section 257 of the Town and Country Planning Act 1990 in consultation with the Local Members.
- (ii) To formally abandon Public Path Diversion Orders made under Section 119 of the Highways Act 1980 or Section 257 of the Town and Country Planning Act 1990, subject to the Local Member having no objection to the proposal with the power to decide proposals to which the Local Member objects remaining with the Council.
- 10.57 To enter into Public Path Creation Agreements under Section 25 of the Highways Act 1980 on behalf of the Council.
- 10.58 To exercise the function of determining applications for Definitive Map Modification Orders, in consultation with the Local Members concerned (except in respect of 'legal event orders' under Section 53(3)(a) of the Wildlife and Countryside Act 1981) and the Head of Legal, HR and Democratic Services.
- 10.59 To exercise the power to authorise the erection of stiles, etc, on footpaths and bridleways pursuant to Section 147 of the Highways Act 1980.
- 10.60 In consultation with the Head of Legal, HR and Democratic Services, to take action under Section 130 (protection of public rights in respect of highway) and Section 149 (removal of items deposited on a highway) of the Highways Act 1980, in relation to highways which are Local Rights of Way as defined in Section 60(5) of the Countryside and Rights of Way Act 2000.
- 10.61 To decide applications for free and assisted transport to schools and colleges (except pupils with special educational needs) in accordance with the Council's policies relating to home to school transport.
- 10.62 To set the level of charges for the issuing of consents for highway works and obstructions and other matters pursuant to the Local Authorities (Transport Charges) Regulations 1998 and to apply discretionary annual adjustments to such charges in line with inflation.
- 10.63 To arrange for the making of temporary traffic regulation orders under the Road Traffic Regulation Act 1984 as amended.
- 10.64 To approve the making of orders under S.21 Town Police Clauses Act 1847, following consultation with Local Members.
- 10.65 To exercise all the powers of the Council under the Land Drainage Act 1989 including the service of notices under the Act.
- 10.66 To administer the provisions of the New Roads and Street Works Act 1991 in respect of Streets, Street Works and Undertakers.
- 10.67 To determine applications (in consultation with the Head of Planning and Public Protection) for licences under s.115E of the Highways Act 1980 to use the highway for the provision of facilities for refreshments.
- 10.68 To have the overall responsibility pursuant to the Transport Act 1968 for the proper operation and maintenance of the Council's transport fleet and to hold the relevant Operators Licence, or to designate an appropriate officer for such purpose.
- 10.69 To have overall responsibility in respect of the Council's Corporate Health and Safety department.

11. To the Corporate Director : Communities

- 11.1 To act as the Council's Statutory Director of Social Services in accordance with Section 6 of the Local Authorities Social Services Act 1970 and in Part 8 of the Social Services and Well Being (Wales) Act 2014 in relation to the Council's Social Services functions and be accountable for the effective delivery of such functions having regard to the duties in Part 2 of the Social Services and Well Being (Wales) Act 2014

- 11.2 The overall performance and strategic management responsibility for Social Services is delegated to the Corporate Director :Communities as the Statutory Director.
- 11.3 As Statutory Director to maintain an overview of the full range of social services activities within the Authority and as the Officer responsible for the quality of services provided to fulfil the authority social services function including the following core responsibilities as set in Statutory Guidance on the Role and Accountabilities of the Director of Social Services 2009 and any subsequent Statutory Guidance or Code of Practice issued under s.145 of the Social Services and Well Being (Wales) Act 2014

- **Providing clear professional leadership across Social Services**

- Through the published Annual Report to Council, to ensure vision, strategic direction, priorities and improvement plans for social services are clear and help fulfil corporate plans and that awareness of the Director of Social Services role is raised amongst Councillors and what information Councillors can expect to receive in relation to the discharge of specific social services functions and the wider activities to promote well being of people with care and support needs
- To ensure coherence and integrated leadership across social services and education. .
- As a Member of the Regional Social Services Programme Board
- To engage in regional and national social services networks e.g. through ADSS, SSIA, NWSSIC.
- To ensure engagement of users of social services in bringing the Council closer to the community – shaping the delivery of priorities and services across the Council.
- To contribute to the vision and direction of the Council and ensure services seek to promote the well being of people with care and support needs.

- **Having direct access and reporting to, and advising, the Chief Executive and Councillors on Social Services matters and on the direction and actions the authority should take in fulfilling its Social Services responsibilities.**

- To brief and advise Council, Cabinet, Scrutiny and the Chief Executive on high risk issues relating to social services, the contribution of social services to corporate programmes and the impact of corporate programmes on vulnerable groups.
- As Statutory Director to report to the Cabinet, Lead Member and Scrutiny Committees in relation to the planning, delivery and performance of the Councils' social services functions, and to be accountable for the oversight and co-ordination of such functions.
- To ensure the governance and relationship with the Chief Executive is subject to periodic review.
- To ensure Councillors have clear advice on the level of resources required to enable the Council to effectively deliver it's social services functions.
- To identify and advise Councillors on priorities, challenges and risks across all aspects of social services including staffing issues affecting the Council's ability to discharge its statutory functions.
- Briefing the Chief Executive and Councillors on high profile cases or matters likely to be of public concern.
- To report to the Council on the detail of any inspection report

- **Ensuring that strong performance management arrangements are in place across Social Services and reporting at a corporate level and to Members on the authority's performance in respect of these;**

- To receive defined performance and quality information on a monthly basis to enable overall performance management and quality assurance.
- To intervene when financial position, performance or quality are below expected standards and improvement activity is not sufficiently timely or effective.
- To undertake annual performance appraisals of the social services heads of service.
- To be a principal point of contact with the Welsh Government and professional leads, the service and workforce regulators, audit and inspection bodies.
- To be responsible for the reporting and communicating directly with the Welsh Government and the Care and Social Services Inspectorate for Wales; and the development and maintenance of productive relationships with other sectors and agencies as the lead officer on social services matters
- To be responsible for ensuring the Chief Executive and Councillors that statutory functions laid on the Council have been carried out, and that proper information management and accurate records are kept;
- To advise Councillors on strategies for improving methods of intervention, service provision, practice and use of resources.
- To provide leadership on strategies to manage risk and co-operate with the full range of partners to work with families at the 'edge of care'.
- To ensure strategic arrangements are in place to provide for co-operation across the Council and with partners to effectively provide care and support services for all Looked After Children.
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- **Ensuring that the authority has proper safeguards to protect vulnerable children and young people, adults and older people, and reporting at a corporate level and to Members on their effectiveness,**
 - Ensuring the effective operation and partnership working of the Local Safeguarding Children Board and Denbighshire Adult Protection Committee
 - To carry ultimate accountability across the Council for safeguarding children including ensuring safe employment practices and safeguarding arrangements within the Council and relevant partners.
 - To oversee and report to Councillors on the operation, monitoring and improvement of child and adult safeguarding systems within the Council
 - As a member of the Corporate Parenting Forum
- **Fulfilling overall responsibility for Social Services workforce planning, training and professional development.**
 - Ensuring employment arrangements for social care staff comply with Care Council Codes of Practice and that the overarching personnel and safe recruitment policies are in place and adhered to
 - To ensure integration of the social care workforce agenda with wider corporate and partnership workforce development agendas and collaborative workforce learning
 - To ensure high standards across the whole social care workforce and a whole sector workforce plan is in place.
 - To advise Councillors, partners and other providers where workforce shortfalls inhibit the Council's capacity to discharge statutory responsibilities; setting out actions necessary to rectify any such situation.
- **Ensuring that there are adequate arrangements in place for Social Services to work effectively with others, both within and outside the Authority, in fulfilling its Social Services functions and in contributing to the achievement of wider policy objectives.**
 - As a member of the LSB.
 - To act as Lead Officer for liaison with the NHS and the wellbeing agenda;

- As a CPG member
- As Lead Officer for regional social care and health/social care collaboration projects.
- To lead and support continuous engagement and co-operation with inspectorates by all local authority officers.
- To develop effective arrangements to promote co-operation and interagency working
- To ensure the Council and it's partners develop a strategic approach to prevention, including developing a co-operative approach to the planning, development, procurement and delivery of services.
- To ensure that preventative services are provided or arranged specifically to address the care and support needs identified by the population assessment.
- To ensure effective information, advice and assistance services are available in supporting individuals to achieve their well being outcomes.

11.4 To act as an Authorised Officer under the Regulation of Investigatory Powers Act 2000.

11.5 To keep the Statutory Director of Education apprised of key corporate decisions/actions which will impact or have possible implications for their Statutory Officer role.

11.6 To act as the Emergency Planning Lead for Social Services.

11.7 To act as Welsh Language lead in respect of the Welsh Language Standards Regulations 2015

12. To the Head of Community Support Services

12.1 The strategic and operational delivery and/or securing by the Council of Personal Social Services for Adults and Homelessness services.

- Adult services, including mental health, learning disabilities, older people, acquired brain injury and physical disabilities;
- Performance and Financial Management, including complaints and representations relating to social services for adults;
- Inter-agency and Partnership Working;
- Commissioning and contracting across all adult services.
- To act as Lead Officer in respect of Workforce Planning and Development across both Adult and Children's Social Services.
- The management of the complaints services across both Adult and Children's Services in accordance with any relevant complaints procedures and Directions.
- The safeguarding of vulnerable adults or adults at risk, in accordance with the current statutory and policy framework.

12.2 In particular, to exercise those functions of the Council which relate to personal social services for adults under the appropriate Sections of the following Acts as amended or re-enacted as set out in the below non exhaustive list, having regard to any Statutory Guidance, Directions and Regulations issued thereunder:-

- Accommodation Agencies Act 1953
- Administration of Justice Act 1970
- Anti Social Behaviour Act 2003
- Care Act 2014
- Care Standards Act 2000
- Carers (Equal Opportunities) Act 2004
- Carers (Recognition and Services) Act 1995
- Carers Act 2000
- Carers and Disabled Children Act 2000

- Children and Young Persons Act 1933
- Chronically Sick and Disabled Persons Act 1970
- Community care (Delayed discharge) Act 2003
- County Courts Act 1984
- Crime and Disorder Act 1998
- Criminal Justice Act 1991
- Data Protection Act 1998
- Disabled Persons (Employment) Act 1958
- Disabled Persons (Services, Consultation and Representation) Act 1986
- Health Act 1999
- Health Act 2006
- Health and Social Care Act 2001 and 2008
- Health and Social Services and Social Security Adjudication Act 1983
- Health Services and Public Health Act 1968
- Homelessness Act 2002
- Housing (Wales) Act 2014
- Housing Act 1985
- Housing Act 1985 (as amended by the Local Government and Housing Act 1989)
- Housing Act 1996 (including amendments made under the Anti Social Behaviour Act 2003)
- Housing Act 2004
- Housing Grants, Construction and Regeneration Act 1996
- Local Government Act 1972
- Local Government Act 2000
- Mental Capacity Act 2005
- Mental Health (Wales) Measure 2010
- Mental Health Act 1983 and 2007
- National Assistance (Amendment) Act 1951
- National Assistance Act 1948
- National Health Service (Wales) Act 2006
- National Health Service Act 1977 and 2006
- National Health Service and Community Care Act 1990
- Nationality, Immigration and Asylum Act 2002
- Noise Act 1996
- Noise and Statutory Nuisance Act 1993
- Protection from Eviction Act 1977
- Public Health (Control of Disease) Act 1984
- Safeguarding of Vulnerable Groups Act 2006
- Social Care Charging (Wales) Measure 2010
- Social Security Administration Act 1992
- Social Services and Well Being Act 2014
- Supplementary Benefits Act 1976
- Violence against Women, Domestic Violence and Sexual Violence (Wales) Act 2015
- Well Being of Future Generations (Wales) Act 2015

- 12.3 To act as the Senior Responsible Person for the purposes of the Care Standards Act 2000 and be the Lead Officer for DAPC and line manage POVA Co-Ordinator in accordance with 'In Safe Hands' guidance
- 12.4 In consultation with the Head of Finance and Assets and the Corporate Director Communities, to approve fee increase, within budgetary resources, for residential and nursing home provision following approval by Cabinet of the methodology of setting the fee.
- 12.5 The setting and administration of all charges levied in respect of social services for adults including the waiving of charges and subject to any limit on such charge or fee, set by statute.

- 12.6 The provision of improvements and adaptations to a disabled persons' home under section 2(1)(e) of the Chronically Sick and Disabled Persons Act 1970.
- 12.7 In consultation with the Head of Legal, HR and Democratic Services to institute proceedings in a Court or other Tribunal under the following Acts as amended or re-enacted.
- Health and Social Services and Social Security Adjudications Act 1983 Section 22
 - Insolvency Act 1986 Section 339,
 - Mental Capacity Act 2005
 - Mental Health Act 1959 Section 131
 - Mental Health Act 1983 Sections 29 and 30, Part V and VII and Section 130
 - National Assistance Act 1948 Section 47 and 56(3)
 - Recovery in the County Court for debt matters arising from the provision of services rendered under Section 21 and 29 National Assistance Act 1948
 - The High Courts' jurisdiction in respect of vulnerable adults who lack capacity.

Any other function of the Council in relation to the provision of personal social services for adults which involves an application to a Court or other Tribunal including the prosecution of offences or which requires the execution of any document having effect in law.

- 12.8 To approve a Panel of suitable and willing persons to act as members in respect of independent reviews on complaints under procedures established under the National Health Service and Community Care Act 1990.
- 12.9 To respond at the formal stage on behalf of the Authority on complaints dealt with under proceedings established under the National Health Service and Community Care Act 1990.
- 12.10 To act as Guardian and decide upon the reception of persons into Guardianship of the Council under Section 7 and 37 of the Mental Health Act 1983.
- 12.11 To approve a package of Community Care in excess of the gross cost of Residential Placement for the registration category of the person concerned when the cost can be met by the budget holder.
- 12.12 To appoint Approved Mental Health Practitioners.
- 12.13 To respond on behalf of the Authority at the appeal stage following independent reviews and complaints under social services complaints procedures
- 12.14 To exercise the power to appoint Proper/Alternative Proper Officers for medical matters under the National Assistance Act 1948 and the National Assistance (Amendment) Act 1951.
- 12.15 To make decisions on consent under s.30 to 31(2) of the Anti Social Behaviour Act 2003 on dispersal of groups and removal of persons under 16 to their place of residence (jointly with the Head of Children and Family Services in respect of those under 16 who form part of such groups).
- 12.16 To keep the Statutory Director of Social Services apprised of key corporate decisions/actions which will impact or have possible implications for the Statutory Officer role.
- 12.17 To consult and keep apprised of key corporate decisions/actions relevant to the Councils' Older Peoples Champion and Lead Member, where appropriate.
- 12.18 To ensure service users are engaged in shaping priorities and delivery of adult social services.
- 12.19 To engage in regional and national networks relating to Adult Services.
- 12.20 To develop the annual Service Business Plan and contribute to ACRF
- 12.21 To develop and manage service risk registers and undertake any corporate Service Challenge process.

- 12.22 To commission and receive regular management information to enable strategic planning and operational management of the services.
- 12.23 To have overall responsibility for the annual budget agreed for Adult Services.
- 12.24 To report annually to Scrutiny and Council on adult protection procedures.
- 12.25 To act as Lead Officer for specific health/social care integration projects;
- 12.26 To be a CPG member;
- 12.27 To administer the Council's functions and responsibilities towards the Homeless under the provisions of the Housing Act 1985 and the Housing (Wales) Act 2014
- 12.28 To consider and determine any requests received by the Council pursuant to Section 8 of the Homelessness Act 2002 and the Housing Wales Act 2014 calling for a review of the suitability of accommodation offered by the Council.
- 12.29 To act as Lead Officer for regional social care and health/social care collaboration projects.

13. To the Head of Education and Children's Services

- 13.1 To act as the Statutory Director of Education appointed under s.532 of the Education Act 1996 or any re-enactment of that provision.
- 13.2 The strategic and operational management responsibility for Education and Children's Services is delegated to the Head of Education and Children's Services.
- 13.3 As Statutory Director for Education to maintain an overview of the full range of education services within the Authority and as the Officer responsible for the quality of services provided to fulfil the authority's education functions.
- 13.4 As Statutory Director to report directly to the Corporate Director: Communities and to report to Cabinet, Lead Members and Scrutiny and other relevant Committees in relation to the planning, delivery and performance of the Councils Education functions and be accountable for the oversight and co-ordination of such functions.
- 13.5 To be responsible for the reporting and communicating directly with the Welsh Government and (Estyn) on education matters and the development and maintenance of productive relationships with other related sectors and agencies.
- 13.6 To keep the Statutory Director of Social Services (Corporate Director: Communities) apprised of key corporate decisions/actions which will impact or have possible implications for their Statutory Officer role.
- 13.7 To grant and revoke licences to children of compulsory school age regarding child performances in accordance with the Children and Young Persons Act 1963 and the Children's (Performance) Regulations 1968 and any statutory modification thereof.
- 13.8 To supervise, prohibit and/or restrict the employment of children of compulsory school age pursuant to the Education Act 1996.
- 13.9 To act as the Statutory Lead Director for Children and Young People's Services under s.27 of the Children Act 2004.
 - As Statutory Lead Director for Children and Young People to maintain an overview of the full range of children and young peoples' services and activities within the Authority and as

the Officer responsible for the quality of services provided to fulfil the authority function including the following core responsibilities

- **Ensuring effective cross sector partnership arrangements to improve the wellbeing of children and young people.**
 - As an LSB Member.
 - Ensuring planning for children, young people and their families is seen as a corporate and cross sector activity embedded in the achievement of agreed corporate and public sector priorities.
 - Ensuring planning is increasingly harmonized across North Wales, in conjunction with other Lead Directors.
- **Production and publication of children and young people's plan.**
 - Ensuring Denbighshire's Big Plan meets statutory requirements relating to children and young people's planning.
- **Clear governance arrangements for partnership planning, a focus on outcome measures and regular performance management.**
 - Ensuring effective mechanisms are in place to deliver jointly agreed outcomes for children and young people.
 - Leading the inspection processes relating to Children and Young Peoples' Partnership activity.
- **Attention to implementation of the UN Convention on the Rights of the Child**
 - Championing children's rights across the Council, including the right of children and young people to have their voices heard.
 - Ensuring that the participation of children and young people is embedded in formal and informal education settings.

13.10 Jointly with the Head of Finance, to suspend the right of the governing body to have a delegated budget in circumstances permitted by the legislation.

13.11 To monitor and evaluate the performance of schools.

13.12 To deal with nominations for Local Education Authority governors, making an appointment in instances where a single suitable nomination is received for any vacancy or otherwise reporting to the Cabinet (or Lead Member as appropriate) for determination and appointment.

13.13 To establish temporary governing bodies.

13.14 To make necessary arrangements for the election of parent governors, teacher and staff governors and to determine any questions arising from the election process.

13.15 To consider any resolutions sent to him/her from an annual parents meeting and to respond accordingly.

13.16 To manage governor training.

- 13.17 To act on behalf of the Local Education Authority in any consultations initiated by the governors of any school, in relation to the times of school sessions and, if he/she considered it appropriate to do so, to require the governors to include his/her written comments on the proposals in the next governors' report to be prepared by the governors.
- 13.18 To determine and deal with all arrangements for the admission of pupils to community and voluntary controlled schools in accordance with the Council's policy, including authority to:-
- publicise information for parents of admission arrangements.
 - comply with parental preferences, with certain exceptions.
 - determine allocations of pupils to community and voluntary controlled primary and secondary schools, subject to the parental right of appeal.
- 13.19 To make arrangements to enable parents to appeal against decisions regarding admissions.
- 13.20 To appear or make written representations on behalf of the Authority in any appeal against a refusal to admit.
- 13.21 To respond to changes in pupil numbers by making appropriate accommodation available.
- 13.22 Subject to such determination being in accordance with an approved plan or policy, to determine whether to publish any statutory notices (other than in respect of closure of schools) and to take action on advertised proposals in light of any representations received and also to determine the Authority's decision in respect of school organisational proposals and school closure proposals in respect of which either there has been no objections or any objections received have been resolved.
- 13.23 To undertake any inspections, interviews, investigations, seizures, services of notices, notifications, authorisations, registrations and legal proceedings as are within the purview of the department under the Education Reform Act 1988, together with any regulations made thereunder, any amendments or additions thereto and to exercise all relevant powers of entry if provided.
- 13.24 To determine applications and provide, where applicable, milk, meals and refreshments in accordance with the Council's policy.
- 13.25 To act on behalf of the LEA in any consultations initiated by the governors of any school, in relation to the times of school sessions, and if he/she considered it appropriate to do so, to require the governors to include his/her written comments on the proposals in the next governors' report to be prepared by the governors.
- 13.26 To appoint sufficient education practitioners and governors in accordance with the arrangements who may be called upon to be required to serve as members on future independent Appeal Panels.
- 13.27 To investigate complaints made under section 409 of the Education Act 1996
- 13.28 To determine any matters relating to the Councils policy regarding charges and remissions and to authorise the recovery of any sums owed to the Council.
- 13.29 To approve the acceptance of gifts on trust for education purposes.
- 13.30 To determine, where necessary in consultation with the trustee, applications received for financial support from charitable trust funds where the Authority is either itself trustee, or where the fund is administered on behalf of trustees.
- 13.31 To respond to changes in pupil numbers by making appropriate accommodation available.
- 13.32 To monitor the curriculum in all maintained schools and report on it as necessary

- 13.33 To set by agreement with schools, targets for pupil attainment.
- 13.34 To prepare a written statement of action to be taken in light of the report following an inspection of a maintained school.
- 13.35 To intervene to prevent the breakdown or continuing breakdown of discipline at a school, or where there is concern about standards of management.
- 13.36 To ensure that the performance management of teachers and head teachers is carried out according to Welsh Government directions and regulations and to monitor and evaluate the provision and performance of schools.
- 13.37 To investigate complaints made under Section 409 of the Education Act 1996.
- 13.38 To make or approve arrangements for the provision of work experience for pupils in their last year of schooling.
- 13.39 To manage and operate the Education Psychology Service.
- 13.40 To arrange appeals against exclusions and redirect excluded pupils.
- 13.41 To make arrangements to encourage and assist pupils to take advantage of the provisions for medical and dental inspections and treatment made for them.
- 13.42 To ensure cleanliness of pupils and to serve a notice on parents requiring cleanliness where appropriate.
- 13.43 To manage all aspects of schools without delegated budgets.
- 13.44 To inspect and maintain schools for the purposes of a Local Education Authority function.
- 13.45 To authorise persons at educational establishments to exercise the power of removal of persons from school premises who are causing a nuisance or disturbance.
- 13.46 To authorise Officers to appear on behalf of the Local Education Authority in proceedings being conducted in the Magistrates Court by Section 547 of the Education Act 1996 or any re-enactment of that provision.
- 13.47 To consider any resolutions sent to him/her from an annual parents meeting and to respond accordingly.
- 13.48 To deal with the staffing matters of community voluntary controlled and community special schools where the decision is that of the LA (rather than the governing body).
- 13.49 To determine the school term and holiday dates including in service training days for any community, community special or voluntary controlled schools.
- 13.50 To exercise powers under the Education Acts in accordance with the Code of Practice, to identify, assess and arrange provision for pupils special educational needs, including the admission of pupils to out of county schools (including non maintained special schools and independent schools providing for pupils with special education needs) and transport where appropriate, in accordance with the Council's Transport Policies.
- 13.51 To provide aids for use by pupils with special needs
- 13.52 To authorise officers to represent the Education Authority in tribunal proceedings dealing with special educational needs.
- 13.53 To make arrangements for the provision of suitable education otherwise than in school, in accordance with Section 319 of the Education Act 1996.

- 13.54 To make arrangements for the provision of suitable education at school or otherwise for children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not receive it unless such arrangements were made.
- 13.55 To recoup the costs of providing education for persons not belonging to the Council's own area.
- 13.56 To exercise the powers of the Education Authority, with the exception of initiating legal proceedings, under the Education Act 1996 and the Children Act 1989 in respect of school attendance orders, non school attendance and education supervision orders.
- 13.57 To ensure the provision of statutory youth services jointly with the Head of Facilities Assets and Housing. .
- 13.58 Jointly with the Statutory Director of Education to grant and revoke licences to children of compulsory school age regarding child performances in accordance with the Children and Young Persons Act 1963 and the Children's (Performance) Regulations 1968 and any statutory modification thereof.
- 13.59 To supervise, prohibit and/or restrict the employment of children of compulsory school age pursuant to the Education Act 1996.
- 13.60 To manage the provision of the youth support services in pursuance of the Learning and Skills Act 2000 in consultation with the Head of Facilities Assets and Housing.
- 13.61 To exercise those functions of the Council which relate to Children and Young People under the Crime and Disorder Act 1998 (as amended or re-enacted).
- 13.62 To give directions to admit a child to a specified school.
- 13.63 To undertake any inspections, interviews, investigations, seizures, services of notices, notifications, authorisations, registrations and legal proceedings as are within the purview of the department under the Education Reform Act 1988, together with any regulations made thereunder, any amendments or additions thereto and to exercise all relevant powers of entry if provided.
- 13.64 To exercise powers under the Education Act 2002 s.29(5) in respect of health and safety directions to governing bodies where the local authority is the employer.
- 13.65 To ensure all relevant Officers (and volunteers if relevant) are subject to the provisions (including any vetting and barring procedures) of the Safeguarding Vulnerable Groups Act 2006 and any subsequent amendment or regulations made under it.
- 13.66 To keep under review (and ensure relevant staff awareness) any safeguarding practices and procedures including registration (if required) with any Safeguarding Authorities and reporting matters on safeguarding to the Statutory Lead Director for Children and Young People and/or the Statutory Director of Social Services, where appropriate.
- 13.67 To maintain a Standing Advisory Council on Religious Education (SACRE) in accordance with the Councils Constitution.
- 13.68 To review and make Instruments of Government for maintained schools within the County where there is no disagreement with the draft Instrument.
- 13.69 To authorize persons at educational establishments to exercise the power of removal of persons from school premises who are causing a nuisance or disturbance
- 13.70 To determine questions as to who are to be considered parents of registered pupils.
- 13.71 The strategic and operational delivery and/or securing by the Council of personal social care services for children and young people including:
- appropriate contact and referral arrangements for service users and other agencies
 - family support services to "children in need"

- child protection (safeguarding) services, including responsibilities under the United Nations Convention on the Rights of the Child.
- domiciliary care for children and young people who are disabled
- accommodation services for looked after children including fostering and residential care
- the full range of services required of an adoption agency whether through any Regional Adoption Service, or not as the case may be
- planning, commissioning contracting and performance management services
- strategic planning in conjunction with partner agencies
- the management of complaints and representation
- Partnership working including a role in the Local Safeguarding Children Board
- Ensuring the workforce needs of Children's Services are identified and reflected in the workforce plans and that effective staffing structures are in place.

13.72 In particular, to exercise those functions of the Council which relate to personal social services for children and young people, under the appropriate Sections of the following Acts as amended or re-enacted having regard to any Statutory Guidance issued thereunder:

Adoption & Children Act 2002
 Adoption (intercountry Aspects) Act 1999
 Anti Social Behaviour Act 2003
 Care Standards Act 2000
 Carers (Equal Opportunities) Act 2004
 Carers (Recognition and Services) Act 1995
 Carers Act 2000
 Carers and Disabled Children Act 2000
 Childcare Act 2006
 Children & Young Persons Act 1969
 Children (Leaving Care) Act 2000
 Children Act 1989
 Children Act 2004
 Criminal Justice Act 1991
 Data Protection Act 1998
 Disabled Persons (Employment) Act 1958
 Disabled Persons (Services, Consultation and Representation) Act 1986
 National Health Service and Community Care Act 1990
 Nationality, Immigration and Asylum Act 2002
 Public Health (Control of Disease) Act 1984
 Safeguarding of Vulnerable Groups Act 2006

13.73 The administration of all charges levied in respect of personal social services for children and young people including the waiving of charges.

13.74 The provision of financial assistance under sections 17 & 24 of the Children Act 1989 and the Children (Leaving Care) Act 2000.

13.75 In consultation with the Head of Legal, HR and Democratic Services to institute proceedings in a Court or other Tribunal under the following Acts as amended or re-enacted:

- Adoption and Children Act 2002
- Children Act 1989 Sections 25, 31, 34, 39, 43, 44, 45, 48(9), 50, 70, 94, 100, 102 and Schedule 2 Paragraph 19 and Schedule 3 Paragraph 6(3).

Any other function of the Council in relation to the provision of personal social services which involves an application to a Court or other Tribunal including the prosecution of offences or which requires the execution of any document having effect in law.

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- 13.76 To respond at the formal stage on behalf of the Authority on complaints dealt with under proceedings established under the Children Act 1989
- 13.77 To agree the accommodation of children under the Children Act 1989 and the provision of support generally under Part 3 Children Act 1989.
- 13.78 To give the necessary consents to appropriate matters relating to children the subject of Care Orders to the Authority including the giving of consent for medical treatment and obtaining passports and holiday consent for children the subject of Care Orders.
- 13.79 To decide upon recommendations of the Foster Care and Adoption Panels.
- 13.80 To respond on behalf of the Authority at the appeal stage following independent reviews and complaints under the procedures established under the Children Act 1989
- 13.81 To make arrangements for the provision of suitable education at school or otherwise for children of compulsory school age who, by reason of illness, exclusion from school or otherwise, may not receive it unless such arrangements were made.
- 13.82 To give consent to private law orders including residence orders and special guardianship where appropriate.
- 13.83 Power to exercise the functions and make decisions in relation to the Fostering Services for Children- Payment for Skills 2005 Policy in respect of:
- Fostering allowance rates
 - Festival, Birthday and Holiday allowances
 - Weekly residence order allowances
 - Freezing/unfreezing levels of allowances and fees to foster carers registered on the Foster Carers Register.
- 13.84 To make decisions on dispersal of groups and removal of persons under 16 to their place of residence under the Anti Social Behaviour, Crime and Policing Act 2015 /Anti Social Behaviour Act 2003 as appropriate.
- 13.85 Leadership and improvement of the well being of children as defined in s.25 (2) Children Act 2004
- 13.86 To keep the Statutory Director of Social Services apprised of key corporate decisions/actions which will impact or have possible implications for the Statutory Officer role.
- 13.87 To act as Senior Responsible Person for the purposes of the Care Standards Act 2000 and Lead Officer for child protection and safeguarding systems in accordance with 'Working Together' guidance.
- 13.88 To be the Lead Officer for the LSCB.
- 13.89 To be the Lead Officer for the Corporate Parenting Forum.
- 13.90 To engage in regional and national networks relating to Children's Services.
- 13.91 To report annually to Scrutiny and Council on the effectiveness of child protection procedures.
- 13.92 To have overall responsibility for the annual budget agreed for Children Services.
- 13.93 To develop the annual Service Business Plan and contribute to ACRF.

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- 13.94 To develop and manage service risk registers and undertake any corporate service challenge process.
- 13.95 To commission and receive regular management information to enable strategic planning and operational management of services.
- 13.96 To ensure services are planned and delivered effectively across adults and children services and across children's services and education services.
- 13.97 To ensure that children in need and their families are engaged in shaping priorities and delivery of children's services.
- 13.98 To act as Lead Officer for specific health/social care integration projects affecting children and young people.

14. To the Corporate Director: Economy and Public Realm

- 14.1 To act as an Authorising Officer under the Regulation of Investigatory Powers Act 2000

15. To the Head of Democratic Services

15.1 To act on a day to day basis as Head of Democratic Services and to ensure proactive support to the democratic process and elected members in accordance with the Constitution.

15.2 To manage the Council's services for Members and in connection with this to take all necessary steps to secure compliance with the Local Government Act 1972 Part VA (access to meetings and documents of the Council, it's Committees and Sub-Committees).

15.3 To manage the Councils Democratic Services provision and in particular:

- Provide the Council with support and advice in relation to it's meetings, Committees and members of those Committees
- Any joint committee which the Council is responsible for organising,
- In relation to the functions of the Authority's overview and scrutiny committees.

15.4 To promote the roles of the Authority's Overview and Scrutiny Committees.

15.5 To carry out duties as required under the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

15.6 Any other functions prescribed by the Welsh Ministers to the Head of Democratic Services.

16 To the Head of Business Improvement and Modernisation

16.1 Ensuring underpinning work to enable production and delivery of effective children and young people's plan is carried out – including ongoing needs assessment, consultation, commissioning.

16.2 Ensuring statutory requirements and timescales for children and young people's planning are met

16.3 Ensuring effective management and administration of relevant funding streams.

16.4 Ensuring outcomes based performance management framework in place for Big Plan and children and young people elements to ensure the impact of partnership is measured.

16.5 Ensuring annual completion of National Service Framework Self Assessment Audit Tool.

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- 16.6 Preparation for inspection.
- 16.7 Ensuring effective reporting to LSB and appropriate Scrutiny Committee(s) on agreed joint programmes and projects.
- 16.8 Ensuring the voice of children and young people is embedded in the preparation and implementation of the Big Plan and in monitoring impact.
- 16.9 Ensuring corporate engagement and consultation strategies include listening to children and young people.
- 16.10 Ensuring Equality Impact assessments are carried out.
- 16.11 Ensuring Privacy Impact Assessments are carried out.
- 16.12 To act as a member of the Council's Access to Information Panel.
- 16.13 To act as the Council's Senior Information Risk Officer and reporting annually to the Council's Corporate Governance Committee.

Authority to accept or reject gifts, bequests or loans to the Council's Museum Service within the terms of the Policy

Authority to accept or reject gifts, bequests or loans to the Council's Museum Service within the terms of the Policy

- 16.14 To act on a day to day basis and be responsible for the operational and strategic delivery of services in the following areas:-
 - Internal Audit
 - Access to Information
 - Records Management and Archives
 - ICT services
 - Business Transformation
 - Modernisation Agenda
 - Corporate Programme Office
 - Performance Management
 - Partnerships and Communities (including engagement)
 - Equalities
 - Information Security
 - Service planning and strategic plans

SECTION 14**14. ACCESS TO INFORMATION PROCEDURE RULES****14.1 Scope**

These rules apply to all meetings of the Council, the Cabinet, Overview and Scrutiny Committees, the Standards Committee, and Regulatory Committees.

14.2 Additional Rights to Information

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

14.3 Rights to Attend Meetings

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

14.4 Notices of Meeting

Unless a meeting is convened at short notice, the Council will give at least 3 clear days' notice of any meeting by posting details of the meeting at County Hall, Ruthin, LL15 1YN and on its website.

14.5 Access to Agenda and Reports Before the Meeting

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its website at least 3 clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated Officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection from the time the item was added to the agenda.

14.6 Supply of Copies

The Council will supply copies of:

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

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

14.7 Access to Minutes etc after the Meeting

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

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

14.8 Background Papers**14.8.1 List of Background Papers**

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

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
 - (b) which have been relied on to a material extent in preparing the report
- but does not include published works or those which disclose exempt or confidential information as defined in Rule 14.

14.8.2 Public Inspection of Background Papers

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

14.9 **Summary of Public’s Rights**

A written summary of the public’s rights to attend meetings and to inspect and copy documents will be kept at, and made available to the public at County Hall, Ruthin, LL15 1YN.

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

14.10.1 Confidential Information – Requirement to Exclude Public

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

14.10.2 Exempt Information – Discretion to Exclude Public

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

14.10.3 Meaning of Confidential Information

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

14.10.4 Meaning of Exempt Information

Exempt information means information falling within the following seven categories as set out in Part 4 (Schedule 12A) of the Local Government Act 1972 :-

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

No.	Category of Exempt Information	Condition
12	Information relating to any individual.	Public interest test applies (see below).
13	Information which is likely to reveal the identity of an individual.	Public interest test applies (see below).
14	Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within paragraph 0is not exempt information by virtue of that paragraph if it is required to be registered under: <ul style="list-style-type: none"> • The Companies Act 1985; • The Friendly Societies Act 1974;

		<ul style="list-style-type: none"> • The Friendly Societies Act 1992; • The Industrial and Provident Societies Acts 1965 to 1978; • The Building Societies Act 1986; or <p>The Charities Act 1993.</p> <p>Public interest test applies (see below).</p>
15	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (see below).
16	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
17	Information which reveals that the authority proposes: <ul style="list-style-type: none"> • to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or • to make an order or direction under any enactment. 	Public interest test applies (see below).
18	<p>Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Public interest test applies (see below).</p> <p><i>(In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):</i></p> <p>7A Information which is subject to any obligations of confidentiality.</p> <p>7B Information which relates in any way to matters concerning national security.</p> <p>7C The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.</p>	Public interest test applies (see below).

14.11 **Public Interest Test**

14.11.1 Information which:

- (a) falls within any of paragraphs 12 to 15 and 17 to 18 of the 0 to 0, **Error! Reference source not found.** and **Error! Reference source not found.** above; and
- (b) is not prevented from being exempt by virtue of the “qualifications” above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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

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

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

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

If the Head of Legal HR and Democratic Services thinks fit, the Council may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 14, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and if applicable, why it is in the public interest it is considered that the information should not be disclosed.

14.13 **Record of Decisions of the Cabinet**

14.13.1 The Decision Record

- (a) A written record will be made of every Executive Decision made by the Cabinet and its Committees (if any) and by individual Cabinet Members, and Joint Committees and Joint Sub-Committees whose Members are all Members of a local authority executive.
- (b) This decision record will include a statement, for each decision, of:
 - (i) the decision made;
 - (ii) the date the decision was made;
 - (iii) the reasons for that decision;
 - (iv) any personal interest declared;
 - (v) any dispensation to speak granted by the Authority's Standards Committee;
 - (vi) any consultation undertaken prior to the decision.

14.13.2 Preparing the Decision Record

- (a) The Head of Legal HR and Democratic Services or his or her representative shall attend any meeting of the Cabinet, a Committee of the Cabinet or a Joint Committee or joint Sub-Committee where all its Members are Members of a local

authority executive, and shall, as soon as reasonably practicable after the meeting, produce a decision record.

- (b) Where an individual Cabinet Member has made any Executive Decision:
- (i) that Member shall as soon as reasonably practicable instruct the Head of Democratic Services to produce a decision record; and
 - (ii) the decision shall not be implemented until that decision record has been produced and the call in period has expired and subject to paragraph (c) below.
- (c) Where the date by which an Executive Decision made by an individual Cabinet Member must be implemented makes compliance with paragraph 14 (b) above impracticable, the decision may be implemented if the decision maker has the agreement of
- (i) the Chair of the relevant Overview and Scrutiny Committee ; or
 - (ii) if there is no such person or that person is unable to act, the Chair; or
 - (iii) if there is none of the above then the Vice Chair,
- that the making of the decision is urgent and cannot reasonably be deferred.

14.14 Decisions by An Individual Member of the Cabinet

14.14.1 Reports Must Be Taken Into Account

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

14.14.2 Provision of Copies of Reports to Overview and Scrutiny Committee

On giving such a report to an individual decision maker, the person who prepared the report will give a copy of it to the Head of Democratic Services who will ensure that a copy of it is made available to all elected members at the same.

14.14.3 Record of Individual Decision

The decision recording rules in paragraph 14.13 will apply.

14.15 Overview and Scrutiny Committee and Members' Access to Documents

14.15.1 Rights of Access

Subject to paragraph 14.15.2 below, Overview and Scrutiny Committees will be entitled to access to any document which is in the possession or control of the Cabinet or its Committees and which contains material relating to:

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

14.15.2 Limit on Rights

There may be occasions when confidential information described in paragraph 14.10.3 has conditions placed upon it which controls the extent to which it may be disclosed.

14.16 Additional Rights of Access for Members of Overview and Scrutiny Committee

14.16.1 Rights of Access

All Members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its Committees and contains material relating to any business transacted at a meeting of a decision making body of the Council or by an individual Member of the Cabinet.

14.16.2 Limitation on Rights

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

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

14.16.3 Nature of Rights

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

SECTION 15**15. BUDGET AND POLICY FRAMEWORK PROCEDURE RULES****15.1 The Framework for Executive Decisions**

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

15.2 Process for Developing the Framework

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

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

15.2.3 Any amendments to the proposals of the Cabinet to be proposed by Members at Council may not be considered by Council unless notice of the proposed amendment has been given to the [Proper Officer] in writing and signed by the proposer and seconder not later than 123 at least 123 clear days before the date of the Council meeting.

15.2.4 The Council's decision will be publicised and a copy shall be given to the Leader. The notice of decision shall be dated and shall state either that the decision shall be effective immediately (if the Council accepts the Cabinet's proposals without amendment) or (if the Cabinet's proposals are not accepted without amendment), that the Council's decision will become effective on the expiry of 123 working days after the publication of the notice of decision, unless the Leader objects to it in that period.

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

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

15.2.7 The Council shall, at that meeting, make its final decision on the matter on the basis of a simple majority. The decision shall be made public in accordance with Section 4 and shall be implemented immediately.

15.2.8 All policy and budget reports presented to Council for decision shall subsequently be presented to the next calendar relevant Overview and Scrutiny Committee .

15.3 Process for Developing the Budget

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

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

(b) At the end of the consultation period, the Cabinet will draw up firm proposals having regard to the responses to the consultation. If the Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it

may do so. The Overview and Scrutiny Committee shall report to the Cabinet on the outcome of its deliberations.

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

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

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

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

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

15.4.3 If the advice of either of those Officers is that the decision would not be in line with the existing Budget and/or Policy Framework, then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in paragraph (urgent decisions outside the Budget and Policy Framework) shall apply.

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

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

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

15.5.2 The reasons why it is not practical to convene a quorate meeting of Full Council and the Chair of the relevant Overview and Scrutiny Committee consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant Overview and Scrutiny Committee the consent of the Chair of the Council and in the absence of both the Vice Chair of the Council will be sufficient.

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

15.6 **Virement**

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

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

The responsibility for agreeing the Budget and Policy Framework lies with the Council and decisions by the Cabinet, a committee of the Cabinet, an individual Member of the Cabinet or

Officers or joint arrangements discharging Executive Functions must be in line with it. No changes to any policy or strategy which make up the Policy Framework may be made by those bodies or individuals except those changes:

- 15.7.1 which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- 15.7.2 necessary to ensure compliance with the law, ministerial direction or government guidance;
- 15.7.3 in relation to the Policy Framework in respect of a policy which would normally be agreed annually by the Council following consultation, but where the existing policy document is silent on the matter under consideration;
- 15.7.4 which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change; or
- 15.7.5 for which provision is made within the relevant budget or policy.

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

- 15.8.1 Where the relevant Overview and Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Council's Budget, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.
- 15.8.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Finance Officer's report shall be to the Cabinet with a copy to every Member of the Council. Regardless of whether the decision is delegated or not, the Cabinet must meet to decide what action to take in respect of the Monitoring Officer's or Chief Finance Officer's report and to prepare a report to Council in the event that the Monitoring Officer or the chief finance Officer conclude that the decision was a departure, and to the relevant Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.
- 15.8.3 If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Monitoring Officer and/or the Chief Finance Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, the relevant Overview and Scrutiny Committee may refer the matter to Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within 123 working days of the request by the Overview and Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer. The Council may either:
 - (a) endorse a decision or proposal of the Executive Decision taker as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (b) amend the Council's Financial Procedure Rules or policy concerned to encompass the decision or proposal of the body or individual responsible for that Executive Function and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
 - (c) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, and does not amend the existing framework to accommodate it, require the Cabinet to reconsider the matter in accordance with the advice of either the Monitoring Officer or Chief Finance Officer.

SECTION 16**16. FINANCIAL PROCEDURE RULES**

DRAFTING NOTE

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

16.1 Introduction**16.1.1 What are Financial Procedure Rules?**

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

16.1.2 Why are they important?

- (a) To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Procedures which set out the financial responsibilities of the Council. These procedures have been devised as a control to help the Council manage its financial matters properly in compliance with all necessary requirements.
- (b) Good, sound financial management is a key element of the Council's Corporate Governance framework which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- (c) Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.
- (d) Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.
- (e) Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in this Constitution.

16.1.3 Who do Financial Procedures apply to?

- (a) Financial Procedures apply to every Member and Officer of the Council and anyone acting on its behalf. Members and Officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised, provides value for money and achieves best value.

- (b) Separate financial procedures have been incorporated into the Council's Scheme for Financing of Schools and relate to those matters where decisions have been delegated to school governing bodies.
- (c) These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.
- (d) Failure to observe Financial Procedures may result in action under the Council's disciplinary procedures.

16.1.4 Who is responsible for ensuring that they are applied?

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

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

16.2.1 The Role of the Full Council

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

16.2.2 The Role of the Cabinet

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

16.2.3 The Role of the Chief Finance Officer

- (a) The Chief Finance Officer is accountable to the [Chief Executive] [Head of Paid Services] and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council This statutory responsibility cannot be overridden. These statutory duties arise from:
 - (i) section 151 of the Local Government Act 1972;
 - (ii) The Local Government Finance Act 1988;
 - (iii) The Local Government and Housing Act 1989;
 - (iv) The Accounts and Audit Regulations 2003 (as amended) 2006.

- (b) The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:
- (i) the proper administration of the Council's financial affairs;
 - (ii) maintaining a continuous review of Financial Procedures and submitting any additions or changes as necessary to the Full Council for approval;
 - (iii) annually reviewing and updating, and monitoring compliance with financial management standards;
 - (iv) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
 - (v) providing financial information and advice to the Corporate Management Team, the Cabinet and the Council on all aspects of its activity including the presentation of appropriate financial options as necessary;
 - (vi) providing training for Members and Officers on Financial Procedures and Financial Management Standards;
 - (vii) determining accounting policies and ensuring that they are applied consistently;
 - (viii) determining accounting procedures and records of the Council;
 - (ix) reporting, where appropriate, breaches of the Financial Procedures to the Council and/or Cabinet;
 - (x) preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan;
 - (xi) ensuring the provision of an effective Internal Audit Function;
 - (xii) ensuring the provision of an effective Treasury Management Function;
 - (xiii) advising on risk management;
 - (xiv) ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities;
 - (xv) ensuring that Council spending plans and council tax calculations, identified in the medium term financial plan, are based upon robust estimates;
 - (xvi) ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term;
 - (xvii) ensuring that the annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the UK: A Statement of Recommended Practice (SORP);
 - (xviii) ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators;
 - (xix) ensuring that proper professional practices, standards and ethics are adhered to;
 - (xx) acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located;
 - (xxi) the appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment;
- (c) Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council and to the External Auditors if the Council or one of its Officers:

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

16.2.4 The Role of Chief Officers

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

16.3 **Financial Planning**

16.3.1 Strategic Planning

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

16.3.2 Budget Preparation

- (a) The Cabinet, in consultation with the Chief Finance Officer is responsible for determining the general budget strategy and issuing annual guidelines to Members and Chief Officers on:
 - (i) preparing a detailed revenue budget for the following year;
 - (ii) preparing the medium term financial plan (three years);
 - (iii) preparing the capital programme;
 - (iv) the timetable for preparing and agreeing the Council's revenue and capital budget.
- (b) The guidelines will take account of:
 - (i) Council priorities as reflected in the Council plan;
 - (ii) spending pressures;
 - (iii) what future funding is available;
 - (iv) what level of reserves are available;
 - (v) the affordability, sustainability and prudence of capital investment plans;
 - (vi) legal requirements;

- (vii) value for money and other relevant government guidelines;
 - (viii) other internal policy documents;
 - (ix) cross-cutting issues (where relevant).
- (c) The Chief Finance Officer is responsible for developing and maintaining a resource allocation process that ensures the consideration of the Full Council's Policy Framework.
 - (d) The Chief Finance Officer is responsible for ensuring that a detailed revenue budget is prepared on an annual basis and a general revenue plan on a three yearly basis (medium term financial plan) for consideration by Cabinet before submission to Full Council.
 - (e) The Chief Finance Officer is responsible for ensuring a capital programme is prepared on an annual basis for consideration by Cabinet before submission to the Full Council.
 - (f) It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the Full Council on prudent levels of reserves for the Council.
 - (g) Chief Officers are responsible for ensuring that budget estimates are prepared in accordance with guidance issued by Cabinet and reflect agreed service performance plans.

16.3.3 Budget Approval

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

16.3.4 Budget Transfers

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

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

16.3.5 Budget Monitoring and the Control of Income and Expenditure

- (a) The Chief Finance Officer is responsible for:
 - (i) developing an effective framework of budgetary management and control;
 - (ii) providing appropriate financial information to enable budgets to be monitored effectively;
 - (iii) reporting to Cabinet and relevant Overview and Scrutiny Committee on the overall Council budget monitoring position on a quarterly basis;
 - (iv) all payments to employees, Members and creditors;
 - (v) maintaining the Council's tax records;
 - (vi) advising Chief Officers on all taxation issues that affect the Council;
 - (vii) ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts;
 - (viii) agreeing arrangements for the collection of income due to the Council;
 - (ix) agreeing banking, borrowing and other credit requirements, eg leasing;
 - (x) agreeing the write off of bad debts in accordance with the Council's Debt Recovery Policy.
- (b) The Cabinet is responsible for approving contractual arrangements for any work for third parties or external bodies unless the responsible Chief Officer is authorised in this respect under the Scheme of Delegations in this Constitution.
- (c) Separate financial procedures for schools have been incorporated into the Council's Scheme for Financing Schools and relate to those matters where decisions have been delegated to school governing bodies.
- (d) It is the responsibility of Chief Officers to:
 - (i) control income and expenditure within their service area;
 - (ii) monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer;
 - (iii) report on spending variances within their own areas;
 - (iv) take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

16.3.6 Reporting Council Spending at Year End

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

16.3.7 Use of Council Reserves

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

16.4 Risk Management and Control of Resources

16.4.1 Risk Management

- (a) It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant Strategic and Operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services.
- (b) The Cabinet is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management.
- (c) The Council has nominated the Chief Finance Officer as the lead Officer Risk Management Champion and the Deputy Leader as the Member risk Champion.
- (d) The Chief Finance Officer is responsible for preparing the Council's risk management policy statement and for promoting it throughout the Council and for advising the Cabinet on proper insurance cover for material risks where appropriate.
- (e) The Corporate Risk Management Group supported by the Corporate Risk Manager is responsible for reviewing strategic risks and reporting progress on the management of strategic risk to the Cabinet.
- (f) It is the responsibility of Chief Officers to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the Council's Corporate Risk Manager and other specialist Officers (eg crime prevention, fire prevention, Health and Safety).

16.4.2 Internal Control

- (a) Internal control refers to the systems of control devised by management to help ensure the Council's objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- (b) Effective internal control systems ensure that all income due to the Council is collected whilst securing probity and legitimacy of transactions and preventing and detecting fraud, misuse or irregularity.
- (c) The Chief Internal Auditor is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance

with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.

- (d) It is the responsibility of Chief Officers to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.
- (e) The Council is required to provide an Annual Governance Statement in accordance with the Accounts and Audit Regulations 2006. As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as this is a key indicator of good governance.

16.4.3 Insurance

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

16.4.4 Audit Requirements

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

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

16.4.5 Preventing Fraud and Corruption

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

16.4.6 Use of and Disposal of Assets

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

16.4.7 Confidentiality, Security and Protection of Information

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

16.4.8 Treasury Management

- (a) The Council has adopted CIPFA's Treasury Management in the Public Service Code of Practice.
- (b) Accordingly, the Full Council is responsible for approving a Treasury Management Policy Statement, on an annual basis, stating the policies and objectives of its treasury management activities.

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

16.4.9 Banking

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

16.4.10 Income Collection

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

16.4.11 External Funding

- (a) Chief Officers are responsible for ensuring that any bids for external funding are made in consultation with the Chief Finance Officer.
- (b) Chief Officers must ensure that any project to be funded by external funding does not commence until proper approval has been obtained and the source of external funding confirmed.

- (c) The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Chief Officers are responsible for providing all necessary information to enable this to be achieved.

16.4.12 Debt Collection

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

16.4.13 Voluntary Funds and Trust Funds

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

16.4.14 Corporate Credit Cards

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

16.4.15 Purchase Cards

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

16.4.16 Employees

- (a) The Full Council is responsible for determining how Officer support for executive and non-executive roles within the Council will be organised.
- (b) The [Chief Executive] [Head of Paid Services] is responsible for providing overall effective management to employees and for ensuring that there is proper use of the evaluation or other agreed systems for determining the remuneration of a job.
- (c) The Chief Finance Officer is responsible for paying employees securely, accurately and on time and for the payment of travel and subsistence claims.

- (d) Chief Officers are responsible for ensuring the operation of adequate and effective procedures for payroll and personnel matters to allow the Chief Finance Officer to fulfil his responsibilities.
- (e) Chief Officers are responsible for ensuring compliance with Council policies in relation to claims for travel and subsistence, and for arranging the most cost effective means of travel and subsistence.
- (f) Chief Officers are also responsible for controlling employee numbers by:
 - (i) advising the Cabinet on the annual budget necessary to cover estimated staffing levels;
 - (ii) adjusting the staffing levels to that which can be funded within approved budget provision and varying the provision as necessary within that constraint in order to meet changing operational needs;
 - (iii) the proper use of recruitment and appointment procedures;
 - (iv) monitoring employee costs through monthly budget reports;
 - (v) monitoring vacancies.

16.5 **Financial Systems and Procedures**

16.5.1 **General**

- (a) Sound systems and procedures are essential to an effective framework of accountability and control.
- (b) The Chief Finance Officer is responsible for:
 - (i) the operation of the Council's accounting and financial systems;
 - (ii) the form of accounts and any supporting financial records;
 - (iii) advising Chief Officers on the establishment and operation of trading accounts and business units.
- (c) Any changes proposed by Chief Officers to the existing financial systems or the establishment of new systems must first be approved by the Chief Finance Officer.
- (d) It is the responsibility of Chief Officers to:
 - (i) ensure the proper operation of financial processes in their own Services and agree with the Chief Finance Officer any changes to these processes to meet their own specific Service needs;
 - (ii) ensure that their employees receive relevant and appropriate financial training that has been approved by the Chief Finance Officer;
 - (iii) ensure that where appropriate, computer and other systems are registered in accordance with Data Protection Legislation;
 - (iv) ensure that their employees are aware of their responsibilities under Freedom of Information and Data Protection Legislation.

16.5.2 **Contracts, Agreements and Purchasing**

- (a) All contracts, agreements and purchases are subject to the requirements of the Council's Contracts Procedure Rules specified in Section 17 of this Constitution, and the procedures and financial limits which they prescribe (as revised from time to time).
- (b) The Head of Asset Management is responsible for developing the Corporate Procurement Strategy and providing advice on procurement issues.
- (c) The Head of Legal and Democratic Services is responsible for agreeing the content and format of contracts and agreements and for signing any contract or legal agreement involving a charge upon assets or property.

- (d) The Chief Finance Officer is responsible for issuing guidance notes to Chief Officers on the procedures to be adopted in relation to:
 - (i) placing requisitions for goods, supplies and services;
 - (ii) placing of official orders;
 - (iii) potential financing options, eg buy, rent or lease;
 - (iv) receipt of goods;
 - (v) the authorisation of invoices, interim certificates and final accounts for building or construction contracts;
 - (vi) the system and timescales for the payment of creditors;
 - (vii) records and procedures required in relation to monitoring and control of contracts.
- (e) The Chief Finance Officer is overall responsibility for ensuring safe and efficient arrangements for all payments.
- (f) Chief Officers are responsible for ensuring that:
 - (i) before entering into purchasing commitments, the estimated cost is covered by financial provision in the budget to which it relates;
 - (ii) Contract Procedure Rules, procurement and payments procedures are applied within their service areas;
 - (iii) appropriate records are maintained to substantiate decisions made under delegated powers;
 - (iv) all employees within their Service area are aware of the guidance issued by the Chief Finance Officer and for ensuring that effective internal controls are established to ensure compliance;
 - (v) all employees within their service area aware of the Council's Employee Code of Conduct and how this relates to this area.

16.5.3 Payment of Members' Salaries

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

16.5.4 Taxation

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

16.5.5 Collection Fund

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

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

16.5.6 Housing Revenue Account

The Chief Finance Officer is responsible for:

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

16.6 Partnerships

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

APPENDIX 1 to Section 16**Financial Management Standards**

FMS01	Introduction to Financial Management Standards
FMS02	Budget Preparation and Medium Term Financial Planning
FMS03	Budget Monitoring and Reporting
FMS04	Accounting Policies
FMS05	Accounting Records and Returns
FMS06	Preparation and Monitoring of the Capital Programme
FMS07	Annual Statement of Accounts
FMS08	Performance Plans
FMS09	Maintenance of Reserves
FMS10	Risk Management
FMS11	Audit Requirements
FMS12	Internal Control
FMS13	Safeguarding of Assets
FMS14	Insurance
FMS15	Treasury Management FMS1 6 Banking
FMS17	Income Collection
FMS18	Debt Recovery
FMS19	Corporate Credit Cards
FMS20	Purchase Cards
FMS21	Payroll and Personnel Requirements
FMS22	Taxation
FMS23	Trading Accounts and Business Units
FMS24	Contracts, Agreements and Purchasing
FMS25	Partnerships
FMS26	External Funding
FMS27	Work for Third Parties
FMS28	Area Action Partnerships

Contract Procedure Rules



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INTRODUCTION

Procurement is the process by which the council manages the acquisition of all its goods, services (including but not limited to consultants/consultancy services of any type) and works of all sorts. It includes the identification of need, consideration of options, the actual procurement process and the subsequent management and review of the contracts. These contract procedure rules (CPRs) apply to all areas of council activity and any type of sub-contracting, apart from contracts for the acquisition and sale of interests in land and the exempt contracts described in CPR [2.8 “Exempt contracts”](#).

These CPRs have the following key objectives:

1. To ensure that the council obtains value for money and achieves its duty of achieving best value as defined in section 3 of the Local Government Act 1999;
2. To ensure that the council complies with UK and European law that governs the procurement of goods, services and works;
3. To establish procurement procedures which, when followed, should protect members and officers of the council from any allegation of acting unfairly or unlawfully which may be made in connection with any procurement by the council relating to goods, services or works;

4. To ensure that any risks associated with commencing procurement processes and subsequently entering into contracts are assessed as part of the procurement process; and
5. To ensure that fairness and transparency remains at the forefront of all procurement activity undertaken by officers and approved by members on behalf of the council.

Procurement by the council is governed by detailed European and United Kingdom legislation, as are other areas of council contracting. The law requires all council procurement and contracting to be conducted transparently, fairly and in a non-discriminatory manner. In the event of statutory or other legal requirements exceeding the requirements contained within these CPRs, then statute shall take precedence over any provision within these CPRs.

Table 1

Procurement Thresholds

Contract Value	Minimum Competition Requirements	Other Requirements	CPR Section
Up to £10,000	1 verbal or written quote able to demonstrate value for money	<ul style="list-style-type: none"> Use of Quick Quotes function encouraged 	4.1
£10,001 to £25,000	4 quotations via the Council's electronic procurement system	<ul style="list-style-type: none"> Prepare a formal "request for quotation" (RFQ) Sell2Wales advertisement can be used in place of RFQ Quotations must be received via electronic procurement system 	4.2
£25,001 to OJEU threshold (Goods & Services)	Advertisement on Sell2Wales via the Council's electronic procurement system	<ul style="list-style-type: none"> Must be supported by a named officer from Corporate Procurement team A commissioning form must be completed Complete a corporate sustainability assessment Prepare all tender documents prior to placing advertisement Tenders must be received via electronic procurement system Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m 	4.3
£25,001 to OJEU threshold (Works)	<ul style="list-style-type: none"> Advertisement on Sell2Wales via the Council's electronic procurement system 4 quotations via the Council's electronic procurement system – for certain contracts below £25k (see CPR 4.4.3) 	<ul style="list-style-type: none"> Must be supported by a named officer from Corporate Procurement team A commissioning form must be completed Complete a corporate sustainability assessment Prepare all tender documents prior to placing advertisement Tenders must be received via electronic procurement system Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m 	4.4

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Above the relevant OJEU threshold		Advertisement on both OJEU and Sell2Wales via the Council's electronic procurement system	<ul style="list-style-type: none"> • Must be supported by a named officer from Corporate Procurement team • A commissioning form must be completed • Complete a corporate sustainability assessment • Prepare all tender documents prior to placing advertisement • Minimum OJEU time limits for tender submissions must be followed • Tenders must be received via electronic procurement system • Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m • OJEU requirements for notifying bidders must be followed (CPR 5.6) 	4.5
Light-Touch (below OJEU)	Regime	As above depending on the value of the contract	<ul style="list-style-type: none"> • As above depending on the value of the contract • A commissioning form must be completed if the contract is above £25k 	4.6 , 4.1 4.2 , 4.3
Light-Touch (above OJEU)	Regime	Advertisement on both OJEU and Sell2Wales via the Council's electronic procurement system	<ul style="list-style-type: none"> • Must be supported by a named officer from Corporate Procurement team • A commissioning form must be completed • Complete a corporate sustainability assessment • Prepare all tender documents prior to placing advertisement • Tenders must be received via electronic procurement system • Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m 	4.6

Table 2

Authorisation thresholds for approving procurement strategy and inviting competitive bids

Value	Authorisation Required from	Documents Required
-------	-----------------------------	--------------------

Up to £25,000	The Manager of the team where the procurement activity will be taking place, providing they have authority to approve spend to the estimated contract value. If they do not have authority to spend, then by the Head of Service where the procurement activity is taking place.	<ul style="list-style-type: none"> • No formal report required
£25,001 to £1,000,000	Head of Service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer. (Any of these individuals can refer the decision to Cabinet for consideration under the Cabinet Members Scheme of Delegation)	<ul style="list-style-type: none"> • Commissioning Form
£1,000,001 to £2,000,000	The relevant Cabinet Member (with agreement from Head of Service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer). The Cabinet Member can refer the decision to Cabinet for consideration under the Cabinet Members Scheme of Delegation.	<ul style="list-style-type: none"> • Commissioning Form • Delegated decision report
£2,000,001 and above	Cabinet	<ul style="list-style-type: none"> • Commissioning Form • Cabinet report

SECTION 1

GENERAL ARRANGEMENTS

1.1 Over-riding principles

- 1.1.1 These CPRs are not intended to conflict with European Union and domestic law. Statutory legal obligations shall always take precedence over these CPRs.
- 1.1.2 These CPRs govern organisational behaviour in the conduct of procurement. It is a given that such behaviour is undertaken in support and delivery of the wider policies and objectives of the council.
- 1.1.3 Nothing in these CPRs shall relieve the council from its duty to spend public money wisely. Officers must always seek value for money.
- 1.1.4 The nature and extent of procurement activity must be appropriate and proportionate to the nature and value of the goods and services being procured. Procurement management must be optimised to make the most of council resources.
- 1.1.5 Utmost probity must be demonstrated at all times.
- 1.1.6 Arrangements for contracts made by schools shall not be subject to these CPRs but shall be subject to their own contract procedure rules.
- 1.1.7 Where there is any doubt about the interpretation or implementation of any of the CPRs, clarification and guidance should always be sought from the Corporate Procurement Team.

1.2 Compliance

- 1.2.1 Every contract entered into by the council shall be entered into pursuant to or in connection with the council's functions and shall comply with:
- i. All relevant statutory provisions
 - ii. Insofar as they apply, the relevant European procurement rules;
 - iii. The council's constitution, including these contract procedure rules, the council's financial regulations, schemes of delegation, the Officer Code of Conduct, the council's strategic objectives, procurement strategy and relevant council policies;
- 1.2.2 Any failure by officers to comply with any of the provisions of these CPRs may result in disciplinary action.

1.3 Welsh Language Standards

- 1.3.1 **All** advertisements in Sell2Wales and, where relevant, in the Office Journal of the European Union (OJEU), **must** be published bilingually in Welsh and English. The advertisement must state that quotations or tenders may be submitted in Welsh, and that a quotation or tender submitted in Welsh will be treated no less favourably than a quotation or tender submitted in English.

- 1.3.2 When requesting quotations or inviting tenders, **all** accompanying documentation (including criteria and evaluation methodology, draft contract/terms and conditions and specification) **must** be available in Welsh as well as English, and at the same time as the English Language versions are available, where:
- i. The subject matter of the contract suggests that it should be produced in Welsh; or
 - ii. Where the anticipated audience, and their expectations, suggests that the documents should be produced in Welsh.

In all other circumstances it is acceptable to produce English only documents, notwithstanding the requirement for all advertisements to be bilingual as per CPR 1.3.1 above.

- 1.3.3 Where a quotation or tender has been submitted in Welsh, this must be treated no less favourably than a submission in English (including, amongst other matters, in relation to the closing date for receiving submissions, and in relation to time-scale for informing bidders of decisions).

- 1.3.4 If a quotation or tender has been submitted in Welsh, and it is necessary to interview the bidder as part of the assessment process, you must:
- i. Offer to provide a translation service from Welsh to English to enable the bidder to use the Welsh language at the interview; and
 - ii. If the bidder wishes to use the Welsh language at interview, provide a simultaneous translation service for that purpose (unless you conduct the interview in Welsh without a translation service).

- 1.3.5 When informing a bidder of the decision in relation to a quotation or tender, you must do so in Welsh if the quotation or tender was submitted in Welsh.

1.4 Procurement by council staff

- 1.4.1 Any council officer can undertake procurement activity under the direction of their line manager, having had due consideration of:
- i. The capability of that officer in question i.e. do they have sufficient experience and/or have they had appropriate training to competently carry out the procurement activity, particularly when undertaking procurement at intermediate value or above (see CPRs [4.3](#) to [4.5](#)); and
 - ii. The capacity of that officer i.e. do they have enough time to undertake the required tasks associated with the procurement activity, and can these requirements be balanced effectively with their other duties.

1.5 Procurement by consultants, agency staff or other non-council

- 1.5.1 Where the council uses consultants, agency staff and/or any other non-council officer to act on its behalf in relation to any procurement, then the head of service where the procurement activity is taking place shall ensure that they carry out any procurement in accordance with these CPRs and all statutory procurement obligations.

- 1.5.2 No consultant shall make any decision on whether to award a contract or who the contract should be awarded to. Determination of these decisions is detailed in [CPR 5.5](#).
- 1.5.3 Where the council uses consultants, agency staff and/or any other non-council officer to act on its behalf in relation to any procurement, they must declare any potential conflict of interest that may arise to the head of service prior to the commencement of the procurement process or at such time as the contractor becomes aware of such potential conflict of interest. Where the head of service considers that such a conflict of interest is significant the individual or company shall not be allowed to participate in the procurement process.
- 1.5.4 Note that it is the council, as the contracting authority, which is responsible for all actions and decisions of non-council staff in relation to the conduct of procurements, therefore there need to be proper governance procedures in place to manage and monitor non-council staff appropriately.

1.6 Declaration of interests

- 1.6.1 No member, officer or agent of the council shall improperly use their position to obtain any personal or private benefit from any contract entered into by the council.
- 1.6.2 Members and employees of the council shall comply with the requirements of section 117 of the Local Government Act 1972 and the officers and members code of conduct set out in the Constitution in respect of the declaration of interests in contracts with the council.
- 1.6.3 Such interests must be declared to the monitoring officer for inclusion in the appropriate registers, and a record of any conflict of interest pertaining to a contract should be placed on the contract file on the council's electronic procurement system, detailing how the conflict has been addressed.

1.7 ICT procurement

- 1.7.1 All ICT procurement - including hardware, software and licences – shall be undertaken centrally by the Business Transformation & ICT team (or its successor). Any exception to this will need to be justified by the head of service where the procurement activity is taking place and approved by the Head of Business Improvement & Modernisation, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.

1.8 Property and works related procurement

- 1.8.1 All property and works related procurement projects shall be undertaken either by:
- i. Property team (or its successor) for building construction, building maintenance and landscaping related works for council owned properties. Any exception to this will need to be justified by the head of service where the procurement activity is taking place and approved by the Property Manager, and a record of this justification and approval

attached to the contract file on the council's electronic procurement system.

- ii. Built Environment Team (or its successor) for building construction and/or building maintenance works relating to private sector properties. Any exception to this will need to be justified by the head of service where the procurement activity is taking place and approved by the Built Environment Manager, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.
- iii. Highways & Environmental Services (or its successor) for highways construction and civil engineering projects. Any exception to this will need to be justified by the head of service where the procurement activity is taking place and approved by the Strategic Highways Manager, record of this justification and approval attached to the contract file on the council's electronic procurement system.

1.8.2 Where Services have existing frameworks that can be called upon without the need for the involvement of the teams listed in CPRs 1.8.1 then this should be allowed where it offers value for money.

1.9 Approved lists

1.9.1 The council will seek to replace all of these approved lists with more formal procurement arrangements by 31st March 2016.

1.10 Land contracts and appointment of developers

1.10.1 All land transactions must comply with section 120 – 123 of the Local Government Act 1972.

1.10.2 Any land contracts are deemed to be Development Agreements where:

- i. The council requires or specifies works to be undertaken by the developer; and/or
- ii. The developer enters into an enforceable written obligation to carry out work; and/or
- iii. The developer may have some pecuniary interest – which need not necessarily be a cash payment – in carrying out the works.

Any land contracts which involve development agreements shall be notified to the Monitoring Officer and advice sought.

1.11 **Electronic procurement**

- 1.11.1 From 1st April 2016, requests for quotations above the value of £10,001 and **all** tenders must be conducted using the council's approved electronic system. It is the responsibility of the head of service to ensure that their staff comply with this regulation.

- 1.11.2 Any officer required to use the council's electronic procurement system in the course of their duties must obtain written line management approval and notify the corporate procurement team so that they can be registered on the system. Similarly, it is the responsibility of the relevant line manager to notify the Corporate Procurement Team of changes to any officer's eligibility for using the system (e.g. staff leaving or disciplinary measures) at earliest opportunity so that the user access can be deactivated.

1.12 **Amendment and review of the CPRs**

- 1.12.1 A full review of these CPRs will be undertaken following any substantive changes to EU or UK law, or within five years of adoption, whichever is the sooner. Any changes to these CPRs will require the approval of Council.

- 1.12.2 Amendments to the appendices associated with these CPRs can be updated and/or amended as necessary by the Corporate Procurement Team in agreement with the Monitoring Officer.

SECTION 2

PROCUREMENT PLANNING

GUIDANCE NOTE 1

Preparation and planning

This preparation and planning stage of the process is critical and will influence all future activity on the contract. If this part of the process is done correctly then the rest should flow without difficulty, but the reverse is also true. The key tasks at the planning stage include:

- **engagement with key stakeholders** in order to identify and assess needs – what is being procured and why? What is the key driver for the procurement? What are the critical success factors? What outcomes are being sought?
- **options appraisal** to look at different ways of meeting the identified needs (e.g. buy, lease or rent?)
- **budget and funding**, to define a realistic budget for the contract to achieve the desired results and then securing the funds to finance the contract
- **selection of the appropriate procedure** – open, restricted, negotiated/competitive dialogue or innovative (*see Guidance Note 4*)
- where a tender is to be awarded on both price and quality, the **criteria and evaluation methodology** need to be developed and finalised

The results of this planning stage should be properly documented in the commissioning form and attached to the contract document of the council's electronic procurement system. It is quite common to underestimate the planning stage or not carry it out at all. Depending on the size and complexity of the contract, this stage of the process might take months before a tender notice is published. The biggest (and potentially most costly) and most common errors on contracts result from inadequate planning.

2.1 Framework agreements and other corporate purchasing

2.1.1 In some instances the council has entered into corporate purchasing agreements for certain goods, services and works. The use of these corporate purchasing agreements is **mandatory** and correct use, as advised by the Corporate Procurement Team, is sufficient to ensure officers meet their responsibilities for compliance. Such arrangements include:

- i. Corporate purchasing agreements resulting from the National Procurement Service (NPS) or any other approved official purchasing consortiums;

- ii. Any other framework agreements and any subsequent call-off arrangements;
- iii. Any joint procurement arrangements with another council or public sector organisation;
- iv. Electronic catalogues endorsed for use by the council

GUIDANCE NOTE 2

What is a framework agreement?

Framework Agreements are agreements between the council and one, or three or more suppliers for the provision of goods, services or works on agreed terms for a specific period, for estimated quantities against which orders may be placed if and when required during the contract period. The Public Contract Regulations stipulate that framework agreements can be concluded with a single provider or with several providers, for the same goods, works or services. In the latter case, there must be at least three providers, as long as there are sufficient candidates satisfying the selection criteria and which have submitted compliant bids meeting the award criteria. The term of a Framework Agreement must not exceed four years and, while an agreement may be entered into with one provider, where an agreement is concluded with several organisations there must be at least three in number.

Where frameworks are awarded to several organisations, contracts based on framework agreements may be awarded in one of two ways:

1. Where the terms of the agreement are sufficiently precise to cover the particular call-off, by applying the terms laid down in the framework agreement without re-opening competition; or
2. Where the terms laid down in the framework agreement are not precise or complete enough for the particular call-off, by holding a further competition in accordance with the following procedure:
 - i. Inviting the organisations within the framework agreement, that are capable of executing the subject of the contract, to submit bids electronically via the “further competition” step on the council’s approved electronic procurement system, with an appropriate time limit for responses; or
 - ii. Awarding each contract to the bidding organisation who has submitted the best bid on the basis of the relevant award criteria set out in the framework agreement.

-
- 2.1.2 It is the responsibility of the manager of the team where the procurement activity is taking place to ascertain whether there is a framework or other corporate purchasing agreement in place by checking the contracts register. If in any doubt the advice of the Corporate Procurement Team should be sought. The use of frameworks not on the contracts register is only permissible once they have been checked for compliance with procurement regulations by the Corporate Procurement

Team.

- 2.1.3 Any joint procurement arrangements with other local authorities and/or public sector bodies, including membership or use of any consortia, must be approved in writing by the Corporate Procurement Team.
- 2.1.4 When using frameworks the assessment criteria, weightings and any special conditions detailed in that framework agreement must be fully complied with.
- 2.1.5 In exceptional circumstances alternatives to using corporate purchasing agreements may be considered appropriate. In such cases the head of service where the procurement activity is taking place shall consult with the Corporate Procurement Team. Where an alternative approach is proposed, a report must be provided by the head of service setting out the detail and the justification for the alternative arrangements and attached to the relevant contract file on the council's electronic procurement system.

2.2 Estimating the contract value

- 2.2.1 The value of the contract means the estimated total monetary value over its full duration (not the annual value), including any extensions or other options, but **not** including VAT. Where the duration of the contract is indeterminate or is longer than four years, this should be taken to be the estimated value of the contract over a period of four years. No procurement may be artificially split to avoid compliance with these CPRs and European Union procurement directives.
- 2.2.2 Where the same goods, services or works are purchased regularly by the Council it is the aggregated value of these purchases that determines the total contract value. It is the responsibility of the Corporate Procurement Team to monitor such aggregations to ensure the correct procedures are followed.
- 2.2.3 Where the value is, or may be, equal to or greater than the relevant OJEU threshold, there must be regard to the valuation rules in the [Public Contracts Regulations 2015](#) which are similar to the above, but more detailed.

2.3 Pre-quotation/tender market testing and consultation

- 2.3.1 It is permissible to consult in general terms with potential suppliers, prior to a request for quotation or invitation to tender, about the nature, level and standard of supply, price range and other relevant matters, and/or whether particular suppliers wish to be invited to quote or tender.
- 2.3.2 Officers may review the market for a proposed procurement through discussions with suppliers and other research but may not:
 - i. Base any specification on one contractor's offering such as to distort competition. Bidders may be excluded from the procurement in circumstances where their prior involvement

would distort competition (and there are no other means of ensuring equal treatment which can be applied);

- ii. Make any indication or commitment to contractors that their offer may be preferred by the council;
- iii. Suggest any procurement route which is not consistent with these rules;
- iv. Enter into negotiations about price where a competitive procurement process has yet to take place.

2.3.3 A written record, including notes of any meetings held, the responses and the names of all individuals present shall be attached to the contract file on the council's electronic procurement system. It is the responsibility of the manager of the team where the procurement activity is taking place to ensure this is actioned.

2.4 Community benefits

2.4.1 It is a requirement that all contracts exceeding £1,000,000 in value should include the delivery of community benefits as a contractual obligation on the successful bidder. Any contract funded or part-funded by European or Welsh Government grant is also likely to require the inclusion of community benefits as a contractual obligation, regardless of the value of the contract.

GUIDANCE NOTE 3

What are community benefits?

Community Benefit clauses are contractual clauses which can be used to build a range of economic, social, or environmental conditions into the delivery of public contracts. They allow organisations to contribute to the achievement of outcomes which benefit their local communities by specifying contractual requirements which seek to deliver such wider social benefit. Examples of community benefits which can potentially be included as contractual clauses include:

- training and recruitment opportunities for the economically inactive;
- retention and training for the existing workforce;
- contributions to education
- promotion of social enterprises and supported businesses;
- promoting environmental benefits; and
- supply chain initiatives

There are two approaches to community benefits:

1. The “**Core**” approach – where the community benefits being sought **must** relate to the subject matter of the contract and **must** be included and scored as part of the evaluation procedure and subsequently included in the contract; and
2. The “**Non-Core**” approach – where bidders are asked to provide details of the community benefits they would deliver through the contract (which the council may have specified or may be suggested by the contractor), but these benefits **are not** included and scored as part of the evaluation procedure. These non-core benefits should still be included as contractual requirements and their delivery monitored as part of the normal contract management process.

Many contracts will offer the opportunity to apply both core and non-core community benefits.

-
- 2.4.2 For all contracts below £1,000,000 in value the inclusion of community benefits as a contractual obligation is optional (unless required as a condition of grant funding – see [CPR 2.4.1](#)), but encouraged wherever practical.
 - 2.4.3 Core community benefits (see Guidance Note 3) must relate to the subject matter of the contract, and must be included as part of the evaluation criteria at quotation/tender stage (see [CPR 3.7.6](#)) and fully evaluated as part of the award selection process. Officers are encouraged to seek the advice of the Corporate Procurement Team when considering how to accommodate community benefits criteria in evaluation criteria and contracts.
 - 2.4.4 Non-core community benefits (see Guidance Note 3) **do not** have to relate to the subject matter of the contract, and are **not** included as part of the evaluation criteria at quotation/tender stage (see [CPR 3.7](#)). However, where they have been offered they should subsequently be included as contractual requirements.
 - 2.4.5 In **all** cases where community benefits are being delivered, completion of the Welsh Government’s Community Benefit Toolkit (or any successor tool provided by or on behalf of the Welsh Government) must be a contractual requirement for the successful contractor, which places an obligation on contractors to provide monitoring information on the community benefits they are delivering. More generally, the delivery of community benefits should be monitored by the named contract manager (see [CPR 6.1](#)) as part of the normal contract management process (see [CPR 6.3.3](#)).

GUIDANCE NOTE 4

Selecting the appropriate procedure

At intermediate value procurement (see [CPR 4.3](#)) we move from requesting quotations to the more formal approach of inviting tenders of which there are a number of options. The decision on which procedure to use

is a critical one affecting the whole procurement process. The decision should be made and fully justified at the planning stage. The options are:

- **Open:** is a process where all providers interested in the contract and who have responded to an advertisement can submit tenders. All such tenders must be considered without any prior selection process. The selection and evaluation is carried out after the submission of the tenders.
- **Restricted:** is a two-stage process where only those providers who have been invited may submit tenders. The selection and shortlisting are usually carried out on the basis of a Pre-Qualification Questionnaire (PQQ).
- **Negotiated/Competitive Dialogue:** used only in exceptional circumstances (and under guidance of a named officer from the Corporate Procurement Team), this procedure is where the council may, in certain circumstances, negotiate the terms of the contract with one or more suppliers of its choice. Ordinarily negotiation/dialogue should be with not less than 3 candidates provided that there are a sufficient number of candidates available. The candidates with which to hold a competitive dialogue may be selected through a restricted procedure.
- **Innovation Partnerships:** used only in very exceptional circumstances (and under guidance of a named officer from the Corporate Procurement Team), this procedure is where the council can select partners on a competitive basis and have them develop an innovative solution tailored to the requirements.

2.5 Planning the procurement process

2.5.1 Whilst the following regulations outline key considerations for the planning stage of any procurement activity, the planning process must end with an approval to procure and commence any required document preparation and subsequently invite offers from the market. The authorisation thresholds and process are detailed later in [CPR's 2.7](#), but note that for any procurement activity where the value of the contract is estimated to be greater than £25,000 a commissioning form must be completed by the service area undertaking the procurement activity in order that the proposed route to market can be assessed and duly agreed/signed off.

2.5.2 The purpose of the commissioning form is to ensure that the procurement activity proposed has been properly considered and thought through by the relevant service area, and subsequently for the Corporate Procurement Team to assess whether the proposed route to market is compliant with the law and these CPRs. To enable this assessment the form includes:

- i. Justification of the need to buy;
- ii. Options appraisal outlining what options were considered and why the preferred option has been selected;
- iii. Detail of the estimated contract cost and confirmation of which budget the cost will be met from;

- iv. Details of any exemptions or exceptions are being sought (refer to CPRs [2.8](#) to [2.10](#));
- v. Confirmation of the procurement route to market proposed (e.g. Framework or competitive route); and
- vi. Confirmation of what form of contract is to be used.

2.5.3 The commissioning form will be completed by the service area undertaking the procurement activity and then forwarded to the Corporate Procurement Team. The relevant Head of Service will receive feedback from the Corporate Procurement Team on the commissioning form within five working days of its submission, providing all necessary details have been provided in the form.

2.5.4 Once the commissioning form has been returned to the relevant Head of Service by the Corporate Procurement Team, the Head of Service may make adjustment to the proposal based on any comments and/or recommendations made by the Corporate Procurement Team and record these on the relevant section of the Commissioning Form. The Head of Service must then secure the authorisation to progress – i.e. preparing the tender documentation and inviting bids – in line with the authorisation process detailed in CPR 2.7.

2.6 Sustainability Assessment

2.6.1 In addition to the commissioning form, for any procurement activity where the value of the contract is estimated to be greater than £25,000, the corporate sustainability assessment tool (or any equivalent corporate assessment that may be required) needs to be applied, and a record of this assessment appended to the commissioning form.

2.7 Authority to decide procurement strategy and invite competitive

2.7.1 For procurement activity where the value of the contract is estimated to be less than £25,000, the authority to decide the appropriate procurement strategy and invite competitive bids is as follows:

- i. By the manager of the team where the procurement activity will be taking place, providing they have authority to approve spend to the estimated contract value. If they do not have authority to spend, then:
- ii. By the head of service where the procurement activity is taking place

No formal report is required to record the agreed approach.

2.7.2 For procurement activity where the value of the contract is estimated to be greater than £25,000, the authority to decide the appropriate procurement strategy and invite competitive bids is as

follows:

- i. **£25,001 to £1,000,000:** By agreement in writing from head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer – recorded on the Procurement Commissioning Form detailed in CPR 2.5. Any of these individuals can refer the decision to Cabinet where they consider there are relevant issues pertaining to the procurement activity such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- ii. **£1,000,001 to £2,000,000:** by the relevant Cabinet Member through the scheme of delegation detailed in the Council’s constitution, which will also require the agreement from the head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer – recorded on a delegated decision report with an accompanying completed Procurement Commissioning Form detailed in CPR 2.5. The Cabinet Member, or any of the other offices detailed above, can refer the decision to Cabinet where they consider there are relevant issues pertaining to the procurement activity such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- iii. **£2,000.001 and over:** by Cabinet – recorded on a Cabinet Report with an accompanying Procurement Commissioning Form detailed in CPR 2.5.

Once the decision has been made, it is the responsibility of the manager of the team where the procurement activity is taking place to ensure that all duly signed decision reports, and the Procurement Commissioning Form, are uploaded onto the electronic procurement system.

- 2.7.3 Where authority is given to invite competitive bids under CPR 2.7.2 iii the decision is subject to the five day Cabinet call-in period. The offer should not go to the market until either this call-in period has elapsed or, in the event that the decision is called-in, the result of any review is known.

2.8 Exempt contracts

- 2.8.1 Exemptions are where the CPRs are suspended entirely. The following contracts are exempt from the requirements of these CPRs:
- i. Internal purchases or service provision
 - ii. Contracts relating solely to the disposal or acquisition of an interest in land (with the exception of development agreements – see [CPR 1.10](#))
 - iii. Individual agency contracts for the provision of temporary staff;
 - iv. Employment contracts;
 - v. Grant aid by the council to voluntary sector bodies
 - vi. Contracts for the engagement of expert witnesses.

2.9 Exceptions

- 2.9.1 Exceptions are where the CPRs are partly suspended to enable a particular course of action. This can include the requirement to seek market competition by obtaining a quotation or tendering. This does not remove the need to ensure that adequate and robust process is undertaken in accordance with these CPRs. The council's rules and guidance will still apply.
- 2.9.2 Where an exception is sought under CPR 2.9.3 there is a requirement to complete an exception form (see [CPR 2.11.4](#)).
- 2.9.3 An exception can be sought, including consent to seek only a single quotation or tender, where one or more of the following criteria are met:
- i. where an offer has been made to the market by the Council using the open, restricted, negotiated, competitive dialogue or innovation procedure, but where no quotations or tenders have been submitted, or where those that have been submitted are disqualified through the evaluation procedure (see section 5). In this circumstance an exception can only be granted where the original terms of the proposed contract are not substantially altered;
 - (a)
 - ii. the goods, services or works can only be provided by a particular contractor for reasons that are technical, artistic, or connected with the protection of exclusive rights. This should normally be evidenced through publishing a Prior Information Notice (PIN) on Sell2Wales, or through some other means agreed with the Corporate Procurement Team;
 - (b)
 - iii. extreme urgency brought about by events unforeseeable by the council and in accordance with the strict conditions stated in the Public Contract Regulations 2015 (see also CPRs [2.11.2](#) and [5.12.5](#));
 - iv. Where the products involved are manufactured purely for the purpose of research, experimentation, study or development;
 - v. For supplies quoted and purchased on a commodity market;
 - vi. Where a design competition is run where the rules of that competition require the contract to be awarded to one or more of the successful candidates, provided that all successful candidates are invited to negotiate;
 - (c)
 - vii. with an organisation which has won a contract for an earlier phase of work via a competitive process, where such work forms part of a serial programme previously identified as such in the original offer to market (which should also include the cumulative

- value of all potential phases) and providing that subsequent phases commence within three years of the original contract;
- (d)
- viii. with an organisation already engaged by the Council, where the additional requirement was not included in the original contract but has arisen through unforeseen circumstances, and the requirement cannot be carried out separately for technical or economic reasons;
- ix. that goods are required as a partial replacement or addition to existing goods or installations and obtaining them from another contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance. Any contract based on this exception shall not exceed the duration of three years save in exceptional circumstances;
- (e)
- x. for supplies purchased which are second hand and/or sold in a public market or auction;
- (f)
- xi. for the engagement of actors or performers;
- (g)
- xii. in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;
- (h)
- xiii. for the purchase of supplies on particularly advantageous terms from a supplier that is definitely winding up its business activities, or from the receivers or liquidators of a bankruptcy, an arrangement with creditors or similar procedure;
- (i)
- xiv. where delay attributable to the quotation or tendering process would, in the estimation of the Head of Service concerned, result in the Council incurring net expenditure or forfeiting net income in excess of the savings on the contract sum that might reasonably be expected to accrue from competitive tendering;
- (j)
- xv. where delay attributable to the quotation or tendering process would, in the estimation of the Head of Service concerned, create or increase danger to life or limb;
- (k)
- xvi. where delay attributable to the quotation or tendering process would, in the estimation of the Head of Service concerned, result in or continue an unacceptable level or standard of service; or
- (l)
- xvii. where relevant UK or EU legislation not otherwise referred to in these CPRs permits.

2.10 Additional exceptions for the Light-Touch Regime

- 2.10.1 Where an exception is sought under CPR 2.10.2 there is a requirement to complete an exception form (see [CPR 2.11.4](#)).

- 2.10.2 For contracts that are covered by the Light-Touch Regime under the Public Contracts Regulations 2015 (see [CPR 4.6](#)) there are additional circumstances under which an exception can be sought. These can be considered where there is a clear continuation of specific services under an existing contract, and where a decision to award a new contract to an existing contractor without seeking quotations or tendering can be justified as reasonable in terms of the extent to which the new requirement meets one or more of the following criteria;
- i. Evidence demonstrates that obtaining quotations or tendering for the required services is unlikely to secure significant improvements in value for money, or else is unlikely to secure sufficient improvement in value for money to justify the cost of obtaining quotations or tendering, or else any likely improvement in value for money will be outweighed by the potential cost of changing contractor;
 - ii. The specification for the new requirement does not differ substantially from that of the existing contract;
 - iii. The contract terms and conditions of the new requirement do not differ from those of the existing contract except where required by changes to the council's Financial Regulations and/or these Contract Procedure Rules or relevant standard contracting practices;
 - iv. The equivalent annual value of the contract for the new requirement does not differ from that of the existing contract by more than 10%, unless required by law;
 - v. The services required have previously been subject to competitive quotations or tendered no more than five years prior to the end of the original contract, having regard to the term of the contract to be offered and the volatility of prices and quality in the relevant sector;
 - vi. No more than two previous contracts for the required services have been exempted from obtaining quotations or tendering;
 - vii. The performance of the existing contractor in delivering the required services under the existing contract has been monitored and assessed as satisfactory or better;
 - viii. The quality of the required services as required by the existing contractor under the existing contract has been assessed as satisfactory or better;
 - ix. Improvements in value for money in respect of contract specification, contract price or service quality have already been secured or else will be secured under the terms of the new contract for the required services;
 - x. The required services, where applicable, are necessarily delivered in specific accommodation and there is a significant risk that a change in contractor would result in the loss of that accommodation to the require service or service user(s), and that there is

also a significant risk that alternative accommodation will not be secured within a reasonable and practical timescale;

- xi. There is a reasonable probability that obtaining quotations or tendering the required services would result in significant distress or other detriment to the welfare of the service user(s) or would reverse or undermine the attainment of successful outcomes for the service user(s); and
- xii. Any other valid and relevant considerations which may be identified by the manager of the team requiring the services, subject to the approval procedure detailed in CPR 2.12 below.

2.11 Authority to approve exceptions

2.11.1 An exception based on one or more of the reasons listed in CPR [2.9](#) or [2.10](#) may be granted in the following manner:

- i. **Up to £25,000:** By the manager of the team where the procurement activity is taking place, providing they have authority to approve spend to the estimated contract value. If they do not have authority to spend then by the Head of Service where the procurement activity is taking place;
- ii. **£25,001 to £1,000,000:** By agreement in writing from head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer – recorded on the Procurement Exceptions Report detailed in CPR 2.11.4. Any of these individuals can refer the decision to Cabinet where they consider there are relevant issues pertaining to the procurement activity such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- iii. **£1,000,001 to £2,000,000:** by the relevant Cabinet Member through the scheme of delegation detailed in the Council’s constitution, which will also require the agreement from the head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer – recorded on a delegated decision report with an accompanying completed Procurement Exceptions Report detailed in CPR 2.11.4. The Cabinet Member, or any of the other offices detailed above, can refer the decision to Cabinet where they consider there are relevant issues pertaining to the procurement activity such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- iv. **£2,000,001 and over:** by Cabinet – recorded on a Cabinet Report with an accompanying Procurement Exceptions Report detailed in CPR 2.11.4.

- 2.11.2 Such authority to approve shall not apply in cases of extreme urgency (CPR [2.9.3 \(iii\)](#) and [2.9.3 \(xv\)](#)). In this circumstance the relevant Head of Service can approve the exception.
- 2.11.3 Exceptions based on any reason not listed in CPR [2.9](#) or [2.10](#) can only be obtained from cabinet.
- 2.11.4 In **all** cases where an exception is being sought, a report must be attached on the contract file in the council's electronic procurement system setting out the reason for requiring the exception and the specific contract procedure rule (from this document) from which the exception is required. The report shall highlight any future commitments (whether or not of a financial character) which the proposed contract might entail.
- 2.11.5 In cases where an exception to proceed with a single tender procurement exercise has been authorised, the exercise is still required to be undertaken on the Council's electronic procurement system.

SECTION 3

PROCUREMENT PREPARATION

DOCUMENT

3.1 Preparing documentation

3.1.1 It is a requirement to produce all required documentation associated with the procurement activity prior to making any offer to the market. This should include:

- i. The **specification**, which should contain precise details of the requirements, be easily understood by the bidders, have clearly defined, achievable and measurable inputs, outputs or outcomes;

And where appropriate for contracts under £25,000, and for all contracts over £25,000:

- ii. A draft of the **contract**, including any bespoke terms and conditions that may be required over and above the standard terms and conditions of the form of contract used;
- iii. The **criteria and evaluation methodology** (including any weightings) for selection and award of the contract;
- iv. Details of any requirements for **community benefits**;
- v. Where tendering under the Restricted (and Competitive or Negotiated) Procedures, a **Pre-Qualification Questionnaire (PQQ)** to enable a fair and transparent means of creating a shortlist of bidders; and
- vi. The **tender invitation** clearly stating the requirement to submit bids electronically, the time and date it needs to be submitted by, along with any other relevant instructions and a clear statement that no bids will be considered that have been delivered other than as instructed;

Standard forms and templates are available from the Corporate Procurement Team, and where appropriate embedded in the Council's electronic procurement system. Any deviation from the standard forms and templates must be agreed in writing with the Corporate Procurement Team.

3.2 Tender specifications – Standards

- 3.2.1 Relevant EU, British, and International standards which apply to the subject matter of the contract and which are necessary to properly describe the required quality must be included in the tender specification.

3.3 Tender specifications - Nominated products

- 3.3.1 All goods and services should be specified by reference to objective, non-product specific descriptions. Equivalent goods or services are nearly always capable of being specified. If this is not possible for genuine technical reasons, and a particular type of product or service or method of production or delivery has to be stated, then the words “or equivalent” should always be added.

3.4 Tender specifications - Nominated suppliers and sub-contractors

- 3.4.1 Nomination of suppliers, contractors or sub-contractors amounts to the same as single-tender action and so must not be used (except where permitted by the [Public Contracts Regulations 2015](#) for contracts equal to or greater than the relevant OJEU threshold, or the CPRs below the relevant OJEU threshold).
- 3.4.2 It is permissible to provide potential main or principal contractors with lists of council-approved suppliers or sub-contractors provided that it is made clear to the main/principal contractors that they are completely free to sub-contract to whoever they wish (subject to meeting the council's reasonable requirements, such as technical standards, financial standing or insurance levels).

3.5 Contract terms and conditions

(see also [CPR 5.12](#))

- 3.5.1 Wherever possible, the council's standard terms and conditions, or industry standard national terms and conditions, shall be used with additional information added to specify:
- i. The work, materials, services or things to be furnished, had, done or disposed of (i.e. the specification);
 - ii. The price to be paid (or, as appropriate, the sums to be received), with a statement of discounts or other deductions, and where not known, committed estimated price, or the basis upon which the final contract sum is to be calculated;
 - iii. The time or times within which the contract is to be performed, together with a termination date of the contract; and

- iv. Any additional bespoke terms and conditions that relate specifically to the contract in question (Which will need to be agreed with Legal Services).

3.5.2 Note that at contract award stage the following information may also need to be included in the contract documentation;

- i. Any other relevant documents received as part of the successful bid which need to be appended as a schedule to the contract (e.g. pricing schedule, Freedom of Information declarations, etc.)
- ii. Where community benefits have been requested or offered by the contractor, these should be specifically included in the contract (see CPRs [2.4](#) and [6.3.3](#)).

3.6 Sub-contracting

(see also CPRs 5.15 and 6.4)

3.6.1 In the procurement documents the Council may ask the bidder to indicate in its quotation or tender any share of the contract that it intends to sub-contract to third parties and any proposed sub-contractors.

3.6.2 Where sub-contractors will be used, the contract should include a clause expressly requiring the main contractor to abide by the fair payment requirements and ensure sub-contractors receive payment within 30 days of presenting a valid invoice.

3.7 Evaluation criteria

3.7.1 At the procurement planning stage a decision **must** have been made about which evaluation method will be followed – lowest price or most economically advantageous tender (MEAT) (see [CPR 2.7](#) for authorisation procedures).

3.7.2 The lowest price method of evaluation may only be used on contracts of a value less than £25,000, unless an exception is made as detailed in CPR 3.7.3 below. Even for contracts at this level, it is still recommended that the most economically advantageous tender method is applied where appropriate.

3.7.3 The most economically advantageous tender (MEAT) should be applied to all contracts of a value greater than £25,000. Exceptions to this can only be approved by the head of service where the procurement activity is taking place, having consulted with the Section 151 Officer and the Corporate Procurement Team. Where such an exception is made, a report must be attached on the contract file in the council's electronic procurement system setting out the reason for requiring the exception.

- 3.7.4 For MEAT, the criteria used must be linked to the subject matter of the contract to determine that an offer is the most economically advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion. Whichever criteria are used, they must be objectively quantifiable and non-discriminatory, and they must be listed **in order of importance** in the tender documentation.
- 3.7.5 Where a procurement procedure has both selection and award stages, the criteria used at the selection stage should not be used again at the award stage. Selection criteria will typically be those that cover suppliers' capability and experience, whilst award criteria will assess which tender is the most economically advantageous.
- 3.7.6 Where core community benefits are being requested (see CPR [2.4](#) and [6.3.3](#)), they must relate to the subject matter of the contract and must be included as part of the evaluation criteria and scored accordingly.
- 3.7.7 Issues that are of importance to the council in terms of meeting its corporate priorities and objectives can also be used to as criteria evaluate bids. The bidding organisations approaches to continuous improvement and setting targets for service improvement or future savings could also be included. If such criteria are used there is still a requirement that they must relate to the subject matter of the contract and must be objectively quantifiable and non-discriminatory.
- 3.7.8 The procurement documentation should clearly explain the basis of the decision to bidding organisations, making clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

3.8 Variant bids

- 3.8.1 A variant bid is an option within the offer to market for suppliers to come forward with an alternative approach to delivering the required output of the procurement exercise, where they consider this will offer better value for money. Requesting variant bids is encouraged whenever practical as they have the potential to deliver significant cost savings, but these can only be submitted **in addition** to a standard bid that is compliant with the published specification. Whenever variant bids are submitted they **must** be evaluated using the same evaluation criteria as all other submissions (see CPR [3.7](#) and [5.2](#)).

SECTION 4

OFFER TO MARKET

GUIDANCE NOTE 5

What is the difference between a quotation and a tender?

There are broadly two competitive approaches used by the council to achieve best value in procurement:

1. A **request for quotation** (RFQ) is a less formal approach than a tender, and used for lower value, lower risk procurement. The council will provide a basic technical specification for the goods, services or works it requires, and bidders will quote their price, and in some cases outline how they intend to undertake the supply of good, services or works.
2. An **invitation to tender** (ITT) is a more formal approach where the council provides up-front documents laying down the terms and conditions of the offer; the work required to be undertaken and the quality that is expected. The invitation to tender is issued to all suppliers on the same day. They are not allowed to canvass or collude with us, other than to seek clarity. All tenders must be returned before a specified time and date.

4.1 Buying

Up to £10,000 (Goods, Services & Works)

- 4.1.1 The minimum requirement is **one** verbal or written quotation, although where practical competition is required. Where only one quote is requested, the head of service still has a responsibility to ensure and be able to demonstrate that value for money has been obtained.
- 4.1.2 The council's electronic procurement system has a Quick Quotes facility which is ideally suited to obtaining price only quotations at this threshold level, and will bring greater transparency, fairness and could achieve better value for money. Therefore the use of the Quick Quotes facility is encouraged for this level of spend.
- 4.1.3 It is acceptable to use petty cash or corporate credit cards when buying goods, services or works at this threshold limit.
- 4.1.4 There is no requirement to openly advertise.

- 4.1.5 There is no prescribed timescale for receiving a request for quotation.
- 4.1.6 Following acceptance of the quotation (verbal, written or electronic) a purchase order **must** be sent via the Purchase-to-Pay (P2P) system.
- 4.1.7 Quotes, regardless of whether one or more has been invited, can be accepted – verbally, in writing (including email) or via the council's approved electronic procurement system – at the time of submission.

4.2 Low Value Procurement

£10.001 to £25.000 (Goods, Services & Works)

- 4.2.1 At least **four** quotations to be requested using the council's electronic procurement system. The system will enable two suppliers of the requested goods, services or works to be selected manually, and then will automatically select at random a further two suppliers. If more than two suppliers are manually selected, the system will automatically select at random the same number again (i.e. if three suppliers are selected, the system will randomly select a further three, and so on).
- 4.2.2 In the circumstance where not all suppliers respond to the request for quotation with a submission, it is acceptable to evaluate and award the contract based on whatever submissions have been made, even where there is only one submission.
- 4.2.3 Where there are less than four suppliers (but more than one) of the requested goods, services or works on the council's electronic procurement system, it is acceptable to request quotations from the number (less than four) of the suppliers registered.
- 4.2.4 Where there is only one supplier of the requested goods, services or works on the council's electronic procurement system, it is a requirement to follow the exception authorisation procedures set out in [CPR 2.11](#).
- 4.2.5 Any request for quotation (RFQ) shall include as a minimum a technical specification, pricing schedule and terms and conditions.
- 4.2.6 As an alternative to selection of suppliers, the requirement may also be openly advertised on Sell2Wales and on the council's approved electronic system, but this is not a mandatory requirement at this level. Note that when the requirement is openly advertised in this way there is no restriction on the number of suppliers that may respond.
- 4.2.7 There is no prescribed timescale for receiving a request for quotation, but consideration should be made of the complexity of the requirement being requested and sufficient time allowed for suppliers to provide suitable bids.

- 4.2.8 The quotation must be received electronically using the council's approved system, and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the request for quotation has elapsed.
- 4.2.9 All quotations received will be automatically "unlocked" and available for evaluation in the electronic system at the same time within one hour of the closing time and date prescribed in the request for quotation.
- 4.2.10 Following evaluation of the submissions and acceptance of the quotation on the electronic system, a purchase order **must** be sent via the Purchase-to-Pay (P2P) system.

4.3 Intermediate Value Procurement

£25,001 to the OJEU threshold (Goods and Services)

- 4.3.1 Where a competitive procedure with negotiation, competitive dialogue or innovation partnership procedure has been approved under [CPR 2.7](#), then the offer to market should only be undertaken under the supervision and guidance of a named officer from the Corporate Procurement Team.
- 4.3.2 Prior to inviting tenders, it is a **mandatory** requirement to undertake the corporate Sustainability Assessment, or any equivalent corporate assessment that may be required. It is the responsibility of the manager where the procurement activity is taking place to ensure that this is undertaken, and that the results of this exercise is uploaded to the council's electronic procurement system.
- 4.3.3 All requirements **must** be openly advertised on Sell2Wales and on the council's electronic procurement system.
- 4.3.4 Whilst it is not a mandatory requirement at this procurement threshold, the inclusion of community benefits as a contractual requirement is still encouraged (see CPR [2.4](#) and [6.3.3](#)).
- 4.3.5 At the time of inviting tenders the documents detailed in [CPR 3.1](#) should have been prepared and be accessible to view on the council's electronic procurement system.
- 4.3.6 There is no prescribed timescale for receiving an invitation to tender, but consideration should be made of the complexity of the requirement being requested and sufficient time allowed for suppliers to provide suitable bids.
- 4.3.7 The tenders must be received electronically using the council's approved system, and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the invitation to tender has elapsed.

- 4.3.8 All tenders received will be automatically “unlocked” and available for evaluation in the electronic system at the same time within one hour of the closing time and date prescribed in the invitation to tender.
- 4.3.9 Following evaluation of the submissions and acceptance of the tender on the electronic system, a purchase order **must** be sent via the Purchase-to-Pay (P2P) system.

4.4 Intermediate Value Procurement

£25,001 to the OJEU threshold (Works)

- 4.4.1 Where a negotiated, competitive dialogue or innovation partnership procedure has been approved under [CPR 2.7](#), then the offer to market should only be undertaken under the supervision and guidance of a named officer from the Corporate Procurement Team.
- 4.4.2 Prior to inviting tenders, it is a **mandatory** requirement to undertake the corporate Sustainability Assessment, or any equivalent corporate assessment that may be required. It is the responsibility of the manager where the procurement activity is taking place to ensure that this is undertaken, and that the results of this exercise is uploaded to the council’s electronic procurement system.
- 4.4.3 In cases where the works are of a general nature and thus it is reasonably considered that the interest from the market may result in a high number of submissions, in the interests of efficiency it is permissible not to openly advertise contracts with an estimated value below £250,000 (for works **only**). In this circumstance at least **four** tenders must be requested using the council’s electronic procurement system. The system will enable two suppliers of the requested works to be selected manually, and then will automatically select at random a further two suppliers. If more than two suppliers are manually selected, the system will automatically select at random the same number again (i.e. if three suppliers are selected, the system will randomly select a further three, and so on).
- 4.4.4 If the works being procured are grant funded and the conditions of grant require contracts to be advertised then CPR 4.4.3 cannot be used.
- 4.4.5 In the circumstance where not all suppliers respond to the invitation to tender with a submission, it is acceptable to evaluate and award the contract based on whatever submissions have been made, even where there is only one submission.
- 4.4.6 In all other circumstances, and for **all** contracts with an estimated value of between £250,001 and to the OJEU threshold (see appendix C), all requirements **must** be openly advertised on Sell2Wales and on the council’s electronic procurement system.

- 4.4.7 Where the contract value is greater than £1,000,000 the inclusion of community benefits as a contractual requirement is a **mandatory** requirement. Below this value, whilst it is not a mandatory requirement, the inclusion of community benefits as a contractual requirement is still encouraged (see CPRs [2.4](#) and [6.3.3](#)).
- 4.4.8 At the time of inviting tenders the documents detailed in [CPR 3.1](#) should have been prepared and be accessible to view on the council's electronic procurement system.
- 4.4.9 There is no prescribed timescale for receiving an invitation to tender, but consideration should be made of the complexity of the requirement being requested and sufficient time allowed for suppliers to provide suitable bids.
- 4.4.10 The tenders must be received electronically using the council's approved system, and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the invitation to tender has elapsed.
- 4.4.11 All tenders received will be automatically "unlocked" and available for evaluation in the electronic system at the same time within one hour of the closing time and date prescribed in the invitation to tender.
- 4.4.12 Following evaluation of the submissions and acceptance of the tender on the electronic system, a purchase order **must** be sent via the Purchase-to-Pay (P2P) system.

4.5 High Value Procurement ([OJEU threshold](#))

Above the relevant OJEU threshold (Goods, Services & Works)

- 4.5.1 At this threshold level it is critical that the offer to market is conducted in full compliance with the requirements of the [Public Contracts Regulations 2015](#). For this reason, adequate time must be allowed for the proper planning of the procurement activity, and this planning and the subsequent offer to market must be undertaken under the supervision and guidance of a named officer from the Corporate Procurement Team.
- 4.5.2 Prior to inviting tenders, it is a **mandatory** requirement to undertake the corporate Sustainability Assessment, or any equivalent corporate assessment that may be required. It is the responsibility of the manager where the procurement activity is taking place to ensure that this is undertaken, and that the results of this exercise is uploaded to the council's electronic procurement system.
- 4.5.3 Above these EU contract thresholds all requirements **must** be openly advertised on Sell2Wales, the council's electronic procurement system **and in the official journal of the European Union (OJEU)**, with no exceptions (see [CPR 4.9](#) for details).

- 4.5.4 Where the contract value is greater than £1,000,000 the inclusion of community benefits as a contractual requirement is a **mandatory** requirement. Below this value, whilst it is not a mandatory requirement, the inclusion of community benefits as a contractual requirement is still encouraged (see CPRs [2.4](#) and [6.3.3](#)).
- 4.5.5 At the time of inviting tenders the documents detailed in [CPR 3.1](#) should have been prepared and be accessible to view on the council's electronic procurement system.
- 4.5.6 The [Public Contracts Regulations 2015](#) prescribe minimum time limits for submissions following advert. These vary depending on the procurement procedure being followed and whether a Prior Information Notice (PIN) has been issued (see [CPR 4.9](#)), but are significant and **non-negotiable**. Officers conducting any procurement activity at this threshold **must** inform the Corporate Procurement Team at the earliest opportunity to ensure the prescribed time limits can be met.
- 4.5.7 The tenders must be received electronically using the council's approved system, and will automatically be endorsed with the time and date of receipt and "locked" by the system until the closing time and date prescribed in the invitation to tender has elapsed.
- 4.5.8 All tenders received will be automatically "unlocked" and available for evaluation in the electronic system at the same time within one hour of the closing time and date prescribed in the invitation to tender.
- 4.5.9 Following evaluation of the submissions and acceptance of the tender on the electronic system, a purchase order **must** be sent via the Purchase-to-Pay (P2P) system.

4.6 Light-Touch Regime

(see Regulations 74 – 77 of the [Public Contracts Regulations 2015](#))

- 4.6.1 The new light-touch regime (LTR) is a specific set of rules for certain contracts that tend to be of lower interest to cross-border competition. Those service contracts include certain social, health and education services, defined by Common Procurement Vocabulary (CPV) codes. The list of services to which the Light-Touch Regime applies is set out in Schedule 3 of the Public Contracts Regulations 2015 (Annex A): this can be found in [Appendix D](#) of these CPRs. The procurement process for the LTR is described briefly below, but any officer undertaking procurement activity under this regime should do so in association with the Corporate Procurement Team and should always refer directly to the relevant sections of the Public Contracts Regulations 2015 and any associated government guidance.
- 4.6.2 Below the threshold given in [Appendix C](#) CPRs [4.3.1 to 4.3.9](#) should be followed.
- 4.6.3 The OJEU threshold values for the Light Touch Regime are detailed in [Appendix C](#). At and above the threshold level the mandatory requirements, in addition to CPR 4.6.2, are:

- i. OJEU Advertising – the publication of a contract notice (CN) or prior information notice (PIN), except where the grounds for using the negotiated procedure without a call for competition could have been used;
- ii. The publication of a contract award notice (CAN) following each individual procurement, or if preferred, group such notices on a quarterly basis;
- iii. Compliance with Treaty principles of transparency and equal treatment;
- iv. Conduct the procurement in conformance with the information provided in the OJEU advert (CN or PIN) regarding any conditions for participation, time limits for contacting/responding to the authority, and the award procedure to be applied; and
- v. Time limits imposed by authorities on suppliers, such as responding to adverts or tenders, must be reasonable and proportionate.

The council has the flexibility to use any process or procedure when procuring under the LTR, as long as it respects these obligations above. There is no requirement to use the standard EU procurement procedures (open, restricted and so on) that are available for other (non-LTR) contracts. The council can use those procedures if helpful, or alternatively tailor those procedures or design new procedures.

- 4.6.4 The Public Contracts Regulations 2015, [Regulation 77](#), permit certain contracts to be “reserved” for organisations meeting certain criteria e.g. public service mutual and social enterprises.
- 4.6.5 For contracts that are covered by the Light-Touch Regime there are additional circumstances under which an exception can be sought. These are detailed in [CPR 2.10](#).

4.7 Electronic arrangements

- 4.7.1 Above the £10,000 threshold detailed in [CPR 4.1](#) all requests for quotations and invitations to tender, along with all associated procurement documentation, must be issued via the council’s approved electronic procurement system.
- 4.7.2 Above the £10,000 threshold detailed in [CPR 4.1](#) all submissions from bidding organisations, including all supporting documentation, must be received via the council’s approved electronic procurement system.
- 4.7.3 In some exceptional circumstances, and only by agreement between the head of service where the procurement activity is taking place and the Corporate Procurement Team, hard copy quotations or

tenders may be accepted. In this event the procedures detailed in CPR 4.8 below must be followed.

4.8 Hard copy arrangements

- 4.8.1 In the event that hard copy quotations or tenders are to be accepted (see CPR 4.7.3 above), these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to a named officer within the service where the procurement activity is taking place. The submitted envelope should not have any mark that would reveal the bidding organisation's identity and should clearly marked "Quotation for...." followed by a description of the goods, services or works being procured.
- 4.8.2 The named officer (see CPR 4.8.1 above) is responsible for recording the time and date of receipt, and for the safe custody of the submissions until the specified bid opening time.
- 4.8.3 All hard copy quotations or tenders for the same contract will be opened at the same time within 24 hours of the official return time/date having passed. This opening should be undertaken in the presence of at least two officers of the council, one of whom **must** be an officer who has had no previous involvement in pre-tender enquiries, the invitation to tender or preparation of associated documentation. It is the responsibility of the manager of the team where the procurement activity is taking place to ensure this is the case.
- 4.8.4 The designated officers present at the opening shall record the following details of each submission:
- i. The time and date for the receipt of the bids;
 - ii. The name of each bidder and the amount of each bid; and
 - iii. The date the bids were opened.

This record shall be signed by all officers present at the opening.

- 4.8.5 If a hard copy submission is opened in error prior to the specified bid opening time, no attempt shall be made to ascertain any contents of the bid or its origin, and the matter must be immediately reported to the head of service where the procurement activity is taking place. The envelope shall be re-sealed and signed by the officer who opened the envelope and the head of service. If the head of service has reason to suspect a breach of confidentiality or irregularity has occurred, they shall report the matter immediately to the Corporate Procurement Team and internal audit.

4.9 Advertising

- 4.9.1 Where the opportunity is going to be advertised on Sell2Wales, there are two options:
- i. The **Prior Information Notice (PIN)** alerts the market to future contracts, and should be placed on Sell2Wales and – for tenders over the OJEU thresholds – in the Office Journal of European Union (OJEU). The publication of a PIN is not mandatory but by publishing it is possible to take advantage of reduced time limits for submission of bids later in the process.
 - ii. The **Contract Notice (CN)** which launches a specific procurement, and should be placed on Sell2Wales, the council's electronic procurement system and – for tenders over the OJEU thresholds – in the Office Journal of European Union (OJEU).
- 4.9.2 As per [CPR 1.3.1](#), **all** advertisement in Sell2Wales and, where relevant, in the Office Journal of the European Union (OJEU), **must** be published bilingually in Welsh and English. The advertisement must state that quotations or tenders may be submitted in Welsh, and that a quotation or tender submitted in Welsh will be treated no less favourably than a quotation or tender submitted in English.
- 4.9.3 Adverts can also be placed in relevant trade journals or other suitable publications.

SECTION 5

EVALUATION & CONTRACT AWARD

5.1 Late submissions

- 5.1.1 There is a one hour “grace” period built into the electronic procurement system after the prescribed closing time/date to allow for any problems that may arise with suppliers uploading their submissions. Submissions received within this one hour grace period can be accepted. The electronic procurement system will not accept any submissions after this “grace” period.

5.2 The evaluation process

- 5.2.1 Submitted quotations or tenders must be evaluated in accordance with the predetermined evaluation criteria ([see CPR 3.7](#)) and awarded on the basis of the submission that best meets these criteria. The criteria **must** be strictly observed and not altered or adjusted in any way.

5.3 Errors and omissions in submitted bids

- 5.3.1 As a general rule, no adjustment or qualification to any submitted bid is permitted. Errors or omissions found during the evaluation process shall be dealt with in one of the following ways:
- i. Where there is an error of clerical or arithmetical transcription or computation which would affect the quotation or tender figure in an otherwise successful submission, the bidding organisation will be given details of such errors via the council’s electronic procurement system and shall be allowed the opportunity of correcting those errors and confirming the correct details.
 - ii. Where there are errors or omissions other than those detailed above which would affect the quotation or tender figure or other elements of the submission, the bidding organisation will be given details of such errors via the council’s electronic procurement system and shall be allowed the opportunity of correcting those errors or withdrawing its submission.
- 5.3.2 Any corrections must be submitted within a defined timescale of the notification to the bidder of the error or omission. Corrections received after this timescale will not be accepted and the submission considered withdrawn and not further evaluated. This must be clearly stated to the bidder at the time of notification of the error or omission.

5.4 Post-quotation/tender negotiations and clarification

5.4.1 Generally:

- i. no post-tender negotiations are permitted under an open or restricted procedure;
- ii. In some instances it may be acceptable to seek clarification from bidding organisations, but this should only happen in exceptional circumstances and following consultation with the Corporate Procurement Team; and
- iii. Negotiations on price are never permissible except where the negotiated procedure is used. The negotiated procedure should only be used in those exceptional cases where it is lawful to do so under the 2015 Regulations, and should **always** be undertaken under the supervision of a named officer from the Corporate Procurement Team.

5.4.2 Where procurements are at intermediate value or below (i.e. sub-OJEU level) the head of service where the procurement activity is taking place may authorise negotiations, having first consulted with the Corporate Procurement Team, if he/she considers that it is in the council's interest to do so. Such actions must not distort competition and that the core principles of transparency, non-discrimination and equal treatment apply, therefore negotiations should be kept to a minimum. It is the head of service's responsibility to ensure a written record of all negotiations are kept as part on the contract file on the council's electronic procurement system.

5.5 Awarding the contract

5.5.1 No contract can be awarded without an approved, associated budget which is sufficient to meet the financial obligations of the contract over its lifetime.

5.5.2 Where the contract award is within the cost and quality parameters established at the earlier procurement strategy approval stage (see [CPR 2.7](#)), the award can be made by:

- i. By the manager of the team where the procurement activity will be taking place, providing they have authority to approve spend to the contract value. If they do not have authority to spend, then:
- ii. By the head of service where the procurement activity is taking place, providing they have authority to approve spend to the contract value or that the procurement activity has prior authorisation under [CPR 2.7](#).

5.5.3 For contracts of less than £25,000, where the contract award will be of greater cost than that which was approved at the procurement strategy stage (see [CPR 2.7](#)), the award can be made by the

head of service where the procurement activity is taking place, regardless of the percentage of increase but notwithstanding the responsibility to ensure and be able to demonstrate that value for money has been obtained.

5.5.4 For contracts of more than £25,000, where the contract award will be of greater cost than that which was approved under [CPR 2.7](#) (regardless of the percentage of increase), award approvals must be undertaken in the following manner:

- i. **£25,001 to £1,000,000:** By agreement in writing from head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer. Any of these individuals can refer the decision to Cabinet where they consider there are relevant issues pertaining to the contract award such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- ii. **£1,000,001 to £2,000,000:** by the relevant Cabinet Member through the scheme of delegation detailed in the Council's constitution, which will also require the agreement from the head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer. The Cabinet Member, or any of the other offices detailed above, can refer the decision to Cabinet where they consider there are relevant issues pertaining to the contract award such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- iii. **£2,000,001 and over:** by Cabinet.

5.5.5 When awarding contracts on lowest price, award approvals must be made to the bidding organisation submitting the lowest price, unless the quote or tender is deemed to be an abnormally low bid which cannot be justified by the bidder to be sufficient to deliver the contract. In this circumstance it should be treated as an error and the procedure detailed in [CPR 5.3](#) followed.

5.5.6 For all contracts over the £10,000 threshold an award approval report must be completed (available on request from the Corporate Procurement Team) and uploaded to the electronic procurement system. It is the responsibility of the Head of Service where the procurement activity is taking place to ensure this happens.

5.6 Notifying candidates

5.6.1 When a contract is awarded in line with [CPR 5.5.4 ii](#) and iii that decision is subject to the five day Cabinet call-in period. Bidders should not be notified until either this call-in period has elapsed or, in the event that the decision is called-in, the result of any review is known.

5.6.2 Where the contract value is less than the high value, OJEU threshold, the manager of the team where the procurement activity is taking place shall ensure that within 15 days of the date on which the council receives a request from any supplier who was unsuccessful (at either quotation, pre-qualification or tender stage) he/she informs that supplier of the reasons for being unsuccessful

and, if the supplier was unsuccessful at quotation/tender stage they must also be informed of the characteristics and relative advantages of the successful quotation/tender as well as the name of the bidder winning the contract.

5.6.3 Where the contract value is at high level (OJEU threshold), the manager of the team where the procurement activity is taking place must ensure that the council complies with the requirements of the [Public Contracts Regulations 2015](#) regarding giving standstill letters and reasons. Additionally, contract award notices need to be published in the OJEU not later than 30 days after contract award and the form of notice is prescribed in the relevant regulations.

5.6.4 Where the procurement activity is at high level (OJEU threshold), there must be a standstill period between communicating the award decision to all tenders and conclusion of the contract. This standstill period shall be 10 calendar days when sent electronically (or 15 days for notices sent by other methods). Where the last day of the standstill period is not a working day, the standstill period is extended to midnight at the end of the next working day.

5.7 Contract award notice

5.7.1 Where the contract has been advertised on Sell2Wales, the council must subsequently publish a bilingual contract award notice on Sell2Wales.

5.7.2 Where the value of the contract is equal to or greater than the relevant OJEU threshold (high-value procurement), the council must publish a bilingual contract award notice on Sell2Wales for inclusion in the OJEU as well.

5.7.3 In either case, the contract award notice should be actioned as soon as possible after the decision to award the contract has been taken, and in any event no later than 30 days after the date of award of contract. It is the responsibility of the manager of the team where the procurement activity is taking place to ensure this happens.

5.8 Letters of intent

5.8.1 A letter of intent is not an appropriate substitute for a formal contract but in exceptional circumstances can be issued as an interim measure until a formal contract has been signed. Letters of intent can only be issued by an officer of the council with the prior approval in writing of the Monitoring Officer.

5.8.2 In the case of works contracts, a letter of intent in a form approved by the Monitoring Officer is acceptable in order to allow work to commence, although the issue of a formal contract must follow without delay.

5.9 Bonds, Securities, Liquidated and other damages

5.9.1 The manager where the procurement activity is taking place is responsible for ensuring that a risk assessment is undertaken to determine whether some form of performance bond or performance guarantee is required.

5.9.2 All contracts should include a provision for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed, save where the Monitoring Officer approves another type of remedy.

5.10 Parent Company Guarantee

5.10.1 The manager where the procurement activity is taking place is responsible for seeking a Parent Company Guarantee where:

- i. A contractor is a subsidiary of a parent company; and/or
- ii. The award is based on evaluation of the parent company; and/or
- iii. There is some concern over the stability of the contractor.

5.11 Non-concluded terms and conditions

5.11.1 Before any award of contract it is the responsibility of the manager of the team where the procurement activity is taking place to ensure that the terms and conditions of the contract are fully agreed between the council and the successful bidder.

5.11.2 Where terms and conditions of contract are not fully agreed, no contractor shall be allowed to commence delivery of goods, services or works.

5.11.3 The council should under normal circumstances **never**:

- i. enter into a contract on the contractors own standard terms and conditions; or
- ii. negotiate terms and conditions which are significantly different to those included or referred to at quotation or tender stage.

Any deviation from these principles can only be undertaken with the prior approval of the Monitoring Officer.

5.12 Contract documents

(see also [CPR 3.5](#))

- 5.12.1 Where the procurement is up to a total value of £25,000 the use of a Purchase Order is an acceptable form of contract, which must make reference to the successful quotation and the council's terms and conditions of purchase. In some circumstances, particularly where there is a risk of contractual disputes, it may still be appropriate to have a signed contract in place.
- 5.12.2 Where the procurement is greater than £25,000, all contracts for goods, services and works must be concluded in writing using the appropriate standard contract, or other bespoke contract as approved by the Monitoring Officer, before the contract commences. In this circumstance there is still a requirement to also raise a purchase order.
- 5.12.3 Two copies of the contract will be sent to the successful tenderer to duly sign. After signing and returning both copies to the council, they will both be signed on behalf of the council. One copy will be scanned and placed on the contract file in the council's electronic procurement system, and the original retained by the relevant service area. The second copy will be returned to the successful tenderer for its retention. It is the responsibility of the manager where the procurement activity is taking place to ensure that the contracts are sent out, duly signed, returned and recorded on the electronic procurement system.
- 5.12.4 Contract documents, along with all associated related documents, must be retained for a minimum of six years from the contract end date and, if under seal, for a period of twelve years from the contract end date. Where the contract was funded, or partly funded, through some form of external grant further conditions with regard to retention of documents may apply and **must** be adhered to.
- 5.12.5 Emergency contracts awarded under CPRs [2.9.3 iii](#) and [2.9.3 xv](#) need not be in writing before commencement but must be confirmed in writing within four weeks. It is the responsibility of the manager where the procurement activity is taking place to ensure this is the case.

5.13 Contract signatures

- 5.13.1 Contracts not under seal can be signed on behalf of the Council by:
- i. By the manager of the team where the procurement activity will be taking place, providing they have authority to approve spend to the estimated contract value. If they do not have authority to spend, then:
 - ii. By the head of service where the procurement activity is taking place

However, regardless of who signs there should be consideration in terms of separation of duties and the person who signs the contract on behalf of the council should not be the same officer who led the offer to market.

5.14 Sealing of contracts

5.14.1 A contract must be sealed where:

- i. The council wishes to enforce the contract for more than six years after its end (e.g. for land or construction works); or
- ii. The price paid or received under the contract is a nominal price or there is no consideration and does not reflect the value of the goods or services; or
- iii. Where there is any doubt about the authority of the person signing for the other contracting party; or
- iv. Where it is required by law; or
- v. The total value of the goods, services or works exceeds £250,000.

5.14.2 Where contracts are completed by each side adding their common seal, the affixing must be attested by or on behalf of Legal Services. Legal Services are responsible for the process of sealing contracts on behalf of the Monitoring Officer.

5.15 Sub-contracting notification (see also CPR [3.6](#) and [6.4](#))

5.15.1 Main contractors must notify the council of the name, contact details and legal representatives of its sub-contractors in so far as known at the time. This should take place after the award of the contract or, at the very latest, when the performance of the contract commences.

5.15.2 The Council may verify whether there are grounds for exclusion of sub-contractors, and must require the main contractor to replace a sub-contractor if there are mandatory grounds for exclusion and may require replacement where there are discretionary grounds (Regulation 57 of the Public Contract Regulations 2015 refer for contracts at the OJEU threshold).

5.15.3 Where sub-contractors will be used, the contract should include a clause expressly requiring the main contractor to abide by the fair payment requirements and ensure sub-contractors receive payment within 30 days of presenting a valid invoice.

5.16 Contracts Register

5.16.1 From 1st April 2016, the following contracts shall be recorded on a central contracts register hosted on the council's approved electronic system:

- i. all new contracts over the value of £25,000 (intermediate value procurement and above);
- ii. all contracts above the £25,000 threshold that were entered into prior to 1st April 2016 but are still current;
- iii. all contracts **of any value** that need to be renewed; and
- iv. frameworks or other corporate purchasing arrangements currently being used by the council.

5.16.2 It is the responsibility of the head of service to ensure that their staff comply with CPR 5.16.1 above, and that the information provided in relation to the contracts register includes as a minimum:

- i. The nominated council Contract Manager
- ii. The contractor;
- iii. The value of the contract;
- iv. The start and expiry date of the contract;
- v. Details of whether the contract is a one-off or expected to be renewed

SECTION 6

CONTRACT MANAGEMENT

6.1 Managing contracts

- 6.1.1 All contracts **must** have a named contract manager for the entirety of the contract, and that this individual has sufficient capability and capacity (see [CPR 1.4](#) for guidance) to undertake this role effectively. It is the responsibility of the head of service where the procurement activity is taking place to ensure that this is the case.
- 6.1.2 All contract management activities should seek to ensure that the contract is delivered in compliance with the terms and conditions of the contract, and shall be undertaken via the council's electronic procurement system.

6.2 Risk assessment and contingency planning

- 6.2.1 It is the responsibility of the contract manager (see CPR 6.1.1) to ensure that a risk assessment is undertaken to determine whether a contract should be categorised as high, medium or low risk (different contract management arrangements will apply depending on the risk category of the contract). Related documentation and assistance with undertaking the risk assessment is available from the Corporate Procurement Team.
- 6.2.2 It is the responsibility of the contract manager to ensure that for all contracts categorised as medium or high risk:
- i. A risk register is maintained throughout the contract period;
 - ii. Risk assessments are undertaken regularly; and
 - iii. For identified risks, appropriate and adequate contingency measures are in place

6.3 Contract performance

- 6.3.1 It is the responsibility of the contract manager (see CPR 6.1.1) to ensure that regular performance reviews are undertaken for categorised as medium or high risk. Such reviews should be undertaken at regular intervals depending on the complexity and length of the contract – at the discretion of the Contract Manager, but **must** be undertaken at the end of each contract. The

review should cover good and bad performance, complaints, issues and defects arising under the contract, and a record of all reviews must be kept on the contract file on the council's electronic procurement system.

6.3.2 For all contracts it is the responsibility of the contract manager to raise any incidents of poor performance immediately with the contractor and seek rectification. In instances of particularly poor performance, or persistent poor performance, the Contract Manager can consider whether to recommend:

- i. early termination of the contract (see [CPR 6.6](#)); or
- ii. where the contract has been awarded under a Framework Agreement, suspension of the contractor from that framework.

6.3.3 Where community benefits have been included as contractual requirements (see [CPR 2.4](#)) they should be regularly monitored and actively managed as part of the overall contract management process. It is the responsibility of the contract manager to ensure that the Welsh Government's Community Benefit Toolkit (or any successor tool provided by or on behalf of the Welsh Government) is duly completed and submitted as required.

6.3.4 At the end of each contract the contract manager will issue the contractor with a feedback form (available from the Corporate Procurement Team) in order for them to express their views and opinions on the management and delivery of the contract, and a record of this feedback must be kept on the contract file on the council's electronic procurement system.

6.4 **Change in sub-contractors** (see also CPRs [3.6](#) and [5.15](#))

6.4.1 Where sub-contractors are involved in the delivery of the contract in the course of the normal contract management arrangements the contract manager is required to check whether there has been any change in sub-contractors, and record any changes in the electronic procurement system.

6.5 **Assignments and novation**

6.5.1 Any contracts subject to potential assignment and novation must be referred to the Monitoring Officer at the earliest possible instance.

6.6 **Termination of contract**

6.6.1 Contracts may be terminated in line with the terms and conditions of the contract. Authorisation levels for contract termination are set out in [CPR 6.8](#). In all cases a report must be provided and

attached to the contract file on the council's electronic procurement system detailing the reasons for the termination.

- 6.6.2 Where a contract has been terminated early, it is the responsibility of the contract manager to ensure that the corporate contracts register (see [CPR 5.16](#)) is updated accordingly.

6.7 Contract variations and extensions

- 6.7.1 Contract and framework agreements may be varied without a new procurement procedure where:

- i. The variations have been provided for in the relevant contract documents in clear unequivocal terms (i.e. price variation, fluctuation clauses or options) and these do not alter the overall nature of the contract; and/or
- ii. Additional goods, services or works which were not included in the original quotation or tender have become necessary, where a change of contractor cannot be made for economic or technical reasons or where it would cause serious inconvenience or duplication and the price does not exceed 20% of the original contract value and that it does not extend the contract period by more than 50%; and/or
- iii. The circumstances causing the need for variation were unforeseen, the variation does not alter the overall nature of the contract and the price does not exceed 20% of the original contract value and that it does not extend the contract period by more than 50%; and/or
- iv. There is a change in contractor that was provided for in the quotation or tender, or as a result of a merger, acquisition, insolvency or similar of the original contractor, that fulfils the original criteria for qualitative selection, provided this does not lead to other substantial variations; and/or
- v. The variations, irrespective of their value, are not substantial (as defined in CPR 6.7.2 below).

- 6.7.2 In the circumstances detailed in CPR 6.7.1 above, the contract variation shall be authorised by the Contract Manager, provided that the variation cost can be met within budget. Such variation shall be entered on the electronic procurement system and the Contracts Register, and an amendment made to the original Purchase Order. Note that substantial contract variations, as detailed in CPR 6.7.3 below, shall be subject to the authorisation requirements detailed in CPR 6.8.1.

- 6.7.3 A variation shall be deemed substantial if:

- i. The cost of the variation would exceed 20% of the original contract value or would extend the contract period by more than 50%; and/or
 - ii. It makes the contract or framework materially different in character; and/or
 - iii. The variation introduces new conditions which, had they been part of the initial procurement, would have allowed for the admission of other candidates than those initially accepted; allowed for the acceptance of a tender other than that originally accepted; and/or attracted additional participants in the procurement procedure; and/or
 - iv. It changes the economic balance in favour of the contractor; and/or
 - v. It extends the scope of the contract or framework considerably.
 - vi. The revised total contract value requires a different level of authorisation, as specified in CPR 6.8.1, than that used for the original contract award.
- 6.7.4 Any decision to extend the contract period (term) may only be made before the original expiry date, where it is in accordance with the terms and conditions of the original contract.
- 6.7.5 In all cases of contract variation, careful consideration must be made of the impact of the increased value of the contract on the procurement threshold levels, particularly whether the increase in value will move a contract from intermediate, sub-OJEU value into high value, OJEU level. In this circumstance the variation or extension should not normally be granted.

6.8 Authority to decide contract terminations and substantial

6.8.1 Every contract termination or substantial variation (as detailed in CPR 6.7.3) must be authorised in writing and issued before the termination or variation is actioned. Authorisation levels are as follows:

- i. **Up to £25,000:** By the manager of the team where the procurement activity is taking place, providing they have authority to approve spend to the estimated contract value. If they do not have authority to spend then by the Head of Service where the procurement activity is taking place;
- ii. **£25,001 to £1,000,000:** By agreement in writing from head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer. Any of these individuals can refer the decision to Cabinet where they consider there are relevant issues pertaining to the contract variation such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- iii. **£1,000,001 to £2,000,000:** by the relevant Cabinet Member through the scheme of delegation detailed in the Council's constitution, which will also require the agreement from the head of service where the procurement activity is taking place, the Section 151 Officer, and the Monitoring Officer. The Cabinet Member, or any of the other offices detailed above, can refer the decision to Cabinet where they consider there are relevant issues pertaining to the contract variation such that it should be considered as a key decision under the Cabinet Members scheme of delegation;
- iv. **£2,000,001 and over:** by Cabinet.

Contract values should be based on the cumulative total (i.e. including any previous variations or extensions) and in all cases, a report must be provided and attached to the contract file on the council's electronic procurement system detailing the reasons for the variation or extension.

6.9 Contract end

6.9.1 At an appropriate point, but generally at least three months prior to the contract end date, the contract manager should review whether or not the contract needs to be renewed, either in its current or an amended form. This should involve consideration of the contract management information collected throughout the life of the contract, which should help inform whether, or how, the requirement may be delivered in future.

6.9.2 If there is no further requirement for the contract, the existing contract may be allowed to lapse. However, some contracts may require more active decommissioning, for example where it involves disposal or reallocation of resources or where consultation is required. It is the responsibility of the contract manager to ensure that contracts are appropriately decommissioned and that sufficient time

is allowed to do this.

- 6.9.3 If there is an ongoing requirement beyond the end of the existing contract, the contract manager is required to:
- i. consider whether there is an alternative approach to delivering the outcome without the need for the council to spend at all, or at least to reduce the spend;
 - ii. have due consideration of our duties under the Well-Being of Future Generations (Wales) Act 2015 to take into account the impact of any decisions we make;
 - iii. have due regard to the impact a renewed contract or approach may have on local economic prosperity; and
 - iv. Determine whether some form of corporate purchasing arrangement has been established since awarding the original contract.
- 6.9.4 If the contract is to be renewed, in its existing or amended form, then the contract manager (or other officer as directed by management) shall commence the planning process as set out in [Section 2](#) of these CPR's.
- 6.9.5 The contract manager must also ensure that a contract review questionnaire is completed, recording the overall performance of the supplier over the duration of the contract. Once completed, this should be uploaded to the contract file on electronic procurement system.
- 6.9.6 The contract manager shall also send a questionnaire to the supplier for them to complete (available on request from the Corporate Procurement Team), which will record the supplier's perspective on the council's management of the contract. Again, once completed, this should be uploaded to the contract file on electronic procurement system.

APPENDIX A

Glossary of Terms

Term	Definition
Code of conduct	The Code regulating the conduct of officers and members as set out in the Constitution
Community Benefits	Clauses which can be used to build a range of economic, social, or environmental conditions into the delivery of public contracts. Mandatory on all contracts with a value greater than £1m and optional, but encouraged, on contracts below £1m
Contract	An agreement for the supply of goods, or services, or concessions or the execution of works
Contract award notice	Formal notice placed on Sell2Wales and, if appropriate, OJEU giving particulars on the date the contract was awarded, the award criteria, the number of offers received, the name and address of the successful tenderer(s), and the price or price ranges paid. Contract award notices must be sent not later than 48 days after the contract in question has been awarded
Contract file	A record of all matters relating to the contract
Contract notice	Formal advert placed on Sell2Wales and, if appropriate, OJEU notifying potential suppliers about a contract opportunity
Contracting Authority	A defined term in the Public Contracts Regulations 2015, meaning a public body that is subject to the procurement Regulations
Contractor	A supplier of goods or services or concessions or Works to the Council
Contracts register	From 1st April 2016, all contracts over the value of £25,000 shall be recorded on a central contracts register hosted on the council's approved electronic system

Corporate purchasing agreement	A contract or framework agreement which has been endorsed and approved for corporate use by the Strategic Procurement Manager and its use shall be mandatory
CPRs	These Contract Procedure Rules
Day	A calendar day unless otherwise specified
Electronic procurement	The procurement of all goods, services and works conducted using the council's approved electronic system
EU	European Union
Framework agreement	An agreement which allows an officer to call off or undertake a mini competition to provide goods, services or works in accordance with the terms of the agreement. The Framework Agreement usually constitutes a non-binding offer with no obligations to call off from the contractor. If the Council calls off from the contractor a binding contract comes into being.
Goods	Items that are tangible in nature i.e. they are of physical property
Head of Service	Head of Service of the relevant Council Service Area
High value procurement	Procurement of goods, services and works where the value is at or above the OJEU thresholds as detailed in Appendix C of these CPRs
Intermediate value procurement	Procurement of goods, services and works where the value is between £25,001 and the OJEU thresholds as detailed in Appendix C of these CPRs
Invitation to tender	Invitation to tender documents in the form required by these CPRs
Light-Touch Regime	A specific set of rules for certain contracts that tend to be of lower interest to cross-border competition. These rules can only be used in conjunction with services listed in Schedule 3 of the Public Contract Regulations, 2015
Low value procurement	Procurement of goods, services and works where the value is between £10,001 and £25,000
Monitoring Officer	The officer designated by the Council as its Statutory Monitoring Officer as required under Section 5 of the Local Government and Housing Act 1989

Most economically advantageous tender (MEAT)	A tender evaluated on the basis of qualitative, technical and sustainable aspects of the tender submission as well as price when reaching an award decision
OJEU	The Official Journal of the European Union
OJEU threshold	The values that are determined by the European Union every two years, which are shown in Appendix C of these CPRs
Prior Information Notice (PIN)	A notice place on Sell2Wales and/or OJEU alerting the market of upcoming requirements and allowing suppliers to respond, expressing an interest in bidding for the contract. This supplier feedback can be used to inform the development of the specification as well as the selection process prior to the invitation to tender stage
Procurement	The process by which the council manages the acquisition of all its goods, services and works of all sorts
Purchase order	An electronic order raised and authorised via the Council Proactis P2P system
Quotation	A quotation of price and any other relevant matter made without the formal issue of an invitation to tender
Section 151 Officer	The officer designated by the Council as its Statutory Section 151 Officer as required under Section 151 of the Local Government Act 1972
Services	Intangible commodities i.e. they are non-physical in nature
Statutory Procurement Obligations	The EU Regulations and UK legislation governing the procurement of contracts by Contracting Authorities
Sub-procurement (buying)	Purchasing of goods, services and works up to a value of £10,000
Tender	A Contractor's formal proposal submitted in response to an invitation to tender
Value for money	The optimum combination of whole life costs, quality and benefits to meet the Council's requirement. Such term equates to the EU procurement requirement of "most economically advantageous offer"
Working day	Any day other than a Saturday or a Sunday or a day

	which is a bank or a public holiday throughout Wales
Works	Activities listed in Schedule 2 of the Public Contract Regulations, 2015

APPENDIX B

Roles and Responsibilities of Officers

Officer	Duty	C.P.R.
Built Environment Team / Manager	Property and works related procurement	1.8.1 (ii)
Cabinet / Cabinet Portfolio Holder	Authority to decide procurement strategy and invite competitive bids	2.7.2
	Authority to approve exceptions from part or all of the CPRs	2.11.1
		2.11.3
	Contract award approvals	5.5.4
	Authority to decide contract terminations, variations and extensions	6.8.1
Contract Managers	Monitoring the delivery of community benefits	2.4.5
	All contracts must have a named Contract Manager	6.1.1
	Ensure that all risks are recorded, monitored and have appropriate measures in place	6.2
	Ensure that regular performance reviews are undertaken	6.3.1
	Raise any incidents of poor performance immediately with the contractor and seek rectification	6.3.2
	Ensure that the Welsh Government's Community Benefit Toolkit is duly completed and submitted as required	6.3.3
	Issue the contractor with a feedback form at the end of each contract	6.3.4
	Check for and record any changes to sub-contractors involved with the delivery of a contract	6.4.1
	Ensure that the corporate contracts register (see CPR 4.1) is updated where a contract has been terminated early	6.6.2
Actions required around contract end	6.9	
Corporate	Guidance and clarification of over-riding principles	1.1.7

Procurement Team	Receive notifications of officers' requirements to use the ePortal and register officers on the system	1.11.2
	Amendments to the Appendices of the CPRs	1.12.2
	Framework agreements and other corporate purchasing arrangements	2.1.1
		2.1.2
		2.1.3
		2.1.5
	Estimating the contract value	2.2.2
	Advice on community benefits	2.4.3
	Commissioning forms	2.5.2
		2.5.3
		2.5.4
	Deciding the appropriate procurement procedure	GN4
	Advice on exceptions	2.9.3 (ii)
	Use of standard forms and templates	3.1.1
	Exceptions to "Most economically advantageous" selection criteria	3.7.3
	Guidance on the use of negotiated, competitive dialogue or innovation partnership procedures in intermediate value procurement	4.3.1
		4.4.1
	Provision of a named officer to provide supervision and guidance on high value (i.e. above OJEU threshold) procurement	4.5.1
	Ensuring prescribed advertising time limits are met	4.5.6
	Guidance on Light-touch Regime procurement	4.6.1
	Agreement to the acceptance of hard copy submissions	4.7.3
	Breaches of confidentiality or irregularities around hard copy submissions	4.8.5
	Post-quotation/tender negotiations and clarification	5.4.1
5.4.2		
Provision of award approval report template	5.5.4	

		5.5.6
	Assistance with undertaking risk assessments and provision of related documentation	6.2.1
	Provision of contractor feedback form	6.3.4
	Provision of contract end questionnaire	6.9.6
Head of Business Improvement & Modernisation	Exceptions to ICT procurement being undertaken by the Business Transformation & ICT Team	1.7.1
Head of Service	Procurement carried out by consultants, agency staff, or other non-DCC staff	1.5.1
		1.5.3
	Exceptions to ICT procurement	1.7.1
	Property and works related procurement	1.8.1 (i) (ii)
	Electronic procurement	1.11.1
	Alternatives to using frameworks and corporate purchasing agreements	2.1.5
	Commissioning forms	2.5.3
		2.5.4
	Authority to decide procurement strategy and invite competitive bids	2.7.1 (ii)
		2.7.2
	Authority to seek an exception from part or all of the CPRs	2.9.3 (xiv-xvi)
	Authority to approve exceptions from part or all of the CPRs	2.11.1
		2.11.2
	Exceptions to "Most economically advantageous" selection criteria	3.7.3
	Demonstration of value for money on buying below £10,000 threshold	4.1.1
	Exceptions to electronic tendering to allow hard copy submissions	4.7.3
	Opening of hard copy submissions	4.8.5
	Post quotation/tender negotiations	5.4.2
	Awarding contracts	5.5.2 (ii)

		5.5.3
		5.5.4 (i) (ii)
		5.5.6
	Signing of contracts not under seal	5.13.1 (ii)
	Recording of contracts on the Contracts Register	5.16.2
	Establishing a named contract manager	6.1.1
	Authority to decide contract terminations, variations and extensions	6.8.1
Highways Team / Manager	Property and works related procurement	1.8.1 (iii)
Legal Services	Bespoke contract terms and conditions	3.5.1 (iv)
	Affixation of Council seal to contracts where appropriate	5.14.2
Monitoring Officer	Declaration and recording of conflicts of interests by Members and employees	1.6.3
	Land contracts and appointment of developers	1.10.2
	Amendments to the Appendices of the CPRs	1.12.2
	Authority to decide procurement strategy and invite competitive bids	2.7.2 (ii)
	Authority to approve exceptions from part or all of the CPRs	2.11.1 (iii)
	Awarding contracts greater than £25,000 where the value of the award is greater than at approval stage	5.5.4 (ii)
	Letters of intent	5.8.1
		5.8.2
	Approval of alternative remedies to liquidated damages when contract terms are not duly performed by the contractor	5.9.2
	Non-concluded terms and conditions	5.11.3
	Approval of bespoke contract documents	5.12.2
	Sealing of contracts	5.14.2
	Assignments and novation of contracts	6.5.1
	Authority to decide contract terminations, variations and extensions	6.8.1 (iii)

Property Team / Manager	Property and works related procurement	1.8.1 (i)
Section Officer 151	Authority to decide procurement strategy and invite competitive bids	2.7.2 (ii)
	Authority to approve exceptions from part or all of the CPRs	2.11.1 (iii)
	Exceptions to "Most economically advantageous" selection criteria	3.7.3
	Contract award approvals	5.5.4 (ii)
	Authority to decide contract terminations, variations and extensions	6.8.1 (iii)
Team Managers	Provide direction to all team members engaged in procurement activity	1.4
	Approval and notification to Corporate Procurement Team of Officers requirements to have access to the eProcurement system	1.11.2
	Requirement to check whether a relevant framework or corporate purchasing agreement is in place	2.1.2
	Pre-quotation/tender market testing and consultation	2.3.3
	Approval of appropriate procurement strategy and invitation of competitive bids	2.7.1 (i)
	Ensure that the completed and signed documents are uploaded to the electronic system	2.7.2
	Consideration of exceptions from CPRs in connection with the Light-touch Regime	2.10.1 (xii)
	Ensure Corporate Sustainability Assessment, or its equivalent, has been carried out for Intermediate and High Value (i.e. above OJEU threshold) procurement	4.3.2
		4.4.2
		4.5.2
	Ensure appropriate Officers are present for the opening of hard copy quotations/tenders	4.8.3
	Awarding contracts	5.5.2 (i)
		5.5.4
	Notifying candidates	5.6.2
		5.6.3
Ensure contract award notice is actioned	5.7.3	

	Ensure that a risk assessment is undertaken to determine whether some form of performance bond or performance guarantee is required	5.9.1
	Parent company guarantee	5.10.1
	Ensure contract terms and conditions are agreed between the Council and the successful bidder before any contract is awarded	5.11.1
	Ensure that contracts are sent out, duly signed, returned and recorded on the electronic procurement system	5.12.3
	Ensure confirmation of emergency contracts is given in writing within four weeks of the commencement of the contract	5.12.5
	Signing of contracts not under seal	5.13.1 (i)

APPENDIX C

OJEU and LTR thresholds

Details of the Sterling thresholds applicable from 1st January 2016 are given below. Thresholds are net of VAT.

Sterling values are re-calculated every two years.

	GOODS	SERVICES	WORKS	NOTE
General Contracts	164,176	164,176	4,104,394	1
Contracts subject to the Light Touch Regime	N/A	589,148	N/A	2

Notes

- 1 Thresholds relevant to "Other public sector" (i.e. non-Central Government) contracting authorities
- 2 For services listed in Schedule 3 of the Public Contract Regulations 2015 ([See Appendix D](#))

APPENDIX D

List of services covered by the Light Touch Regime

Schedule 3 of the Public Contract Regulations 2015

Regulations 5(1) (d) and 74

Social and other specific services

CPV Code	Description
75200000-8; 75231200-6; 75231240-8; 79611000-0; 79622000-0 (Supply services of domestic help personnel); 79624000-4 (Supply services of nursing personnel) and 79625000-1 (Supply services of medical personnel) from 85000000-9 to 85323000-9; 98133100-5, 98133000-4; 98200000-5; 98500000-8 (Private households with employed persons) and 98513000-2 to 98514000-9 (Manpower services for households, Agency staff services for households, Clerical staff services for households, Temporary staff for households, Home-help services and Domestic services)	Health, social and related services
85321000-5 and 85322000-2, 75000000-6 (Administration, defence and social security services), 75121000-0, 75122000-7, 751240001; from 79995000-5 to 79995200-7; from 80000000-4 Education and training services to 80660000-8; from 92000000-1 to 92700000-8; 79950000-8 (Exhibition, fair and congress organisation services), 79951000-5 (Seminar organisation services), 79952000-2 (Event services), 79952100-3 (Cultural event organisation services), 79953000-9 (Festival organisation services), 79954000-6 (Party organisation services), 79955000-3 (Fashion shows organisation services), 79956000-0 (Fair and exhibition organisation services)	Administrative social, educational, healthcare and cultural services
75300000-9	Compulsory social security services

75310000-2, 75311000-9, 75312000-6, 75313000-3, 75313100-4, 75314000-0, 75320000-5, 75330000-8, 75340000-1	Benefit services
98000000-3; 98120000-0; 98132000-7; 98133110-8 and 98130000-3	Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services
98131000-0	Religious services
55100000-1 to 55410000-7; 55521000-8 to 55521200-0 (55521000-8 Catering services for private households, 55521100-9 Meals-on wheels services, 55521200-0 Meal delivery service) 55520000-1 Catering services, 55522000-5 Catering services for transport enterprises, 55523000-2 Catering services for other enterprises or other institutions, 55524000-9 School catering services 55510000-8 Canteen services, 55511000-5 Canteen and other restricted-clientele cafeteria services, 55512000-2 Canteen management services, 55523100-3 School-meal services	Hotel and restaurant services
79100000-5 to 79140000-7; 75231100-5	Legal services, to the extent not excluded by regulation 10(1)(d)
75100000-7 to 75120000-3; 75123000-4; 75125000-8 to 75131000-3	Other administrative services and government services
75200000-8 to 75231000-4	Provision of services to the community
75231210-9 to 75231230-5; 75240000-0 to 75252000-7; 79430000-7; 98113100-9	Prison related services, public security and rescue services to the extent not excluded by regulation 10(1)(h)
79700000-1 to 79721000-4 (Investigation and security services, Security services, Alarm-monitoring services, Guard services, Surveillance services, Tracing system services, Absconder-tracing services, Patrol services, Identification badge release services, Investigation services and Detective agency services) 79722000-1(Graphology services), 79723000-8 (Waste analysis services)	Investigation and security services
98900000-2 (Services provided by extraterritorial organisations and bodies) and 98910000-5 (Services specific to international organisations and bodies)	International services
64000000-6 (Postal and telecommunications services), 64100000-7 (Post and courier services), 64110000-0 (Postal services), 64111000-7 (Postal services related to newspapers and periodicals), 64112000-4 (Postal services related to letters),	Postal services

64113000-1 (Postal services related to parcels), 64114000-8 (Post office counter services), 64115000-5 (Mailbox rental), 64116000-2 (Post-restante services), 64122000-7 (Internal office mail and messenger services)	
50116510-9 (Tyre-remoulding services), 71550000-8 (Blacksmith services)	Miscellaneous services

Regulation 77

Reserved contracts for certain services

77.—(1) Contracting authorities may reserve to qualifying organisations the right to participate in procedures for the award of reservable public contracts.

(2) For that purpose, a contract is a reservable public contract only if it is exclusively for one or more of the services which are covered by CPV codes 75121000-0, 75122000-7, 75123000-4, 79622000-0, 79624000-4, 79625000-1, 80110000-8, 80300000-7, 80420000-4, 80430000-7, 80511000-9, 80520000-5, 80590000-6, from 85000000-9 to 85323000-9, 92500000-6, 92600000-7, 98133000-4, and 98133110-8.

(3) In this regulation, “qualifying organisation” means an organisation which fulfils **all** of the following conditions:—

- (a) its objective is the pursuit of a public service mission linked to the delivery of services referred to in paragraph (2);
- (b) profits are reinvested with a view to achieving the organisation’s objective, and any distribution of profits is based on participatory considerations;
- (c) the structures of management or ownership of the organisation are (or will be, if and when it performs the contract) —
 - (i) based on employee ownership or participatory principles, or
 - (ii) require the active participation of employees, users or stakeholders; and
- (d) the organisation has not been awarded, pursuant to this regulation, a contract for the services concerned by the contracting authority concerned within the past 3 years.

(4) The maximum duration of a contract awarded under this regulation shall not be longer than 3 years.

(5) Where a contracting authority exercises the power of reservation conferred by paragraph (1), the call for competition shall make reference to Article 77 of the Public Contracts Directive.

(6) This regulation does not apply in relation to the procurement of health care services for the purposes of the NHS within the meaning and scope of the National Health Service (Procurement, Patient Choice and Competition) (No. 2) Regulations 2013.

APPENDIX E

Useful Websites

National Procurement Service:

<http://nps.gov.wales>

Sell2Wales:

<http://www.sell2wales.gov.uk>

Value Wales:

<http://gov.wales/topics/improvingservices/better/vfm/>

Public Contract Regulations 2015:

<http://www.legislation.gov.uk/uksi/2015/102/contents/made>

EU Procurement Directive:

http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.094.01.0065.01.ENG

European Commission Guidance:

<http://gov.wales/funding/eu-funds/2014-2020/looking/procurement/?lang=en>

Community Benefits:

<http://prp.gov.wales/planners/general/strategy/procstrat/communitybenefits/>

SECTION 18**18. CODES AND PROTOCOLS****5.1 Members' Code of Conduct**

The County Council has adopted a Code of Conduct for members, based on the National Assembly for Wales' Model Code, embracing the following 10 principles.

1. Selflessness

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

2. Honesty

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

3. Integrity and Propriety

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

4. Duty to Uphold the Law

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

5. Stewardship

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

6. Objectivity in Decision-Making

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

7. Equality and Respect

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

8. **Openness**

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

9. **Accountability**

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

10. **Leadership**

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

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

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.
- (e) attend at least one training session during each full term of office on the Members Code of Conduct as provided by your Authority's Monitoring Officer or person nominated on their behalf.

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 the value of £25, 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.

PROCEDURE FOR DEALING WITH ALLEGATIONS MADE AGAINST COUNCILLORS AND REFERRED TO THE STANDARDS COMMITTEE

Introduction

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

Interpretation

2. In this procedure:
 - (a) 'the Act' means the Local Government Act 2000
 - (b) 'the Council' means Denbighshire County Council
 - (c) 'the Code of Conduct' means the code of conduct for members adopted by the Council or the community councils within the Council's area in 2008 in accordance with section 51 of the Act, including any revisions
 - (ch) 'the Complainant' means any person who made any allegation which gave rise to the investigation
 - (d) the 'Investigating Officer' means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer or Deputy Monitoring Officer.
 - (dd) an 'investigation report' means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under section 71(2) of the Act or by the Monitoring Officer under the Regulations.
 - (e) 'the Member' means any person who is the subject of an investigation into any alleged breach of the Code of Conduct
 - (f) 'the Monitoring Officer' means the officer for the time being appointed by the Council under section 5 of the Local Government and Housing Act 1989

- (ff) 'the Ombudsman' means the Public Services Ombudsman for Wales
- (g) 'the Regulations' means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended
- (ng) 'the Standards Officer' means the officer for the time being appointed by the Council to support the work of the Standards Committee

Summary of the procedure

3. Under section 69 of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by members or co-opted members (or former members or co-opted members) of the Council or a community council in the Council's area.
4. Under section 70(4) of the Act, where the Ombudsman ceases such an investigation before it is completed, he or she may refer the matters which are the subject of the investigation to the Monitoring Officer. The Monitoring Officer will then investigate matters in accordance with the Regulations before reporting and, if appropriate, making recommendations to the Standards Committee.
5. Alternatively, under section 71(2) of the Act, where the Ombudsman decides after investigating that it is appropriate, he or she will produce a report on the outcome of the investigation and send it to the Monitoring Officer and the Council's Standards Committee. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, making recommendations to the Standards Committee.
6. The Standards Committee will then make an initial determination either:
 - (a) that there is no evidence of any failure to comply with the Code of Conduct, or
 - (b) that the Member should be given the opportunity to make representations, either orally or in writing
7. Where the Member is given an opportunity to make representations, the Standards Committee will convene a hearing to consider any response made by the Member and it must determine under regulation 9(1) of the Regulations either that:
 - (a) there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken,
 - (b) the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure
 - (c) the Member has failed to comply with the Code of Conduct and should be censured, or

- (ch) the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted member of his/her authority for a period not exceeding six months.

and take any such action accordingly.

Investigations by the Monitoring Officer (referrals under section 70(4) of the Act)

8. Where the Ombudsman ceases his or her investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:-
 - (a) conduct an investigation; and
 - (b) report, and if appropriate make recommendations to the Council's Standards Committee
9. The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.
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 Standards Committee,
 - (b) send a copy of the report to the Member, and
 - (c) take reasonable steps to send a copy of the report to the Complainant.
11. The Standards Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out below.

Investigations by the Ombudsman (referrals under section 71(2) of the Act)

12. Where the Ombudsman completes his or her investigation and sends a report to the Monitoring Officer and the Council's Standards Committee under section 71(2) of the Act, the Monitoring Officer must consider the Ombudsman's report and, if appropriate, make recommendations to the Council's Standards Committee.
13. The Standards Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.

The first meeting of the Standards Committee – Initial Determination

14. After the Monitoring Officer has:

- (a) produced an investigation report in accordance with paragraph 10; or
- (b) considered the Ombudsman's investigation report in accordance with paragraph 12

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

- 15. Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales) Regulations 2001.
- 16. If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Committee. If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Committee.
- 17. The business of the Standards Committee meeting will be limited to considering the investigation report and the Monitoring Officer's recommendations (if any) and to making an initial determination either:-
 - (a) that there is no evidence of any failure to comply with the Code of Conduct, or
 - (b) that the Member should be given the opportunity to make representations, either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

After the first meeting of the Standards Committee

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

Preparing for the hearing to consider the Member's representations

20. The Standards Officer, in consultation with the Chair of the Standards Committee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and to ask the Member to respond in writing within 14 days to confirm whether s/he:
- (a) is able to attend the hearing
 - (b) wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response
 - (c) disagrees with any of the findings of fact in the investigation report, and if so, which matters he or she disagrees with and the reasons for any disagreements;
 - (ch) wants to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with his/her right under the Regulations
 - (d) wants to give evidence to the Standards Committee, either orally or in writing;
 - (dd) wants to call relevant witnesses to give evidence to the Standards Committee;
 - (e) wants any part of the meeting to be held in private;
 - (f) wants any part of the investigation report or other relevant documents to be withheld from the public
21. The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.
22. The Standards Officer will send a copy of the Member's response under paragraph 20 to the Investigating Officer and will ask him/her to confirm in writing within 7 days whether s/he:
- (a) has any comments on the Member's response
 - (b) wants to be represented at the hearing;
 - (c) wants to call relevant witnesses to give evidence to the Standards Committee;
 - (ch) wants any part of the meeting to be held in private; and

- (d) wants any part of the investigation report or other relevant documents to be withheld from the public.
23. The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:
- (a) confirm the date, time and place for the hearing;
 - (b) summarise the allegation;
 - (c) outline the main facts of the case that are agreed;
 - (ch) outline the main facts which are not agreed;
 - (d) note whether the Member or the Investigating Officer will attend or be represented at the hearing;
 - (dd) list those witnesses, if any, who will be asked to give evidence;
 - (e) enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
 - (f) outline the proposed procedure for the meeting.

Powers of the Standards Committee

24. The Standards Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. It must so far as appears to it appropriate seek to avoid formality and inflexibility in its proceedings. The Standards Committee will decide factual evidence on the balance of probabilities.
25. The Member or the Investigating Officer may be represented or accompanied whether or not legally qualified but if in any particular case the Standards Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.
26. The Standards Committee may take legal advice from a Council officer appointed for this purpose at any time during the meeting or while they are considering the outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.
27. Where appropriate, and in accordance with the Regulations, the Standards Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding 6 months.

Procedure at the hearing

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

Introduction

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

First stage: Preliminary procedural issues

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

Second stage: Making findings of fact

32. The Standards Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.
33. If there is a disagreement as to the facts:-
 - (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report.
 - (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer.
 - (c) the Member will then be invited to make representations to support his or her version of the facts.
 - (ch) the Member may call any necessary witnesses to give evidence, with the Standards Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.
34. At any time, the Standards Committee may question any of the people involved or any of the witnesses.
35. If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, he or she must give good reasons for

not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:

- (a) continue with the hearing, relying on the information in the investigation report
 - (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
36. At the conclusion of the representations as to matters of fact, the Standards Committee will retire to deliberate in private on the representations, after which the Chair of the Standards Committee will announce their findings of fact.

Third stage: Deciding whether the Member has failed to comply with the Code

37. The Standards Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.
38. The Standards Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Committee has found, the Member has failed to comply with the Code of Conduct.
39. The Standards Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the Committee has found, he or she has failed to comply with the Code of Conduct.
40. The Standards Committee may, at any time, question anyone involved on any point they raise in their representations.
41. The Member will be invited to make any final relevant points.
42. The Standards Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Committee will announce their findings.

Fourth stage: Action to be taken

43. If the Standards Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.

44. If the Standards Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:
- (a) whether or not the Committee should apply a sanction; and
 - (b) what form any sanction should take.
45. The Standards Committee will retire to deliberate in private on the representations and decide either that:
- (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct,
 - (b) the Member should be censured or
 - (c) the Member should be suspended or partially suspended from being a member or co-opted member of his or her authority for a period not exceeding six months,
- after which the Chair of the Standards Committee will announce their decision.
46. After making a decision the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.

Failure to make representations / attend the hearing

47. If the Member fails to make representations, the Standards Committee may:
- (a) unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
 - (b) give the Member a further opportunity to make representations
48. If a party fails to be present or represented at a hearing, the Standards Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence -
- (a) hear and decide the matter in the party's absence; or
 - (b) adjourn the hearing.

Illness or incapacity

49. If the Standards Committee is satisfied that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter.

Suspension

50. A period of suspension or partial suspension will commence on the day after:

- (a) the expiry of the time allowed to lodge a notice of appeal to an appeals tribunal under the Regulations (i.e. within 21 days of receiving notification of the Standards Committee's determination);
- (b) receipt of notification of the conclusion of any appeal in accordance with the Regulations;
- (c) a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last.

Referral by an Appeals Tribunal

51. Where the Standards Committee determines that the Member has failed to comply with the Code of Conduct, the Member may appeal against the determination to an appeals tribunal drawn from the Adjudication Panel for Wales.
52. An appeals tribunal may endorse the decision of the Standards Committee, refer a matter back to it recommending it impose a different penalty, or overturn the decision.
53. If:
- (a) the Standards Committee determines that the Member failed to comply with the Code of Conduct;
 - (b) the Member appeals to an appeals tribunal drawn from the Adjudication Panel for Wales; and
 - (c) the said tribunal refers the matter back to the Standards Committee with a recommendation that a different penalty be imposed,

the Standards Committee shall meet as soon as reasonably practicable to consider the recommendation of the appeals tribunal and will determine whether or not it should uphold its original determination or accept the recommendation.

54. After making its determination the Standards Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the Adjudication Panel for Wales as soon as reasonably practicable.

Publication of the Standards Committee's report

55. The 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 the Regulations, or
- (b) receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
- (c) a further determination by the Standards Committee made after receiving a recommendation from an appeals tribunal under the Regulations,

whichever occurs last, a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant.

56. Upon receipt of the report of the Standards Committee, the Monitoring Officer shall:

- (a) for a period of 21 days publish the report on the Council's website and make copies available for inspection by the public without charge at all reasonable hours at one or more of the Council's offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available,
- (b) supply a copy of the report to any person on request if he or she pays such charge as the Council may reasonably require, and
- (c) not later than 7 days after the report is received from the Standards Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be available as provided by 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

57. The Standards Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

Legal and Democratic Services
February 2012

5.2 Officers' Code of Conduct

General

- 5.2.1** Denbighshire County Council has adopted the Code of Conduct for Local Government employees prepared by I&DEA/Syniad for the guidance of its staff.

CODE OF CONDUCT

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CODE OF CONDUCT

Introduction

The public is entitled to expect the highest standards of conduct from all employees who work for local government. This Code outlines existing laws, regulations and conditions of service and provides further guidance to assist local authorities and their employees in their day-to-day work. The Code is produced in the light of the challenges that employees face in the new and more commercially orientated environment. This includes the introduction of Best Value market testing, changes in the management of the education and housing services, care in the community, management, buyouts, etc.

Status of the Code

The Code is voluntary for local authorities to adopt but sets out the minimum standards that should apply. The aim of the Code is to lay down guidelines for local government employees which will help maintain and improve standards and protect employees from misunderstanding or criticism.

The Code has been approved by the local authority associations in England and Wales and the former Local Government Management Board (now I&DeA and Syniad); in consultation with those bodies listed in Appendix A. The Code has been formally adopted by Denbighshire County Council.

Section 2 Part 2 of the current National Agreement on Pay and Conditions of Service (i.e. Green Book) relates to Official Conduct. It provides for local 'Codes of Practice' to be developed.

When this 'Code of Conduct' was developed and jointly agreed the earlier Schemes and Conditions of Service applied (i.e. Purple and White books etc.) and certain references within this document relate to these earlier schemes.

Who the Code is Aimed At

The Code applies to all Denbighshire County Council employees.

Inevitably some of the issues covered by the Code will affect senior managerial and professional employees more than it will others. The Code is intended to cover all employees under a contract of employment within local government, including office holders such as registrars. Activities carried out by employees acting as members of companies or voluntary organisations should be subject to the minimum standards within this Code.

1. Standards

- 1.1 Local government employees are expected to give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice

to councillors and fellow employees with impartiality. Employees will be expected, through agreed procedures and without fear or recrimination, to bring to the attention of the appropriate level of management any deficiency in the provision of the service. Employees must report in writing to their Director any impropriety or breach of procedure. The Director will ensure that details are recorded in the 'Code of Conduct Register.'

2. Disclosure of Information

- 2.1 It is generally accepted that open government is best. The law requires that certain types of information must be available to members, auditors, government departments, service users and the public. The authority itself may decide to be open about other types of information. Employees must be aware of which information their authority is and is not open about, and act accordingly.
- 2.2 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way. Any particular information received by an employee from a councillor which is personal to that councillor and does not belong to the authority should not be divulged by the employee without the prior approval of that councillor, except where such a disclosure is required or sanctioned by the law.

3. Political Neutrality

- 3.1 Employees serve the authority as a whole. It follows they must serve all councillors and not just those of the controlling group, and must ensure that the individual rights of all councillors are respected.
- 3.2 Subject to the authority's conventions, employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.
- 3.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work.
- 3.4 Political assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set in paragraphs 3.1 to 3.3.

4. Relationships

- 4.1 Councillors
Employees are responsible to the authority through its senior managers. For some, their role is to give advice to councillors and senior managers and all are there to carry out the authority's work. Mutual respect between employees and councillors is essential to good local government. Close personal familiarity between employees

and individual councillors can damage the relationship and prove embarrassing to other employees and councillors and should therefore be avoided.

4.2 The Local Community and Service Users

Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the authority.

4.3 Contractors

All relationships of a business or private nature with external contractors, or potential contractors, should be made known to the appropriate Director, who will ensure that details are recorded in the Code of Conduct Register. Orders and contracts must be awarded on merit, by fair competition against other tenders, and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the tendering process. No part of the local community should be discriminated against.

4.4 Employees who 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, should declare that relationship in writing to their Director.

Details will be recorded in the Code of Conduct Register.

5. **Appointment and Other Employment Matters**

5.1 Employees involved in appointments must ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment which was based on anything other than the ability of the candidate to undertake the duties of the post. In order to avoid any possible accusation of bias, employees must not be involved in an appointment where they are related to an applicant, or have a close personal relationship outside work with him or her.

5.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner etc.

6. **Outside Commitments**

6.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.

6.2 Employees should follow their authority's rules on the ownership of intellectual property or copyright created during their employment.

7. **Personal Interests**

- 7.1 Employees must inform their Director, in writing of any non-financial interests that they consider could bring about conflict with the authority's interests.
- 7.2 Employees must inform their Director, in writing of any financial interests which could conflict with the authority's interests.
- 7.3 Employees must inform the Director, in writing of membership of any organisation not open to the public without formal membership and commitment of allegiance and which has secrecy about rules or membership or conduct.
- 7.4 The Director will arrange for all such Personal Interest information to be recorded in the Code of Conduct Register.

8. Equality Issues

- 8.1 All Denbighshire County Council employees should ensure that policies relating to equality issues as agreed by the authority are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

9. Separation of Roles During Tendering

- 9.1 Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the authority. Senior employees who have both a client and contractor responsibility must be aware of the need for accountability and openness.
- 9.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other contractors and sub-contractors.
- 9.3 Employees who are privy to confidential information on tenders or costs for either internal or external contractors must not disclose that information to any unauthorised party or organisation.
- 9.4 Employees contemplating a management buyout should, as soon as they have formed a definite intent, inform their Director in writing and withdraw from the contract awarding process. Details will be recorded in the Code of Conduct Register.
- 9.5 Employees 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 in a senior or relevant managerial capacity.

10. Corruption

- 10.1 Employees must be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing, or not doing, anything or showing favour, or disfavour, to any person in their official capacity. If an

allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

11. Use of Financial Resources

- 11.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority.

12. Hospitality

- 12.1 Employees should only accept offers of hospitality if there is a genuine need to impart information or represent the local authority in the community. 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 authority should be seen to be represented. They should be properly authorised in writing by their Director, details will be recorded in the Code of Conduct Register.
- 12.2 When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority. Copies of any correspondence should be provided to the appropriate Director and details recorded in the Code of Conduct Register.
- 12.3 Employees should not accept significant personal gifts from contractors and outside suppliers, although the authority may wish to allow employees to keep insignificant items of token value such as pens, diaries etc.
- 12.4 When receiving authorised hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.
- 12.5 Acceptance by employees of hospitality through attendance at relevant conferences and courses is acceptable where it is clear the hospitality is corporate rather than personal where the authority gives consent in advance and where the authority is satisfied that any purchasing decisions are not compromised. Where visits to inspect equipment, etc. are required, employees must ensure that authorities meet the cost of such visits to avoid jeopardising the integrity of subsequent purchasing decisions.

13. Sponsorship : Giving and Receiving

- 13.1 Where an outside organisation wishes to sponsor or is seeking to sponsor a local government activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.
- 13.2 Where the authority wishes to sponsor an event or service, neither an employee nor any partner, spouse or civil partner or relative must benefit from such sponsorship in a direct way without there being full disclosure to the appropriate Director of any

such interest. Such disclosures will be recorded in the Code of Conduct Register. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees must ensure that impartial advice is given and that there is no conflict of interest involved.

14. Code of Conduct Register

- 14.1 The Chief Executive (or his nominee) will maintain a 'Code of Conduct' Register. Entries in the register will only be used in the legitimate interests of Denbighshire County Council.
- 14.2 To enable the Code of Conduct Register to be maintained, Directors will ensure that copies of all appropriate correspondence are provided to the Chief Executive.

APPENDIX A

Introduction

The Local Authority Associations and I&DeA and Syniad (formerly the L.G.M.B.) commend this code to all Authorities. The Code and the following 'General Guidance' has been produced after consultation with the following bodies:

- ◆ Association of District Council Treasurers
- ◆ Association of County Archivists
- ◆ Association of Chief Technical Officers
- ◆ Association of Directors of Social Services
- ◆ Association of District Secretaries
- ◆ Association of Transport Co-ordination Officers
- ◆ Association of Metropolitan District Engineers
- ◆ Audit Commission
- ◆ Chartered Institute of Public Finance and Accountancy
- ◆ Chief Leisure Officers' Association
- ◆ Commission for Local Administration in England
- ◆ County Surveyors Society
- ◆ District Planning Officers Society
- ◆ Institute of Chartered Secretaries and Administrators
- ◆ Institute of Trading Standards Administration
- ◆ Institute of Building Control
- ◆ Managerial and Professional Officers
- ◆ National Association of Local Councils
- ◆ Society of Chief Personnel Officers
- ◆ Society of County Treasurers
- ◆ Society of Local Authority Chief Executives
- ◆ Trades Union Congress
- ◆ UNISON

APPENDIX B

GENERAL GUIDANCE

It is appreciated that the relevant provisions in legislation, national agreements, etc., will be familiar to many employees. To assist in the application of this code, advisory points and some primary sources are summarised below.

1. Standards

Authorities should consider setting up local procedures for employees to report unlawfulness or maladministration to the authority's monitoring officer or an appropriate manager designated by the authority. This may allow resolution within the authority.

Paragraph 70 of the Purple Book said:

"(a) The public is entitled to demand of a local government officer conduct of the highest standard and public confidence in his integrity would be shaken were the least suspicion to arise that he could in any way be influenced by improper motives."

Similar provisions are incorporated in the national conditions of service of chief officers

2. Disclosure of Information

In certain circumstances employees may have a legal or professional duty to disclose information to a third party (for example, in the course of legal proceedings).

The authority should therefore make clear to employees:

- ◆ the types of information which must be made available, and to whom
- ◆ the types of information which the authority has voluntarily made open, and to whom
- ◆ the types of information which the authority does not wish to be disclosed without specific Permission.

Paragraph 72 of the Purple Book specified that:

"No officer shall communicate to the public the proceedings of any committee meeting, etc., nor the content of any document relating to the authority unless required by law or expressly authorised to do so."

The Local Government Act 1972, s100 deals with the admission of the public and press to local authority committee meetings.

The Local Government Planning and Land Act 1980 s2 requires local authorities to publish certain categories of information in accordance with codes of recommended practice and any statutory regulations made by the Secretary of State (s3). This includes (s3(5)) information about the number of their employees or the number of any description of their employees.

Local Government (Publication of Manpower Information) (England) Regulations 1983 covers the English authorities.

Local Government (Access to Information) Act 1985 requires a principal council to maintain a list, open to public inspection, specifying those powers of the authority which are exercisable from time to time by officers of the authority in pursuance of its duties under statutory powers. Any person having custody of documents to which right of access applies would commit an offence by obstructing that right.

3. Political Neutrality

Every local authority should produce its own guidelines on the circumstances in which employees may advise political groups and whether such advice is confidential to that group.

The Local Government and Housing Act 1989, Pt1 contains provisions to stop 'twin-tracking' (where a senior local authority employee is also an elected member of another local authority) and to restrict the political activity of senior employees. Local authority employees holding politically restricted posts are disqualified from membership of any local authority, other than a parish or community council (s1(1)), from being an MP or MEP and are subject to prescribed restrictions on their political activity (s1(5), (6)).

The Local Government Officers (Political Restriction) Regulations 1990 and *the Local Government (Politically Restricted Posts) (No.2) Regulations 1990* covers the posts which are politically restricted. These are:

- (a) Specified posts, such as the head of paid service and the monitoring officer. Chief Officers and their deputies are restricted without exemption or appeal;
- (b) all posts which reach or exceed a prescribed remuneration ceiling. These posts are automatically included on a list which employing authorities are under a duty to prepare unless exemption for individuals are granted;
- (c) all posts which meet the duties-related criteria for determining a 'sensitive' post, irrespective of remuneration level, unless the post holder appeals successfully against determination. These posts are defined as those which (i) give advice on a regular basis to the employing authority, to any committee or sub-committee or another joint committee on which the authority is represented (but excluding purely factual information) or (ii) speak on behalf of the authority on a regular basis to journalists and broadcasters.

The political restrictions are deemed to be incorporated in the contract of employment of every local authority employee who holds a politically restricted post.

4. Relationships

The Local Government and Housing Act 1989 s.31 has given statutory status to the National Code of Local Government Conduct (for the guidance of councillors of local authorities). The Code includes within paragraph 23-25 the following statements as to the role of councillors in relation to officers:

- 23 "Both councillors and officers are servants of the public, and they are indispensable to one another. But their responsibilities are distinct. Councillors are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the council. Their job is to give advice to councillors and their council, and to carry out the council's work under the direction and control of the council, their committees and sub-committees.
- 24 Mutual respect between councillors and officers is essential to good local government. Close personal familiarity between individual councillors and officers can damage the relationship and prove embarrassing to other councillors and officers.
- 25 The law and standing orders lay down rules for appointment, discipline and dismissal of staff. You must ensure that you observe these scrupulously at all times. Special rules apply to the appointment of assistants to political groups. In all other circumstances, if you are called upon to take part in appointing an officer, the only question you should consider is which candidate would best serve the whole council. You should not let your political or personal preferences influence your judgement. You should not canvass the support of colleagues for any candidate and you should resist any attempt by others to canvass yours."

"Every candidate for any appointment under the employing authority shall, when making an application, disclose in writing to the Chief Executive of the authority whether to his knowledge he is related to any member of the authority or to a holder of any senior office under the authority.

5. Appointment and Other Employment Matters

Purple Book, Section 1, Paragraph 6(a) sai :

Deliberate omission to make such a disclosure will disqualify the candidate, and if the omission is discovered after appointment he shall be liable to dismissal. Every member and senior officer of the authority shall similarly disclose to the authority any relationship known to him to exist between himself and a candidate for an appointment of which he is aware. It shall be the duty of the Chief Executive to the authority to report to the authority or appropriate committee any such disclosure made to him."

The Local Authorities (Standing Orders) Regulations 1993 also prescribe the procedure to be followed in respect of the appointment of chief officers and their dismissal in the event of misconduct.

See also *Paragraph 12(a) The Purple Book and Section 7, Local Government and Housing Act 1989* for appointment on merit.

6. Outside Commitments

It is recommended that authorities should stress to employees of all grades that they should not undertake outside work if their official duties overlap in some way with their proposed work, if it causes a conflict of interest, or if it makes use of material to which the employee has access by virtue of his or her own position (for example, an architect or planner who draws up plans within his or her own authority for an applicant for planning consent). It is irrelevant whether or not the work is paid."

Purple Book, Section 7, Paragraph 70(b) said:

"An officer's off-duty hours are his personal concern but he should not subordinate his duty to his private interests to put himself in a position where his duty and his private interests conflict. The employing authority should not attempt to preclude officers from undertaking additional employment, but any such employment must not, in the view of the authority, conflict with or react detrimentally to the authority's interests, or in any way weaken public confidence in the conduct of the authority's business."

The national conditions of service for chief officers and those for chief executives also mirror the above points.

Purple Book, Section 7, Paragraph 71 said:

"Officers above Scale 6 shall devote their whole-time service to the work of their council and shall not engage in any other business or take up any other additional appointment without the express consent of the council." Where employees are not covered by the provisions of the national conditions they should adhere to the

principles outlined above. Local authorities may wish to specify that no outside work of any sort should be undertaken in the office, and use of facilities, e.g. telephones, or access to typists should be forbidden. Employees should also be instructed that correspondence and incoming telephone calls related to outside work are not allowed.

The procedures for seeking permission in such circumstances should be made clear. Intellectual Property is a generic term that includes inventions, creative writings and drawings. If these are created by the employee during the course of employment, then as a general rule they belong to the employer. However, various Acts of Parliament cover different types of intellectual property.

Increasingly the local government world is moving towards new forms of employee contracts. Many employees, including professionals, may be working for several employers part-time or are subject to dual employment conditions. Authorities should therefore produce guidelines designed to safeguard copyright and intellectual rights created during employment.

Inventions and Patents

Inventions made before 1st June 1978 are the property of the employer if made in the course of that employer's employment. However, the Patents Act 1977 states that after 1st June 1978 inventions are only the property of the employer if:

- ♦ they have been made in the course of the employee's normal duties; or
- ♦ they have been made in the course of duties specifically assigned to the employee and where invention might be reasonably expected; or
- ♦ it was made in the course of the employee's duties and at the time the employee had (because of the nature of his or her duties and particular responsibilities arising from them) a special obligation to further the interests of the employer.

It is therefore important in any contract to set out what an employee's 'normal duties' are.

7. Personal Interests

Authorities should ensure that all employees disclose any personal interests that they feel conflicts with the authority's interests (e.g. acting as a school governor within schools maintained by the authority, involvement with an organisation receiving grant aid from the authority, membership of a National Health Service Trust Board, involvement with an organisation or pressure group which may seek to influence their authority's policies). This should be undertaken in the light of the guidance given within the Code. It is also recommended that authorities provide a mechanism for employees to declare any membership of secret societies. Authorities may also consider addressing this issue during the recruitment process

The following definition of what constitutes a secret society was used by the working group responsible for drafting the Code. Local authorities may also find it helpful:-

'Any lodge, chapter, society, trust or regular gathering or meeting, which:

- (a) is not open to members of the public who are not members of that lodge, chapter, society or trust
- (b) includes in the grant of membership an obligation on the part of the member a requirement to make a commitment (whether by oath or otherwise) of allegiance to the lodge, chapter, society, gathering or meeting; and
- (c) includes, whether initially or subsequently, a commitment (whether by oath or otherwise) of secrecy about the rules, membership or conduct of the lodge, chapter, society, trust, gathering or meeting.

A lodge, chapter, society, trust, gathering or meeting as defined above, should not be regarded as a secret society if it forms part of the activity of a generally recognised religion.

8. Equality Issues

Authorities should set their own policies relating to equality issues. Employees should be made aware of provisions and their responsibilities under the Sex Discrimination Act 1975 and the Race Relations Act 1976 and the Disabled Persons (Employment) Act 1944 (as amended).

9. Separation of Roles During Tendering

The internal arrangements for the client and contractor functions require special consideration. The tendering process should be open and above board. Local authorities should have their own internal procedures in place in order to resolve any conflict that may arise.

[See also the *Local Government (Direct Service Organisation) (Consultation) Regulation 1993* - Section 4 (2) (3)].

10. Corruption

As a general rule, the procedures by which authorities select developers or consultants for schemes and for the supply of goods should be clearly defined and publicly known.

Local Government Act 1972 s117 - Pecuniary Interests - provides that if an officer knows that a contract in which he has a pecuniary interest is before the local authority, he must give notice of his interest to the authority. This does not, of

course, apply to a contract with him in his own name because the authority will then know of his interest. Section 117(2) forbids an officer "under colour of his office or employment" to accept "any fee or reward" whatsoever other than proper remuneration.

(See also *Purple Book Section 7, Paragraph 73* which states that the nature of the employee's involvement must be set out in writing at the earliest opportunity).

Prevention of Corruption Acts 1906 and 1916 says about acceptance of gifts by way of inducements or rewards:

- (a) Under the *Prevention of Corruption Acts, 1906 and 1916*, it is an offence for employees corruptly to accept any gifts or consideration as an inducement or reward for:
- ◆ doing, or refraining from doing, anything in their official capacity; or
 - ◆ showing favour or disfavour to any person in their official capacity.
- (b) Under the *Prevention of Corruption Act 1916*, any money, gift or consideration received by an employee in public service from a person or organisation holding or seeking to obtain a contract will be deemed by the courts to have been received corruptly unless the employee proves to the contrary.

(See also *Public Bodies Corrupt Practices Act 1889*).

11. Use of Financial Resources

Many authorities will have financial regulations to safeguard their assets and use of resources. Compliance with these are essential for all employees involved in the use or collection of public funds. Therefore authorities need to ensure that employees have a clear understanding of the law which governs their service. Authorities also need to ensure that employees who have concerns over the lawfulness of certain actions have an appropriate internal mechanism to express such concerns.

12. Hospitality, Gifts and Sponsorship

Authorities should ensure that where the authority is engaged in a partnership agreement with a private sector company, employees observe guidance on such relationships as laid down by the local authority.

The authority should specify the level of hospitality and gifts of token value that would be acceptable and set out standards for sponsorship deals. Contract regulations should require tender documents specifically to prohibit gifts and corrupt practices.

- 5.2.2 In addition the provisions of the National Assembly for Wales Code of Conduct for Local Government Employees are deemed to be incorporated into the terms of appointment or conditions of employment of staff.

CODE OF CONDUCT FOR QUALIFYING EMPLOYEES OF RELEVANT AUTHORITIES IN WALES

General Principles

1. The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

2. Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political Neutrality

3. Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

Relations with members, the public and other employees

4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.
5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

Equality

6. Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

7. Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal Interests

8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:
 - (1) any rules of their relevant authority on the registration and declaration by employees of financial and non - financial interests,
 - (2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

Whistleblowing

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

Treatment of Information

10. Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of Staff

11. Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

Investigations by Monitoring Officers

12. Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

5.3 PROTOCOL FOR MEMBER / OFFICER RELATIONS

1. Introduction

- 1.1. The purpose of this protocol is to guide Members and Officers of the Council in their relations with one another.
- 1.2. This protocol seeks to offer guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other issues.
- 1.3. This protocol seeks to promote greater clarity and certainty. If it is followed it should ensure that members receive objective and impartial advice and that officers are protected from accusations of bias and undue influence.

2. Principles

2.1 This Protocol is based on the following principles:-

- An understanding by both Members and Officers of the requirements of each other's functions.
- Mutual respect for each other's time and priorities.
- Courtesy and sensitivity at all times.
- Honesty and integrity in all dealings to foster co-operation and trust.
- Professional and cordial relationships avoiding over familiarity

2.2 It also seeks to reflect the principles underlying the respective Codes of Conduct which apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes therefore demand very high standards of personal conduct.

2.3 Both the Council's Code of Conduct for Members and the Code of Conduct for Officers state that members and officers must treat all people with respect and equally, regardless of their gender, race, disability, sexual orientation, age or religion.

2.4 Officers and Members have different roles. Members serve their electorate, whilst Officers are responsible to the Council. Mutual respect is essential to good local government. Officers and Members should have good working relationships, whilst being aware that close personal relationships can damage this relationship and prove embarrassing for other Officers and Members.

- 2.5 In line with the principle of “mutual respect”, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position. The use of threats, intimidation or verbal abuse will be regarded as serious breaches of this protocol.
- 2.6 A Member should not raise matters relating to the conduct or capability of an Officer at any public session of a meeting. In the event that any Councillor has a complaint concerning an Officer’s behaviour, conduct or capability and is unable to resolve same through discussions with the Officer concerned, they should raise the matter in the first instance with the Officer’s Head of Service or Director. If after receiving a written report from the Head of Service or Director, a Member remains concerned, the Chief Executive should be advised. In the event that a decision is taken to take action against an Officer in respect of a complaint lodged by a Member of the Council, such action shall be conducted in accordance with the Council’s disciplinary rules and procedures.
- 2.7 Similarly, other than when carrying out their statutory functions in respect of conduct and personal or financial probity Officers should not raise matters relating to the conduct or capability of a Member at any public session of a meeting. Where an Officer feels that he/she has not been properly treated by a Member of the Council, they should raise the matter with their Head of Service or Director or the Chief Executive, as appropriate. In the event that the member of staff does not feel able to discuss the matter directly with the Councillor concerned, the Head of Service, Director or Chief Executive will take the appropriate action by approaching the Councillor concerned and/or his or her Group Leader.

3. Roles of Members

3.1 Members have 3 distinctive roles:

- | | |
|---------------------|---|
| A. Decision making: | To make decisions |
| B. Scrutiny: | To scrutinise those decisions and by so doing hold the decision makers to account |
| C. Representative: | To represent the interests of the people of their wards. |

3.2 In pursuance of those roles, Members will be supported by Officers and will have the right to expect from them:

- Full, impartial advice and information.
- Accurate, well written advice in concise and easily understood formats and language to enable decisions to be taken, the decision maker(s) to be held to account and information be provided to advise individual people with enquiries, problems or grievances.
- For the above to be provided in the Member’s preferred language of communication.
- Respect for their person.

- Respect for the confidential nature of information and views.

4. Roles of Officers

4.1 Local Authority Officers are employed by, and are responsible to, the Council as a whole. They owe a duty to each and every member and not to one political group, even if it is in a majority. It is essential therefore that they act in a politically neutral fashion at all times and adhere to the following:

- The Code of Conduct for Officers
- No Officer should publicly associate himself or herself with a candidate for election to the council by signing the nomination form or acting as the candidate's election agent. This could give rise to suspicions about the ability of the officer to discharge his or her duties in a politically unbiased way.
- Officers also have a wider duty to the public as a whole.

4.2 In pursuance of their duties Officers have the right to expect from members:

- Respect for Officer neutrality
- Respect for their person
- Understanding of their roles and workloads when making requests for assistance
- Adherence to the understanding of Officer and Member responsibilities.
- Respect for confidential advice and guidance
- Members seeking re-election should not ask Officers to sign their nomination forms or act as their election agent

Intimidation of Officers by Members and any other infringement of the above would constitute a breach of this protocol.

5. Officer/Chair Relationships

5.1. Officers will support the Chair in his/her role as guardian of the Constitution and overseer of the administration of Council business.

5.2. Officers will respect the views of the Chair whether expressed directly or through an Officer

5.3. Officers will provide advice to the Chair on the matter which is in pursuance of his/her duties.

6. Relationships between Leader and Members of Cabinet and Officers.

- 6.1. These relationships are governed by the general principles of this protocol and the statement of rights under 3.2 and 4.2 above.
- 6.2. It is the duty of Officers to assist the Cabinet in the delivery of its responsibilities.
- 6.3. It will be necessary for the Leader and Cabinet to observe the independence of the management function of the Authority from the decision making function. Whilst Officers will seek to serve Members of the Cabinet, Officers within a department are accountable to the Chief Executive Officer and their director.
- 6.4. Whilst the Leader or Chair of a Cabinet sub-Committee will be routinely consulted as part of the process of drawing up the agenda for a forthcoming meeting, in some situations an officer will be under a duty to submit a report on a particular matter arising from his/her statutory functions. A director will always be fully responsible for the contents of any report submitted in his/her name. Any issues arising between a Leader or chair and a director in this area should be referred to the Chief Executive.

7. Officer relationships with political Groups

7.1. Officer advice to political groups.

- 7.1.1. Directors or Heads of Service may properly be called upon to advise the chairs or spokespersons of political groups, but they should attend group meetings only in exceptional circumstances and in such a case the other political groups should be informed of the advice given.
- 7.1.2. Certain points must be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:-
- Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of political group business;
 - political group meetings are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
 - similarly, where Officers provide information and advice to the chair or spokesperson of a political group in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to Members when the matter in question is considered.
- 7.2. Any particular cases of difficulty or uncertainty in this area of Officer advice to political groups should be raised with the Chief Executive who will discuss them with the relevant group leaders.

7.3. Support services to members and political groups.

7.3.1. The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photo-copying, transport, etc.) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore be used only on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

8. Members in their Ward Role and Officers

8.1. The relationship here is governed by the general principles listed in section 2 and the statement of rights 3.2 and 4.2.

8.2. The authority recognises the essential role of the member in his/her ward representing the interests and issues of the people of the ward. All officers therefore should always consider local members during their work as a matter of course. Local members should be kept informed of anything which may affect their work so that their views may be taken into account as the work progresses. Care should be taken that the local member does not first find out about something which is happening in his/her ward from his/her constituents or in the press.

8.3. Officers will seek to assist where possible any local Member's enquiry and will seek to deal expeditiously with any issue raised.

8.4. Members for their part will seek to help Officers communicate effectively with their ward, arranging meetings where necessary at mutually convenient times. Members, in arranging such meetings, will have regard to Officer workloads.

8.5. Officers will observe relevant protocols for consulting with local Members before decisions are taken on issues affecting their wards. Whenever a public meeting is organised by the Council to consider a local issue, all the Members representing the ward or wards affected should as a matter of course be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward Members should be notified at the outset of the exercise.

9. Members' access to information to officers and to buildings.

9.1. Members can approach any department to request any information, explanation and advice as they may reasonably need to assist them in discharging their role as Members. A request for information may be made on behalf of a constituent, but any request for personal information should be authorised by that constituent. Approaches should normally be directed to the Chief Officer or another Senior Officer of the department.

9.2. A list has been drawn up of those Officers to whom Members will have convenient access to discuss any particular matter. Arrangements may be made for Members to see Officers whose names do not appear of the list. The list contains those who are regularly available, remembering their other commitments.

- 9.3. It is emphasised that this is not meant to be restrictive. These guidelines aim to make the best use of both members' and officers' time.
- 9.4. A Member should always contact beforehand any Officer that he/she wishes to see. This will ensure that the Officer is available and prepared to answer the Member's questions in order to make the most effective use of the meeting.
- 9.5. A Member should always call at reception and ask for the Officer. This is a matter of personal safety as it is essential in case of fire that the name of everyone in the building is known.
- 9.6. Officers should always ensure, bearing in mind the reasonable calls of their other duties, that they respond to a reasonable request for information relevant to a member's work or a request for a meeting.
- 9.7. Contact between Members and Officers should only take place at agreed offices or other meeting locations. Members and Officers should not arrange meetings at their respective homes.
- 9.8. Telephone contact between Members and Officers should be restricted to normal office hours. Only exceptionally should Members or Officers contact each other outside these times and such contact should be restricted to Directors and Heads of Service.
- 9.9. Members are entitled to have access to the Council Chamber, Committee rooms and all other public areas of the Council's buildings.
- 9.10. Members who are not in pursuit of their duties as a Councillors have the same rights of access to Council buildings and premises as any other member of the public.
- 9.11. A Member has the right to enter "staff only" areas only with the express authorisation of the relevant Director or Head of Service.

10. Members' rights to inspect Council documents.

- 10.1. Members have a statutory right to inspect any Council document which contains material relating to any business which is to be transacted at a Council, committee or sub-committee meeting. This right applies irrespective of whether the Member is a member of the committee or subcommittee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This statutory right does not extend to information falling within paragraphs 12 to 18, 23, 24, and 26 of Part 4 of Schedule 12A of the Local Government Act 1972. However, the common law right (see below) could override this restriction in certain cases.
- 10.2. The common law right of Members is much broader and is based on the principle that any Member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the Member properly to perform his/her duties as a Member of the Council. This principle is commonly referred to as the "need to know" principle.

- 10.3 The exercise of this common law right depends upon the Member's ability to demonstrate that he/she has the necessary "need to know". In this respect a Member has no right to "a roving commission" to examine documents of the Council. Mere curiosity is not sufficient. Contents of personal files e.g. social service assessments, adoption and child protection papers, SEN statements, personnel files will definitely not be available for access under a right to know except in limited cases e.g. the Members who sits on adoption and fostering panel. If a Member's motive for seeing documents is indirect, improper or ulterior access will be refused. The crucial question is the determination of the "need to know". This question must initially be determined by the particular director whose department holds the document in question (with advice from the Head of Legal and Democratic Services). In the event of a dispute, the question falls to be determined by the Head of Legal and Democratic Services and on appeal to the Chief Executive.
- 10.4 In some circumstances (e.g. a cabinet or committee member wishing to inspect documents relating to the functions of that committee) a Member's "need to know" will normally be presumed. In other circumstances (e.g. a Member wishing to inspect documents which contain personal information about third parties) a Member will normally be expected to justify the request in specific terms and in the light of the data protection legislation.
- 10.5 Further and more detailed advice regarding Members' rights to inspect Council documents may be obtained from the Head of Legal and Democratic Services.
- 10.6 Finally, any Council information provided to a Member must only be used by the Member for the purpose for which it was provided. The rules on the handling of information in the Council's Code of Conduct for Members must be adhered to.

11. Correspondence, including e-mail.

Correspondence between an individual Member and an Officer should not normally be copied by the Officer to any other Member.

- 11.1. This restriction will not normally apply to Cabinet matters where the Cabinet as a whole will be need to be informed of matters which will be of concern to all or several Cabinet members.
- 11.2. Where exceptionally it is necessary to copy the correspondence to another Member, this should be made clear to the original Member.
- 11.3. Official letters on behalf of the Council should be sent out either in the name of the appropriate portfolio holder or in the name of the appropriate Officer.
- 11.4. Lead Members will be advised by their Senior Officers as to when a response from themselves rather than an Officer is the more appropriate.
- 11.5. Letters which create obligations or give instructions on behalf of the Council should never be sent out over the name of a member.

12. Press releases

- 12.1. From time to time Members will be called upon to provide comments for the press relating to the work of the Council.
- 12.2. No remark will be attributed to a Member who has not first cleared that remark.

13. Breaches of the Protocol.

- 13.1. Breaches of this protocol may lead to disciplinary action in the case of Officers or reference to the Council's Standards Committee in the case of Members.
- 13.2. If a Member is dissatisfied with the conduct of an Officer, he/she should in the first place discuss the matter with the relevant director in order to try to resolve the matter. The Council's disciplinary procedures will not necessarily be relevant and/or appropriate in all circumstances but the relevant director will resort to these procedures in appropriate cases.
- 13.3. If an Officer is dissatisfied with the conduct of a Member he/she should also raise the matter with his/her director in order to try to resolve the matter with the member without the need to resort to the formal procedures. Depending on the circumstances, the director could consult with the Chief Executive, the Monitoring Officer and, where appropriate, the Chairman of the Council or the leader of the relevant political group. However, this cannot replace the Officer's right, to make a formal complaint of a breach of the Code of Conduct by that Member.
- 13.4. All formal complaints concerning a breach of the code should be made in the first instance in writing to the Head of Legal and Democratic Services.

5.4 Whistleblowing Policy



WHISTLEBLOWING POLICY

This document is subject to the policy statement included in the Employee Handbook

This document is subject to the standard policy statements

This policy has an appeals process applied to it

To view FAQs click [here](#)

To provide feedback on this document please click [here](#)

Whistleblowing flowchart

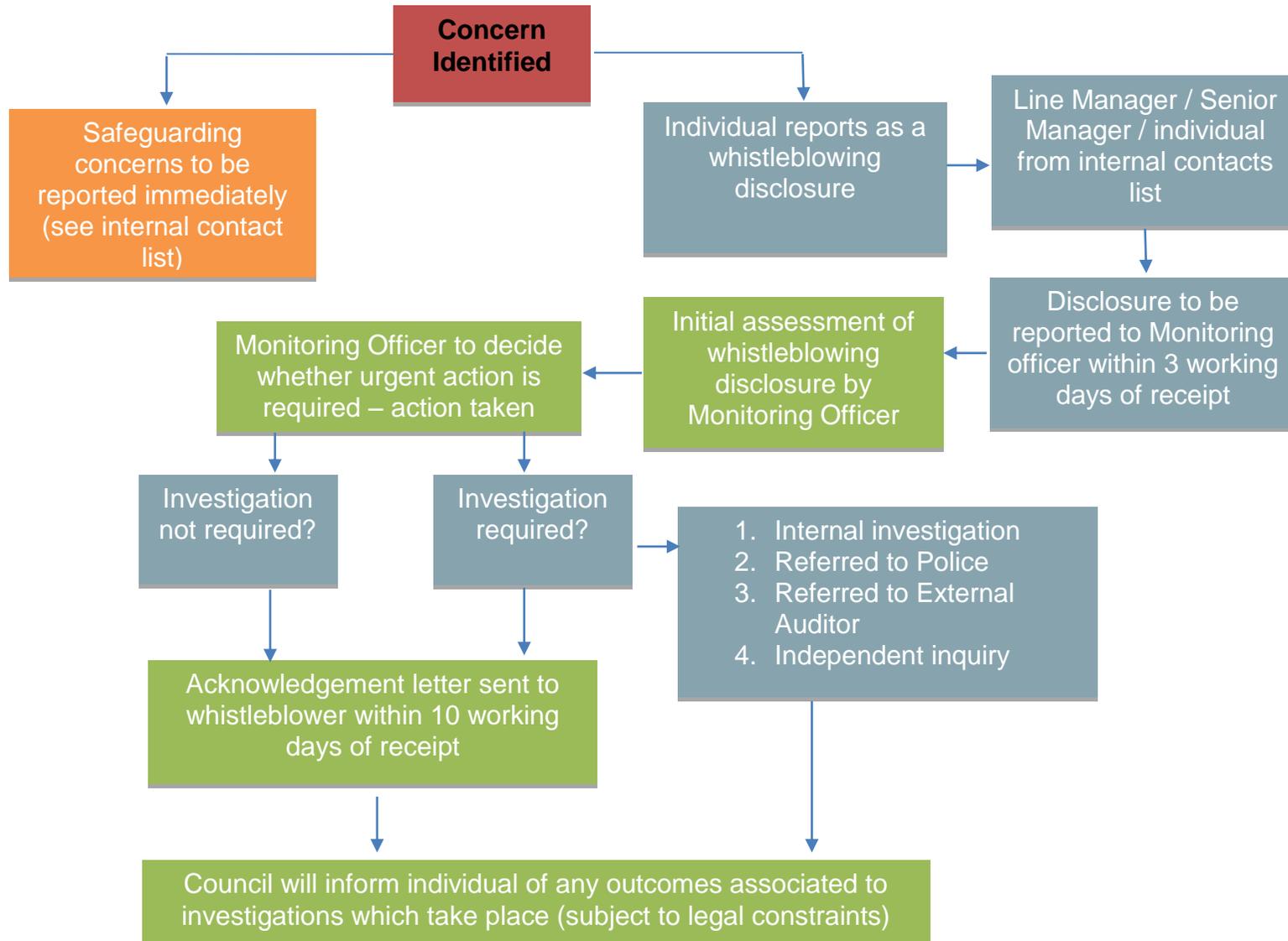
One page whistleblowing overview

- 1. Introduction**
- 2. Aims and scope of the policy**
 - Employment issues
 - Elected members conduct
 - Complaints
 - Other services
- 3. Safeguards**
 - Your legal rights
 - Support to you
- 4. Confidentiality**
- 5. Anonymous disclosures**
- 6. Untrue disclosures**
- 7. How to raise a concern**
- 8. How the council will respond**
- 9. Independent advice**
- 10. Maintenance and operation of policy**
- 11. How the matter can be taken further**
 - Internal contact list
 - External contact list
 - Whistleblowing policy report form
- 12. Additional Information**
- 13. Internal contact list**
- 14. External contact list**

TIMESCALES

Tudalen 288	The person who you report your concerns under this policy must report them to the Monitoring Officer.	Within 3 working days
	You will receive a letter (or information in your preferred format)	Within 10 working days of your concern being raised.

Whistleblowing Process



Tudalen 289

One page whistleblowing overview

Whistleblowing is for:

- All employees, including contractors, voluntary workers, consultants and those providing services via contract or other agreements.
- Genuine concerns about malpractice or impropriety that you believe to be in the public interest, including but is not limited to fraud, theft, mismanagement, bribery and health and safety failures.

Whistleblowing is not for:

- Raising employment concerns
- Complaints related to bullying, harassment and victimisation issues
- Questioning financial and/or business decisions made by Denbighshire County Council
- Raising issues that have already been addressed under the disciplinary, grievance or other procedures. An individual can however raise a concern about failure to follow these procedures

Who can I contact to blow the whistle?

- Your Line Manager
- A Senior Manager
- Chief Executive, Monitoring Officer, Chief Finance Officer, Head of Internal Audit
- Any person listed in the internal [contacts list](#).

Details on how to raise a concern can be found in [How to raise a concern](#).

Can I keep my identity a secret?

You are encouraged to give your name when making a disclosure. You can make an anonymous disclosure but these will be less credible. Any concern raised will be treated in confidence and every effort will be made not to reveal the whistleblowers identity.

What will happen to me if I blow the whistle?

The council has a duty to protect whistleblowers and to ensure that any concerns can be raised without recrimination or reprisal.

I don't feel that I am able to blow the whistle – how can I get help?

- You can contact Public Concern at Work (PCaW) for free confidential advice about the best way to raise a concern. You can contact PCaW via their website www.pcaw.co.uk

- Speak to your Trade Union representative

ROLES AND RESPONSIBILITIES

HEAD OF SERVICE AND MONITORING OFFICER

- Responsible for overall maintenance and operation of this policy
- Ensuring the policy is followed and implemented.
- Provide advice and guidance on how matters of concern may be pursued.
- Liaise with the Head of Internal Audit to consider the most appropriate method of investigating the matter of concern.
- Maintain record of concerns and outcomes ensuring that concerns have been investigated in accordance with this policy.
- To report to Corporate Governance Committee on the operation of this policy annually.

INTERNAL AUDIT

- Overall responsibility (along with the Monitoring Officer) for the monitoring of the procedures and advising on the application of this policy, maintaining a register, monitoring all whistleblowing concerns and reporting details to relevant stakeholders.

MANAGERS

- Ensure that any concerns are taken seriously and reported to the Monitoring Officer with immediate effect.
- Ensure that all employees are aware of this policy
- Support employees/workers who raise a concern under this policy to ensure that they do not suffer detriment as a result of their action.

HR DIRECT

- Advise on the application of this policy and the support arrangements for employees.

EMPLOYEES AND OTHER WORKERS

- Use this procedure to raise genuine concerns when they believe that to do so is in the public interest.

1. Introduction

People who work for or with the council are often the first to realise that there may be something wrong within the Council. However, they may feel unable to express their concerns because they feel that speaking up would be disloyal to their colleagues, managers or to the council. They may also fear harassment or victimisation. They may be worried about raising such issues or they may want to keep the concerns to themselves, perhaps feeling it's none of their business or that it's only a suspicion. They may decide to say something but find that they have spoken to the wrong person or raised the issue in the wrong way and are not sure what to do next.

The council has introduced this policy to enable you to raise your concerns at an early stage and in the right way. We would rather that you raised the matter when it is just a concern rather than wait for proof.

This policy makes it clear that you can raise your concerns without fear of harassment, victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable people working for or with the council to raise concerns within the Council rather than overlooking a problem or "blowing the whistle" outside. If something is troubling you which you think we should know about or look into, please use this policy.

This policy applies to all:

- Employees of Denbighshire County Council
- Employees of contractors working for the council on council premises, for example, agency staff, builders, drivers
- Those providing services under a contract or other agreement with the council in their own premises, for example care homes
- Voluntary workers working with the council

- Consultants engaged by the council

2. Aims and scope of the policy

This policy aims to:

- encourage you to feel confident in raising concerns and to question and act upon concerns about malpractice
- provide avenues for you to raise concerns and receive feedback on any action taken
- ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied
- reassure you that you will be protected from reprisals or other action if you have a reasonable belief that you have made any disclosure 'in the public interest.'

The Whistleblowing Policy is intended to cover concerns other than your employment, where the interests of others or of the council itself are at risk. These include (but are not limited to):

- conduct which is an offence or a breach of law
- disclosures related to miscarriages of justice
- health and safety risks, including risks to the public as well as other employees
- unlawful discrimination
- damage to the environment
- the unauthorised use of public funds
- possible fraud and corruption
- sexual or physical abuse of clients,
- the neglect, emotional, physical or sexual abuse of children or other inappropriate behaviour towards them
- general safeguarding concerns

- other unethical conduct
- a deliberate attempt to conceal any of the above

Any concerns that you have about any aspect of service provision or the conduct of officers or members of the Council or others acting on behalf of the council can be reported under the Whistleblowing Policy. This may be about something that:

- makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to; or
- is against the council's Standing Orders, Financial Regulations and policies;
- or
- falls below established standards of practice; or
- amounts to improper conduct.

The Officers Code of Conduct provides that if an employee becomes aware of activities which he or she believes to be illegal, improper or unethical, the employee should report the matter in accordance with this procedure.

This policy does not apply in the following circumstances:

Employment Issues

If you are an employee, there are existing procedures in place to enable you to raise concerns relating to your own employment. Refer to the Grievance policy.

Elected Members Conduct

General concerns relating to the behaviour and/or conduct of elected Members should be raised in accordance with the Member's Code of Conduct.

Complaints

This policy does not replace the Corporate Complaints Procedure which is concerned with addressing complaints about council services.

Other Services

If you have any concerns about another organisation that provides services on behalf of the council you should contact the service provider in the first instance. In cases where the council contracts with a private organisation it may be appropriate to notify the relevant Service Area of the council. In some cases it may also be necessary to inform the appropriate regulatory organisation.

Please note that if you are unsure where the issue falls then speak to the responsible officer.

3. Safeguards – our assurances to you

The council is committed to good practice and high standards and wants to be supportive of employees and others using this policy.

Your legal rights

The Public Interest Disclosure Act (PIDA) (1998) was introduced to protect employees who want to raise a concern about something happening in work in a responsible manner. The Act makes it unlawful for the council to dismiss anyone or allow them to be penalised or victimised on the basis that they have made an appropriate lawful disclosure in accordance with the Act.

The Enterprise and Regulatory Reform Act (2013) brought about a number of changes which impact on whistleblowing. The three key changes are the following:

1. Only disclosures made 'in the public interest' are protected. Employees now have to show that they 'reasonably believe' that the disclosure they are making is in the 'public interest.'
2. The removal of the requirement for disclosures to be made in 'good faith' in order to be protected.
3. Making employers liable for the acts of employees (such as harassing a colleague who has raised a concern) and making employees personally liable.

Please refer to the below section if you require advice or support on the above.

Support to you

The council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true, you have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service. You will not be at risk of losing your job or suffering any form of punishment as a result.

The council will not tolerate discrimination, harassment or victimisation (including informal pressures) and will take appropriate action, including disciplinary action to protect you when you raise a concern 'in the public interest'.

Any investigations into allegations of potential malpractice raised by you will not influence or be influenced by other procedures such as investigations and hearings under the disciplinary, sickness, capability, redundancy or any other procedures that already affect you or may affect you in the future.

At all times during the raising and investigation of your concerns:

- you will be given full support from Senior Management
- your concerns will be taken seriously
- the council will do all it can to help you throughout the investigation, e.g. provide advocacy services, interpreters etc.

If appropriate, after full consultation, the council will consider temporarily redeploying you or others for the period of the investigation.

4. Confidentiality

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. If the situation arises where we are not able to resolve the concern without revealing your identity you will be informed of this and the reasons why.

5. Anonymous disclosures

This policy encourages you to put your name to your disclosure whenever possible.

Concerns expressed anonymously are much less powerful, but will be considered at the discretion of the Monitoring Officer.

In exercising this discretion, the factors to be taken into account would include:

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

Remember that if you do not tell us who you are, it will be much more difficult for us to look into the matter, or to protect your position, or to give you feedback. Accordingly, this policy is better suited to concerns not raised anonymously.

If the Monitoring Officer decides not to pursue an anonymous disclosure he/she will record the reasons for this decision in writing. These decisions will be included in the Monitoring Officer's annual report to Corporate Governance Committee referred to in section 10 below.

6. Untrue disclosures

If you make a disclosure 'in the public interest', but it is not confirmed by the investigation, no action will be taken against you. If, however, you make a disclosure frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

The question of whether or not a disclosure has been made frivolously, maliciously or for personal gain will be determined by the outcome of the investigation into your concern.

7. How to raise a concern

The council wishes to ensure that people who have concerns that should be raised under this policy do so. The paragraphs below give examples of how to raise a concern, but are not compulsory. You should raise your concern with whomever you feel most comfortable raising it.

As a first step, we hope you will feel able to raise concerns with your immediate manager.

In some cases it may be more appropriate to raise concerns with someone more senior or directly with one of the internal contacts listed at the end of this document.

This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that your management is involved you should approach the Chief Executive, the Monitoring Officer, the Chief Finance and Performance Officer or the Head of Internal Audit.

If any information raises concern about harm or potential harm to either children or adults at risk, then these concerns should be reported immediately to the appropriate team. For concerns relating to children contact the Children's Gateway (01824 712200). For concerns relating to adults at risk, contact or the Single Point of Access Team (0300 456 1000).

If you have serious concerns which you feel unable for whatever reason to raise within the council, you should raise the matter with one of the external contact points referred to at the end of this document.

Concerns may be expressed verbally or in writing. If you wish to make a written report you are invited to use the following format:

- The background and history of the concern (giving relevant dates)
- The reason why you are particularly concerned about the situation

If you prefer you may use the Whistleblowing policy report form attached to this document and give this to the person with whom you raise your concern.

The earlier you express your concern the easier it is to take action.

Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern. Advice and guidance on how matters of concern may be pursued can be obtained either from your Head of Service, or the Head of Legal and Democratic Services (Monitoring Officer).

You may invite your trade union professional association representative, a friend, or someone from an advocacy or translation service to be present during any meetings or interviews in connection with the concerns you have raised.

8. How the council will respond

The council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.

The person to whom you report your concerns under this policy must, in turn, report them to the Monitoring Officer within three working days.

The Monitoring Officer will liaise with the Head of Internal Audit to consider the most appropriate method of investigating the matters of concern raised by you. Please do not attempt to investigate these matters yourself once they have been raised as this could compromise any subsequent investigation into your concern.

In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the council will have in mind is the public interest. Concerns or allegations which fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.

Where appropriate, the matters raised may:

- be investigated internally by management, internal audit, or through the disciplinary process
- be referred to the Police
- be referred to the External Auditor
- form the subject of an independent inquiry

Within ten working days of a concern being raised, you will receive a letter (or information in your preferred format):

- acknowledging that the concern has been received
- indicating how we propose to deal with the matter
- giving an estimate of how long it will take to provide a final response

- telling you whether any initial enquiries have been made;
- supplying you with information on staff support mechanisms, and
- telling you whether further investigations will take place, and if not, why not.

The amount of contact between the officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, further information will be sought from you.

Where any meeting is arranged, off-site if you so wish, you can be accompanied by a Trade Union representative or workplace colleague.

The council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings, the council will advise you about the procedure and provide you with the necessary support.

The council accepts that you need to be assured that the matter has been properly addressed. You will, subject to legal constraints, receive information about the outcome of any investigations.

Whilst we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly, properly and without undue delay. By using this policy, you will help us to achieve this.

9. Independent advice

If you are still unsure whether or how to raise a concern or you want confidential advice, you can contact the independent charity Public Concern at Work on 020 7404 6609 or at www.pcaw.co.uk

Their Lawyers can give you free confidential advice on how to raise a concern about serious malpractice at work.

You may prefer to speak to your Trade Union to seek advice about how to raise a concern under this policy. The contact details for the trade unions recognised by the council for collective bargaining purposes are contained in the External contact list attached.

10. Maintenance and operation of policy

- The Monitoring Officer (Head of Legal and Democratic Services) has overall responsibility for the maintenance and operation of this policy.
- The Monitoring Officer maintains a record of concerns raised and the outcomes of investigations in a form which does not endanger your confidentiality.
- The person who receives your concerns must report them to the Monitoring Officer in accordance section 8 above.
- The person who receives the report into the investigation of your concerns must report the outcomes to the Monitoring Officer.

- The Monitoring Officer will pursue the outcomes of the investigation if they are not reported promptly in accordance with section 10 above.
- The Monitoring Officer will review all concerns and outcomes on a periodic basis to ensure that they have all been investigated in accordance with this policy.
- The Monitoring Officer will report, in a format that does not compromise confidentiality, at least once a year to the Corporate Governance Committee on the operation of this policy, the outcome of the reviews conducted under section 10 above and any changes in practice introduced as a result of a concern raised under this policy.

11. How the matter will be taken further

This policy is intended to provide you with an avenue within the council to raise concerns. The council hopes you will be satisfied with any action taken. If you are not and if you feel it is right to take the matter outside the council, further possible contact points are given in the External Contact List attached to this document.

If you do take the matter outside the council, you should ensure that you do not disclose information which should properly remain confidential. You will need to confirm this with the person or organisation you decide to contact.

12. Additional information

Grievance raised during other proceedings e.g. disciplinary, redundancy etc

There may be occasions where an employee, who is subject to another procedure, raises a grievance. The way in which this is handled will depend on the facts of each case. An assessment of the facts should take into account how the grievance is related (if at all) to the matter in hand.

Whether or not the grievance and the ongoing case are associated will be determined by the appointed Deciding Officer of the case.

Where the grievance and the other case are related

In exceptional circumstances it may be appropriate to temporarily hold the ongoing proceedings while the grievance matter is investigated further. The aim here is to establish whether the complaint has a material impact on the case and eventual outcome.

Be mindful that other ongoing proceedings should not be delayed unnecessarily.

Where the grievance and the other case are not considered to be related

In such cases it is advised that both cases are dealt with separately and that they run concurrently. The proceedings of the case in question may not be impacted by the grievance raised and should therefore be able to continue as planned.

13. Internal contact list

Advice or guidance about how to pursue matters of concern may be obtained from any of the people named below:

- Chief Executive
- Corporate Director (Economic and Community Ambition)
- Corporate Director (Communities)
- Monitoring Officer, Head of Legal and Democratic Services
- Deputy Monitoring Officer
- Head of Finance and Assets
- Head of Internal Audit
- Chair of Corporate Governance Committee
- Any Head of Service or any local trade union official

Concerns about harm or potential harm to either children or adults at risk should be reported immediately to:

- Children's and Families Gateway (Children) – 01824 712200
- Single Point of Access (Adults) - 0300 456 1000
or
- Emergency Duty Team (out of hours) - Tel. No. 0845 0533116

14. External contact list

If you have used the appropriate internal procedures and are not satisfied with any action taken in relation to your concerns and if you feel it is right to take the matter outside the Council, further possible contact points are given below. It is stressed that the list below is not exhaustive and you are free to contact any organisation which you feel will be able to deal properly with your concerns.

Organisation	Contact Details
Public Services Ombudsman for Wales	0300 790 0203
Wales Audit Office	02920 320500
North Wales Police	101 or 0300 330 0101
Professional Bodies	
The Chartered Institute of Public Finance and Accountancy	020 7543 5600

Regulatory Organisations	
Environment Agency	03708 506 506
Health and Safety Executive	0300 003 1747
Care and Social Services Inspectorate for Wales	0300 7900 126
Equality and Human Rights Commission	0808 800 0082
Citizens Advice Bureau	08444 772020
Recognised Trade Unions	
UNITE	01352 733611
UNISON	0800 0 857 857
GMB	01492 535313

If you are unsure whether or how to use this procedure or want independent advice, you may contact the independent charity Public Concern at Work on 020 7404 6609 or at www.pcaw.co.uk. Their lawyers can give you free confidential advice at any stage on how to raise a concern about serious malpractice at work.

Whistleblowing Disclosure Pro-forma

The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees and others that we deal with who have concerns to come forward and voice those concerns. It is recognised that many cases will have to proceed on a confidential basis. If you wish to make a report please use this pro-forma.

You are encouraged to put your name to this report. Concerns expressed anonymously are much less powerful but they will be considered so far as is possible by the council. If you feel able to, please give your name and details below:

Name:	
Address:	
Tel No:	Job Title:
Email Address:	Department:
Line Manager:	Workplace:
Nature of disclosure: Please give the background and history of the concern (please give as much information as you can dates, times of incidents, names of others who may have information, names of people involved. Please continue on a separate sheet if necessary)	
The reasons why you are particularly concerned about the situation	
Have you raised this informally with your line manager?	Yes/No (delete as necessary)
If No, why not?	
If yes, what action was taken?	
How would you like this issue to be resolved?	
Are you currently absent from work?	Yes/No (delete as necessary)
Signature:	Date:

5.5 Members' Self Regulatory Protocol

General Principles

- To promote high standards of conduct and behaviour as a means of strengthening respect and trust among members. It is NOT intended to replace the Code of Conduct, rather it is intended to sit alongside the Code, enabling behaviour which may not reach the threshold to become a breach to be dealt with; and that which justifies a formal complaint to the Ombudsman.
- The protocol does not replace the Member-Officer Relations Protocol set out in the Council's Constitution.
- Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
- Referral to external regulators will become a last resort subject to Members' obligations under the Code of Conduct.
- Members will avoid personal confrontation in any public forum, especially full Council and through the media
- These commitments will not stifle legitimate political debate or scrutiny
- Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members
- Group Leaders individually and collectively will work to ensure compliance with this protocol
- Members will commit to training and development in support of this protocol

Working to avoid problems

To minimise the number of instances of alleged breaches all Group Leaders have committed to :-

- **A Member Learning and Development Strategy** – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Learning and Development Strategy identifies and responds to the needs of members.
- **Attending relevant Member training events** - in particular those relating to the Code of Conduct or probity courses within the scope of their role.

- **WLGA Charter** – The Council has been awarded the WLGA’s Charter for Member Support and Development and supports its objectives. Group Leaders will seek to secure individual member commitment to training and keep this under review.

Role of Group Leaders

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant’s own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be “document heavy”. The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches and the matter will be referred to the Public Services Ombudsman for Wales.

Prior to considering any sanction, or training, the relevant Group Leader may consult with a member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.

At the next available Group Leaders’ meeting any issue of discipline which has been referred to a Group Leader will be discussed with the Group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

Where the complaint relates to the Group Leader themselves, the Chair will be requested to consider the complaint, just as with unaffiliated members.

Unaffiliated Members

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation. In the case of persistent breaches the matter shall be referred to the Ombudsman by the Monitoring Officer or in his/her absence the Deputy Monitoring Officer.

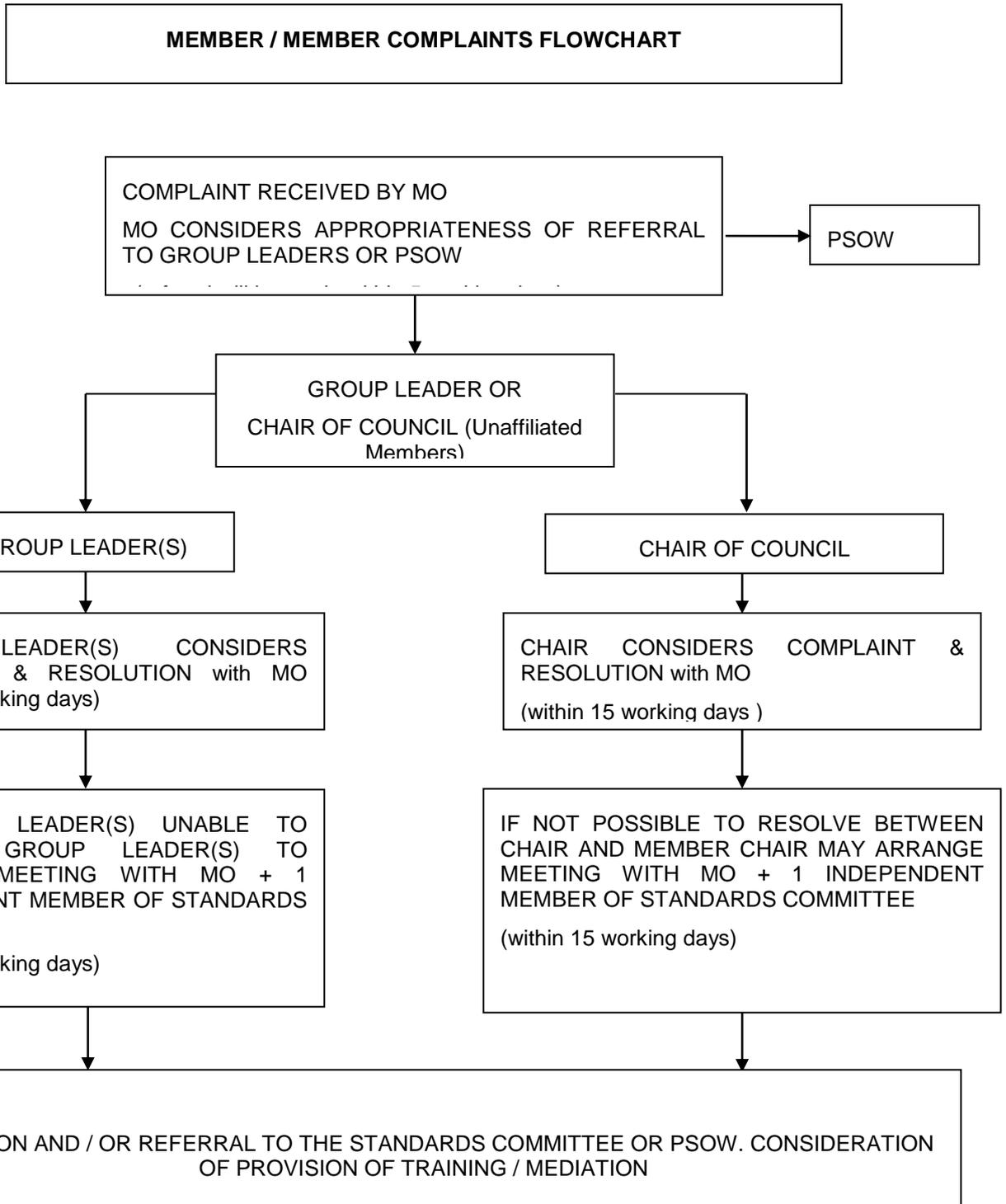
Persistent Breaches

In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Chief Executive Officer and the Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches.

Standards Committee

- Owing to any potential issues of conflict, any involvement will include no more than one independent member of the Standards Committee. This will be subject to a rotational basis and in accordance with availability.
- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.
- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.

This protocol will be reviewed by May 2013.



PERSISTENT BREACHES, GROUP LEADERS WILL MEET WITH CHIEF EXECUTIVE AND MONITORING OFFICER TO AGREE WAY FORWARD. CONSIDERATION WILL BE GIVEN TO JOINT REFERENCES TO THE OMBUDSMAN BY GROUP LEADERS FOR PERSISTENT, LOW LEVEL BREACHES.

MO = Monitoring Officer

PSOW = Public Services Ombudsman for Wales

5.6 Protocol for liaison with Members

The Council accepts that members need to be aware of significant developments within their local electoral divisions if they are to be effective in their roles as spokespersons on behalf of their local communities.

In consequence, senior officers as well as the Leader, Portfolio Holders, and Chairs and Vice Chairs are expected to keep local members apprised of significant matters that are not the subject of a report to Council, Cabinet or Committee, but which relate specifically to the local member's electoral division or which may have a material impact in the area of which the electoral division forms a part.

'Significant matters' include matters or items that are of concern to the general public and local electoral division member(s).

In particular, the local member(s) should, where appropriate, be invited to relevant meetings. If local members do not attend such meeting for whatever reason, they should be advised by the convenor of the meeting (provided the meeting is convened by the Council or its officers) of any significant outcome. Similarly, Local Members will also be informed of significant matters raised by the Town or Community Council within their area.

Before Chief Officers exercise delegated powers under the Scheme of Delegation they shall consider whether their decision is likely to have a significant impact upon the Council's profile or have significant financial implications, if it is there will be a presumption in favour of referring the matter to Members.

In any event when exercising delegated powers each Chief Officer will, where appropriate, keep the Cabinet fully informed, in particular the relevant Portfolio Holder, have regard to any comments from the relevant Scrutiny Committee and ensure that they consult with/inform the Local Member in advance.

5.7 Protocol on Members' access to information.

1 Introduction

The Access to Information Rules contained in Part 4 of the Council's Constitution set out the rules relating to the public's access to information in respect of all meetings of the Council, Cabinet, Committees or Sub Committees.

This protocol seeks to provide guidance to members on their rights to access information and should be read in conjunction with the Access to Information Rules and the Protocol for Member/Officer relations.

2 Principles

There is a presumption in favour of openness and allowing members to have access to information wherever possible. Refusing a member's request for information or to have sight of documents will be an exception.

3 The Legal Position – Statutory Provisions

Members will have all of the statutory rights available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2005, subject to the exemptions contained within that legislation.

Members have a right to inspect the accounts of the Council under Section 228 Local Government Act 1972.

Members have the right to access documents forming part of the formal business of the Council, including minutes, agendas, reports and background papers, subject to certain restrictions for confidential or exempt information by virtue of Section 100F Local Government Act 1972 as amended.

The Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2007 provide similar rights in relation to the documents forming part of the formal business of the Cabinet and Part III of the Regulations gives an extended right to members of overview and scrutiny committees relating to documents relevant to the work of the committee.

4 The Legal Position – The Common Law Position

The common law right of members is broader than their statutory rights. The common law principle is that any member has a prima facie right to inspect Council documents so far as his/her access to the documents is reasonably necessary to enable the member properly to perform his/her duties as a member of the Council. This is commonly referred to as the "need to know" principle.

The exercise of this right depends upon the member's ability to demonstrate a "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. Contents of personal files e.g. social service assessments, adoption and child protection papers, SEN statements, personnel files will definitely not be available for access under a right to know except in limited cases e.g. a Member who sits on adoption and fostering panel.

Elected members on the Council have three roles:

- They represent their constituencies
- They act as part of the organisation, namely the Council and its committees
- They form part of a political group or party

Usually, a member will be able to prove that he/she “needs to know” something if the information involves the member’s official duties in the first two roles. It is less likely that a member can prove a “need to know” in relation to the activities of a political group or party. In addition, some members have special responsibilities as a portfolio leader or chair of a scrutiny committee. They will usually be able to prove a “need to know” in relation to issues within their portfolio/committee’s work.

Sometimes it will be possible to reveal the information that the member seeks by deleting parts of it (e.g. personal information) and showing the rest. Wherever that is practically possible, the modified information should be released to the member rather than refuse access.

5 Members’ Use of Information

Members who receive information from the Council have a responsibility to deal with the information in a responsible manner. The Code of Conduct states as follows:

"Members must not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so."

Unauthorised disclosure of information would be a breach of the Code of Conduct

In addition to what is noted in the Code of Conduct, a member should not deal with any information that was given to him/her, which is not public information, apart from for the specific purpose of fulfilling his/her work as a member.

Members who receive information from the Council will also be responsible for the security of that information. This means its physical security (i.e. keeping documents that are not for the public in a safe place), as well as not revealing any of the information to anyone who does not have the right to that information.

Members who receive information electronically are required to adhere to the Council’s Information Technology Security Policy.

When dealing with personal information about an individual, the Council, its staff and members are subject to the Data Protection Act 1998, and some further rules are relevant. The Council’s Data Protection Policy and the Data Protection guidelines should be adhered to.

Personal information should never be used for any purpose apart from the specific purpose for which the information was given in the first place.

Now and again, a member will ask for information on behalf of his/her electors. On such occasions, in order to avoid any confusion, members are expected to obtain the elector's written consent for information about him/her to be revealed to the member.

6 Procedure

Members can approach any department to request any information, explanation and advice as they may reasonably need to assist them in discharging their role as Members. A request for information may be made on behalf of a constituent, but any request for personal information should be authorised by that constituent.

Approaches should normally be directed to the Head of Service or another Senior Officer of the department.

If the case does not fall into the category where there is reason to refuse, access will be granted by the service's officers. If the officer who is dealing with the request has any doubts as regards whether or not information should be revealed, it should be referred to the Head of Service for decision.

The crucial question is the determination of the "need to know". This question must initially be determined by the particular Head of Service whose department holds the document in question (with advice from the Head of Legal and Democratic Services).

In the event of a dispute, the question falls to be determined by the Head of Legal and Democratic Services and on appeal to the Chief Executive.

7 Further Information

Advice regarding a member's right to access information and the duties in dealing with information can be obtained from the Head of Legal and Democratic services.

Further information regarding the rights and duties of members in relation to personal information can be obtained from the Information Commissioner www.informationcommissioner.gov.uk : 01625 545700

5.8 CODE OF BEST PRACTICE FOR COUNCILLORS AND OFFICERS DEALING WITH PLANNING MATTERS

NB THIS PROTOCOL IS TO BE REPLACED WITH THE LATEST VERSION BEFORE ADOPTION BY THE FULL COUNCIL OF THE CONSTITUTION.

The revised Code of Best Practice was approved by the Full Council in April 2005 and came into effect on 1 June 2005.

Reference to “Members” or “Councillors” shall mean all members of the County Council except where specified.

1. DEVELOPMENT PLAN PROPOSALS AND PLANNING APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS, AND COUNCIL DEVELOPMENT PROPOSALS

- 1.1** Members submitting their own proposals or acting as agents for individuals or companies pursuing a planning matter or where a proposal relates to land which they own will take no part in the decision-making process for that proposal.
- 1.2** Planning applications submitted by or on land owned by members or close relatives* will be determined by the Planning Committee. (*Close relative is defined as spouses/partners, parents, children and brothers and sisters.)
- 1.3** Planning applications submitted by or on land owned by Planning Staff, Heads of Service, Directors and Chief Executive, or close relatives* of such officers, will not be dealt with by officers under delegated powers. Such proposals will be reported to the Planning Committee. (*Close relative is defined as spouses/partners, parents, children and brothers and sisters.)
- 1.4** The Monitoring Officer will be informed of all applications submitted by, or on land owned by members and Planning Staff, Heads of Service, Directors and Chief Executive of the council, or close relatives of such officers.
- 1.5** Proposals for the Council's own development except where on Council owned land related to the functions of the Council will be determined by the Planning Committee (or Council in the case of significant departures) and treated in the same way as those by private developers.
- 1.6** Proposals for a Council's own development will be treated in the same way as those of private developers in accordance with DOE Circular 19/92.

2. LOBBYING OF AND BY COUNCILLORS

- 2.1** Members of the Planning Committee should avoid taking a firm view on a planning matter in advance of the Planning Committee meeting. Members of the Planning Committee may form a view or opinion, but should not openly declare which way they intend to vote in advance of the Planning Committee

meeting. Members of the Planning Committee should avoid campaigning actively, or going public, in support of a particular outcome. Great care should be taken when calling in an application to be determined by the Planning Committee under Part 2 A (iv) of the delegation scheme. Members of the Planning Committee will make the final decision at the Planning Committee after receiving/hearing all the evidence and arguments on both sides and after duly considering the officer's report. Members not on the Planning Committee will be allowed to address the Planning Committee to convey the views of their constituents on a planning matter with the agreement of the Chair, but like Members of the Planning Committee, should avoid taking a firm view before hearing all the evidence

- 2.2 Paragraph 2.1 above is applicable to all Members where applications are determined by Full Council.
- 2.3 Members will not put pressure on officers for a particular recommendation, nor seek to improperly influence a decision likely to compromise their impartiality.
- 2.4 Members who are unsure whether an interest should be declared will seek the advice of the Council's Monitoring Officer.
- 2.5 Members should advise the Ward Councillor as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside their own Ward.
- 2.6 "Councillors should in general, avoid organising support for or against a planning application and to avoid lobbying other Councillors". (LGA Circular 98/02 paragraph 8.10)

COMMENT

Lobbying is a part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their elected ward member or to a member of the Committee. The Nolan Committee accepts that it is essential for the proper operation of the planning system that local concerns are adequately ventilated. However, lobbying can lead to the impartiality and integrity of a member being called into question. When being lobbied, members should take care about expressing an opinion which may be taken as indicating that they have already made their mind up on the issues before they have been exposed to all the evidence and arguments. Councillors should take account of private views and those of wider public interest. They should not favour any person, company, group or locality, nor put themselves in a position where they appear to do so (LGA Circular 98/02, para 5.4). Members should be aware that the planning decision process involves rules of procedure, rights of appeal and an expectation that people will act reasonably and fairly, with the added possibility that an aggrieved party may seek Judicial Review of the way the decision was made, or complain to The Ombudsman on grounds of maladministration. Members of the Planning Committee should not openly declare which way they intend to vote in advance of the planning meeting and of hearing evidence and arguments on both sides. If the member of the Planning Committee responds to lobbying by deciding to go public in support of a particular outcome the proper course of action for such a member would be to make an open declaration and not vote.

- 2.7 Members, who are also Town/Community Councillors, (or members of other bodies involved in the consultation process on planning applications) must not openly declare or take a firm view on a planning matter in advance of the Planning Committee meeting. However, Members may still participate in Town/Community Council meetings or other meetings discussing planning matters and provide comment, subject to these provisos.

3. PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS AND NEGOTIATIONS

- 3.1 Members should, wherever possible, refer requests for advice to officers.
- 3.2 Members and officers involved in pre-application and/or enforcement related discussions with potential applicants should make clear at the outset that the advice is not binding on the Council. Members will state that any comments are provisional.
- 3.3 Advice should be consistent and based upon the development plan and material planning considerations.
- 3.4 In pre-application and enforcement discussions, Members and officers will keep notes where they consider a meeting or telephone call is likely to be controversial.
- 3.5 Application and enforcement related negotiations will be conducted by officers. Officers will brief members when appropriate.

4. OFFICER REPORTS TO PLANNING COMMITTEE

- 4.1 Officers will produce written reports on all planning applications reported to the Planning Committee.
- 4.2 Reports will cover, among other things:
 - description of the planning application
 - substance of objections
 - views of case officers and those consulted
 - relevant development plan policies
 - site or related history
 - other material planning considerations
 - outcome of environmental statement (where one has been submitted)
 - recommendation
 - the heads of agreement of any recommended Section 106 obligation
- 4.3 Officers will provide written reports on all enforcement matters reported to the Planning Committee. On occasions enforcement reports will need to be presented under Part 2 of the agenda when public and press need to be excluded because of the content of the item.
- 4.4 Reports will be updated by an addendum report at the Planning Committee meeting.
- 4.5 If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify this will be clearly stated.
- 4.6 Oral reports or written reports handed out at Committee should only take place in exceptional circumstances.

5. LATE CORRESPONDENCE

- 5.1 The substance of correspondence received by officers after the committee report has been completed up will be reported in an addendum report to Members of the Planning Committee at the Committee meeting, provided the correspondence is received before 5pm on the day before the Committee starts. If correspondence is received after this deadline, including at Committee, only the receipt of the item will be recorded but a copy will be made available at Committee.
- 5.2 Members of the Planning Committee or other Members who read out at Committee or refer to letters received from their electorate/applicant/objector should, as a matter of courtesy, provide an advance copy to officers.

6. PUBLIC SPEAKING AT COMMITTEE

- 6.1 Public speaking by applicants, supporters and objectors on planning applications, is allowed at Planning Committee meetings. The details are included in the protocol for public speaking – Have Your Say About A Planning Application.

7. SITE VISITS BY THE SITE INSPECTION PANEL

- 7.1 Site inspection panels cause delay and additional costs and will only be used in exceptional cases where the expected benefit is substantial.
- 7.2 Site inspection panels will be carefully arranged and their composition, format and conduct will follow the 'Guidelines for Site Inspection Panels' approved by the Planning Committee on the 25 May 2005.
- 7.3 Members proposing Site Inspection Panels will state clearly why an Inspection Panel should be appointed and how the benefit would be substantial. The reasons should be planning reasons related to the development proposed or enforcement issues reported and should clearly state the physical features on sites or surroundings which requires detailed inspection.
- 7.4 A site visit is only likely to be necessary if (1) the impact of the proposed or unauthorised development is difficult to visualise from the plans and any supporting material including photographs; (2) the proposal is particularly contentious.
- 7.5 A record will be kept of the reason(s) why a Site Inspection Panel is called.

8. PLANNING COMMITTEE DECISIONS

- 8.1 The Chair of the Planning Committee will make it clear for the benefit of members and the public the decision of the Committee following the vote.
- 8.2 Where Members of the Planning Committee grant or refuse a planning application against officer recommendation, Members will provide the following particulars at the Planning Committee meeting and the particulars minuted.

- The terms of conditions or heads of the Section 106 Agreement to be attached to the grant.
- The reason(s) for granting or refusing the planning application.
- The reason(s) for not accepting the recommendation.

8.3 Where members of the Planning Committee refuse planning permission against officer recommendation, without justified planning reasons, the Head of Planning and Public Protection in consultation with the Monitoring Officer, may report the application back to the next planning committee or Full Council meeting with a covering report dealing with the suitability of the reasons for refusal.

8.4 Where Members of the Planning Committee decide to take/not to take enforcement action against officer recommendation, Members of the Planning Committee will provide the following particulars at the Planning Committee meeting and the particulars minuted.

- The reason(s) why it is / is not expedient to take enforcement action.
- Where enforcement action is required, the steps to be taken to remedy the breach and the period for compliance.
- Where enforcement action is not required, give instruction to officers as to what other (if any) action is required.

COMMENT

As part of the democratic process, Members of the Planning Committee will occasionally make decisions against officer recommendation. Officer reports to the Planning Committee contain the planning justification for the recommendation. It is important when Members of the Planning Committee make decisions contrary to the recommendation that the reason(s) for the decision is/are full, clear and carefully minuted.

9. APPEALS

9.1 Officers will organise and generally appear as witnesses at public inquiry or informal hearing on behalf of the Council.

9.2 Officers giving evidence as witness will present the best possible case on behalf of the Council while complying with the RTPI Code of Professional Conduct.

9.3 Members of the Planning Committee will be required to give evidence at inquiry or informal hearing in appeals where an officer recommendation has been reversed. The Planning Committee shall appoint representatives to give evidence at the hearing/inquiry (normally the proposer and the seconder of the proposal).

9.4 In exceptional cases it may be necessary to use Planning Consultants, rather than officers, to present the Council's case. Local Member(s) approval will be sought in such cases.

9.5 Members should not appear as witness for the appellant or give evidence at appeals on behalf of the appellant. However, there may be occasions where they wish to support an appellant in their capacity as local ward members and in doing so, they should declare that they are expressing their own personal opinion and acting in this capacity alone and not as a member representing the County Council or the Planning Committee.

- 9.6** Local members will receive, for comment, a copy of the Council's proposed Rule 6 statement in Inquiry cases.

COMMENT

The professional responsibility of a Chartered Town Planner as a witness at a local inquiry or informal hearing are governed by The RTPI Code of Professional Conduct which requires member officers to conduct themselves in such a manner as to uphold the reputation of the RTPI and of the planning profession. In particular, it requires that officers do not undertake any duties or carry out any instructions of a public employee or other employee, or a client or supervisor which involves making statements purporting to be their own, but which are contrary to their bona fide professional opinion. Conflicts of interests are likely to occur at an inquiry arising from a decision taken by the Council contrary to a professional recommendation. The advice of the RTPI (PAN4 "Chartered Town Planners at Inquiries" and PAN9 "Development Control - Handling Appeals") is that officers as witness at an inquiry or hearing are there to give evidence and opinion. This must be true evidence, true to the best of his or her understanding and knowledge. The evidence can be the authority's stated opinion and local opinion. While officers should not volunteer giving information that the case made is at variance with his/her own professional opinion if challenged the officer must give an opinion based on the report to Committee. The RTPI considers that where there are clear differences of opinion which would be detrimental to the Council's case, the planning case officer is unlikely to be the best witness and the Council must accept the consequences of such a revelation. The better alternative according to the RTPI is to call someone else, who is in a position to speak with conviction, e.g. member of the Planning Committee or consultant(s) employed by the Council. Members of the Planning Committee will, therefore, be required to appear/present case on behalf of the Council.

10. TRAINING AND REVIEW OF DECISIONS

- 10.1** Members of the Planning Committee will be offered training on the planning process when first serving on the planning committee.
- 10.2** All members of the Planning Committee will undertake training on planning issues and are required to attend a minimum of 2 no. training events per annum to allow continued membership of the Planning Committee. Officers will arrange 4 no. training events per annum.
- 10.3** Members of the Planning Committee will be updated regularly on changes to legislation or procedures.
- 10.4** Officers will arrange for members of the Planning Committee to visit a sample of implemented planning permissions and enforcement sites to assess the quality of decisions. These will include examples from a broad range of categories, including delegated decisions. The results will be used to review planning policy guidelines or practices.

11. COMPLAINTS AND RECORD KEEPING

- 11.1** Officers will operate the Council's complaints system.
- 11.2** All reports of alleged unauthorised development and enquiries will be recorded.

11.3 All planning applications, including delegated applications, enforcement files, building regulations and development plan files, will contain a written account of events throughout its life.

12. INFORMATION

12.1 Planning and Public Protection will comply with the Freedom of Information Act and the Data Protection Act.

12.2 Members will receive weekly lists of planning applications received, to include material changes involving revised plans.

12.3 Local ward member(s) will receive notification of enforcement cases to be reported to Committee and enforcement notices served.

12.4 Local ward member(s) will receive notification of appeals lodged and decisions.

12.5 Members of the Planning Committee will receive regular enforcement and appeal progress reports.

5.9 Protocol and Guidance for Elected Members appointed to Outside Bodies

This guide is intended to give a general overview of issues that affect Elected Members who are involved in outside bodies, whether or not their membership arises from an appointment by the Council. Whilst it is not possible to provide a comprehensive guide to all possible situations, the Head of Legal and Democratic Services and his staff will be able to offer specific advice where necessary.

In some cases, the persons appointed will be the Council representative in that they will be expected to bring knowledge and expertise of the Council Services and to represent the Council's views at meetings. However, there are a number of cases, for example if you are a trustee or company director, where you must look after that particular bodies' interests and to further their aims, not the Councils.

In all cases Members should:-

- Operate within the rules and/or constitution of the outside body
- Report back, where appropriate, to the Council or relevant committee
- Behave ethically and follow the Council's code of conduct where it applies
- Take an active and informed role in the affairs of the outside body

There are a number of types of outside bodies in which Councillors may become involved, either independently or, as a representative appointed by the Council. Some of the most common examples are

- A Public Authority
- Charitable trust
- Company limited by shares
- Company limited by guarantee
- Unincorporated association

The structure for each type of organisation, the management and the rules which govern them vary considerably. The following table shows how each type may be set up and managed.

Legal Status of the organisation	Governing Document	Management	Possible member involvement	Common types of organisation
A public authority	Constitution usually based on legislation	Authority	Member	National Parks Authority Fire & Rescue Authority
Charitable Trust	Trust Deed	Trustee meetings	Trustee	Playing field trusts
Company limited by guarantee	Memorandum and Articles	a) Board of Directors b) Meetings of members	Director	Charitable organisations, stock transfer housing companies, community associations
Company limited by shares	Memorandum and Articles	a) Board of Directors b) Meetings of shareholders	Director	Commercial organisations (e.g. joint ventures or companies providing contractual services)
Unincorporated association	Constitution	Management Committee Members meeting	Management Committee member	Community associations

In carrying out their duties as a Trustee, Director or Management Committee Member, Councillors must take decisions without being influenced by the fact that they are a Councillor. Their primary duty in acting as a representative making decisions for the outside body is to make those decisions in the interests of the organisation. However, Councillors should always ensure that their fellow directors/trustees are aware of the fact that they are Councillors.

Main Duties

The following are the main legal duties of directors of companies. Most of these obligations also apply to trustees and members of committees and associations.

Acting in Good Faith

A director's primary duty is to act in good faith, in the best interests of the organisation and its objects. All directors owe a fiduciary duty to their company, which means they owe loyalty to the company and a duty of care to act in the best interests of the company, having regard to the interests of the members or shareholders of the company, the company's employees and creditors.

Care, Diligence and Skill

Directors must exercise the same degree of care which ordinary people might expect to take on their own behalf, although they need exercise no greater skill than may reasonably be expected from persons of similar knowledge and experience.

Although directors are not bound to attend all meetings of directors, attendance should be as frequent as possible and directors should ensure that they are reasonably informed at all times. Directors should not take a passing, or passive interest in the company's financial and other affairs - they are obliged to take an active and enquiring interest in the company.

Certain duties must be performed by officials, and a Board of Directors who have made sensible arrangements authorising others to act on their behalf are entitled to trust those officials to perform their duties honestly. From time to time directors should take steps to ensure that delegated responsibilities are properly performed.

Honesty

Directors must exercise their powers for proper purposes only. They must not allow personal interests to conflict with those of the organisation.

Where a director is directly or indirectly interested in a contract or a proposed contract with the organisation, the director is legally bound by the Companies Acts to declare the nature of the interest at a meeting of the Board of Directors.

All company property in the hands of the directors or under their control must be used for the purpose of the organisation. It is improper for any director to make profit out of a transaction of the organisation or to accept financial inducements.

Not to Exceed Powers

Directors are under a duty to see that they do not act beyond the powers of the organisation. They must ensure that they do not act beyond the powers conferred on them by the Memorandum of Association or constitution. They must not act illegally.

Financial Responsibility

Directors are under a duty to ensure that the company operates within the limits of its financial resources, actual and expected. Despite the limited liability of a company, directors can incur **personal responsibility** for its debts and obligations in certain circumstances.

Directors can also be held **personally liable** if they have allowed a company to operate, or continue to operate, where there was no reasonable prospect that it could and would pay its debts, and these are left unpaid after the liquidation of the company.

It follows that Directors must be extremely scrupulous in the attention they pay to their company's present and future liquidity, and ensuring that their concerns and actions are minuted.

Compliance with the Companies Acts

Directors also have a duty to ensure that the company complies with the requirements of the Companies Acts, although they will normally look to the Company Secretary to ensure compliance.

An organisation's constitution generally says little about how the Board of Directors should run the organisation. In general, a company's Memorandum and Articles of Association will state the objectives of the organisation in the broadest terms and will provide rules for the appointment and periodic re-election of the Board of Directors. The actual responsibility for the running of the organisation is in the hands of the Board and Directors must take appropriate steps to ensure good management of their companies.

Trustees

If you are appointed as a trustee of a charity then the duties of trustees are generally the same as for a director but in addition you must make sure the trust acts in accordance with the aims and objectives of the trust and you should make sure that you have a clear understanding of what these are (there is normally a trust deed which sets these out).

Liability Issues

In cases where Councillors act in a decision-making capacity specifically in connection with the business of the outside organisation as opposed to merely exercising their role as a representative of the Council, then they will probably be regarded as serving the particular body rather than the Council. In these circumstances, the Council and its insurers may not have agreed to provide an indemnity against claims brought against them personally. Where there is any possibility of legal liability therefore, the outside organisation should provide the appropriate insurance cover for its directors, company officers, committee members etc.

The Council's insurance cover will extend to Councillors assisting outside organisations as advisers or observers, either facilitating exchanges of views or information as an extension of their Council duties or otherwise representing the Council, but the Council's insurance cover does not extend to indemnify Councillors and officials who serve in an executive capacity on an outside body. Councillors and Officers should be clear that if they serve on an outside body as decision makers, they do so in a personal capacity. Outside bodies on which Councillors serve, therefore should provide their own insurance cover.

All those organisations seeking Denbighshire County Council to make appointments will be asked to provide evidence of the level of indemnity provided for its members. Upon commencing their duties on behalf of the organisation, each Councillor should ask the organisation to provide confirmation of the validity of their indemnity arrangements.

Conflicts of Interests

Where Councillors serve as members or directors for outside bodies, it is inevitable that conflicts will arise, from time to time, between the duties they owe to the outside body and the duties they owe to the Council. Conflicting interests should be declared on every occasion. It will be a matter for the individual judgement of the Councillor as to whether he or she participates in discussion of, and votes on, the particular item of business, whether at the meeting of the outside body or a Council committee.

Decisions will be required to be made in accordance with the Code of Conduct and the rules applicable to the outside body and, where appropriate, advice should be sought and obtained from appropriate Council officials.

Provided Members are sensitive to the possibility of conflict of interest, there is no reason why they should not express a 'Council' view when acting on an outside body. However, they should make clear that they do not represent the Council on the outside body, and so cannot bind the Council by what they say. In many cases Members will be able to act as valuable links between outside bodies and the Council.

Members' Code of Conduct

When outside bodies consider issues related to your Council or where you may have a personal interest in relation to the body's activities, these need to be declared in line with the rules of the outside body and the Members Code of Conduct. The specific rules adopted by each body will vary and therefore you should ask for advice and guidance from the secretary of the organisation and/or the Monitoring Officer, as appropriate.

When the Council considers issues relating to or affecting the outside body to which you have been appointed as Council representative you must declare your personal interest in the matter in accordance with the Members' Code of Conduct. If this is your only interest then it will not be considered a prejudicial interest unless the matter relates to an approval, consent, licence, permission or registration. You will also need to ensure details of your appointment are included on the Register of interests kept by the Monitoring Officer.

Confidential information must be treated with care and if you have any doubt over the status of any information then you should keep that confidential and check with the relevant officer, whether or not it is something which is already in the public domain or which may be disclosed.

The legal position is that someone who has received information in confidence is not allowed to take improper advantage of it. Deliberate leaking of confidential information will also be a breach of the Members Code of Conduct.

Where you act as a representative of the Council on an outside body, you must comply with the Code of Conduct of that body, if it has one. If it does not, you must comply with the Members' Code of Conduct unless observance of the Code would conflict with any other obligations (i.e. the duty to act in the best interests of the outside body).

Under the Code you must not:

- disclose information given to you in confidence by anyone, or information acquired which you believe is of a confidential nature, without the consent of a person authorised to give it, or unless you are required by law to do so;
- prevent another person from gaining access to information to which that person is entitled by law.

Disclosing confidential information may also contravene other parts of the Code e.g. it may be regarded as bringing the office of Councillor or the Council into disrepute; may compromise the impartiality of people

who work for the Council; may improperly confer or secure an advantage or disadvantage for you or any other person.

Registering Interests

Under the Council's Code of Conduct, Councillors are required to register their financial interests and other interests in the Council's Register of Interests within 28 days of their election or appointment. They must also notify the Council's Monitoring Officer, in writing, of changes to these details within 28 days of any such change.

Checklist for Councillors Appointed to Outside Bodies

Prior to commencing any duties relevant to the membership of an outside body organisation, Councillors need to ensure that they follow a number of steps:

- Members should ensure that prior to accepting any invitations by outside body organisations to attend their meetings and act on their behalf, that they have firstly been properly appointed on behalf of the Council.
- Members attending a meeting of an outside body organisation for the first time should ensure that they are provided by the organisation with details of the following:-
 - The purpose of the organisation, a copy of its constitution and its terms of reference.
 - A summary of the organisation's role as an employer, as a property holder and as the body responsible for the finances of the organisation.
 - The expected role of the elected Member on the organisation and the extent of their personal liability.
 - Confirmation of the detail and validity of the organisation's insurance and indemnity arrangements to protect Members acting on its behalf.
 - Details of the dates, venue and frequency of meetings which they will be invited or expected to attend.
 - Correspondence and contact details for any queries regarding the organisation and Member's roles.

5.10 PROTOCOL ON ROLE OF CHAIR AND LEADER IN REPRESENTING THE COUNCIL

INTRODUCTION

- 1.1** The Chairman is ‘the first citizen’ of the County. Accordingly, he or she represents the Council at all civic and ceremonial functions and acts as the ambassador for the Council at such functions.

Traditionally, and in accordance with the Local Government Act, 1972 (as amended), the Chairman takes precedence in the County subject only to Her Majesty's Royal Prerogative. It is clear therefore that the Chairman must give precedence only to Her Majesty The Queen and/or Members of the Royal Family (if present) or the Lord Lieutenant of the County when acting in his official capacity representing The Queen.

- 1.2** It follows therefore that the Chairman takes precedence over all Members and staff of the County Council, Mayors/Chairpersons and members of Town and Community Councils within the County and Members of Parliament, European Parliament or Welsh Assembly. This applies not only on the occasion of presentation to Her Majesty The Queen and/or Members of the Royal Family during a Royal Visit to the County but also for other civic events.
- 1.3** There is an official Order of Precedence. An example is that on Royal visits the order of presentation to the particular Member of the Royal Family by the Lord Lieutenant would be:-

Lord Lieutenant's spouse
 High Sheriff and Spouse
 Chairman of County Council and Spouse
 County Chief Executive and Spouse
 Town/Community Council Mayor/Chairman and Spouse
 Town/Community Council Clerk
 Member of Parliament and Spouse
 Member of European Parliament and Spouse
 Welsh Assembly Member and Spouse
 Chief Constable and Spouse

The usual procedure after that is that the Organiser of the event is presented and he/she will then present others.

- 1.4** Against this background of formal precedence, the Civic Officer's role therefore is to ensure that the Council, its members and staff and hosts of functions accord the Chairman proper precedence with regard to ceremonies and events, and to liaise with both the Chief Executive and Head of Legal and Democratic Services to ensure the effective discharge of this work.

- 1.5** The Leader is the political Leader of the Council as well as being the Leader of the Cabinet. It is the Leader's function to represent the political views of the Council and the Cabinet. As a consequence the Leader, and Cabinet Members, will receive invitations from groups or organisations to attend meetings, functions and events where they may be called upon to speak about Council policy and the Cabinet's plans. On other occasions they will be invited to enable networking, which is a vital part of the Leader's and Cabinet Members' roles, specifically in developing partnership relationships but also in securing support for Council policy and gaining feedback on community or organisations' views.
- 1.6** To minimise the risk of confusion, there is a need to set out clearly a procedure for determining attendance and to provide guidance to both Members and officers on what properly is the role of the Chair, and that of the Leader and Cabinet Members when both elements of the Council are required to be represented.

GUIDANCE

CHAIRMAN

- 2.1** The Chairman represents the Council in a non political capacity, that is as a corporate body whose constitutional status and range of responsibilities warrants inclusion on the attendance lists of the meetings and functions of outside bodies. The Chair attends such functions in an ambassadorial capacity representing the Council as the duly elected body, representing the people of Denbighshire
- 2.2** Attendance by the Chair at an event has the following possible meanings:
- ❖ It recognises the event as one at which it is important for the Council to be represented
 - ❖ It confirms the event as having a significance for the community of Denbighshire
 - ❖ It is a means of encouraging community life
- 2.3** The Chair will represent the Council at events:
- ❖ to welcome representatives of other bodies to the Council
 - ❖ to represent the Council in public engagements, other authorities' civic functions, community functions and ceremonies

The Vice Chair will take the place of the Chair in his/her absence.

THE LEADER

- 3.1** The Leader represents the political authority of the Council and the Cabinet. He/she represents the specific political programme of the Council and Cabinet and also any issues concerning the policy direction of the Council. As such, meetings

with Government, Assembly Members and MPs would normally fall to the Leader rather than the Chair. The Leader should not be responsible for the offering of civic greetings on behalf of the Council, or to welcome Royal, ambassadorial and civic visitors to the County or represent the Council at non- political functions or events.

- 3.2** The Leader in his/her role as "political Leader" may receive invitations to events where his/her presence is entirely consistent with the performance of that role. Furthermore, there may be events where organisers would wish to extend invitations to both the Chairman and the Leader to represent both the civic and political function of the Council. In such circumstances, the Chairman's role takes precedence, which means that he/she should speak first to welcome visitors or open an event: the Chairman does not deal with political issues in his/her speech.
- 3.3** Invitations for the Leader to attend an event must be gauged in terms of the nature of the meeting. Meetings which concern the promotion of Denbighshire are a grey area and should be agreed with the Chief Executive, but in some cases it will be a purely political event e.g. gaining acceptance for the Council's tourism policy, lifelong learning policy etc. In those circumstances the Leader or Cabinet Member would be the relevant person to consider for attendance.

ROLE OF OTHER MEMBERS

- 4.1** Only the Chairman (or, in his/her absence, the Vice Chair) or Leader should undertake these roles, Cabinet Members and other Members of the Council should refrain from doing so unless acting at the request of the Chairman or Leader.

GUIDANCE TO OFFICERS

- 5.1** Corporate Directors and other officers organising an event should bear these guidelines in mind. Any queries should be discussed with the Chief Executive if there is any doubt.
- 5.2** All civic receptions held by the County Council should be arranged in consultation with the Civic Officer. who will liaise with Cabinet support staff.
- 5.3** All invitations to the Council to be represented at events, ceremonies or functions should be referred, in the first instance, to the Civic Officer and Cabinet support staff.
- 5.4** For events, ceremonies and functions involving the Chair, the organiser is required to complete a form to be submitted to the Civic Officer giving all details no later than 2 weeks prior to the event. A Guidance on Precedence and Protocol is also issued, which gives clear advice on formality and etiquette.
- 5.5** External organisations should be advised of the issues of Precedence and Protocol covered in this note and be encouraged to address invitations correctly to the Chairman, Leader or both of them as appropriate.

- 5.6** The Chair and Leader require adequate briefing and support to fulfill their roles. At important events, it will be appropriate for them to be accompanied by a suitably senior officer, such as a corporate director or head of service. At other events, it will be sufficient for other staff to accompany them. As a minimum officers should consider for each event whether attendance by an officer is necessary and should advise the Chair or Leader which (if any) officer will be present.

March 2012

19. **CONFIDENTIAL REPORTING (“WHISTLEBLOWING”) CODE**

19.1 **Introduction**

- 19.1.1 This is the Council’s Policy intended to encourage and enable employees to raise concerns within the Council without fear of victimisation, subsequent discrimination or embarrassment. It reflects the Council’s commitment to good practices, to valuing staff and setting continuous improvement in service delivery.
- 19.1.2 Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.
- 19.1.3 The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council’s work to come forward and voice those concerns. Wherever possible, employees are encouraged to use relevant Council procedures to report issues in an open and transparent way, because that is the type of organisational culture we are trying to foster. It is recognised, however, that some cases will have to proceed on a confidential basis.
- 19.1.4 This document makes it clear that you can do so without fear of victimisation, subsequent discrimination or disadvantage. The Confidential Reporting Code is intended to encourage and enable employees to raise serious concerns within the Council rather than overlooking a problem or “blowing the whistle” outside.
- 19.1.5 The Code applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing Services under a contract within the Council in their own premises, for example, care homes. The Council will seek to ensure that as part of its procurement processes, this code is brought to the attention of such external contractors, suppliers and services providers (described in this code as “Contractors”).
- 19.1.6 These procedures are in addition to the Council’s complaints procedures and other statutory reporting procedures applying to some Services. If asked, employees should make service users aware of the existence of these procedures.
- 19.1.7 This Code has been discussed with the relevant trade unions and professional organisations and has their support.

19.2 **Aims and Scope of the Code**

- 19.2.1 This Code aims to:
- (a) encourage you to feel confident in raising serious concerns and to question and act upon concerns about practice.
 - (b) provide avenues for you to raise those concerns and receive feedback on any action taken.
 - (c) ensure that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
 - (d) reassure you that you will be protected from possible reprisals or victimisation.
- 19.2.2 There are existing procedures in place to enable you to lodge a grievance relating to your own employment or you consider that you are being harassed due to your race, sex or age, or if you are concerned about health and safety risks. The Confidential Reporting Code is intended to cover major concerns that fall outside the scope of other procedures.

19.2.3 These include:

- (a) conduct which is an offence or a breach of law;
- (b) disclosures related to miscarriages of justice;
- (c) health and safety risks, including risks to the public as well as other employees;
- (d) damage to the environment;
- (e) the unauthorised use of public funds;
- (f) possible fraud and corruption;
- (g) sexual or physical abuse of clients;
- (h) any attempt to prevent disclosure of any of the above;
- (i) other unethical conduct.

19.2.4 Thus, any serious concerns that you have about any aspects of service provision or the conduct of Officers or Members of the Council or others acting on behalf of the Council can be reported under the Confidential Reporting Code.

19.2.5 This may be about something that:

- (a) makes you feel uncomfortable in terms of known standards, your experience or the standards you believe the Council subscribes to;
- (b) is against the Council's Constitution and policies;
- (c) falls below established standards of practice;
- (d) amounts to improper conduct.

19.3 **Safeguards**

19.3.1 The Council is committed to good practice and high standards and wants to be supportive of employees.

19.3.2 The Council recognises that the decision to report a concern can be a difficult one to make. If you believe what you are saying is true and the statement is made in good faith, you should have nothing to fear because you will be doing your duty to your employer and those for whom you are providing a service.

19.3.3 The Council will not tolerate any harassment or victimisation, including informal pressures, and will take appropriate action to protect you when you raise a concern in good faith. This action will depend on the type of concern and specific service arrangements. On very rare occasions, you may be asked whether you would be prepared to obtain further information.

19.3.4 This would be entirely at your discretion and a full risk assessment would be completed, prior to such a course of action being agreed.

19.3.5 Any investigation into allegations of potential malpractice will not influence or be influenced by any disciplinary or redundancy procedures that already affect you.

19.4 **Confidentiality**

All concerns will be treated in confidence and every effort will be made not to reveal your identity if you so wish. Any breach of confidentiality will be regarded as a serious matter and will be dealt with accordingly. At the appropriate time, however, you may need to come forward as a witness. If you wish to be supported by a representative of your choice, then this would be available to you.

19.5 **Anonymous Allegations**

19.5.1 This Code encourages you to put your name to your allegation whenever possible.

- 19.5.2 Concerns expressed anonymously are much less powerful but will be considered at the discretion of the Council.
- 19.5.3 In exercising this discretion, the facts to be taken into account would include:
- (a) the seriousness of the issues raised;
 - (b) the credibility of the concern; and
 - (c) the likelihood of confirming the allegation from attributable sources.

19.6 **Untrue Allegations**

If you make an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against you. If, however, you make an allegation frivolously, maliciously or for personal gain, disciplinary action may be taken against you.

19.7 **How to Raise a Concern**

This procedure applies to Council employees and contractors.

- 19.7.1 As a first step, you should normally raise concerns with your immediate line manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is suspected of the malpractice. For example, if you believe that senior management is involved, you should approach the Chief Executive, the Head of Legal and Democratic Services [or, the *[insert title]*].
- 19.7.2 Concerns may be raised verbally or in writing. Staff who wish to make a written report are invited to use the following format:
- (a) the background and history of the concern, giving relevant dates;
 - (b) the reason why you are particularly concerned about the situation.
- 19.7.3 Although you are not expected to prove beyond doubt the truth of an allegation, you will need to demonstrate to the person contacted that there are reasonable grounds for your concern.
- 19.7.4 Advice/guidance on how to pursue matters of concern may be obtained from:
Head of Legal and Democratic Services
- 19.7.5 Alternatively, you may wish to seek advice from a person independent of the Council. In this case you should contact the Council's External Auditors (Wales Audit Office). You may wish to consider discussing your concern with a colleague first and you may find it easier to raise the matter if there are two or more of you who have had the same experience or concerns.
- 19.7.6 You may invite your trade union, professional association representative or a friend to be present during any meetings or interviews in connection with the concerns you have raised.

19.8 **How the Council will Respond**

- 19.8.1 The Council will respond to your concerns. Do not forget that testing out your concerns is not the same as either accepting or rejecting them.
- 19.8.2 Where appropriate, the matters raised may:
- (a) be investigated by management, internal audit, or through the disciplinary process;
 - (b) be referred to the police;
 - (c) be referred to the external auditor (Wales Audit Office);
 - (d) form the subject of an independent inquiry.
- 19.8.3 In order to protect individuals and those accused of misdeeds or possible malpractice, initial enquiries will be made to decide whether an investigation is appropriate and, if so,

what form it should take. The overriding principle, which the Council will have in mind, are your well-being and the public interest. Concerns or allegations that fall within the scope of specific procedures (for example, child protection or discrimination issues) will normally be referred for consideration under those procedures.

- 19.8.4 Some concerns may be resolved by agreed action without the need for investigation. If urgent action is required this will be taken before any investigation is conducted.
- 19.8.5 Within 10 working days of a concern being raised, the person with whom you have raised your concerns will write to you:
- (a) acknowledging that the concern has been received;
 - (b) indicating how we propose to deal with the matter;
 - (c) giving an estimate of how long it will take to provide a final response;
 - (d) telling you whether any initial enquiries have been made;
 - (e) supplying you with information on staff support mechanisms; and
 - (f) telling you whether further investigations will take place and if not, why not.
- 19.8.6 The amount of contact between the Officers considering the issues and you will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from you.
- 19.8.7 However, should this further information need to be gleaned by you, from another person, without them being made aware of your involvement in the confidential reporting process, specific procedures will need to be applied.
- 19.8.8 Should a manager believe that this additional information may assist the enquiry, and that the information can only be obtained by you, no action will be taken until the matter has been referred to the Head of Legal and Democratic Services, for a decision to be made as to whether such a course of action is both necessary and proportionate.

Important:

- 19.8.9 Managers must not, under any circumstances, ask an individual to obtain further information covertly, from another person, without following this procedure. Failure to do so may infringe Human Rights and render the Council liable to legal action.
- 19.8.10 Where any meeting is arranged, off-site if you so wish, you can be accompanied by a union or professional association representative or a friend.
- 19.8.11 The Council will take steps to minimise any difficulties which you may experience as a result of raising a concern. For instance, if you are required to give evidence in criminal or disciplinary proceedings the Council will arrange for you to receive advice about the procedure.
- 19.8.12 The Council accepts that you need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, we will inform you of the outcome of any investigation.

19.9 The Responsible Officer

Corporate Directors and their senior staff who receive concerns will copy the initial complaint to the Head of Legal and Democratic Services, and keep that Officer informed of the progress and outcome of the investigation. The Head of Legal and Democratic Services has overall responsibility for the maintenance and operation of the Code. That Officer will maintain a record of concerns raised and the outcomes (but in a form which does not endanger your confidentiality) and will report as necessary to the Council.

19.10 How the Matter Can be Taken Further

19.10.1 This Code is intended to provide you with an avenue within the Council to raise concerns. The Council hopes you will be satisfied with any action taken. If you are not, and if you feel it is right to take the matter outside the Council, the following are possible contact points:

- (a) the Council's external auditors (Corporate Procurement Unit);
- (b) your local Citizens' Advice Bureau;
- (c) relevant professional bodies or regulatory organisations;
- (d) a relevant voluntary organisation;
- (e) the police.

19.10.2 If you do take the matter outside the Council, you should ensure that you do not disclose confidential information. Check with the contact point about that.

19.11 Confidential Reporting Code Form

PRIVATE AND CONFIDENTIAL	
CONFIDENTIAL REPORTING CODE	
To be completed by person to whom the concern is raised	
To be forwarded to Head of Legal and Democratic Services	
Name of person	
Post Held	
raising concern (may be anonymous)	
Brief outline of nature of concern and dates	
Names of others involved	
Brief description of outcome, with dates	
Signature	
(of person to whom complaint is raised)	
Please Print Name	
Date	

SECTION 19**20. MEMBERS OF THE COUNCIL AND ROLE DESCRIPTIONS****2.1 Composition and Eligibility**

- (a) **Composition.** The Council will comprise 47 councillors (otherwise called members). Councillors will be elected by the voters of electoral divisions in accordance with a scheme drawn up by the Local Government Boundary Commission for Wales and approved by the National Assembly for Wales.
- (b) **Eligibility.** Subject to the requirements of legislation, only registered voters of the county or those living or working there will be eligible to stand for election to the office of member.

2.2 Election and Terms of Councillors

Election and terms. The regular election of Councillors will be held on the first Thursday in May every four years unless varied by legislation. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.3 Roles and Functions of all Councillors**(a) Key roles**

All Councillors will:

- collectively be the ultimate policy-makers and carry out a number of strategic functions;
- represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- be involved in decision-making;
- be available to represent the Council on other bodies; and maintain the highest standards of conduct and ethics.

(b) Role descriptions**(i) Role: Chair of Council**

Salary: LA Group C

1. PRINCIPAL ACCOUNTABILITIES

- To Full Council

2. PURPOSE OF ROLE AND ACTIVITY

- As the ceremonial head of the Council, to be non-political and uphold the democratic values of the Council
- To represent the Council at civic and ceremonial functions
- To preside over meetings of the Council, so that its business can be carried out efficiently
- To ensure the Council conducts its meetings in line with the Council's Standing Orders
- To ensure the Constitution is adhered to and, if necessary, to rule on the interpretation of the Constitution
- Fulfil the accountabilities of the elected member role.
- To prepare and manage an annual work programme for the Council to meet its legal obligations (e.g. setting the budget and the Council Tax and making appointments)

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect
 - Unity
 - Attend all relevant meetings
 - Carry out business electronically i.e. meetings and communication, wherever possible
 - To attend mandatory training as specified in the code of conduct and the constitution.
 - To participate in an Annual Development Review to continually improve the performance of the member and the Council.

- To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

(ii) Role: Leader of the Council

Salary: LA Group C Band 1

1. PRINCIPAL ACCOUNTABILITIES

- To Full Council

2. PURPOSE OF ROLE

- Providing political leadership to the Council
- To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery
- To appoint the Cabinet and Deputy Leader and designate the appropriate portfolios.
- To represent the Authority at the WLGA coordinating committee and other relevant boards.
- To fulfil the role of a portfolio holder, having regard to the role purpose and activities, and role specification of an executive member
- Managing and leading the work of the Cabinet and chairing meetings
- To advise and mentor other cabinet members in their work and to carry out annual development reviews of Cabinet Members.
- To accept collective responsibility and support decisions made by the Cabinet once they have been made.
- To work with the Chief Executive and other appropriate officers, on a regular basis.
- To ensure appropriate governance, ethical standards and relationships are maintained.
- To provide community leadership and promote active citizenship
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council
- To adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office
- Fulfil the accountabilities of the elected member role.

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect

- Unity
- Attend all relevant meetings
- Carry out business electronically i.e. meetings and communication, wherever possible
- To attend mandatory training as specified in the code of conduct and the constitution
- To participate in an annual development review to continually improve the performance of the member and the Council.
- To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

- (iii) **Role: Leader of the Opposition**
Salary: Band 3 LA

1. PRINCIPAL ACCOUNTABILITIES

- To the nominating group within the constitution

2. PURPOSE OF ROLE

- Providing political leadership for an opposition group
- To be a political figurehead for the opposition group; to be the principal political spokesperson for the Council's opposition.
- To provide leadership in the constructive challenge of the Council's policies
- To provide strong, clear leadership in the co-ordination of alternative policies, strategies and service delivery
- Fulfil the accountabilities of the elected member role.

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect
 - Unity
 - Attend all relevant meetings
 - Carry out business electronically ie meetings and communication, wherever possible
 - To attend mandatory training as specified in the code of conduct and the constitution.
 - To participate in an annual development review to continually improve the performance of the member and the Council.
 - To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

(iv) Role: Cabinet Member**Salary:** Band 2 LA Group C**1. PRINCIPAL ACCOUNTABILITIES**

- To the Leader
- To Full Council
- To the Cabinet (through collective responsibility)

2. PURPOSE OF ROLE

- To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery within the relevant portfolio*
- To be the principle political spokesperson for that portfolio.
- To fulfil the role of portfolio holder, having regard to the role purpose and activities and role specification of an executive member.
- To accept collective responsibility and support decisions made by the Cabinet once they have been made.
- To work with the Chief Executive and other appropriate officers, on a regular basis.
- To ensure appropriate governance, ethical standards and relationships are maintained.
- To provide community leadership and promote active citizenship
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council
- To adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office
- Fulfil the accountabilities of the elected member role.

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect
 - Unity
 - Attend all relevant meetings
 - Carry out business electronically ie meetings and communication, wherever possible
 - To attend mandatory training as specified in the code of conduct and the constitution.

- To participate in an Annual Development Review to continually improve the performance of the member and the Council.
- To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

*This only applies under constitutional arrangements where individual cabinet members are given responsibility for making decisions on behalf of the Executive.

(v) Role: Group Leader**Salary:** Band 4 LA

(as long as they have groups with 5 or more members)

1. PRINCIPAL ACCOUNTABILITIES

- To Full Council

2. PURPOSE OF ROLE

- To communicate with the group, keep them informed about policy developments, current issues and represent their collective views at meetings.
- Carry out annual development review for members of their group
- Ensure that group members conform to standing orders and Code of Conduct with support and advice from the Monitoring Officer
- Fulfil the accountabilities of the elected member role.

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect
 - Unity
 - Attend all relevant meetings
 - Carry out business electronically i.e. meetings and communication, wherever possible within the Council
 - To attend mandatory training as specified in the code of conduct and the constitution.
 - To participate in an annual development review to continually improve the performance of the member and the Council.
 - To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

(vi) **Role:** **Scrutiny Member/Chair**

Salary: Band 3 (Chair only)

Please note: items highlighted are specific to the role of Chair

1. PRINCIPAL ACCOUNTABILITIES

- To Full Council

2. PURPOSE OF ROLE

- Providing leadership and direction
- To participate fully in the activities of the Scrutiny Committee, the development and delivery of its work programme and any associated task and finish groups.
- To assist in the development and monitor impact of Council policy
- To hold the executive to account, monitoring performance and service delivery and challenge decisions through the call in arrangements where appropriate.
- To develop a forward work programme of the committee.
- To report on progress against the work programme to Council, and others as appropriate
- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making ensuring that meeting objectives are met, and the code of conduct, standing orders and other constitutional requirements are adhered to.
- To act as a focus for liaison between the council, community and external bodies in relation to the scrutiny function.
- To encourage effective contributions from all committee members in both committee and task and finish groups
- To assess individual and collective performance within the committee and liaise with the relevant Group Leader to progress training and development opportunities.
- Fulfil the accountabilities of the elected member role.

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity

- Respect
- Unity
- Attend all relevant meetings
- Carry out business electronically i.e. meetings and communication, wherever possible
- To attend mandatory training as specified in the code of conduct and the constitution.
- To participate in an annual development review to continually improve the performance of the member and the Council.
- To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

(vii) **Role: Chair/Member of a Committee - including Corporate Governance, Planning, Standards and Licensing**

Salary: Band 3 – Chair only

Please note: items highlighted are specific to the role of Chair

1. PRINCIPAL ACCOUNTABILITIES

- To Full Council
- To Town and Community Council (in the case of the Standards Committee Members)

2. PURPOSE OF ROLE

- Providing leadership and direction
- To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making ensuring that meeting objectives are met, and the code of conduct, standing orders and other constitutional requirements are adhered to
- To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements
- To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly
- To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in individual cases/applications before formal committee meetings
- Fulfil the accountabilities of the elected member role.

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect
 - Unity
 - Attend all relevant meetings
 - Carry out business electronically i.e. meetings and communication, wherever possible
 - To attend mandatory training as specified in the code of conduct and the constitution.
 - To participate in an annual development review to continually improve the performance of the member and the Council.

- To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

(viii) **Role: Elected Member**

Salary: LA Basic Salary

1. PRINCIPAL ACCOUNTABILITIES

- To Full Council
- To the electorate of their ward

2. PURPOSE OF ROLE

- **Representing and supporting communities**
 - To represent ward interests
 - To be an advocate for the Council in the ward and communities they serve
 - To be a channel of communication to the community on council strategies, policies, services and procedures
 - To represent individual constituents and local organisations, undertaking casework on their behalf
 - To liaise with executive members, other council members, council officers and partner organisations to ensure that the needs of the local communities are identified, understood and supported
 - To promote tolerance and cohesion in local communities
- **Making decisions and overseeing council performance**
 - To participate in Full Council meetings, reaching and making informed and balanced decisions and overseeing performance
 - To participate in informed and balanced decision making on committees and panels to which they might be appointed including regulatory committees.
 - To adhere to the principles of democracy and collective responsibility in decision making
 - To promote and ensure efficiency and effectiveness in the provision of council and other public services
 - To participate in informed and balanced decision making from a local, regional and national perspective
- **Representing the Council (subject to appointment)**

- To represent the Council on local outside bodies as an appointee of the Council
 - To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain
 - To represent and be an advocate for the Council on national bodies and at national events
- **Members appointed to the licensing or planning committees**
 - Should undertake the appropriate training to ensure they fulfil their role properly
- **Internal governance, ethical standards and relationships**
 - To promote and support good governance of the Council and its affairs
 - To promote civic leadership and active citizenship
 - To promote and support open and transparent government
 - To support and adhere to respectful, appropriate and effective relationships with employees of the Council
 - To adhere to the Members' Code of Conduct, the Member/Officer Protocol and the highest standards of behaviour in public office
 - To ensure compliance with all safeguarding policies and procedures

3. VALUES and EXPECTATIONS

- To be committed to the values of Denbighshire County Council and the following values in public office:
 - Pride
 - Integrity
 - Respect
 - Unity
 - Attend all relevant meetings (records of attendance will be published)
 - Carry out business electronically i.e. meetings and communication, wherever possible
 - To attend mandatory training as specified in the code of conduct and the constitution.
 - To participate in an annual development review to continually improve the performance of the member and the Council.
 - To explain and account for personal performance as a County Councillor on a regular basis, particularly through the publication of an Annual Report on the Council's web site.

(c) Rights and duties

- (i) Councillors will have such rights of access to such documents, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, “confidential” and “exempt” information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) Councillors should be given reasonable advice and support from officers of the Council in the maintenance of their personal security in their work as Councillors.
- (v) Councillors should be given reasonable informal advice from Officers of the Council should they be defamed or otherwise subject to harassment in connection with their Council duties.
- (vi) When the Council considers it is in the interest of the Council to appoint Councillors to represent it on an outside body, the Council will consider giving an indemnity to the Councillor against costs incurred in good faith. Councillors will be given reasonable advice, guidance and support from officers of the Council on the responsibilities they take on in acting in good faith as a result of representing the Council on outside bodies.
- (vii) Training will be given to Councillors on the operation of the Code of Conduct. After having regard to the relevant facts officers of the Council may give support to Councillors where they are accused of breaches of any Code of Conduct or protocol referable to a formal Standards hearing.

2.4 Conduct

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

2.5 Allowances

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

2.6 Champions

A number of Councillors will be nominated as Champions in the following areas:

- Older People’s Champion
- Homelessness Champion
- Carers Champion
- Learning Disabilities Champion

Mae tudalen hwn yn fwriadol wag

Adroddiad i:	Pwyllgor Llywodraethu Corfforaethol
Dyddiad y Cyfarfod:	15 Mehefin 2016
Aelod / Swyddog Arweiniol:	Gary Williams, Swyddog Monitro
Awdur yr Adroddiad:	Gary Williams, Swyddog Monitro
Teitl:	Strategaeth ar Atal a Datgelu Twyll, Llygredigaeth a Llwgwrwbrwyo

1 Beth yw cynnwys yr adroddiad?

- 1.1 Mae'r adroddiad hwn yn sôn am adolygu strategaeth y Cyngor ar atal a datgelu twyll, llygredigaeth a llwgwrwbrwyo.

2 Beth yw'r rheswm dros lunio'r adroddiad hwn?

- 2.1 I alluogi Aelodau ystyried y strategaeth wedi'i diweddarau.

3 Beth yw'r Argymhellion?

- 3.1 Bod yr Aelodau yn ystyried cynnwys y strategaeth ddrafft sydd ynghlwm fel Atodiad 1 i'r adroddiad hwn, a'i hargymell i gael ei chymeradwyo gan y Cabinet.

4 Manylion yr Adroddiad

- 4.1 Mae'r Cyngor yn cyflogi nifer sylweddol o staff ac yn gwario miliynau o bunnoedd y flwyddyn. Mae'n comisiynu a darparu amrywiaeth eang o wasanaethau i unigolion a chartrefi ac mae'n gweithio gydag ystod eang o sefydliadau yn y sectorau preifat, cyhoeddus a gwirfoddol.
- 4.2 Fel unrhyw sefydliad mawr arall, mae maint a natur gwasanaethau'r Cyngor yn golygu bod risg cyfredol o golled oherwydd twyll a llygredigaeth gan ffynonellau mewnol ac allanol. Hefyd, mae risg cyfredol o lwgwrwbrwyo gan fod y Cyngor yn darparu a chael nwyddau, gwaith a gwasanaethau. Felly mae'r Cyngor wedi rhoi systemau cymesur mewn lle i leihau'r risg hwn, a bydd y rhain yn cael eu hadolygu'n gyson.
- 4.3 Mae'r Cyngor yn cydnabod yn ogystal ag achosi colled ariannol, mae twyll a llygredigaeth hefyd yn niweidiol i ddarparu gwasanaethau a niweidio enw da'r Cyngor a chyrrff cyhoeddus yn gyffredinol.
- 4.4 Mae'r strategaeth ddrafft wedi ei hatodi yn Atodiad 1 yr adroddiad. Roedd y Polisi yn arfer bod yn un ddogfen hir. Mae datganiad polisi bellach yn un tudalen o hyd ac ar ddechrau'r ddogfen strategaeth sy'n cynnwys y prif egwyddorion y bydd y Cyngor yn mynd i'r afael â thwyll, llwgwrwbrwyo a

llygredigaeth. Yn y Datganiad Polisi hwn a'r gweithdrefnau sy'n ei gefnogi, mae'r Cyngor yn rhoi neges glir yn nodi na fydd yn goddef unrhyw anweddustra gan weithwyr, aelodau etholedig neu sefydliadau trydydd parti.

- 4.5 Mae'n bwysig bod unrhyw bolisi sy'n honni i wrthsefyll y bygythiad o dwyll a llygredigaeth yn cael ei gadw'n gyfoes a'i adolygu yng ngoleuni datblygiadau deddfwriaethol, technolegol a phroffesiynol newydd.
- 4.6 Cymeradwywyd Polisi Gwrth-dwyll a Llygredigaeth gyfredol y Cyngor yn 2006.
- 4.7 Mae'r strategaeth ddrafft diwygiedig hon yn ystyried y newidiadau i ddeddfwriaeth a ddaeth yn sgil Deddf Llwgrwobrwyo 2010. Hefyd mae'r canllaw yn ystyried canllaw arfer orau megis y Cod Ymarfer Sefydliad Siartredig Cyllid Cyhoeddus a Chyfrifyddiaeth ar Reoli Risg o Dwyll a Llygredigaeth.
- 4.8 Er nad oes gan y Cyngor llawer o brofiad o weithgaredd twyllodrus wedi'u canfod yn y blynyddoedd diweddar, mae hi'n bwysig iawn i barhau i fod yn wyliadwrus a bod holl weithwyr, aelodau etholedig a phartneriaid yn ymwybodol o'r risg o dwyll a sut i adrodd am bryderon neu ddrwgdybiaethau. Mae'r strategaeth yn rhoi cyngor clir ar sut, ac i bwy y dylid adrodd am unrhyw ddrwgdybiaethau. Hefyd, mae datganiad clir o ymrwymiad y Cyngor i gymryd camau gorfodi cadarn lle bynnag y datgelir gweithgaredd anghyfreithlon neu lwgr.
- 4.9 Mae Cod Sefydliad Siartredig Cyllid Cyhoeddus a Chyfrifyddiaeth yn argymhell y dylai sefydliad gydnabod cyfrifoldeb i sicrhau bod risg o dwyll a llygredigaeth yn cael eu rheoli'n effeithiol, adnabod dadleniad penodol at risg, datblygu strategaeth gwrth-dwyll, darparu adnoddau i gefnogi'r strategaeth honno a rhoi polisïau mewn lle i gefnogi'r strategaeth.
- 4.10 Bydd y Cyngor yn parhau i addasu a mabwysiadu dulliau rhagweithiol i atal gweithgareddau twyllodrus, a bydd Archwilio Mewnol yn cynnal adolygiad blynyddol o effeithiolrwydd y rheolaethau hyn.

5 Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?

- 5.1 Nid yw'r penderfyniad yn cyfrannu'n uniongyrchol i'r blaenoriaethau corfforaethol, fodd bynnag, mae dull cadarn tuag at risg o dwyll a llygredigaeth yn cynorthwyo'r Cyngor i gyflawni ei flaenoriaethau drwy geisio lleihau'r risg o'r difrod ariannol ac enw da y gall twyll a llygredigaeth ei achosi.

6 Faint fydd hyn yn ei gostio a sut y bydd yn effeithio ar wasanaethau eraill?

- 6.1 Nid oes unrhyw gostau uniongyrchol yn gysylltiedig â'r adroddiad hwn.

7 Pa ymgynghori a wnaed, ac a gynhaliwyd Sgriniad i Asesu Effaith ar Gydraddoldeb?

- 7.1 Nid oes angen asesiad o effaith ar gydraddoldeb.

8 Datganiad y Prif Swyddog Cyllid

8.1 Mae'r Polisiâu hyn yn cynorthwyo i wella fframwaith llywodraethu a sicrwydd y Cyngor.

9 Pa risgiau sydd ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?

9.1 Y risg os na chaiff y Polisi ei ddiweddarau yw na fydd gan y Cyngor strategaeth gyfoes i fynd i'r afael â thwyll a llygredigaeth.

10 Pŵer i wneud Penderfyniad

10.1 Adrannau 111 a 151 Deddf Llywodraeth Leol 1972.

Mae tudalen hwn yn fwriadol wag



Strategy for the Prevention and Detection of Fraud, Bribery and Corruption

2016

CONTENTS

POLICY STATEMENT

- 1 This Policy is intended to cover fraud, theft, corruption and bribery.
- 2 The Council expects the highest standards of propriety and ethics in the delivery of its services and the management of its resources and assets.
- 3 The Council will carry out its business fairly, honestly and openly at all times.
- 4 The Council does not and will not tolerate any form of fraud, corruption or bribery when undertaking any of its responsibilities, including Housing / Council Tax Benefit fraud.
- 5 The Council will prevent fraud, corruption and bribery by designing and formulating proportionate policies and systems to minimise risk.
- 6 The Council will continue to promote the detection and investigation of fraud, corruption and bribery including the application of robust, effective sanctions and recovery procedures where it is identified.
- 7 The Council recognises that bribery is a criminal offence. The Council does not, and will not, pay bribes or offer improper inducements to anyone for any purpose, nor will it, accept bribes or improper inducements. To use a third party as a conduit to channel bribes to others is a criminal offence.
- 8 The Council does not, and will not, engage indirectly in or otherwise encourage bribery. The Council is committed to the prevention, deterrence and detection of bribery and adopts a position of zero tolerance towards bribery.

1. INTRODUCTION

- 1.1 Denbighshire County Council (the Council) employs around 4,500 staff and spends in excess of £300 million per year. It commissions and provides a wide range of services to individuals and households and works with a wide range of private, public and voluntary sector organisations.
- 1.2 As with any other large organisation, the size and nature of the Council's services mean that there is an ongoing risk of loss due to fraud and corruption from both internal and external sources. There is also an ongoing risk of bribery as the Council provides and procures goods, works and services. The Council has therefore put in place proportionate systems to minimise this risk and these are kept under constant review.
- 1.3 The Council recognises that as well as causing financial loss, fraud is also detrimental to the provision of services, and damaging to the reputation of, and confidence in, the Council and public bodies in general.
- 1.4 In its policies and procedures the Council gives out the clear message that it will not tolerate any impropriety by employees, elected Members or third party organisations. These are all signs of a robust framework in place to mitigate the risk of fraud, corruption or bribery.
- 1.5 The Strategy has the full support of Members and the Council's Strategic Leadership Team.
- 1.6 The Council is also aware of the high degree of external scrutiny of its affairs by a variety of bodies who rightly expect that the Council will have an effective strategy for the prevention and detection of fraud. These bodies include:
 - The Public Services Ombudsman for Wales,
 - The Wales Audit Office,
 - Statutory Inspectorates such as ESTYN and the Care and Social Services Inspectorate Wales (CSSIW),
 - Her Majesty's Revenue and Customs,
 - Auditors of organisations for whom the Council acts as agent as well as those that provide direct funding for the Council e.g. Welsh Government and European funding organisations.

2 SCOPE

- 2.1 This strategy covers all business, activities and transactions undertaken either by the Council or on its behalf. It applies to all Members and all those who work for or with the Council to include employees, agency staff, consultants, contractors, partners and volunteers.
- 2.2 The Strategy has regard to the provisions of the Fraud Act 2006, the Bribery Act 2010 and best practice such as CIPFA's "Managing the Risk of Fraud and Corruption".
- 2.3 The Strategy does not stand in isolation and is a key component of the Council's governance framework. As such it should be read in conjunction with other key documents such as:

The Code of Corporate Governance

The Code of Conduct for Elected Members

The Employees' Code of Conduct

Financial Regulations including Contract Procedure Rules

The Whistleblowing Policy

The Anti-Money Laundering Policy

- 2.4 There are many definitions of fraud, corruption and bribery. CIPFA's best practice document suggests that concise definitions are a good starting point for risk identification. With this in mind the following definitions are used to describe the activities which are within the scope of this strategy.

Fraud

An act of deception intended for personal gain or to cause a loss to another party.

Corruption

The abuse of public office for private gain.

Bribery

Giving someone a financial or other advantage to encourage that person to perform their functions or activities improperly or to reward that person for having already done so.

Detailed legal definitions may be found in Appendix 2

For the purposes of clarity and brevity the term "Fraud" is used in this document to describe all of the above.

3 COUNTER FRAUD APPROACH

- 3.1 The Council's policy in respect of fraud is clearly set out at the beginning of this document.
- 3.2 The Council will, in accordance with this policy, and having regard to best practice, make the following actions the basis of its approach to counter fraud.
 - (a) The Council acknowledges its responsibility for countering fraud
 - (b) The Council will identify and manage the risks of fraud
 - (c) The Council will provide proportionate resources to implement the strategy
 - (d) The Council will take robust action in response to fraud
 - (e) The Council will monitor the effectiveness of this strategy
- 3.3 This Strategy has the full support of the Council's elected members and its senior management
- 3.4 Roles and responsibilities for identifying and mitigating the risk of fraud must be clearly understood and embraced effectively. These are shown in Appendix 4
- 3.5 In particular, Heads of Service must ensure that:
 - (a) service risk registers accurately reflect the risk of fraud, including emerging risks, e.g due to changes in technology or working practices
 - (b) control procedures are effective and are properly maintained and documented
 - (c) Financial Regulations including Contract Procedure Rules are complied with
 - (d) those engaged in counter fraud activity have the appropriate skills and knowledge and are given the appropriate authority and access to enable them to do this work effectively

4 CULTURE, STANDARDS AND ETHICS

- 4.1 The Council recognises that for fraud to be countered effectively there is a need for an effective counter fraud culture
- 4.2 The Council's Code of Corporate Governance sets out its commitment to the highest ethical and moral standards and also to a culture of honesty, openness and accountability.
- 4.3 The Council has agreed a set of core values that guide its work and shape the way that it goes about achieving its vision, aims and objectives. These are:
- Unity
 - Pride
 - Respect
 - Integrity
- 4.4 All employees, partner organisations as well as organisations working on the Council's behalf, are expected to share in this commitment and to lead by example in ensuring adherence to all Council regulations, procedures, practices and codes of conduct in accordance with the Nolan Committee's "Seven Principles of Public Life" which are:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
- 4.5 In addition, all elected Members and co-opted members will be expected to adhere to the "The Conduct of Members (Principles) (Wales) Order 2001". This Order adds to the seven Nolan principles set out above by including requirements in relation to Stewardship, Duty to Uphold the Law, and Equality and Respect
- 4.6 The Council's Constitution, Codes of Conduct for Employees and Members, Financial Regulations, Whistleblowing and Anti Money Laundering policies

underpin a strong commitment to an effective ethical framework that supports a preventative, anti-fraud culture.

- 4.7 The Council's elected members and employees play an important role in creating and maintaining this culture. The Council positively encourages those working for or with the Council to raise concerns regarding fraud immaterial of seniority or status in the knowledge that such concerns will, wherever possible, be treated in confidence without fear of reprisals or victimisation so that they can be investigated properly and fairly. Guidelines on how to make such reports are contained in Appendix 1.
- 4.8 Members of the public are encouraged to report any concerns which they may have. This may be direct using the contact details shown in Appendix 6 or by using the Council's customer service contacts which are available on the Council's website; www.denbighshire.gov.uk
- 4.9 The Council will ensure that any allegations received will be taken seriously, investigated in an appropriate manner, that the appropriate sanctions are imposed and recovery actions taken where fraud is found.

5. COUNTER FRAUD MEASURES

5.1 The Council's strategy for effective counter fraud activity requires measures that cover the following objectives:

Prevention

Deterrence

Detection and Investigation

Sanctions, Recovery and Redress

5.1.1 Prevention

Policies & Procedures

The Council is firmly of the belief that the best way to beat fraud is to prevent it from happening in the first instance. To achieve such an objective it is essential that the Council has in place a clear set of policies and procedures which set out the rules within which elected members, employees, consultants and contractors can work effectively. These are integral elements of the corporate internal control environment, and it is important that all members and employees are aware of their existence and at least their general content.

5.1.2 The most critical of such policy and procedural documents are as follows:-

- The Constitution, containing particularly:-
 - the Financial Regulations which include Contract Procedure Rules
 - the Code of Conduct for Members
 - the Code of Conduct for Employees
 - Schemes of Delegation
- The Code of Corporate Governance.
- Employees' Conditions of Service.

5.1.3 In addition to the above, some Departments have introduced their own measures designed to control their particular activities, for example procedure manuals.

5.1.4 It is the responsibility of Corporate Directors and Heads of Service to ensure that all employees have ready access to all of the Council's agreed

policies and procedures, and, where appropriate, they receive suitable training in their operation.

- 5.1.5 Elected members and employees have a specific responsibility to read and understand the policies and procedures that apply to them, and subsequently act in accordance with the terms and conditions therein. The Council may take formal action against anyone who fails in their duty to comply with the agreed policies and procedures.
- 5.1.6 In the case of an elected member, such an occurrence could precipitate a referral to the Standards Committee by the Ombudsman. In the case of an employee, the Council may take action under its Disciplinary Policy & Procedure.

5.2 Internal Control

- 5.2.1 Corporate Directors and Heads of Service are fully responsible for ensuring that all operational systems, particularly financial procedures, incorporate an appropriate level of internal control mechanisms. It is also essential that, where possible and practicable, a clear division of duties exists in the operation of a particular system, and that no individual is in a position whereby he or she can carry out a complete transaction without some form of check being built in to the process.
- 5.2.2 Heads of Service must ensure that their Risk Register accurately reflects the risk of fraud including any emerging risks.

5.3 Recruitment

- 5.3.1 The Council recognises that a key preventative measure in dealing with fraud is for managers to take effective steps at the recruitment stage to establish, as far as possible, the honesty and integrity of potential employees, whether for permanent, temporary or casual posts and agency staff. The Council's formal recruitment procedure contains appropriate safeguards in the form of written references, the verification of qualifications held and employment history. As in other public bodies Disclosure and Barring Service (DBS) checks are undertaken for employees working with, or who may have contact with, children or vulnerable adults.

5.4 Joint-Working

- 5.4.1 The Council is committed to working and co-operating with other organisations to help prevent organised fraud. As a consequence, whenever possible, the Council will be prepared to help and exchange information with other Councils and organisations to deal with fraud.
- 5.4.2 Information exchange needs to be tightly controlled, particularly in relation to data protection and human rights issues.

- 5.4.3 The Council will set up confidential facilities to enable information to be passed that may prevent fraud.
- 5.4.4 Such facilities will allow members of the public, as well as elected members and employees, to advise Internal Audit about specific instances of alleged fraud. The Council will, therefore, ensure that full details of the reporting facilities are widely publicised to all potential users, and that all information received will be thoroughly investigated and subsequently dealt with, as required.

5.5 The Role of Elected Members

- 5.5.1 As elected representatives, all elected members have a duty to the citizens and customers of the Council to protect the Council and public money from any acts of fraud. This is done through this Policy, compliance with the Members' Code of Conduct, the Council's Constitution, Financial Regulations, and relevant legislation.
- 5.5.2 Elected members sign an undertaking that they have read, understood and will abide by the Code of Conduct for Members when they take office. Conduct and ethical matters are specifically brought to the attention of elected members during induction and include the declaration and registration of interests. The Council's Monitoring Officer, advises elected members of new legislative or procedural requirements.

5.6 The Head of Paid Service, Monitoring Officer and Section 151 Officer

- 5.6.1 The Head of Paid Service, Monitoring Officer and Section 151 Officer have key roles in providing advice to all elected members and staff about vires issues, maladministration, financial impropriety, probity and policy framework and budget issues.
- 5.6.2 The Head of Paid Service is responsible for espousing and upholding high standards of conduct by officers, ensuring oversight of compliance with the member-officer protocol and with other policies adopted by the Council.
- 5.6.3 The Monitoring Officer encourages the promotion and maintenance of high standards of conduct within the Council, particularly through provision of support to the Standards Committee.
- 5.6.4 The Section 151 Officer undertakes the statutory responsibility under the Local Government Act 1972 to ensure the proper arrangements for the administration of the Council's financial affairs. This role is supported by the work undertaken by Internal Audit.

5.7 The Role of Managers

- 5.7.1 Managers at all levels are responsible for the communication and implementation of this Policy in their work area. They are also responsible for ensuring that their employees are aware of the Council's personnel policies and procedures and Financial Regulations and that the requirements of each are being met in their everyday business activities. In addition, managers must make their employees aware of the requirements of the Code of Conduct for Local Government Employees through the induction process.
- 5.7.2 Managers are expected to create an environment in which their employees feel able to approach them with any concerns they may have about suspected irregularities.

5.8 Responsibilities of Employees

- 5.8.1 Each employee is expected to abide by the Employee's Code of Conduct.
- 5.8.2 In addition, employees are responsible for ensuring that they abide by Financial Regulations and internal control procedures.
- 5.8.3 Employees are expected always to be aware of the possibility that fraud, corruption and theft may exist in the workplace and be able to share their concerns with management. If for any reason, they feel unable to speak to their manager they must refer the matter to one of those named below:
- Heads of Service, Corporate Directors, the Chief Executive or the Council's Monitoring Officer, who will report such concerns to the Head of Internal Audit.
 - Directly to the Head of Internal Audit.
 - The Council's external auditor, who, depending upon the nature of the concern, will liaise with the Head of Internal Audit.
 - Trade Union representatives, who will report such concerns to the Head of Internal Audit.

5.9 Conflicts of Interest

- 5.9.1 Both elected members and employees must ensure that they avoid situations where there is a potential for a conflict of interest. Such situations can arise with externalisation of services, internal tendering, planning and land issues etc. Effective role separation will ensure that decisions made are seen to be based upon impartial advice and avoid questions about improper disclosure of confidential information.

510 Role of Internal Audit

- 5.10.1 Denbighshire Internal Audit Services independently reviews the adequacy, efficiency and effectiveness of the internal controls within the Council's systems by undertaking a comprehensive programme of work targeted at key risk areas.
- 5.10.2 Any weaknesses in internal control are reported to management with proposed recommendations to address the issues raised. It is the responsibility of management to ensure that corrective action is taken.
- 5.10.3 The independent review of the systems and the implementation of agreed recommendations contribute to the prevention and detection of fraud.

5.11 The Role of the External Auditor

- 5.11.1 Independent external audit is an essential safeguard of the stewardship of public money. This is carried out through specific reviews that are designed to test (amongst other things) the adequacy of the Council's financial systems and arrangements for preventing and detecting fraud. It is not the external auditors' function to prevent fraud and irregularities, but the integrity of public funds is at all times a matter of general concern.

6. DETERRENCE

6.1. Disciplinary Action

- 6.1.1 Theft, fraud and bribery are serious offences against the Council, and employees will face disciplinary action if there is evidence that they have been involved in these activities. Disciplinary action will be taken in addition to, or instead of, criminal proceedings depending on the circumstances of each individual case, but in a consistent manner.
- 6.1.2 Members will face appropriate action if they are found to have been involved in theft, fraud and bribery against the Council. Action will be taken in addition to, or instead of criminal proceedings, depending on the circumstances of each individual case, but in a consistent manner. If the matter is a breach of the Members' Code of Conduct it will also be referred to the Ombudsman.
- 6.1.3 Any allegation of fraud by persons external to the Council will be referred to the Police for investigation.

6.2 Publicity

- 6.2.1 The Council will optimise the publicity opportunities associated with anti-fraud activity within the Council to ensure that the results of any action taken, including prosecutions, are reported in the press.
- 6.2.2 In all cases where the Council has suffered a financial loss, the Council will seek to recover the loss and advertise this fact.

7. DETECTION & INVESTIGATION

- 7.1 This section should be read in conjunction with the Guidelines for Reporting Suspicions of Fraud & Corruption (Appendix 1) and the Fraud Response Plan (Appendix 2).
- 7.2 In line with the Council's 'Code of Conduct' for Employees and 'Financial Regulations' employees must report any suspected cases of fraud to the appropriate manager, and the Head of Internal Audit must be informed by either the employee or manager.
- 7.3 This process will apply to all the following areas:
- Fraud or corruption by elected members.
 - Internal fraud or corruption.
 - Other fraud or corruption by Council employees.
 - Fraud by contractors' employees.
 - External fraud.
- 7.4 The Council's 'Whistleblowing Policy' is intended to encourage and enable staff to raise serious concerns. Employees reporting concerns in this manner are afforded certain rights under the Public Interest Disclosure Act, 1998 as amended.
- 7.5 The Head of Internal Audit will work with the Chief Executive, Corporate Directors and Heads of Service to decide on the type and course of the investigation, which will include referrals to the Police where necessary. The Council will seek prosecution of offenders and will carry out internal disciplinary procedures where appropriate. In so doing, every effort will be made to ensure that any internal proceedings do not jeopardise or prejudice the criminal case.
- 7.6 Internal Audit plays an important role in the detection of fraud. Included in its operational plans are reviews of system controls including financial controls and specific fraud tests, spot checks and unannounced visits. Procedures for the investigation of fraud are included in the Internal Audit Manual.

8. RECOVERY AND SANCTIONS

- 8.1 Where the Council identifies fraud then it will:
- Recover wherever appropriate **and**
 - Prosecute or apply other sanctions to perpetrators.
- 8.2 Sanctions are actions taken against individuals or organisations to reduce the risk of fraud, corruption or bribery from occurring. These will be applied in a comprehensive, consistent and proportionate manner with all possible sanctions – disciplinary, civil and criminal – considered.
- 8.3 Where fraud by employees is indicated, then action will be taken in accordance with the Council's disciplinary procedures. This may be in addition to any civil recovery action or criminal sanctions.
- 8.4 The Council aims to be effective in recovering any losses incurred to fraud using, as appropriate, criminal and/or civil law.

Training

- 8.5 The continuing success of the Strategy requires all staff to be aware of fraud issues including corruption and bribery. The Council's induction process will reinforce this together with ongoing training identified through the Performance Appraisal process.
- 8.6 Staff involved in the setting up of or monitoring of internal control systems, e.g. Financial Regulations will receive specific training to ensure that their responsibilities and duties are regularly highlighted and reinforced.
- 8.7 Staff in Internal Audit will receive training in order to comply with their professional standards. This will maximise the Council's ability to prevent, detect and investigate fraud, corruption and bribery.
- 8.8 Disciplinary action will be considered against any employee who deliberately ignores such training regardless of whether it results in an actual fraud.

9. IMPLEMENTATION OF THE STRATEGY

9. IMPLEMENTATION

9.1 In order to assist the effective targeting of counter fraud measures and resources, an annual risk assessment will be made of the Council's susceptibility to fraud. This will use CIPFA's extant guidance and will

- i. identify any areas of vulnerability, the types of fraud in those areas and the amounts of potential loss;
- ii. take account of the impact of fraud on the Council's ability to meet its objectives and responsibilities;
- iii. inform the resources required to effectively counter fraud;
- iv. determine the approaches set out in future revisions to the Counter Fraud Strategy; and
- v. be included as part of the Council's risk management framework.

9.2 Internal Audit will undertake an annual assessment of the effectiveness of existing counter-fraud arrangements against:

- i. Any mitigation identified in the risk assessment outlined in 6.1;
- ii. The roles and responsibilities as set out In Appendix 4 of this Strategy;
- iii. The Council's framework of policies and procedures
- iv. Guidance provided by CIPFA, such as 'Managing the Risk of Fraud and Corruption' and other professional and regulatory guidance.

9.3 Internal Audit will report its findings to the Corporate Governance Committee and the Corporate Executive Team. The Corporate Governance Committee will also consider the effectiveness of anti-fraud risk management arrangements.

Awareness

- 9.4 The Council will maintain an up to date awareness of the types of fraud that it may be exposed to especially given the ongoing financial situation and the resourcefulness of potential fraudsters. It will review national developments and strengthen systems and procedures accordingly using key sources of information from various national bodies, publications and frameworks:

10. CONCLUSION

- 10.1. The Council has always prided itself on setting and maintaining high standards and a culture of openness, with core principles of unity, pride, respect and integrity. This strategy fully supports the Council's desire to maintain an honest organisation, free from fraud.
- 10.2. The Council has in place a network of systems and procedures to assist it in dealing with fraud when it occurs. It is determined that these arrangements will keep pace with any future developments in both preventative and detective techniques regarding fraudulent or corrupt activity that may affect its operation.
- 10.3. The Council will maintain a continuous review of all these systems and procedures through its Internal Audit service.
- 10.4. This policy statement will be reviewed on a regular basis, with a maximum of three years between each review to take into account new legislative, professional and technological developments.

APPENDIX 1

GUIDELINES ON REPORTING SUSPICIONS OF FRAUD

What Do We Want to Know About?

1. Fraudulent acts may include:-
 - **Systems Issues** - where a process/system exists which is prone to abuse by either employees or members of the public.
 - **Financial Issues** - where individuals or companies have fraudulently obtained money from the Council.
 - **Equipment Issues** - where the Council's equipment is used inappropriately for personal reasons.
 - **Resource Issues** - where there is a misuse of resources.
 - **Other Issues** - activities undertaken by officers of the Council which may be unlawful, breach the Council's Financial Regulations or policies, fall below established standards or practices, or amount to improper conduct.
- 2 This is clearly not an exhaustive list, but is merely indicative of the types of fraud that may well be encountered. If there is any doubt about the seriousness of a concern, an employee or member of the public can obtain advice and guidance from the Head of Internal Audit on 01824 708093.
- 3 Concerns or allegations which fall within the scope of other existing policies or procedures (e.g. child protection or discrimination issues) will normally be referred for consideration under those procedures.

Safeguards

- 4 **Harassment or Victimisation** - The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for the alleged malpractice. The Council will not tolerate harassment or victimisation and will take appropriate action to protect those who raise a concern in good faith.
- 5 **Confidentiality** - The Council will do its best to protect an individual's identity when he or she raises a concern and wishes to retain their anonymity. It must be appreciated, however, that the investigation process may reveal the source of the information, and a statement by the individual may be required as part of the evidence.
- 6 **Anonymous Allegations** - This Policy encourages individuals to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will

be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:-

- The seriousness of the issue raised.
- The credibility of the concern.
- The likelihood of confirming the allegation from attributable sources.

7 Untrue Allegations - If an allegation is made in good faith, but is not confirmed by the investigation, no action will be taken against the originator. If, however, an individual makes malicious or vexatious allegations, action may be considered against the individual making that allegation.

What Should Employees Do if They Suspect Fraud?

8 Employees are often the first to realise that there could be something seriously wrong within an organisation; however, they may not wish to express their concerns because they may feel that by speaking out, they would be showing a degree of disloyalty to their colleagues or even to the Council itself. They may even fear harassment or victimisation. In such circumstances, it might appear easier just to ignore the concern rather than raise an issue which may just be a suspicion of malpractice.

9 The Council's 'Whistleblowing Policy' is intended to encourage and enable staff to raise serious concerns within the Council rather than overlooking a problem or 'blowing the whistle' to the media or other external bodies. A full copy of the 'Whistleblowing Policy' is available on the Council's intranet.

10 In essence, employees should approach the relevant Corporate Director or Head of Service, who, if they find the claim to be substantiated, will inform the Head of Internal Audit. The nature of the complaint will then determine the Council's course of action.

11 Internal Audit can be contacted on 01824 708093, by e-mail (ivan.butler@denbighshire.gov.uk), or by writing to the Head of Internal Audit at Business Improvement and Modernisation, Caledfryn, Council Office, Smithfield Road, Denbigh LL16 3RJ.

12 In summary, if you become aware of a problem:

- **DO** – make an immediate note of your concerns, the details of any conversations you have heard, or documents you have seen, and note the date, time, and names of people involved.
- **DO** – pass any documents that come into your possession immediately to Internal Audit.
- **DO** – act promptly, as delays may result in further financial loss or the loss of evidence.

- **DON'T** – ignore the concerns, or be afraid of raising them. You will not suffer recrimination from your employer as a result of voicing a reasonably held suspicion.
- **DON'T** – approach individuals yourself or convey your suspicions to other staff, except those authorised to deal with the matter.
- **DON'T** – try to investigate the matter yourself.

What Should Members of the Public Do if They Suspect Fraud?

13 The Council actively encourages members of the public who suspect fraud to contact Internal Audit in the first instance.

14 Internal Audit operates independently of all other Council services, and its work includes establishing procedures with the following aims:-

- To develop an anti-fraud culture.
- To deter, prevent, detect and investigate fraud.
- To ensure that appropriate action is taken against those who commit, or seek to commit, some form of fraud.

15 The possible courses of action which could be taken by the Council are as outlined in the following Section.

How Will Allegations of Fraud be dealt with by the Council?

16 For issues raised by employees or members of the public, the action taken within the Council will depend on the nature of the concern. The matters raised may be:

- Investigated internally.
- Referred to the Police.

17 Within ten working days of a concern being reported, the complainant will be written to:

- Acknowledging that notification of the concern has been received.
- Indicating how the Council proposes to deal with the matter, subject to limitations under Data Protection and Freedom of Information legislation.
- Giving an estimate of how long the Council will take to provide a final response.

18 The Council is also committed to training and developing all employees who are, or may be, involved in investigations of alleged or actual cases of fraud. The Council

will, therefore, identify and arrange to provide appropriate training as considered necessary.

Alternative Methods for Taking a Complaint Forward

19 If either a member of the public or an employee feels it is right to take the matter outside these processes, the following are possible ways forward:-

- **The Local Councillor** - contact details are available from the Council's web-site or offices.
- **The Council's external auditor** - This is the organisation appointed to scrutinise the Council's finances and overall performance. By law, they must be completely independent of the Council.
- **A Trade Union** - Employees may invite their Trade Union to raise an issue on their behalf.
- **The Police** - Suspicions of fraud may be reported directly to the Police.
- **The Public Services Ombudsman for Wales** - The Ombudsman is an independent person, appointed by the government, to investigate and deal with complaints against local authorities.
- **Public Concern at Work** - This is a charitable organisation which provides free and strictly confidential legal help to any person with concerns about an alleged malpractice which they perceive as a threat to the public interest. The national website is at <http://www.pcaw.co.uk>. It can also be contacted on its dedicated national helpline on 020-7404-6609, or at helpline@pcaw.co.uk
- **The Wales Audit Office (WAO)** –The WAO can be contacted by writing to the PIDA **Officer**, The Auditor General for Wales, 24 Cathedral Road, Cardiff CF11 9LJ. E-mail whistleblowing@wao.gov.uk. Phone 01244 525980

APPENDIX 2

FRAUD RESPONSE PLAN

FRAUD RESPONSE PLAN

1 INTRODUCTION

- 1.1 The Council is committed to the prevention, deterrence, detection and investigation of all forms of fraud or corruption as set out in the Strategy for the Prevention and Detection of Fraud, Bribery and Corruption.
- 1.2 It shall be the duty of all employees and Members, in all aspects of their Council work, to lead by example in ensuring opposition to fraud and corruption, adhere to the Council's own rules and regulations and ensure that all procedures and practices are beyond reproach.
- 1.3 The Council requires all individuals and organisations with whom it deals in any capacity, to behave toward the Council with integrity and without intent or actions involving fraud or corruption.
- 1.4 Council employees, members of the public and outside bodies are important elements in the maintenance of standards and shall be positively encouraged to raise any concerns they may have on these issues which impact on Council activities, using the Council's Whistleblowing Policy or Complaints procedure.
- 1.5 The Council will be robust in dealing with any malpractice and will deal promptly and thoroughly with any person who defrauds or attempts to defraud the Council or who engages in corrupt practices.
- 1.6 This policy shall be read in conjunction with Council's Disciplinary Policy.

2 DEFINITIONS

- 2.1 For purposes of this policy, the definition of a dishonest act or fraudulent activity includes but is not limited to:

“A person shall be guilty of fraud if he

- 1) a) dishonestly makes a false representation, or
- b) dishonestly fails to disclose to another person information which he is under a legal duty to disclose, or
- c) occupies a position in which he is expected to safeguard or not to act against the financial interests of another person and dishonestly abuses that position

and

- 2) intends to make a gain for himself or another or to cause loss to another or expose another to a risk of loss"
- 2.2 A dishonest act or fraudulent activity may be, but is not limited to, an act or activity that is unethical, improper, or illegal such as:
- (a) Theft of an asset including but not limited to money, tangible property, intellectual property etc;
 - (b) Misappropriation, misapplication, destruction, removal, or concealment of property;
 - (c) False claims and/or misrepresentation of facts;
 - (d) Alteration or falsification of paper or electronic documents, including the inappropriate destruction of paper or electronic documents;
 - (e) Inappropriate use of computer systems including hacking and software piracy;
 - (f) Embezzlement;
 - (g) Bribery, or corruption of any kind;
 - (h) Unlawful or undeclared conflict of interest;
 - (i) Unauthorised use or misuse of Council property, equipment, materials or records;
 - (j) Offences relating to misuse of the Council's computer systems.
- 2.3 Although a dishonest or fraudulent act may have criminal and/or civil law consequences, the Council is not required to use a determination by a criminal or civil body as the basis for determining whether an act is dishonest or fraudulent, nor must the act rise to the level of a crime or violation of civil law in order to constitute a violation of the Council's Disciplinary Policy.

Bribery

- 2.4 There are four key offences under the Bribery Act 2010:
- Bribing another person - A person commits an offence by offering, promising or giving a financial or other advantage to another person, directly or through an intermediary either:
 - a) intending that advantage to induce a person to perform improperly a Function or to reward a person for so doing (whether or not it is the same person to whom the advantage is offered) or
 - b) knowing or believing that accepting the advantage would itself be improper performance of a Function.

- Being bribed - A person commits this offence by requesting, agreeing to receive or accepting a financial or other advantage, directly or through a third party, for his or her own or someone else's benefit and,
 - a) that person intends that, as a consequence, there is improper performance of a Function or
 - b) there is improper performance of a Function (whether as a reward, in anticipation of or as a consequence of the request, agreement or acceptance).

The request, agreement or acceptance itself may be the improper performance of a Function.

- Bribery of a Foreign Public Figure – This offence will be committed if a person offers or gives a financial or other advantage to a foreign public official with the intention of influencing the foreign public official and obtaining or retaining business, where the foreign public official was neither permitted nor required by written law to be so influenced.
- Failing to prevent Bribery - A company is “strictly liable” for any bribe paid by a person performing services on its behalf, unless the organisation proves that adequate anti-bribery procedures were in place.

2.5 The offences carry criminal penalties for individuals and organisations. For individuals, a maximum prison sentence of ten years and/or an unlimited fine can be imposed; for organisations, an unlimited fine can be imposed.

3 INVESTIGATING SUSPECTED DISHONEST ACTS OR FRAUDULENT ACTIVITY INCLUDING CORRUPTION OR BRIBERY

- 3.1 It is the Council's intent to fully investigate any suspected acts of fraud, misappropriation or other similar irregularity.
- 3.2 Anyone who knowingly makes false allegations will be subject to disciplinary action.
- 3.3 Persons reporting suspected dishonest or fraudulent acts should, wherever possible, refrain from confrontation with the suspect and should not discuss the matter with anyone other than their line manager or those conducting an investigation of the allegations.
- 3.4 Heads of Service are required by the Council’s Financial Regulations to report all suspected irregularities to the Head of Internal Audit. This requirement, however, does not preclude Heads of Service from taking suitable action immediately if necessary.

- 3.5 Any member of the investigation team or officers likely to deal with any decision on disciplinary action who are personally involved with the suspect(s) in any way must declare an interest and not take part in subsequent procedures.
- 3.6 All participants in the fraud investigation shall keep the details and results of the investigation confidential at all times.
- 3.7 All matters where a special investigation is considered necessary will be logged for management information and statistical purposes for reporting fraud and related matters to the Wales Audit Office.
- 3.8 Once a suspected fraud is reported, management and / or Internal Audit staff shall take immediate action to prevent the theft, alteration or destruction of relevant records including data held on computers etc. Such actions include but are not limited to, removing the records and placing them in a secure location, limiting access to the location where records are held and preventing the individual(s) suspected of committing the fraud from having access to records (including those which are electronic).
- 3.9 Those charged with the responsibility for investigating possible fraud cases, such as designated managers or Internal Audit, shall have access to all Council-owned property including computers, records, rooms and furniture.
- 3.10 Depending on the nature and anticipated extent of the allegations, Internal Audit will normally work closely with management and other agencies, such as the Police to ensure that all allegations and evidence are properly investigated and reported upon.
- 3.11 After an initial review and a determination that the suspected fraud warrants further investigation a plan of action will be devised and event log maintained of progress of the investigation.
- 3.12 Any requirement for surveillance will be subject to the Regulation of Investigatory Powers Act 2000.
- 3.13 The Council will continue to use data matching to identify fraud and will work closely with the Department of Work and Pensions and the Cabinet Office to improve the quality and breadth of matches in the National Fraud Initiative. Where investigations involve Council employees or Members priority must be given to ensuring cases are promptly and thoroughly investigated.
- 3.14 In any instances where the investigation indicates possible criminal activity, the investigation will be referred to the Head of Legal, HR and Democratic Services for an opinion on the evidence.
- 3.15 Where there are reasonable grounds for believing that a criminal offence has been committed the matter will be referred to the Police. The decision on referral to the Police will be taken by the Head of Legal, HR and Democratic Services.

- 3.16 Where investigations relate to computer based systems, including Internet / E-mail services which involve pornographic or other inappropriate material, reference must be made to the Council's guidelines on seizing and investigating computer evidence based on Police and government guidelines. This stipulates that a computer may only be examined by an expert in controlled environment. The equipment should be turned off at the power supply and access secured until it can be referred to the Police for investigation.
- 3.17 The results of investigations conducted by Internal Audit will be documented and will be communicated orally and / or in writing to the Councils' Head of Finance promptly on completion of investigations and in summary format to the Council's Corporate Governance Committee who will consider the effectiveness of anti-fraud risk management arrangements.
- 3.18 Upon completion of the investigation, including all legal and human resources related actions any records, documents and other evidence will be returned by Internal Audit to the appropriate department.

4 SANCTIONS

- 4.1 Employees found to have participated in dishonest acts or fraudulent activity in work time or their own time may be subject to disciplinary action and possible criminal prosecution or civil action. This includes employees or Members who have been subject to investigation and fraud identified following any data matching exercise. The relevant Head of Service will be informed of the offence and must take immediate action to implement disciplinary proceedings in liaison with the Head of Legal, HR and Democratic Services
- 4.2 Employees found to have knowledge of a dishonest act or fraudulent activity and who knowingly failed to report the activity will be subject to disciplinary action in accordance with the Council's Disciplinary Procedures.
- 4.3 In respect of person found to have committed benefit fraud, sanctions will be applied as set out in the Benefit Sanctions Policy (Appendix 3).
- 4.4 The Council seeks to raise awareness of this Strategy – of its purposes and contents - with all of its members and employees and all persons and bodies with whom it engages
- 4.5 The Council's Disciplinary Procedures will be used where the outcome of investigation indicates improper behaviour on the part of employees. Disciplinary proceedings are not subject to a criminal burden of proof, but a 'balance of probabilities'

5 GENERAL PROSECUTION POLICY

5.1 In all cases the following will be considered when deciding on whether or not to prosecute.

Issue	Points to consider
Quality of available evidence	Is there sufficient evidence to satisfy a court? Is all the evidence admissible? Has all the evidence been obtained appropriately? Could the Proceeds of Crime Act be used?
Degree of criminality	How was the fraud perpetrated? Was it opportunist? How much planning went into the fraud? How long did it continue?
Persistent offender	Have they previously committed fraud? Have they received a sanction previously?
Position of Trust	Is the perpetrator a council employee, representative or contractor? Are they a Member of the council?
Duration of the fraud	How long did the fraud continue?
Loss to Public Funds	It would be unlikely for a fraud with a value of less than £500 to be prosecuted but it should not be ruled out. All of the other issues in this list need to be considered as well.
Voluntary disclosure	Was the fraud admitted prior to investigation?
Widespread offence	Is the offence part of a local trend? The offence might not be particularly serious but may be particularly prevalent in a specific area.
Social/Medical factors	Are there any mitigating circumstances? Are there any mental or physical disabilities? Is the perpetrator fit to stand trial? Social/medical factors should not automatically preclude prosecution but they must be considered.
Public Interest	What gain is there for the Council and/or general public?

6. REDRESS AND RECOVERY

6.1 Redress can be defined as the recovery or attempted recovery of assets lost or defrauded. This would include any type of financial recompense for the fraud. Where loss has been suffered through fraudulent activity the Council will take all reasonable steps to effect recovery promptly.

- 6.2 Where possible, the Council would expect to follow cases through to this point. Whilst the Council aims to progress to sanctions, it must also attempt to recover any loss. The recovery process is not part of the remit of Internal Audit but instruction and guidance will be given where possible to facilitate recovery.

Examples of redress and recovery

Case Type	Method of Redress/Recovery
Housing	Instigating recovery of property Removal from Housing Register Cancellation of Temporary Accommodation Disallowed from Right to Buy (RTB) Sue for loss of rent or RTB/portable discount
Benefits	Tracing of address for recovery of overpayment from Landlord or Tenant
Asylum Seekers	Tracing of address for recovery of overpayment from Landlord or Tenant
Internal and General	Charges on property Third Party (Garnishee) Attachment of earnings Freezing Injunctions Insurance Claims (fidelity guarantee) Pursuing debts via legal proceedings Confiscation orders Compensation Restitution Orders Proceeds of Crime Act

7 CONFIDENTIALITY

- 7.1 Details of any investigation regarding employees or Members are strictly confidential and must therefore not be discussed or conveyed to anyone other than the relevant management representatives and the nominated investigating team.
- 7.2 If the media becomes aware of an audit or other management investigation and attempts to contact members of the investigating team or any other employees for that matter, they must not discuss details of the alleged fraud and investigation. All matters relating to statements to the media will be dealt with through the Council's Communications Office.

8 PUBLICITY

- 8.1 Publicity is an important tool in the prevention of fraud as it highlights the Council's Counter Fraud activities and can act as a deterrent.

8.2 Having consideration to the appropriate council policies regarding publicity the Council will seek to publicise each case successfully prosecuted.

9. COMPLIANCE

9.1 All Heads of Service will be responsible for ensuring compliance with this Policy within their Services.

APPENDIX 3

BENEFITS SANCTIONS POLICY

BENEFIT FRAUD SANCTIONS POLICY

1 PURPOSES AND OBJECTIVES

1.1 This document sets out the Council's policy for applying sanctions to persons and organisations external to the Council who commit benefit fraud against it.

1.2. It should be noted that the Council is no longer responsible for the Investigation of Benefit Fraud as this is undertaken by the Department of Work and Pensions (DWP). The Council refers potential cases for investigation along with providing evidence as required to enable investigations to proceed. In cases where sanctions are to be instigated against customers for overpaid Housing and Council Tax Benefit, this must be approved by the Council.

1.3 In recognition of the Council's strategic aims and its status as a responsible steward of public funds, and also in view of public concern at fraud, especially the national problem of benefit fraud, this Policy aims to enable fraud to be effectively countered and deterred. Its specific objectives are to:

- ensure that fraud is punished through effective sanctions,
- assist in the selection of the most appropriate sanction,

2 SCOPE AND DEFINITIONS

2.1 For the purposes of this Policy, fraud means: 'the intentional distortion of financial statements or records by any persons which is carried out to conceal assets or otherwise for gain'.

2.2 This meaning also includes making financial gain, or an attempt to make financial gain, by knowingly failing to advise of changes to information previously supplied.

2.3 This Policy covers only Housing and Council Tax Benefit fraud against the Council by external persons or organisations. This may include, amongst others:

- Benefits claimants
- Landlords
- Agents
- Partners of Claimants

2.4 This Policy sets out:

- the sanctions which are available,
- publicity and reporting,
- keeping the Policy timely and relevant.

3 SANCTIONS AVAILABLE

There are four sanctions available:

- 3.1 Prosecution:- Criminal proceedings may be brought against alleged offenders and the case heard in Court with a view to obtaining a criminal conviction and an appropriate sentence.
- 3.2 Formal Caution:- An oral warning may be given in certain circumstances to a person who has committed an offence.
- 3.3 Administrative Penalties:- In accordance with Social Security legislation, Administrative Penalties will be considered as an alternative to prosecution in Housing and Council Tax Benefit fraud cases. A financial penalty amounting to a statutorily determined percentage of the gross adjudicated overpayment can be offered to a person where there is enough evidence to prosecute.
- 3.4 Overpayment Recovery and Civil Court Action:- A strict requirement to repay monies fraudulently obtained is in itself another major deterrent to fraud, and may be additional to any other sanctions that are applied. Recovery may also include Civil Court action.

4 CRITERIA FOR DECIDING WHICH SANCTION TO APPLY:

- 4.1 The sanction selected will take account of:
 - the amount of the fraud,
 - its duration,
 - whether the offender has a history of fraud (if known),
 - the offender's personal and social circumstances,
 - the extent to which the fraud was deliberate,
 - the public interest,
 - the quality and suitability of evidence.
- 4.2 It must be understood that all frauds will be treated rigorously and prosecution will be regarded as the optimum sanction. The recommendation for the appropriate sanction would be made by DWP and it will be for the Council to decide whether it agrees with this or not for the Housing Benefit or Council Tax Benefit element.

Department for Work and Pensions: Guidance on sanctions

Value of Fraud (£)	Recommended Sanction
0 – 2,000	Formal Caution
0 – 2,000	Administrative Penalty
No specified amount, depending on the following:- 1. Refusal to accept Formal Caution/Administrative Penalty, and/or 2. Previous similar offences have been committed, and/or 3. An attempt to commit fraud where none of the other sanctions are appropriate	Prosecution

5 RESPONSIBILITY FOR DECIDING WHICH SANCTION TO APPLY

- 5.1 The DWP will recommend a particular sanction upon completion of an investigation, will satisfy themselves that the appropriate criteria has been met and will record their decision accordingly.
- 5.2 As fraud investigation cases are undertaken by the DWP, then the decision as to which sanction to apply on behalf of the Council is the responsibility of the Revenues Manager for Housing/Council Tax Benefit cases and will depend upon the policies and decision of the partner agency.
- 5.3 The responsibility for administering any Prosecutions or Administrative Penalties, which may be authorised by the Revenues Manager, are the DWP's. The Council will ensure however that these are delivered in accordance with the appropriate legislative guidelines.
- 5.4 In respect of overpayment recovery and civil court action
- 5.4.1 Recovery of fraudulently overpaid Housing / Council Tax Benefit may be made via the Debtors system or from ongoing entitlement, or by any system as approved by the Head of Finance in accordance with the Financial Regulations.
- 5.4.2 Any overpayments remaining unpaid after a predetermined period will be referred for Civil Court action as appropriate in accordance with the Council's Debtors procedures.

6 PUBLICITY AND REPORTING

- 6.1 Since a principal objective of this policy is to deter fraud, then any successful prosecutions or other sanctions should be suitably publicised where appropriate. The Council will work in conjunction with the DWP where it is deemed appropriate to publicise cases where a Housing Benefit overpayment has been taken to court.

7 KEEPING THE POLICY TIMELY AND RELEVANT

- 7.1 This policy is available to all elected members and Council employees via its inclusion on the Intranet.
- 7.2 Copies of the Policy are available for reference by staff involved in fraud prosecution, and the application of other sanctions, and reference to it is included in those employees' training plans.
- 7.3 Copies of the Policy will be given to any partner organisations involved in the combat of fraud, such as the Department for Work and Pensions and to any contractors or agents acting on the Council's behalf.

APPENDIX 4

STATEMENT OF EXPECTED RESPONSIBILITIES

Stakeholder	Expected Responsibilities
Chief Executive	Ultimately accountable as Head of Paid Service for the effectiveness of the Council's arrangements for countering fraud as well as corporate governance.
Head of Legal, HR and Democratic Services (Monitoring Officer)	<p>To advise Councillors and officers on ethical issues, standards and powers to ensure that the Council operates within the Law and statutory Codes of Practice. The operation of the Council's Whistleblowing Policy.</p> <p>To put in place a corporate safe recruitment policy and monitor compliance against it.</p>
Head of Finance (Section 151 Officer)	The Head of Finance has a statutory duty, under Section 151 of the Local Government Act 1972, Sections 114 and 116 of the Local Government Finance Act 1988 and Accounts and Audit Regulations 1995 to ensure the proper administration of the Council's financial affairs. This includes Internal Audit and benefit fraud.
Heads of Service	To ensure that fraud risks are considered as part of the Council's corporate risk management arrangements. To ensure that actions to mitigate risks in this area are effective. To notify the Internal Audit Manager of any fraud arising in a timely manner.
Corporate Executive Team(CET)	<p>Challenge new policies and strategies to ensure that fraud risks have been taken into account.</p> <p>Review the corporate framework designed to promote an over-riding counter-fraud culture on a regular basis. This will include monitoring and evaluating arrangements to ensure effectiveness and compliance with best practice.</p>
Corporate Governance	To monitor the Council's Whistleblowing policy and

Committee	consider the effectiveness of the arrangements for countering Fraud.
Standards Committee	The Committee monitors and advises upon the content and requirement of Codes, Protocols and other procedures relating to standards of conduct throughout the Council.
Elected Members	To support and promote the development of a strong counter fraud culture.
External Audit / Wales Audit Office / Other Inspectorates	Statutory duty to ensure that the Council has in place adequate arrangements for the prevention and detection of fraud and theft.
Internal Audit	Responsible investigating any issues reported under this strategy. Reporting on the effectiveness of controls to the Corporate Governance Committee. To ensure that all suspected or reported irregularities are dealt with promptly and in accordance with this Strategy and that action is identified to improve controls and reduce the risk of recurrence.
Senior Managers	To promote staff awareness and ensure that all suspected or reported irregularities are immediately referred to Internal Audit. To ensure that there are mechanisms in place within their service areas to assess the risk of fraud and theft and to reduce these risks by implementing robust internal controls.
Staff	To comply with Council policies and procedures, to be aware of the possibility of fraud, and to report any genuine concerns to the appropriate management, the Chief Executive, the Head of Finance(s151Officer), the Head of Legal, HR and Democratic Services (Monitoring Officer), or Internal Audit.
Public, Partners, Suppliers, Contractors and Consultants	To be aware of the possibility of fraud against the Council and report any genuine concerns or suspicions. To ensure that effective controls are in place to mitigate risks to the Council.

APPENDIX 5

THE 7 GUIDING PRINCIPLES ON PUBLIC LIFE

Denbighshire County Council is committed to sound corporate governance and supports the Nolan Committee's **Seven Principles of Public Life** for the conduct of Council Members and employees, namely:

- **Selflessness** – Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.
- **Integrity** – Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.
- **Objectivity** – In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards or benefits, holders of public office should make choices on merit.
- **Accountability** – Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.
- **Openness** – Holders of public office should be as open as possible about all decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.
- **Honesty** – Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.
- **Leadership** – Holders of public office should promote and support these principles by leadership and example.

APPENDIX 6

HOW TO REPORT ANY SUSPECTED FRAUDS, OTHER IRREGULARITIES OR CONCERNS

To Contact Denbighshire Internal Audit Services

Contact: Ivan Butler

Tel – 01824 708093

Email – ivan.butler@denbighshire.gov.uk

Write to – Head of Internal Audit (Confidential)
Business Improvement and Modernisation,
Caledfryn, Council Office, Smithfield Road, Denbigh LL16 3RJ

To contact the Council's Monitoring Officer

Contact: Gary Williams – Head of Legal, HR and Democratic Services

Tel – 01824 712562

Email – gary.williams@denbighshire.gov.uk

Write to – The Monitoring Officer, (**Confidential**)
(Head of Legal, HR and Democratic Services)
County Hall, Wynnstay Road, Ruthin LL15 1YN

To Contact the Council's External Auditor

Tel – 01244 525970 or

Write to – Wales Audit Office,
Unit 4, Evolution, Lakeside Business Village
St David's Park, Ewloe, CH5 3XP

Mae tudalen hwn yn fwriadol wag

Adroddiad i'r: Pwyllgor Llywodraethu Corfforaethol

Dyddiad y Cyfarfod: 15 Mehefin 2016

Aelod/Swyddog Arweiniol: Y Cyngorydd Julian Thompson-Hill / Richard Weigh

Awdur yr Adroddiad: Richard Weigh, Pennaeth Cyllid

Teitl: Diweddaru Rheoliadau Ariannol y Cyngor

1. Am beth mae'r adroddiad yn sôn?

Dylai Rheoliadau Ariannol y Cyngor gael eu hadolygu a'u diweddaru o bryd i'w gilydd ac mae'r adroddiad hwn yn cyflwyno diwygiadau arfaethedig i'w hystyried a'u hargymell i'r cyngor llawn.

2. Beth yw'r rheswm dros lunio'r adroddiad hwn?

Amlinellu'r ffactorau ar gyfer gwneud diwygiadau a chyflwyno'r meysydd allweddol o newid.

3. Beth yw'r Argymhellion?

Ystyried yr adroddiad a'r newidiadau arfaethedig i'r Rheoliadau Ariannol ac argymell i'r cyngor llawn.

4. Manylion yr Adroddiad

Mae Rheoliadau Ariannol yn rhan o gyfansoddiad y cyngor ac yn darparu fframwaith ar gyfer rheoli materion ariannol y cyngor ac maent yn berthnasol i bob swyddog ac aelod o'r cyngor a'r bobl sy'n gweithredu ar ei ran.

Mae Rheoliadau Ariannol yn nodi nifer o egwyddorion a rheolau sy'n helpu i sicrhau bod y cyngor yn gweithredu gyda system gadarn o reolaeth fewnol a llywodraethu effeithiol. Mae'r egwyddorion a rheolau hyn yn tueddu i fod yn gyson dros gyfnod o amser, ond gall y drefniadaeth a'r dull o gymhwyso newid wrth i'r cyngor ad-drefnu, wrth i dechnoleg newid ac wrth i statud gael ei diweddaru. Gall rheoliadau gael eu cyfyngu i set o reolau â gweithdrefnau ariannol ar wahân a gynhelir ar wahân. Mae Rheoliadau Ariannol y Cyngor yn cynnwys cymhwyso gweithdrefnol yn ogystal â gosod allan y rheolau, sy'n gwneud y ddogfen yn faith o ran hyd, ond yn seiliedig ar y model a argymhellir gan y Sefydliad Siartredig Cyllid Cyhoeddus a Chyfrifyddiaeth.

Mae Atodiad 1 yn nodi rhai o'r prif newidiadau i'r Rheoliadau. Yn gryno mae'r rhain yn cynnwys y themâu canlynol:

- Diweddaru i adlewyrchu'r strwythur rheoli diweddaraaf a therminoleg

- Tynnu rheoliadau diangen
- Diweddarau gweithdrefnau i adlewyrchu'r newidiadau technolegol diweddaraf
- Nodi newidiadau i neu deddfwriaeth newydd, fel Deddf Llesiant Cenedlaethau'r Dyfodol

Mae hwn yn adolygiad sylweddol o'r Rheoliadau. Cynigir yn y dyfodol, bod y Rheoliadau yn cael eu hadolygu yn adrannau bob blwyddyn i wneud y broses yn fwy hylaw. Yn amlwg, os oes unrhyw newidiadau penodol sylweddol sydd eu hangen cyn y cyfnod adolygu, bydd y rhain yn cael eu gweithredu.

5. Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?

Mae Rheoliadau Ariannol yn sail i reolaeth ariannol a fframwaith llywodraethu y cyngor ac felly yn effeithio ar y ffordd y mae blaenoriaethau yn cael eu darparu ac y cyfrifir amdanynt.

6. Faint fydd hyn yn ei gostio a sut y bydd yn effeithio ar wasanaethau eraill?

Mae'r adolygiad wedi ei gynnal yn fewnol heb unrhyw gost ychwanegol.

7. Beth yw prif gasgliadau'r Asesiad o Effaith ar Gydraddoldeb (AEC) a gynhaliwyd ar y penderfyniad?

Ddim yn berthnasol i'r adroddiad hwn.

8. Pa ymgynghoriadau a gynhaliwyd gyda'r Pwyllgorau Archwilio ac eraill?

Ymgynghorwyd gyda rheolwyr Cyllid ac Archwilio Mewnol. Bydd Penaethiaid Gwasanaeth yn ymgynghori ar y newidiadau cyn eu mabwysiadu gan y Cyngor llawn.

9. Datganiad y Prif Swyddog Cyllid

Mae Rheoliadau Ariannol yn sail i'r fframwaith rheolaeth ariannol. Mae'r egwyddorion a'r rheolaethau sylfaenol yn tueddu i aros yn gyson dros amser, ond mae Rheoliadau'r cyngor yn cynnwys gweithdrefnau ariannol sy'n fwy tueddol o newid wrth i strwythurau, technoleg a deddfwriaeth newid. Mae'r diweddariadau diweddaraf yn adlewyrchu newidiadau yn y meysydd hyn dros y blynyddoedd diwethaf ac arferion cyfredol ar draws y cyngor felly ni ddylai greu beichiau gweinyddol newydd neu newidiadau o fewn gwasanaethau.

10. Pa risgiau sydd ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?

Mae diweddarau rheoliadau ariannol yn sicrhau bod rheolaethau a gweithdrefnau yn ystyried risg newydd neu risg sy'n newid wrth i systemau, technoleg, strwythurau a deddfwriaeth newid.

11. Pŵer i wneud Penderfyniad

Adran 151 Deddf Llywodraeth Leol (1972);

Deddf Cyllid Llywodraeth Leol 1988, Deddf Llywodraeth Leol a Thai 1989, Rheoliadau Cyfrifon ac Archwiliadau 2005 a Deddf Llywodraeth Leol 2003.

Atodiad 1 Rheoliadau Ariannol - Crynodeb o'r Newidiadau Allweddol

Maes	Newidiadau Allweddol
Cyffredinol	Wedi ei ddiweddarau i adlewyrchu'r strwythurau, deddfwriaeth a theitlau statudol diweddaraf. Er enghraifft, mae hyn yn dileu cyfeiriadau at gyfarwyddiaethau ac yn mewnosod cyfeiriad at Ddeddf Llesiant Cenedlaethau'r Dyfodol.
2. Polisiâu Cyfrifo	Wedi newid i adlewyrchu bod y polisiâu cyfrifo wedi'u nodi yn fanwl yn y Datganiad Cyfrifon a ragnodir gan reoliadau cyfrifo - yn hytrach na rhestru'r polisiâu ar wahân yn y Rheoliadau Ariannol.
4. Cynllunio Ariannol	Roedd yr adran hon yn canolbwyntio yn flaenorol ar ofynion yr agenda 'Gwerth Gorau' ac mae wedi ei diweddarau i ganolbwyntio mwy ar gynllunio ariannol a chyllidebol.
5. Monitro a Rheoli Cyllideb	Egwyddorion heb eu newid ond wedi eu cryfhau â pharagraffau newydd yn cwmpasu Cynllunio Ariannol Tymor Canolig.
6. Trosglwyddiad Ariannol a Balansau diwedd Blwyddyn	Cymeradwyaethau trosglwyddiadau ariannol wedi eu diweddarau i adlewyrchu'r strwythurau diweddaraf. Adran balansau diwedd blwyddyn wedi symud i'r adran nesaf.
7. Cronfeydd Wrth Gefn, Darpariaethau a Balansau	Mae'n egluro prosesau ar gyfer creu a defnyddio cronfeydd wrth gefn a darpariaethau ac yn egluro'r prosesau presennol ar gyfer defnyddio balansau yn ystod y flwyddyn mewn gwasanaethau.
8. Rhaglen Gyfalaf a Gwariant	Wedi ei ddiweddarau i adlewyrchu trefniadau cymeradwyo ac adrodd cyfredol (h.y. cyfraniad y Grŵp Buddsoddi Strategol yn y broses awdurdodi). Hefyd yn cyfeirio at asesiad o gynaliadwyedd tymor hir yn unol â Ddeddf Llesiant Cenedlaethau'r Dyfodol.

9. Rheoli Risg	Dileu'r adran – wedi ei chynnwys o fewn yr adran rheolaeth fewnol.
12. Gofynion Archwilio	Diweddaru gofynion Archwilio Mewnol a dileu adran Archwilio Allanol. Mae gofynion archwilio allanol yn cael eu cwmpasu gan statud ac felly nid oes angen iddynt gael eu gosod allan yn benodol yn y Rheoliadau Ariannol.
13. Atal Twyll a Llygredd	Diweddardwyd gyda dolen i Ganllawiau Gwyngalchu Arian.
14. Asedau	Yn bennaf heb eu newid. Gofynion o ran rhestrau eiddo wedi eu diweddaru i adlewyrchu arfer cyfredol. Gweithdrefnau storfeydd wedi eu diweddaru i adlewyrchu symud o systemau â llaw - tra'n cadw uniondeb y rheolaethau mewnol. Nodyn ynghylch hawliau eiddo deallusol wedi'i ychwanegu.
15. Rheoli Trysorlys	Wedi ei ddiweddaru i adlewyrchu deddfwriaeth a rheoliadau diweddara. Mae'r adran hon yn cael ei chynnwys yn llawer mwy manwl yn y Strategaeth Rheoli Trysorlys - bydd dolen i'r ddogfen yn cael ei darparu.
17. Staffio	Adran wedi ei dileu. Mae hyn yn dyddio o gyfnod cyn y systemau presennol sydd yn eu lle (cronfa ddata staffio ganolog, ac ati). Mae'r rheolaethau ariannol allweddol ynghylch staffio o fewn yr adran Cyflogau a Phensiynau.
19. Incwm	Wedi ei ddiweddaru i ofyn am adolygiad rheolaidd o ffioedd a thaliadau, i'w ystyried fel rhan o broses y gyllideb.
20. Archebu a Thalu am Nwyddau a Gwasanaethau	Mae newidiadau i'r adran hon yn adlewyrchu newidiadau technolegol diweddara neu newidiadau systemau. Mae'r rhain yn cynnwys cyfeiriadau at gardiau prynu, archebu electronig a thalu a newidiadau gweithdrefnol wedi hynny.
21. Cyflogau a Phensiynau	Newidiadau i adlewyrchu technoleg. Cryfhau proses awdurdodi ar gyfer taliadau terfynu.
22. Teithio, Cynhaliaeth a Lwfansau	Wedi ei ddiweddaru i ganiatáu ar gyfer hawliadau electronig.
23. Trethiant	Wedi ei ddiweddaru i adlewyrchu gweithdrefnau HMRC diweddara.
27. Partneriaethau	Mae'r hen adran 'Partneriaethau' wedi ei diweddaru a'i hehangu i gynnwys modelau

<p>a Modelau Darparu Gwasanaeth Amgen</p>	<p>darparu gwasanaeth amgen. Mae'r Fframwaith Partneriaeth yn awr yn cael ei ddarparu fel dolen, gan y bydd y gweithdrefnau ar gyfer asesu opsiynau modelau darparu gwasanaeth amgen a'r fframwaith llywodraethu i'w dilyn wedi hynny. Mae'r Fframwaith ar gyfer Darparu Gwasanaethau gyda Darparwyr Gwasanaeth a ariennir gan y Cyngor hefyd yn awr wedi ei atodi fel dogfen gysylltiedig.</p>
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Mae tudalen hwn yn fwriadol wag

FINANCIAL REGULATIONS

Status of Financial Regulations

Financial Regulations are a part of the County Council's constitution and provide the framework for managing the Council's financial affairs. They apply to every Member and officer of the Council and anyone acting on its behalf. Failure to comply with Financial Regulations may result in disciplinary action. Schools are required to have a set of Financial Regulations to identify the principles of financial control, enable governors to exercise their responsibility for making arrangements of the proper management of schools' finances and to ensure the highest standards are achieved in the stewardship of public funds.

The regulations identify the financial responsibilities of the full Council, Cabinet, Corporate Governance Committee, Scrutiny Committee Members, the Chief Executive, the Monitoring Officer (Head of Legal and Democratic Services), the Chief Finance Officer, (Head of Finance) and other Chief Officers (Directors and Heads of Service).

Cabinet Members and Chief Officers should maintain a written record where decision making has been delegated to members of their staff, including seconded staff. Where decisions have been delegated or devolved to other responsible officers, references to the Chief Officer in the regulations should be read as referring to them.

All Members and staff have a general responsibility for taking reasonable action to provide for the security of the assets and resources under their control, and for ensuring that the use of these resources is legal, properly authorised and provides value for money.

The Chief Finance Officer is responsible for maintaining Financial Regulations and submitting any additions or changes necessary to the Full Council for approval. The Chief Finance Officer is also responsible for reporting, where appropriate, breaches of Financial Regulations to the Council and/or to Cabinet members.

Breaches will be investigated. Any breach of Financial Regulations may give rise to formal disciplinary action or action under competency procedures.

Chief Officers are responsible for ensuring that all staff in their services are aware of the existence and content of the Council's Financial Regulations and other internal regulatory documents and that they comply with them. They must also ensure that staff are able to access them via electronic or other means.

Reference to the Chief Finance Officer and other Chief Officers are subject to arrangements for deputising and departmental schemes of delegation. Heads of Service must ensure that there is an effective scheme of delegation within their departments.

The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Regulations that Members, officers and others acting on behalf of the Council are required to follow.

The Financial Regulations contain references to the statutory definitions and other standard terminology in relation to key posts.

A glossary of these is shown below:

Statutory Definition	Equivalent Post in Denbighshire
Chief Finance Officer or Section 151 Officer	Head of Finance
Monitoring Officer	Head of Legal, HR & Democratic Services
Chief Officer	Corporate Directors and Heads of Service
Chief Audit Executive	Head of Internal Audit

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1. FINANCIAL MANAGEMENT & ADMINISTRATION

Purpose

All staff, Members and anybody acting on behalf of the Council have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls that are in place to ensure that these standards are met.

- 1.1 The Cabinet is responsible for making recommendations to the Council on the allocation of the resources of the Council and for controlling the available financial resources through the preparation of the annual budget.
- 1.2 The Chief Finance Officer shall, for the purposes of Section 151 of the Local Government Act 1972, be responsible for the administration of the Council's financial affairs, and the supervision of all aspects of financial management undertaken by all departments of the Council.
- 1.3 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. The statutory duties arise from:
 - a. Section 151 of the Local Government Act 1972
 - b. The Local Government Finance Act 1988
 - c. The Local Government and Housing Act 1989
 - d. The Accounts and Audit Regulations 2005
 - e. The Local Government Act 2003
- 1.4 The Chief Finance Officer is responsible for:
 - a. the proper administration of the Council's financial affairs;
 - b. setting and monitoring compliance with financial management standards;
 - c. reporting on the robustness of estimates and adequacy of financial and controlled reserves for the purposes of making budgetary calculations.
- 1.5 Sections 114 and 114A of the Local Government Finance Act 1988 require the Chief Finance Officer to report to the full Council, Cabinet and external auditor if the Council or one of its officers:

- a. has made, or is about to make, a decision which involves incurring unlawful expenditure;
 - b. has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the Council;
 - c. is about to make an unlawful entry in the Council's accounts.
- 1.6 Any such report is to be sent to all members of the Council and the external auditor. Once a report is made, the Council (or Cabinet regarding executive functions) is required to hold a meeting within 21 days to consider it.
- 1.7 Section 114A of the 1988 Act also requires:
 - a. the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under Section 114 personally;
 - b. the authority to provide the Chief Finance Officer with sufficient staff, accommodation and other resources – including legal advice where this is necessary – to carry out the duties under Section 114A and Section 151 of the Local Government Finance Act.
- 1.8 The Chief Finance Officer, as financial adviser to the Council, shall each year prepare a report to the Cabinet regarding the level of resources proposed for utilisation in each financial year, and shall keep Cabinet informed with respect to the Council's finances and financial performance.
- 1.9 From April 2016, the Wellbeing of Future Generations Act comes into force. This puts into law the requirement of public bodies to consider the long-term impact of decisions, alongside current requirements and needs. Financial planning and decision making should ensure that proper regard is given to the requirements of the Act and in particular, proper consideration of the long term impact of financial decisions, including the payback period and whole life costs of investment decisions, properly impact assessed budget proposals and long term debt and investment (treasury management) strategies. The principles of prudence, affordability and sustainability should underpin financial planning and decision making.
- 1.10 The Chief Finance Officer is responsible for recommending such changes to Financial Regulations to the full Council as he considers necessary and desirable for the proper administration of the finances of the County Council.

- 1.11 The Corporate Governance Committee shall be responsible to the Council for monitoring that appropriate control systems are in place to ensure the proper observance of the Council's Financial Regulations.
- 1.12 Every Chief Officer of the Council shall consult with, and obtain the agreement of, the Chief Finance Officer if there should exist any doubt whatsoever whether an item of expenditure may be lawful. Chief Officers shall also inform the Chief Finance Officer if there should exist any doubt whatsoever whether an item of expenditure may result in expenditure exceeding the available budget.
- 1.13 All staff and elected Members have a duty to abide by the highest standards of probity in dealing with financial issues. This is facilitated by ensuring that everyone is clear about the standards to which they are working and the controls in place to ensure that these standards are met.
- 1.14 Chief Officers shall be required to bring the Council's Financial Regulations to the attention of all staff within their department. Any employees who fail to observe Financial Regulations may be subject to disciplinary action.
- 1.15 Each Chief Officer is responsible for the accountability and control of their staff and the security, custody and control of all other resources relating to his/her department.
- 1.16 No officer may make a financial provision or financial commitment unless there is funding in place to support the expenditure.
- 1.17 Chief Officers must satisfy the Chief Finance Officer that every proposal to incur expenditure to be submitted to any committee affecting the Council's finances is:
 - a. Lawful.
 - b. Can be met from within the existing budget allocations of the Department concerned or it is proposed within the report how the expenditure would be funded.
- 1.18 Every report to committee thereon shall contain confirmation that such consultation has taken place and that the Chief Finance Officer is satisfied that the report contains a clear statement of the financial impact and how this will be funded (if appropriate). This consultation will be reported in a statement from the Chief Finance Officer.
- 1.19 Each financial year, or as often as the Cabinet may require, every Chief Officer shall prepare, in consultation with the Chief Finance Officer and within the agreed strategy, estimates of income and expenditure of a

revenue and capital nature.

- 1.20 It is the responsibility of Chief Officers to ensure that budget estimates reflecting agreed service plans are submitted to the Members of the Cabinet and that these estimates are prepared within the overall reporting framework determined by the Chief Finance Officer.
- 1.21 Chief Officers shall ensure that appropriate and adequate supporting information is provided, including any reasons for increased or decreased estimated income or expenditure.

2. ACCOUNTING POLICIES

Purpose

Appropriate accounting policies must be in place to allow for the preparation of the Council's statement of accounts, in accordance with proper practices.

General

- 2.1 The Chief Finance Officer is responsible for selecting accounting policies and ensuring that they are lawful and applied consistently. All accounting procedures and records of the Council and its officers shall therefore be in a form approved by the Chief Finance Officer.

Regulations

- 2.2 Systems of internal control must be in place to ensure that financial transactions are lawful.
- 2.3 Proper accounting records must be maintained.
- 2.4 Financial statements must be prepared which present fairly the financial position of the Council and its expenditure and income.

Responsibilities

- 2.5 The Chief Finance Officer should ensure that the accounting policies are set out in the annual statement of accounts that is prepared at 31 March each year.

3. ACCOUNTING RECORDS & PROCEDURES

Purpose

Maintaining proper accounting records is one of the ways in which the Council discharges its responsibility for stewardship of public resources. The Council has a statutory responsibility to prepare its annual accounts to present fairly its operations during the year. These are subject to external audit. This audit provides assurance that the accounts are prepared properly, that proper accounting practices have been followed and that quality arrangements have been made for securing economy, efficiency, effectiveness and quality in the use of the Council's resources.

General

- 3.1 The Chief Finance Officer will determine the accounting procedures and records for the Council and arrange for the compilation of all accounts and accounting records under his or her direction.

Accounting Records

Regulations

- 3.2 The duties of providing information about sums due to or from the Council and calculating, checking and recording these sums will be separated from the duty of collecting or disbursing them.
- 3.3 Employees with the duty of examining or checking the accounts of cash transactions must not themselves be engaged in these transactions.

Responsibilities

- 3.4 The Chief Finance Officer will make proper arrangements for the audit of the Council's accounts and ensure that all claims for funds including grants are made by the due date.
- 3.5 The Chief Finance Officer will prepare and publish the audited accounts of the Council for each financial year, in accordance with the statutory timetable and with the requirement for the Corporate Governance Committee to approve the statement of accounts by the statutory deadline.
- 3.6 The annual statement of account shall be produced in accordance with proper practices. The Council is required to prepare an Annual Statement of Accounts by the Accounts and Audit (Wales) Regulations 2005. The Regulations require that the Accounts be prepared in accordance with proper accounting practices. These practices primarily comprise 'Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA) supported by International Financial Reporting Standards (IFRS).

Accounting Procedures

Regulations

- 3.7 Cabinet members, finance staff and budget managers should operate within the required accounting standards and timetables.
- 3.8 All of the Council's transactions, material commitments and contracts and other essential accounting information should be recorded completely, accurately and on a timely basis.
- 3.9 Procedures should be in place to enable accounting records to be reconstituted in the event of systems failure.
- 3.10 Reconciliation procedures should be carried out to ensure transactions are correctly recorded.
- 3.11 Prime documents should be retained in accordance with legislative and other requirements. For most financial records this will be 6 years plus the current year though records supporting some external grants may need to be retained for a longer period.

4 FINANCIAL PLANNING

BUDGETING PREPARATION

Purpose

To set a framework for the consideration and approval of the Revenue Budget and Capital Programmes The revenue budget must be constructed so as to ensure that resource allocation properly reflects the service plans and priorities of the full Council. Budgets (spending plans) are needed so that the Cabinet can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for an authority to budget for a deficit.

Regulations

The Cabinet will determine the strategy, guidelines and processes relating to both the Revenue Budget and the Capital Programme upon advice from the Chief Finance Officer.

The Chief Finance Officer will ensure that a programme of capital expenditure and estimates of revenue income and expenditure is submitted to the Cabinet and full Council in such form and by such date(s) as required.

In line with the Budget & Policy Framework Procedure Rules, the Cabinet, shall consider budget proposals before recommending the budget to the full Council, including a recommendation of the Council Tax Rate for the ensuing financial year.

At least three days before the meeting of the Council at which such matters will be considered, each Member shall be provided with a report containing a copy of the proposed programme of capital expenditure and estimates of income and expenditure on the revenue account.

Nothing in this regulation precludes consideration of additional expenditure if further resources become available during the year.

The Chief Finance Officer is responsible for ensuring that a Revenue Budget and Capital Programme is prepared on an annual basis and a medium term financial plan on a three-yearly basis for consideration by the Cabinet, before submission to the full Council. The full Council may amend the budget or ask the Cabinet to reconsider it before approving it.

The Chief Finance Officer is responsible for issuing guidance and a summary of the general content of the budget as soon as possible following approval by the full Council.

It is the responsibility of Chief Officers to ensure that budget estimates, reflecting agreed service plans, are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet and comply with Section 4.3 Budget & Policy Framework Procedure Rules of the Constitution.

The Medium Term Financial Plan (MTFP) brings together the key assumptions around financial resources (including Council Tax) and spending pressures over the medium to longer term. This enables the Council to plan for financial risks and thus inform the setting of service financial targets for the annual revenue budget and capital payments guidelines. The setting of financial targets within the available resource envelope will be completed with reference to the priorities set within the Corporate Plan. The Chief Finance Officer will ensure that reports to Cabinet and Council are made, as appropriate, upon the medium term budget prospects.

5. BUDGET MONITORING & CONTROL

Purpose

Budget management ensures that once the full Council has approved the budget, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous process, enabling the Council to review and adjust its budget targets during the financial year. It also provides the mechanism that calls to account managers responsible for defined elements of the budget.

By continuously identifying and explaining variances against budgetary targets, the Council can identify changes in trends and resource requirements at the earliest opportunity. The Council itself operates within an annual budget limit, approved when setting the overall budget. To ensure that the Council in total does not overspend, each service is required to manage its own expenditure within the budget allocated to it.

For the purposes of budgetary control by managers, a budget will normally be the planned income and expenditure for a service area or cost centre; however, budgetary control may take place at a more detailed level if this is required by the Chief Officer's scheme of delegation.

General

- 5.1 The approval of the revenue budget or capital programme by the Council shall constitute authority to incur such expenditure, save to the extent to which the Council shall have placed a reservation on such budget or programme.
- 5.2 However, nothing in these Financial Regulations shall prevent Cabinet from incurring expenditure which is urgent or essential to meet any immediate needs created by a sudden emergency, or which is referable to Section 138 of the Local Government Act, 1972.
- 5.3 It shall be the duty of Cabinet to keep under review the financial performance of each service and the council as a whole during the budget period.
- 5.4 The Chief Finance Officer is responsible for providing appropriate financial information to enable budgets to be set and monitored effectively. He or she must monitor and control expenditure against budget allocations and report to the Cabinet on the overall position on a regular basis.

- 5.5 It is the responsibility of Chief Officers to control income and expenditure within their area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They should report on variances within their own areas to the Chief Finance Officer and then to Cabinet. They should also take any action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer to any problems.

Regulations

- 5.5 Budget managers should be responsible only for income and expenditure that they can influence and control.
- 5.6 There must be a nominated budget manager for each cost centre heading.
- 5.7 Budget managers should accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities.
- 5.8 Budget managers should follow an approved certification process for all expenditure.
- 5.9 Income and expenditure must be properly recorded and accounted for.
- 5.10 Performance levels/levels of service should be monitored in conjunction with the budget and necessary action should be taken to align service outputs and budget.

Responsibilities

- 5.11 The Chief Finance Officer will establish an appropriate framework of budgetary management and control that ensures that:
- a. budget management is exercised within annual budget limits unless the full council agrees otherwise;
 - b. each Chief Officer has available timely, relevant and accurate information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities;
 - c. expenditure is committed only against an approved budget head;
 - d. all officers responsible for committing expenditure comply with relevant guidance, and these financial regulations;

- e. each cost centre has a single named manager, determined by the relevant Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision-making processes that commits expenditure;
 - f. significant variances from approved budgets are investigated and reported by budget managers.
- 5.12 Chief Officers should ensure that both revenue and capital spending remains within the service's overall budget limit, and that individual budget heads are not overspent, by monitoring the budget and taking appropriate corrective action where significant variations from the approved budget are forecast. Pressures arising on budgets should initially be contained within the overall service budget. Chief Officers should consult with the Chief Finance Officer upon the systems and methods they adopt to ensure such control.
- 5.13 Where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control, the Chief Finance Officer will submit reports to the Cabinet, in consultation with the relevant Chief Officer.
- 5.14 Prior approval by Cabinet must be given for new proposals , that:
- a. create significant additional financial commitments;
 - b. change existing policies, initiate new policies or cease existing policies;
 - c. change the timescale of an existing policy;
 - d. materially extend or reduce the Council's services.
- 5.15 A report on new proposals should explain the full financial implications, following consultation with the Chief Finance Officer. Unless the full Council or Cabinet has agreed otherwise, Chief Officers must plan to contain the financial implications of such proposals within their budget limit.

6. VIREMENT

Purpose

The scheme of virement is intended to enable Chief Officers and their staff to manage budgets with a degree of flexibility within the overall policy framework determined by the full Council, and therefore to optimise the use of resources.

Responsibilities

- 6.1 The Cabinet is responsible for agreeing the procedures for virement of expenditure between cost centres.
- 6.2 The Chief Finance Officer is responsible for proposing and administering the scheme of virement.

Regulations

- 6.3 The transfer of budget is not a virement if the budget continues to be used for the same purpose. Virement can only be approved if:
- the proposed expenditure is not contrary to Council policy;
 - it is not contrary to approved Service Business Plans;
 - the future revenue burden on the service is not materially increased.
- 6.4 Budget virement up to £500k within services, is at the discretion of the Head of Service or equivalent, with approval of the Chief Finance Officer, providing the three conditions above are met. All other virement should follow the process set out in the following table.

Amount	Approval Process Within Services	Approval Between Services
Up to £250k	Head of Service	Heads of Service Chief Finance Officer
Between £251k-£500k	Head of Service Chief Finance Officer	Heads of Service Chief Finance Officer Corporate Executive Team
Above £500k	Head of Service Chief Finance Officer	Cabinet

7. RESERVES, PROVISIONS & BALANCES

Purpose

The local authority must decide the level of general reserves it wishes to maintain before it can decide the level of council tax. Reserves are maintained as a matter of prudence. They enable the authority to provide for unexpected events and thereby protect it from overspending, should such events occur. Reserves for specific purposes may also be maintained, such as the purchase or renewal of capital items. Reserves are treated differently from balances that may accrue during the year from unexpected activity or deviation from planned income or expenditure.

Responsibilities

- 7.1 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the full Council on prudent levels of reserves for the authority.

Regulations

- 7.2 Reserves should be maintained in accordance with proper accounting practice and agreed accounting policies.
- 7.3 For each reserve established, the purpose, usage and basis of transactions should be clearly identified.
- 7.4 The use of reserves as defined in 7.3 will require the approval of the Chief Finance Officer and be reported to cabinet.
- 7.5 Reserves may only be used for the purposes for which they were intended. Any deviation from this or re-allocation of reserves will require the approval of the Cabinet
- 7.6 Balances that may accrue during the year because of underspends on approved budgets will be subject to Financial Regulation 6 (Virement & Year End Balances).
- 7.7 During the year, new reserves may only be established and contributions to service reserves can only be made following the approval of Cabinet. At year-end, the Chief Financial Officer will make recommendations to Cabinet on the treatment of any balances arising after the end of the financial year.
- 7.8 Where the Chief Finance Officer deems it appropriate, recommendations will be made to cabinet to make a financial provision for future known events.

- 7.9 The Chief Finance Officer will periodically review reserves and provisions and make recommendations to Cabinet where it is appropriate to reallocate funds. This may include supporting the annual budget process.

TREATMENT OF YEAR-END BALANCES

Responsibilities

- 7.10 Upon recommendation by the Chief Finance Officer and the approval of Cabinet, any overspending on service estimates in total on budgets under the control of the Chief Officer could be carried forward to the following year, and will constitute the first call on service estimates in the following year.
- 7.11 Net underspendings on services may be carried forward, subject to recommendation by the Chief Finance Officer and approval of Cabinet.
- 7.12 All internal business unit surpluses shall be retained for the benefit of the Council and their application shall require the approval of the Cabinet.
- 7.13 Schools' balances shall be available for carry-forward to support the expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the Cabinet member concerned, following evaluation by the chief education officer and the Chief Finance Officer. A school's governing body will normally be expected to agree a plan with the Cabinet member concerned to recover the deficit within a defined period.
- 7.14 The Denbighshire Scheme for Financing Schools prohibits schools from planning for a deficit when preparing their annual budget plans. In support of the Authority's monitoring and intervention role the scheme requires schools:
- a. to return a draft 3 year budget to the LA and if applicable, submit notification that they are unable to set a balanced budget by the 1st April each year;
 - b. to gain approval, where applicable, for a planned deficit, by the 1st May of each year including submission of the proposed recovery plan intended to support the reduction/removal of that deficit. Any unplanned deficits that occur within the financial year due to unforeseen circumstances must be reported as soon as they become known to the school. Approval to carry forward that deficit to the new financial year must be sought;

- c. to submit a final Governor approved budget (surplus or deficit) by the 31st May each year to include a financial recovery plan for those schools who have been granted a licensed deficit;
 - d. Schools should only apply for a licensed deficit in circumstances where they cannot set a balanced budget without seriously impacting on educational provision;
 - e. Denbighshire County Council has no power to write off the deficit balance of any school and all deficits will remain a liability of the Governing Body until paid back. This applies in all circumstances including during school re-organisation;
 - f. Schools must, where possible, avoid the need to apply for a licensed deficit by robustly managing their 3 year budget planning process and being proactive in responding to changes early enough to allow mitigating actions to be implemented;
 - g. where it is found that deficits have occurred as a result of financial mismanagement at a school level then Denbighshire County Council will consider the merits of enforcing its powers under S51 of the Schools Standards and Framework Act to remove financial delegation from the school;
- 7.15 The Chief Finance Officer will administer the scheme of carry-forward balances within the procedures approved by the Cabinet and will report all overspendings and underspendings on all service estimates carried forward to the Cabinet.

8. CAPITAL PROGRAMME & EXPENDITURE

Purpose

Capital expenditure involves acquiring or enhancing fixed assets with a long-term value to the Council, such as land, buildings, and major items of plant, equipment, computer programs or vehicles. Capital assets shape the way services are delivered in the long term and create financial commitments for the future in the form of financing costs and revenue running costs.. This means that capital expenditure should form part of an investment strategy and should be carefully prioritised in order to maximise the benefit of scarce resources. The longterm impact and sustainability of capital investment decisions should be considered as part of the council's obligations under the Wellbeing of Future Generations Act.

General

- 8.1 The Chief Finance Officer is responsible for ensuring that a capital programme is prepared on an annual basis for consideration by Cabinet before submission to the full Council. This process shall be in line with Section 4.3 of the Constitution (Budget & Policy Framework Procedure Rules).
- 8.2 The definition of 'capital' will be determined by the Chief Finance Officer, having regard to government regulations and accounting requirements.
- 8.3 No expenditure shall be incurred on any capital project in the current financial year unless provision exists in the approved capital programme.
- 8.4 The Capital Plan will be agreed by Council and updated regularly. Projects funded from the Block Allocations within the Capital Plan may be approved by Cabinet. Any significant variation to the approved expenditure, the approved outputs of the project or the timescale must be reported to Cabinet and/or Council to approve the changes.

Regulations

- 8.5 There must be specific approval by the full Council for the annual programme of capital expenditure.
- 8.6 All expenditure on capital schemes is subject to the approval of the Chief Finance Officer.

- 8.7 All bids for capital expenditure must, in addition to the requirements of these Financial Regulations, have been considered by the Strategic Investment Group.
- 8.8 A business case should be prepared for each capital project and be submitted to the Strategic Investment Group for review before approval by the Cabinet or Council. Business cases should outline estimates of all capital costs, financing requirements, revenue implications and comment on the long-term sustainability of the proposal.
- 8.9 Approval of the Chief Finance Officer is required where capital schemes are to be financed from the revenue budget.
- 8.10 Proposals for improvements and alterations to buildings must be approved by the appropriate Chief Officer in consultation with the Corporate Property Unit.
- 8.11 An asset management plan should be in place for each service, to underpin the corporate asset management plan.
- 8.12 Accountability for each capital project must be formally accepted by a named manager who will be responsible for the management of the budget. The relevant Chief Officer will appoint the responsible officer.
- 8.13 Capital projects may only proceed when there is adequate provision in the capital programme.
- 8.14 Adequate records must be maintained for all capital contracts.
- 8.15 Capital projects should be continually monitored by the responsible officer (8.13) to assess progress, in conjunction with expenditure and comparison with approved budget. The responsible officer should immediately inform the Chief Finance Officer if a capital project is likely to exceed the approved budget.

Responsibilities

- 8.16 The Chief Finance Officer will prepare capital estimates jointly with Chief Officers and report them to the Cabinet for approval. Cabinet will make recommendations on the capital estimates and on any associated financing requirements to the full Council.

- 8.17 The Chief Finance Officer will prepare and submit regular reports to the Cabinet on the performance of the capital programme and will report annually to the full council.
- 8.18 Cabinet authorisation is required for individual schemes where the estimated expenditure exceeds the capital programme provision, unless the estimated expenditure cannot be contained within the overall capital plan, in which case Council approval will also be required.

Responsibilities of Chief Officers

- 8.19 To ensure that all schemes follow the proper approval procedures.
- 8.20 To ensure that credit arrangements, such as leasing agreements, are not entered into without the prior approval of the Chief Finance Officer.
- 8.21 To seek the approval of the Lead Member and Chief Finance Officer for any bid for additional capital funding to support expenditure that has not been included in the current year's capital programme.

9. INSURANCE

Purpose

The Council must have adequate insurance to control identified risks. This regulation clarifies roles and responsibilities and separates the duty of making claims and arranging claims.

Responsibilities

- 9.1 The Chief Finance Officer shall arrange all required insurance cover and negotiate all claims in consultation with other officers where necessary.
- 9.2 The Chief Finance Officer shall ensure that all appropriate employees of the Council are included in a suitable fidelity guarantee insurance policy and any other appropriate insurance policy.
- 9.3 The Chief Finance Officer shall operate and administer an internal insurance fund to meet losses on claims and such risks deemed appropriate.
- 9.4 Chief Officers shall give prompt notification to the Chief Finance Officer of all new risks, properties or vehicles that are to be insured and of any alterations affecting existing insurances.
- 9.5 Chief Officers shall notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the Council, together with any information or explanation required by the Chief Finance Officer or the Council's insurers. The Chief Finance Officer should inform the police if appropriate.
- 9.6 The Chief Finance Officer shall annually, or at such period as he may consider necessary, review all insurances in consultation with other Chief Officers as appropriate.
- 9.7 Chief Officers shall consult the Chief Finance Officer regarding the terms of any indemnity that the Council is requested to give.

10. INTERNAL CONTROL & RISK MANAGEMENT

Purpose

As a complex organisation the Council needs to have a robust framework of internal controls within its procedures and processes. Internal controls have many purposes, including helping the Council to:

- *achieve its corporate & service priorities*
- *comply with laws, regulations & statutory requirements*
- *provide assurance on governance of the Council's affairs*
- *manage its risk effectively*
- *manage its financial administration*

However, the system of internal control cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute assurance of effectiveness.

Regulations

- 10.1 Key controls should be reviewed on a regular basis and the Council should make a formal statement annually to the effect that it is satisfied that the systems of internal control are operating effectively. This can be delivered through the Annual Governance Statement.
- 10.2 Managerial control systems must be in place, including defining policies, setting objectives and plans, monitoring financial and other performance and taking appropriate anticipatory and remedial action. The key objective of these systems is to promote ownership of the control environment by defining roles and responsibilities.
- 10.3 Financial and operational control systems and procedures must be in place, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- 10.4 There must be an effective and properly resourced internal audit function. It should operate in accordance with the the Public Sector Internal Audit Standards and with any other statutory obligations and regulations
- 10.5 The Corporate Governance Committee is responsible for approving the Council's risk management policy statement and strategy and for reviewing the effectiveness of risk management

- 10.6 Procedures must be in place to identify, assess, prevent or contain material known risks, and ensure that these procedures are operating effectively throughout the Council.
- 10.7 Monitoring process should be in place to review regularly the effectiveness of risk reduction strategies and the operation of these controls. The risk management process should be conducted on a continuing basis.
- 10.8 Managers should know that they are responsible for managing relevant risks and be provided with relevant information on risk management initiatives.

Responsibilities

- 10.9 The Chief Finance Officer will assist the Council to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.
- 10.10 The Chief Finance Officer is responsible for removing controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- 10.11 Chief Officers should manage processes to check that established controls are being adhered to and to evaluate their effectiveness, in order to be confident in the proper use of resources, achievement of objectives and management of risks.

11. AUDIT REQUIREMENTS

Internal Audit

PURPOSE

The requirement for an internal audit function for local authorities is implied by Section 151 of the Local Government Act 1972, which requires that local authorities “make arrangements for the proper administration of their financial affairs”. The Accounts and Audit Regulations require that an effective system of internal audit of accounting records and control systems is maintained.

Accordingly, internal audit is an independent team that provides assurance and advice to all levels of management and elected members on the quality of operations within the Council. It particularly focuses on governance, risk management, performance, efficiency and operational and financial control.

General

11.1 In accordance with the accounts and audit regulations approved by the Welsh Assembly Government from time to time, a continuous internal audit, under the independent control and direction of the Chief Audit Executive (, shall be arranged to carry out an examination of accounting, financial and other operations of the Council.

11.2 The Chief Finance Officer and Chief Audit Executive have the authority to:

- a. access Council premises at reasonable times;
- b. access all assets, records, documents, correspondence and systems;
- c. receive any information and explanation considered necessary concerning any matter under consideration;
- d. require any employee of the Council to account for cash or any other Council asset under his or her control;
- e. access records belonging to third parties, such as contractors, when required.

11.3. The Chief Audit Executive has authority to directly access the Chief Executive, Council, Cabinet and the Corporate Governance Committee about any appropriate issue.

Regulations

- 11.4 Internal audit must be independent in its planning and operation and internal auditors must be objective and effective in performing their work.
- 11.5 The Chief Audit Executive must have direct access to the Chief Executive, all levels of management and elected Members.
- 11.6 Internal auditors must comply with the Public Sector Internal Audit Standards & Code of Ethics.

Responsibilities

- 11.7 The Corporate Governance Committee approves the strategic audit plans prepared by the Chief Audit Executive, which are developed on a risk-based approach that allows the Chief Audit Executive to form and evidence his opinion on the control environment to support the Council's Annual Governance Statement.
- 11.8 The Chief Finance Officer should ensure that effective procedures are in place to investigate promptly any fraud or irregularity.

Responsibilities of Chief Officers

- 11.9 To ensure that internal auditors are given access at all reasonable times to premises, personnel, documents and assets that the auditors consider necessary for the purposes of their work.
- 11.10 To ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- 11.11 To consider and respond promptly to recommendations in audit reports.
- 11.12 To ensure that any agreed actions arising from audit recommendations are carried within agreed timescales.
- 11.13 To notify the Chief Audit Executive and Chief Finance Officer immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the Council's property or resources. Pending investigation and reporting, the Chief Officer should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- 11.14 To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Chief Finance Officer and Chief Audit Executive prior to implementation.
- 11.15 The Chief Audit Executive shall provide an annual report giving an opinion on the Council's system of internal control.

12. PREVENTING FRAUD AND CORRUPTION

Purpose

The Council will not tolerate fraud and corruption in the administration of its responsibilities, whether from inside or outside the Council.

The Council's expectation of propriety and accountability is that Members and staff at all levels will lead by example in ensuring adherence to legal requirements, rules, procedures and practices.

The Council also expects that individuals and organisations (eg suppliers, contractors, service providers) with whom it comes into contact will act towards the Council with integrity and without thought of or actions involving fraud and corruption.

Regulations

- 12.1 The Council should have an effective anti-fraud and anti-corruption policy and maintain a culture that will not tolerate fraud or corruption.
- 12.2 Chief Officers are required to deal swiftly and firmly with those who defraud or attempt to defraud the Council or who are corrupt.
- 12.3 A register of interests should be maintained in which any hospitality or gifts accepted must be recorded.
- 12.4 All staff or elected Members should report any declaration of interest to the Monitoring Officer who will maintain a register of interests.
- 12.5 Whistle blowing procedures should be in place and operating effectively.
- 12.6 Legislation including the Public Interest Disclosure Act 1998 should be adhered to.

Responsibilities of the Chief Finance Officer

- a. to develop and maintain an anti-fraud and anti-corruption policy and related policies, such as Money Laundering in conjunction with the Monitoring Officer;
- b. to maintain adequate and effective internal control arrangements;
- c. to ensure that all suspected irregularities are reported to the Chief Audit Executive, the Chief Executive, the Cabinet and the Corporate Governance Committee.

Responsibilities of Chief Officers

- a. to ensure that all suspected irregularities are reported to the Chief Finance Officer and Chief Audit Executive;
- b. to instigate the Council's disciplinary procedures where the outcome of an audit investigation indicates improper behaviour;
- c. to ensure that where financial impropriety is discovered, the Chief Audit Executive is informed, and where sufficient evidence exists to believe that a criminal offence may have been committed, the police are called in;
- d. to ensure that all staff are aware of the requirement to report any declaration of interest to the Monitoring Officer who will maintain a register of interests.

14. ASSETS

Security of Assets

Purpose

The Council holds assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It is important that assets are safeguarded and used efficiently in service delivery, and that there are arrangements for the security of both assets and information required for service operations. An up-to-date asset register is a prerequisite for proper fixed asset accounting and sound asset management.

General

14.1 Chief Officers should ensure that records and assets are properly maintained and securely held. They should also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

Regulations

14.2 The regulations below have been established for the security and use of assets such as land, buildings, vehicles, fixed plant machinery, equipment, information and software and should be adhered to.

14.3 Resources should be used only for the purposes of the Council and be properly accounted for.

14.4 Resources should be available for use when required.

14.5 Resources no longer required should be disposed of in accordance with the law and the regulations of the Council so as to maximise benefits.

14.6 An asset register should be maintained and assets recorded when they are acquired by the Council and this record should be updated as changes occur with respect to the location, value and condition of an asset.

Responsibilities

14.7 The Chief Finance Officer will ensure that an asset register is maintained in accordance with good practice for all fixed assets with a value in excess of £30,000, except for land and buildings for which there is no de minimis level. The function of the asset register is to provide the Council with information about fixed assets so that they are:

- a. safeguarded;
 - b. used efficiently and effectively;
 - c. adequately maintained;
 - d. properly accounted for.
- 14.8 The Chief Finance Officer will ensure that assets are valued in accordance with the proper accounting practice
- 14.9 The Head of Legal and Democratic Services shall have custody of all title deeds under secure arrangements. The Corporate Property Unit will maintain a register of all properties owned by the Council, recording the responsible service department, purpose for which held, location area and plan, reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies, leases, licences granted and other dealings with the property.
- 14.10 The responsibilities of Chief Officers in respect of the security of assets are as follows:
- a. to inform the Chief Finance Officer of all properties, plant and machinery and moveable assets currently owned or used by the Council. Any use of property by a Department other than for direct service delivery should be supported by documentation identifying terms, responsibilities and duration of use;
 - b. to provide the Chief Finance Officer with the information required for the proper accounting and recording of assets;
 - c. to ensure that lessees and other prospective occupiers of Council land are not allowed to take possession or enter the land until a lease or agreement, in a form approved by the Head of Legal and Democratic Services in consultation with the Chief Finance Officer, has been established as appropriate;
 - d. to ensure the proper security of all buildings and other assets under their control;
 - e. to pass title deeds to the Head of Legal and Democratic Services who is responsible for custody of all title deeds;
 - f. to ensure that no asset is subject to personal use by an employee without proper authority;
 - g. to ensure the safe custody of vehicles, equipment, furniture, stock, stores and other property belonging to the Council;

- h. the Head of Finance may direct that separate inventories, in a form to be determined by him, are kept of any items not forming part of the Asset Register modules or subsidiary records;
- i. to make sure that property is only used in the course of the Council's business, unless the Chief Officer concerned has given permission otherwise;
- j. to consult the Chief Audit Executive in any case where security is thought to be defective or where it is considered that special security arrangements may be needed;
- k. to ensure that cash holdings on Council premises are kept to a minimum. If cash holdings are likely to exceed £500 the Chief Finance Officer should be consulted for instructions on safe custody;
- l. to ensure that keys to safes and similar receptacles are kept securely; loss of any such keys must be reported to the appropriate manager as soon as possible;
- m. to ensure that all employees are aware that they have a personal responsibility with regard to the protection and confidentiality of information, whether held in manual or computerised records. Information may be sensitive or privileged, or may possess some intrinsic value, and its disclosure or loss could result in a cost to the Council in some way;
- n. to ensure that all staff are aware of their responsibilities with regard to the Data Protection Act 1998, the Freedom of Information Act and the Council's Information Security Policy;
- o. to ensure that all staff are aware of their responsibilities with regard to safeguarding the security of the Council's computer systems, including maintaining restricted access to the information held on them and compliance with the Council's Information Security Policy.

STOCKS AND STORES

Responsibilities

14.11 It is the responsibility of Chief Officers to make arrangements for the care and custody of stocks and stores in the Department and to ensure that stocks are maintained at reasonable levels and are subject to a regular independent physical check. All discrepancies should be investigated and pursued to a satisfactory conclusion.

14.12 Stock control procedures must be approved by the Chief Finance Officer.

Regulations

14.13 A delivery note or similar record, authorised by the person receiving the goods, should be obtained in respect of every delivery of goods.

14.14 Goods that are clearly defective or not compliant with specification should not be accepted. Delivery notes or similar records shall be amended accordingly.

14.15 Issues of stores shall be supported by an authorised requisition and receipt.

14.16 Stocks shall not be in excess of normal requirements except in special circumstances and shall be with the approval of the Chief Officer.

14.17 The Chief Officer should investigate and remove from the Council's records (ie write-off) discrepancies as necessary, in consultation with the Chief Finance Officer. Material discrepancies should be reported to the Cabinet at the discretion of the Chief Finance Officer.

14.18 Redundant stocks and equipment should be sold or written-off. Procedures for disposal of such stocks and equipment should be by competitive quotations or auction, unless the Chief Finance Officer and Lead Member decide otherwise in a particular case.

14.19 Chief Officers shall arrange for and record periodical test examinations throughout the financial year of stocks by persons other than storekeepers and shall ensure that all stocks are checked and valued formally at the end of the financial year and the results passed to the Chief Finance Officer in the form of a stock certificate. The stock value will be included as part of the Council's published accounts.

Asset disposal

Purpose

It is uneconomic and inefficient for the cost of assets to outweigh their benefits. Obsolete, non-repairable or unnecessary resources should be disposed of in accordance with the law and the regulations below.

Regulations

14.21 Assets should be disposed of at the most appropriate time, and only when it is in the best interests of the Council to do so. Best price should be obtained, bearing in mind other factors, such as environmental issues.

- 14.22 The disposal or part exchange of assets should normally be by competitive tender or public auction, unless, the Chief Finance Officer and the Asset Management Group agrees otherwise.
- 14.23 Disposal of land and buildings shall be undertaken in accordance with the delegations to the Asset Management Group as agreed by the Cabinet.
- 14.24 The Chief Finance Officer must be informed of any disposal to ensure that appropriate accounting entries are made to remove the value of disposed assets from the Council's records and to include the sale proceeds if appropriate.

Intellectual property

Intellectual property is a generic term that includes inventions, writing and programming. If an employee creates these during the course of employment then, as a general rule, they belong to the employer, not the employee. Chief Officers will ensure that their staff are not carrying out private work in Council time and that their staff are aware of the Council's rights with regard to intellectual property. Instances of where intellectual property may be, or has been, created should be referred to the relevant Chief Officer.

15. TREASURY MANAGEMENT

Purpose

Many millions of pounds pass through the authority's accounts each year. This has led to the establishment of codes of practice which aim to provide assurances that the authority's money is properly managed in a way that balances risk with return, but with the overriding consideration being given to the security of the authority's cash.

General

15.1 Code of Practice for Treasury Management in Public Services *and the Welsh Government's Investment Strategy Guidance.*

Regulations

15.2 All money in the hands of the Council is controlled by the officer designated for the purposes of section 151 of the Local Government Act 1972, referred to in the Code as the Chief Finance Officer.

15.3 Accordingly, the Council will create and maintain, as the cornerstones for effective treasury management:

- a. A treasury management policy statement, stating the policies and objectives of its treasury management activities;
- b. A treasury management strategy statement and set of prudential indicators.

15.4 This organisation will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year (to full Council), and an annual report after its close, in the form prescribed in its TMPs (to Corporate Governance Committee).

15.5 The Council delegates responsibility for the implementation and monitoring of its treasury management policies and practices to the Corporate Governance Committee, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the Council's Treasury Management policy and if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.

Responsibilities of the Chief Finance Officer (Treasury Management)

- a. to arrange the borrowing and investments of the Council in such a manner as to comply with the *CIPFA Code of Practice on Treasury Management* and the Council's treasury management policy statement and strategy;
- b. to report at least twice a year on treasury management activities to the Corporate Governance Committee;
- c. to report promptly to the Cabinet and Corporate Governance Committee in any exceptional circumstance where the provisions of the *CIPFA Code of Practice on Treasury Management* are not met.

Responsibilities of the Chief Finance Officer (Investments and Borrowing)

- a. to ensure that all investments of money are made in the name of the Council or in the name of nominees approved by the full council;
- b. to ensure that all securities that are the property of the Council or its nominees and the title deeds of all property in the Council's ownership are held in the custody of the appropriate Chief Officer;
- c. to effect all borrowings in the name of the Council;
- d. to act as the Council's registrar of stocks, bonds and mortgages and to maintain records of all borrowing of money by the Council.

Responsibilities of Chief Officers (Investments and Borrowing)

- a. to ensure that loans are not made to third parties and that interests are not acquired in companies, joint ventures or other enterprises without the approval of the Cabinet, following consultation with the Chief Finance Officer.

Responsibilities of Chief Officers (Trust Funds and Funds held for Third Parties)

- a. to arrange for all trust funds to be held, wherever possible, in the name of the Council. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Chief Finance Officer, unless the deed otherwise provides;
- b. to arrange, where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and to maintain written records of all transactions;
- c. to ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

16. BANKING & IMPREST (PETTY CASH) ACCOUNTS

Purpose

The Council's banking arrangements must be regulated to ensure proper control and stewardship of all Council funds.

Regulations

- 16.1 All arrangements with the Council's bankers shall be made by, or under arrangements approved by the Chief Finance Officer who shall operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Chief Finance Officer.
- 16.2 All cheques, etc. (excluding cheques drawn on authorised imprest accounts) shall be ordered only on the authority of the Chief Finance Officer who shall make proper arrangements for their safe custody.
- 16.3 The Chief Finance Officer or other specifically authorised officers shall sign cheques or approve payments on the Council's main bank accounts. The Chief Finance Officer is authorised to use cheque-signing machines and shall be responsible for ensuring appropriate security for such machines.

Imprest (Petty Cash) Accounts

General

- 16.4 It is the responsibility of the Chief Finance Officer to provide employees of the Council with cash or bank imprest accounts to meet minor expenditure (generally £100 or less or other items approved by the Chief Finance Officer) on behalf of the Council and to reimburse imprest holders as often as necessary to restore the imprest, but normally not more than monthly.
- 16.5 Such accounts shall be maintained on the imprest system and be subject to audit by the Chief Audit Executive.
- 16.6 The Chief Finance Officer must approve all imprest accounts, and imprest accounts should never be allowed to go overdrawn. No income received on behalf of the Council may be paid into an imprest account.

Responsibilities

16.7 Chief Officers are responsible for ensuring that employees operating an imprest account:

- a. obtain and retain vouchers (e.g. receipts) to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained;
- b. make adequate arrangements for the safe custody of the account;
- c. produce upon demand by the Chief Finance Officer cash and all vouchers to the total value of the imprest amount;
- d. record transactions promptly and in full;
- e. request reimbursement to restore the imprest in sufficient time (it is recommended a claim is submitted when $\frac{3}{4}$ of the imprest has been used) to avoid the account going overdrawn;
- f. reconcile and balance the account at least monthly; reconciliation sheets to be signed and retained by the imprest holder;
- g. provide the Chief Finance Officer with a certificate of the value of the account held at 31 March each year;
- h. ensure that the float is never used to cash personal cheques or to make personal loans and that the only payments into the account are the reimbursement of the float and change relating to purchases where an advance has been made;
- i. on leaving the Council's employment or otherwise ceasing to be entitled to hold an imprest advance, an employee shall account to the Chief Finance Officer for the amount advanced to him or her.

17. FINANCIAL SYSTEMS & PROCEDURES

Purpose

Departments have many systems and procedures relating to the control of the authority's assets, including purchasing, costing and management systems. Departments are increasingly reliant on computers for their financial management information. The information must therefore be accurate and the systems and procedures sound and well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

Responsibilities

- 17.1 The Chief Finance Officer has a professional responsibility to ensure that the Council's financial systems are sound and should therefore be notified of any new developments or changes.
- 17.2 The Chief Finance Officer is responsible for the operation of the Council's accounting systems, the form of accounts and the supporting financial records. Any changes made by Chief Officers to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer. However, Chief Officers are responsible for the proper operation of financial processes in their own Departments.
- 17.3 The Chief Finance Officer is responsible for ensuring that arrangements are in place for the proper administration of the Council's financial affairs, including:
- a. issuing advice, guidance and procedures for officers and others acting on the Council's behalf;
 - b. determining the accounting systems, form of accounts and supporting financial records;
 - c. establishing arrangements for audit of the Council's financial affairs;
 - d. approving any new financial systems to be introduced;
 - e. approving any changes to be made to existing financial systems.
- 17.4 Any changes to agreed procedures by Chief Officers to meet their own specific service needs should be agreed with the Chief Finance Officer.
- 17.5 Chief Officers should ensure that their staff receive relevant financial training that has been approved by the Chief Finance Officer.

17.6 Chief Officers must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation and must ensure that staff are aware of their responsibilities under freedom of information legislation.

Responsibilities of Chief Officers

17.7 Chief Officers are responsible for the following within their Services:

- a. to ensure that accounting records are properly maintained and held securely;
- b. to ensure that vouchers and documents with financial implications are not destroyed, except in accordance with arrangements approved by the Chief Finance Officer and subject to statutory requirements and the Council's policy on records management;
- c. to ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original document, and vice versa, is maintained;
- d. to incorporate appropriate controls to ensure that, where relevant:
 - I. all input is genuine, complete, accurate, timely and not previously processed;
 - II. all processing is carried out in an accurate, complete and timely manner;
 - III. output from the system is complete, accurate and timely;
- e. to ensure that the organisational structure provides an appropriate segregation of duties to provide adequate internal controls and to minimise the risk of fraud or other malpractice;
- f. to ensure that there is a documented and tested disaster recovery plan to allow information system processing to resume quickly in the event of an interruption;
- g. to ensure that systems are documented and staff trained in operations;
- h. to consult with the Chief Finance Officer before changing any existing system or introducing new systems;

- i. to establish a scheme of delegation identifying officers authorised to act upon the Chief Officer's behalf in respect of all financial matters including payments, income collection and placing orders (including variation orders), and showing the limits of their authority;
- j. to supply lists of authorised officers, with specimen signatures and delegated limits, to the Chief Finance Officer upon request, together with any subsequent variations;
- k. to ensure that effective contingency arrangements, including back-up procedures, exist for computer systems. Wherever possible, back-up information should be securely retained in a fireproof location, preferably off site or at an alternative location within the building or another Council site;
- l. to ensure that, where appropriate, computer systems are registered in accordance with data protection legislation and that staff are aware of their responsibilities under the legislation;
- m. to ensure that the requirements of the Council's Information Security Policy are met;
- n. to take steps to ensure that computer equipment and software are protected from loss and damage through theft, vandalism, etc;
- o. to comply with the copyright, designs and patents legislation and, in particular, to ensure that:
 - I. only software legally acquired and installed by the Council is used on its computers;
 - II. staff are aware of legislative provisions;
 - III. in developing systems, due regard is given to the issue of intellectual property rights.

18. INCOME

Purpose

Effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the authority's cash flow and also avoids the time and cost of administering debts.

Regulations

- 18.1 All income due to the Council should be identified and charged correctly, in accordance approved service charging policies.
- 18.2 All income should be collected from the correct person, at the right time, using the correct procedures and the appropriate stationery.
- 18.3 All money received by an employee on behalf of the Council should be paid in full and without delay to the Chief Finance Officer or, as he or she directs, to the Council's bank account, and properly recorded.
- 18.4 The responsibility for cash collection should be separated from that of:
 - a. identifying the amount due;
 - b. reconciling the amount due to the amount received;
- 18.5 Effective action should be taken to pursue non-payment of debt within defined timescales.
- 18.6 Debts below £25 should be recovered at the point of service delivery or sale and will only be processed as a formal sundry debt with the approval of the Chief Finance Officer.
- 18.7 Formal approval for any debt write-off must be obtained before any action is taken (see 18.12 d) and Financial Regulation 24).
- 18.8 Appropriate write-off action should be taken within defined timescales.
- 18.9 Appropriate accounting adjustments should be made following write-off action.
- 18.10 All appropriate income documents should be retained and stored for six years plus the current year.
- 18.11 Money collected and deposited should be reconciled to the bank account by a person who is not involved in the collection or banking process.
- 18.12 As per the Council's Anti-Money Laundering Policy, no cash payment to the Council shall be accepted if it exceeds £10,000.

Responsibilities of the Chief Finance Officer

- a. to agree arrangements for the collection of all income due to the Council and to approve the procedures, systems and documentation for its collection;
- b. to order and supply to Departments all receipt forms, books or tickets and similar items and to satisfy himself or herself regarding the arrangements for their control;
- c. to write-back to Departments any unpaid sundry debts at the date when the debt is referred to a collection agency;
- d. to agree the write-off of sundry bad debts up to £2,500 in respect of any one debtor in respect of any one financial year and with the agreement of the Lead Member up to £20,000 in respect of any one debtor in any one financial year and to refer amounts above £20,000 to Cabinet for approval;
- e. to approve and maintain write off procedures for debts in connection with local taxation, housing benefit and rents;
- f. to approve all debts to be written off in consultation with the relevant Chief Officer and to keep a record of all sums written off up to the approved limit and to adhere to the requirements of the Accounts and Audit Regulations .
- g. to periodically review the council's Money Laundering Guidance

Responsibilities of Chief Officers

- a. to consider, where possible, pre-payment in respect of goods and services provided by the council;
- b. to ensure there is a policy for service fees and charges that is regularly reviewed in consultation with the Chief Finance Officer and considered annually as part of the revenue budget setting process;
- c. to separate the responsibility for identifying amounts due and the responsibility for collection, as far as is practicable;
- d. to initiate appropriate recovery procedures, including legal action where necessary, for debts that are not paid promptly;
- e. to issue official receipts or to maintain other records for income collection;

- f. to ensure where practical that at least two employees are present when post is opened so that money received by post is properly identified and recorded;
- g. to hold securely receipts, tickets and other records of income for two years plus the current year;
- h. to lock away all income to safeguard against loss or theft, and to ensure the security of cash handling;
- i. to ensure that income is paid fully and promptly into the appropriate Council bank account in the form in which it is received. Appropriate details should be recorded on paying-in slips to provide a reference to the debt (audit trail). Money collected and deposited must be reconciled to the bank account on a regular basis;
- j. to ensure that income is not used to cash personal cheques or other payments;
- k. to supply the Chief Finance Officer with details relating to work done, goods supplied, services rendered, leases, contracts or other amounts due, to enable the Chief Finance Officer to record correctly the sums due to the Council and to ensure that accounts are sent out promptly. Chief Officers have a responsibility to assist the Chief Finance Officer in collecting debts that they have originated and in pursuing the matter on the Council's behalf;
- l. to keep a record of every transfer of money between employees of the Council;
- m. to recommend to the Chief Finance Officer all debts to be written off and to keep a record of all sums written off. Once raised, no bona fide debt may be cancelled, except by full payment or by formally writing-off the debt. A credit note to replace a debt can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt;
- n. to obtain the approval of the Chief Finance Officer when writing off debts in excess of the approved limit, and the approval of the Cabinet where required;
- o. to notify the Chief Finance officer of outstanding income relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer.

19. ORDERING AND PAYING FOR GOODS AND SERVICES

Purpose

Public money should be spent with demonstrable probity and in accordance with the authority's policies. Authorities have a statutory duty to achieve value for money in part through economy and efficiency. The authority's procedures should help to ensure that services obtain value for money from their purchasing arrangements.

Regulations

- 19.1 Every officer and Member of the Council has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the Council, in accordance with appropriate codes of conduct.
- 19.2 Goods and services may only be ordered by persons authorised to do so and must be correctly recorded when the order is actually placed.
- 19.3 All goods and services should be ordered in accordance with the Council's Contract Procedure Rules and the Council's procurement strategy, unless ordered from sources within the Council.
- 19.4 Official orders must be in a form approved by the Chief Finance Officer. Orders should be raised electronically using the corporate system unless an exception has been agreed by the Chief Finance Officer.
- 19.5 Official orders must be issued for all work, goods or services to be supplied to the Council, except for supplies of utilities, periodic payments such as rent or rates, petty cash and purchasing/credit card transactions or other exceptions specified by the Chief Finance Officer.
- 19.6 Orders should be issued electronically to the supplier at the time the order is placed. If this is not possible, a confirmation order should be issued as soon as it is practical to do so.
- 19.7 Standard terms and conditions should be included or referred to on all orders and must not be varied without the prior approval of the Chief Finance Officer.
- 19.8 Goods and services received should be checked to ensure that they are in accordance with the order.

- 19.9 Payments should not to be made unless goods have been received by the Council at the correct price, quantity and quality standards as defined in the purchase order placed with the supplier (19.6). Unless formal approval has been granted by the Chief Finance Officer, the council will not pay in advance of receipt of goods or services.
- 19.10 All payments should be made to the correct person, for the correct amount and be properly recorded, regardless of the payment method.
- 19.11 All appropriate evidence of the transaction and payment documents should be retained and stored for the defined period, in accordance with the document retention schedule. For most payments this will be six years plus the current year.
- 19.12 Apart from petty cash or purchasing cards, the normal method of payment from the Council shall be by automated credit, cheque or other instrument or approved method, drawn on the Council's bank account by the Chief Finance Officer. The use of direct debit shall require the prior agreement of the Chief Finance Officer.
- 19.13 All expenditure, including VAT, should be accurately recorded against the right budget and any exceptions corrected.
- 19.14 Purchases should not be funded by netting off cash income received.
- 19.15 Official orders should not be raised for any personal or private purchases, nor must personal or private use be made of Council contracts or discounts.
- 19.16 Effective procedures should be in place to maintain the security and integrity of data for transacting business electronically.
- 19.17 All e-business/e-commerce developments must be approved by the Chief Finance Officer.

Purchasing Cards

- a. The criteria for the granting, use and accounting for Purchasing Cards will be determined by the Chief Finance Officer;
- b. Purchasing Cards are the responsibility of the named cardholder at all times and should not be used by other officers;

- c. Purchasing Cards must only be used for official Council purchases and are subject to all requirements of these financial regulations, CPRs and other relevant polices, as applicable;
- d. It is the cardholder's responsibility to ensure that clear, complete and accurate receipts (including VAT receipts) are obtained, for every transaction (where appropriate).

Responsibilities of the Chief Finance Officer

- a. to approve the form of official orders and associated terms and conditions;
- b. to make payments from the Council's funds on receipt of authorisation that the expenditure has been duly incurred in accordance with Financial Regulations;
- c. to make payments, whether or not provision exists within the estimates, where the payment is specifically required by statute or is made under a court order;
- d. to make payments to contractors on the certificate of the appropriate Chief Officer, which must include details of the value of work, retention money, amounts previously certified and amounts now certified;
- e. to provide advice and encouragement on making payments by the most economical means;
- f. to ensure that a budgetary control system is established that enables commitments incurred by placing orders to be shown against the appropriate budget allocation so that they can be taken into account in budget monitoring reports;
- g. to authorise the use of Purchasing Cards;
- h. to issue guidance on the use of Purchasing Cards.

Responsibilities of Chief Officers

- a. to ensure that official orders are used for all goods and services, other than the exceptions specified in 20.5 above. Orders should be completed, issued and authorised at the time the order is actually placed. If this is not possible, a confirmation order should be sent to the supplier, quoting or referring to the Council's terms and conditions, as soon as it is practical to do so;

- b. to ensure that orders are only used for goods and services provided to the council. Individuals must not use official orders to obtain goods, services or discounts for their private use;
- c. to ensure that only those staff authorised to do so approve orders identifying in each case the limits of their authority. The authoriser of the order should be satisfied that the goods and services ordered are appropriate and needed, are consistent with the Council's procurement strategy, that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Value for money principles should always underpin the Council's approach to procurement;
- d. to ensure that goods and services are checked upon receipt to verify that they are in accordance with the order.. A different officer from the person who authorised the order should, where possible, carry out this check;
- e. to ensure that discrepancies between orders and invoices received are resolved swiftly;
- f. to ensure that two authorised members of staff are involved in the ordering process. This will mean the person creating an order should be different from the person authorising it;
- g. to ensure the Chief Finance Officer is informed of staff leaving or changing so that ordering permissions can be kept up to date;
- h. to inform suppliers that invoices should be sent to the appropriate PO Box or e-mail address in Finance and should not be sent to the service department;
- i. to ensure that the Department obtains best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality and following the Council's contract procedures when required;
- j. to ensure that staff do not deliberately attempt to circumvent the Council's contract procedures, for examples by splitting up orders;
- k. to follow the Council's Contract Procedure Rules when putting purchases out to competitive quotation or tender. See Financial Regulation 30;
- l. to ensure that employees are made aware of the Code of Conduct for County Council employees;

- m. to ensure that loans, leasing or rental arrangements are not entered into without prior agreement from the Chief Finance Officer;
- n. to notify the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31st March in line with the timetable determined by the Chief Finance Officer;
- o. with regard to contracts for construction and alterations to buildings and for civil engineering works, to document and agree with the Chief Finance Officer the systems and procedures to be adopted in relation to financial aspects, including certification of interim and final payments, checking, recording and authorising payments, the system for monitoring and controlling capital schemes and the procedures for validation of subcontractors' tax status;
- p. to notify the Chief Finance Officer immediately of any expenditure to be incurred as a result of statute/court order where there is no budgetary provision;
- q. to ensure that all appropriate payment records are retained and stored for six years plus the current year;
- r. to approve each application for a Purchasing Card;
- s. to ensure monthly Purchasing Card statements are authorised, have invoices attached and are processed through the accounting system in accordance with the guidance of the Chief Finance Officer;
- t. to retain all supporting vouchers and documents for expenditure incurred, in accordance with statutory requirements.

20. PAY & PENSIONS

Purpose

Staff costs are the largest item of expenditure for most authority services. It is therefore important that payments are accurate, timely, made only where they are due for services to the authority and that payments comply with an individuals' conditions and contract of employment. It is also important that all payments are accurately and completely recorded and accounted for.

Responsibilities of the Chief Finance Officer

- a. to arrange and control secure and reliable payment of salaries, wages, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date;
- b. to record and make arrangements for the accurate and timely payment of tax, pension and other deductions;
- c. to ensure that there are adequate arrangements for administering pension matters on a day-to-day basis;
- d. to ensure that all appropriate payroll documents are retained and stored for six years plus the current year.

Responsibilities of Chief Officers

- a. to ensure that appointments are made in accordance with the regulations of the Council within approved grades and scales of pay and that adequate budget provision is available;
- b. to notify the Chief Finance Officer of all appointments, terminations or variations that may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Chief Finance Officer;
- c. to ensure that adequate and effective systems and procedures are operated, so that:
 - i. payments are only authorised to bona fide employees;
 - ii. payments are only made where there is a valid entitlement;
 - iii. conditions and contracts of employment are correctly applied;

- iv. employees' names listed on the payroll are checked to verify accuracy and completeness;
- d. to send an up-to-date list of the names of officers authorised to approve records to the Chief Finance Officer;
- e. to ensure that payroll transactions are processed only through the payroll system. Chief Officers should give careful consideration to the employment status of individuals employed on a self-employed consultant or subcontract basis. In cases of doubt, advice should be sought from the Chief Finance Officer;
- f. to ensure that the Chief Finance Officer is notified of the details of any employee benefits in kind, to enable the council to fulfill its legal obligations within the income tax system;
- g. to ensure that both the Chief Finance Officer and Monitoring Officer authorise any compromise agreement or other termination before payment is made.

21. TRAVELLING, SUBSISTENCE AND ALLOWANCES

Purpose

The purpose of this regulation is to ensure that the payment of travelling, subsistence and other allowances is accurate, timely, made only when due, conforms with Council policy on travelling and subsistence and accords with the relevant schemes and conditions of employment. It is also important that Members' allowances are paid in accordance with the Members allowance scheme adopted by the full Council.

Responsibilities

- 21.1 The Chief Finance Officer is responsible for making arrangements for the payment of all staff travel and subsistence claims or financial loss allowances.
- 21.2 It is the responsibility of Chief Officers to approve staff travel and subsistence claims and other allowances. Approval is taken to mean that journeys were necessary and cost effective, expenses necessarily incurred, and that allowances are properly payable by the Council and comply with the Council's Travelling and Subsistence policy.
- 21.3 It is the responsibility of all staff and elected Members who submit claims to ensure that they complete claims correctly. This includes the attachment of appropriate fuel and other receipts to claims, whether the claims are submitted manually or electronically.
- 21.4 Chief Officers' should try to ensure that staff submit claims within three months of the month to which they refer. Not doing so affects departmental budgetary control and accounting.
- 21.5 The Chief Finance Officer will make arrangements for paying the travel expenses or other allowances of elected Members upon receiving an authorised claim in the prescribed format that has met the requirements of the Members Allowance scheme.

22. TAXATION

Purpose

The Council is responsible for ensuring that its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important for all officers to be aware of their role.

Responsibilities of the Chief Finance Officer

- a. to complete all required returns to HM Revenue & Customs (HMRC).
- b. to ensure all payments comply with HMRC requirements.
- c. to maintain up-to-date guidance for Council employees on taxation issues.

Responsibilities of Chief Officers

- a. to ensure that the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HMRC regulations;
- b. to ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary Construction Industry Tax Deduction requirements;
- c. to ensure that all persons employed by the Council are added to the Council's payroll and that tax is deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency;
- d. to follow the guidance on taxation issued by the Chief Finance Officer.

23. UNOFFICIAL FUNDS

Purpose

Unofficial funds are those funds that are associated with the County Council, are usually operated by officers of the Council but do not form part of the accounting records or banking arrangements of the Council. Examples include school fund accounts, comforts or amenity funds and community living household accounts (Social Services). This regulation identifies the responsibilities of staff administering the accounts.

General

23.1 The Council will not, as a general rule, supervise the financial administration nor audit unofficial funds, and accepts no liability whatsoever for any loss, however caused. Those operating such funds therefore have an overall responsibility to ensure that proper financial stewardship is observed. This includes ensuring that:

- a. a treasurer and an independent auditor are formally appointed (not applicable to Community Living Accounts);
- b. proper rules are operated to secure adequate standard;
- c. adequate records and procedures are maintained;
- d. regular reports on fund transactions and balances are received and checked against bank statements;
- e. annual statements of income and expenditure and fund balances are prepared and audited;
- f. in the case of community living accounts, that the Community Living Financial Procedures are followed.

23.2 Those operating or intending to operate such funds are also required to:

- a. notify the Chief Finance Officer and Chief Audit Executive of details of the fund as soon as this is set up;
- b. provide an independent annual audit certificate for the fund to the Chief Audit Executive within three months of the end of the financial year, showing at least opening and closing balances and total income and expenditure;
- c. the Chief Audit Executive reserves the right to inspect the accounts and records of such funds as necessary.

24. WRITING OFF BAD DEBTS

Purpose

Writing off debts due to the Council is an acknowledgement that, contrary to Council policy, a debt cannot be pursued. Not recovering a debt affects the Council's revenue position and therefore it must be tightly controlled.

Regulations

- 24.1 Bad debts shall only be written off on the written authority of the Chief Finance Officer where such debts are up to £2,500 in respect of any one debtor in respect of any one financial year and with the agreement of the Lead Member up to £20,000 in respect of any one debtor in any one financial year. Amounts above £20,000 will be subject to Cabinet approval. (See Regulation 18 'Income')
- 24.2 The Chief Finance Officer shall approve and maintain write-off procedures for debts in connection with local taxation including National Non-Domestic Rates, housing benefit and rents.

25. PROTECTION OF PERSONAL PROPERTY

Purpose

All people receiving care services from the council are entitled to a reasonable expectation that their personal property will be properly looked after. This regulation sets out the minimum requirements.

General

- 25.1 In relation to those people whose affairs are administered under the Court of Protection and others in residential care, the statutory director of social services must ensure that steps are taken to prevent or mitigate loss of, or damage to personal property. An itemised inventory shall be taken as soon as possible after the council has been appointed as the Court Receiver and in each case the inventory should be completed in the presence of two officers and be retained.
- 25.2 All valuables including documents of title shall be deposited securely.
- 25.3 For all people to whom a personal care service is provided, the Corporate Director shall ensure that steps are taken to prevent or mitigate loss or damage to the person's property.
- 25.4 Specific financial procedural guidelines are in place for community living (learning disability service) schemes and these guidelines should be classed as appended to this Financial Regulation.

26. ALTERNATIVE SERVICE DELIVERY MODELS & PARTNERSHIPS

Purpose

The Council is involved in an increasing number of formal partnership arrangements and other alternative service delivery models. There is a need to ensure that financial risks associated with such arrangements are managed effectively so as to protect the Council's interests.

Partnerships for this purpose shall be defined as a working arrangement with a body other than Denbighshire County Council that is not covered by a contract. This shall include, but not be limited to, collaborative agreements, joint funding arrangements, shared services etc. Alternative service delivery models can include partnerships but also arrangements such as contractually provided services, mutual arrangements, joint committees and local authority trading companies.

- 26.1 All Partnerships shall comply with the principles set out within the Council's Partnership Toolkit especially in relation to corporate governance and financial management.
- 26.2 This includes the requirement to have a signed partnership agreement in place, prior to the commencement of the partnership, which should include the items prescribed in the Partnership Toolkit.
- 26.3 All financial or in-kind contributions that may have an impact upon the authority's accounts are recorded correctly.
- 26.4 Alternative service delivery models can mean council services being provided by other organisations. It is important that proper consideration of the impact of introducing alternative models is fully understood, therefore each proposal must:
 - a. Comply with the council's corporate methodology for the assessment and implementation of alternative service delivery models;
 - b. This includes formal approval of an options appraisal and business case;
 - c. The business case must include a detailed financial assessment that highlights the costs and benefits of the proposal to include set up costs, funding assumptions, the impact on wider council services and systems and pension liabilities;
 - d. The business case must also set out the proposed governance structures of options being considered including statutory financial reporting requirements and statutory obligations, including taxation;

- e. There must be a formal decision to accept a business case which must include a business plan for the next three financial years;

Responsibilities of the Chief Finance Officer

- 26.5 Issue advice regarding the key elements of funding and risk which may include:
- a. a scheme appraisal for financial viability in both the current and future years;
 - b. risk appraisal, insurance and management;
 - c. resourcing issues including taxation;
 - d. audit, risk, security and control requirements;
 - e. processes to manage surpluses or deficits;
 - f. grant or contractual terms and conditions;
 - g. pension and other employment related financial obligations;
 - h. contract and performance management where appropriate;
- 26.6 Ensure that the accounting arrangements to be adopted are satisfactory.

Responsibilities of Chief Officer

- a. There is full compliance with the requirements of the Council's Partnership Toolkit or Alternative service Delivery Model methodology at all times;
- b. Once established, Partnership or Alternative Service Delivery Models must adhere to the council's Framework for Delivering Services with Council Funded Service Providers;

Insert Link to Framework for Delivering Services with Council Funded Service Providers

- 26.8 The Head of Finance is notified of any financial considerations or in-kind contributions that may be payable as part of the membership of the partnership and which may have an impact upon the authority's accounts. This includes any benefit in-kind such as staff time.
- 26.9 Corporate governance, finance and legal issues are considered when arranging contracts or partnership agreements with external bodies. This includes ensuring that the risks have been fully appraised before agreements are entered into with external bodies and that appropriate controls have been put in place to safeguard the Council's position.

- 26.10 Potential partner organisations or alternative service providers are made aware of their responsibilities under the Council's Financial Regulations including the rights of the Council to have access to any partnership records or access to any staff that may assist in any audit being carried out.
- 26.11 Partnerships are informed that they are expected to adopt these Financial Regulations or an equivalent version which has been approved in advance by the Head of Finance.
- 26.12 All issues relating to insurance and taxation issues which may impact upon this Council are clarified before negotiations with any external party are concluded. This includes the responsibility for collecting and payment of PAYE contributions together with VAT as well as the responsibilities for the insurance of any assets or liabilities and pension liabilities.

27. EXTERNAL FUNDING

Purpose

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority.

General

27.1 Key conditions of funding and any statutory requirements must be complied with and the responsibilities of the Council must be clearly understood.

Regulations

27.2 Funds are to be acquired only to meet the priorities approved in the policy framework by the full Council.

27.3 Any match-funding requirements should be given due consideration prior to entering into agreements and that future revenue and capital budgets reflect these requirements.

Responsibilities of the Chief Finance Officer

- a. to ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts;
- b. to ensure that the match-funding requirements are considered prior to entering into the agreements and that future revenue and capital budgets reflect these requirements;
- c. to ensure that audit requirements are met.

Responsibilities of Chief Officers

- a. to ensure that the Chief Finance Officer is informed of all external arrangements;
- b. to ensure that all claims for funding are approved by the Chief Finance Officer or an officer nominated by him;
- c. to ensure that all claims for funds are made by the due date;
- d. to ensure that the match-funding requirements are considered prior to entering into the agreements and are approved by the Chief Finance Officer;

- e. to ensure that the project progresses in accordance with the agreed project and that all expenditure is properly incurred and recorded;
- f. If the funding is to support a capital investment, that the appropriate approval process is followed as defined in FR 8 (Capital Expenditure).

28. WORK FOR THIRD PARTIES

Purpose

Current legislation enables the authority to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements should be in place to ensure that any risks associated with this work is minimised and that such work is intra vires.

Regulation

28.1 Chief Officers can enter into third party service contracts and to undertake work or provide services to third parties subject to resources being available. There should be no adverse impact on the provision of Council operations and appropriate charges should be levied. All subsequent transactions shall comply with the Council's Financial Regulations.

Responsibilities of Chief Finance Officer

- a. to issue guidance with regard to the financial aspects of third party, including compliance with Financial Regulations.

Responsibilities of Chief Officers

- a. Undertake work or provide services to third parties subject to resources being available and there being no adverse impact on the provision of Council operations and appropriate charges being levied;
- b. to inform the Head of Legal and Democratic Services of all contracts entered into;
- c. to ensure that appropriate insurance arrangements are made;
- d. to ensure that the Council is not put at risk from any bad debts;
- e. to ensure that no contract is subsidised by the Council;
- f. to ensure that, wherever possible, payment is received in advance of the delivery of the service;
- g. to ensure that the department/unit has the appropriate expertise to undertake the contract;
- h. to ensure that such contracts do not impact adversely upon the services provided for the Council;
- i. to ensure that all contracts are properly documented;
- j. to provide appropriate information to the Chief Finance Officer to enable a note to be entered into the statement of accounts;

Adroddiad i'r: Pwyllgor Llywodraethu Corfforaethol

Dyddiad y Cyfarfod: 15 Mehefin 2016

Aelod/Swyddog Arweiniol: Y Cyngorydd Julian Thompson-Hill / Richard Weigh

Awdur yr Adroddiad: Richard Weigh, Pennaeth Cyllid

Teitl: Proses y Gyllideb 2017/18

1. Am beth mae'r adroddiad yn sôn?

Darparu'r wybodaeth ddiweddaraf am y broses i osod y gyllideb ar gyfer 2017/18.

2. Beth yw'r rheswm dros lunio'r adroddiad hwn?

Rhoi diweddariad o'r sefyllfa gyfredol.

3. Beth yw'r Argymhellion?

Ystyried y diweddariad a gwneud sylwadau fel y bo'n briodol.

4. Manylion yr Adroddiad

Cyfeiriwch at yr adroddiad amgaeedig i Friffiad y Cyngor, dyddiedig 6 Mehefin 2016.

5. Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?

Mae rheolaeth effeithiol o gyllideb y cyngor a chyflawni strategaeth y gyllideb y cytunwyd arni yn sail i weithgareddau ym mhob maes, gan gynnwys blaenoriaethau corfforaethol.

6. Faint fydd hyn yn ei gostio a sut y bydd yn effeithio ar wasanaethau eraill?

Gweler yr adroddiad sy'n amgaeedig.

7. Beth yw prif gasgliadau'r Aseiad o Effaith ar Gydraddoldeb (AEC) a gynhaliwyd ar y penderfyniad?

Ddim yn berthnasol i'r adroddiad hwn - prosesau yn eu lle i asesu cynigion cyllideb unigol.

8. Pa ymgynghoriadau a gynhaliwyd gyda'r Pwyllgorau Archwilio ac eraill?

Gweler yr adroddiad sy'n amgaeedig.

9. Datganiad y Prif Swyddog Cyllid

Nod proses y gyllideb yw sicrhau bod y cyngor yn cyflwyno cyllideb gytbwys. Mae'r ansicrwydd dros lefel y setliadau ariannol yn y blynyddoedd diwethaf wedi gwneud cynllunio ariannol o dan amgylchiadau sydd eisoes yn anodd hyd yn oed yn fwy heriol. Er bod y setliad refeniw ar gyfer 2016/17 yn well na'r hyn roedd y cyngor wedi cael ei arwain i gredu y byddai ac mae hyn yn amlwg i'w groesawu, mae'n parhau i fod diffyg arwyddion cynllunio ariannol ystyrllon ar gyfer y dyfodol. Y gobaith yw mynd i'r afael â hyn yn dilyn etholiadau mis Mai 2016 gan fod yr ansicrwydd ac amrywiadau o flwyddyn i flwyddyn sydd wedi bod yn norm ers 2013 yn peri risg sylweddol i gyflwyno cyllidebau yn y dyfodol. Er na wyddom yr union lefelau, mae'n debygol y bydd gostyngiadau cyllid i awdurdodau lleol yng Nghymru yn parhau yn y tymor canolig ac er y bydd y cyngor bob amser yn ymdrechu i fod yn fwy effeithlon er mwyn arbed arian, efallai na fydd hyn ynddo'i hun yn ddigonol yn y dyfodol. Bydd penderfyniadau ar y gyllideb yn mynd yn galetach ac mae'n debyg y bydd angen rhagor o amser i'w cyflawni. Bydd proses y gyllideb arfaethedig ar gyfer 2017/18 yn helpu i gyflwyno cyllideb gytbwys a bydd yn galluogi'r cyngor i ystyried rhagdybiaethau cyllid allweddol, pwysau gwasanaeth, lefelau arian parod wrth gefn a lefelau ffioedd a thaliadau yn y Cyngor.

10. Pa risgiau sydd ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?

Mae proses y gyllideb ynddi ei hun yn fesur ar gyfer rheoli risg, gyda'r nod o ddynodi, asesu a chytuno ar gynigion y gyllideb mewn modd wedi'i gynllunio ac amserol.

11. Pŵer i wneud y Penderfyniad

Adran 151 Deddf Llywodraeth Leol 1972.

Report To: Council Briefing

Date of Meeting: 7th June 2016

Lead Member: Julian Thompson-Hill

Report Author: Richard Weigh, Head of Finance

Title: Budget Strategy/Process 2017/18

1. What is the report about?

Outline budget planning assumptions and the budget process for 2017/18.

2. What is the reason for making this report?

To discuss the planning assumptions and comment on the process outlined.

3. What are the recommendations?

Note the key assumptions and comment on the process.

4. Report Details

The Freedoms & Flexibilities budget process successfully delivered the two budgets it was established to produce and will be replaced with a new process for 2017/18.

Before considering the process, it is important to note some of the key budget planning assumptions and their impact. The table below sets out the key assumptions and **Appendix 1** gives the base case Medium Term Financial Plan position:

Table 1 Base Case Assumptions

Issue	Assumption	Range and Base Case Impact
Government Funding	To continue to reduce as WG continue to protect NHS and other areas at the expense of local government. Range based on Autumn Statement and possible levels protection to non-local government budgets in Wales	Range from +0.2% to -2% (17/18). Planning assumption -1.5% in the absence of anything more reliable.
Local Funding	Council tax rise in the range of 2-3%. Harmonisation with other councils may be a more prevalent issue if LGR is on the horizon.	Planning assumption 2.75%.
School Protection	If the ministerial pledge continues in its current form beyond the election and the council complies, the level of increase to schools budgets will be	Planning assumption is to comply but this adds significantly to other service cuts if not dampened by

	<p>+1.93% (worth £1.2m) in 17/18 which is more than double the original planning assumption for 16/17 (which was based on +0.9%). In addition, pupil demography goes up in 17/18 (after three years of reduction) with a potential cost of £656k.</p> <p>Since the introduction of school protection, schools have funded all pay and related cost increases.</p>	<p>schools contributing to efficiency savings.</p> <p>Assume schools continue to fund pressures from within financial protection.</p>
Pay and Pensions	Continue to assume funded centrally but would be trimmed back if the budget gap is not likely to be met from savings proposals – this would force services to make spending reductions to balance.	Pay award assumptions are an average of +1% plus additional costs for the national living wage. Costs for pension increases are built in but negotiations with actuaries ongoing to try to minimise increases over the next three years.
Other corporate pressures	Includes Fire Levy, members costs, insurance premiums, CTRS, energy costs, etc.	Amounts to approximately £600k
Investment in priorities and new burdens	Assume some level of investment in priority areas or additional burdens, such as preparation for LGR and transition process	£200k per year estimate included.
Social care protection	Not included as this has never been defined. However some recognition of growing pressures to be included though it is assumed the service will fund some of this through reinvesting efficiency savings.	£500k net additional cost included in planning for 17/18 (continuing into 18/19).
Balances	As balances have not been required to the extent allowed for in the 15/16 budget, additional funding could be provided in 17/18 without reducing balances beyond the levels anticipated when the 15/16 budget was set.	£1m of balances could be applied in 17/18 to cash flow the delivery of savings without taking balances below levels planned in 2015 and this is therefore assumed in the central case.

The central case assumptions indicate a budget gap of £4.4m for 17/18 with potentially £6.4m and £4m in the following years. The precise amounts cannot be calculated with certainty without knowing the level of settlement from the government – and as this provides over 70% of the council's net funding, it has the most significant impact on the budget. A range of financial implications of settlement change is shown as **Appendix 2**.

No assumptions are made with respect to government funded **revenue grants** though this remains an area of risk. The internal policy with respect to grant cuts is to passport the reductions directly to the service, with a corresponding reduction in any match funding if appropriate. Therefore any such reductions are outside of the scope of the budget gap above, though clearly such cuts reduce the overall funding to the council (i.e. these would be an additional pressure or reduction for the service to absorb or deal with).

Although school protection and pupil demography growth is included in the budget planning assumptions, a policy decision will be required as part of the budget setting process to confirm this. The two items together add £1.9m to the budget gap to be absorbed by other services, though schools would be expected to fund their own pressures (estimated to be £1.3m). After several years of growth, school balances are forecast to reduce by £2.1m in 2016/17 (60%) and more schools are moving into financial difficulty so the budget policy needs to balance meeting genuine cost pressures in schools with schools making a contribution to the efficiency agenda.

Process 2017/18

Services have been issued with a set of standard templates to capture details over a three-year period – effectively a medium term financial plan per service. The immediate aim of course is to deliver the 17/18 budget but producing a three year analysis will allow the impact of proposals to be considered over a longer horizon and allow for some additional flexibility with respect to timing and cash flow of savings. This is important because while the delivery of savings has been excellent in recent years (packages totalling £28m since 2012), they will, depending on the level of cuts, become more difficult to achieve going forward and probably require a greater lead-in time. Importantly, while internal plans will be set to cover a three-year period, members of the current council will not be expected to take decisions beyond the current council term.

The central case planning assumptions are set out in the table above and result in a potential budget gap of £4.4m for 2017/18. Planning assumptions to address this result in the following scenario:

Scenarios - All Figures Are Estimates	£m
Forecast Budget Gap (Base Case Assumptions)	4.439
Less 1% Service Efficiency	0.875
Less Corporate Efficiency Savings	1.000
Sub Total – Remaining Budget Gap	2.564
Reallocation of Reserves (Cash)	1.500
Remaining In-year Gap	1.064

To ensure that there are options for members to deliver the remaining gap, a savings target in excess of £1.064m is required and therefore services will be required to develop proposals against a total of £2m. This equates to a reduction of approximately 2.3% in addition to the 1% efficiency saving above giving a total gross planning reduction of 3.3%. However, pay and other costs are being funded for non-school services so the net cash reduction would be approximately 1.8% in total.

Appendix 3 shows how this could be distributed among services. The scenario assumes use of cash **balances** £1m (base case assumptions) and **reserves** of £1.5m. Both are prudent as the use of balances merely brings the level to that projected in 2015 and an initial review of reserves suggests that £1.5m can be reallocated as risk profiles have changed. The use of cash would be recovered over the 2018/19 and 2019/20 budgets.

The templates issued to services and will provide options for 2017/18 and useful financial planning information for future years. Any savings identified as part of Freedoms & Flexibilities but not implemented will be noted for reference as will service specific cash resources. Services will be required to:

- identify how reductions could be made
- outline the potential financial impact and capture any timing (cash flow) issues
- identify any specific emerging pressures but with the default position set to these being contained within services, effectively increasing the total savings required
- Assess the impact – equality, locality, language, jobs, project management requirements, etc.

Administratively, the templates will be controlled and collated by Finance but services will be responsible for the completion of impact assessments etc. and any subsequent updates to the Verto system. There will also need to be some assessment of impact in respect of the Wellbeing of Future Generations Act and an assessment tool is being developed for this purpose.

A budget **timetable is enclosed as Appendix 4.**

It is assumed that services will consult with lead members as proposals emerge and that ultimately lead members will endorse proposals formally.

The budget process was presented to political group leaders and is a standing item on the Corporate Governance Committee agenda. April

Dates have been assigned for budget workshops on 18th July, 21st October and 18th November.

Risks

As noted earlier, the risks around non-delivery or slippage on saving targets will become greater as genuine efficiencies become harder to find. The risk can be mitigated by use of cash resource if prudent to do so but this only buys time and does not permanently address non-delivery risk.

Uncertainty around the settlement remains is a significant risk and hampers budget planning and decision making. Changes to government policy on revenue grants also impacts service delivery.

If the LGR agenda is taken forward, it is likely that restrictions will be imposed later in 2016 covering significant revenue contracts (£150k), capital contracts (£500k) land acquisitions and disposals (£150k), use of balances and reserves (no value

specified) and senior officer recruitment. Such transactions will require approval of a 'specified person' defined as either a Welsh Government minister, transition committee or shadow authority and may therefore may have an impact on the process.

Beyond 2017/18

Finance are undertaking a number of Value for Money assessments of service expenditure. These will be completed by the autumn and will include a range of measures such as income and expenditure benchmarking (incorporating fees and charges), a review of capital financing and debt profiling, time series assessment of service budget performance to explore continuing trends (particularly underspending), procurement and the impact on supplies and services budgets. The data produced may help inform the latter stages of the 17/18 process and will be available in support of subsequent years.

Summary & Conclusion

The strategy provides a mechanism to identify a range of budget options within a range of planning assumptions. Whilst the assumptions are reasonable, the funding climate has been unpredictable since 2013 and constrains financial planning. The process however can be flexed to accommodate changes within reason as it develops.

Although settlement reductions may be less severe than levels previously planned for, there is no realistic prospect of funding being sufficient in the medium term to cover the impact of ongoing pressures and dealing with national protection policies.

The process differs slightly from previous iterations insofar as a planning total is being issued to services and will be applied uniformly initially (except for schools and social care) to gather a range of proposals and gauge the impact on services. Further prioritisation would be applied in assessing the proposals to actually take forward for decision.

Services may consider alternative delivery models as part of the process but would follow a corporate methodology to assess the proposal and business case.

Member engagement will continue through workshops but with fewer of them focusing on the most significant areas. A public engagement strategy will need to be developed once proposals are gathered from services.

For the first time in several years, the process will capture service specific cost pressures. The starting assumption however is these will have to be funded from within service resources, with the exception previously noted around social care and a proposed level of financial protection for schools.

Proposals include greater use of cash resource but this is prudent in the circumstances.

List of Appendices:

Appendix 1	Medium Term Financial Plan – Base Case Summary
Appendix 2	Settlement Sensitivity Analysis
Appendix 3	Service Financial Impact
Appendix 4	Budget Timetable 2017/18

**Appendix 1
Financial Projection - as at March 2016**

	2016/17 £'000	2017/18 £'000	2018/19 £'000	2019/20 £'000
Funding				
Revenue Support Grant & NNDR (RSG)	139,608	137,514	135,451	133,419
Council Tax	44,954	46,194	47,464	48,769
SSA / Budget Requirement	184,562	183,708	182,915	182,189
Use of Balances	500	2,500		
Total Funding	185,062	186,208	182,915	182,189
Expenditure				
Base Budget	184,756	185,062	187,272	190,438
Inflation:				
Pay	519	519	519	519
Pensions	927	350	350	350
National Insurance	900	-	-	-
Living Wage	50	500	500	500
Price - targeted	58	100	100	100
Price - NSI Energy	125	150	150	150
CTRS / Contingency	320	350	350	350
Social Services		500	500	500
Schools Protection	1,173	1,246	948	1,075
Schools Demography Adjustment	(320)	656	600	600
16/17 Contingency	486	(486)		
Other known items:				
Investment in Priorities	250	200		
Transfers into/out of Settlement	1,036			
EFFICIENCIES:				
Freedoms and Flexibilities	(5,218)			
17/18 Budget Process:				
Capital and Corporate Savings		(1,000)		
1% Service Efficiency Target		(875)	(850)	(850)
Total Expenditure	185,062	187,272	190,438	193,732
Funding Shortfall / (Available)	(0)	1,064	7,523	11,543
Annual increase/(decrease) in shortfall	(0)	1,064	6,459	4,020
Key Assumptions				
Settlement %	-1.20%	-1.50%	-1.50%	-1.50%
Council Tax Increase % Band D	1.50%	2.75%	2.75%	2.75%
Schools Protection	1.85%	1.93%	1.44%	1.61%

Mae tudalen hwn yn fwriadol wag

Appendix 2

Settlement Sensitivity Analysis

RSG 2016/17	139,608
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% age Reduction	Cash Reduction	Change from MTFP Assumption
0.0%	0	2,094
-0.1%	-140	1,955
-0.2%	-279	1,815
-0.3%	-419	1,675
-0.4%	-558	1,536
-0.5%	-698	1,396
-0.6%	-838	1,256
-0.7%	-977	1,117
-0.8%	-1,117	977
-0.9%	-1,256	838
-1.0%	-1,396	698
-1.1%	-1,536	558
-1.2%	-1,675	419
-1.3%	-1,815	279
-1.4%	-1,955	140
-1.5%	-2,094	0
-1.6%	-2,234	-140
-1.7%	-2,373	-279
-1.8%	-2,513	-419
-1.9%	-2,653	-558
-2.0%	-2,792	-698
-2.1%	-2,932	-838
-2.2%	-3,071	-977
-2.3%	-3,211	-1,117
-2.4%	-3,351	-1,256
-2.5%	-3,490	-1,396
-2.6%	-3,630	-1,536
-2.7%	-3,769	-1,675
-2.8%	-3,909	-1,815
-2.9%	-4,049	-1,955
-3.0%	-4,188	-2,094

Mae tudalen hwn yn fwriadol wag

Appendix 3

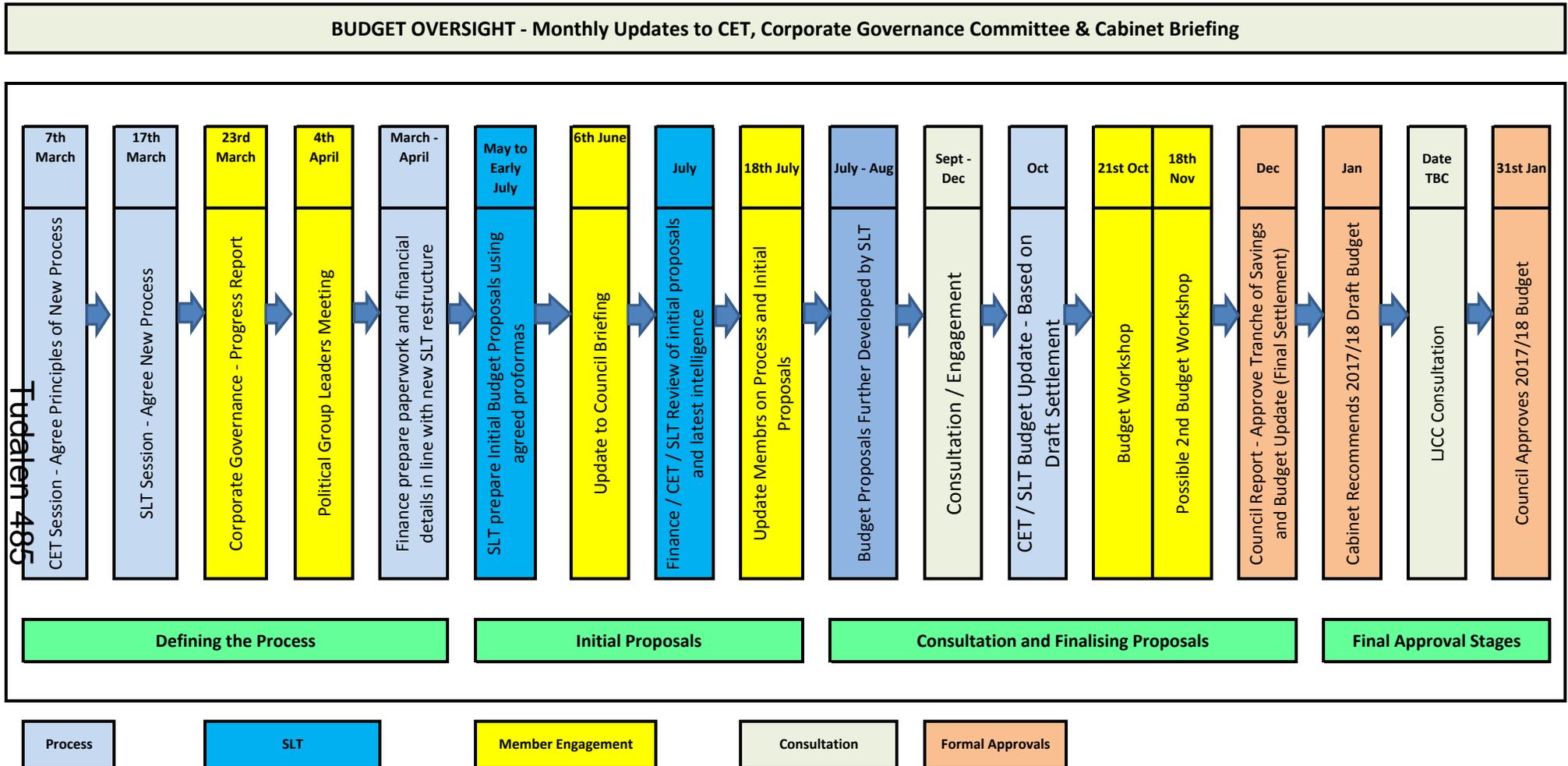
Tudalen 483

Based on Budget Gap of £M: 1,064	Budget 2016/17			Efficiency	CUTS SCENARIO A	CUTS SCENARIO B
	Expenditure £'000	Income £'000	Net £'000	Non-discretionary efficiency target 1.0% £'000	Minumum Amount of Cuts to Balance Budget 1.3% £'000	Target to allow Choice & Flexibility in assumptions 2.4% £'000
Customers, Communications and Marketing	2,708	-272	2,436	25	31	58
Education and Children's Service	28,188	-14,019	14,170	148	180	338
Business Improvement and Modernisation	6,095	-1,605	4,491	47	57	107
Legal, HR and Democratic Services	3,416	-1,061	2,355	25	30	56
Facilities, Assets and Housing	18,140	-11,489	6,652	70	85	159
Finance	4,295	-1,971	2,324	24	30	56
Highways and Environmental Services	29,888	-12,855	17,033	178	216	407
Planning and Public Protection	5,736	-2,827	2,910	30	37	70
Community Support Services	46,164	-14,804	31,361	328	399	749
Total Services	144,632	-60,901	83,731	875	1,064	2,000
Corporate	48,513	-29,015	19,498	0	0	0
Precepts & Levies	4,364	0	4,364	0	0	0
Capital Financing	13,031	0	13,031	0	0	0
Total Corporate	65,908	-29,015	36,893	0	0	0
Council Services & Corporate Budget	210,539	-89,916	120,624	875	1,064	2,000
Schools & Non-delegated School Budgets	74,296	-9,857	64,439	0	0	0
Total Council Budget	284,835	-99,773	185,062	875	1,064	2,000

Mae tudalen hwn yn fwrriadol wag

Appendix 1

PROPOSED BUDGET PROCESS 2017/18



Mae tudalen hwn yn fwiadol wag

Adroddiad i'r:	Pwyllgor Llywodraethu Corfforaethol
Dyddiad y Cyfarfod:	15 Mehefin 2016
Aelod / Swyddog Arweiniol:	Barbara Smith - Aelod Arweiniol Moderneiddio Alan Smith - Pennaeth Gwella Busnes a Moderneiddio
Awdur yr Adroddiad:	Alan Smith
Teitl:	Adroddiad SIRO ar gyfer 2015/16

1. Am beth mae'r adroddiad yn sôn?

Mae'r adroddiad yn cwmpasu'r cyfnod o fis Ebrill 2015 i fis Mawrth 2016 ac yn rhoi manylion achosion o dorri'r ddeddf diogelu data gan y Cyngor sydd wedi bod yn destun ymchwiliad gan yr Uwch Swyddog Risg Gwybodaeth (SIRO- Pennaeth Moderneiddio a Gwella Busnes yng Nghyngor Sir Ddinbych). Mae hefyd yn ymdrin â chwynion am y Cyngor yn ymwneud â deddfwriaeth Rhyddid Gwybodaeth sydd wedi cael eu cyfeirio at Swyddfa'r Comisiynydd Gwybodaeth, ac yn rhoi rhywfaint o wybodaeth am geisiadau Mynediad i Wybodaeth/Rhyddid Gwybodaeth a wneir i'r Cyngor.

2. Beth yw'r rheswm dros lunio'r adroddiad hwn?

Mae Polisi Diogelu Data'r Cyngor yn gofyn am adroddiad blynyddol ar gynnydd i'r Pwyllgor Llywodraethu Corfforaethol i ganiatáu'r Aelodau i oruchwylio'r broses.

3. Beth yw'r Argymhellion?

Dylai cynnwys yr adroddiad gael ei nodi gan y Pwyllgor.

4. Manylion yr adroddiad.

Ochr yn ochr â'r Swyddog Diogelu Data, mae'r Uwch Swyddog Risg Gwybodaeth (SIRO) â chyfrifoldeb penodol i sicrhau bod yr wybodaeth a gedwir gan y Cyngor yn cael ei rheoli'n ddiogel, yn effeithiol ac yn unol â'r deddfwriaeth. Mae'r systemau a gynlluniwyd i sicrhau bod y rolau hyn yn cael eu gwneud yn llwyddiannus yn dibynnu ar dryloywder ac agoredrwydd, felly mae'n arbennig o bwysig bod Aelodau'n cael trosolwg o'r broses.

Rwy'n falch o adrodd na fu unrhyw achosion difrifol o dorri'r Ddeddf Diogelu Data yn y Cyngor yn ystod 2015/16. Er bod pum digwyddiad lle y collwyd neu y peryglwyd data personol a adroddwyd i'r Uwch-Berchennog Risg Gwybodaeth a'u harchwilio, nid oedd unrhyw un yn ddigon difrifol i'w hadrodd i Swyddfa'r Comisiynydd Gwybodaeth. Mae hyn yn duedd sy'n gwella: bu'n rhaid i ni adrodd 2 o achosion difrifol i Swyddfa'r Comisiynydd Gwybodaeth yn 14/15 a 4 yn 13/14. O'r 5 achos a ddigwyddodd yn CSDd yn 2015/16, cafodd yr wybodaeth ei hadfer yn gyflym ym mhob achos ac ni arweiniodd at unrhyw niwed sylweddol. Roedd tri o'r achosion hyn yn cynnwys anfon data personol i'r cyfeiriad anghywir;

un yn ymwneud â gwybodaeth bersonol yn cael ei styffylu i ohebiaeth arall mewn camgymeriad ac roedd un ymwneud â gweithiwr CSDd yn gadael gwybodaeth bersonol ar lungopiwr mewn siop un alwad.

Un o ganlyniadau ymchwiliadau'r Uwch-Berchennog Risg Gwybodaeth oedd gwella'r ffocws ar y systemau a'r prosesau yn y timau lle y digwyddodd yr achosion hyn. Cynhaliwyd sesiynau gweithdy gyda'r timau gweinyddol yn y Gwasanaethau Plant ac Addysg i archwilio sut y gellir adolygu eu prosesau a sut i sicrhau bod yr wybodaeth a gedwir ganddynt yn cael ei diweddarau gan grwpiau proffesiynol eraill. Mae nifer o fentrau ymarferol wedi deillio o hyn, gan gynnwys gwell defnydd o swyddogaethau postgyfuno o fewn system TGCh PARIS, y defnydd o amlenni 'ffenestr' fel nad oes yn rhaid ailysgrifennu cyfeiriadau, a gwaith pellach gyda grwpiau proffesiynol i wella eu prosesau recordio.

Y Ddeddf Diogelu Data Newydd

Dylai'r Aelodau nodi y disgwylir i'r Rheoliadau Diogelu Data Cyffredinol newydd gael eu cyhoeddi yn ystod mis Gorffennaf 2016. Mae cyfnod pontio o 2 flynedd cyn iddynt gael eu gorfodi yn 2018. Ar ôl pedair blynedd o gynllunio, bydd y rheoliadau hyn yn disodli Deddf bresennol Diogelu Data 1998. Disgwylir i'r Rheoliadau Diogelu Data Cyffredinol fod yn debyg i Ddeddf Diogelu Data 1998 ond byddant yn cynnwys gofynion newydd fydd yn ei gwneud yn ofynnol i Reolwyr Data (gan gynnwys y Cyngor) ystyried a sicrhau fod y bobl, y prosesau a'r gweithdrefnau priodol yn eu lle yn barod ar gyfer 2018:

- Dirwyon mwy am achosion difrifol o dorri rheoliadau Diogelu Data. Uchafswm y ddirwy fydd 20 miliwn Ewro (£500mil ar hyn o bryd).
- Bydd yn rhaid i bob Rheolydd Data enwebu Swyddog Diogelu Data sy'n cael eu galluogi i wneud penderfyniad diduedd.
- Bydd Ceisiadau gan Unigolion i Weld Gwybodaeth Amdanynt eu Hunain yn rhad ac am ddim ac mae'n rhaid ymateb iddynt o fewn 1 mis (£10 ar hyn o bryd gyda therfyn amser o 40 diwrnod).
- Hysbysiadau gorfodol o achosion difrifol diogelu data.
- Mwy o bwyslais ar sicrhau fod rhannu data personol yn seiliedig ar resymau cyfreithiol.
- Dogfennaeth orfodol, yn bennaf bod angen cynnal Asesiadau o Effaith ar Breifatrwydd a chreu Cofrestrau Ased Gwybodaeth.
- Mwy o bwyslais ar dderbyn caniatâd penodol gan unigolion h.y. mae'n rhaid i unigolion ddewis ymuno yn hytrach na dewis peidio ymuno.

Pan fydd CSDd yn rhannu gwybodaeth bersonol gyda'i bartneriaid yn y sector cyhoeddus, gwneir y trefniant yng nghyd-destun cytundeb WASPI (Cytundeb Rhannu Gwybodaeth Bersonol Cymru), y mae'r Cyngor wedi cofrestru ar ei gyfer. Bydd y rheoliadau newydd yn rhoi mwy o bwyslais ar arddangos y sail gyfreithiol ar gyfer rhannu gwybodaeth yn y dyfodol, ond dylai bod hyn yn bosibl o fewn y trefniadau WASPI presennol.

Ceisiadau Rhyddid Gwybodaeth a Rheoliadau Gwybodaeth Amgylcheddol.

Derbyniwyd cyfanswm o 1,236 o geisiadau yn ystod y 12 mis diwethaf hyd at 31 Mawrth 2016. Unwaith eto, mae'r ffigur hwn yn nodi cynnydd ers y llynedd (+8%), gyda nifer uwch o

geisiadau Rhyddid Gwybodaeth a Cheisiadau gan Unigolion i Weld Gwybodaeth Amdanynt eu Hunain, mae'n ymddangos bod lefel y ceisiadau Rhyddid Gwybodaeth yn cyrraedd isafbwynt. O'r rhain, atebwyd 93% o fewn y safon o 20 diwrnod a chymeradwywyd 897 ohonynt yn llawn neu'n rhannol. Y prif resymau dros wrthod cais oedd naill ai nid oedd yr wybodaeth gennym neu ei fod eisoes ar gael i'r cyhoedd mewn man arall.

Tabl 1: Nifer y ceisiadau a gwblhawyd ar gyfer 2015/16 a 2014/15.

	Rhyddid Gwybodaeth	Rheoliadau Gwybodaeth Amgylcheddol	Cyfanswm	DP	Cyfanswm pellach
14/15	880	127	1007	131	1138
15/16	871	183	1054	182	1236

Roedd y ceisiadau Rhyddid Gwybodaeth a Rheoliadau Gwybodaeth Amgylcheddol yn canolbwyntio ar rai meysydd penodol yn fwy nag eraill ac fel o'r blaen, roeddent yn ymwneud â busnesau neu gan unigolion yn bennaf. Mae'r rhai a gyflwynodd ceisiadau amlaf dros y 12 mis diwethaf wedi'u nodi yn y tabl isod.

Tabl 2: Math o ymgeisydd 2015-2016

Math o Ymgeisydd	Nifer y ceisiadau
Academaidd	18
AC/AS	104
Busnes	181
Elusen / Grŵp Lobi	56
Cynghorydd	2
Unigolyn	494
Y Cyfryngau	153
GIG	1
Awdurdodau eraill	22
Cyfreithwyr	11
Undebau	12
Cyfanswm	1054

Mewn rhai achosion, cafodd penderfyniadau ynglŷn â mynediad i wybodaeth eu herio gan y gofynnwr, neu nid oedd cytundeb yn fewnol ynghylch a ddylai gwybodaeth a gedwir gan y Cyngor gael ei rhyddhau ai peidio. Cafodd yr achosion hyn eu hadolygu gan Banel a gadeiriwyd gan y Pennaeth Gwasanaethau Cyfreithiol, AD a Democrataidd. Cyfarfu'r panel 7 gwaith yn ystod y flwyddyn ac adolygwyd 14 o achosion. Mae Atodiad A yn rhestr o'r rhain, ynghyd â chanlyniad pob adolygiad.

Yn 15/16, ni ymchwiliwyd unrhyw gwynion am y Cyngor o dan Ddeddf Rhyddid Gwybodaeth gan Swyddfa'r Comisiynydd Gwybodaeth, o gymharu â 3 yn 14/15. Fel ymateb i gwynion y llynedd, gwellwyd ein gweithdrefnau i sicrhau bod achosion cymhleth yn cael eu cydnabod

yn gynnar yn y broses er mwyn gallu darparu ymatebion prydlon, ac ymddengys fod y camau hyn wedi gwella perfformiad y Cyngor.

Dylid nodi fod rheoli ceisiadau Rhyddid Gwybodaeth/Rheoliadau Gwybodaeth Amgylcheddol a Diogelu Data yn parhau i achosi costau o ran adnoddau i'r Cyngor, gyda swyddog yn ymwneud â hyn yn llawn amser. Yn ogystal â hyn, darperir gwaith sylweddol o fewn gwasanaethau gan Swyddogion Rheoli Gwybodaeth, sy'n darparu'r atebion manwl ar gyfer pob cwestiwn.

5. Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?

Mae'r adroddiad hwn yn cefnogi amcan y Cyngor i foderneiddio, ond nid yw'n uniongyrchol gysylltiedig â blaenoriaeth gorfforaethol.

6. Faint fydd hyn yn ei gostio a sut y bydd yn effeithio ar wasanaethau eraill?

Nid oes unrhyw oblygiadau ariannol i'w hystyried.

7. Beth yw prif gasgliadau'r Asesiad o Effaith ar Gydraddoldeb (AEG) a gynhaliwyd ar y penderfyniad? Dylai'r templed AEG wedi'i lenwi gael ei atodi fel atodiad i'r adroddiad.

Nid oes angen asesiad gan fod yr adroddiad hwn er gwybodaeth yn unig.

8. Pa ymgynghoriadau a gynhaliwyd gyda'r Pwyllgorau Archwilio ac eraill?

Dim, mae'r adroddiad er gwybodaeth yn unig.

9. Datganiad y Prif Swyddog Cyllid

Dim angen.

10. Pa risgiau sydd ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?

Mae camau gweithredu'r aelodau sy'n archwilio'r adroddiad hwn yn rhan o'r broses o liniaru'r risg corfforaethol sy'n ymwneud â rheoli gwybodaeth.

11. Pŵer i wneud y Penderfyniad

Nid oes angen penderfyniad.

Atodiad A: Cyfarfodydd Panel Mynediad i Wybodaeth 2015-16

Dyddiad Cyfarfodydd Panel Mynediad i Wybodaeth	Mater	Canlyniad
16/04/2015	Rhyddid Gwybodaeth 4443 – Landlordiaid a Budd-daliadau Tai	Ymgynghori â landlordiaid
	Rhyddid Gwybodaeth 4482 – Adroddiad Sbectrwm	Adran 22 (cyhoeddiad yn y dyfodol)
01/05/2015	Rhyddid Gwybodaeth 4443 – Landlordiaid a Budd-daliadau Tai	Datgelu'r holl wybodaeth. (penderfyniad Swyddfa'r Comisiynydd Gwybodaeth yn ddiweddar)
	Rhyddid Gwybodaeth 4524 – Balansau Credyd Treth y Cyngor	Datgelu cyfeiriadau. Atal enwau'r gweithredwyr. (penderfyniad Swyddfa'r Comisiynydd Gwybodaeth yn ddiweddar)
02/07/2015	Rhyddid Gwybodaeth 4647 – Llythyr Ymddiswyddo Cynghorydd	Datgelu'r llythyr (Atal y cyfeiriad)
	Rhyddid Gwybodaeth 4757 – Eiddo Gwag	Eithriad Adran 31 (atal trosedd) wedi'i gadarnhau ar gyfer eiddo preswyl. S40 (2) wedi'i gadarnhau ar gyfer enwau perchnogion (data personol).
	Rhyddid Gwybodaeth 4770 – Cartrefi Gofal	Angen mwy o wybodaeth gan y Gwasanaeth (Canlyniad terfynol – Adran 43 yn rhannol – sensitifedd masnachol)
	Rhyddid Gwybodaeth 4728 – Hysbysiadau Gwella	Ni fydd enwau'r swyddogion yn cael eu hatal dan Adran 40 (2) (data personol).
	Rheoliadau Gwybodaeth Amgylcheddol 564 – Contractau Rheoli Gwastraff	Adran 43 (Sensitifedd Masnachol) ar gyfer rhan o'r cais
25/08/2015	Rhyddid Gwybodaeth 4775– Angladdau lechyd Cyhoeddus	Adran 22 (cyhoeddiad yn y dyfodol) Adran 31 (Atal trosedd)
17/12/2015	Rhyddid Gwybodaeth 137–	Adran 12 (terfyn priodol) ac

	Lleoliadau Trwyddedig	Adran 40 (2) (data personol)
17/03/2016	Rhyddid Gwybodaeth 404 – Gwaharddiadau	Adran 40 (2) (data personol) wedi'i gadarnhau ar gyfer rhannau o'r cais
31/03/2016	Ceisiadau lluosog gan un unigolyn	Adran 12 (terfyn priodol). Adran 14 (blinderus)
	Rhyddid Gwybodaeth 721 – Cytundeb Masnachfrait Bwyd	Adran 43 (sensitifedd masnachol)

<SIRO Report 2015/16>
15/06/2016

Equality Impact Assessment

SIRO Report 2015/16

Contact: Alan Smith, BIM

Updated: <4/05/2016>

1. What type of proposal / decision is being assessed?

Other

2. What is the purpose of this proposal / decision, and what change (to staff or the community) will occur as a result of its implementation?

To inform Members of the number and type of Data Protection Breaches in the Council over the 12 months to March 31st 2016

3. Does this proposal / decision require an equality impact assessment? If no, please explain why.

*Please note: if the proposal will have an impact on people (staff or the community) then an equality impact assessment **must** be undertaken*

No	The report is for information only
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4. Please provide a summary of the steps taken, and the information used, to carry out this assessment, including any engagement undertaken

(Please refer to section 1 in the toolkit for guidance)

<Type here>

5. Will this proposal / decision have a positive impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?

(Please refer to section 1 in the toolkit for a description of the protected characteristics)

<Please summarise any likely positive impact and identify which protected characteristics will benefit>

6. Will this proposal / decision have a disproportionate negative impact on any of the protected characteristics (age; disability; gender-reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation)?

<Please summarise any disproportionate negative impact and identify which protected characteristics will be affected>

7. Has the proposal / decision been amended to eliminate or reduce any potential disproportionate negative impact? If no, please explain why.

<Please Select> <If yes, please provide detail>

8. Have you identified any further actions to address and / or monitor any potential negative impact(s)?

<Please Select> <If yes please complete the table below. If no, please explain here>

Action(s)	Owner	By when?
<Please describe>	<Enter Name>	<DD.MM.YY>
<Please describe>	<Enter Name>	<DD.MM.YY>
<Please describe>	<Enter Name>	<DD.MM.YY>
<Please describe>	<Enter Name>	<DD.MM.YY>
<Unrestrict editing to insert additional rows>	<Enter Name>	<DD.MM.YY>

9. Declaration

Every reasonable effort has been made to eliminate or reduce any potential disproportionate impact on people sharing protected characteristics. The actual impact of the proposal / decision will be reviewed at the appropriate stage.

Review Date: 04/05/2016

Name of Lead Officer for Equality Impact Assessment	Date
Alan Smith	4/5/2016

Please note you will be required to publish the outcome of the equality impact assessment if you identify a substantial likely impact.

Mae tudalen hwn yn fwriadol wag

Adroddiad i'r:	Pwyllgor Llywodraethu Corfforaethol
Dyddiad y Cyfarfod:	15 Mehefin 2016
Aelod / Swyddog Arweiniol:	Julian Thompson-Hill - Aelod Arweiniol Cyllid, y Cynllun Corfforaethol a Pherfformiad Ivan Butler – Pennaeth Archwilio Mewnol
Awdur yr Adroddiad:	Ivan Butler – Pennaeth Archwilio Mewnol
Teitl:	Adroddiad Archwilio Mewnol - Rheoli Cronfeydd Ysgolion Gwirfoddol

- 1. Am beth mae'r adroddiad yn sôn?**
Mae'r adroddiad hwn yn rhoi gwybod i'r Pwyllgor am adroddiad Archwilio Mewnol diweddar ar Reoli Cronfeydd Ysgolion a gafodd sgôr sicrwydd 'Isel'.
- 2. Beth yw'r rheswm dros lunio'r adroddiad hwn?**
Mae'r Pwyllgor yn cael adroddiad Cynnydd Archwilio Mewnol ar gyfer pob cyfarfod sy'n cynnwys manylion yr adroddiadau Archwilio Mewnol a gyhoeddwyd. Adroddiadau yw'r rhain sydd fel arfer â sicrwydd 'Uchel' neu 'Ganolig'. Pan fyddwn yn cyhoeddi sgôr sicrwydd 'Isel' neu 'Dim' mewn adroddiad, bydd y Pwyllgor yn derbyn yr adroddiad fel rhan o'i raglen i sicrhau ei fod yn gwbl ymwybodol o'r adroddiad a gallant drafod y gwelliannau sydd i'w gweithredu gyda'r rheolwr perthnasol .
- 3. Beth yw'r Argymhellion?**
Mae'r Pwyllgor yn rhoi sylwadau ar yr adroddiad Archwilio Mewnol ac yn cytuno ar y sicrwydd mae ei angen bod y cynllun gweithredu o fewn yr adroddiad yn cael ei weithredu'n effeithiol ac o fewn y terfynau amser y cytunwyd arnynt.
- 4. Manylion yr Adroddiad**
Mae'r adroddiad Archwilio Mewnol llawn wedi'i gynnwys fel Atodiad 1.
- 5. Sut mae'r penderfyniad yn cyfrannu at y Blaenoriaethau Corfforaethol?**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.
- 6. Faint fydd hyn yn ei gostio a sut y bydd yn effeithio ar wasanaethau eraill?**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.
- 7. Beth yw prif gasgliadau'r Asesiad o Effaith ar Gydraddoldeb (AEC) a gynhaliwyd ar y penderfyniad? Dylai fod templed o'r Asesiad o Effaith ar Gydraddoldeb wedi ei lenwi a'i atodi i'r adroddiad.**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.
- 8. Pa ymgynghoriadau a gynhaliwyd gyda'r Pwyllgorau Archwilio ac eraill?**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.
- 9. Datganiad y Prif Swyddog Cyllid**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.

- 10. Pa risgiau sydd ac a oes unrhyw beth y gallwn ei wneud i'w lleihau?**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.
- 11. Pŵer i wneud y Penderfyniad**
Amherthnasol - nid oes angen penderfyniad gyda'r adroddiad hwn.



Denbighshire Internal Audit Services
Caledfryn, Smithfield Road, Denbigh LL16 3RJ

Management of Voluntary School Funds

May 2016



Geraldine Sanders

Ivan Butler CMIIA, MBA, Head of Internal Audit Services

Purpose & Scope of Review

		officer case conference
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We carried out this review to provide assurance on financial controls within the management of voluntary school funds for the Council's S151 Officer and the Head of Internal Audit's annual audit report.

Our review was aimed at identifying weaknesses that could lead to financial loss, error and/or fraud in an area where some other local authorities have experienced this in recent years.

Although our review included visits to primary schools to hold discussions with their school fund administration staff, any actions taken to address the issues arising from our review will need to be brought to the attention of all Denbighshire schools.

Assurance Rating (Based on areas reviewed)

	High Assurance	Risks and controls well managed
	Medium Assurance	Risks identified but are containable at service level
▶	Low Assurance	Risks identified that require meeting with Corporate Director/Lead Member
	No Assurance	Significant risks identified that require member /

Audit Opinion

School funds often provide schools with a substantial source of additional finance and, although the money is not classed as 'public', parents and other benefactors are entitled to the same standards of stewardship in their administration. Procedures and controls must be in place to protect the interests of the beneficiaries of the school fund (the pupils) and safeguard the position of those running it.

The responsibility for a school's voluntary school fund lies ultimately with the school's governing body; although, in practice, operational responsibility will typically be delegated to the Head Teacher. Governing Bodies must ensure that funds are used appropriately, in an open and transparent way, and for the benefit of pupils.

Our review found a significant number of weaknesses in the management and administration of school funds in the schools that we visited and we have come across similar weaknesses in most school funds where we have been appointed as the fund auditor.

There is also a lack of clarity around the roles and responsibilities of the

Education Support team, school finance managers and Internal Audit with regard to school funds to optimise governance and scrutiny of these funds. Although we have worked with Education Support to develop some guidance for schools, this has clearly not been effective in improving management of the funds and we found that it has not been launched effectively, as most schools we visited were not aware of it.

The full list of the weaknesses that we found is included in Appendix 1. We analysed these weaknesses using root cause analysis to identify why they are so many problems, as several link back to the same cause. We have listed these causes in the following Action Plan.

Given the importance of robust school fund management outlined above and the weaknesses that we have identified during our review detailed within our report below we can only provide 'low' assurance in this area.

Action Plan

Audit Review of: Management of Voluntary School Funds

Date: May 2016

Corporate Risk/Issue Severity Key

0	Critical - Significant CET and Cabinet intervention
0	Major - intervention by SLT and/or CET with Cabinet involvement
8	Moderate - Containable at service level. Senior management and SLT may need to be kept informed

Root Cause No.	Root Cause	Action	Who	When
Tudalen 502	1. Nobody is taking responsibility for looking into the extent to which schools must comply with the Council's Financial Regulations and making it clear in the Regulations how they apply to schools, including school funds.	Clarification to be sought from the Council's Head of Finance (S151 Officer). Once a position is confirmed this will be conveyed to schools and included in the new school fund guidance.	Education Support	September 2016
	2. Training and guidance for governing bodies does not explicitly cover their responsibilities for school fund governance.	During the training arranged for governors, Education Support to ensure inclusion of school funds as a specific item, with signposting to the new school fund guidance when available. This will also be raised as a potential element in the online training facilities provided to governors in North Wales.	Education Support	September 2016
3.	Nobody has taken responsibility for making a decision on how schools will be held to account for poor school fund management and made sure that it is included in the Scheme for Financing Schools.	Research to be carried out into how other local authorities deal with this issue.	Head of Internal Audit	May 2016
		Following the above, include relevant section in the Council's Scheme for Financing Schools.	Education Support	September 2016
		Develop and implement process for monitoring school fund management, in particular chasing up the non-return of school fund certificates.	Head of Internal Audit and Education Support	From September 2016

Root Cause No.	Root Cause	Action	Who	When
4.	Nobody has designed a modern approach to holding the financial procedures documentation.	Education Support to investigate options for using Knowledge Hub for those managing school funds, with School Finance officers having oversight. This would provide a repository for relevant guidance and documentation as well as a discussion forum asking questions and sharing good practice.	Education Support	By 1 April 2017
5.	There was lack of consultation with potential users of the school fund guidance to understand their needs.	Consult with a 'pilot' group of school fund administration staff on what guidance is needed.	Head of Internal Audit Services	January - May 2016
		Develop draft guidelines and issue to all schools for wider consultation.	Head of Internal Audit Services	By 1 September 2016
		Consult with all schools on draft guidelines for remainder of financial year and issue final guidance for 2017/18.	Head of Internal Audit Services	By 1 April 2017
6.	Nobody has taken responsibility for arranging for key stakeholders to discuss their responsibilities concerning school funds.	To be included in the above action as part of consultation process.	Head of Internal Audit Services	By 1 September 2016
7.	Nobody has decided whether the Council requires confirmation from schools that they are paying school fund auditors in line with tax and NI requirements or whether the onus lies with the school as the 'employer'.	To be included in the above action as part of consultation process.	Head of Internal Audit Services	By 1 September 2016
8.	Nobody has taken responsibility for seeking professional advice on school fund charitable status from legal services.	To be included as part of action 5 above as part of consultation process.	Head of Internal Audit Services	By 1 September 2016

Tudalen 503

Appendix 1 - Main Outcomes of the Internal Audit Review

Root Cause 1 – Nobody is taking responsibility for looking into the extent to which schools must comply with the Council’s Financial Regulations and making it clear in the Regulations how they apply to schools, including school funds.

Underlying weakness – It is unclear whether schools have to comply with the Council’s Financial Regulations.

The Council’s Financial Regulations state that where decisions have been delegated or devolved to other responsible officers, such as school governors, references to the chief officer in the Regulations should be read as referring to them.

The section on unofficial funds also includes school funds as an example. While this suggests that the Regulations apply to schools, we have been unable to confirm this or establish under what powers.

Root Cause 2 – Training and guidance for governing bodies does not explicitly cover their responsibilities for school fund governance.

Underlying weakness – Some school governing bodies are not fulfilling their responsibilities regarding school funds as laid down in the Council’s Scheme for Financing Schools.

Under The School Funding (Wales) Regulations 2010, each local authority must have a Scheme for Financing Schools, which defines the financial relationship between the local authority and the schools in its area. The Council’s Scheme clearly states what the governing body role is concerning voluntary school funds, including ensuring that the school meets the requirements of the Council’s school fund guidance. Every governing body must ensure the safe and proper custody of any voluntary or private fund.

Underlying weakness – Information regarding school funds is not readily available for governors.

During our review it was apparent that there is little guidance and support provided to school governors on their role concerning school funds.

Consideration should be given to providing training and for all documents issued to governing bodies being held centrally, along with any supplementary documents e.g. Denbighshire Scheme for Financing Schools and the School Fund Guidance.

Root Cause 3 – Nobody has taken responsibility for making a decision on how schools will be held to account for poor school fund management and made sure that it is included in the Scheme for Financing Schools.

Underlying weakness – The Council’s Scheme for Financing Schools does not prescribe what action the Council will take if the requirements for school funds are not met.

Local authority schemes vary concerning voluntary school funds, particularly in how prescriptive they are. Given the amount of time that Internal Audit and Education Support have spent on the subject of school funds, consideration should be given to strengthening the Council’s Scheme of Financing Schools concerning school funds, e.g. the Powys County Council scheme requires governing bodies to be provided with termly school fund updates, which is good practice.

It also states that where schools do not provide a school fund audit certificate, following a warning from the local authority, the local authority will appoint an auditor on the school’s behalf and charge all costs to the school. This may solve the regular problem that Internal Audit has in obtaining audit certificates for some schools.

Underlying weakness – A significant number of schools are not sending their school fund audit certificates promptly to Internal Audit as required.

All school funds should be audited within three months of the end of the financial year and a copy of the audit certificate sent to Internal Audit by 31 October of that year. Historically, there have been several schools not providing certificates within the timescale and some that we have had no success in chasing up.

Root Cause 4 – Nobody has designed a modern approach to holding the financial procedures documentation.

Underlying weakness – It is proving difficult for Education Support to maintain an up to date financial procedures document for schools.

The amount of time it is taking to produce an up to date Financial Planning and Procedures Manual for Schools suggests that this is not an easy task. Given that Education Support has now produced separate guidance regarding school funds and that a lot of the regulations are picked up in the Scheme for Financing Schools, having a separate Financial Planning and Procedures Manual increases the risk of these documents not being consistent.

In addition, the fact that Internal Audit has identified issues with school funds for several years suggests that this method of providing guidance has not been completely effective.

Since this is an invaluable resource for everyone involved in financial processes and procedures in schools, including school funds, it is vital that this information is available and kept up to date. Rather than provide this information in one document, consideration should be given to developing a repository of separate financial procedure documents, which cross-reference to each other and are easier to keep up to date

Root Cause 5 – There was lack of consultation with potential users of the school fund guidance to understand their needs.

Underlying weakness – Further work is required to ensure that the Guidance for Operating School Funds provides sufficient information to address the issues that Internal Audit and others have identified.

Given the lack of controls that we have found in school funds over several years, it is apparent that issuing guidance on a one-off basis is not effective in ensuring that schools implement and embed procedures and controls.

Also, the guidance was intended as an overview of ‘dos and don’ts’ for school fund administrators, but it has become clear that this, in itself, is not enough, and more detailed procedural guidance is needed.

Underlying weakness – Schools do not have clear guidance on what their school fund can be used for.

During our review, we identified several items of school fund expenditure that could be considered as inappropriate. Consideration should be given to governing bodies producing a school fund constitution specifying what the school fund can and cannot be used for.

Some schools have a significant amount of money in their school fund, but not all have plans in place for these funds.

Underlying weakness – Schools need to be aware of the Financial Services Compensation Scheme that provides compensation up to a specific value if the financial institution they bank with fails.

The Financial Services Compensation scheme is in place to protect investors if the financial institution where they hold their accounts fails. The maximum protection limit is £75k.

One school has a school fund balance that is significantly higher than this, so risks losing a significant sum of money if the financial institution fails. There are also a few schools with balances approaching £75k, which may at times exceed this limit.

Underlying weakness – Internal Audit has not received final audit certificates for any of the schools that have closed or amalgamated in the last five years.

Several schools have amalgamated over the last few years and their school funds should have been ‘closed off’ when amalgamating and transferred to one new school fund; however, Internal Audit has not received final audit certificates for any of these schools or for the two schools that have closed in the last five years. Instructions should be issued to all schools due to close and/or amalgamate explaining what action should be taken regarding the school funds, including the audit requirement.

Underlying weakness – VAT advice regarding school funds is not included in the Guidance for Operating School Funds.

The Draft Schools Financial Planning and Procedure Manual includes guidance on VAT for ‘unofficial funds’ such as school funds. This guidance has been taken from the Council’s VAT manual. Our review identified that most schools are not aware of the above guidance. Without a detailed examination of individual school fund income and expenditure activity, we are unable to confirm whether any funds should be registered for VAT.

It is crucial that governing bodies are aware of VAT registration requirements to avoid penalty charges. In the current economic climate, it is also in the best interests of every school to reduce the amount of VAT it has to pay on school fund purchases by donating the net value of the desired purchase to the school, where permitted, and ordering and paying for the goods via Accounts Payable.

Underlying weakness – Schools are not running Parent Pay reports to confirm that all monies received by the school and manually input onto Parent Pay have been banked in full.

ParentPay provides an on-line payment system to reduce the levels of cash transactions. Monies received at schools for events and/or activities set up on ParentPay are manually entered on the relevant ParentPay account by administration support and then banked. None of the schools we visited were aware of a report that they can be run from ParentPay to reconcile income manually input by the school against the banking records.

Underlying weakness – Schools are not running Parent Pay collection service statements to establish the breakdown of payments received for school fund income and expenditure analysis and reporting.

All the schools we visited were recording the amounts received from ParentPay (as per their bank statements) as one amount on the school fund records. For openness and transparency, transaction charges should be recorded and reported separately. None of the schools were aware of a report that they can run from ParentPay that gives a breakdown of the income received or knew how the transaction fees were paid and collected.

Underlying weakness – Several schools have only two signatories for the voluntary school fund account. This does not allow for one of the signatories being unavailable and increases the temptation to pre-sign blank cheques.

Several schools have only two signatories to their school fund bank account. It is good practice for schools to have at least three signatories for the account. This helps to prevent delays in signing cheques and reduces the temptation for people to pre-sign cheques if they will not be available to sign them later. It also helps to avoid conflicts of interest where a cheque payee is actually one of the signatories, so that they are not signing cheques made payable to themselves.

Underlying weakness – Some schools lack a clear distinction between their parent/teacher association (PTA), ‘friends’ activities and accounts and school fund activities and accounts.

All the schools we visited had PTA or ‘friends of the school’ accounts as well as voluntary school funds. While most schools operate these completely separately to the school fund, some operate them within the school fund, which they should not. Although we acknowledge that school administration staff may manage both types of accounts, they should ensure that there is clear separation between the different accounts and activities.

Underlying weakness – Several schools have other groups and/or clubs operating on site, some run in-house and others run by external providers. These should be administered and audited appropriately.

All the schools we visited during our review have a breakfast club, some run by the school and others run by external providers. Most are administered completely separately from the school or via the delegated budget, but some are run through the school fund, which they should not be.

Several of the schools we visited advised us that they have other groups and/or clubs operating in the school. External providers deliver and administer most of these, but some are delivered and administered by the school and these require the same stewardship as school funds.

As above, although we acknowledge that school administration staff may administer the finance of these groups and/or clubs, they should ensure that there is clear separation between the different accounts and activities.

Although not required by law, it is good practice for governing bodies to be presented with audited accounts for its PTA / 'friends of' activities.

Underlying weakness – The type and standard of school fund accounts vary greatly from one school to another.

Some of the schools that we visited during our review keep manual school fund records, some use spreadsheets and one uses specific software. The spreadsheets used also vary in quality from one school to another - some are quite simple, while others are much more comprehensive.

Ideally, all schools (other than those that are already using a software package that provides them with all the information and controls needed) should be provided with a spreadsheet that is as easy to use as possible, but one that provides for bank reconciliations; income and expenditure categorisation; petty cash transactions; and reports.

Some schools have already got such spreadsheets in place, but are either not using them correctly, or not using them to their full potential.

Underlying weakness – Most school funds are administered by just one member of staff. This increases the risk of error and/or fraud. Someone should carry out independent checks of the school fund records on a regular basis.

Only one of the schools that we visited during our review has some form of independent check of the school fund. All the others are managed by one member of staff within the school. It is good practice to have at least a regular, preferably monthly, reconciliation of the accounts by a second person to ensure that all monies are accounted for.

Overall, school finance managers have very little involvement in monitoring of school funds. Given the quality of the record keeping that we found during our review, the role of finance managers should be reviewed so that their financial expertise can be used proactively to improve school fund management.

Underlying weakness – In some schools, the transfer of income from one person to another is not signed for as evidence of transfer. This increases the risk of income going missing and fails to protect those involved.

Only two of the schools that we visited have arrangements in place to record the transfer of income from one person to another. Although this may seem to be a bureaucratic process, it does provide evidence if cash goes missing at any stage before banking, so provides protection for members of staff handling cash.

Underlying weakness – Source documents, such as income collection sheets for trips, are not always provided with the school fund accounts when passed to the school fund auditor.

Some schools use collection sheets when recording income for trips etc. As these provide evidence of income collected, they should be provided with the school fund accounts when sent for audit.

Underlying weakness – Most schools do not reconcile their school fund balance account(s) against bank statements, except at year-end.

Regular, preferably monthly, reconciliations should be carried out between the accounting records and bank statements, and these should be independently reviewed. Only five of the schools that we visited during our review carry out any form of in-year reconciliation. Others leave it until the year-end, which makes it a more difficult task if there are errors to trace and fails to identify any anomalies and/or misappropriation promptly.

Underlying weakness – Several school funds contain income belonging to the delegated budget.

All income paid into the school fund that belongs to the school's delegated budget should be fully transferred over to the budget promptly so that funds are properly accounted for and the school's budget is accurately portrayed.

Underlying weakness – Some schools are using school funds for delegated budget expenditure as they find it easier to purchase some items using the school fund.

Sometimes, schools find it more convenient to make purchases relating to their delegated budget through the school fund. If they do this, they should reimburse the school fund from the delegated budget promptly so that funds are properly accounted for and the school's budget is accurately portrayed. Using the school fund for delegated budget expenditure can also have VAT implications that could result in added costs to the delegated budget.

Consideration should be given to extending the use of cluster credit cards to all schools to alleviate this problem.

Underlying weakness – Schools are retaining school fund records for longer than the required period.

Most of the schools that we visited during our review have school fund records going back further than six years, which is not necessary under normal retention rules for financial records, which is six years plus the current year. Most schools were unaware of the suggested retention period.

Consideration should be given to using the Council's archives to free up valuable space in schools, provide greater protection for the financial records, and ensure that surplus records are disposed of promptly and securely.

Underlying weakness – Items sold in schools to raise money for the school fund e.g. school uniforms, water bottles, are not held securely, stock records are not maintained and no stock checks are carried out to prevent and detect loss.

Most of the schools that we visited during our review sell items to pupils to raise money for their voluntary school funds. Although the stock value of these is not significant in most cases, some schools informed us that they have a large turnover.

Most schools do not hold these stock items securely, e.g. they are in open boxes in unlocked areas and there is no reconciliation to ensure that all stock is accounted for.

Root Cause 6 – Nobody has taken responsibility for arranging for key stakeholders to discuss their responsibilities concerning school funds.

Underlying weakness – The roles and responsibilities of Education Support, school finance managers and Internal Audit concerning school funds is not clearly defined.

Over the years, it has been unclear where responsibilities lie for advising schools on operating school funds, chasing outstanding school fund certificates, monitoring of school funds etc. This lack of clarity has not helped in managing and improving school fund administration and needs to be addressed to ensure that schools implement and embed the improvements arising from our review.

Underlying weakness – There is no formal record of the school fund accounts held in each school, several of which have more than one account. This increases the risk of financial misappropriation.

While some schools have only one bank account for their school funds, several have more than one account. The current school fund guidance states that Head Teachers should keep a record of all bank accounts but this does not happen in practice.

Underlying weakness – Most schools have not received the Voluntary School Fund Guidance, which Education Support sent to all Business and Finance Managers in February 2014.

We understand that the Voluntary School Fund Guidance was issued to Business and Finance Managers in November 2014; however, the majority of the schools visited during our review said that they had not seen the guidance document.

Root Cause 7 – Nobody has decided whether the Council requires confirmation from schools that they are paying school fund auditors in line with tax and NI requirements or whether the onus lies with the school as the ‘employer’.

Underlying weakness – We are unable to confirm whether payments for school fund audits are being made in line with tax and NI requirements.

Our review highlighted that some schools pay their school fund auditors directly from the school fund but these people should be set up as employees of the school and paid through the Council’s payroll unless they are registered as trading / self-employed. Payments to anyone not registered, should be subject to tax and NI, where applicable.

Root Cause 8 – Nobody has taken responsibility for seeking professional advice on school fund charitable status from legal services.

Underlying weakness – Legal advice is required to confirm whether school funds are classed as charities and what income is included in the Charity Commission threshold.

Voluntary school funds need to be registered with the Charity Commission if their gross annual income exceeds £5k and they operate for exclusively charitable purposes. Despite our extensive research, we are unable to confirm categorically whether voluntary school funds (as we refer to them) are classed legally as a charity.

We have not identified any school funds that are registered with the Charity Commission, other than PTA, ‘friends’, playgroups and church schools.

This does not mean that school funds are not classed as a charity; it may just mean that their gross annual income does not exceed £5k but, without a detailed examination of individual school fund income and expenditure activity, we are unable to confirm whether any exceed the Charity Commission threshold.

Report Recipients

- Education Resources & Support Manager
- School Funding Manager
- Principal Education Managers (x2)
- Head of Education & Children's Services
- Corporate Director: Communities
- Head of Finance
- Scrutiny Co-ordinator
- Lead Officer, Destination, Marketing & Communication
- Lead Member for Education
- Chair – Performance Scrutiny Committee
- Lead Member for Finance, Corporate Plan & Performance
- Corporate Governance Committee

Key Dates

Review commenced	June 2015
Review completed	April 2016
Reported to Corporate Governance Committee	15 June 2016
Proposed date for 1st follow up review	To be agreed with Corporate Governance Committee

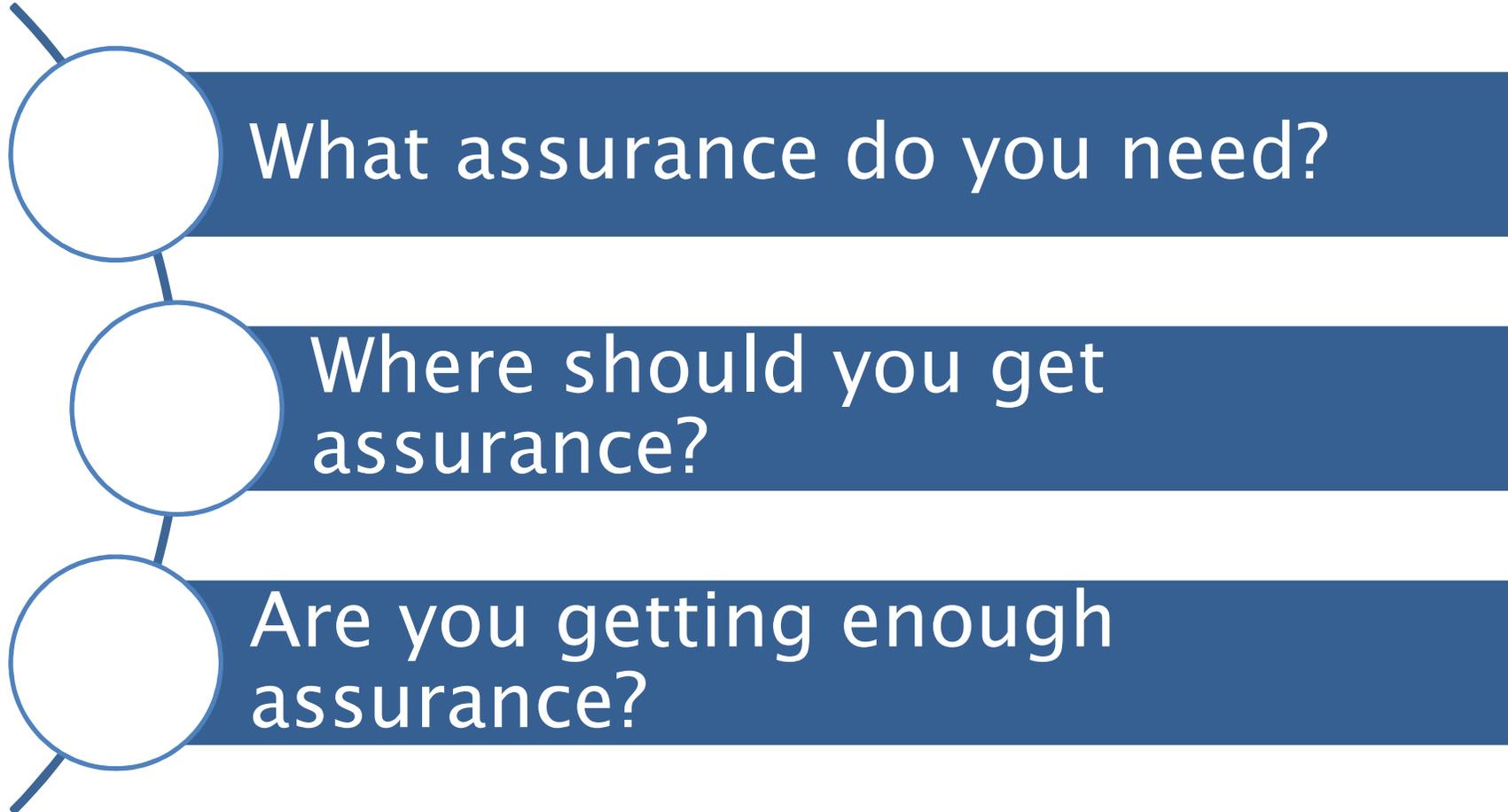
Mae tudalen hwn yn fwriadol wag

Corporate Governance Committee

Self-assessment January 2016

Assurance

Tudalen 514



Governance Framework

- What is the governance framework?
- Are you involved enough in its development?
- Can you confidently challenge the content of the Annual Governance Statement?

Internal Audit

Tudalen 516

- What is IA's role?
- Does IA provide enough assurance?
- How do you know IA is effective?

Internal Audit

- Does IA provide you with enough information in the right format?
- Do you need more from IA?
- Should you meet with the HIAS at least once a year in private?

Challenge

**How well do you
robustly
challenge senior
management
when needed?**

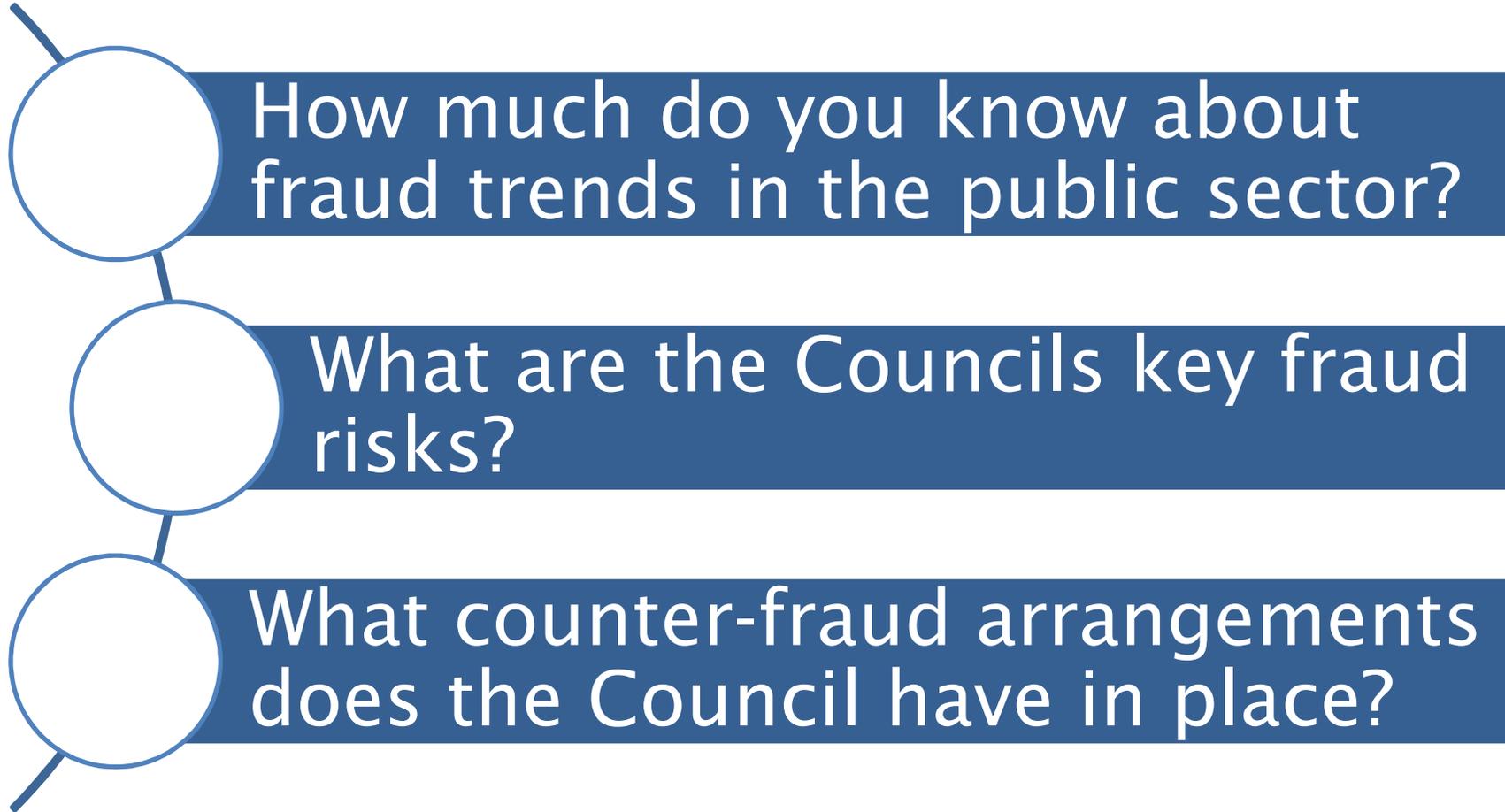
Risk Management

- How well do you understand the risk management framework?
- Do you know what the Council's corporate risks are?
- How confident are you that the Council is managing its corporate risks?

Risk Management

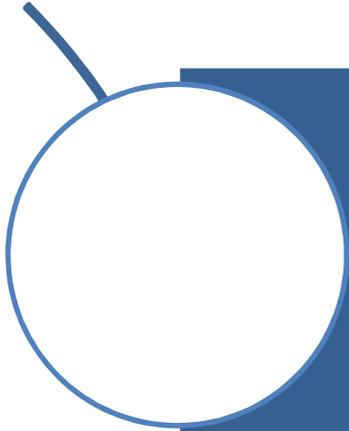
**What are this
Committee's/Perfor
mance Scrutiny's
roles relating to risk
management?**

Fraud

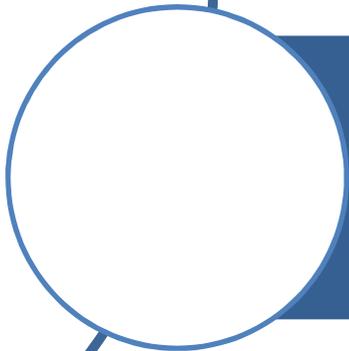
- 
- How much do you know about fraud trends in the public sector?
 - What are the Councils key fraud risks?
 - What counter-fraud arrangements does the Council have in place?

Ethics

Tudalen 522



What arrangements are in place to ensure good ethical behaviour by officers and members?

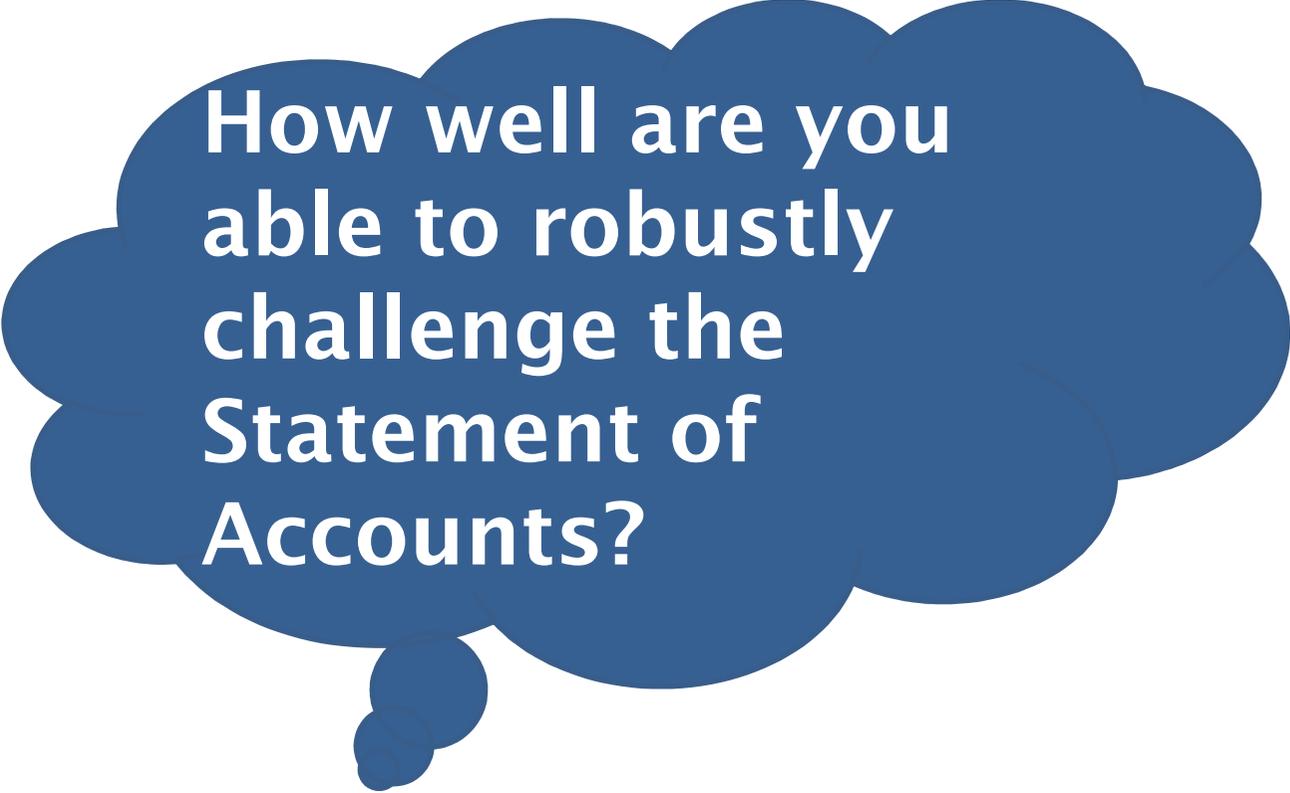


How confident are you that these arrangements work in practice?

Financial Management

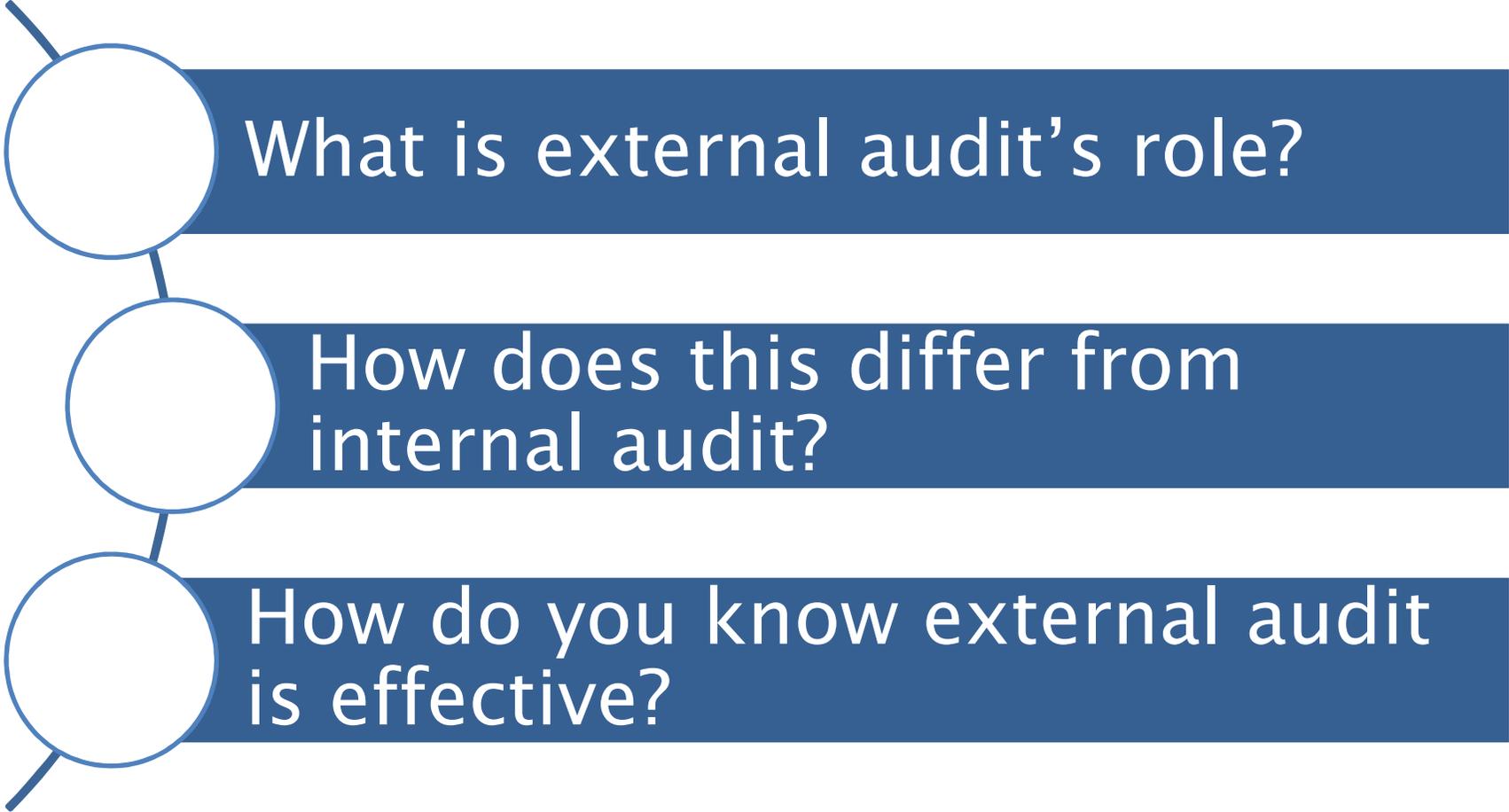
- What financial risks does the Council face?
- What are the specific risks relating to Treasury Management?
- How well do you understand the Statement of Accounts?

Financial Management



**How well are you
able to robustly
challenge the
Statement of
Accounts?**

External Audit

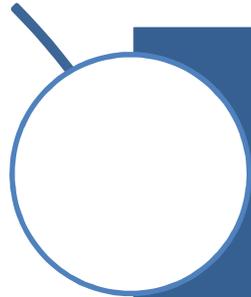


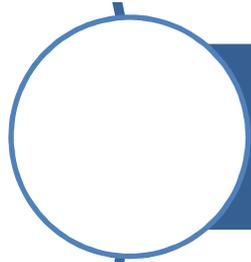
What is external audit's role?

How does this differ from internal audit?

How do you know external audit is effective?

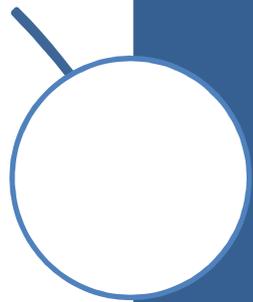
External Audit

 Does external audit provide you with enough information in the right format?

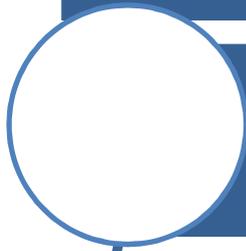
 Do you need more from external audit?

 Should you meet with the external auditor at least once a year in private?

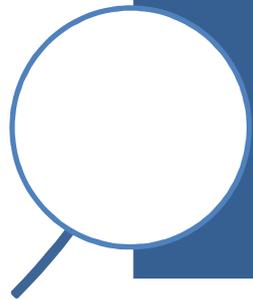
Committee Knowledge



Is the Chair confident in his knowledge of finance, risk management, audit and the Council's regulatory regime?



How well are you trained for your role?



Should new committee members have induction training in their new role?

Committee Support

Tudalen 528

How well do officers support you in meetings and provide advice and guidance?

Are you adequately prepared for the Committee meetings?

Can written/verbal reports to the committee be improved?

Rhaglen Gwaith i'r Dyfodol y Pwyllgor Llywodraethu Corfforaethol

13 Gorffennaf 2016		Eitemau Sefydlog	
	1	Materion a Gyfeiriwyd gan y Pwyllgorau Archwilio	Cydlynnydd Archwilio / Rhian Evans
	2	Adroddiadau Rheoleiddio Allanol Diweddar a Dderbyniwyd	Pennaeth Busnes, Cynllunio a Pherfformiad / Alan Smith, Vicki Robarts
	3	Adroddiad Cynnydd Archwilio Mewnol	Pennaeth Gwasanaethau Archwilio Mewnol / Ivan Butler, y Cynghorydd Julian Thompson-Hill
	4	Adborth o'r Cyfarfod Cydraddoldeb Corfforaethol - llafar	
	5	Rhaglen Gwaith i'r Dyfodol	
		Adroddiadau	
	6	Proses y Gyllideb 2016/17	Prif Swyddog Cyllid / Richard Weigh
Tudalen 529	7	Adolygiad Ymarfer Plant	Cyfarwyddwr Corfforaethol: Cymunedau / Nicola Stubbins
	8	Datganiad Cyfrifon Drafft	Prif Swyddog Cyllid / Richard Weigh
	9	Adroddiad Blynyddol ar Chwythu'r Chwiban	Pennaeth y Gwasanaethau Cyfreithiol, Adnoddau Dynol a Democrataidd / Gary Williams
21 Medi 2016		Eitemau Sefydlog	
	1	Materion a Gyfeiriwyd gan y Pwyllgorau Archwilio	Cydlynnydd Archwilio / Rhian Evans
	2	Adroddiadau Rheoleiddio Allanol Diweddar a Dderbyniwyd	Pennaeth Busnes, Cynllunio a Pherfformiad / Alan Smith, Vicki Robarts
	3	Adroddiad Cynnydd Archwilio Mewnol	Pennaeth Gwasanaethau Archwilio Mewnol / Ivan Butler, y Cynghorydd Julian Thompson-Hill
	4	Adborth o'r Cyfarfod Cydraddoldeb Corfforaethol - llafar	
	5	Rhaglen Gwaith i'r Dyfodol	

Rhaglen Gwaith i'r Dyfodol y Pwyllgor Llywodraethu Corfforaethol

		Adroddiadau	
	6	Proses y Gyllideb 2016/17	Prif Swyddog Cyllid / Richard Weigh
	7	Ysgol Mair y Rhyl - Diweddariad Adroddiad Archwilio Mewnol	Pennaeth Archwilio Mewnol / Ivan Butler
	8	Adroddiad Blynyddol Rheoli'r Trysorlys (Sesiwn Hyfforddi 30 munud cyn y cyfarfod – yn cynnwys manylion am weithredu REPOs) (Gwahodd Pob Aelod)	Prif Swyddog Cyllid / Richard Weigh
	9	Diweddariad ar Ddiogelu Corfforaethol	Cyfarwyddwr Corfforaethol Cymunedau / Nicola Stubbins
	10	Adroddiad Diweddaru Rheoli'r Fflyd Gorfforaethol	Pennaeth Archwilio Mewnol / Ivan Butler
		EITEMAU YN Y DYFODOL	
Tudun Ech 2016		Diweddariad ar Uno'r Gwasanaethau Addysg a Phlant	Cyfarwyddwr Corfforaethol Cymunedau / Nicola Stubbins
Dechrau 2017		Ysgol Uwchradd y Rhyl (Gwerthuso effaith yr ysgol newydd)	
Ionawr 2017		Diweddariad Cynllun Amddiffyn Arfordir Gorllewin y Rhyl	Pennaeth Adain Archwilio Mewnol / Ivan Butler, Pennaeth Gwasanaethau Priffyrdd ac Amgylcheddol / Steve Parker

DS Nid yw union ddyddiad cyhoeddi adroddiadau achlysurol gan er enghraifft Swyddfa Archwilio Cymru neu Adroddiadau Blynyddol gan yr Ombwdsmon yn hysbys ar hyn o bryd. Bydd dyddiad cyfarfod yn cael ei neilltuo ar eu cyfer cyn gynted ag y bo'n ymarferol.