



# CONSTITUTION

2023~~2~~

(Updated ~~December~~ January 202~~23~~)

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## FLINTSHIRE COUNTY COUNCIL

### SECTION 1

#### 1. INTRODUCTION

##### 1.1 Purpose and Content of the Constitution

- 1.1.1 The Constitution describes the various parts 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 A better understanding of what each of the Council's parts does is given in [Sections 4 to 10](#) of this Constitution, including Full Council, Cabinet, Overview and Scrutiny Committees, Standards Committee and Regulatory Committees. [Section 1140](#) 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 parts, and which Officers, have authority to make which decisions.
- 1.1.4 The procedural rules that apply to the different parts of the Council are contained in the sections relating to those parts, e.g. Full Council ([Section 4](#)), the Cabinet ([Section 5](#)) and Overview and Scrutiny ([Section 7](#)). These should be useful to anyone attending a meeting of that part of the Council.
- 1.1.5 [Sections 19 to 23](#) 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 Councillors elected every ~~four~~ five years. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in [Flintshire](#). 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 The Council will ~~issue and keep~~ and make available for inspection a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in **Section 13** of this Constitution.
- 1.2.3 All decisions of the Council will be made in accordance with the following principles:
- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
  - (b) due consultation and the taking of professional advice from officers;
  - (c) respect for human rights (see below for further details);
  - (d) a presumption in favour of openness; and
  - (e) clarity of aims and desired outcomes.
- 1.2.4 Overview and Scrutiny Committee will follow the Overview and Scrutiny Procedure Rules set out in **Section 7.5** of this Constitution when considering any matter.
- 1.2.5 The Subject to paragraph 1.2.6, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in **Section 4.10** of this Constitution as apply to them.
- 1.2.6 The Council, a Councillor or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights
- 1.2.7 All Councillors will:-
- (a) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
  - (b) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making by the Council and its partnerships;
  - (c) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;

- (d) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (e) balance different interests identified within the electoral division and represent the electoral division as a whole;
- (f) contribute to the continual improvement of Council services through the Performance Improvement process;
- (g) participate in the governance and management of the Council;
- (h) maintain the highest standards of conduct and ethics.

#### 1.2.8 **Rights and Duties**

- (a) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) 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.
- (c) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in **Section 14** of this Constitution.
- (d) In the event of a disagreement as to whether a Councillor is entitled to access to any particular document, or information, the matter shall be determined by the Chief Officer, Governance in accordance with the Delegation to Officers at **Part 3 Section C**.

#### 1.2.9 **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.

#### 1.2.10 **Allowances**

Councillors will be entitled to receive allowances in accordance with the Member Remuneration Schedule set out later in this Constitution.

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

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

Democratic Services  
County Hall  
Mold  
Tel: 01352 702320

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**

The Council will exercise all its powers and duties in accordance with the law and this 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.
- 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 ( <a href="#">Section 4</a> );  |
| “Chief Officer”<br><del>means any of the following:- Chief Executive<br/>Chief Officer, Governance<br/>Chief Officer, Education &amp; Youth<br/>Chief Officer, Planning, Environment &amp; Economy</del> | <u>means any of the following:-</u> <ul style="list-style-type: none"><li>• <u>Chief Executive</u></li><li>• <u>Chief Officer, Governance</u></li><li>• <u>Chief Officer, Education &amp; Youth</u></li><li>• <u>Chief Officer, Planning, Environment &amp; Economy</u></li></ul> |

~~Chief Officer, Social Services~~  
~~Chief Officer Streetscene & Transportation~~  
~~Chief Officer, Strategic Programmes~~  
~~Chief Officer, Housing & Assets~~

“Constitution Guide”

- ~~Chief Officer, Social Services~~
- ~~Chief Officer, Streetscene & Transportation~~
- ~~Chief Officer, Strategic Programmes~~
- ~~Chief Officer, Housing & Assets;~~

a document which explains, in ordinary language, the content of this constitution and which is published by the Council in accordance with section 37 of the Local Government Act 2000;

“Corporate Team”

the senior management body for Officers (**Section 11**). It includes those Officers designated by the ~~Head of Paid Service~~ Chief Executive 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 Flintshire;

“Data Protection Legislation”

the Data Protection Act 2018, the UK General Data Protection Regulation (UK GDPR) and all other laws relating to the use, protection and privacy of personal data;

“Deputy 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 reports directly to a Chief Officer in respect of all or most of his/her duties;

“Cabinet”

the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;

“Cabinet Decision”

any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain from 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.

(c) Regulatory functions such as planning licensing and building control, are not Executive Functions;

“Forward Work Programme”

the Forward Work Programme is a document which lists all of the topics that the Council and the Cabinet intend to take and what business the Overview and Scrutiny Committees 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 10 for more details. The Officer will usually have other duties and a different job title. See Section 10 for which Officer is the Head of Paid Service;~~

“Local Choice Functions”

there are some functions which the County Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being Council Functions, at its discretion;

“Local Government (Wales) Measure 2011”

referred to as “The Measure”. Legislation introduced, 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:

- Full Council;
- Cabinet;
- an Overview and Scrutiny Committee;
- Licensing Committee(or one of its sub-committees);
- Standards Committee (or one of its sub-committees);
- Planning Committee;
- Appeals Committee;
- Governance and Audit Committee;
- Clwyd Pension Fund Committee
- Constitution & Democratic Services Committee;

Note - references to Committee also includes Sub-Committee;

“Monitoring Officer”

an Officer who must be appointed by law to carry out certain functions. See [Section 1140](#) for a description of those functions. The Officer will usually have other duties and a different job title. See [Section 1140](#) for which Officer is the Monitoring Officer;

“Council 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;

“Petition Scheme”

the scheme prepared by the Council pursuant to section 42 of the Local Government and Elections (Wales) Act 2021 and set out in [Section 4.13](#) of this constitution;

“Planning Application”

any of the following:

- application for planning permission (including renewal);
- application for approval of reserved matters;
- application for listed building consent;

|                       |   |
|-----------------------|---|
|                       | <ul style="list-style-type: none"> <li>• application relating to trees;</li> <li>• proposal to serve an urgent works notice or acquire a listed building in need of repair;</li> <li>• application for conservation area consent;</li> <li>• application for advertisement consent;</li> <li>• application to vary or remove conditions on a planning condition;</li> </ul> |
| “Policy Framework”    | See <b>Section 4.2</b> ;  |
| “Section 151 Officer” | an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See <b>Section 1140</b> for a description of those functions. The Officer will usually have other duties and a different job title. See <b>Section 1140</b> for which Officer is the Section 151 Officer;   |
| “Service”             | one of the services provided by the Council;  |
| “Council Plan         | 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 interpret the relevant procedure rules and their ruling is final.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution, including the procedure rules

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 and it is kept up-to-date. 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**

The process for changes to the Constitution differs depending upon whether the change is one of substance, or a minor, or a consequential change. Changes of substance need to be approved by the full Council. This will normally be after consideration by the Constitution & Democratic Services Committee and it making a recommendation to the County Council. Minor or consequential changes to the Constitution can be made by the Chief Officer, Governance/Monitoring Officer under delegated powers provided:-

- (i) The Chair of the Constitution & Democratic Services Committee and the political Group Leaders have been consulted; and
- (ii) None of those consulted under (1) above require the proposed change to be reported to County Council.

Where the changes are consequential on a Cabinet decision, in exercising an Executive function, the Constitution can be updated by the Chief Officer, Governance following the expiry of the call-in process.

The Chief Officer (Governance) and Democratic Services Manager have delegated authority to change job/post designations notifying the Constitution & Democratic Services Committee at its next meeting.

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.

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*

From the Forward Work Programme, see what decisions will be taken by the Cabinet or Council and what issues the Overview and Scrutiny Committees will be considering and when these matters will be discussed.

(c) *Information Available Prior to a Meeting*

Three clear 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. (Governance and Audit Committee agendas are available five days before meetings, by local convention)

(d) *Information Available at a Meeting*

The Council will make available to members of the public who are physically 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*

Inspect the Council's accounts and make their views known to the external auditor (~~sections 29 and 30~~ Public Audit

(Wales) Act 20014). Under the Accounts and Audit (Wales) Regulations 201405, 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 paragraphs 14.10.3 and 14.10.4) will not be disclosed to members of the public at any time.

### 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.

### 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 or meeting of the Cabinet;
- (b) any decision taken by an individual Member of the Cabinet.

An Overview and Scrutiny Committee Member is not be entitled to:

- (a) any document in draft form;
- (b) 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

The Monitoring Officer, the Section 151 Officer and the ~~Head of Paid Services~~ Chief Executive may see any papers or records held by any part of the Council or its Officers. Other 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/ General data Protection regulation (from 25<sup>th</sup> May 2018)Data Protection Legislation.

### 3.2 **Getting Involved**

#### 3.2.1 **Members of the Public**

The County Council must encourage local people to participate in the making of the decisions by the Council. Members of the public can get involved in the following ways:

(a) *Voting for Councillors*

If they are over 16~~8~~ years and registered as a local elector with the Council.

(b) *Suggesting Items of Business for Meetings*

A member of the public can seek to get a matter included on the agenda of a future meeting by writing to the Democratic Services Manager explaining the matter he/she wishes to be considered, by which Member body and the reason why so that the Member body can consider this when considering its forward work programme:

(c) *Submitting Petitions*

A member of the public can raise a matter with the County Council by submitting a petition in accordance with the Council's Petition Scheme. See [section 4.13](#) of this constitution.

~~(e)~~(d) *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) You can also ask Formal Questions at meetings of Full Council ([Section 4](#)).

~~(e)~~(e) *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 Committee, the relevant Overview and Scrutiny Committee must take into account

any views brought to their attention under these arrangements.

~~(e)~~(f) *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 14.10](#) for definition of exempt information and [section 14.11](#) for definition of public interest.)

~~(f)~~(g) *Making Comments/Complaints*

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

- (i) contacting their local Councillor;
- (ii) contacting the Member of the Cabinet responsible for the service;
- (iii) contacting the Officer responsible for delivering the service or their manager;
- (iv) using the Council's complaints procedure;
- (v) contacting the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: ~~0845 604 0987~~0300 790 0203 or via the website [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)[www.ombudsman.wales](http://www.ombudsman.wales).

~~(g)~~ *Engage with Overview and Scrutiny*

## **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:

| (1)<br><b>Plans, schemes and strategies</b>  | (2)<br><b>Reference</b>   |
|--|---|
| Single Education Plan  | The Single Education Plan (Wales) Regulations 2006 (SI 2006/877 (W82))                      |
| Council Plan   | Local Government (Wales) Measure 2011 <del>07</del>   |
| Crime and Disorder Reduction Strategy  | Section 5 and 6 of the Crime and Disorder Act 1998 (c37)                                    |
| Health and Safety Well Being Strategy  | Section 24 of the National Health Service Reform and Health Care Professions Act 2002 (c17) |
| Local Transport Plan   | Section 108 of the Transport Act 2000 (c38)   |
| Plans and alterations which together comprise the Development Plan                             | Section 10A of the Town and Country Planning Act 1990 (c8)                                  |
| Welsh Language Scheme  | Section 5 of the Welsh Language Act 1993 (c38)  |
| Youth Justice Plan   | Section 40 of the Crime and Disorder Act 1998 (c37)   |
| Young People's Partnership Strategic Plan and Children and Young Peoples Framework Partnership | Section 123, 124 and 125 of the Learning and Skills Act 2000 (c21)                          |
| Housing Strategy   | Section 87 of the Local Government Act 2003 (c26)   |

The Council has resolved that in addition to the plans and strategies referred to

above it will reserve to itself the adoption or approval of the:-

- Corporate Plan
- Schools' Admissions Policy

#### 4.3 **The Council Plan**

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

#### 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 16** 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~~ [Welsh Ministers](#) 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;
- 4.6.2 approving or adopting the Council Plan Policy Framework, the budget and any application to the ~~National Assembly for Wales~~ [Welsh Ministers](#) 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[s];
- 4.6.5 agreeing and/or amending the terms of reference for Committees and deciding on their political balance in accordance with the Local Government and Housing Act 1989;
- 4.6.6 changing the name of the area;
- 4.6.7 making or confirming the appointment of the Chief Executive ~~Head of Paid Services~~ ~~Chief Executive; making or confirming the appointment of the Head of Paid Services~~ ~~Chief Executive~~ and other Chief Officers;
- 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 Constitution & Democratic Services Committee, approving the dismissal of the Chief Executive, and determining the level (and any change in the level) of remuneration to be paid to a Chief Officer ~~and the pay policy statement;~~
- 4.6.11 appointing representatives to outside bodies unless the appointment has been delegated by the Council;
- ~~4.6.14~~ 4.6.12 performing the corporate joint committee functions set out in **Section 11** of this Constitution, including the making of a corporate joint committee application and the giving of consent to corporate joint committee regulations being made;-
- ~~4.6.12~~ 4.6.13 approving the Schedule of Member Remuneration-;
- 4.6.14 as a result of Section 38 of the Localism Act 2011 for each financial year beginning with 2012/13 approve pay policy statements each financial year;
- 4.6.15 approving, reviewing, and amending the Council's Petition Scheme (see **section 4.13**) unless the function has been delegated by the Council;
- 4.6.16 consulting local people, other persons carrying on a business in the Council's area, the officers of the Council and every trade union which is recognised by the Council about the extent to which the Council is meeting its performance requirements unless the function has been delegated by the Council;

4.6.17 approving the County Council's annual report on the extent to which the Council has met its performance requirements:-

4.6.18 approving the County Council's response to the panel's assessment of the Council's performance;

4.6.19 reviewing, approving and amending the Council's wellbeing objectives in accordance with section 9 of the Well-being of Future Generations (Wales) Act 2005 and the accompanying statutory guidance issued by the Welsh Government;

4.6.20 considering annual reports received from the Standards Committee (within 3 months of them being made); and

4.6.21 keeping under review the extent to which:

(a) the County Council is exercising its functions effectively;

(b) the County Council is using its resources economically, efficiently and effectively; and

(c) the County Council's governance arrangements are effective for securing the matters set out in a) and b) above.

#### 4.7 **Membership**

4.7.1 All 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 Chair and Vice Chair will be elected by the Council at the annual meeting.

(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 Flintshire;

- (ii) promotes the interests and reputation of the Council and Flintshire 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. The Leader may accompany the Chair/Vice Chair of the Council to any civic or ceremonial functions or attend such functions in place of the Chair/Vice Chair.

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 special meetings

4.9 **Rules of Procedure and Debate**

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

4.10 **Council Procedure Rules**

1. **Annual Meeting of the Council**

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:

- (i) elect a person to preside if the Chair and Vice-Chair of Council are not present;
- (ii) elect the Chair of Council;
- (iii) elect the Vice Chair of Council;
- (iv) receive any announcements from the Chair and/or ~~Head of the Paid service~~ Chief Executive;
- (v) elect the Leader;
- (vi) receive and note the Leader's choice of Councillors to serve upon the Cabinet;
- (vii) appoint at least one Overview and Scrutiny Committee, a Standards Committee, a Constitution & Democratic Services Committee, an Governance and Audit Committee, a Planning Committee, a Licensing Committee a Clwyd Pension Fund committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in **Part 3, Table 1** of this Constitution);
- (viii) decide the size and terms of reference for those Committees;
- (ix) decide the allocation of seats to political groups in accordance with the political balance rules; and appoint to Committees those Members, if any, who are not Members of any political group. It will be noted that Group Leaders appoint Members from within their Groups to fill the seats available to their respective Groups on Committees. (The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 requires that a planning committee may only include one members from a multi-member ward/electoral division. Where a multiple member ward/division is represented by Councillors who are not in the same group (and both wish to be on the Planning Committee) then the respective group leaders should seek to reach agreement. If that is not possible then the nomination should be determined by the drawing of lots or the toss of a coin.
- (x) appoint the chairs of the standing Committees appointed under (vii) above with the exception of the Standards Committee, the Overview & Scrutiny Committee(s) and the Governance and Audit Committee;
- (xi) determine which political group shall nominate the Chair of each Overview & Scrutiny Committee appointed under (vii) above, having

regard to the guidance issued under the Local Government (Wales) Measure 2011.

- (xii) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in **Part 3 Table 3** of this Constitution);
- (xiii) approve a Schedule of meetings to include a programme of ordinary meetings of the Council for the year; and
- (xiv) appoint to those outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet. (This can be at the first meeting of the Council in a council Term of office)

## 2. **Ordinary Meetings**

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice Chair are not present;
- (ii) approve the minutes of the last meeting;
- (iii) consider any urgent items of business as determined by the Chair to the meeting;
- (iv) public questions in accordance with **Rule 10** of these Rules
- (v) consider questions and motions under Procedure **Rules 9 and 11**; and
- (vi) to receive petitions submitted by members in accordance with the Petitions Scheme in **Section 4.13**
- (vii) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (viii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (vix) 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 and reports of the Overview and Scrutiny Committees for debate.

## 3. **SPECIAL MEETINGS**

### 3.1 Calling special meetings.

Those listed below may request the Democratic Services Manager to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chair of the Council;
- (iii) the Leader of the Council;
- (iv) the Chair of the Constitution & Democratic Services Committee
- (v) the Monitoring Officer;
- (vi) the Chief Finance Officer, and
- (vii) the Chair of an Overview and Scrutiny Committee acting in accordance with a call-in referral to the County Council by that Overview and Scrutiny Committee in accordance with paragraph 16 of the Overview and Scrutiny Procedure Rules.

3.2. Any five Members of the Council shall be entitled to requisition a Special Meeting of the Council on presentation of a Requisition Notice signed by them all setting out the Motion they wish to move and delivering the Requisition Notice to the office of the Democratic Services Manager;

3.3 On receipt of the Requisition referred to in 3.2 above the Democratic Services Manager shall convene a Special Meeting and that meeting shall be held no earlier than 10 working days of receipt of the Requisition Notice (except with the consent of the Chair or Vice Chair in cases of urgency) and no later than 20 working days of receipt of the Requisition Notice (except with the agreement of the five Members making the Requisition).

3.4 If following receipt of the Requisition Notice, but before the agenda has been dispatched, signatories to that Notice indicate in writing that they no longer require such meeting to be held then the requisite Notice shall be deemed to be cancelled.

3.5 Where appropriate questions given on Notice in Writing in compliance with **Rule 9.4(b)** and Motions on Notice in accordance with **Rule 11** shall be considered at special meetings of the Council where they are received within the relevant timescales unless the Member submitting the question or motion requests otherwise

**4. TIME AND PLACE OF MEETINGS**

The time and place of meetings will be determined by the Democratic Services Manager and notified in the summons.

**5. NOTICE OF AND SUMMONS TO MEETINGS**

The Democratic Services Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least three clear days before a meeting, the Democratic Services Manager will send a summons signed by him or 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.

## 6. CHAIR OF MEETING

- 6.1 Each Committee shall appoint one of its members as Vice Chair at the first meeting following the Annual Meeting.
- 6.2 The person presiding at the meeting may exercise any power or duty of the Chair. Accordingly, if it appears appropriate, the Chair may, at his/her sole discretion waive compliance with the rules of debate set out in **Rule 13.4 and 13.5** to facilitate the transaction of business at the meeting.
- 6.3 The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any Procedure Rule shall be final and no debate may ensue thereon.
- 6.4 In the case of Committees:-
  - (a) The Committee's Chair when present shall chair the meeting except where the Committee Chair decides otherwise.
  - (b) Where the Committee Chair does not Chair the meeting or a part of it the Vice-Chair of the Committee when present shall take the Chair except where the Vice-Chair decides otherwise.
  - (c) In the absence of a Chair and Vice Chair for the meeting or a part of it a Chair for the meeting shall be appointed by the Committee from those Members present for the meeting.

## 7. QUORUM

The quorum of a meeting will be one quarter of the whole number of members. There is no quorum at any time when the number of members in remote attendance is equal to, or greater than, the number of members in actual attendance. 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. If the Chair has been unable to ascertain within 15 minutes that the quorum is restored the 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. (The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 determines that the quorum for Planning committee (which has 21

Members) is 50%, or 12 members).

## **8. DURATION OF MEETING**

Unless the Chair in his/her discretion decides otherwise, any meeting shall conclude at 5.00pm. 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.

## **9. QUESTIONS BY MEMBERS**

### **9.1 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 upon an item in the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

### **9.2 Questions on notice at full Council**

Subject to **Rule 9.4**, a Member of the Council may ask:

- the Chair of the Council;
- a Member of the Cabinet; or
- the Chair of any Committee or Sub-Committee.

a question on the minutes of any committee or fora (with the exception of minutes relating to planning or licensing applications) published since the last Ordinary Meeting of the County Council or on any matter in relation to which the Council has powers or duties or which affects the County of Flintshire.

### **9.3 Questions on notice at Committees and Sub-Committees**

Subject to **Rule 9.4**, 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 affect and which falls within the terms of reference of that Committee or Sub-Committee.

### **9.4 Notice of questions**

- (a) In the case of questions on the minutes of committees or fora where they have given at least three clear working days' notice in writing of the question to the Democratic Services Manager; or

- (b) subject to (c) below in relation to any other question where they have given at least ten clear working days' notice in writing of the question to the Democratic Services Manager; or
- (c) the question relates to urgent matters, they have the consent of the Chair or Member of the Cabinet to whom the question is to be put and the content of the question is given to the Democratic Services Manager by 9.00 a.m. on the day of the meeting.

#### 9.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (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 later to the questioner and all other Members.

#### 9.6 Supplementary question

A Member asking a question under **Rule 9.2 or 9.3** 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.

#### 9.7 Questions at the Overview and Scrutiny Committees

- (a) Where a person attends before an Overview and Scrutiny Committee for the purpose of answering questions the Chair may allow the person to make an opening statement relating to the subject matter under consideration.
- (b) Members of the Committee will each be permitted to ask questions of any person attending the Committee for the purpose of answering questions.
- (c) The order number and duration of questioning by Members of the Committee shall be determined by the Chair of the meeting.
- (d) A person attending the Committee for the purpose of answering questions will be expected to normally give an oral answer or to nominate someone else present to answer on that person's behalf.

Note

- (i) Where an answer would involve the disclosure of exempt information there will be a need to first consider excluding the press and public.

- (ii) A person will be able to decline to answer where this would be permissible in Court.

#### **10.00 PUBLIC QUESTION TIME**

- 10.01 There will, as the next agenda item after apologies at ordinary meetings, be an opportunity for people who work, study or live in Flintshire to ask questions to the Leader of the Council and Cabinet Members.
- 10.02 The overall period for asking and answering questions will be 30 minutes.
- 10.03 Questions shall be restricted to matters relating to Flintshire County Council and/or the services provided by the Council and no other agencies.
- 10.04 A person may only submit one question for consideration at any public question time.
- 10.05 Questions will not be accepted which:-
  - (a) Involve judicial or quasi-judicial matters or matters being investigated by the Ombudsman, under any Council procedure or other agency;
  - (b) Relate to individual planning applications; licence applications; grant applications, or appeals;
  - (c) Relate to a named officer or member of the Council;
  - (d) Requires the disclosure of confidential or exempt information as described in the Access to Information Procedure Rules;
  - (e) Are party political matters.
  - (f) Are defamatory, or
  - (g) Are substantially the same as a question already put at the same question time or within the last six months.
- 10.06 Questions must be submitted in writing and received by the Democratic Services Manager no later than 12 noon on the seventh day before public question time.
- 10.07 Questions which conform to the requirements of these Rules will be scheduled by the Democratic Services Manager in the order in which they were received, and they will be dealt with in that order. Five days prior to public question time the Democratic Services Manager will inform the person/persons concerned of the date of the meeting at which their question will be presented. Details of all questions submitted will be circulated to all members of the Council in advance.
- 10.08 Where a submitted question cannot be answered because time does not allow, a written answer will be provided within 7 days of the public

question time, a copy of which will be sent to all members of the Council.

10.09 One supplementary question will be allowed by the questioner but must specifically relate to the subject matter of the original question and not introduce other issues. The Leader or Cabinet Member may elect to respond to any supplementary question in writing.

10.10 This protocol will not operate to allow Members and employees of Flintshire County Council to raise any questions as they have their own procedure already.

## 11. MOTIONS ON NOTICE

### 11.1 Notice

Except for motions which can be moved without notice under **Rules 12, 13.10 and 13.11**, written notice of every motion, signed by the Member giving notice, must be delivered to the office of the Democratic Services Manager not later than 10 working days before the date of the meeting. These will be ~~entered in a book open~~ kept in a form that enables them to be made available for ~~to~~ public inspection.

### 11.2 Motion set out in agenda

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

### 11.3 Scope

The County Council cannot alter, but it can express a view, on decisions made by the Cabinet and cannot require the Cabinet to follow its view on any Executive function

A motion which could be perceived as being defamatory in nature shall not be accepted for inclusion on the Council agenda.

### 11.4 Criteria for Allowable Motions

1. The subject matter of a motion should have a direct connection with the business of the Council or the interests of the residents or the County of Flintshire;
2. The text of a motion should be precise and understandable;
3. Where the motion makes references to facts, published reports or published statements it should be factually accurate and must give the source of the information upon which it relies (i.e. person/organisation and place/date/publication); the motion should not be defamatory in content; and

4. The motion should make a proposition which is capable of being debated and voted upon with or without amendment.

#### **11.5 Process for Considering Motions**

1. Motions are to be submitted to the Democratic Services Manager by the deadline of 10 working days before the meeting of the Council in
2. The Monitoring Officer and Chief Executive will determine whether the motion is allowable, is able to be allowed with amendment by the proposer or should be refused and will advise the proposer of the motion accordingly;
3. In the case of an irresolvable disagreement between the proposer of the motion and the Monitoring Officer and the Chief Executive the Chair of the Council shall arbitrate;
4. any amendment necessary to the motion submitted or any decision by the Chair in the case of any disagreement must be agreed or made at least 7 working days prior to the meeting of the Council in question; and
5. Where third parties are named or implicated in an allowable motion they shall where appropriate be contacted by an officer and given the opportunity to provide a statement which will be presented to the council meeting following the proposing and seconding of the motion and before the debate on the motion.

#### **11.6 Motion to Remove the Leader**

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of Councillors which is at least equivalent to 25% of the total number of Councillors on the Council
- (b) In order for such a motion to be carried it must have the support of a majority of those Members voting and present in the room at the time the question was put.
- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

#### **12. MOTIONS WITHOUT NOTICE**

The following motions may be moved without notice:

- (a) To appoint a Chair of the meeting at which the motion is moved;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;

- (d) To refer something to an appropriate body or individual;
- (e) To appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) To receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- (g) To withdraw a motion;
- (h) To amend a motion;
- (i) To proceed to the next business;
- (j) That the question be now put;
- (k) To adjourn a debate;
- (l) To adjourn a meeting;
- (m) That the meeting continue beyond 6 hours in duration;
- (n) To suspend a particular Council procedure rule;
- (o) To exclude the public and press in accordance with the Access to Information Rules;
- (p) To not hear further a Member named under **Rule 19.3** or to exclude them from the meeting under **Rule 19.4**; and
- (q) To give the consent of the Council where its consent is required by this Constitution.

### 13. RULES OF DEBATE

#### 13.1 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.

#### 13.2 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/her before it is discussed.

#### 13.3 Seconded's speech

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

#### 13.4 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.

#### 13.5 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/she last spoke;
- (c) In exercise of a right of reply;
- (d) On a point of order; and
- (e) By way of personal explanation.

#### 13.6 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 disposed of.
- (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.

#### **13.7 Alteration of motion**

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

#### **13.8 Withdrawal of motion**

A Member may withdraw a motion which s/he has moved with the consent of the seconder. No Member may speak on the motion after it has been withdrawn.

#### **13.9 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 or her amendment.

#### **13.10 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) That the meeting continue beyond 6 hours in duration;
- (h) To exclude the public and press in accordance with the Access to Information Rules; and
- (i) To not hear further a Member named under **Rule 19.3** or to exclude them from the meeting under **Rule 19.4**.

#### 13.11 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) That the question be now put;
  - (iii) To adjourn a debate; or
  - (iv) To adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, s/ 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, s/he/ will put the procedural motion to the vote. If it is passed s/he will give the mover of the original motion a right of reply before putting his/her 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, s/ he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 13.12 Point of order

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 s/he considers it has been broken. The ruling of the Chair on the matter will be final.

#### **13.13 Personal explanation**

With the consent of the Chair, 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.

### **14. PREVIOUS DECISIONS AND MOTIONS**

#### **14.1 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 moved on the recommendation of a Committee or the Cabinet or the notice of motion is signed by at least 10 members.

#### **14.2 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 moved on the recommendation of a Committee or the Cabinet or the notice of motion or amendment is signed by at least 10 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **15. VOTING**

#### **15.1 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.

#### **15.2 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.

#### **15.3 Show of hands**

Unless a ballot or recorded vote is demanded under **Rules 15.4 and 15.5**, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### **15.4 Ballots**

At a meeting of the County Council the vote will take place by ballot if 20 members present at the meeting demand it. At meetings of Committees or Sub-Committees the vote will be taken by ballot if at least one quarter of the membership of the Committee or Sub-Committee demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### **15.5 Recorded vote**

If 10 members present at the meeting of the County Council demand it, or in the case of Committees or Sub-Committees at least one quarter of the membership of the Committee or Sub-Committee 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.

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

Where any Member requests it immediately after the vote is taken, there must be recorded in the minutes of the proceedings of that meeting, whether that person cast a vote for the question or against the question or whether that person abstained from voting.

#### **15.7 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.

#### **15.8 Repeating Decision**

When a Member returns to the meeting room after declaring a personal and prejudicial interest the Chair will repeat the decision that was reached so that the Member is aware of it. There will be no comment or discussion.

### **16. MINUTES**

#### **16.1 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.

#### **16.2 No requirement to sign minutes of previous meeting at special 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 (a special meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

### **16.3 Form of minutes**

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

## **17. RECORD OF ATTENDANCE**

With the exception of those attending remotely, all members present during the whole or part of a meeting must sign their names on the attendance sheet(s) before the conclusion of every meeting to assist with the record of attendance. For those attending remotely their presence will be recorded on their behalf by officers.

## **18. EXCLUSION OF PUBLIC**

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in **Part 4** of this Constitution or **Rule 20** (Disturbance by Public).

## **19. MEMBERS' CONDUCT**

### **19.1 Standing to speak**

When a Member speaks at full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chair will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### **19.2 Chair standing**

When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### **19.3 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, any Member may move that the Member concerned be not heard further. If seconded, the motion will be voted on without discussion.

### **19.4 Member to leave the meeting**

If the Member continues to behave improperly after such a motion is carried,

any Member may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### 19.5 **General disturbance**

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

#### 20. **DISTURBANCE BY PUBLIC**

##### 20.1 **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.

##### 20.2 **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.

#### 21. **ELECTRONIC BROADCAST OF MEETINGS**

Ordinary meetings of the Council will be broadcast live electrically on the Council's website so that members of the public not in attendance at the meeting can see and hear the proceedings. Copies of the meeting will be available for 6 months ~~1~~ days after the meeting.

#### **22. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE**

##### **22.1 Suspension**

All of these Council Rules of Procedure except **Rules 7, 15.6, 20 and 21.2** 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.

##### **22.2 Amendment**

Any Motion to add to, vary or revoke these Council Rules of Procedure, unless required by law or recommended by committee, will when proposed and seconded, stand adjourned without discussion to the next meeting of the Council.

#### **23. ATTENDANCE AT COMMITTEES AND SUB COMMITTEES**

##### **23.1 Provision of Agendas and Reports**

All Members will be notified of? the agenda and reports for each meeting of

each Committee, Sub-Committee and Forum with the exception of reports containing confidential information within Section 100A (3) of the Local Government Act 1972 and/or exempt information within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972 irrespective of whether they are a Member of the Cabinet, the Committee, Sub-Committee or Forum in question.

### **232.2 Attendance at Meetings to Speak on Matters Significantly Affecting a Member's Ward**

The Planning Service must be notified on or before the working day preceding the meeting of a Committee or Sub-Committee of a Member's intention to attend. A Member who is not a Member of a Committee or Sub-Committee shall be authorised to attend and speak on such agenda item or minutes specifically relating to projects, development or other matters which significantly affect that Member's Ward/electoral division as are specified in that Member's written notice. Any member attending pursuant to this Standing Order shall have no voting rights. This Procedure Rule does not apply to meetings of the Licensing Committee or its Sub-Committees, the Appeals Committee, Standards Committee or the Appointments Committee.

### **232.3 Attendance at Meetings to Observe and Speak at the Discretion of the Chair**

A Member who does not have a seat on a Committee, Sub-Committee or Forum may where Council Procedure **Rule 22.2** does not apply attend and observe at such Committee, Sub-Committee or Forum and may speak at the discretion of the Chair, except at meetings of the Licensing Committee, its Sub-Committees, the Appeals Committee, Standards Committee or the Appointments Committee or where the public and press have been excluded for the consideration of confidential information within Section 100A(3) of the Local Government Act 1972, or of exempt information.. Where the public and press have been so excluded, a Member may observe proceedings, but may not speak, if he is able to demonstrate a legitimate interest in the matters under discussion, connected to the performance of his public duty, and his presence would not prevent the Committee, Sub-Committee or Forum from exercising its proper functions.

### **243. 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 5, 6, 7, 8, 9.3, 9.4, 9.5, 9.6, 12, 13, 15, 16, 17, 18, 19, 20, 22, 23, 25** apply to meetings of Committees and Sub-Committees.

### **254. OVERVIEW AND SCRUTINY COMMITTEES**

This rule shall apply only to meetings of Overview and Scrutiny Committees.

(a) Overview and Scrutiny Committees and Sub-Committees shall consider

the following business:

- i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Where a person attends before an Overview and Scrutiny Committee for the purpose of answering questions the Chair may allow the person to make an opening statement relating to the subject matter under consideration.
- (d) The order number and duration of questioning by Members of the Committee shall be determined by the Chair of the meeting.
- (e) A person attending the Committee for the purpose of answering questions will be expected to normally give an oral answer or to nominate someone else present to answer on that person's behalf.
- (f) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**Note**

- (i) Where an answer would involve the disclosure of exempt information there will be a need to first consider excluding the press and public.
- (ii) A person will be able to decline to answer where this would be permissible in Court.

**265. SUBSTITUTIONS**

Where a political group alters any of its representatives serving on a committee, sub-committee or forum, either for individual meetings or for all future meetings, the committee officer must be informed prior to the commencement of the committee, sub-committee or forum meeting. This must be by the Group Leader or person authorised to act in place of the Group Leader.

This is subject to any specific restrictions on the use of substitutions contained in the Constitution. (The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 precludes the use of substitutes at Planning Committees)

Working parties or task groups shall be entitled to set out their own rules in relation to substitutions.

#### **4.11 Amendments to Council Procedure Rules for Multi-location Meetings, Remote Attendance Meetings (RAM) and Hybrid Meetings**

**Introduction:** Since July 2020, we have been holding our meetings by remote attendance, as a result of the Covid regulations. The ability to hold remote meetings has been made permanent by section 47 of the Local Government & Elections (Wales) Act 2021. (Commencement order no 3, made 18<sup>th</sup> March 2021)

In 2020, we made some temporary changes to our rules of procedure as some rules would not be practicable at a remote attendance, rather than at a physical meeting. These were then temporary amendments, which were agreed with the Chair of Council, who by their appointment is recognised as the arbiter of rules of procedure within the Constitution.

#### **Terms used:**

- Remote attendance Meetings – RAM where all participants and observers are connected by a software platform. No one is 'physically' present at the meeting.
- Multi-location Meetings: the term now widely used to describe both RAM and hybrid meetings.
- Hybrid Meetings - where some people are physically present, but others contribute remotely

We now need to make the temporary changes, as detailed below, permanent. The proposed amendments, shown in italics, will ensure that our Rules of Procedure will work equally well for a Remote Attendance Meeting or, in the future, at multi-location/hybrid meetings.

**Interpretation:** **Rule 6.3:** The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any Procedure Rule shall be final and no debate may ensue thereon.

**Declaration of Interest:** Should a Member need to declare an interest and thus leave a Remote Attendance Meeting, the meeting host will transfer them electronically to the virtual waiting area for the duration of that item.

| Rule of procedure number | Regarding                                 | Comments and amendment for Remote Attendance/Hybrid Meetings   |
|--------------------------|---|--|
| 5                        | <u>Notice of and Summons to Meetings</u>  | The Democratic Services Manager must give notice of the time and place of any meeting. <i>For Multi-location Meetings, both the notice given to the public and the summons sent to every Member of the Council will include details of how to access the meeting remotely through Webex / Zoom.</i>  |
| 7                        | Quorum                                    | Whilst the number for a quorum remains the same at 18, Members may not all be physically present. <i>For a Remote Attendance Meeting of Council, this would be 18 Members shown on the system as participating. For other meetings, the requirement will be a quarter of the membership, rounded up where necessary. (Thus for a 13 member committee, the quorum would be four) Where a technical failure means that remote attendees are no longer able to participate, the meeting should be paused whilst attempts are made for reconnection.</i> |
| 8                        | Duration of Meeting                       | Council meetings normally start at 2pm and must ordinarily conclude by 5pm, unless at the Chair's discretion. Experience has shown that three hours using a screen is too long. <i>Our guidance for Remote Attendance Meetings, whilst not absolutely binding, for a break after two hours, should be observed. Our agendas now show the need for a break after a meeting has lasted for two hours.</i>  |
| 13.2                     | <u>Right to require motion in writing</u> | <u>The Chair may require a motion in writing, unless notice of the motion has already been given. For Multi-location Meetings, the motion may be written down and handed to the Chair using the chat function.</u>   |
| 14                       | Previous Decisions and Motions            | Normally 10 signatures are required. <i>For Remote Attendance Meetings this must be 10 emails from different individuals sent to the Head of Democratic Services.</i>  |
| 15.0                     | Voting                                    | <i>We anticipate that for non –contentious issues, unless Members indicate their opposition or abstention on a vote, this can be conducted on a consensus basis, by 'silent assent', where only</i>  |

|      |                      |   |
|------|----------------------|---|
|      |                      | <p><i>those wishing to oppose or abstain are required to indicate by use of the chat function, raising a hand, or verbally.</i></p> <p><i>Should a formal vote be required, this would have to be done following the usual Recorded Votes process.</i></p>  |
| 15.1 | Majority             | <p><i>The reference to 'members voting and present in the room at the time the question was put is not applicable for RAM. Members voting must be visible to colleagues and observers/viewers (camera switched on, unless they have previously indicated technical problems or are dialling in) during that part of the RAM to be eligible to vote.</i></p> |
| 15.3 | Show of Hands        | <p><i>At a Remote Attendance Meeting, voting by show of hands is not practicable: for instance, the position of the camera on iPads means hands may not always be visible to the officer conducting the count or to fellow Members.</i></p> <p><i>Voting at a Remote Attendance Meeting should either be by 'silent assent' or roll call</i></p>            |
| 15.4 | Ballots              | <p><i>At a Remote Attendance Meeting, formal ballots other than by the calling out of names in alphabetical order (in essence, the recorded vote process) are not possible. Many decision can be taken by consensus, with only those opposing or abstaining being required to show (See reference to 'silent assent' at 15.0)</i></p>                       |
| 15.5 | Recorded vote        | <p><i>Should a recorded vote be required at a Remote Attendance Meeting, rather than stand, 10 Members will need to request this via the 'chat' function. 'I request a recorded vote'. The Monitoring Officer will remind Members of the procedure for a recorded vote and indicate when the requisite number of requests has been reached.</i></p>         |
| 16   | Minutes              | <p><i>The requirement to sign minutes was temporarily suspended. Minutes will be kept for signature until normal service is resumed.</i></p>  |
| 17.  | Record of Attendance | <p><i>The Webex /Zoom recording constitutes a record of attendance and the officers will also make a manual record.</i></p>   |

|      |  |  |
|------|--|--|
| 18   | Exclusion of Public and Press            | <i>The press and public can be excluded from a RAM, after the exclusion has been moved, seconded and voted on.</i>   |
| 19   | Members' Conduct                         | <i>See below</i>   |
| 19.1 | Standing to Speak                        | <i>Members are not required to stand to speak at RAMs</i>  |
| 19.2 | Chair standing                           | <i>The Chair is not required to stand, but may request that a Member's microphone is silenced.</i>   |
| 19.3 | Member not to be heard further           | <i>The Chair will direct that the Member's microphone is switched off.</i>   |
| 19.4 | Member to leave the meeting              | <i>The Chair will direct that the Member be moved into the virtual lobby</i>   |
| 20.1 | <u>Removal of member of the public</u>   | <u><i>The Chair will direct that the member of the public be moved into the virtual lobby.</i></u>   |
| 20.2 | <u>Clearance of part of meeting room</u> | <u><i>If there is a general disturbance on the online meeting platform used for a Multi-location Meeting, the Chair may direct that all those involved in the disturbance be moved into the virtual lobby.</i></u> |

#### 4.12 **Standing Orders Relating to Family Absence for Members**

1. The Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021 has amended the provisions of the Local Government (Wales) Measure 2011 providing Members with legal entitlement to periods of family absence. Subordinate legislation requires local authorities to have certain standing orders concerning such periods of family absence.
2. The first such requirement is to have a standing order securing the requirements set out in Regulation 38 of the Family Absence for Members of Local Authorities (Wales) Regulations 2013. That regulation is attached as Appendix A and this standing order secures its requirements.
3. Regulation 39 of the regulations requires a standing order as to the extent of the duties, if any, which remain applicable to members during a period of family absence. For maternity absence or parental absence the duties applicable shall be those determined

by either the Council Chair or a panel of members under the preceding standing Order. For all other types of family absence it shall be such duties as the individual member concerned chooses to undertake.

## APPENDIX A

### Regulation 38

- (1) A member on maternity, parental or adopter's absence may, subject to paragraphs (2) to (6), -
  - (a) attend particular meetings;
  - (b) attend particular descriptions of meetings;
  - (c) perform particular duties; or
  - (d) perform duties of a particular description.
- (2) The member must obtain the permission of the chair of the local authority, or where a local authority has elected a presiding member, the presiding member, before attending any meeting or performing any duty.
- (3) The chair of the local authority, or where a local authority has elected a presiding member, the presiding member, must inform the leaders of each political group of the local authority before granting permission under paragraph (2).
- (4) A member may complain in writing to the /head of democratic services regarding a refusal under paragraph (2).
- (5) The /head of democratic services must refer a complaint under paragraph (4) to the chair of the local authority,
- (6) A panel constituted in accordance with these Regulations must determine a complaint made under paragraph (4).
- (7) The panel may –
  - (a) confirm the decision of the chair of the local authority, or where a local authority has elected a presiding member, the decision of the presiding member, under paragraph (2); or
  - (b) substitute its own decision as to the member attending any meeting or performing any duty.

## **Amendments to the Family Absence for Members of Local Authorities (Wales) Regulations 2013**

2.—(1) The Family Absence for Members of Local Authorities (Wales) Regulations 2013(3) are amended as follows.

(2) For regulation 14 substitute—

### **“Prescribed conditions**

14. For the purposes of section 26(1) of the Measure, the prescribed conditions are that—

- (a) the member is the child’s adopter;
- (b) the member gives the head of democratic services written notice of—
  - (i) the date the member intends the adopter’s absence to start; and
  - (ii) the duration of the period of adopter’s absence the member intends to take, if less than 26 weeks;
- (c) where the member wishes to vary the start of the adopter’s absence which has been specified under paragraph (b)(i), the member gives the head of democratic services written notice of the new start date at least one week before the date specified under paragraph (b)(i), or at least one week before the new date, whichever is the earlier, or, if that is not reasonably practicable, as soon as is reasonably practicable; and
- (d) where the member wishes to vary the duration of the adopter’s absence, the member gives the head of democratic services written notice of the new duration at least one week before the expected end of the period of absence in accordance with the duration specified under paragraph (b)(ii), or at least one week before the new intended end of the period of absence, whichever is the earlier, or if that is not reasonably practicable, as soon as is reasonably practicable.”

(3) For regulation 15 substitute—

### **“Period of adopter’s absence**

15.—(1) The period of adopter’s absence is 26 weeks, unless the member gives written notice under regulation 14(b)(ii), (d) or 17A that the period of adopter’s absence will be shorter than 26 weeks.

(2) Where more than one child is placed with the member as part of the same arrangement, a member is entitled to adopter’s absence only in respect of the first child placed with the member for adoption.”

(4) For regulation 16 substitute—

### **“When adopter’s absence may be taken**

16. Adopter’s absence may only be taken so as to begin either—

- (a) on the day on which the child is placed with the member for adoption; or
- (b) on any of the 14 days preceding that day.”

(5) For regulation 17 substitute—

**“Member to choose start date of adopter’s absence**

17. Subject to regulation 16, a member may choose the date on which their adopter’s absence is to start.”

(6) After regulation 17 insert—

**“Bringing a period of adopter’s absence to an end**

17A. A member may bring a period of adopter’s absence to an end earlier than the end of the period set out in regulation 15, which was notified under regulation 14(b)(ii) or varied under regulation 14(d) by notifying the head of democratic services in writing of their intention to do so at least 7 days before their return.”

(7) In regulation 38(1), after “maternity absence” insert “, adopter’s absence”.

Section 42 of the Local Government & Elections (Wales) Act 2021 places on principal councils, such as Flintshire a duty to make and publish a scheme setting out how we intend to handle and respond to petitions (including electronic petitions).

The Council has had a simple mechanism in place for many years, whereby individual Members of Council are able to hand in petitions at Council meetings. Such petitions have typically, but not always, related to specific ward issues. This petitions scheme builds on that mechanism and our approach to public questions to Council.

Petitions will be accepted by submission through local Members at Council meetings. Otherwise, they may be submitted through our website, using the Modern.gov system which we already use to publish our agendas and reports. [Link here](#). This scheme applies to petitions whether they are handed in at Full Council meetings or whether they are submitted on line.

The rules of the petition scheme are as follows:

| No. | Requirement   | Justification  |
|-----|---|--|
| 1   | Petitions will not be accepted from other on-line petitions systems.  | This is to ensure that petitions have not been copied or otherwise adulterated                                 |
| 2   | Petitions may collect signatures for a maximum period of 30 days.   | This is to ensure that petitions are current, rather than historic.  |
| 3.  | To be regarded as valid, a signatory must provide their name, address postcode and their email address. The first signatory, called the promoter, must live, work volunteer etc within the Council area | This is to ensure that signatories are genuine, with an interest in Flintshire or the matter/issue of concern. |
| 4   | Petitions are not admissible if they are the same, or substantially similar to a petition which closed less than six months previously.   | This replicates the ‘six months’ rule for Public Questions to Council and protects against potential           |

|     |   |   |
|-----|---|---|
|     |   | nuisance.   |
| 5   | Requests for a petition on the Council's website (Modern.gov) will be considered by the Monitoring Officer within 30 days of the end of the period for signature (or by officers attending the monthly Democracy Business Planning Meeting) to ensure that they are appropriate and do not include any issues listed under 13, below.   | The role of the Monitoring Officer /officer group is proposed as issues such as the validity of Notices of Motion are determined by that means. |
| 6   | A list of rejected petitions will be published on the Council's website with the reasons for rejection.   | Openness.   |
| 7   | For the first year, the minimum number of signatories for a petition is set at ten people. Fewer than that will be regarded as a letter or request for service, depending on subject matter. A petition might be referred to an Overview & Scrutiny Committee or directly to a Chief Officer for actioning within their portfolio.  | This is to ensure that petitions are matters of genuine public concern.   |
| 8   | The Chief Executive will decide how to respond to a petition which may include any one or more of the following: <ol style="list-style-type: none"> <li>1) referring it to Cabinet, Council or a committee (including an Overview and Scrutiny Committee);</li> <li>2) referring it to an officer. Petitions received during the consultation period in relation to planning, licensing or grant applications/appeals that have not been decided will be referred to the relevant service and treated as a consultation response to that application/appeal;</li> <li>3) not taking any action; and/or</li> <li>4) taking any other steps it considers appropriate</li> </ol> |   |
| 9   | The ward member(s) will be notified of a petition received from a promoter whose address is within that ward. The ward member(s) will be asked for their views on the petition and proposed method of disposal  |   |
| 10. | The current practice of reporting on petitions received during the year will be continued, but individual decisions should be published on the website as they are made.  | The annual petitions report (submitted to the last Council meeting of the municipal years) provides a continued record of petitions received.   |
| 11  | The response to a petition e.g. considered by Council, passed to Cabinet, an Overview & Scrutiny committee, or to a Chief Officer, added to an  | It would be too resource intensive to email all petition signatories, to inform them of   |

|    |   |   |
|----|---|---|
|    | Overview & Scrutiny Agenda etc. will be sent to the promoter of the petition and will be published on the Council's website. The outcome of individual petitions should be reported on the website as soon as possible.   | outcomes.   |
| 12 | Petitions will be kept for six years/72 months  | Treated as a background paper and subject to the same time constraints. GDPR implications |
| 13 | The promoter may object (appeal) if they believe that the petition has not been dealt with properly. Relevant Cabinet Member /Chief Officer/Chief Executive to review (if not previously involved)  | Natural justice to build in an appeal mechanism.  |
| 14 | <p>Petitions will not be accepted if they relate to:</p> <ul style="list-style-type: none"> <li>• Judicial or quasi-judicial matters;</li> <li>• Matters under investigation;</li> <li>• Individual planning, licence or grant applications or appeals which have already been determined by the Council;</li> <li>• Named officers or Members of the Council;</li> <li>• Confidential or exempt information as described in the Access to Information Procedure Rules or requires its disclosure;</li> <li>• Party political matters;</li> <li>• Defamatory material;</li> <li>• Substantially the same issue as a question put within the past 6 months.</li> </ul> | Use of the same constraints as well established Council Questions procedure               |

The Council produces an annual report, detailing petitions handed in by councillors during the year and how they were dealt with. This is submitted to the last Council meeting of the municipal year. Petitions submitted under this scheme will also be included in that annual report in future.

## SECTION 5

### 5. **THE CABINET**

#### 5.1 **Introduction**

The Cabinet is appointed to carry out all of the Executive 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 will consist of:

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

5.2.3 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader, although this number may be increased pursuant to Section 5.5 in the event of a job-share.

#### 5.3 **Leader**

The Leader will be a Councillor elected to the position of Leader by the Council. Two or more Councillors may be elected to share the position of Leader by the Council. Where two or more Councillors are elected to share the role of Leader, all references in this Constitution to the ‘Leader’ should be interpreted as references to all those Councillors who share the role of Leader acting together, or to any one of the Leaders acting individually. In circumstances where the position of Leader is shared, appropriate advice will be provided by the Monitoring Officer in order to settle arrangements and procedures that suit those individuals. That advice and those arrangements will cover such issues as division of responsibilities and whether powers can be concurrently exercised and those arrangements will form part of the Council’s Constitution once settled.

The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) the next Annual Meeting of the Council save that the Council may remove the Leader from office at an earlier date but only in the event of a change in political control of the Council.

The Leader shall be one of the Council's representative on:

- (a) the Flintshire Public Services Board; and
- (b) the North Wales Corporate Joint Committee.

The Leader may designate another member of the Cabinet to attend a meeting of the Flintshire Public Services Board or the North Wales Corporate Joint Committee in their absence. In the event that the Leader is unable to discharge his/her functions on either the Flintshire Public Services Board or the North Wales Corporate Joint Committee, the Full Council shall appoint another member of the Cabinet to discharge those functions on behalf of the County Council.

#### 5.4 **Other Cabinet Members**

The Leader may, if he/she considers it appropriate so to do, appoint one of the other Cabinet members to the position of Deputy Leader, or more than one Cabinet member to share the position of Deputy Leader, and such Cabinet Member(s) shall hold the office of Deputy Leader until removed from office by the Leader who must give written notice of any such removal to the Democratic Services Manager. The removal may be either from the office of Deputy Leader only or from the office of Deputy Leader and the Cabinet. The removal will take effect two working days after receipt of the notice by the Democratic Manager or the happening of any of the events specified at 5.4 (a), (b), (c) or (d) set out below. Any Deputy Leader and all other Cabinet members shall hold office as Cabinet members until:

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

Following the vacation of office or removal from office by the Leader, the Leader may appoint such Members to the Cabinet as he/she thinks fit provided that the maximum of 9 other Cabinet Members is not exceeded and the Leader shall give notice of such appointment to the Democratic Services Manager. The appointment shall take effect two working days after receipt of the notice by the Democratic Services Manager.

### **5.5 Job sharing by Cabinet Members**

Any appointment to the Cabinet may include the appointment of two or more Councillors to share office.

Where two or more Councillors have been appointed to share the same office on the Cabinet, the maximum number of members of the Cabinet shall be increased by exactly the number required to permit all those Councillors job-sharing a Cabinet position to attend meetings of the Cabinet. For example, where two Councillors are appointed to share one Cabinet position, the maximum number of members of the Cabinet shall be 10.

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

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

In circumstances where an appointment to Cabinet is shared, appropriate advice will be provided by the Monitoring Officer in order to settle arrangements and procedures that suit those individuals. That advice and those arrangements will cover such issues as division of responsibilities and whether powers can be concurrently exercised and those arrangements will form part of the Council's Constitution once settled.

### **5.6 Assistants to the Cabinet**

Councillors who are not members of the Cabinet may, from time to time, be designated by the Leader as Assistants to the Cabinet.

An Assistant to the Cabinet may work closely with a Cabinet Member. They may support the Cabinet Member through the delegation of tasks as agreed for his/her area of responsibility, including by attending/chairing meetings, speaking at/opening events; reading and commenting on papers; meeting Officers; agreeing press releases/comments and carrying out interviews; and representing the Council on appropriate groups.

An Assistant to the Executive will not have delegated powers and will not be entitled to participate in Cabinet decision-making. They may, however, attend and speak at Cabinet meetings or Cabinet committee meetings.

An Assistant to the Cabinet will not be a member of any Overview and Scrutiny Committee which is responsible for scrutinising the specific responsibilities and functions of the Cabinet Member he/she is assisting, or any other areas to which they are assigned. Assistants to the Cabinet

may not deputise for the Cabinet member they are assisting when that Cabinet member is called to appear at an Overview and Scrutiny Committee.

#### **5-55.7 Proceedings of the Cabinet**

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

#### **5-65.8 Responsibility of Functions**

The Leader will maintain a list in **Section 6** of this Constitution setting out which individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive Functions.

#### **5-75.9 Cabinet Procedure Rules**

##### **5-7-45.9.1 Who may make Cabinet decisions?**

The arrangements for the discharge of Executive Functions may be set out in the Executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive Functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a Committee of the Cabinet;
- iii) an individual Member of the Cabinet;
- iv) an officer;
- v) joint arrangements.

##### **5-7-25.9.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation later in this Constitution. The document presented by the Leader will contain the following information about Executive Functions in relation to the coming year:

- i) the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- ii) the extent of any Authority delegated to Cabinet members individually, including details of the limitation on their Authority;
- iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
- iv) the nature and extent of any delegation of Executive Functions to

any joint arrangements and the names of those Cabinet members appointed to any joint Committee for the coming year; and

- v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

#### **5.7.35.9.3 Sub-delegation of Executive Functions**

- (a) Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements or an officer.
- (b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- (c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (d) Even where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### **5.7.45.9.4 The Council's scheme of delegation and Executive Functions**

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council.
- (b) The Leader is able to decide whether to delegate Executive Functions, and he/she may amend the scheme of delegation relating to Executive Functions at any time during the year. To do so, the Leader must give written notice to the Democratic Services Manager and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Democratic Services Manager will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chair.
- (d) Where in exercising an executive function a decision by Cabinet requires a consequential change to the Constitution, then the

Chief Officer, Governance can update the Constitution following the expiry of the call in process.

#### **5.7.55.9.5 Personal Interests or a Personal and Prejudicial Interest**

- (a) Where the Leader has a personal interest or a personal and prejudicial interest in a matter this should be dealt with as set out in the Council's Code of Conduct for Members in **Section 19** of this Constitution.
- (b) If any Member of the Cabinet has a personal or prejudicial interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an Executive Function has been delegated to a Committee of the Cabinet, an individual Member or an officer, and should a personal or prejudicial interest arise then this should be dealt with as set out in the Council's Code of Conduct for Members or Code of Conduct for Officers in **Section 19** of this Constitution.

#### **5.7.65.9.6 Cabinet meetings – when and where?**

The Cabinet will meet at least 6 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader. The Leader will decide whether to apply the Council's arrangements for Multi-location Meetings (in **Section 4.11** of this Constitution) [shall] [shall not] apply to meetings of the Cabinet to a meeting of the Cabinet.

#### **5.7.75.9.7 Public or private meetings of the Cabinet?**

Subject to the Access and Information Procedure Rules meetings of the Cabinet shall so far as is possible be public.

#### **5.7.85.9.8 Quorum**

The quorum for a meeting of the Cabinet, or a committee of it, shall be three including the Leader or Deputy Leader at least two of whom should be in actual attendance but otherwise in accordance with **Council Procedure Rule 7**.

#### **5.7.95.9.9 How are decisions to be taken by the Cabinet?**

- (a) Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in **Section 14** of the Constitution.
- (b) Where Cabinet decisions are delegated to a Committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the

Cabinet as a whole.

#### **5-85.10 How are the Cabinet Meetings Conducted?**

##### **5-8-45.10.1 Who presides?**

If the Leader is present s/he will preside. In his/her absence the deputy Leader shall preside and in the absence of both Leader and deputy Leader, then a person appointed to do so by those present shall preside.

##### **5-8-25.10.2 Who may attend?**

Subject to the Access Information Procedure Rules the public may attend public meetings of the Cabinet as may other Councillors. In the case of meetings from which the public are excluded, Councillors seeking to attend will need to establish either the permission of the Cabinet to remain in attendance or establish to the satisfaction of the Monitoring Officer a need to attend.

##### **5-8-35.10.3 What business?**

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

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution;
- iv) consideration of reports from Overview and Scrutiny Committees; and
- v) matters set out in the agenda for the meeting.

##### **5-8-45.10.4 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 Overview and 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.

##### **5-8-55.10.5 Who can put items on the Cabinet agenda?**

The Leader will decide upon the schedule for the meetings of the

Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not Authority has been delegated to the Cabinet, a Committee of it or any Member or officer in respect of that matter.

Any Member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and this individual will be invited to attend the meeting, whether or not it is a public meeting, and will be allowed to address the meeting in relation to that item, however, there may be only up to two such items per Cabinet meeting.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Democratic Services Manager to call such a meeting in pursuance of their statutory duties. In other circumstances where any two of the ~~Head of Paid Service~~ Chief Executive, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the persons entitled to include an item on the agenda may also require that a meeting be convened by the Democratic Services Manager at which the matter will be considered.

## **SECTION 6**

### **6. THE LEADER' S SCHEME OF DELEGATION OF EXECUTIVE FUNCTIONS**

#### **GENERAL**

No individual Cabinet Member shall have power to act as an individual except in cases of urgency relating to an Executive Function which falls within that Cabinet Member's portfolio.

#### **6.1 Cabinet Terms of Reference**

- 6.1.1 To act as the main focus of day-to-day political leadership and decision making, as well as of democratic accountability, at corporate level.
- 6.1.2 To carry out all the local Authority's functions which are not the responsibility of any other part of the local Authority, whether by law or under the Constitution.
- 6.1.3 To propose to the Council:
  - 6.1.3.1 the Council's Guiding Principles;
  - 6.1.3.2 the key policies, and associated resource strategies, which comprise the Council's policy framework, as well as changes to that framework, including:
    - (a) The Council's Strategic Plan (The Council Plan) and Performance Improvement Plan (Annual Performance Report);
    - (b) The Council's Annual Revenue and Capital Budgets, and levels of Council Tax.
    - (c) Taking advice from the appropriate Overview and Scrutiny committee, interested agencies or groups, the local community, and others, as appropriate;
  - 6.1.3.3 upon any matter relating to any of the Council's powers and functions.
- 6.1.4 To guide Cabinet Members and Directors on:
  - 6.1.4.1 policy development, co-ordination, and implementation;
  - 6.1.4.2 determination of relative priorities for action; and
  - 6.1.4.3 the effective and efficient operation of the Council, and of its various services.

- 6.1.5 To ensure effective implementation of the Council's strategies and plans, including monitoring and reviewing performance, and considering the need for major changes in delivery or new developments to improve service standards and quality.
- 6.1.6 To receive reports from appropriate officers of the Council, and/or Cabinet Members, on significant matters requiring consideration/decision, and/or proposals for new or amended policy and its implementation.
- 6.1.7 To have discretion to seek the advice or comments, of the Overview and Scrutiny Committees, and other relevant bodies, in relation to significant matters before making a decision.
- 6.1.8 To establish standing Cabinet Committees, where appropriate, as a means of transacting more efficiently discrete aspects of the work of the Cabinet.
- 6.1.9 To appoint (on a task and finish basis) ad hoc panels to assist in a key aspect of policy development, consisting of officers working with the relevant Cabinet Members.
- 6.1.10 To establish topic forums to promote dialogue with, and partnership working on, matters of significance to the Council, the community, and other key local organisations which work closely with the Council.

6.2 **Names and Electoral Divisions of the Leader and Other Cabinet Members Appointed by the Leader and their Portfolios**

6.2.1 The Cabinet will take decisions collectively as a group, (although individual Cabinet Members may take decisions individually in an emergency, as set out in paragraph 3 below).

- The individual Cabinet Members listed below are allocated personal portfolios of responsibility. (These individual portfolios may be changed by the Leader at any time). The individual Cabinet Members will each work closely with, and take professional advice from, a range of senior officers within the Authority, as appropriate to their particular responsibilities, with the ability to convene meetings of such staff as needed. Each portfolio holder also will liaise with, consult and inform other Cabinet Members on individual matters likely to affect their portfolios.

6.2.1.1 Name of Leader: **County Councillor Ian Roberts**  
 Electoral Division: **Flint Castle**  
 Portfolio and Functional Area of Responsibility: **Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure**

- 6.2.1.2 Name: **County Councillor Christine Jones**  
Electoral Division: **Sealand**  
Portfolio and Functional Area of Responsibility: **Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing**
- 6.2.1.3 Name: **County Councillor Dave Hughes**  
Electoral Division: **Llanfynydd**  
Portfolio and Functional Area of Responsibility: **Deputy Leader of the Council and Cabinet Member for Streetscene and the Regional Transport Strategy**
- 6.2.1.4 Name: **County Councillor Chris Bithell**  
Electoral Division: **Mold East**  
Portfolio and Functional Area of Responsibility: **Planning Public Health and Public Protection**
- 6.2.1.5 Name: **County Councillor Billy Mullin**  
Electoral Division: **Broughton North East**  
Portfolio and Functional Area of Responsibility: **Cabinet Member for Governance and Corporate Services including Health and Safety and Human Resources**
- 6.2.1.6 Name: **County Councillor Paul Johnson**  
Electoral Division: **Holywell West**  
Portfolio and Functional Area of Responsibility: **Cabinet Member for Finance, Inclusion, Resilient Communities including Social Value and Procurement**
- 6.2.1.7 Name: **County Councillor Sean Bibby**  
Electoral Division: **Shotton West**  
Portfolio and Functional Area of Responsibility: **Cabinet Member for Housing and Regeneration**
- 6.2.1.8 Name: **County Councillor David Healey**  
Electoral Division: **Caergwrle**  
Portfolio and Functional Area of Responsibility: **Cabinet Member for Climate Change and Economy**

## **PORTFOLIO – LEADER AND CABINET MEMBER FOR EDUCATION & YOUTH**

### **1 Accountabilities**

- To full Council
- To nominating group

### **2 Leader Role Purpose and Activity**

#### **Provide political leadership to the Council**

- To be a political figurehead for the Council; to be the principal

- political spokesperson for the Council.
- To provide leadership in building a political consensus around Council policies.
- To form a vision for the Council and community.
- To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery.

#### **Appoint the Cabinet**

- Designate the appropriate portfolios.
- Appoint appropriate elected Members to each portfolio.
- Allocate Cabinet Members to roles with regard to their abilities.
- Designate Deputy Leader.

#### **Representing and acting as ambassador for the Authority**

- Represent the Authority to a high standard. Provide a strong, competent and eloquent figure to represent the Authority both within the County and at external bodies.
- Represent the Authority on the WLGA Co-ordinating Committee and the WLGA Regional Partnership Board.
- Represent the County Council on the Flintshire Public Services Board.
- Represent the County Council on the North Wales Corporate Joint Committee.
- Provide leadership and support local partnerships and organisations.
- Represent the Authority in regional and national bodies as appropriate.

#### **Provide leadership within the Portfolio**

- Fulfil the role of a portfolio holder, having regard to the role purpose and activities, and role specification of a Cabinet Member.

#### **Manage and lead the work of the Cabinet and chair meetings**

- Ensure the effective running of the Cabinet by managing the forward work programme and ensuring its continuing development.
- Ensure the work of the Cabinet meets national policy objectives.
- Advise and mentor other Cabinet members in their work.
- To chair meetings of the Cabinet in line with the Constitution.
- In the Leader's absence the Deputy Leader should fulfil this role.

#### **Participate in the collective decision making of the Cabinet**

- To work closely with other Cabinet Members to ensure the development of effective Council policies and the budgetary framework for the Council, and the delivery of high quality services to local people.
- To accept collective responsibility and support decisions made by the Cabinet once they have been made.

#### **To work with Officers to lead the organisation**

- Liaise with the Chief Executive, and other appropriate Officers, on a regular basis.
- Work with employees of the Council in relation to the strategic vision and direction of the Council, the management roles of Officers and the development of policy issues.

#### **Leading partnerships and community leadership**

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

#### **Internal governance, ethical standards and relationships**

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

### **3 Cabinet Member Role Purpose and Activity**

#### **Portfolio leadership**

- Giving political direction to Officers working within portfolio described in the Political Responsibilities table at the end of this document.
- Gain the respect of Officers within the portfolio; provide support to Officers in the implementation of portfolio programmes.
- Provide leadership in the portfolio
- Liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
- Be accountable for choices and performance in the portfolio.
- Have an overview of the performance management, efficiency and effectiveness of the portfolio.

#### **Contribute to the setting of strategic agenda and work programme for the portfolio**

- Work with Officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through Cabinet.
- Provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the

portfolio's forward work programme is kept up to date and accurate.

#### **Provide representation for the Portfolio**

- Provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.

#### **Reporting and accounting**

- Report as appropriate to the full Council, Cabinet, appropriate Chair of scrutiny, regulatory bodies and the media.
- Be the principal political spokesperson for the portfolio.
- Appear before scrutiny committees in respect of matters within the portfolio.

#### **Take an active part in Cabinet meetings and decision making**

- To show an interest in and support for the portfolios of others.
- To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

#### **Leading partnerships and community leadership**

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

#### **Internal governance, ethical standards and relationships**

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

#### **4 Values**

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences
- Sustainability
- Inclusive leadership

## **5 Political responsibility**

Please refer to the Political Responsibilities table at the end of this document.

## **PORTFOLIO – JOINT DEPUTY LEADER (GOVERNANCE) AND CABINET MEMBER FOR CORPORATE MANAGEMENT & ASSETS**

### **1 Accountabilities**

- To the Leader
- To the Cabinet (through collective responsibility)
- To full Council

### **2 Role Purpose and Activity**

**Manage and lead the work of the Cabinet and chair meetings in the absence of the Leader and assist the Leader in specific duties as required**

- Ensure the effective running of the Cabinet by managing the forward work programme and ensuring its continuing development.
- Ensure the work of the Cabinet meets national policy objectives.
- Advise and mentor other Cabinet members in their work.
- In the Leader's absence to Chair meetings of the Cabinet in line with the Constitution.

#### **Portfolio leadership**

- Giving political direction to Officers working within portfolio described in the Political Responsibilities table at the end of this document.
- Gain the respect of Officers within the portfolio; provide support to Officers in the implementation of portfolio programmes.
- Provide leadership in the portfolio
- Liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
- Be accountable for choices and performance in the portfolio.
- Have an overview of the performance management, efficiency and effectiveness of the portfolio.

#### **Contribute to the setting of strategic agenda and work programme for the portfolio**

- Work with Officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through Cabinet.
- Provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the

portfolio's forward work programme is kept up to date and accurate.

#### **Provide representation for the Portfolio**

- Provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.

#### **Reporting and accounting**

- Report as appropriate to the Leader, the full Council, Cabinet, appropriate Chair of scrutiny, regulatory bodies and the media.
- Be the principal political spokesperson for the portfolio.
- Appear before scrutiny committees in respect of matters within the portfolio.

#### **Take an active part in Cabinet meetings and decision making**

- To show an interest in and support for the portfolios of others.
- To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

#### **Leading partnerships and community leadership**

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

#### **Internal governance, ethical standards and relationships**

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

### **3 Values**

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness

- Appreciation of cultural differences
- Sustainability
- Inclusive leadership

#### **4. Political responsibility**

Please see the Political Responsibilities table at the end of this document.

### **PORTFOLIO – JOINT DEPUTY LEADER (PARTNERSHIPS) AND CABINET MEMBER FOR SOCAIL SERVICES**

#### **1 Accountabilities**

- To the Leader
- To the Cabinet (through collective responsibility)
- To full Council

#### **2 Role Purpose and Activity**

**Manage and lead the work of the Cabinet and chair meetings in the absence of the Leader and assist the Leader in specific duties as required**

- Ensure the effective running of the Cabinet by managing the forward work programme and ensuring its continuing development.
- Ensure the work of the Cabinet meets national policy objectives.
- Advise and mentor other Cabinet members in their work.
- In the Leader's absence to Chair meetings of the Cabinet in line with the Constitution.

#### **Portfolio leadership**

- Giving political direction to Officers working within portfolio described in the Political Responsibilities table at the end of this document.
- Gain the respect of Officers within the portfolio; provide support to Officers in the implementation of portfolio programmes.
- Provide leadership in the portfolio
- Liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
- Be accountable for choices and performance in the portfolio.
- Have an overview of the performance management, efficiency and effectiveness of the portfolio.

#### **Contribute to the setting of strategic agenda and work programme for the portfolio**

- Work with Officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through Cabinet.
- Provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the

portfolio's forward work programme is kept up to date and accurate.  
**Provide representation for the Portfolio**

- Provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.

#### **Reporting and accounting**

- Report as appropriate to the Leader, the full Council, Cabinet, appropriate Chair of scrutiny, regulatory bodies and the media.
- Be the principal political spokesperson for the portfolio.
- Appear before scrutiny committees in respect of matters within the portfolio.

#### **Take an active part in Cabinet meetings and decision making**

- To show an interest in and support for the portfolios of others.
- To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

#### **Leading partnerships and community leadership**

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

#### **Internal governance, ethical standards and relationships**

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

### **3 Values**

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences
- Sustainability
- Inclusive leadership

#### **4. Political responsibility**

Please see the Political Responsibilities table at the end of this document.

### **GENERIC ROLE DESCRIPTION FOR THE ECONOMIC DEVELOPMENT; FINANCE, SOCIAL VALUE & PROCUREMENT; HOUSING; PLANNING & PUBLIC PROTECTION AND STREETSCENE PORTFOLIO HOLDERS.**

#### **1 Accountabilities**

- To the Leader
- To the Cabinet (through collective responsibility)
- To full Council

#### **2 Role Purpose and Activities**

##### **Portfolio leadership**

- Giving political direction to Officers working within the portfolios described in the Political Responsibilities table at the end of this document.
- Gain the respect of Officers within the portfolio; provide support to Officers in the implementation of portfolio programmes.
- Provide leadership in the portfolio
- Liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
- Be accountable for choices and performance in the portfolio.
- Have an overview of the performance management, efficiency and effectiveness of the portfolio.

##### **Contribute to the setting of strategic agenda and work programme for the portfolio**

- Work with Officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through the Cabinet.
- Provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the portfolio's forward work programme is kept up to date and accurate.

##### **Provide representation for the Portfolio**

- Provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.

##### **Reporting and accounting**

- Report as appropriate to the Leader, the full Council, Cabinet, appropriate Chair of scrutiny, regulatory bodies and the media.
- Be the principal political spokesperson for the portfolio.
- Appear before scrutiny committees in respect of matters within the

portfolio.

#### **Take an active part in Cabinet meetings and decision making**

- To show an interest in and support for the portfolios of others.
- To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

#### **Leading partnerships and community leadership**

- To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- To negotiate and broker in cases of differing priorities and disagreement.
- To act as a leader of the local community by showing vision and foresight.

#### **Internal governance, ethical standards and relationships**

- To promote and support good governance of the Council and its affairs.
- To provide community leadership and promote active citizenship.
- To promote and support open and transparent government.
- To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

### **3 Values**

To be committed to the values of the Council and the following values in public office:

- Openness and transparency
- Honesty and integrity
- Tolerance and respect
- Equality and fairness
- Appreciation of cultural differences
- Sustainability
- Inclusive leadership

### **4 Political responsibility**

Please see the political responsibilities table at the end of this document.

#### **2022 Cabinet Political Responsibilities**

|   |
|---|
| <b>Leader and Cabinet Member for Education &amp; Youth Cllr Ian Roberts</b> |
|---|

|                                   |
|-----------------------------------|
| <b>As Leader, responsible for</b> |
|-----------------------------------|

- Corporate Governance;
- Partnership Governance;
- External regulator;
- Relationship Management;
- Corporate Risk Management and Business Continuity;
- Council Plan (joint)
- Local Resilience;
- Organisational Transformation
- Community Covenant and Armed Forces (Through appointed Armed Forces Champion);

**As Cabinet Member for Education & Youth, responsible for**

- Theatr Clwyd,
- Primary & Early Years Education;
- Secondary Education;
- Inclusion Services;
- Community and Adult Education;
- Youth Services;
- Liaison and Joint Working with FE and HE Sectors;
- Arts and Culture;
- Leisure & Libraries Services (Aura);
- Corporate Parenting\*\*
- Discretionary Transport policy
- Welsh Language Policy

**Deputy Leader (Governance) and Cabinet Member for Corporate Management & Assets: Cllr Billy Mullin**

- to deputise for the Leader
  - to oversee organisational governance
  - to support cross-party group joint working
  - to support senior management on recovery planning

**As Cabinet Member for Corporate Management & Assets**

- Council Plan (Joint)

- Property Maintenance
- Corporate Performance Management;
- Democratic Services;
- Legal Services;
- Human Resources and Organisational Services Strategy;
- HR Services and Payroll;
- Major HR Projects;
- Occupational Health;
- Training and Development;
- Trade Union relationships ;
- ICT Strategy;
- Digital Strategy;
- ICT Services;
- Information Management and Security;
- Customer Access and Flintshire Connects;
- Customer and Registration Services;
- Equalities;
- Emergency Planning
- Asset Strategy
- Flintshire Food Enterprise;
- Alternative Delivery Models;
- Welfare Reform
- Newydd

**Deputy Leader (Partnerships) and Cabinet Member for Social Services:  
Cllr Christine Jones**

- to deputise for the Leader
  - to represent the Council on key local partnerships
  - to be an advocate for the Council in the media/social media
  - to support local partnerships and the third sector in recovery planning

**As Cabinet Member for Social Services**

- Adult Social Services;
- Children's Social Services ;

- Lead Member of Children's Services;
- Disability Services;
- Mental Health Strategy and Services;
- Older Person's Strategy;
- Sheltered & Extra Care Housing (Joint);
- Youth Justice;
- Liaison and Joint Working with BCUHB
- Liaison and Joint Working with Public Health;
- Safeguarding;
- Corporate Parenting (Joint);
- Supporting People (Joint);

**Economic Development - Cabinet Member: Cllr David Healey**

- Regional Economic Development;
- Local Regeneration Strategy;
- Town Centre Planning and Projects;
- Business Support and Advice Services;
- Enterprise Zone;
- Mersey-Dee Alliance;
- Tourism and Marketing
- Countryside and Coastal Services

**Finance, Social Value & Procurement Cabinet Member: Cllr Paul Johnson**

- Medium Term Financial Strategy and Plan\*;
- Budget & Council Tax Policy\*;
- Budget Performance & Management\*;
- Revenue budget monitoring
- Corporate Finance; performance and effectiveness
- Treasury Management;
- Strategic procurement
- Procurement services

• **Clwyd Pension Fund**

- Capital programme
- Capital strategy
- Council Tax and Revenue collection
- Prudential indicators
- To oversee the delivery of the Council's strategy for Social Value.

**Housing - Cabinet Member: Cllr Dave Hughes**

- Housing Strategy;
- Housing Strategic Finance (Revenue and Capital) ;
- Welfare Reform;
- Welfare Rights;
- Landlord Services;
- Sheltered and Extra Care Housing (Joint);
- Repairs and Maintenance Services;
- Supporting People (Joint;)
- Welsh Housing Quality Standards;
- Affordable Housing;
- Housing Partnerships;
- Benefits,
- Gypsies and Travellers
- Homelessness;
- NEW Homes
- Disabled facilities grants (DFGs)

**Planning & Public Protection - Cabinet Member: Cllr Chris Bithell**

- Local Development Plan;
- Environmental Health;
- Trading Standards;
- Planning Policy;
- Planning Development Control and Enforcement;

- Conservation;
- Energy;
- Building Control;
- Licensing;
- Environmental Enforcement;
- Community Safety;
- Cemeteries;
- Crematoria;
- Health & Safety (External);
- Corporate Health and Safety;
- Archives and Modern Records;

**Streetscene - Cabinet Member: Cllr Paul Johnson**

- Highways;
- Public Rights of Way;
- Transportation;
- Drainage and Flood Protection
- Consultancy Services;
- Street Scene Services;
- Regional Waste Strategy;
- Regional Waste Procurement
- Waste collection, food waste collection and recycling services;
- Waste disposal

**6.3 Delegations of Executive Functions to Cabinet Members**

Normally, decisions will be taken collectively by the Cabinet, but individual Cabinet Members can take decisions within their portfolios which they consider to be urgent to protect the interest of the Council, subject to prior consultation with the Leader or Deputy and the Chief Executive or the appropriate Chief Officer(s) and, where necessary, other 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 take urgent decisions in the absence of the appropriate portfolio holder.

#### 6.4 **Delegation of Executive Functions to Officers**

6.4.1 There are delegated to Chief Officers, under Section 15 of the Local Government Act 2000, functions within their responsibility, in the terms set out in **Section 11, no. 11.6 and Section 13, Table 1** of this part of the Constitution.

#### 6.4.2 **Social Services**

The statutory responsibilities of Director of Social Services are in Flintshire discharged by the Chief Officer, Social Services and that post holder has responsibility for both Children's Social Services and Adult Social Care.

#### 6.4.3 **Recording of Officer Decisions**

Following consultation and in accordance with arrangements agreed with the appropriate Cabinet member, officer delegated decisions of Executive functions shall be recorded and reported to Cabinet.

#### 6.5 **Appointments to Bodies undertaking or advising upon Executive Functions**

Members will be appointed to the following bodies:-

#### 6.5.1 **Adoption Panel**

Comprises one Flintshire member, one Wrexham member, two representatives from (BCUHB) Betsi Cadwaldr University Health Board and four independent members.

#### Terms of Reference:

- (a) To make recommendations in respect of the following to the Head of Children's Services.
- (1) to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent;
  - (2) where it recommends approval of an application to recommend the terms on which the approval is given, for example, as to the numbers and ages of children, or whether the approval relates to any particular named child, or to any particular type of placement;
  - (3) to recommend whether or not a person remains suitable to act as a foster parent, and whether or not the terms of his approval remains appropriate;
    - (i) on the first review
    - (ii) on the occasion of any other review when requested to do so

by the fostering service provider.

#### 6.5.2 **Foster Care Panel**

This comprises one Flintshire member, one representative from BCUHB and four independent members.

##### Terms of Reference:

- (a) To make recommendations in respect of the following to the Head of Children's Services:-
- (1) whether fostering is in the best interests of a child;
  - (2) whether applicants are suitable to be approved as foster parents; and
  - (3) whether approved fosters are suitable to be adopters for a child.

#### 6.5.3 **Children's Services Forum**

This comprises the Cabinet Members for Education, Social Services, Housing and Corporate Management, one Member from each political group and other persons as determined by the Cabinet at its meetings of the 1 August 2006 and 13 December 2011.

##### Terms of Reference:

1. Ensuring that the Chief Executive and Cabinet Members are involved in setting priorities and strategic direction for vulnerable children, specifically children on the Child Protection Register and children looked after.
2. Ensuring that the Chief Executive and Cabinet Members are well informed about the progress and well-being of vulnerable children for whom the Authority holds significant responsibility.
3. Overseeing the Authority's development of a robust approach to corporate parenting.

#### 6.5.4 **Health & Safety Board**

a) The Health & Safety Board

To be attended by Cabinet Members for Planning & Public Protection and Corporate Management & Assets

##### Terms of Reference:

1. To inform Cabinet decisions and authorise necessary action
2. Raising our profile and development of relationships between all departments
3. Sharing of information e.g. topical health & safety issues nationally and corporately

4. Forum for learning from shared experience and ideas
5. Forum for providing advice
6. Forum for establishing mutually agreed standards, policies and practices (encouraging ownership, consistency)
7. Help avoid 'duplication'
8. Forum for monitoring safety standards
9. Forum for benchmarking

#### 6.5.5 **Planning Strategy Group**

Eleven members comprising the Cabinet Member Planning & Public Protection, members of the Planning Committee and relevant officers. The working group may co-opt other members from time to time.

To make recommendations to Council, Cabinet, the Cabinet Member for Planning & Public Protection, Environment Overview & Scrutiny Committee, Constitution & Democratic Services Committee, Planning Committee or to the Chief Officer (Planning, Environment & Economy), as appropriate, in relation to:-

1. Improvements to the planning process within Flintshire including alterations to the Flintshire Planning Code of Practice, the workings of the Planning and Development Control Committee and the procedures for dealing with the various types of application processed by the Planning Service.
2. Review the performance of the Planning Service.
3. Monitor and consider the findings and implications from planning appeal decisions.
4. Establish and review Member and officer planning training programmes.
5. Lead the progression of the Local Development Plan and the production or amendment of planning policies or planning guidance.
6. Respond to consultations from Welsh Government on matters relating to Planning where timescales permit.
7. Provide a forum for improved links with other services critical to the Planning Service such as Housing, Welsh Water/Dwr Cymru or to the soon to be established Single Environment Body.

8. Any topics referred to it by the Planning Committee or the Chair of that Committee, County Council, or Overview and Scrutiny Committee, or by the Constitution & Democratic Services Committee, or Cabinet Member, or by the Chief Officers (Planning, Environment & Economy) and Chief Officer (Governance).

#### 6.5.6 **The Joint Consultative Committee**

This committee comprises eighteen members comprising nine employer representatives and nine employee representatives and relevant officers.

##### Terms of Reference:

To foster good industrial relations and facilitate communications within the Council through a Forum for consultation on corporate issues between representatives of elected Members of the Council and Trade Union representatives from each of the main recognised Trade Unions represented at Flintshire.

This body is to resolve disputes and will meet only when required. Appointments will be made if it needs to meet. The size and role of the body will be reviewed.

#### 6.5.7 **The Education Consultative Committee**

The membership of this committee comprises eighteen members, nine from the Local Education Authority and nine Union representatives, together with relevant officers.

##### Terms of Reference:

Consultative forum between the Council and education staff regarding staff issues and any other relevant matters and to make recommendations to the Council.

#### 6.5.8 **School Performance Monitoring Group**

The membership of this is the Cabinet member for Education & Youth, the Chair of Education & Youth Overview & Scrutiny Committee, the co-opted members of Education & Youth Overview & Scrutiny Committee and relevant officers.

##### Terms of Reference:

1. Key stage results
2. Other attainment information, including outcomes for “vulnerable” learners.
3. Estyn reports
4. Welsh Government banding information
5. Attendance
6. Exclusions

7. School contexts and contextualised performance.

#### 6.5.9 **Tenant Working Group**

The membership is the Cabinet member for Housing plus three other members, the Chair of the Tenant Federation and three other tenants and relevant officers.

N.B. The Tenant Involvement Strategy will be considered at a future meeting and new arrangements will supersede the Tenant Working Group.

##### Terms of Reference:

1. To implement the Customer Involvement Strategy and action
2. Receive progress reports
3. Annually review the Customer Involvement Strategy

#### 6.5.10 **The Flintshire Community Chest Panel**

This body is administrable by the Flintshire Local Voluntary Council. One nominee only is required.

##### Terms of Reference:

To provide recommendations to the Chief Executive on Council funding from the £21K available in the community chest fund to third sector organisations.

#### 6.5.11 **Welsh in Education Strategic Forum**

This forum comprises Menter Iaith, Mudiad Meithrin, Chief Officer, Education & Youth, Principal Primary Officer, Principal Secondary Officer, Cabinet member for Education & Youth, Ysgol Maes Garmon – representing Welsh Secondary, St Richard Gwyn Catholic High School – representing Catholic Schools, Ysgol Gwenffrwd – representing Flintshire Welsh Primary Schools, Ysgol Penlarg – representing Flintshire English Medium Schools, Acting Headteacher – Ysgol Croes Atti, Menter Iaith Sir – Fflint, Coleg Cambria, SWFFLAG, Flintshire Governors Association, Urdd and relevant officers.

##### Terms of Reference:

1. To agree, implement and review a coordinated approach that best delivers the requirements of the Welsh Government's Welsh-medium Education Strategy.
2. To be responsible for the delivery of the action plan incorporating seven key outcomes.
3. To monitor, evaluate and consider the impact of the delivery of the action plan in raising standards in Welsh first and second language.

4. Forum representatives are expected to consult with and feedback to their respective associate stakeholders.

## 6.6 **Joint Committees**

### 6.6.1 **Clwydian Range AONB Joint Committee**

Cabinet Members for Economic Development and Streetscene and Countryside

### 6.6.2 **The North & Mid Wales Trunk Road Agency Committee**

The Cabinet nominates one member and a deputy to the joint committee known as 'The North & Mid Wales Trunk Road Agency Joint Committee'

### 6.6.3 **North Wales Residual Waste Joint Committee**

The Cabinet has established a joint committee known as the North Wales Residual Waste Joint Committee with Conwy County Borough Council, Denbighshire County Council, Gwynedd County Council and Isle of Anglesey County Council. The Committee consists of two elected Councillors from each authority (one voting and one non-voting). Flintshire County Council is the lead authority and has entered into an inter-authority agreement with the other four authorities which sets out the constitution of the Joint Committee and its decision making powers. Leader and the Cabinet Member for Streetscene and Countryside

### 6.6.3 **The GwE Joint Committee**

At its meeting on 18 September 2012 the Cabinet confirmed the establishment of this Joint Committee of the 6 North Wales Local Authorities and its membership and proposed terms of reference were detailed in the report to that meeting. Each of the 6 Authorities is represented by one member (the Cabinet Member for Education & Youth) and its chief education officer on the Joint Committee.

### 6.6.4 **NEW Homes and Alternative Delivery Models**

The governance arrangements for NEW Homes, NEWydd and Alternative Delivery Models will be incorporated within the Constitution in due course

## 6.7 **Replacement of the Leader**

### 6.7.1 **Sickness/III-Health**

If the Leader dies or suffers any accident, illness or injury which will, or is likely, in the opinion of the Chair of the Council, to prevent them from undertaking the role of Leader for a period of three months or more then the Full Council must consider whether to appoint a replacement.

### 6.7.2 **Removal by Notice of Motion**

THE LEADER CAN BE DISMISSED WHERE THE COUNCIL PASSES A RESOLUTION REMOVING HIM/HER FROM OFFICE IN ACCORDANCE WITH THE RULES AT **SECTION 11.6** OF THE COUNCIL PROCEDURE RULES.

## **SECTION 7**

### **7. OVERVIEW AND SCRUTINY COMMITTEES**

#### **7.1 Introduction**

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

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

#### **7.2 Overview and Scrutiny Committees**

In order to achieve this, the Council have appointed 6 Overview and 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;

7.2.27.2.3 review or scrutinise decisions made, or actions taken, by the Flintshire Public Services Board;

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

7.2.47.2.5 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 Committees are described in the table below:

| <b>O&amp;S Committee</b>  | <b>Scope:</b> To fulfil all of the functions of an Overview & Scrutiny committee, including Performance, Improvement and Policy Development as they relate to the following:   | <b>Main Contributors</b>   |
|---|--|--|
| <p><b>Corporate Resources</b></p> <p>12 Elected Members</p> <p>Designated 'crime &amp; disorder scrutiny' committee</p> | <p><b>Corporate Management and Governance</b><br/>Council strategic and improvement planning (Council Plan)<br/>Council performance and performance systems<br/>Customer Services and contact</p> <p><b>Finance Strategy</b><br/>Revenue and capital strategic planning<br/>Revenue and capital budget monitoring</p> <p><b>The Council's role as an employer in the Clwyd Pension Fund</b></p> <p><b>ICT and Digital Strategies</b></p> <p><b>People Strategy</b><br/>Organisational Design &amp; Change Programme</p> <p><b>Corporate Services</b><br/>Corporate Communications<br/>Financial services<br/>ICT Services<br/>Information and Business Services<br/>Procurement<br/>HR Business Partnering<br/>Occupational Health and Wellbeing<br/>Employment Services<br/>Legal Services<br/>Democratic Services<br/>Revenues</p> <p><b>Strategic and Partnership Working</b><br/>Partnership and collaborative working frameworks<br/>Public Service Board</p> | <p><b>Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure</b></p> <p><b>Cabinet Member for Finance, Inclusion, Resilient Communities including Social Value and Procurement</b></p> <p>Chief Executive;</p> <p>Chief Officer (Governance)</p> <p>Corporate Finance Manager</p> |

|  |   |  |
|--|---|--|
|  | <p>Civil Contingencies<br/>Emergency Planning</p> <p><b>Crime and Disorder</b><br/>Community Safety Partnership<br/>North Wales Fire &amp; Rescue Authority &amp; Service<br/>North Wales Police &amp; Crime Commissioner<br/>North Wales Police Service<br/>North Wales Probation Service</p> <p><b>Capital Programme and Assets</b><br/>Corporate Property Maintenance Service<br/>Property and Design Consultancy<br/>Valuation and Estates Service<br/>Community Assets</p> <p>Community Asset Transfer Programme<br/>NEWYDD</p>  |  |
| <p><b>Education, Youth &amp; Culture</b></p> <p>12 Elected Members and five co-opted members representing parent governors and diocesan authorities.</p> | <p>School estate including capital investment programmes and school organization<br/>School Access including admissions and school transport policy<br/>School Improvement and modernisation<br/>School Access, planning and provision<br/>Early years Education<br/>Primary Education<br/>Secondary and 14-19 education and Post 16 Provision<br/>Schools Performance Monitoring<br/>Welsh in Education<br/>Service Children in Education<br/>Outdoor Education<br/>School Governance<br/>Safeguarding</p> <p><b>Continuing Education</b><br/>Adult and community learning</p> <p><b>Special Education</b><br/>Inclusion &amp; Progression service</p> <p><b>Support to Families and Young People</b><br/>Families First<br/>Youth Services<br/>Youth Justice Service<br/>Libraries, Culture and Heritage including archives and museums</p> | <p>Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure</p> <p>Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing</p> <p>Chief Executive</p> <p>Chief Officer (Education &amp; Youth)</p> <p>Chief Officer (Social Services)</p> |

|  |  |   |
|--|--|---|
|  | <p>Leisure Services, including leisure and sports centres, swimming pools and recreational facilities/activities</p> <p><b>Strategic and Partnership Working</b><br/> Theatr Clwyd<br/> Aura<br/> Holywell Leisure Centre<br/> Cambrian Aquatics<br/> Children and Young People's Partnership (shared responsibility with the Social &amp; Health Care Overview &amp; Scrutiny Committee)<br/> Coleg Cambria<br/> Glyndwr University<br/> GwE<br/> Welsh Government Department for Education<br/> Estyn</p>  |   |
| <p><b>Social &amp; Health Care</b></p> <p>12 Elected Members</p> | <p><b>Adult Services</b><br/> First contact and localities<br/> Adult safeguarding<br/> Adult Independence and support services</p> <p><b>Children's Services</b><br/> Fieldwork<br/> Resources<br/> Safeguarding<br/> Early Years and Family support</p> <p><b>Disability, Progression and Recovery Services</b></p> <p><b>Strategic, Commissioning &amp; Partnership Working</b><br/> Children and Young People's Partnership (jointly with the <b>Education Youth &amp; Culture</b> Overview &amp; Scrutiny Committee)<br/> Social &amp; Health Care Strategy Development<br/> Health Social Care and Well-being partnership and the Good Health Good Care Strategy<br/> Dementia Commissioning Plan<br/> Mental Health Commissioning Plan<br/> Learning Disability Commissioning Plan<br/> Double Click<br/> Home Farm Trust (HFT)<br/> Hwb Cyfle<br/> Betsi Cadwaladr University Health Board</p> | <p>Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing</p> <p>Leader of the Council and Cabinet Member for Education, Welsh Language, Culture and Leisure</p> <p>Chief Officer (Social Services)</p> <p>Chief Officer (Education &amp; Youth)</p> |

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|  | (BCUHB)<br>Ambulance Trust<br>Community Health Council.  |  |
| <b>Environment &amp; Economy</b><br><br>12 Elected Members | <p><b>Planning</b><br/>Planning and environmental strategy,<br/>Development management and control,<br/>Conservation,<br/>Minerals and waste planning,<br/>Countryside and the environment<br/>Greenfield Valley Heritage Park<br/>Public rights of way<br/>Drainage advisory/Flood Water<br/>Management Act<br/>Energy Services</p> <p><b>Community and Business Protection</b><br/>Food safety and food standards<br/>Licensing and pest control<br/>Health and Safety and Environmental<br/>Control<br/>Housing Standards and Pollution Control<br/>Trading Standards<br/>Animal Health<br/>Violence against Women, Domestic Abuse<br/>and Sexual Violence</p> <p><b>Streetscene Services</b><br/>Waste Strategy &amp; Recycling<br/>Winter Maintenance &amp; Adverse Weather<br/>Policy<br/>Public open space management<br/>Town Centre &amp; Street Cleansing<br/>Grass Cutting &amp; Grounds Maintenance<br/>Highway Inspections &amp; Maintenance<br/>Public Conveniences (Local Toilets<br/>Strategy)<br/>Environmental &amp; Civil Parking Enforcement<br/>Street Lighting<br/>Fleet Services<br/>Ultra-Low Emission Vehicle (ULEV) Strategy<br/>Bereavement Services &amp; cemetery<br/>management<br/>Car Parking Strategy</p> <p><b>Transportation</b><br/>Transport Planning &amp; Highway Strategy<br/>Traffic Services<br/>Active Travel<br/>Integrated Transport Services (school</p> | <p>Deputy Leader of the<br/>Council and Cabinet<br/>Member for Streetscene<br/>and the Regional<br/>Transport Strategy</p> <p>Cabinet Member for<br/>Planning, Public Health<br/>and Public Protection</p> <p>Cabinet Member for<br/>Climate Change and<br/>Economy</p> <p>Cabinet Member for<br/>Housing and<br/>Regeneration</p> <p>Chief Executive</p> <p>Chief Officer (Planning,<br/>Environment and<br/>Economy)</p> <p>Chief Officer<br/>(Streetscene and<br/>Transportation)</p> |

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|   | <p>transport, post-16 transport, local bus services, community transport, rail etc.)<br/> Road Safety Education, Training and Publicity<br/> North Wales Metro Programme / Regional Transport Plan</p> <p>Performance and Improvement Plan<br/> Monitoring and Policy and Performance development within the Streetscene and Transportation and Planning, Environment and Economy portfolios</p> <p><b>Strategic and Partnership Working</b><br/> Flood Management Strategy<br/> North Wales Residual Waste Treatment Partnership (Parc Adfer)<br/> Natural Resources Wales<br/> Planning Inspectorate Wales<br/> Planning and Environmental Decisions Wales (PEDW)<br/> Ambition North Wales / North Wales Growth Deal<br/> Corporate Joint Committees (CJCs)<br/> Strategic Development Plan<br/> Regional Transport Plan<br/> Transport for Wales (TfW)<br/> Mersey Dee Alliance (MDA)</p> <p><b>Enterprise &amp; Regeneration</b><br/> Economic growth and Business Development<br/> Tourism<br/> Social Enterprise<br/> Markets<br/> Regeneration<br/> Employability<br/> Domestic energy<br/> Digital connectivity</p> |   |
| <p><b>Community &amp; Housing</b></p> <p>12 Elected Members</p> | <p><b>Community Liaison</b><br/> The County Forum and the Joint Community Charter with Town and Community Councils<br/> Flintshire Local Voluntary Council</p> <p><b>Housing &amp; Prevention Services</b><br/> Homelessness<br/> Housing Advice and Common Housing Register<br/> Neighborhood Housing</p>   | <p>Cabinet Member for Housing and Regeneration</p> <p>Cabinet Member for Governance and Corporate Services including Health and</p> |

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|  | <p><b>Housing Asset management</b><br/>Housing Support Grant</p> <p><b>Housing Asset Management</b><br/>Revenue and Capital Investment to Council housing stock and related assets.<br/>Repairs &amp; Maintenance Service.<br/>Empty Property Refurbishment.</p> <p><b>Housing Management &amp; Benefit Service</b><br/>Benefits and Grants Assessment<br/>Community Based Accommodation Support Service (CBASS)<br/>Disabled Facilities Grant<br/>Gypsy and Traveller Services<br/>Housing Management<br/>Welfare Reform</p> <p><b>Housing Development</b><br/>Housing Programmes<br/>Housing Strategy<br/>NEW Homes Limited</p> <p><b>Strategic and Partnership Working</b><br/>Housing Revenue Account Business Plan<br/>Registered Social Landlords</p> | <p>Safety and Human Resources</p> <p>Chief Officer (Housing and Communities)</p> |
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Further Overview & Scrutiny Committees may also be appointed for a fixed period or for a particular task on the expiry or completion of which they shall cease to exist.

#### **7.4 Specific Functions**

##### **7.4.1 Policy Development and Review**

The Overview and 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**

The Overview and 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 Overview and Scrutiny Committees and local people about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

#### 7.4.3 Scrutiny of the Flintshire Public Services Board

The Overview and Scrutiny Committees may:

- (a) review or scrutinise decisions made, or other action taken, by the Flintshire Public Services Board;
- (b) review or scrutinise the Flintshire Public Services Board's governance arrangements;
- (c) make reports or recommendations to the Flintshire Public Services Board with respect to the board's functions or governance arrangements;
- (d) consider such matters relating to the board as the Welsh Ministers may refer to it and to report to the Welsh Ministers accordingly; and

(e) copy reports to the Public Services Board regarding the board's functions and governance arrangements to: -

i.the Welsh Ministers;

ii.the Future Generations Commissioner for Wales; and

iii.the Auditor General for Wales; and

(a)(f) require one or more of the attendees at the Public Services Board, or anyone designated by such a person, to attend a meeting of the [Overview and Scrutiny Committee] and provide it with explanations of such matters as it may specify.

#### 7.4.37.4.4 Finance

Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.

#### 7.4.47.4.5 Officers

Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

#### 7.4.57.4.6 Annual Report

The Overview and 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 Overview & Scrutiny Procedure Rules**

#### **7.5.1 Overview and Scrutiny Committees**

The Council has five Overview and Scrutiny Committees set out in paragraph 7.3 (above) to discharge the functions conferred by section 21 of the Local Government Act 2000.

Further Overview & Scrutiny Committees may also be appointed for a fixed period or for a particular task on the expiry or completion of which they shall cease to exist.

#### **7.5.2 Who may sit on Overview and Scrutiny Committees?**

All Councillors except members of the Cabinet and Assistants to the Cabinet may be members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision which he/she has been directly involved.

#### **7.5.3 Co-optees**

Any Overview and Scrutiny Committee may agree to the appointment of co-optees.

#### **7.5.4 Education representatives**

The Education & Youth Overview and Scrutiny Committee and any Sub-Committee dealing with education matters shall include in its membership the following voting representatives:

- (a) One Church in Wales representative;
- (b) One Roman Catholic Church representative;
- (c) Three parent governor representatives.

The Overview and Scrutiny Committee/Sub-Committees in this paragraph is the Overview and Scrutiny Committee or Sub-Committee of a local education authority, whose functions relate wholly or in part to any education functions which are the responsibility of the local authority's Cabinet. When the Overview and Scrutiny Committee/Sub-Committee deals with other matters, these representatives shall not vote on those other matters.

#### **7.5.5 Meetings of the Overview and Scrutiny Committees**

Ordinary meetings of Scrutiny Committees shall be convened in accordance with the Council's timetable of meeting. In addition extraordinary meetings may be called from time to time as and when appropriate. A Scrutiny Committee meeting may be called by the chairman of the relevant Scrutiny Committee or by any four members of the Committee or by the Democratic Services Manager if he/she considers it necessary or appropriate. The Council Procedure Rules apply to Overview and Scrutiny Committee in the same way as they apply to other Committees.

#### **7.5.6 Quorum**

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in [Section 4.10](#) of this Constitution, i.e., one quarter of the whole number of Members.

#### **7.5.7 Who Chairs Overview and Scrutiny Committee Meetings?**

The Chairs of Overview & Scrutiny Committees will be appointed in accordance with the Local Government (Wales) Measure 2011. In accordance with the guidance on it, at the annual meeting it shall be determined which political group shall nominate the Chair of each Overview & Scrutiny Committee. Each Vice Chair will be appointed by the Overview & Scrutiny Committee at its first ordinary meeting following the annual meeting.

#### **7.5.8 Work programme**

The Overview and Scrutiny Committees/Sub-Committees will subject to the Constitution & Democratic services Committee be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

#### **7.5.9 Agenda items**

Any Member shall be entitled to give notice to the Democratic Services Manager that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for, and be discussed at, a meeting of the Committee or Sub-Committee.

On receipt of such a request the attached Protocol (Annex A) will be followed.

The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Council and/or Cabinet.

#### **7.5.10 Policy Review and Development**

- (a) The role of the Overview and 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.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committee or Sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **7.5.11 Reports from Overview and Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a

formal report and submit it to the Democratic Services Manager for consideration by the Cabinet (if the proposals are consistent with the existing budgetary 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).

- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

#### **7.5.12 Making sure that Overview and Scrutiny reports are considered by the Cabinet**

- (a) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Democratic Services Manager who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Democratic Services Manager refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will have 2 weeks in which to respond to the Overview and Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny proposals.
- (b) Where an Overview and Scrutiny Committee or Sub-Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision making power to another individual Member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Democratic Services Manager. The Member with delegated decision making power must consider the report and respond in writing to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Democratic Services Manager. The Member will also attend a future meeting of the Overview and Scrutiny Committee to present their response.
- (c) Where an Overview and Scrutiny Committee or Sub-Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision making power to another individual Member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview

and Scrutiny Committee shall serve a copy on the Democratic Services Manager and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Democratic Services Manager and he/she will attend a future meeting to respond.

- (d) Overview and Scrutiny Committees will in any event have access to the Cabinet's forward work programme for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process.

#### **7.5.13 Rights of Overview and Scrutiny Committee Members to documents**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in **Part 4** of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

#### **7.5.14 Members and officers giving account**

- (a) The relevant Overview and Scrutiny Committee or Sub-Committee 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 ~~Head of Paid Service~~ Chief Executive and/or any senior officer to attend before it to explain in relation to matters within their remit:
- i) any particular decision or series of decisions; and/or
  - ii) the extent to which the actions taken implement Council policy; and/or
  - iii) their performance.

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

- (b) Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Member or officer in writing giving at least 5 working days' notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the 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.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the relevant Chair of the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance.

#### 7.5.15 Attendance by others

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 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.

#### 7.5.16 Call-in

- (a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the Democratic Services Manager.
- (b) The decision record will bear the date on which it is first published and the date the decision is made. The decision will come into force, and may be implemented, on the expiry of 5 working days after the first publication of the decision, unless called in pursuant to these Procedure Rules.
- (c) During that period, the Democratic Services Manager shall call-in a decision for Scrutiny by the Committee if so requested by the Chair, or at least four Members of the Council, and shall then notify the decision-taker of the call-in. All such requests must be in writing and signed individually by those requesting the call-in and stating the reason(s) for the call-in. He/she shall call a

meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 7 working days of the decision to call-in. For the purpose of this paragraph the last working day before Christmas and the three working days in-between Christmas and the New Year shall not be counted as working days.

- (d) If, having considered the decision, the Overview & Scrutiny Committee is satisfied with the explanation which it has received, it will so indicate to enable the decision to be implemented. Should the Overview & Scrutiny Committee, in receiving the explanations be 'no longer concerned', but not minded to indicate that it is 'satisfied with the explanation', it is in order for that Committee to resolve that 'the explanation be accepted but not endorsed by the Overview & Scrutiny Committee'.
- (e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker that decision maker shall then reconsider, where the decision maker is the Cabinet at the earliest Cabinet meeting, amending the decision or not, before adopting a final decision. If referred to the full Council, the Council shall meet to consider the referral within 10 working days unless there is a scheduled meeting of the full Council at which the matter may be considered within the expiry of a further 5 working days.
- (f) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

## **EXCEPTIONS**

- (g) Councils have been recommended to consider exceptions to this process in order to ensure that call-in is neither abused nor causes unreasonable delay.

The Council considers that no limitations are to be placed upon the use of the procedure at the outset but rather prefers that the procedure should be monitored and the question of limitations be reconsidered in the light of experience.

#### **CALL-IN AND URGENCY**

- (h) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call in process would prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the ~~Head of Paid Service~~ Chief Executive or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

#### **7.5.17 The Party Whip**

Section 78 of the Local Government (Wales) Measure 2011 prohibits a member of an Overview & Scrutiny voting if before the meeting the Member has been given a party whip in relation to that matter. A vote given in breach of this must be disregarded by the Chair of the meeting. At each Overview & Scrutiny Committee meeting, each member of the committee must declare any prohibited party whip which the Member has been given in relation to the meeting.

"Party whip" means an instruction which is given on behalf of the political group on a local authority to a member of that political group which is an instruction as to how that Member should vote on a question failing to be decided by the Overview & Scrutiny Committee and if not complied with would be likely to make the Member liable to disciplinary action by the political group concerned.

The above provisions apply equally in relation to a sub-committee meeting of an Overview & Scrutiny Committee.

#### **7.5.18 Procedure at Overview and Scrutiny Committee meetings**

- (a) Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
- i) minutes of the last meeting;

- ii) declarations of interest (including whipping declarations);
  - iii) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Where a person attends before an Overview and Scrutiny Committee for the purpose of answering questions the Chair may allow the person to make an opening statement relating to the subject matter under consideration.
- (d) The order number and duration of questioning by Members of the Committee shall be determined by the Chair of the meeting.
- (e) A person attending the Committee for the purpose of answering questions will be expected to normally give an oral answer or to nominate someone else present to answer on that person's behalf.
- (f) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**Note**

- (i) Where an answer would involve the disclosure of exempt information there will be a need to first consider excluding the press and public.
- (ii) A person will be able to decline to answer where this would be permissible in Court.

**7.5.19 Matters within the remit of more than one Overview and Scrutiny Committee**

Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of one or more other Overview and Scrutiny Committees, the decision as to which Overview and Scrutiny Committee will consider it will be resolved by the Constitution & Democratic services Committee.

## **7.6 Councillor Call for Action**

- 7.6.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of “last resort”.
- 7.6.2 Any Member may request that an item is placed on the agenda of an Overview and Scrutiny Committee for consideration and this is covered by the protocol attached as Annex A.
- 7.6.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to these Rules at Annex A.

## **ANNEX A**

### **PROTOCOL RELATING TO MEMBERS PLACING ITEMS ON AGENDAS OF OVERVIEW & SCRUTINY COMMITTEES AND THE COUNCILLOR CALLS FOR ACTION (CCfA) PROVISIONS**

#### **Background**

Under Section 63 of the Local Government (Wales) Measure 2011 a Councillor can refer a 'local government matter' to whichever Overview & Scrutiny Committee holds the appropriate remit. This is known as Councillor Calls for Action (CCfA).

There is a separate CCfA process for crime and disorder issues, which would be dealt with by the Corporate Resources Overview & Scrutiny Committee as the authority's designated 'Crime & Disorder Committee'.

The CCfA provisions strengthen the earlier provision under Section 21 (8)(a) of the Local Government Act 2000 which gives a member of an Overview & Scrutiny Committee the right to place an item on the agenda of that Committee providing it is relevant to the functions of that Committee. In Flintshire a local protocol has existed since 2002 which extended such a right to all members of the Council. This protocol supersedes that earlier Flintshire protocol.

The Welsh Government has issued statutory guidance on CCfA in June 2012. Paragraph 6.5 of that guidance makes clear that CCfA is a means of last resort with issues being raised at a Scrutiny Committee after other avenues have been explored.

### **Local Government Matter**

The legislation defines 'Local Government matter' as a matter which is not an excluded matter and which –

- a) Relates to the discharge of any function of the authority or
- b) Affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.

The legislation defines what is meant by an excluded matter as –

- a) A local crime and disorder matter within the meaning of Section 19 of the Police & Justice Act 2006 or
- b) A matter of any description specified in an order made by the Welsh Ministers for the purposes of the legislation.

### **Preliminary**

Paragraph 6.27 of the statutory guidance provides that before a CCfA is escalated to a full Scrutiny Committee meeting, the Councillor should first consider the following options in resolving a community issue:-

- Informal discussions with officers or other Councillors
- Informal discussions with partner representatives
- Referral of matters to other Scrutiny bodies, such as Community Health Councils or internal Audit Committees
- Formal discussions with officers and Councillors
- Formal letters to Cabinet Members
- Asking questions of full Council

- Submitting a Motion to full Council
- Organising public meetings
- Use of petitions
- Making a complaint
- Freedom of Information request
- Communications with local AMs or MPs
- Use of social media or e-mail based campaigns

### **Procedure**

1. All CCfA should be made in writing addressed to the Democratic Services Manager and include the following:-
  - a) An explanation of the issue the Member wishes to raise
  - b) What the Member would regard as a successful outcome or resolution
  - c) What other options have already been pursued
2. The Democratic Services Manager in consultation with the appropriate Overview & Scrutiny Chair will determine whether further information is required before it is reported to the appropriate Overview & Scrutiny Committee.
3. On receiving sufficient information the Democratic Services Manager or Overview & Scrutiny Facilitator, as appropriate, will prepare a report for consideration by the appropriate Overview & Scrutiny Committee.
4. The appropriate Overview & Scrutiny Committee will initially consider whether or not to accept the issue or to reject it. This decision will be based on the statutory guidance, this protocol and the workload of the Overview & Scrutiny Committee. Where the issue is rejected, consideration will be given as to whether it should be reconsidered at a later date. Where the issue is accepted, preliminary consideration will be given as to how to pursue the issue.
5. The Democratic Services Manager will, following the Committee meeting, write to inform the Member concerned of the Committee's decision.

## **SECTION 8**

### **8 THE STANDARDS COMMITTEE**

#### **Composition**

## 6.8 **Membership**

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

- 8.1.1 Five "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 Three Councillors other than the Leader and not more than one Member of the Cabinet; and
- 8.1.3 One Community Council Member

## 8.2 **Term of Office**

- 8.2.1 Independent members are appointed for a period of no more than six years and may be reappointed for a second term. Where there are two terms of office they cannot exceed 10 years in total
- 8.2.2 Members of the local Authority who are members of the Standards Committee will have a term of office of no more than four years or the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for a second term.

## 8.3 **Quorum**

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

- 8.3.1 at least 3 Members are present; and
- 8.3.2 at least half the Members present are Independent Members.

## 8.4 **Voting**

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

## 8.5 **Community Committee Members**

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

## 8.6 **Chairing the Committee**

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

8.6.2 The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:

- (a) not less than four years or no more than six years; or
- (b) until the term of office of the Independent Member comes to an end.

## **8.7 Role and Function**

The Standards Committee will have the following roles and functions:

- 8.7.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members and church and parent governor representatives;
- 8.7.2 assisting the Councillors and co-opted Members and church and parent governor representatives to observe the Members' Code of Conduct;
- 8.7.3 advising the Council on the adoption or revision of the Members' Code of Conduct;
- 8.7.4 monitoring the operation of the Members' Code of Conduct;
- 8.7.5 advising, training or arranging to train Councillors and co-opted Members and church and parent governor representatives on matters relating to the Members' Code of Conduct;
- 8.7.6 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;
- 8.7.7 determining requests for representation in proceedings under the Council's Indemnity Scheme for Members and officers;
- 8.7.8 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.
- 8.7.9 The exercise of 8.7.1 to 8.7.8 above in relation to the Community Councils wholly or mainly in its area and the members of those community councils.

### **8.7.10 Additional Role of Standards Committee**

The Standards Committee shall maintain an Overview of the operation and maintenance of the Council's

- (i) confidential reporting procedure
- (ii) complaints handling procedures

- (iii) responses to Ombudsman's investigations
- (iv) the Council's planning code of conduct
- (v) the Council's Constitution

insofar as they relate to issues concerning Members and shall report thereon to the Cabinet.

## **8.8 Annual Report**

As soon as possible after the end of each financial year, the Standards Committee must make an annual report to the Council.

The annual report must include: -

- a) a description of how the Standards Committee has discharged its functions;
- b) a summary of any reports and recommendations that were referred to the Standards Committee under Chapter 3 of Part 3 of the Local Government Act 2000;
- c) a summary of the actions that the Standards Committee has taken following consideration of the reports and recommendations referred to in (b) above;
- d) a summary of any notices that were given to the Standards Committee under Chapter 4 of Part 4 of the Local Government Act 2000; and
- e) the Standards Committee's assessment of the extent to which leaders of political groups on the Council have complied with their duties to promote and maintain high standards of conduct by members of their group and to cooperate with the Standards Committee in the exercise of the Standards Committee's functions; and
- f) any recommendations which the Standards Committee considers it appropriate to make to the Council about any matter which falls within the Committee's functions.

## **8-8.9 Work Programme**

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

## **8-9.10 Rules of Procedure and Debate**

~~8-9-10.1~~ The Council Procedure Rules at **Section 4** will apply to meetings of the Standards Committee Members.

8.9.28.10.2 When considering the conduct of individual Councillors, the procedures outlined in **Section 20** will apply.

## **SECTION 9**

### **9 OTHER COMMITTEES**

#### **9.1 Regulatory and Other Committees**

The Council will also appoint the following Committees:-

Governance & Audit Committee  
Planning Committee  
Licensing Committee  
Appeals Committee  
Constitution & Democratic Services Committee  
Recovery Committee  
Clwyd Pension Fund Committee

#### **9.2 The Governance and Audit Committee**

##### **Terms of Reference**

##### **9.2.1 Statement of Purpose:**

The terms of reference sets out the Governance and Audit Committee's position in the governance structure of the Council.

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

##### **9.2.2 Role:**

The Governance and Audit Committee's role and functions will be to:

- A.** Review the effectiveness of the Authority's systems of corporate governance, internal control complaints, performance (self-assessment and peer review) and risk management, and to make reports and recommendations to the County Council on the adequacy and effectiveness of these arrangements;
- B.** Oversee the reporting of the statutory financial statement's process to ensure the balance, transparency and integrity of published financial information, and to review the financial statements prepared by the authority and recommend them to County Council; and

Review and scrutinise the County Council's financial affairs, and to make reports and recommendations on them. The role of the Committee is to assure the budgetary control systems of the Council rather than the scrutiny of the use and value for money of expenditure which is the role of the respective Overview and Scrutiny Committees.

**C.** Monitor the performance and effectiveness of the internal and external audit functions within the wider regulatory context.

**D.** Report to the Council annually, summarising the Committee's activities and recommendations.

**A Corporate Governance, Internal Control, Complaints, Performance and Risk Management**

1. Evaluate whether Senior Accountable Officers and service teams are setting the appropriate "control culture" by communicating the importance of internal control and risk management.
2. Consider and assure the annual update of the Code of Corporate Governance against the 'Delivering Good Governance Framework (Wales)'.
3. Consider and assure the draft Annual Governance Statement and make appropriate recommendations/observations prior to its submission to the Council's Regulators.
4. Evaluate the overall effective development and operation of the internal control and risk management frameworks and consider whether actions raised by the internal and external auditors have been implemented by Senior Accountable Officers.
5. Review and assure the Risk Management Strategy through regular reports on risk management and business continuity plans, processes and outcomes.
6. Monitor progress in addressing risk related issues reported to the Committee.
7. Consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.
8. To review and assess the Council' ability to effectively handle complaints.
9. To make reports and recommendations in relation to the Council's ability to handle complaints effectively.
10. To consider the Council's draft Annual Performance Self-Assessment report and if necessary make any recommendations for changes to the Council.
11. To receive the Council's finalised Annual Self-Assessment report for the respective financial year as soon as reasonably possible after the end of the financial year.

12. At least once during the period between two consecutive ordinary elections of councillors to the Council, consider the independent Panel Performance Assessment report on whether the Council is meeting its performance requirements.
13. To receive and review the Council's draft response to the report of the independent Panel Performance Assessment and if necessary make recommendations for changes to the statements made in the draft response to the Council.
14. Keep under review the Council's Anti-Fraud and Corruption Strategy, Fraud Response Plan and Whistleblowing Policy and the assessment of fraud risks and potential harm to the Council from Fraud and Corruption.
15. Consider the Council's arrangements to secure value for money and review assurances and assessment on the effectiveness of these arrangements.
16. Receive reports on all fraud identified and any other special investigations, and action taken.
17. Consider how Senior Accountable Officers are held to account for the security of computer systems and applications to protect against computer fraud or misuse.
18. Ensure the rigorous application of the agreed protocol for the reporting and decision making over business cases for collaborative projects, the management of the transition for approved collaborations, and the subsequent performance management arrangements for the new collaborative services.
19. Obtain regular updates from Senior Accountable Officers and legal advice regarding compliance matters, and be satisfied that all compliance matters have been considered in preparing the financial statements.
20. The Chair and Vice Chair of the Governance and Audit Committee together with the Chairs and Vice Chairs of the six Overview and Scrutiny Committees will attend the Chair and Vice Chair Liaison Group with the primary aim to reduce duplication of work, ensure there is a shared coverage of the Council's risk profile and escalate poor performance between respective Committees.

Appendix A of the Audit Charter provides a diagram of the co-ordination of work between the Overview and Scrutiny Committees and Governance and Audit Committee.

**B. Financial:**

### **Statutory Financial Statements**

1. Receive the draft annual Statement of Accounts, together with the underlying accounting policies for information. Consider and comment on the final statement of accounts following the receipt of the proposed audit opinion from the Wales Audit Office prior to recommending their approval to the Council.
2. Understand the controls and processes implemented by Senior Accountable Officers to ensure the financial statements derive from the underlying financial systems, comply with relevant standards and requirements, and are subject to appropriate review.
3. Meet with management and external auditors to review the financial statements, the key accounting policies and judgements, significant accounting and reporting issues and their impact on financial reports, and the results of the audit.
4. Ensure that significant adjustments, unadjusted differences, disagreements with Senior Accountable Officers and critical accounting policies and practice are discussed with the external auditor.

### **Financial Affairs**

5. Understand the internal control systems implemented by Senior Accountable Officers and service team for the approval of transactions and the recording and processing of financial data.
6. Gain an understanding of the current areas of greatest risk around financial controls and advise and assure on risk management.
7. Keep under review the Council's financial procedure rules and contract procedure rules and all other corporate directions concerning financial control.
8. Review and assure the Treasury Management Strategy and Policy and consider quarterly updates on Treasury Management and make appropriate recommendations / observations to the Cabinet.

### **C. Internal and External Audit**

1. Keep under review the joint working arrangements of the Council's Internal and External Auditors.

#### **Internal Audit**

2. Promote the role of internal audit within the Council, as a key element of its control environment.

3. Review and approve the Internal Audit Charter, outlining the role, scope, independence, authority, responsibility and reporting of the department.
4. Keep under review the organisational structure and resource requirements of the Internal Audit Section and consider any impairments to independence or objectivity arising from additional roles or responsibilities outside of internal auditing of the Internal Audit Manager. To approve and periodically review safeguards to limit such impairments.
5. Make appropriate enquiries of both Senior Accountable Officers and the Internal Audit Manager to determine if there are any inappropriate scope or resources limitations.
6. Review, approve (but not direct) and monitor the delivery of the risk-based internal audit plan, the approach to using other sources of assurance and any work required to place reliance upon those other sources and ensure the plan considers changes arising from Government, Assembly or Council initiatives.
7. Approve significant interim changes to the risk based internal audit plan and resources requirements.
8. Receive summaries of all internal audit reports issued, highlighting key actions with corporate control implications.
9. Consider reports from the Internal Audit Manager on internal audit's performance during the year, including the performance of external providers of internal audit services. These will include:
  - Updates on the work of internal audit including key findings, issues of concern including monitoring the implementation of agreed actions contained within internal audit reports, receive report on actions not implemented within good timescales and seek explanations from officers where required.
  - Regular reports on the results of the Quality Assurance Improvement Programme (QAIP);
  - Reports on instances where the internal audit service does not conform to the Public Sector Internal Audit Standards (PSIAS) and Local Governance Advice Note (LGAN), considering whether the non-conformance is significant enough that it must be included in the AGS.
10. Receive and consider the Internal Audit Managers annual report:

- The statement of the level of conformance with the PSIAS and LGAN and the results of the QAIP that support the statement – these will indicate the reliability of the conclusions of internal audit.
  - The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion – these will assist the Committee in reviewing the Annual Governance Statement (AGS).
  - Keep performance indicators under review and evaluate, on an annual basis, the performance and effectiveness of internal audit and its compliance with best practice.
11. Consider summaries of specific internal audit reports as requested.
  12. Receive reports outlining the action taken where the Internal Audit Manager has concluded that Senior Accountable Officers and service teams have accepted a level of risk that may be unacceptable to the Council or there are concerns about progress with the implementation of agreed actions.
  13. Contribute to the Quality Assurance Improvement Programme (QAIP) and in particular, to the external quality assessment of internal audit that takes place at least once every five years.
  14. Meet separately with the Internal Audit Manager to discuss any matters that the Committee or internal auditors believe should be discussed privately.
  15. Should the needs arise, arbitrate in the event of any failure to agree between a Senior Accountable Officers and internal audit.
  16. Discuss with the external auditor the standard of work of internal audit.

## **External Audit and External Regulatory Bodies**

### **External Audit**

17. Support the independence of external audit through consideration of the external auditor's annual assessment of its independence.
18. Review the external auditors' proposed audit scope and approach for the current year in the light of the Authority's present circumstances and changes in regulatory and other requirements arising from Government, Assembly or Council initiatives.
19. Ensure that the annual audit is undertaken in compliance with statutory requirements.

20. Receive all audit reports, and the annual audit letter, issued by the external auditor, and ensure that all agreed recommendations are implemented.
21. Consider specific reports as agreed with the external auditor.
22. Discuss with the external auditor any audit problems encountered in the normal course of audit work, including any restriction on audit scope or access to information.
23. Meet separately with the external auditors to discuss any matters that the Committee or auditors believe should be discussed privately. Ensure the auditors have access to the chair of the Governance and Audit Committee when required.
24. Review, annually, the performance of external audit and co-ordinate any feedback requested from the Wales Audit Office.

#### **External Regulation: Performance**

25. External arrangements for regulation and assurance are provided by a number of statutorily appointed bodies such as the Wales Audit Office (WAO), Estyn and the Care Inspectorate Wales (CIW), plus a number of other external regulatory bodies. To examine how the organisation manages and spends public money including achieving value in delivery. This work is co-ordinated by the Chief Executive's Business and Communications team and a shared protocol for these working arrangements is in place.
26. To gain assurance and confidence of the Council's response to the external regulatory findings the Governance and Audit Committee will:
  - a) Receive periodic reports from external regulators which will include the Council's response to the reports and ensure that effective processes are in place for setting and monitoring against proportionate and effective action plans.
  - b) Receive an annual report collating external regulatory activity on improvement assessment work which is supplemented by local risk based audit work; and
  - c) Receive the Annual Improvement Report from the Auditor General

#### **D. Accountability Arrangements**

1. Require the attendance at the Committee of any officer or member, or the submission of a report from any officer, to provide further explanation in connection with any of the above terms of reference.

2. Evaluate the Committee's own performance, both of individual members and collectively, on a regular basis.
3. The Committee must meet at least once a year and must also do so if the Council decides or if at least a third of the Committee's members require a meeting. Beyond those requirements the Committee can meet whenever it likes.
4. The Governance and Audit Committee will keep the above terms of reference under annual review and propose any amendment to the County Council.
5. Report to full council and publish an annual report on the Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.

### 9.2.3 Composition

1. The Chair and Vice-Chair of the Governance and Audit Committee will be chosen by the Committee itself at its first meeting following each annual general meeting. The Chair and Vice Chair of the Governance and Audit Committee will be chosen from amongst the opposition group(s), non aligned Councillors or lay member on the Council (that is to say from amongst the group(s) none of whose members are included in the Cabinet). From May 2022 the appointment of the Chair must be from one of the Lay Members appointed to sit on the Committee.
2. The County Council shall appoint two (three from May 2022) people who are neither a serving Councillor nor an officer of the County Council or any other Council to serve as a lay member of the Committee with full voting rights. The lay member's term of office shall be from the first County Council meeting following the annual general meeting following the County Council elections until the first County Council meeting after the annual general meeting following the next County Council elections. No more than one member of the Committee shall be on the Council's Cabinet or an Assistant to the Cabinet. The Council Leader cannot be a member of the Committee.
3. It is the express wish of the Council that there should be continuity of membership of the Governance and Audit Committee so as to build up a body of expertise and maintain a consistency of approach.
4. In recognising the express wish of the Council, but observing the requirements of the legislation for political balance, the Governance and Audit Committee will comprise seven (six from May 2022) Members with the seats allocated in accordance with the legislation to the appropriate political groups and one lay member. Any proposed substitution shall comply with **Council Procedure Rule 22.4** and the proposed substitute shall have attended relevant training. Substitutes will only be permitted where the Governance and Audit Committee, at the commencement of its meeting, agrees that good reasons exist for substitution.

5. Members will receive induction training on appointment to the Committee. Ongoing training will be provided as necessary to meet the requirements of the Committee, based on the skills and experience of the members.
6. The business of the Committee shall be conducted apolitically.

## **Governance and Audit Committee Charter – approved December 2018**

### **Organisational Principles**

#### **1. Introduction**

- 1.1 The Governance and Audit Committee plays an important role in providing independent oversight of Flintshire County Council's (the Council's) governance, risk management, and internal control practices. This oversight mechanism also serves to provide confidence in the integrity of these practices.

#### **2. Background**

- 2.1 The current Governance and Audit Committee was established in May 2017. The charter for the Committee was established in November 2018 with the purpose to govern the work of the Committee. The charter will be reviewed and updated annually.

#### **3. Purpose**

- 3.1 The purpose of the Governance and Audit Committee is to provide a structured, systematic independent oversight of the Council's governance, risk management, and internal control practices. The Committee assists the Council and Senior Accountable Officers by providing advice and guidance on the adequacy of the Council's initiatives for:
  - a) Governance structure;
  - b) Risk management;
  - c) Internal control framework;
  - d) Oversight of the internal audit activity, external auditors, and other external assurance providers; and
  - e) Financial statements and public accountability reporting.
- 3.2 In broad terms, the Governance and Audit Committee reviews each of the items noted above and provides the Council with independent advice and guidance regarding the adequacy and effectiveness of Council's practices and potential improvements to those practices.

#### **4. Mandate**

- 4.1 The mandate for the establishment of the Governance and Audit Committee was derived from the Council at the Annual Meeting in 2002.

## **5. Authority**

- 5.1 The Governance and Audit Committee charter sets out the authority of the Committee to carry out the responsibilities established for it by the Council as articulated within the Governance and Audit Committee charter.
- 5.2 In discharging its responsibilities, the Governance and Audit Committee will have unrestricted access to Senior Accountable Officers, service teams, workforce, and relevant information it considers necessary to discharge its duties.
- 5.3 The Committee will also have unrestricted access to records, data, and reports. If access to requested documents is denied due to legal or confidentiality reasons, the Governance and Audit Committee and/or Internal Audit Manager will follow a prescribed, Council approved mechanism to resolve the matter.
- 5.4 The Governance and Audit Committee is entitled to receive any explanatory information that it deems necessary to discharge its responsibilities. The Council's Senior Accountable Officers and workforce should co-operate with Governance and Audit Committee requests.
- 5.5 The Governance and Audit Committee may engage independent counsel and/or other advisors it deems necessary to carry out its duties.
- 5.6 The Governance and Audit Committee is empowered to:
  - a) Resolve any disagreements between Senior Accountable Officers and the auditor regarding financial reporting and other matters; and
  - b) Pre-approve all auditing and non-audit services performed by auditors.

## **6. Composition of the Governance and Audit Committee**

- 6.1 The Committee will consist of eight members; at least one lay member that is independent of the Council. The members should collectively possess sufficient knowledge of audit, finance, specific industry knowledge, IT, law, governance, risk and control. As the responsibilities of the Governance and Audit Committee evolve in response to regulatory, economic, and reporting developments, it is important to periodically re-evaluate members' competencies and the overall balance of skills on the Committee in response to emerging needs. This would be completed as part of the Governance and Audit Committee's annual self-assessment.

## **7. The Chair of the Governance and Audit Committee**

- 7.1 The Governance and Audit Committee appoints its own chair; nominations for Governance and Audit Committee membership are made by the political groups on the Council. The Local Government (Wales) Measure 2011 states that the chair cannot be a member of a group represented on the Cabinet.

## **8. Terms of Office**

- 8.1 The term of office for an Governance and Audit Committee member is ~~either four or five years depending on the length of the Council.~~
- 8.2 Continuance of Governance and Audit Committee members will be reviewed annually. To ensure continuity within the Governance and Audit Committee, the appointment of members should be staggered (where appropriate).

## **9. Quorum**

- 9.1 The quorum for the Governance and Audit Committee will be three members.

## **10. Governance and Audit Committee Values**

- 10.1 The Governance and Audit Committee will conduct itself in accordance with the code of values and ethics of the Council. The Governance and Audit Committee expects that Senior Accountable Officers, service teams and the workforce of the Council will adhere to these requirements.

## **11. Communications**

- 11.1 The Governance and Audit Committee expects that all communication with Senior Accountable Officers, service teams, workforce of the Council as well as with any external assurance providers will be direct, open and complete.

## **12. Work Programme**

- 12.1 The Governance and Audit Committee chair will collaborate with Senior Accountable Officers and the Internal Audit Manager to establish a work plan to ensure that the responsibilities of the Governance and Audit Committee are scheduled and will be carried out.

## **13. Meeting Agenda**

- 13.1 The Committee establishes the agendas for Governance and Audit Committee meetings through the forward work programme and in consultation with Senior Accountable Officers and the Internal Audit Manager.

## **14. Information Requirements**

- 14.1 The Governance and Audit Committee will establish and communicate its requirements for information, which will include the nature, extent, and timing of information. Information will be provided to the Governance and Audit Committee at least one week prior to each Governance and Audit Committee meeting.

## **15. Executive Sessions**

- 15.1 The Governance and Audit Committee will schedule and hold if necessary, a private session with the Chief Executive, the Corporate Finance Manager (the designated Chief Financial Officer (CFO)), the Internal Audit Manager, external assurance providers, and with any other officials that the Governance and Audit Committee may deem appropriate at each of its meetings.

## **16. Preparation and Attendance**

- 16.1 Governance and Audit Committee members are obliged to prepare for and participate in committee meetings.

## **17. Conflict(s) of Interest**

- 17.1 Governance and Audit Committee members should adhere to the Council's Code of Conduct and any values and ethics established by the Council. It is the responsibility of Governance and Audit Committee members to disclose any conflict of interest or appearance of a conflict of interest to the Committee. If there is any question as to whether Governance and Audit Committee member(s) should recuse themselves from a vote, the Committee should vote to determine whether the member should recuse himself or herself.

## **18. Training**

- 18.1 Governance and Audit Committee members will receive formal training on the purpose and mandate of the Committee and on the Council's objectives. Further training needs will be identified by the Governance and Audit Committee during committee meetings and as part of their annual self-assessment.

## **19. Meetings**

- 19.1 The Governance and Audit Committee will meet at least five times annually or more frequently as the Committee deems necessary. The time frame between Governance and Audit Committee meetings should not exceed four months.

## **20. Minutes**

- 20.1 Meeting minutes will be provided in draft format at least two weeks after the Governance and Audit Committee meeting.

## **21. Attendance**

21.1 Where possible, the Internal Audit Manager, Chief Officer for Governance and Council Monitoring Officer, and Chief Executive will attend Governance and Audit Committee meetings.

## **22. Meeting Facilitation and Co-ordination**

22.1 Committee Services will facilitate and co-ordinate meetings as well as provide ancillary support to the Committee, as time and resources permit.

## **23. Remuneration of Committee Members**

23.1 Committee members may claim reimbursement for travel. Full details can be found in the Members' Allowances policy.

23.2 Payment rates and allowances for co-opted committee members' time and/or services are established formally in accordance with the Independent Remuneration Panel for Wales (IRPW).

## **24. Organisational Governance**

24.1 To obtain reasonable assurance regarding the Council's governance process, the Governance and Audit Committee will review and provide advice on the governance process established and maintained within the Council and the procedures in place to ensure that they are operating as intended.

## **25. Risk Management**

25.1 To obtain reasonable assurance and confidence of the Council's risk management practices, the Governance and Audit Committee will:

- a) Annually review the Council's risk profile;
- b) Obtain from the Internal Audit Manager an annual report on the implementation and maintenance of a risk management process;
- c) Provide oversight on significant risk exposures and control issues, including fraud risks, governance issues, and other matters needed or requested by Senior Accountable Officers and the Council;
- d) Provide oversight of the adequacy of the combined assurance being provided; and
- e) Receive and assure the Risk Management Strategy through regular reports on risk management, processes, procedures and outcomes.

## **26. Fraud**

26.1 Obtain reasonable assurance and confidence of the Council's procedures for the prevention and detection of fraud, the Governance and Audit Committee will:

- a) Oversee the Council's arrangements for the prevention and deterrence of fraud; and
- b) Challenge Senior Accountable Officers and internal and external auditors to ensure that the Council has appropriate anti-fraud programmes and controls in place to identify potential fraud and ensure that investigations are undertaken if fraud is detected.

## **27. Control**

27.1 Obtain reasonable assurance and confidence over the adequacy and effectiveness of the Council's controls in responding to risks within the Council's governance, operations and information systems, the Governance and Audit Committee will:

- a) Consider the effectiveness of the Council's control framework, including information technology security and control;
- b) Receive reports on all matters of significance arising from work performed by other assurance providers of financial and internal control assurance.

## **28. Compliance**

28.1 The Governance and Audit Committee will:

- a) Review the effectiveness of the system for monitoring compliance with laws and regulations and the results of investigation and follow-up of any instances of non-compliance;
- b) Review the observations and conclusions of internal and external auditors and the findings of any regulatory agencies;
- c) Review the process for communicating the Code of Conduct to the Council's personnel and for monitoring compliance; and
- d) Obtain regular updates from Senior Accountable Officers and the Council's legal counsel regarding compliance matters.

## **Oversight of Assurance Providers**

### **29. Internal Audit Activity**

29.1 To obtain reasonable assurance regarding the work of internal audit, the Governance and Audit Committee will oversee the internal audit charter and resources. In particular:

- a) Review and approve the internal audit charter at least annually. The charter should be reviewed to ensure that it accurately reflects the internal audit activity's purpose, authority, and responsibility, consistent with the mandatory guidance of the IIA's International Professional Practices Framework, namely the Public Sector Internal Audit Standards (PSIAS) and the scope and nature of assurance and consulting services, as well as changes in the financial, risk management, and governance processes of the Council and reflects developments in the professional practice of internal auditing; and
- b) Advise the Council about increases and decreases to the requested resources to achieve the internal audit plan. Evaluate whether any additional resources are needed permanently or for an interim period.

#### **29.2 Internal Audit Manager's Performance**

- a) The Chair of the Governance and Audit Committee is involved in the recruitment and appointment of the Internal Audit Manager; and
- b) Provide input into the performance evaluation of the Internal Audit Manager.

#### **29.3 Internal Audit Strategy and Plan**

- a) Review and provide input, but not direct, on the internal audit activity's strategic risk-based plan, objectives, performance measures and outcomes; and
- b) Review the internal audit activity's performance relative to the audit plan.

#### **29.4 Internal Audit Engagement and Follow Up**

- a) Review internal audit reports and other communications to Senior Accountable Officers and service teams;
- b) Review and track Senior Accountable Officers action plans to address the results of internal audit engagements;
- c) Review and advise Senior Accountable Officers and service teams on the results of any special investigations;
- d) Confirm with the Internal Audit Manager whether any internal audit engagements or non-audit engagements have been completed but not reported to the Committee; if so, inquire whether any matters of significance arose from such work; and
- e) Confirm with the Internal Audit Manager whether any evidence of fraud has been identified during internal audit engagements and evaluate what additional actions, if any, should be taken.

## 29.5 Expectations of Responsibilities.

There is an expectation of the Senior Accountable Officers and service teams to work with speed and support in responding to Internal Audit reports, working on and following an annual shared work programme and responding to ad hoc work of the Committee.

## 29.6 Standards Conformance

- a) Inquire of the Internal Audit Manager about steps taken to ensure that the internal audit activity conforms with the IIA's International Standards for the Professional Practice of Internal Auditing (Standards), namely the Public Sector Internal Audit Standards (PSIAS);
- b) Ensure that the internal audit has a quality assurance and improvement programme and that the results of these periodic assessments are presented to the Governance and Audit Committee;
- c) Ensure that the internal audit has an external quality assurance review every five years;
- d) Review the results of the independent and external quality assurance review and monitor the implementation of the internal audit action plans to address any recommendations; and
- e) Advise the Council about any recommendations for the continuous improvement of the internal audit service.

## 30. External Auditors and other Regulatory Bodies

### External Audit – Financial Assurance:

- 30.1 Obtain reasonable assurance of the work of the external assurance providers, the Governance and Audit Committee will meet with the external assurance body, currently Wales Audit Office, during the planning phase, the presentation of the audited financial statements, and the discussion of the results of engagements and recommendations for Senior Accountable Officers and service teams.
- 30.2 The Auditor General and staff of the Wales Audit Office aim to provide public-focused and proportionate reporting on the stewardship of public resources and in the process provide insight and promote improvement.
- 30.3 The Governance and Audit Committee will:
  - a) Review the external auditors' proposed audit scope and approach, including co-ordination of audit effort with the internal audit service;
  - b) Obtain statements from the external auditors about their relationships with the Council, including non-audit services performed in the past, and

discuss the information with the external auditors to review and confirm their independence;

- c) Where relevant, hold periodic private meetings with external auditors to discuss any sensitive matters;
- d) Monitor Senior Accountable Officers and service teams progress on action plans; and
- e) Obtain reasonable assurance that Senior Accountable Officers and service teams have acted on the results and recommendations of internal and external audit, the Governance and Audit Committee will regularly review reports on the progress of implementing approved action plans and audit recommendations resulting from completed audits.

#### **External Regulation – Performance Assurance:**

- 30.4 External arrangements for regulation and assurance are provided by a number of statutorily appointed bodies such as the Wales Audit Office (WAO), Estyn and the Care Inspectorate Wales (CIW), plus a number of other external regulatory bodies. To examine how the organisation manages and spends public money including achieving value in delivery.
- 30.5 Auditor General and staff of the Wales Audit Office aim to provide public-focused and proportionate reporting on the stewardship of public resources and in the process provide insight and promote improvement.
- 30.6 This work is co-ordinated by the Chief Executive's Business and Communications team and a shared protocol for these working arrangements is in place.
- 30.7 To gain assurance and confidence of the Council's response to the external regulatory findings the Governance and Audit Committee will:
  - a) Receive periodic reports from external regulators which will include the Council's response to the reports;
  - b) Receive an annual report collating external regulatory activity on improvement assessment work which is supplemented by local risk based audit work; and
  - c) Receive the Annual Improvement Report from the Auditor General.

### **31 Financial Statements and Public Accountability Reporting**

- 31.1 The Governance and Audit Committee is responsible for oversight of the independent audit of the Council's financial statements, including but not limited to overseeing the resolution of audit findings in areas such as internal control, legal, and regulatory compliance.

31.2 The Governance and Audit Committee will:

- a) Review with Senior Accountable Officers and the external auditors the results of audit engagements, including any difficulties encountered;
- b) Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements;
- c) Review the annual financial statements, and consider whether they are complete, consistent with information known to committee members, and reflect appropriate accounting principles;
- d) Review other sections of the annual report and related regulatory filings and consider the accuracy and completeness of the information before it is released;
- e) Review with Senior Accountable Officers and the external auditors all matters required to be communicated to the Governance and Audit Committee under generally accepted external auditing standards;
- f) Understand the strategies, assumptions and estimates Senior Accountable Officers and service teams have made in preparing financial statements, budgets, and investment plans;
- g) Understand how Senior Accountable Officers and service teams develop interim financial information and the nature and extent of internal and external auditor involvement in the process;
- h) Review interim financial reports with Senior Accountable Officers and the external auditors before filing with regulators, and consider whether they are complete and consistent with the information known to committee members; and
- i) Review the Council's Treasury Management policy and receive regular updates on the Council's performance.

## **32 Other Responsibilities**

32.1 In addition, the Governance and Audit Committee will:

- a) Perform other activities related to this charter as requested by the Council;
- b) Institute and oversee special investigations as needed; and
- c) Regularly evaluate its performance and that of its individual members through an annual self-assessment.

32.2 The Chair and Vice Chair of the Governance and Audit Committee will be a member of the Chair and Vice Chair Liaison Group with the primary objective to:

- a) Review the work programme to ensure duplication is kept to a minimum
- b) Review the Council's risk profile to ensure shared covered.
- c) Escalate poor performance between committees for consideration and future monitoring.

Appendix A of the Charter provides a diagram of the co-ordination of work between the Overview and Scrutiny and Governance and Audit Committees.

### **33 Reporting on Governance and Audit Committee Performance**

33.1 The Governance and Audit Committee will report to the Council annually, summarising the Committee's activities and recommendations. The report may be delivered during an Governance and Audit Committee meeting attended by the Chair of the Council or during a regularly scheduled meeting of the Council.

33.2 The report should also include:

- a) A summary of the work the Governance and Audit Committee performed to fully discharge its responsibilities during the preceding year;
- b) A summary of Senior Accountable Officers and service teams progress in addressing the results of internal and external audit reports;
- c) An overall assessment of management's risk, control, and compliance processes, including details of any significant emerging risks or legislative changes impacting the governing organisation;
- d) Details of meetings including the number of meetings held during the relevant period and the number of meetings each member attended;
- e) Provide information required, if any, by new or emerging corporate governance developments; and
- f) The Committee may report to the Council at any time regarding any other matter it deems of sufficient importance.

### **9.3 Planning Committee**

#### **9.3.1 Role**

The role of the Planning Committee is as follows:-

- (a) To determine applications submitted to the Council in its capacity as local and mineral planning Authority except where such applications are otherwise determined in accordance with the Council's Scheme of Delegation.
- (b) To determine all applications for planning permission, listed building consent and advertisement consent except where any such applications have been determined in accordance with the Council's Scheme of Delegation other than where any such applications have been determined in accordance with the Executive Arrangements.
- (c) To determine any issues relating to the processing, consideration or determination of the types of application referred to in the preceding paragraphs, including the Council's position on "called in applications" (within the terms of section 77 of the Town and Country Planning Act 1990), and in relation to appeals against the non determination of applications, except where such issues have been determined under the Council's Scheme of Delegation other than where such issues have been determined under the Executive Arrangements.
- (d) To determine any policy issues relating to the discharge of the Council's development control function, including tree preservation orders, hedgerow protection, and enforcement action, where such issues are to be determined by the Chief Officer in accordance with the Scheme of Delegation and to itself determine any such matters which are not so delegated.
- (e) To keep under review the Council's performance in the discharge of its development control function.

#### **9.3.2 Form and Composition**

The Committee will consist of 17 Councillors, and its composition will be politically balanced.

#### **9.3.3 Substitutes**

The size and composition of Local Planning Authority Committees (Wales) Regulations 2017 has removed the ability to have substitutes at Planning Committee.

#### **9.3.4 Quorum**

A meeting of the Planning Committee shall only be quorate when at least 50% of the committee are present, as required by the Local Planning Authority Committees (Wales) Regulations 2017.

#### **9.3.4 Restriction on membership**

The Committee may only include 1 Councillor from one ward. (The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 requires that a planning committee may only include one members from a multi-member ward/electoral division. Where a multiple member ward/division is represented by councillors who are not in the same group (and both wish to be on the Planning Committee) then the respective group leaders should seek to reach agreement. If that is not possible then the nomination should be determined by the drawing of lots or the toss of a coin.

#### **9.4 Licensing Committee**

The Council is required by the Licensing Act 2003 to establish a Licensing Committee.

##### **9.4.1 Composition**

The Licensing Committee will consist of between 10 and 15 Members and be politically balanced. (This was confirmed at the 2018 Annual Meeting as 12 Members) The Chair and Vice-Chair of the Licensing Committee may be chosen from any group or non-aligned Councillors.

##### **9.4.2 General Role**

The role of the Licensing Committee will be as follows:-

- (a) To draft, consult upon and recommend to the County Council a Licensing Act Policy every 5 years, a Gambling Act Policy every three years and policies regarding Private Hire and Hackney Carriage Licensing as and when required. To keep such Policies under review, recommending any revisions necessary to the County Council.
- (b) To determine applications for licensable activities under the Licensing Act 2003 including premises licenses, personal licences and club premises certificates.
- (c) To determine applications under the Gambling Act 2005 for premises licences and permits.
- (d) To determine applications under the Private Hire/Hackney Carriage licensing regime and to determine whether individuals are 'fit and proper persons' to hold licences.
- (e) Any other matters delegated to the Committee from time to time.

##### **9.4.3 Sub-Committees**

The Committee may delegate its functions to one or more Sub-Committees established by it, or in a limited number of circumstances to an officer of the

Authority. A Sub-Committee must comprise 3 Members and a number of Sub-Committees or officers with delegated powers can, if required to do so, operate at the same time. The following delegations have been granted:-

| <b>Licensing Act Matters</b>  | <b>Full Committee</b> | <b>Sub-Committee</b>            | <b>Chief Officer, Planning, Environment &amp; Economy</b> |
|---|-----------------------|---------------------------------|---|
| Application for personal licence  |                       | If Police objection             | If no objection made                                      |
| Application for personal licence with unspent convictions   |                       | All cases                       |   |
| Application for premises licence/club premises certificates   |                       | If relevant representation made | If no relevant representation made                        |
| Application for provisional statement   |                       | If relevant representation made | If no relevant representation made                        |
| Application to vary premises licence/club premises certificate  |                       | If relevant representation made | If no relevant representation made                        |
| Application to vary designated premises supervisor  |                       | If a Police objection           | All other cases   |
| Request to be removed as designated premises supervisor   |                       |                                 | All cases   |
| Application for transfer of premises licence  |                       | If a Police objection           | All other cases   |
| Applications for interim authorities  |                       | If a Police objection           | All other cases   |
| Application to review premises licence/club premises certificate  |                       | All cases                       |   |
| Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.   |                       |                                 | All cases   |
| Decision to object when local Authority is a consultee and not the relevant Authority considering the application |                       | All cases                       |   |
| Determination of a Police objection to a temporary event notice   |                       | All cases                       |   |
| Five year licensing policy  | X                     |                                 |   |

|  |                     |  |   |
|--|---------------------|--|---|
| Determination of applications for Sexual Entertainment Venues. |                     | X  |   |
| <b>Gambling Act Matters</b>                                    | <b>Full Council</b> | <b>Licensing Sub-Committee</b>                               | <b>Officers</b>   |
| Three year licensing policy                                    | X                   |  |   |
| Policy not to permit casinos                                   | X                   |  |   |
| Fee Setting – when appropriate                                 |                     |  | X   |
| Application for premises licences                              |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Application for a variation to a licence                       |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Application for transfer of a licence                          |                     | Where representations have been received from the Commission | Where no representations received from the Commission                   |
| Application for a provision statement                          |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Review of a premises licence                                   |                     | X  |   |
| Application for club gaming/ club machine permits              |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Cancellation of club gaming/ club machine permits              |                     | X  |   |
| Applications for other permits                                 |                     |  | X   |
| Cancellation of licensed premises gaming                       |                     |  | X   |

|  |                                 |                                |                 |
|--|---------------------------------|--------------------------------|-----------------|
| machine permits  |                                 |                                |                 |
| Consideration of temporary use notice  |                                 |                                | X               |
| Decision to give a counter notice to a temporary use notice  |                                 | X                              |                 |
| Determination as to whether a person is an Interested Party  |                                 |                                | X               |
| Determination as to whether representations are relevant   |                                 |                                | X               |
| Determination as to whether a representation is frivolous, vexatious or repetitive   |                                 |                                | X               |
|  |                                 |                                |                 |
| <b>Private Hire/Hackney Carriage Matters</b>   | <b>Full Licensing Committee</b> | <b>Licensing Sub Committee</b> | <b>Officers</b> |
| Changes to Policy and Strategy or the setting of licence fees  | X                               |                                |                 |
| Determining applications that are not contentious  |                                 |                                | X               |
| Determining contentious applications (contentious means those applicants that have relevant convictions or other sanctions as identified by CRB checks, driving licence irregularities or medical conditions that may affect driving. Also includes those who are convicted of offences while licensed or develop relevant medical conditions while licensed). |                                 | X                              |                 |
| Determining the suitability of vehicles to be licensed if other than conventional vehicles   |                                 | X                              |                 |
| Power to licence hackney carriages and private hire vehicles – (a) as to hackney carriages, the Town Police Clauses  |                                 |                                | X               |

|   |  |  |   |  |
|---|--|--|---|--|
| Act 1847 (19 & 11 Vict. C89), as extended by Section 171 of the Public Health Act 1875 (38 & 39 Vict. C55), and Section 151 of the Transport Act 1985 (c67); and Section 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c57)<br><br>(b) as to private hire vehicles, Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 |  |  |   |  |
| Power to license drivers of hackney carriages and private hire vehicles - Sections 51, 53, 54, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976  |  |  | X |  |
| Power to license operators of hackney carriages and private hire vehicles - Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976  |  |  | X |  |

#### 9.4.4 Procedures

The Committee may regulate its own procedure and that of its Sub-Committees, subject to any regulations, in relation to the conduct of hearings, access to the public and publicity. Any procedures adopted must comply with Human Rights Legislation.

# Statement of Gambling Policy

GAMBLING Act 2005  
January 2019

## **FOREWORD**

Since the Gambling Act 2005 has been in force, the Council has worked effectively with the industry and with its partner agencies to ensure that standards continue to be met.

The Council will continue to work in partnership with the Gambling Commission and the various Responsible Authorities to ensure that the licensing objectives are promoted, and in particular that there are measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling.



**Councillor Tony Sharps**

**Chair of the Licensing  
Committee**

**January 2019**

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## 1. Introduction

### 1.1 Background

- 1.1.1 Under the provisions of the Gambling Act 2005, Flintshire County Council is the **Licensing Authority** (and is referred to in this document as “the licensing authority”) responsible for granting gambling Premises Licences, Notices, Permits and Registrations in the county of Flintshire.
- 1.1.2 The Gambling Act 2003 (“the Act”) requires a licensing authority to prepare and publish a statement of licensing policy (“the policy”) at least every three years. This policy is made under Section 349 of the Act and in accordance with the ‘Guidance to Local Authorities’ issued by the Gambling Commission under Section 25 of the Act (“the Guidance”).
- 1.1.3 The licensing authority is bound by the Act and any regulations made under the Act. The licensing authority must have regard to the Guidance and the Licence Conditions and Codes of Practice (LCCP) issued by the Gambling Commission (Section 153). If it considers it appropriate, the licensing authority may depart from the Guidance if they have good reason to do so and can provide full reasons.
- 1.1.4 The policy comes into force at the time of adoption, and will remain in force until a statutory or other review and consultation process is deemed necessary. The licensing authority will keep the policy under review, making any amendments it considers appropriate to support the licensing objectives. Any amendments will be published in the form of a new policy statement or, if appropriate, by publishing the amendment.
- 1.1.5 The policy will normally apply to any application determined after the date that the licensing authority resolved to make these policies operational, irrespective of the date on which the application was made.
- 1.1.6 The Appendixes are to be read in conjunction with this policy however they do not form part of the policy and may be updated at any time.

## 2. Geography of Flintshire County Council

- 1.2.1 Flintshire is the north-eastern gateway to Wales, and is bounded by the counties of Wrexham, Denbighshire and Cheshire West and Chester. The Dee Estuary defines the North Eastern limit of the County. The extreme north-west of the county is bounded by the Irish Sea, although the North Wales coastal resorts of Rhyl and Prestatyn lie just outside the county, while the built-up area around Chester straddles the English / Welsh border at Saltney. The south-west of the county is bounded by the Clwydian Hills which forms a distinct boundary with Denbighshire.
- 1.2.2 Flintshire covers an area of 438 km<sup>2</sup> including the Dee Estuary and 43,464 hectares excluding the estuary. Census 20011 statistics show that the area

supports 152,500 people, making the county the sixth largest in Wales in terms of population

(exceeded only by Cardiff, Rhondda Cynon Taf, Swansea, Carmarthenshire and Caerphilly). A map of the county is shown at [Appendix A](#).

- 1.2.3 This gives a population of 342 persons per square kilometre. This is more than double the average population densities for both North Wales and for Wales as a whole. Flintshire's density is average for England and Wales, but above that of the UK as a whole. From its close neighbours, only the urban areas of the Wirral and Ellesmere Port have a higher density.

### 1.3 Consultation Process

- 1.3.1 The necessary consultation process has been undertaken and the responses incorporated into this policy where applicable.

## 2. Scope and Extent

- 2.0.1 The purpose of this statement of licensing policy is to set out the principles the licensing authority will apply when exercising its licensing function, i.e. when regulating the gambling activities within the terms of the Act. Reference will be made to the Act for ease of understanding however it is not intended to be a simplified summary of the law.

- 2.0.2 The Act defines **Gambling** as:-

- 2.0.3 **Gaming** - means playing a 'game of chance' for a prize. A 'game of chance' includes a game that involves both an element of chance and skill, a game that involves an element of chance that can be eliminated by superlative skill, and a game that is presented as involving an element of chance, but does not include a sport.

- 2.0.4 **Betting** – means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.

- 2.0.5 **Taking part in a lottery** – means paying in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

A full glossary of the terms used in the Act and in this policy can be found in [Appendix B](#).

- 2.0.6 It is a criminal offence under Section 33 of the Act to provide facilities for Gambling unless an exception is provided for under the Act.

- 2.0.7 The **types of authorisation** the Act requires the licensing authority to

regulate are:-

- Premises Licences
- Temporary Use Notices
- Occasional Use Notices
- Permits as required under the Act; and
- Registrations as required under the Act.

2.0.8 This policy relates to all premises licences, notices, permits and registrations identified as falling within the provisions of the Act, namely: -

- Premises Licences
  - Casinos;
  - Bingo Premises;
  - Betting Premises;
  - Tracks (*site where races or other sporting events take place*);
  - Adult Gaming Centres;
  - Licensed Family Entertainment Centres;
- Notices
  - Temporary Use Notices
  - Occasional Use Notices
- Permits
  - Family Entertainment Centre Gaming Machine Permits;
  - Club Gaming Permits;
  - Club Gaming Machine Permits;
  - Alcohol licensed premises Gaming Machine Permits;
  - Prize Gaming Permits;
- Registrations
  - Registrations of Small Society lotteries.

### 3. Licensing Objectives

3.0.1 When exercising its functions under the Act the licensing authority must seek to promote the three **licensing objectives** contained in the Act. The three objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

#### 3.1 **Objective 1: Preventing Gambling from being a source of Crime and Disorder**

3.1.1 The licensing authority will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime

and disorder.

3.1.2 The Guidance for local authorities notes that “disorder is intended to mean activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.” The licensing authority agrees with this statement.

3.1.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the licensing authority Licensing Officers and/or North Wales Police before making a formal application.

3.1.4 In considering licence applications, the licensing authority will particularly take into account the following:

- The design and layout of the premises;
- The training given to staff in crime prevention measures appropriate to those premises;
- Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- The likelihood of any violence, public order or policing problem if the licence is granted.

### 3.2 **Objective 2: Ensuring that Gambling is conducted in a Fair and Open Way**

3.2.1 Generally, the Commission would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the Operating Licence, or will be in relation to the suitability and actions of an individual and therefore subject to the Personal Licence, both of which are the responsibility of the Gambling Commission.

### 3.3 **Objective 3: Protecting Children and other Vulnerable Persons**

3.3.1 With limited exceptions, the access of children and young persons to licensed gambling premises, which are adult only environments, will not be permitted.

3.3.2 The licensing authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

3.3.3 The licensing authority will consult with the Local Safeguarding Children Board on any application that indicates there may be concerns over access for children or vulnerable persons.

3.3.4 The licensing authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. This may include such requirements as:

- Supervision of entrances;
- Segregation of gambling areas from areas frequented by children;
- Supervision of gaming machines in non-adult gambling specific premises.

3.3.5 The 2005 Act provides for a Code of Practice on access to casino premises by children and young persons and the licensing authority will work closely with the police to ensure the appropriate enforcement of the law.

3.3.6 The licensing authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children but it will assume, for regulatory purposes, that 'vulnerable persons' includes :

- people who gamble more than they want to;
- people who gamble beyond their means; and
- people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

## 4. Legislation and Policies

### 4.1 Legislation

4.1.1 In undertaking its licensing function under the Gambling Act 2005, the licensing authority must also consider other legislation. These include:-

- Equalities Act 2010
- Section 17 of the Crime and Disorder Act 1988;
- Human Rights Act 1998;
- Health and Safety at Work etc. Act 1974;
- Environmental Protection Act 1990;
- The Anti-social Behaviour Act 2003;
- Race Relations Act, 1976 (as amended)
- The Licensing Act 2003
- Regulatory Return (Fire Safety) Order 2005
- The Regulators' Compliance code
- Flintshire County Council's Public Protection Enforcement Policy

However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on employers and

operators.

## 4.2 Planning and Building Control

- 4.2.1 When determining an application regard cannot, under the terms of the Act, be given to planning or building control permissions and / or any planning restrictions.
- 4.2.2 Flintshire County Council's planning policies are set out in the 'Flintshire Unitary Development Plan' and various supplementary planning guidance, all of which are available to view on the Council's website. Building Regulation Guidance is also available on the Council's website and it is important to check that any changes made to a building, including structural, drainage or electrical accord with those regulations.
- 4.2.3 The issue of a Provisional Grant of a premises licence is a separate and distinct process to the granting of Planning Permission. Planning and Building Control permissions will have to be sought and approved before any development takes place.

- 4.2.4 The licensing authority will normally expect that prior to the submission of a licensing application, the appropriate planning permission will have been granted in respect of any premises. However, applications for licences may be made before any relevant planning permission has been sought or granted.
- 4.2.5 The authority will also normally expect the activity to be authorised by the licence to be a lawful planning use and that any operating hours sought do not exceed those, if any, authorised by the planning permission.
- 4.2.6 Operating hours granted within the licensing process do not replace any restrictions imposed as a planning condition. Planning conditions will be addressed through the planning process.
- 4.2.7 The licensing authority will seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the objectives of the licensing function.
- 4.2.8 The licensing authority will consider applications with reference to other adopted local policies, including the following:
- The Council's Visions, Strategic Aims and Priorities
  - Community Safety Strategy
  - Enforcement Policy

## 5. Delegation, Licensing Committee and Decision Making

### 5.1 Delegation

- 5.1.1 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub Committee to deal with them.
- 5.1.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, for example, those licences and permits where no representations have been made, will be delegated to Council Officers.
- 5.1.3 The table shown at Appendix C sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub Committee and Officers.
- 5.1.4 This form of delegation is without prejudice to Officers referring an application to a Panel, a Panel to Full Committee, or Committee to Full Council, if appropriate.

### 5.2 Licensing Committee

- 5.2.1 The Act provides that the functions of the licensing authority, including its determinations are to be carried out by its licensing committee.
- 5.2.2 The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority.
- 5.2.4 A Sub Committee made up of three councillors from the Licensing Committee will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a panel involving an application within their ward.
- 5.2.5 Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

### 5.3 DECISION MAKING

- 5.3.1 Every determination of a licensing decision by the Licensing Committee or Sub-committee shall be accompanied with clear, cogent reasons for the

decision. The decision and the reasons for that decision will be sent to the Applicant and those who have made relevant representations as soon as practicable.

- 5.3.2 The Council's licensing officers will deal with all other licence applications where either no representation have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
- 5.3.3 Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or panels. Where representations are rejected written reasons as to why that is the case will be given.
- 5.3.4 In order to avoid duplication with other statutory regimes as far as possible the licensing authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

## 6. General Principles

- 6.0.1 Nothing in this 'Statement of Policy' will:
- Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
  - Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.
- 6.0.2 The licensing authority, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.
- 6.0.3 The licensing authority shall aim to permit the use of premises for gambling in so far as they think it is
- In accordance with any relevant code of practice under Section 24 of the Act;
  - In accordance with any relevant guidance issued by the Commission;
  - Reasonably consistent with the licensing objectives
  - In accordance with the licensing authority's statement of licensing policy.
- 6.0.4 Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Act.

## **6.1 Competent Authority for Protection of Children from harm**

- 6.1.1 The licensing authority, designates the Local Safeguarding Children Board as the competent authority to provide advice on the protection of children from harm given the wealth of specialist knowledge and expertise to hand to fulfil this role.
- 6.1.2 The Act indicates each licensing authority must nominate a single body to undertake this function but it may be prudent for the licensing authority to involve other organisations if it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect.

## **6.2 Interested Parties**

- 6.2.1 For the purposes of the Gambling Act 2005, a person is an interested party in relation to a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - Has business interests that might be affected by the authorised activities; this could also include, for example, trade associations, charities, faith groups and medical practices.
  - Represents persons who satisfy either of the above; for example Residents' and Tenants' Associations.
- 6.2.2 When considering whether a person is an interested party, each case will be judged on its merits taking into consideration the relevant circumstances, including those contained in the Guidance to local authorities.
- 6.2.3 Where a person, whether or not directly affected by an application or living in the vicinity of a licensable premise under consideration, puts themselves forward as representing the interests of residents in the vicinity, the licensing authority will normally ask them to provide evidence that they are acting as representatives of others.

## **6.3 Exchange of Information**

- 6.3.1 In fulfilling its functions and obligations under the Gambling Act 2005 the licensing authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information the licensing authority will conform to the requirements of the Gambling Act, Data Protection and Freedom of Information legislation in accordance with the Council's existing policies.
- 6.3.2 Contact details of those persons making representations and details of the representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document.

Anyone making representation or applying for a review of a premises licence will be informed that these details will be disclosed.

## 6.4 Inspection and Criminal Proceedings

6.4.1 The licensing authority will be guided by the Gambling Commission's Guidance and will endeavour to be:

- **Proportional:** regulators will only intervene when necessary; remedies will be appropriate to the risk posed and costs identified and minimized.
- **Accountable:** regulators will be able to justify decisions and be subject to public scrutiny.
- **Consistent:** rules and standards will be joined up and implemented fairly.
- **Transparent:** regulators will be open and endeavour to keep regulations simple and user friendly;
- **Targeted:** regulation will be focused on the problem and minimize side effects.

6.4.2 The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

6.4.3 The licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls;
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour;
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence.

6.4.4 This licensing authority has adopted a risk based inspection programme, i.e. those premises considered to pose a greater risk will be subject to more frequent inspections than those posing a lower risk.

6.4.5 When determining risk, consideration will be given to :-

- the nature of the gambling activities carried out on the premises
- the location of the premises in relation to schools etc.
- the procedures put in place by the management to meet the licensing objectives.

6.4.6 The licensing authority will make arrangements to monitor premises, undertake inspections and take appropriate enforcement is deems

necessary to support and promote the licensing objectives or following receipt of complaint. The district will be monitored for unlicensed premises.

6.4.7 The licensing authority will seek to work actively with the police in enforcing licensing legislation. It encourages the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998.

6.4.8 In general terms, action will only be taken in accordance with the Public Protection Service Enforcement Policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

6.4.9 Where conditions have been imposed on a licence, an authorised person of the licensing authority may inspect the premises at any reasonable time for the purpose of checking that those conditions are being complied with.

6.4.10 The licensing authority will consider issuing a written informal warning to a licence holders specifying recommended improvement within a particular period of time if it deems necessary to support and promote the licensing objectives.

## 7. Licensing Process

7.0.1 **Applicants are advised that the application process for each type of authorisation or permission is set out in detail in the Act, the Regulations and the Guidance.**

7.0.2 Applications must be made on the prescribed or local form, and be accompanied by a fee. All prescribed forms and notices can be downloaded from the Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

7.0.3 A request for an application form may also be made directly to the licensing authority via telephone 01352 703030

7.0.4 Applicants may submit applications electronically to the licensing authority by hardcopy or via email to [Licensing@Flintshire.gov.uk](mailto:Licensing@Flintshire.gov.uk).

### 7.1 Applications

7.1.1 The starting point in determining applications will be to grant the application, without conditions.

7.1.2 Conditions will only be considered where they are needed to meet the requirements of the licensing objectives and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the 'risks' involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

7.1.3 When determining an application to grant a premises licence or whether to review a premises licence, regard will be given to

- the proximity of the premises to schools, vulnerable adult centres, or to residential areas with a high concentration of families with children, and
- the size and scope of the gambling premises concerned.

7.1.4 **Each case will be determined on its own merits.** Therefore, if an applicant can effectively demonstrate how they might overcome licensing objective concerns, this will be taken into account.

7.1.5 *Where there are no **relevant representations** from Responsible Authorities or Interested Parties to an application the licence will be granted provided that the application is made in accordance with the requirements of the Act. For representations to be relevant they must*

- *relate to the promotion of one of the three licensing objectives;*
- *be made by a responsible authority or interested party within the prescribed period;*
- *not been withdrawn; and*
- *they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.*

*Where relevant representations on an application are received and the application has been made in accordance with the requirements of the Act, any non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence.*

## 7.2 Mediation

7.2.1 *Where a relevant representation concerning the licensing objectives is made by a responsible authorities or interested party, the licensing section will decide whether the representation is relevant.*

7.2.2 *Where the licensing authority find the representation to be relevant it may recommend a **mediation meeting** to address and clarify the issues of concern.*

7.2.3 This process will not override the right of an applicant or interested party to decline to participate in a mediation meeting.

7.2.4 *If this informal process is unsuccessful a hearing before the licensing committee or sub-committee will follow. All relevant parties will be notified.*

7.2.5 *The determination of the application will be made by the licensing committee or sub-committee and the details of that decision will be circulated to the parties concerned.*

## 7.3 Conditions

7.3.1 The Act and regulations provide for specific conditions to be attached to a

Premises Licence as either “**mandatory**” or “**default**” conditions.

7.3.2 Section 169 of the Act gives licensing authorities the power to impose default conditions on premises licences that they issue.

7.3.3 When considering any conditions to be attached to licences, the licensing authority will consider the local circumstances and risks associated with specific premises or class of premises, which might give rise to the need for conditions.

7.3.4 The licensing authority will not impose any conditions unless its discretion has been engaged following the making of a relevant representation and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It will then only impose such conditions which are appropriate and proportionate to promote the licensing objectives arising out of the consideration of the representations.

7.3.5 Conditions on premises licences will relate only to gambling, as considered appropriate in light of the following principles:

- Must be proportionate to the circumstance which they are seeking to address;
- Should be relevant to the need to make the proposed building suitable as a gambling facility;
- Should be directly related to the premises (including the locality and any identified local risks) and the type of licence applied for;
- Should be fairly and reasonably related to the scale and type of premises;
- Should be reasonable in all other respects.

## 7.4 Reviews

7.4.1 At any time following the grant of a premises licence a **responsible authority** or any **interested party** may ask the licensing authority to review the premises licence because of a matter arising at the premises in connection with any of the three licensing objectives.

7.4.2 The review process represents a key protection for the community where problems associated with the licensing objectives occur at a premises.

7.4.3 In every case, an application for a review must relate to a particular premises and **must be relevant to the promotion of one or more of the licensing objectives**.

7.4.4 Grounds for a review may be that activities, including the following, are taking place at the premises:

- Use of licensed premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crimes;
- Use of licensed premises for the sale and distribution of illegal

- firearms;
- Use of licensed premises for prostitution or the sale of unlawful pornography;
- Use of licensed premises as a base for organised criminal activity;
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
- Use of licensed premises for the sale of smuggled tobacco or goods;
- The use of licensed premises for the sale of stolen goods.
- Children and/or vulnerable persons are put at risk.

7.4.5 The licensing authority will reject an application for a review if the applicant fails to provide supporting information and documents that one or more of the licensing objectives are not being met or if the reason for the review does not relate to the licensing objectives.

7.4.6 The licensing authority will also reject an application for a review if

- the grounds are frivolous;
- the grounds are vexatious;
- the grounds are irrelevant;
- the grounds will not cause the Council to revoke or suspend a licence or to remove or attach conditions on the Premises Licence;
- the grounds are substantially the same as the grounds cited in a previous application relating to the same premises; or
- the grounds are substantially the same as representations made at the time the application for a Premises Licence was considered.

7.4.7 The licensing authority considers it good practice for all responsible authorities that have concerns about problems identified at premises to give licence holders early warning of their concern and the need for improvement, and where possible they should advise the licence holder of the steps they need to take to address those concerns.

### ***Initiation of Review by Licensing Authority***

7.4.8 A Premises Licence may also be reviewed by the licensing authority on its own volition.

7.4.9 Prior to discharging its power to initiate a review, the licensing authority will attempt to have constructive discussions with the operators about any concerns and may ask the operator to provide the licensing authority with its own **risk assessment** which sets out the controls it has put in place to mitigate risks.

## **8. Local Standards**

### **8.1 Premises Licences**

8.1.1 Premises Licences can authorise the provision of gambling facilities on

- Casinos;
- Bingo Premises;
- Betting Premises, including Tracks;
- Adult Gaming Centres (AGC); and
- Family Entertainment Centres.

By distinguishing between premises types, the Act makes it clear that gambling activity of the premises should be linked to the premises described. **The Act does not permit premises to be licensed for more than one of the above activities.**

8.1.2 An application for a Premises Licence can only be made by persons (which includes companies or partnerships):

- Who are aged 18 or over, **and**
- Who have the right to occupy the premises and
- Who have an Operating Licence authorising him to carry out the proposed activity **OR** who have applied for an Operating Licence to allow them to carry out the proposed activity.

**The premises licence cannot be determined until an operating licence has been issued.**

8.1.3 The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they merely provide space for other people to provide betting (and those other people hold valid betting operating licences).

8.1.4 The licensing authority strongly encourages applicants to discuss proposed applications with a licensing officer and responsible authorities at an early stage and prior to the submission of the application itself. This should identify potential problems and help to build good partnership working. It may also reduce the need for a hearing at a later stage.

8.1.5 Applicants are encouraged to make themselves aware of any relevant planning and transport policies, tourism and cultural strategies and local crime and disorder strategies, and to take these into account, where appropriate, in the formulation of their operating schedules.

8.1.6 The licensing authority will expect all applicants to specify the methods by which they will promote the three licensing objectives in their operating schedules, having regard to the type of premises, the licensable activity proposed, the operational procedures, the nature of the location and the needs of the local community.

8.1.7 The authority considers that a well-drawn, specific operating schedule indicates that an applicant understands and is prepared to meet the

responsibilities of a licence holder under the Act.

8.1.8 The authority considers that a blank or sparsely completed operating schedule may give the impression that the applicant has given inadequate thought to the responsibilities of a licence holder.

8.1.9 Unmet demand is not a criterion that will be taken into consideration when determining an application for a premises licence under the Gambling Act 2005.

### **Casinos**

8.1.10 There is no resolution to prohibit casinos in Flintshire at present. However, the licensing authority reserves its right to review this situation and may, at some time in the future, resolve not to permit casinos. Currently there are no casinos operating within Flintshire.

8.1.11 Should the licensing authority choose to make such a resolution, this will be a resolution of Full Council following considered debate and the reasons for making the resolution will be provided. There will be no right of appeal against such a resolution.

### **Bingo Premises**

8.1.12 Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:

- Cash bingo, where the stakes paid make up the cash prizes that are won
- Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

8.1.13 The licensing authority will attach mandatory and default conditions to all Bingo Premises licences.

### **Betting Premises**

8.1.14 The licensing authority is responsible for issuing and monitoring premises licences for all betting premises.

8.1.15 The licensing authority will attach mandatory and default conditions to all Betting Premises licences.

### **Tracks**

8.1.16 The Act does not give a list of premises that are officially recognised as 'tracks' but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include

- A horse racecourse
- A greyhound track
- A point-to-point horserace meeting
- Football, cricket and rugby grounds
- A golf course
- Venues hosting darts, bowls or snooker tournaments.

8.1.17 The licensing authority will determine what constitutes a sporting event or race on a case by case basis.

### ***Adult Gaming Centres (AGC)***

8.1.18 Applicants for an Adult Gaming Centre Premises Licence must hold a 'Gaming Machines General Operating Licence (Adult Gaming Centre)' from the Gambling Commission before the premises licence can be determined.

8.1.19 The licensing authority will attach mandatory conditions to all AGC Premises licences.

### ***Family Entertainment Centres (FEC)***

8.1.20 Applicants for a Family Entertainment Centre Premises Licence must hold a 'Gaming Machines General Operating Licence (Family Entertainment Centre)' from the Gambling Commission before the premises licence can be determined.

8.1.21 Licensed Family Entertainment Centres (FECs) are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons. They are permitted to make available category C and D gaming machines.

8.1.22 Children and young persons are not permitted to use category C machines and it is a requirement that there must be clear segregation between the types of machines so that persons under 18 years of age do not have access to them.

8.1.23 The licensing authority will take into account the policies and procedure proposed by the applicant to protect children and young persons when considering applications for FEC Premises licences.

8.1.24 The licensing authority will attach mandatory conditions to all FEC Premises licences.

## 8.2 Notices

### Temporary Use Notices (TUN)

- 8.2.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 8.2.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 8.2.3 There are a number of statutory limits as regards temporary use notices.

8.2.4 In considering whether a place falls within the definition of "a set of premises", the licensing authority will look at, amongst other things, the ownership/occupation and control of the premises.

8.2.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the gambling commission's guidance to licensing authorities.

### *Occasional Use Notices (OUN)*

8.2.6 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## 8.3 Permits

- 8.3.1 Permits are designed as a light-touch approach to low level ancillary gambling. The permits regulate gambling and the use of gaming machines ins specific premises.
- 8.3.2 The licensing authority are responsible for issuing
- Family Entertainment Centre Gaming Machine Permits;
  - Club Gaming Permits and Club Gaming Machine Permits;
  - Alcohol-licensed premises Gaming Machine Permits;
  - Prize Gaming Permits.
- 8.3.3 The licensing authority will grant or reject and application for a permit. **No conditions may be attached to a permit.**

8.3.4 In addition, the licensing authority are responsible for receiving notification from holder of alcohol licences under the Licensing Act 2003 that they intend to exercise their automatic entitlement to 2 gaming machines in their premises.

8.3.5 See [Appendix D](#) for further information regarding the categories of gaming machines allowed by permit and information regarding stakes and prize limits.

8.3.6 When determining applications for permits the licensing authority will consider any convictions held by the applicant that would make them unsuitable to operate the premises plus the suitability of the premises in relation to their location and issues about disorder.

### ***Family Entertainment Centre Gaming Machine Permit***

8.3.7 Unlicensed Family Entertainment Centres are able to offer only category D machines on a gaming machine permit. Any number of category D machines can be made available.

8.3.8 An application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an unlicensed Family Entertainment Centre and, if the applicant is an individual, is aged over 18 years.

8.3.9 The permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre, and if the chief officer of police has been consulted on the application.

8.3.10 There is no prescribed application form for this permit however the licensing authority have created a [local application form](#) for this purpose. A plan for the unlicensed Family Entertainment Centre must be submitted with each application.

### ***Club Gaming Permits and Club Gaming Machine Permits***

8.3.11 The licensing authority may grant members clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the provision of gaming machines, equal chance gaming and games of chance as prescribed in regulations.

8.3.12 If a members' club or minter's welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply for a club gaming machine permit using the prescribed form.

8.3.13 Holders of club gaming permits and club gaming machine permits are required to comply with the code of practice issued by the Gambling Commission on the location and operation of machines.

### ***Alcohol-Licensed Premises Gaming Machine Permits***

- 8.3.14 The licensing authority may issue holders of alcohol licences under the Licensing Act 2003 a gaming machine permit which permits any number of Category C or D machines in licensed premises.
- 8.3.15 The application must be made by the person that holds the alcohol premises licence issued under the Licensing Act 2003.
- 8.3.16 The licensing authority may vary the number and category of gaming machines authorised by the permit if it considers it necessary to promote the licensing objectives.
- 8.3.17 Holders of licensed premises gaming machine permits are required to comply with the code of practice issued by the Gambling Commission on the location and operation of machines.
- 8.3.18 There is no prescribed form for this permit however the licensing authority have created a local application form for this purpose.

### ***Prize Gaming Permits***

- 8.3.19 The licensing authority may issue prize gaming permits to authorise the provision of facilities for gaming with prizes on specific premises.
- 8.3.20 The application must be made by the person who occupies or plans to occupy the premises and if the applicant is an individual, must be aged 18 or over.
- 8.3.21 Applicants are asked to set out the types of gaming that they are intending to offer in their application.
- 8.3.22 There is no prescribed form for this permit however the licensing authority have created a local application form for this purpose.

## **8.4 Registrations**

- 8.4.1 The Act denotes 'local authorities' as being responsible for registering societies to run Small Society Lotteries, as opposed to licensing authorities. In the interest of consistency, Flintshire County Council being the local authority defined under Section 25 of the Act will be referred to as the licensing authority in this document.
- 8.4.2 Applications for small society lottery registrations must be in the form prescribed and be accompanied by both the required registration fee and all necessary documents required by the licensing authority.

8.4.3 The licensing authority will require applicants to provide a copy of their terms and conditions and their constitution to establish that they are a non-commercial society.

## 8.5 Local Risk Assessments

8.5.1 The Gambling Commission's '[Licence Conditions and Codes of Practice](#)' (LCCP) formalise the need for operators to consider local risks.

8.5.2 The Social Responsibility code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking a risk assessment, licensees must take into account the matters identified in this statement of policy.

8.5.3 A local risk assessment must be undertaken when applying for a new premises licence and must be updated

- When applying for a variation of a premises licence;
- To take account any significant changes in local risks;
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

8.5.4 The licensing authority will expect every risk assessment to cover the following broad headings:

- Reference to any specific local risks
- How the operator proposes to mitigate these risks
- How the operator will monitor the risks

8.5.5 The [Local risks](#) identified by the licensing authority include, but are not restricted to:

- The proximity of the premises to sensitive establishments such as schools, vulnerable adult centres, or to residential areas with a high concentration of families with children.
- The nature of the gambling activities and category of gaming machines made available at the premises.
- Any age restrictions and segregation requirements at the premises necessary for the protection of children and young persons.
- The prevalence of vulnerable persons in the locality of the premises.

8.5.6 Operators are required to make the Risk Assessment available to licensing authorities when an application is submitted. A copy should be kept on the premises, or otherwise on request. This will form part of the Council's inspection regime, and will be considered during the investigation of complaints.

## 9. Complaints against Licensed Premises

- 9.0.1 The licensing authority will investigate complaints against licensed premises in relation to matters concerning the licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licensee or business concerned to seek a local resolution.
- 9.0.2 Where an interested party has made a complaint about licensed premises, or a valid application for a licence to be reviewed, the Council may initially recommend a conciliation meeting to address and clarify the issues of concern.
- 9.0.3 This process will not override the right of any interested party or for any licence holder to decline to participate in a conciliation meeting.
- 9.0.4 Due consideration will be given to all complaints unless they are considered to be frivolous, vexatious or repetitious.

## 10. Further Information

### 10.1 Gaming Machines

- 10.1.1 The licensing authority notes that the term “Gaming Machine” covers all machines on which people can gamble and the term has only been preserved in the Act because it is one that is readily understood.
- 10.1.2 The definition of “gaming machines” is wider in the Gambling Act 2005 than those in previous gaming legislation and covers all types of gambling activities which can take place on a machine, including betting on virtual events.
- 10.1.3 It should be noted however that there still remains a distinction between skill machines and gaming machines plus important exemptions remain for certain equipment that is not considered a gaming machine, even when gambling can be performed on it, for example a home personal computer.
- 10.1.4 In order for a premises to site gaming machines an authorisation is normally required. Typically this is
- An operating licence from the Commission **and** a gambling premises licence from the licensing authority;
  - An alcohol premises licence, or
  - A gaming machine permit.
- 10.1.5 Where the licensing authority is concerned regarding the manufacture, supply, installation, maintenance or repair of gaming machines, or the manner in which they are operating will contact the Commission for guidance.

- 10.1.6 Regulations define four categories of gaming machine: categories A, B, C and D with category B divided into five further sub-categories. The maximum number of machines permitted varies according to the premises type.
- 10.1.7 There is no minimum age for players of Category D gaming machines however players of category A, B and C gaming machines must be aged 18 years or above.
- 10.1.8 See [Appendix D](#) for further information regarding machine categories and entitlements.

## 10.2 Licensing Register

10.2.1 Under the Act, every licensing authority is required to keep a [licensing register](#) containing

- a record of each premises licence, club premises certificate and personal licence issued by it,
- a record of each temporary event notice received by it,
- a record of every other applications made to it, notices given to it and any counter notice given by it, and
- such other information as may be prescribed by regulations.

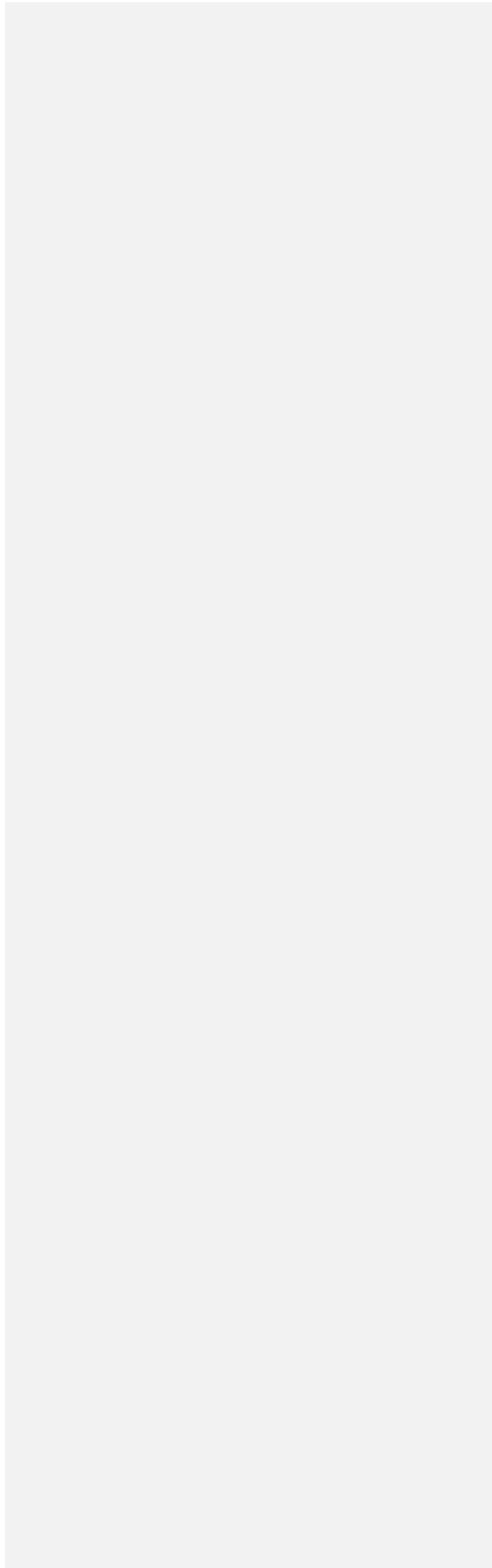
10.2.2 The information contained in the licensing register is available to view online at [www.flintshire.gov.uk](http://www.flintshire.gov.uk).

10.2.3 Any person wishing to view the licensing register in person should contact the licensing authority by email [Licensing@Flintshire.gov.uk](mailto:Licensing@Flintshire.gov.uk) or via telephone 01352 703030 to arrange an appointment.

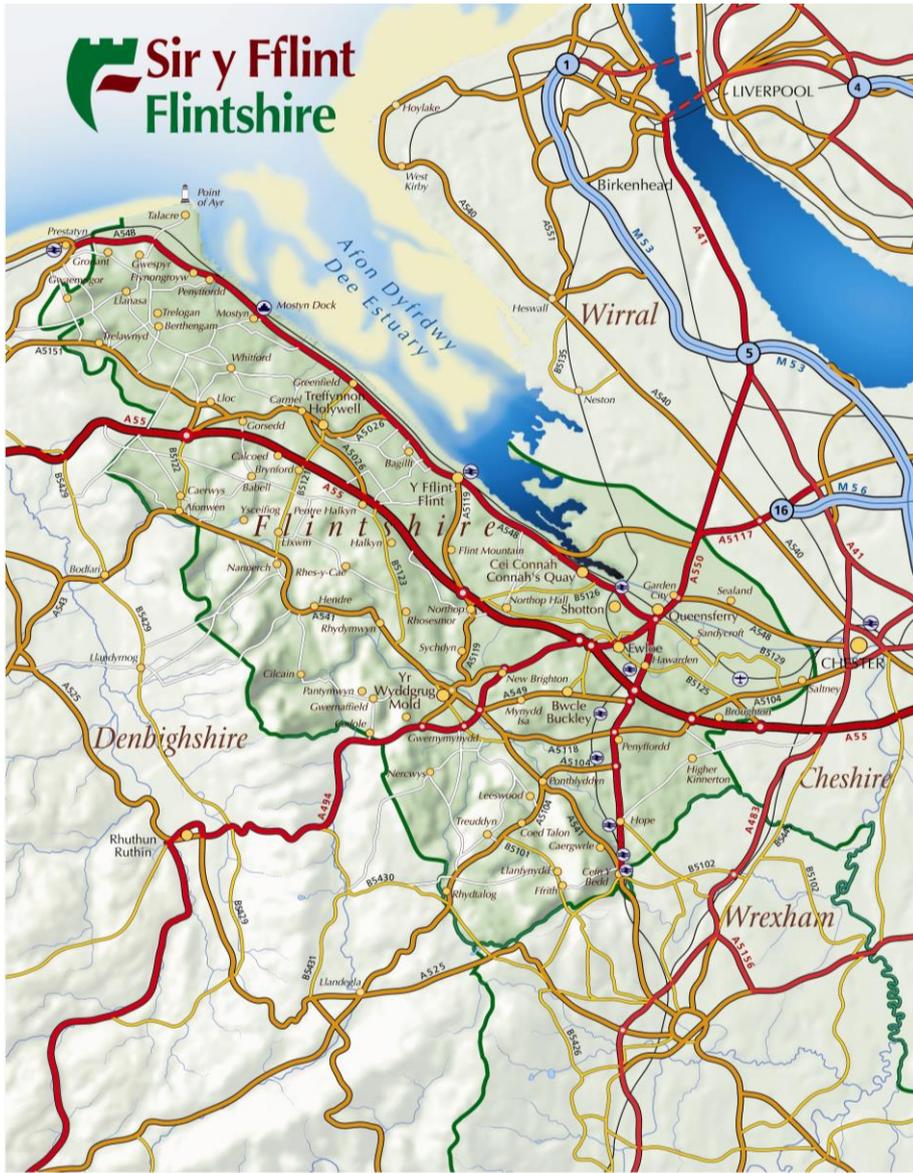
10.2.4 To ensure that the information contained in the register is presented in an appropriate format, any person wishing to view the register in person will be requested to clarify which part of the register they wish to have available during the appointment.

## 10.3 Database of Premises Records

10.3.1 A database of premises licences is available on the Commission's website and consists of information submitted by licensing authorities. The Commission's website address is [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) .



## Appendix A: Local Area map of Flintshire



## Appendix B: Glossary of Terms

**Adult Gaming Centre:** licensed gambling premises which can provide gaming machines. Only adults (persons 18 years old or over) can enter an Adult Gaming Centre.

**Betting premises:** licensed gambling premises which can provide betting facilities and gaming machines. Only adults (persons 18 years old or over) can enter Betting Premises unless the premises are on a track.

**Bingo:** there are two types of bingo

**High Turnover Bingo** - Bingo where the aggregate of stakes and prizes in any 7 day period exceeds £2000. High turnover bingo can only take place in casinos and bingo halls.

**Low Turnover Bingo** - (sometimes described as non-high turnover bingo) Bingo where the aggregate of stakes and prizes in any 7 day period is less than £2000. Low turnover bingo can take place in pubs and clubs, and in premises that hold a Prize Gaming Permit or Unlicensed Family Entertainment Centre Gaming Machine Permit.

**Bingo Premises:** licensed gambling premises which can provide high turnover bingo and gaming machines.

**Casino:** there are 3 types of casino that can exist in England and Wales: large, small, or "tiny" (casinos that existed under the old law and have retained their licences under the new law). The differences are based on overall size and the number of machines and gaming tables that can be provided. Casinos can provide casino games (games which are not equal chance gaming and may involve playing against a bank) and bingo as well as gaming machines.

**Child:** For the purposes of the Gambling Act 2005, anyone under the age of 16 years.

**Club:** the 2005 Act recognises 2 types of club: **members clubs** (at least 25 members and established for purposes other than gaming unless it is a bridge or whist club, including Miners Welfare Institutes); and **commercial clubs**. Equal chance gaming can take place without any further permit provided the limits on stakes and prizes are not exceeded. In addition low turnover bingo can take place and if it is a bridge or whist club then bridge or whist can be played.

**Club Gaming Permit:** a permit to enable the premises to provide gaming machines (three machines of Categories B3A, B4, C or D), equal chance gaming and games of chance (limited to pontoon and chemin de fer).

**Club Machine Permit:** a permit to enable the premises to provide gaming machines (three machines of Categories B3A, B4, C or D).

**Conditions:** there are two types of conditions

1. **Default Conditions** – are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the licensing authority.
2. **Mandatory Conditions** – are conditions set by the Secretary of State (some are set out in the Act and some will be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The licensing authority will have no discretion to alter or remove these conditions.

**Crane grab machine:** a non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a machine to separate one or more physical objects from another.

**Equal Chance Gaming:** games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.

**Exempting gambling:** certain specified low-level gambling can take place in private premises, workplaces, pubs and clubs without any requirements for licensing or registration.

**Exempt Lotteries:** certain types of lottery can be run without either a licence from the Gambling Commission or registration with the local authority. They are Incidental Non Commercial Lotteries, Private Lotteries and Customer Lotteries.

**Family Entertainment Centre:** there are 2 types of Family Entertainment Centres: licensed and unlicensed. In both cases children and young persons can enter the premises unaccompanied by adults and use category D machines. Licensed Family Entertainment Centre can provide category C and D machines, but only persons aged 18 or over can use the category C machines. An Unlicensed Family Entertainment Centre can only provide category D machines.

**Fixed Odds Betting:** if a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not 'gaming'), then it is likely to be betting at fixed odds.

**Fixed Odds Betting Terminals (FOBTs):** FOBTs are a type of gaming machines which generally appear in licensed betting shops. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.

**Gaming:** playing a game of chance for a prize. This includes games of pure chance (or luck), games that have an element of skill and chance combined, and games where "superlative skill" can eliminate the element of chance. Sports are excluded from the definition of Games of Chance.

**Gaming Machine:** a machine used for gambling. There are divided into 8 categories, (A, B1, B2, B3A, B3, B4, C & D) depending on the maximum stakes and maximum prizes. Different categories of machines can be used in different types of licensed gambling premises and under different permits.

**Guidance to Licensing Authorities:** guidance issued by the Gambling Commission.

**Incidental non-commercial lottery:** see Exempt Lotteries above.

**Large Lottery:** where the total value of tickets in any one lottery exceeds £20,000 or £250,000 in separate lotteries over one calendar year. This type of lottery requires an operating Licence from the Gambling Commission.

**Licensed premises Gaming Machine Permit:** allows pubs to have more than 2 gaming machines, provided the main purpose of the premises is to remain a pub, rather than an Entertainment Centre with a bar.

**Licensing authority:** the district, borough or unitary authority responsible for licensing gambling and other activities in the area.

**Licensing Objectives:** there are three objectives

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

**Lottery:** the 2005 Act recognises 2 types of lottery, a simple lottery or a complex lottery. In both cases players pay to take part and prizes are allocated. In the case of a simple lottery, that allocation is wholly by chance, but in the case of a complex lottery there can be further steps which are not dependent upon chance. Some lotteries are exempt from regulation (see above).

**Occasional Use Notice:** a notice that may only be issued in respect of a track (see below) that permits betting on a track without the need for a Premises Licence.

**Prize Gaming:** gaming in which the nature and size of the prize is not determined by the number of players or stakes, e.g. bingo with non-cash prizes.

**Prize Gaming Permit:** a permit issued by the Licensing Authority allowing prize gaming to take place.

**Pub:** premises that have a premises licence under the Licensing Act 2003 to sell alcohol for consumption on the premises in a bar at which alcohol is served to customers. Pubs can have 2 category C or D gaming machines. If a pub has a Licensed Premises Gaming Machine Permit (see above) it can have more gaming machines.

**Risk Assessments:** the requirement under the Social Responsibility code 10.1.1 for operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures to mitigate those risks.

**Relevant representations:** are representations made by responsible authorities or interested parties within the prescribed period, which relate to the promotion of at least one of the three licensing objectives, have not been withdrawn; and, in the opinion of the licensing authority, are not frivolous or vexatious.

**Responsible authority:** public bodies that must be notified of applications and are entitled to make representations to the licensing authority. They include

- the licensing authority in whose area the premises is wholly or partly situated,
- the Gambling Commission,
- the chief officer of police or chief constable for the area in which the premises is wholly or partly situated,
- the fire and rescue authority for the same area,
- the local planning authority for the area in which the premises is wholly or partly situated,
- the relevant authority which has functions in relation to pollution to the environment or harm to human health for the area in which the premises is wholly or partly situated,
- a body, designated by the licensing authority, as competent to advise about the protection of children from harm,
- HM Revenue and Customs
- Any other person prescribed in regulations by the Secretary of State.

**Review:** following the grant of a premises licence a responsible authority or interested party may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the three licensing objectives.

**Skills with Prizes machine:** a machine on which the winning of a prize is determined only by the player's skill and there is no element of chance. These are unregulated.

**Small Society Lottery:** these are for non-commercial societies (a society established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport athletics or a cultural activity; or for any other non-commercial purpose other than that of private gain) who must register their lotteries with the local authority.

**Temporary Use Notice:** a notice that allows limited types of gambling to take place for a limited period on premises that do not have a premises licence.

**Track:** a site where races or other sporting events take place e.g. horse racing, dog racing, athletics, football, motor racing etc.

**Travelling Fair:** a fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year. Fairs can provide prize gaming and category D gaming machines.

**Young Person:** for the purposes of the Gambling Act 2005, anyone who is not a child but is aged under 18.

## Appendix C: table of delegation

| <b>Matter to be Dealt With</b>                     | <b>Full Council</b> | <b>Licensing<br/>Sub-Committee</b>                           | <b>Officers</b>   |
|--|---------------------|--|---|
| Three year licensing policy                        | X                   |  |   |
| Policy not to permit casinos                       | X                   |  |   |
| Fee Setting – when appropriate                     |                     |  | X   |
| Application for premises licences                  |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Application for a variation to a licence.          |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Application for transfer of a licence              |                     | Where representations have been received from the Commission | Where no representations received from the Commission                   |
| Application for a provision statement              |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Review of a premises licence                       |                     | X  |   |
| Application for club gaming / club machine permits |                     | Where representations have been received and not withdrawn   | Where no representations received / representations have been withdrawn |
| Cancellation of club gaming / club machine         |                     |  |   |

|  |  |   |   |
|--|--|---|---|
| permits  |  | X |   |
| Applications for other permits   |  |   | X |
| Cancellation of licensed premises gaming machine permits                           |  |   | X |
| Consideration of temporary use notice  |  |   | X |
| Decision to give a counter notice to a temporary use notice                        |  | X |   |
| Determination as to whether a person is an Interested Party                        |  |   | X |
| Determination as to whether representations are relevant                           |  |   | X |
| Determination as to whether a representation is frivolous, vexatious or repetitive |  |   | X |

## Appendix D: Gaming Machine Summary

### Summary of Machine Provision by Premises

| Premises Type   | A | B1  | B2  | B3  | B4 | C                                    | D                               |
|---|---|---|---|---|----|--------------------------------------|---------------------------------|
| <b>Large casino</b><br>(machine/table ratio of 5-1 up to maximum) |   | Maximum of 150 machines<br>Any combination of machines in categories B to D<br>(except B3A machines), within the total limit of 150<br>(subject to machine/table ratio) |   |   |    |                                      |                                 |
| <b>Small casino</b><br>(machine/table ratio of 2-1 up to maximum) |   | Maximum of 80 machines<br>Any combination of machines in categories B to D<br>(except B3A machines), within the total limit of 80<br>(subject to machine/table ratio)   |   |   |    |                                      |                                 |
| <b>Pre-2005 Act casino</b><br>(no machine/table ratio)            |   | Maximum of 20 machines categories B to D (except B3A machines), or<br>any number of C or D machines instead   |   |   |    |                                      |                                 |
| <b>Betting premises and tracks occupied by Pool betting</b>       |   |   | Maximum of 4 machines categories B2 to D<br>(except B3A Machines) |   |    |                                      |                                 |
| <b>Bingo premises</b>   |   |   |   | Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 |    | No limit on category C or D machines |                                 |
| <b>Adult gaming centre</b>  |   |   |   | Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4 |    | No limit on category C or D machines |                                 |
| <b>Licensed family entertainment centre</b>                       |   |   |   |   |    | No limit on category C or D machines |                                 |
| <b>Family entertainment centre</b><br>(with permit)               |   |   |   |   |    |                                      | No limit on category D machines |
| <b>Clubs or miners' welfare institute</b>                         |   |   |   | Maximum of 3 machines in categories B3A or B4 to D  |    |                                      |                                 |

|  |  |  |  |  |  |  |
|--|--|--|--|--|--|--|
| (with permits)   |  |  |  |  |  |  |
| <b>Qualifying alcohol-<br/>Licensed premises</b>   |  |  |  |  |  | 1 or 2 machines of category C or D automatic upon notification |
| <b>Qualifying alcohol-<br/>licensed premises</b><br><br>(with licensed premises gaming machine permit) |  |  |  |  |  | Number of category C-D machines as specified on permit         |
| <b>Travelling fair</b>   |  |  |  |  |  | No limit on category D machines                                |

### **Summary of Gaming Machine Categories and Entitlements**

A full summary can be found at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

## **9.5 Appeals Committee**

9.5.1 The Council shall identify a pool of appropriately qualified Members to serve upon Appeals Committees as and when required.

9.5.2 The Democratic Services Manager shall from time to time select from such pool of Members, Appeals Committees which will number not less than three, nor more than nine in total, to hear and determine any and all appeals which may be properly brought either at law or under Council policies/procedures for the time being in force against:-

- (a) the exercise of or failure to exercise any power, duty or function;
- (b) the grant or refusal of any licence, permission, request, or approval howsoever expressed;
- (c) disciplinary actions where the right of appeal under Council procedures for the time being in force lies to elected Members.

9.5.3 It shall be a condition of any Member accepting selection to any particular Appeals Committee that such Member shall regard themselves as absolutely bound to observe the rules of natural justice and in particular shall not, without the consent of the parties, continue to sit upon the Committee hearing a particular appeal if that Member is absent for any substantial part of the proceedings.

9.5.4 Subject to any overriding requirement of statute any particular Appeals Committee shall have full power to hear and determine the appeal in question and the decision of the Appeal Committee shall be final and binding.

- 9.5.5 The Democratic Services Manager shall have power in consultation with the appropriate Chief Officer to identify and select such other "independent" Members as may from time to time be required by statute or regulations to sit together with elected Members in the hearing of any appeal.
- 9.5.6 The proceedings of the Appeal Committee shall be minuted and regardless of whether or not the case for the Council is presented by a legally qualified person the Committee shall be entitled to have as their adviser and clerk such appropriately qualified person as the Chief Officer, Governance shall appoint and for the avoidance of doubt the identity of the appointee may vary from Committee to Committee.
- 9.5.7 The Committee shall have power to determine its own procedure upon any particular occasion subject to the general expectation that:-
- (i) It will consider whether or not to resolve to exclude the press and the public and if so state the ground or grounds.
  - (ii) The Council will outline the history of the matter in an opening speech.
  - (iii) The Council shall then call such witnesses as it shall consider necessary to provide the Committee will all such evidence as may reasonably be required and those witnesses shall be liable to cross examination by the Appellant and independent questioning by the Committee.
  - (iv) At the close of the Council's case the Appellant shall be entitled to: -
    - Make a brief opening statement.
    - Call such witnesses as the Appellant may consider appropriate in support of the Appellant's case such witnesses shall be liable to cross examination by the Council's representative and/or the Committee.
  - (v) At the close of the Appellant's case the Committee shall have the power to direct that further evidence be received in respect of any particular matter or matters whether or not that involves the recalling of any witness already heard.
  - (vi) At the close of any independent examination on the part of the Committee the Council's representative shall sum up the issues on behalf of the Council and therefore the Appellant shall be entitled to sum up the Appellant's case.
  - (vii) The Committee shall then proceed to determine in the absence of the parties but in the presence, if so required, of their clerk/adviser, the issues and arrive at their decision.

(viii)When the Committee have arrived at their decision the parties shall be invited to return to the Committee's presence when the decision shall be announced and any consequential matters shall be addressed.

## **9.6 Constitution & Democratic Services Committee**

- 9.6.1 The Council will maintain a Constitution & Democratic Services Committee comprising representatives from all of the political groups on the Council. The Committee will consist of 16 Members, politically balanced, with each Group Leader nominating representatives from his/her political group. It is not a standing committee of the Council and will only have power to make recommendations to the County Council.
- 9.6.2 The Council is required by the Local Government (Wales) Measure 2011 to have a Democratic Services Committee. This function is part of the Constitution & Democratic Services Committee comprising 16 Members, politically balanced, with each Group Leader nominating representatives from his/her political group and fulfilling that required compliance.
- 9.6.3 The Democratic Services Committee (and thus the Constitution & Democratic Services Committee) cannot include more than one member of the Council's Cabinet. The Chair of the Constitution & Democratic Services Committee must be appointed by the County Council and must not be a member of any of the political groups that are represented in the Cabinet.
- 9.6.4 The Constitution & Democratic Services Committee shall consider reports from the Monitoring Officer in relation to any changes required or proposed as a result of his review of the Constitution prior to proposals being considered by the County Council.
- 9.6.5 Any Member shall be entitled to propose items for consideration by the Constitution Committee relating to the contents of the Constitution.
- 9.6.6 The Constitution & Democratic Services Committee will consider matters relating to corporate governance including the consideration of a Code of Corporate Governance to be adopted by the County Council and its future maintenance and review.
- 9.6.7 The Constitution & Democratic Services Committee has power to review, revoke and amend and create bye-laws for Flintshire.
- 9.6.8 The Constitution & Democratic Services Committee shall:-
- (a) Designate one the Council's officers as the Head of Democratic Services

(b) Review the adequacy of provision by the authority of staff, accommodation and other resources to discharge Democratic Services functions.

(c) Make reports and recommendations to the authority in relation to such provision.

9.6.9 The Constitution & Democratic Services Committee shall make decisions as to a Member's entitlement to family absence under Regulation 34 (2) of the Family Absence for Members of Local Authorities (Wales) Regulations 2013.

9.6.10 The committee has the power to require the attendance of any Members or officers of the Council to answer questions and to invite anyone else it likes to do so also.

9.6.11 The Constitution & Democratic Services Committee must have regard to guidance for Welsh Ministers when exercising its functions.

9.6.12 Any reports presented to the Constitution & Democratic Services Committee by the Statutory Head of Democratic Services must be considered by the Committee within 3 months. Similarly any report made by the Constitution & Democratic Services Committee must be considered by the full Council within 3 months.

## **9.7 Clwyd Pension Fund Committee**

The Council will establish a Clwyd Pension Fund Committee.

### **9.7.1 Composition**

#### **(a) *Membership***

The Clwyd Pension Fund Committee will be composed of 9 members. Its membership will include:

- i) 5 Councillors of Flintshire County Council, determined by the Council.

Four co-opted members comprising:-

- ii) One Councillor of Wrexham County Borough Council, determined by that Council.
- iii) One Councillor of Denbighshire County Council, determined by that Council.
- iv) One representative of the other Scheme Employers (not admission bodies) in the Clwyd Pension Fund as defined by Schedule 2 of the Local Government Pension Scheme

2013, as amended from time to time, appointed in accordance with procedures agreed by the Head of Clwyd Pension Fund in consultation with the members of the Pension Fund Advisory Panel\*.

- v) One representative of the scheme members of the Clwyd Pension Fund, appointed in accordance with procedures agreed by the Head of Clwyd Pension Fund.
- vi) Named substitutes are permitted for Flintshire County Council members only, providing they satisfy the knowledge and skills policy of the pension fund.

\*The Pension Fund Advisory Panel is a group of officers and advisers to the Clwyd Pension Fund, currently consisting of:

- The Corporate Manager – Human Resources and Organisational Development of Flintshire County Council
- The Chief Finance Officer for Flintshire County Council
- The Head of the Clwyd Pension Fund
- Investment Consultant
- Fund Actuary
- Independent Adviser

(b) *Term of office*

- i) The representative members (for other scheme employers and scheme members) are appointed for a period of no more than six years and may be reappointed for further terms.
- ii) Councillors of Flintshire County Council will be appointed annually and may be reappointed for further terms.
- ii) Councillors of other local authorities who are members of the Pension Fund Committee will have a term of office to the next ordinary local government election following their appointment. They may be reappointed for further terms.

(c) *Quorum.*

A meeting of the Pension Fund Committee shall only be quorate when:

- i) At least five members are present, and
- ii) At least three of the members present are Councillors of Flintshire County Council

(d) *Voting*

The Councillors from Wrexham County Borough Council and Denbighshire County Council and the representative members will be entitled to vote at meetings as well as Councillors of Flintshire County Council;

- (e) *Chairing the Committee.*
  - i) Only Councillors of Flintshire County Council may be the Chair and Vice-Chair.
  - ii) The Chair will be elected annually by members of Flintshire County Council.
  - iii) The Vice-Chair will be elected annually by members of the Pension Fund Committee.
- (f) The Council Procedure Rules should apply to this Committee in the same way as they apply to other Committees unless different provision is made in this article.
- (g) The Pension Fund Committee may occasionally meet outside of the Flintshire County Council area.

#### **9.7.2 Role and Function**

The Pension Fund Committee's principal aim is to carry out the functions of Flintshire County Council as the Scheme Manager and Administering Authority for the Clwyd Pension Fund in accordance with Local Government Pension Scheme legislation.

The Pension Fund Committee will have the following specific roles and functions, taking account of advice from the Head of Clwyd Pension Fund and the Fund's professional advisers:

- a) Ensuring the Clwyd Pension Fund is managed and pension payments are made in compliance with the extant Local Government Pension Scheme Regulations, Her Majesty's Revenue & Customs requirements for UK registered pension schemes and all other relevant statutory provisions.
- b) Ensuring robust risk management arrangements are in place.
- c) Ensuring the Council operates with due regard and in the spirit of all relevant statutory and non statutory best practice guidance in relation to its management of the Clwyd Pension Fund.
- d) Determining the Pension Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the

overall management of the Fund, including in relation to the following areas:

- i) Governance – approving the Fund's Governance Policy and Compliance Statement for the Fund within the framework as determined by Flintshire County Council and making recommendations to Flintshire County Council about any changes to that framework.
  - ii) Funding Strategy – approving the Fund's Funding Strategy Statement including ongoing monitoring and management of the liabilities, ensuring appropriate funding plans are in place for all employers in the Fund, overseeing the triennial valuation and interim valuations, and working with the actuary in determining the appropriate level of employer contributions for each employer.
  - iii) Investment Strategy - approving the Fund's Investment Strategy Statement including setting the Responsible Investment Policy and investment targets and ensuring these are aligned with the Fund's specific liability profile and risk appetite.
  - iv) Administration Strategy – approving the Fund's Administration Strategy determining how the Council will the administer the Fund including collecting payments due, calculating and paying benefits, gathering information from and providing information to scheme members and employers.
  - v) Communications Strategy – approving the Fund's Communication Strategy, determining the methods of communications with the various stakeholders including scheme members and employers.
  - vi) Discretions – determining how the various administering authority discretions are operated for the Fund.
- e) Monitoring the implementation of these policies and strategies on an ongoing basis.
- f) In relation to the Wales Pooling Collaboration arrangements
- i) Undertaking the following matters reserved to Flintshire County Council as outlined in the Inter-Authority Agreement
    - Appointment, termination or replacement of the Operator following the making of a recommendation by the Joint Governance Committee
    - Approval of additional expenditure not included within the Business Plan which exceeds 30 % of the approved budget in the Business Plan in any one Financial Year.

- Formulation, approval or revisions of each respective Constituent Authority's Investment Strategy for the purposes of regulation 7 of the Investment Regulations.
- Admitting a new administering authority within the LGPS to the Investment Pool as a Constituent Authority.
- Amendment of the Agreement which is not significant to the operation of the arrangements.
- Material change to the nature of the Operator Contract.
- Approval of the initial strategic objectives to allow preparation of the first Business Plan (which objectives shall reflect the objectives set out in the procurement of the Operator).
- Approval of any evaluation or scoring criteria for any procurement of a replacement Operator.
- Approval of the Business Plan which shall include approval of the ongoing strategic objectives of the Investment Pool.
- Determination of the timing of the transition of the assets held by Clwyd Pension Fund into the Pooling Collaboration and the funds or sub-funds operated by the Operator.
- Approval of changes to the terms of reference of the Joint Governance Committee as set out in Schedule 4 of the Inter-Authority Agreement.

Note:

- the Council shall retain the power to terminate the Inter-Authority Agreement or make amendments to the Inter-Authority Agreement that may be significant to the operation of the arrangements.
- the Council has determined that the nomination of a Co-opted Member to the Joint Governance Committee is to be carried out by the Pension Board.
- ii) Delegating powers to Flintshire County Council's own officers and the Host Council where required.
- ii) Nominating Flintshire County Council's officers to the Officer Working Group.
- g) Approving the Fund's Annual Report including the Fund's financial statements

- h) Selection, appointment, dismissal and monitoring of the Fund's advisers, including actuary, benefits consultants, investment consultants, global custodian, fund managers, lawyers, pension funds administrator, and independent professional advisers.
- i) Making decisions relating to employers joining and leaving the Fund. This includes which employers are entitled to join the Fund, any requirements relating to their entry, ongoing monitoring and the basis for leaving the Fund.
- j) Agreeing the terms and payment of bulk transfers into and out of the Fund.
- k) Agreeing Pension Fund Business Plans and monitoring progress against them.
- l) Agreeing the Fund's Knowledge and Skills Policy for all Pension Fund Committee members and for all officers of the Fund, including determining the Fund's knowledge and skills framework, identifying training requirements, developing training plans and monitoring compliance with the policy.
- m) Agreeing the Administering Authority responses to consultations on LGPS matters and other matters where they may impact on the Fund or its stakeholders.
- n) Receiving ongoing reports from the Head of Clwyd Pension Fund and Pensions Advisory Panel in relation to delegated functions.

No matters relating to Flintshire County Council's responsibilities as an employer participating within the Clwyd Pension Fund are delegated to the Pension Fund Committee.

### **9.7.3 Officers**

The Committee may delegate a limited range of its functions to one or more officers of the Authority. The Pension Fund Committee will be responsible for outlining expectations in relation to reporting progress of delegated functions back to the Pension Fund Committee.

### **9.7.8 Wales Pooling Collaboration Joint Governance Committee**

9.7.8.1 The Council will establish the Joint Governance Committee.

9.7.8.2 The Chair and Vice Chair of Flintshire County Council's Pension Fund Committee shall be the Member and Deputy Member on the Joint Governance Committee.

9.7.8.3 The Joint Governance Committee Matters, Terms of Reference and Procedures are as included within the Inter-Authority Agreement as shown below.

(a) Joint Governance Committee Matters

Subject to the terms of the Agreement, the Joint Governance Committee shall undertake those matters which are not Matters Reserved to the Constituent Authorities which shall include (without prejudice to the generality of the foregoing):

- i) Making a recommendation on the appointment, replacement or termination of the Operator to the Constituent Authorities.
- ii) Appointing and replacing service providers, advisers to the Joint Governance Committee (other than the Operator).
- iii) Approving the creation of new pooled vehicles for the Operator.
- iv) Approving the creation of new sub-funds provided by the Operator.
- v) Approving the termination of sub-funds provided by the Operator.
- vi) Preparing a plan relating to the overall transition of assets in accordance with each Constituent Authority's asset transition plan.
- vii) Approving changes to the Operator Contract which are not material changes to the nature of the Operator Contract
- viii) Dealing with the necessary general ongoing management of the Pooling Collaboration.
- ix) Delegation of tasks to the Officer Working Group, including the preparation of reports and draft documents and the undertaking of consultations.
- x) Liaison with Pension Boards as appropriate in line with CIPFA guidance, guidance issued by the Pensions Regulator and other applicable legislation or regulatory guidance.
- xi) Determining the best means of alternative investment structures for assets where a sub-fund is not being provided by the Operator.

Notwithstanding the above, for the avoidance of doubt, the Joint Governance Committee may not delegate its responsibilities.

(b) Joint Governance Committee - Terms of Reference

The Joint Governance Committee responsibilities are:

- i) Making recommendations to the Constituent Authorities on the termination of the Operator Contract before the conclusion of the fixed term contract, where the performance of the Operator is considered unacceptable;

- ii) Ensuring that there are an appropriate range of sub-funds available in order to allow the Constituent Authorities to meet their strategic investment aims. Following representation from any, some or all of the Constituent Authorities, the Joint Governance Committee may direct the Operator to set up a sub-fund in a particular asset class. The Joint Governance Committee must be mindful at all times of the need to balance the requirement to provide a particular sub-fund with the benefits of holding aggregated assets;
- iii) Monitoring the performance of the Operator against the agreed set of key performance indicators;
- iv) Reporting on the performance of the Investment Pool, its costs and other activities, but not limited to, the Constituent Authorities, government, the Scheme Advisory Board and the general public;
- v) From time to time, to review the appropriateness of the existing structures, including the number and make-up of sub-funds and to make recommendations to the Constituent Authorities as to the respective merits of procuring Operator services by means of a third party or through ownership by the Constituent Authorities of the Operator;
- vi) Liaising with the Operator, in such areas as the Operator seeks the preferences and views of the Joint Governance Committee, on the appointment of suppliers, for example manager preferences or the appointment of depositories;
- vii) Liaising with the Constituent Authorities on the appropriate range of sub-funds to be provided in the Investment Pool;
- viii) From time to time reviewing policies in respect of ethical, social and governance matters and voting rights and where appropriate make recommendations to the Constituent Authorities as to any changes deemed necessary;
- ix) From time to time reviewing policies in respect of environmental, social and governance matters and where appropriate make recommendations to the Constituent Authorities as to any changes deemed necessary.
- x) Recommend a high level plan for initial transition of assets to the pool and further asset transitions in the event, for example, of new sub-funds being created or manager changes within sub-funds;
- xi) Ensuring that the Officer Working Group acts within its remit as set out in clause 4 and Schedule 8 of the Agreement;
- xii) Providing any analysis or commentary on annual accounts to the Constituent Authorities;

- xiii) Monitoring the implementation and effectiveness of the policies described in Schedule 5 of the Agreement and initiating reviews of these where required;
- xiv) Delivery and ongoing monitoring against the Pooling Collaboration objectives, Business Plan and budgets;
- xv) Approving responses from the Pooling Collaboration in relation to consultations or other matters considered appropriate;
- xvi) Seeking advice from professional and authorised and regulated advisers where necessary;
- xvii) Agreeing the Business Plan to be put forward to the Constituent Authorities for approval;
- xviii) Report to the Constituent Authorities quarterly (and at any other time when the Joint Governance Committee considers it to be necessary) on the matters within their remit including but not limited to the performance of the Operator, the structure of the funds and the ongoing monitoring of the Business Plan;
- xix) Agreeing criteria for the evaluation of bids or tenders for any procurement of the Operator (including for the avoidance of doubt, a replacement Operator) to be put forward for the approval of the Constituent Authorities;
- xx) Any reference in this schedule to the Joint Governance Committee taking any action including agreeing, approving or making recommendations, shall be determined subject to the voting provisions set out in Schedule 6 of the Agreement;
- xxi) Approval of an appointment of an Allocator following a recommendation by the Officer Working Group, reviewing the performance of an Allocator(s), and reporting on the performance of the Allocator(s) to the Constituent Authorities;
- xxii) Approval of the termination of the appointment of an Allocator following a recommendation by the Officer Working Group.

(c) Joint Governance Committee Schedule of Procedure

**i) MEMBERSHIP**

- i.1 The membership of the Joint Governance Committee shall consist of one Member per Constituent Authority and one Co-opted Member.
- i.2 No substitutes other than deputies shall be allowed.

**iA) ROLE OF THE CO-OPTED MEMBER**

- iA.1 The primary role of the Co-opted Member is to provide scheme member representation on the Joint Governance Committee.
- iA.2 The Co-opted Member is entitled to attend all meetings of the Joint Governance Committee, including exempt items, to be provided with copies of all papers, and to speak on any item during meetings of the Joint Governance Committee.
- iA.3 The Co-opted Member may ask the Chair to include any matter on the agenda which they consider should be discussed by the Joint Governance Committee.

## **ii) MEETINGS**

- ii.1 Meetings shall be held a minimum of four times per municipal year (being May to May). The anticipated schedule of meetings and the locations in which they will be held will be agreed in advance of the commencement of the next Financial Year no later than the final meeting of the current Financial Year.
- ii.2 A meeting may be held at such time and place as the Chair of the Joint Governance Committee thinks fit provided that at least two meetings per annum shall be held in rotating locations between the Constituent Authorities to facilitate public access. The Constituent Authorities shall make available suitable accommodation for the holding of such meetings in public including the provision of Welsh Language translation, video-conferencing and webcasting services as appropriate.
- ii.3 All agendas, executive summaries of reports and minutes in relation to the Joint Governance Committee shall be in both Welsh and English, and simultaneous translation of proceedings will be available throughout all meetings of the Joint Governance Committee.
- ii.4 The Joint Governance Committee may decide to allow remote participation in meetings via video-conference or any similar medium having regard to any applicable guidance issued from time to time by the Welsh Government. Any Member or Co-opted Member attending by video-conference shall be held to be in attendance at the meeting for the purposes of this Schedule.
- ii.5 A meeting of the Joint Governance Committee may be called by a proper officer of the Host Authority on the request of the Chair. Members and the Co-opted Member must declare any conflict of interest in respect of any business being conducted at the meeting which would likely to be regarded to prejudice the exercise of a person's function as a participant in the meeting.
- ii.6 The Chair is responsible for the running of meetings. The Chair shall invite Members and the Co-opted Member expressing a desire to speak in turn. All discussion and debate shall be held through the

Chair and the Chair may draw a discussion to a vote at any time where they consider that every Member and the Co-opted Member has been given a fair opportunity to speak.

ii.7 Minutes will be kept of all meetings. The Chair will sign the minutes of the proceedings at the next suitable meeting.

ii.8 Notice of meetings

- (a) A notice of meeting specifying the place, date and time of the meeting and containing a statement of the matters to be discussed at the meeting, shall be served on all of the Members of the Joint Governance Committee by the appropriate governance officer of the Host Council;
- (b) Subject to the next clause ((c)), notice of each meeting, copies of the agenda and any reports to be presented at the meeting, shall be given to all Constituent Authorities by the Host Council no later than seven clear days before the date of the meeting. The Constituent Authorities shall ensure that a minimum of five clear days' notice of all meetings is given in accordance with their normal procedures for notification of Council meetings and all papers made available at all of the Constituent Authorities head offices for inspection for those five days unless certified as confidential in which case agendas and any non-certified items are made available only.
- (c) If a meeting is required to be held with less than five days' notice, the Chair must agree it is required urgently, approve the shortened notice period and allow as much notice as possible to be given. Notice should be given in the same manner, and the documents should be made available to all of the Constituent Authorities for as many days as practicable before the meeting.

ii.9 Exclusion of the public and press

- (a) Where any item to be discussed forms exempt information, the Chair shall move that the public and press are excluded from the meeting for the duration of the discussion and voting on that item. The Co-opted Member is entitled to remain in the meeting and shall not be excluded. Motions to exclude the press and public do not require to be seconded and shall be determined by simple majority vote of the Members present.
- (b) Where the press and public are excluded under (a) above the Chair may invite any person to remain in the meeting where they consider it to be necessary or appropriate to do so and any members of the Officer Working Group present shall be presumed to be invited to remain unless the Chair specifies otherwise.

- (c) Any person may be excluded from a meeting or required to leave a meeting where in the opinion of the Chair they are causing a disturbance to the running of the meeting and have not desisted from doing so following a request; or where any person is so disruptive that their conduct if allowed to remain would prevent the meeting from proceeding in a fair and acceptable manner.
- ii.10 The Joint Governance Committee may, through the Chair, invite any person to speak at a meeting.
- ii.11 Officers of the Officer Working Group presenting reports to the Joint Governance Committee may be asked questions following such presentation.
- ii.12 Section 151 Officers and Monitoring Officers (and in their absence their deputies) of any Constituent Authority are entitled to attend all meetings including any part of any meeting which is closed to the public and press.

### **iii) QUORUM**

- iii.1 The quorum shall be five Members.
- iii.2 Where a quorum is not present within 15 minutes of the start of the meeting and the Chair has not been notified that one or more Members have been delayed but will be attending, the meeting shall not be held and the Host Council will be asked to schedule and give notice of a replacement meeting.
- iii.3 Where, during any meeting there is no quorum present, then the meeting will adjourn immediately. If the Chair has been unable to ascertain within 15 minutes that the quorum can be restored the remaining business will be considered at another time and date fixed by the Chair.

### **iv) CHAIR AND VICE CHAIR.**

- iv.1 The Chair and Vice-Chair shall be Members and shall be appointed by vote for a term of 12 calendar months.
- iv.2 In the absence of the Chair, the Vice-chair shall be entitled to exercise all of the functions of the Chair.
- iv.3 The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any rule in this Schedule of Procedure shall be final and no debate may ensue thereon. The Chair shall be entitled to take the advice of a governance officer in interpreting any rule or objection on procedure.

- iv.4 The Chair may be assisted during meetings by a governance officer on procedural matters and such administrative officers as the Chair considers appropriate. Such governance and secretarial officers shall be entitled to remain in the meeting where the public and press are excluded.

#### **v) AGENDA**

- v.1 An agenda shall be produced in advance for each meeting by the Host Council following consultation with the Chair.
- v.2 The agenda for each meeting shall contain as the first substantive item the approval of the minutes of the previous meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the previous minutes that can be discussed is their accuracy and any matters arising from those previous minutes shall be regarded as new items on the agenda of the current meeting.
- v.3 The Officer Working Group and the Constituent Authorities may ask the Chair to include any matter on the agenda which they consider should be discussed by the Joint Governance Committee.
- v.4 The decision on whether to allow discussion on any other matter not on the agenda of a meeting at that meeting shall be made by the Chair.

#### **vi) MOTIONS**

- vi.1 Any Member may propose a motion. All motions must be seconded. Motions which are opposed shall be put to a vote in accordance with the voting provisions of this Schedule of Procedure.
- vi.2 A Member or the Co-opted 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 the provisions of this Schedule, or the law or other competent authority. The Member or Co-opted Member must indicate the provision or law or regulation and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final. The Chair may take advice on the point of order from the appropriate officer.

#### **vii) VOTING**

- vii.1 The Chair shall seek consensus wherever possible however where a vote is required the provisions of this section shall apply.
- vii.2 Each Member present will have one vote and voting will be by means of a show of hands or such other method as the Chair may

decide is appropriate in the circumstances, including a roll call. The Co-opted Member may not vote. In the event of a tied vote, the Chair shall have a second or casting vote.

- vii.3 All decisions will be determined by simple majority of Members present.
- vii.4 In the event that a vote is taken, the voting positions and any abstentions of Members will be recorded in the minutes.

#### **viii) SUB-COMMITTEES AND WORKING GROUPS**

- viii.1 The Joint Governance Committee shall form such sub-committees and working groups as it considers expedient to performing its function. The Joint Governance Committee shall at the time of forming sub-committees or working groups set out the remit of the sub-committees or working groups, what the sub-committees or working groups are required to deliver and the timescale for that delivery. The Co-opted Member may be a member of any sub-committee or working group.
- viii.2 Sub-committees and working groups shall be entitled to request the input and support of the Officer Working Group in the same manner as the Joint Governance Committee.
- viii.3 Each sub-committee and working group shall appoint a chair for that sub-committee or working group, who is to be one of the members of the sub-committee or working group.
- viii.4 Working groups may invite any person who is not a Member or Co-opted Member to join the group in order to assist in carrying out its function.
- viii.5 The Chairs of sub-committees and working groups shall report to Joint Governance Committee at each meeting of that committee on the process of the matters within their remit.
- viii.6 Sub-committees and working groups may be disbanded at any time on the vote of the Joint Governance Committee.
- viii.7 The provisions of the paragraphs in this Schedule of Procedure relating to Agendas, Motions and Voting shall apply to any sub-committee and working group meetings.

#### **9.8. Section 5 of the Public Services Pensions Act 2013**

- 9.8.1 In accordance with Section 5 of the Public Service Pensions Act 2013, a local Pension Board assists Flintshire County Council in the governance and administration of the Clwyd Pension Fund. The

Board's role, members, terms of reference and working arrangements are contained in the following Protocol (following paragraph 9.10).

#### **9.9 Other Committees and Sub-Committees**

9.9.1 The Council will appoint such other Committees as it considers appropriate to the exercise of its functions. These will include a Planning and Licensing Committee.

9.9.2 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.

#### **9.10 Rules of Procedure and Debate**

The Council Procedure Rules in **Section 4** will apply.

#### **9.11 Pension Board Protocol**

##### **1) Introduction**

The purpose of this document is to set out the Protocol for the local Pension Board of the Clwyd Pension Fund. Flintshire County Council is a scheme manager as defined under Section 4 of the Public Services Pensions Act 2013. The Pension Board is established by Flintshire County Council under the powers of Section 5 of the Public Service Pensions Act and regulation 106 of the Local Government Pension Scheme Regulations 2013. As such, the Constitution of Flintshire County Council does not apply to this Pension Board unless expressly referred to within and permitted by this Protocol.

##### **2) Powers of the Pension Board**

The Pension Board will exercise all its powers and duties in accordance with the law and this Protocol.

In addition, Flintshire County Council has determined that, in accordance with the Wales Pooling Collaboration Inter-Authority Agreement, any nomination of a Co-Opted Member to the Joint Governance Committee will be carried out by the Pension Board.

##### **3) Role of the Pension Board**

The role of the Pension Board is defined by regulation 106 (1) of the LGPS Regulations as to assist Flintshire County Council as Scheme Manager of the Clwyd Pension Fund:

- to secure compliance with the LGPS Regulations and any other legislation relating to the governance and administration of the Scheme,

and requirements imposed in relation to the LGPS by the Pensions Regulator

- to ensure the effective and efficient governance and administration of the LGPS by the Clwyd Pension Fund

The Council considers this to mean that the Pension Board is providing oversight of these matters and, accordingly, the Pension Board is not a decision making body in relation to the management of the Pension Fund but merely makes recommendations to assist in such management. The Pension Fund's management powers and responsibilities which have been, and may be, delegated by the Council to committees, sub-committees and officers of the Council, remain solely the powers and responsibilities of those committees, sub-committees and officers including but not limited to the setting and delivery of the Fund's strategies, the allocation of the Fund's assets and the appointment of contractors, advisors and fund managers. The Pension Board operates independently of the Clwyd Pension Fund Committee.

The Pension Board will ensure that in performing their role it is:

- done effectively and efficiently and
- complies with relevant legislation and
- done by having due regard and in the spirit of the Code of Practice on the governance and administration of public service pension schemes issued by the Pensions Regulator and any other relevant statutory or non-statutory guidance.

#### **4) Composition of the Pension Board**

##### **a) Membership.**

The Pension Board shall consist of 5 members and be constituted as follows:

- i) 2 Employer Representatives;
- ii) 2 Scheme Member Representatives;
- iii) 1 Independent Member.

Substitutes for the Employer or Scheme Member Representatives are not permitted. The Independent Member will have an Alternate who will carry out Pension Board business if the Independent Member is not available to do so.

##### **b) Eligibility and selection criteria.**

The Head of Clwyd Pension Fund as the Board Secretary (hereafter referred to as "Board Secretary") will define and keep under review any eligibility and/or selection criteria that will apply to Pension Board members having due regard to the LGPS Regulations and any other relevant Code of Practice and

guidance (statutory or otherwise). As a minimum and in accordance with the LGPS Regulations:

- all scheme member and employer representatives must have the capacity to represent their scheme members and employers as appropriate, and
- no officer or elected member of Flintshire County Council who is responsible for the discharge of any function of the Administering Authority under the LGPS Regulations may be a member of the Clwyd Pension Fund Board.

**c) Appointment of Members.**

The process for selecting members of the Pension Board is set out below.

*i) Employer Representative*

**Step 1** - Each employer within the Clwyd Pension Fund will be invited to nominate one representative to represent employers on the Pension Board. The Board Secretary can appoint or reject any nomination made where it is considered the individual does not appropriately meet the eligibility and/or selection criteria.

**Step 2** - Where Step 1 fails the Board Secretary will take any other action considered appropriate to appoint suitable Employer Representatives.

*ii) Scheme Member Representatives*

The joint trade unions will be approached to make one nomination of a person to represent scheme members. The Board Secretary can appoint or reject any nomination made where he/she considers the individual does not appropriately meet the eligibility and/or selection criteria.

The other Scheme Member Representative must be an active, deferred or pensioner member of the Clwyd Pension Fund and will be selected by the Board Secretary following procedures determined by him/her in the spirit of any national guidance or Code of Practice in relation to appointments to the Pension Board.

NB: Step 2 for the Employer Representative also applies to the Scheme Member Representative.

*iii) Independent Member and Alternate*

The Board Secretary will appoint the Independent Member and Alternate. This will be subject to a majority vote by the employer and scheme member representatives on the Board.

**d) Term of Office**

- i) The Employer Representatives are appointed for a period of three years the date of their appointment. This period may be extended to up to five years if agreed by the Board Secretary. It will automatically cease if the individual is no longer in the employment of that employer.
- ii) The Scheme Member Representatives are appointed for a period of three years the date of their individual appointment. This period may be extended to up to five years if agreed by the Board Secretary. It will automatically cease if the individual is no longer a trade union representative or representative of scheme members (in accordance with the criteria set by the Board Secretary, as appropriate).
- iii) The Independent Member's and Alternate's term of office will be determined by the Board Secretary subject to a maximum of five years.

Any Pension Board member may be re-appointed for further terms following an appointment process.

Term dates may not be exact due to the period of the appointment process. The term of office may therefore be extended for this purpose or other exceptional circumstances by up to three months with the agreement of the Board Secretary

Other than ceasing to be eligible (as set out above) a Pension Board member may only be removed from office during the term of appointment by the unanimous agreement of the Board Secretary, the Monitoring Officer and the Independent Member. Such reasons may include non-compliance with this Protocol including inappropriate conduct, conflicts of interest, avoidance of training or low meeting attendance, not having the capacity to represent their members or employers (as relevant) or for any other reason not meeting the criteria required to be a Pension Board member.

The removal of the Independent Member requires unanimous agreement from the Board Secretary and the Monitoring Officer.

#### **e) Quorum**

All Members of the Pension Board are expected to regularly attend meetings. Records of attendance of all Members will be maintained and reported to the Board Secretary on at least an annual basis.

A meeting of the Pension Board will only be quorate when:

- one Employer Representative and
- one Scheme Member Representative and
- the Independent Member or Alternate

are present. Subject to agreement by the Independent Member this could include remote attendance. A meeting that is (or becomes at any point) not quorate will cease immediately.

#### **f) Chairing**

The Chair of the Pension Board will be the Independent Member (or Alternate) subject to a motion to confirm this being agreed by the majority of the Employer and Scheme Member Representatives of the Board. The role of the Chair is to:

- Ensure that all members of the Board show due respect for process, that all views are fully heard and considered and that decisions are democratically made where consensus cannot be reached.
- Uphold and promote the purpose of the Board and to interpret its Protocol when necessary
- Ensure that the Pension Board members have the knowledge and skills as determined in the Fund's Knowledge and Skills Policy and other guidance or legislation and maintain a training record.
- Act as professional adviser for the Board or arrange such advice as required subject to agreement by the Board Secretary on such conditions as that officer determines.
- Agree the agenda for each Pension Board meeting.
- Approve minutes for Pension Board meetings.
- Ensure an attendance record is maintained along with advising Flintshire County Council on remuneration and expenses to be paid.
- Advise Flintshire County Council on an appropriate budget for the Board, which should be formally approved by the Pension Fund Committee along with the Pension Fund Annual Budget..
- Write reports required by Flintshire County Council on the work of the Board.
- Liaise with the Board Secretary on the requirements of the Board, including advanced notice for Flintshire County Council officers to attend and arranging dates and times of Board meetings.
- Other tasks which may be deemed appropriate by Flintshire County Council for the Chair of the Pension Board.
- Other tasks that may be requested by the members of the Pension Board, within the remit of this Protocol and subject to agreement with the Board Secretary
- To annually review and report on the performance of the Board

The decision of the Chair on all points of procedure and order and the Chair's interpretation of the Protocol shall be final.

#### **g) Voting**

Each Employer and Scheme Member Representative on the Pension Board will have an individual voting right but it is expected the Pension Board will as far as possible reach a consensus. The Chair of the Pension Board will not be entitled to vote.

The results of any voting outcomes will be reported in the Board minutes including where a consensus was not reached in voting.

Any decision being reported to the Monitoring Officer under 9b) below must receive agreement from a majority of voting members.

#### **5) Location and Frequency of Meetings**

The Pension Board will normally meet at the offices of the Clwyd Pension Fund, although the offices of any Employer Representatives could be used with prior agreement of the Chair and at no additional accommodation cost to the Clwyd Pension Fund. Meetings can also be held with remote attendance by members or as hybrid (a combination of physically present and remote attendance).

The Board will meet a minimum of twice and a maximum of four times in each calendar year. If the Board does not believe that this is sufficient to discharge its duties and responsibilities effectively the Chair can make a request to the Board Secretary for approval to hold additional meetings.

Urgent business of the Pension Board between meetings may, in exceptional circumstances, be conducted via communications between members of the Pension Board including remote attendance, telephone conferencing and e-mails.

#### **6) Remuneration and Expenses**

- a) Subject to b) below, an allowance will be made to both Employer and Scheme Member Representatives for attending meetings relating to Pension Board business (including attending training) at the rates contained in the Schedule of Member Remuneration in Flintshire County Council's Constitution for co-opted members of a Flintshire County Council Committee.
- b) It is hoped that employers of Representatives on the Pension Board will provide appropriate capacity to allow the Representative to perform this role within their normal working day without any reduction in pay. If that is the case, the Representative will not be entitled to any allowance.
- c) All Employer and Scheme Member Representatives will also be entitled to claim travel and subsistence allowances at the rates contained in the Schedule of Member Remuneration in Flintshire County Council's Constitution.

- d) The Independent Member and Alternate shall be paid remuneration and expenses as determined by the Board Secretary

## **7) Acting in the interests of the entire pension fund**

Though members of the Pension Board include representatives of specific categories of stakeholder (i.e. scheme members and employers) each member is required to have due regard to the Role of the Pension Board as outlined in this Protocol. Accordingly all members are expected to work jointly in the best interest of the entire Pension Fund, rather than representing the interest of any individual stakeholders. This should not prevent Members from sharing their knowledge on how matters might impact specific stakeholders of the Fund.

## **8) Conflicts of Interest**

A conflict of interest is defined in the Public Service Pensions Act as: “in relation to a person, means a financial or other interest which is likely to prejudice the person’s exercise of functions as a member of the board (but does not include a financial or other interest arising merely by virtue of membership of the scheme or any connected scheme).”

Each member of the Pension Board (as well as any other attendees participating in the meeting) will be expected to declare, on appointment and at each meeting, any interests which may lead to conflicts of interest in the subject area or specific agenda of that Pension Board.

The Chair of the Pension Board must be satisfied that the Board is acting within:

- the conflicts of interest requirements of the Public Service Pensions Act and the LGPS Regulations, and
- in the spirit of any national guidance or code of practice in relation to conflicts of interest at the Pension Board, and
- in accordance with any Clwyd Pension Fund Conflicts of Interest Policy or Procedures that apply to the Board.

Each member of the Pension Board, or a person proposed to be appointed to the Board, (as well as attendees participating in the meeting) must provide the Chair of the Pension Board with such information as he or she reasonably requires for the purposes of demonstrating that there is no conflict of interest.

The Board Secretary and the Monitoring Officer will jointly adopt the role of ensuring that the Chair of the Pension Board does not have a conflict of interest in the same way as the Chair does in relation to all other Pension Board members. Further they must be satisfied that the Chair is carrying out his or her responsibilities under this section appropriately.

## **9) Reporting and escalation**

- a) The Board must provide minutes of each meeting to the following Pension Fund Committee meetings and may make reports and recommendations to the Pension Fund Committee insofar as they relate to the role of the Pension Board. Any such reports or recommendations must be provided 10 working days in advance of the next Pension Fund Committee to the Board Secretary. In addition, an annual report of the Pension Board (as prepared by the Chair of the Pension Board), must be provided to the Board Secretary, the Monitoring Officer, the Pension Fund Committee, and the Governance and Audit Committee and be published in the Fund's Annual Report and Accounts.
- b) Where the Board considers that a matter brought to the attention of the Pension Fund Committee has not been acted upon or resolved to their satisfaction, the Pension Board will provide a report to the Monitoring Officer.

#### **10) Receipt of advice and information**

The Board will be supported in its role and responsibilities by the Independent Member and the Head of Clwyd Pension Fund ("the Board Secretary"). In addition Pension Board members will receive the final reports, minutes and agendas relating to all Pension Fund Committees and may attend Pension Fund Committee meetings (including during exempt items).

Insofar as it relates to the role of the Pension Board, it may also;

- request and receive information and reports from the Pension Fund Committee or any other body or officer responsible for the management of the Fund
- examine decisions made or actions taken by the Pension Fund Committee or any other body or officer responsible for the management of the Fund.

The Board Secretary will provide such information as is requested.

Any further requests for information and advice are subject to the approval of the Board Secretary who will be required to consider positively all reasonable requests in relation to the role of the Pension Board whilst being mindful of value for money. The Board Secretary will provide such information as is approved.

#### **11) Knowledge and Skills**

Under the requirements of the Public Service Pensions Act, a member of the Pension Board must be conversant with:

- a) the legislation and associated guidance of the Local Government Pension Scheme (LGPS), and
- b) any document recording policy about the administration of the LGPS which is adopted by the Clwyd Pension Fund.

In addition, a member of the Local Pension Board must have knowledge and understanding of –

- The law relating to pensions, and
- Any other matters which are prescribed in regulations.

It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.

In line with this requirement Pension Board members are required to be able to demonstrate their knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to:

- participate in training events (a written record of relevant training and development will be maintained)
- undertake a personal training needs analysis or other method to identify gaps in skills, competencies and knowledge.
- comply with the Pension Fund's Training Policy insofar as it relates to Pension Board members.

## **12) Standards of Conduct**

The Flintshire Standard and Part 2 of the Flintshire County Council's Members' Code of Conduct shall apply in relation to the standards of conduct of Pension Board members insofar as they can be reasonably considered to apply to the role of members of the Pension Board, including the non-disclosure of confidential information.

## **13) Administration**

The Chair of the Pension Board will agree an agenda with the Board Secretary prior to each Pension Board meeting. The agenda and any papers for the Pension Board will be issued at least 5 working days (where practicable) in advance of the meeting except in the case of matters of urgency. Draft minutes of each meeting including all actions, decisions and matters where the Board was unable to reach a decision will be recorded and circulated to all Board members within 10 working days after the meeting. These draft minutes will be subject to formal agreement by the Chair taking consideration of comments by Board members (which may be done electronically between meetings).

The minutes may, at the discretion of the Chair, be edited to exclude items on the grounds that they would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A (2) of that Act and/or they represent data covered by the Data Protection ~~Act 1998/ General Data Protection Regulation~~ [Legislation](#).

The Pension Board must comply with the ~~General Data Protection Regulation~~ [Data Protection Legislation](#) and Flintshire County Council's data protection policy. It must also adhere to Flintshire County Council's requirement, controls and policies for Freedom of Information Act compliance.

#### **14) Access to the Public and publication of Pension Board information**

The Pension Board will not be a meeting of the Council open to the general public. The following will be entitled to attend Pension Board meetings in an observer capacity:

- Members of the Clwyd Pension Fund Committee
- the Chief Executive, Corporate Manager – Human Resources and Organisational Development, the Section 151 Officer, the Head of Clwyd Pension Fund and the Monitoring Officer
- other officers or advisers of Flintshire County Council or other employers involved with the management of the Pension Fund subject to approval in advance by the Chair, or on request by the Chair
- any other person requested to attend by the Chair
- any other person subject to approval in advance by the Chair.

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

In accordance with the Public Service Pensions Act, Flintshire County Council is required to publish information about the Pension Board including:

- who the Pension Board members are
- representation on the Board
- the role of the Pension Board.

In accordance with good practice, Flintshire County Council may publish other information relating to the Pension Board as considered appropriate from time to time and which may include:

- the agendas and minutes
- training and attendance logs
- an annual report on the work of the Pension Board.

All or some of this information may be published using the following means or other means as considered appropriate from time to time:

- on the Clwyd Pension Fund website,
- on the Flintshire County Council website,
- within the Clwyd Pension Fund Annual Report and Accounts,

- within the Fund's Governance Policy and Compliance Statement.

Information may be excluded on the grounds that it would either involve the likely disclosure of exempt information as specified in Part 1 of Schedule 12A of the Local Government Act 1972 or it being confidential for the purposes of Section 100A(2) of that Act and/or they represent data covered by the ~~Data Protection Act 1998 and the General Data Protection Regulations~~Data Protection Legislation.

#### **15) Accountability**

The Pension Board will be collectively and individually accountable to Flintshire County Council.

#### **16) Review, Interpretation and Publication of Protocol**

This Protocol has been agreed by Flintshire County Council. The Council will monitor and evaluate the operation of the Pension Board and may review this Protocol from time to time.

This Protocol will be incorporated into the Council's Constitution and will be publicly available as part of the Constitution as defined in the Council's Constitution and may be amended by the same means as permitted for the Constitution. It will also form part of the Clwyd Pension Fund's Governance Policy and Compliance Statement which will be made available in accordance with the requirements of the LGPS Regulations.

#### **17) Definitions and Interpretation**

Points of interpretation:

- All references to officers are to officers within Flintshire County Council unless otherwise stated.

The undernoted terms shall have the following meaning when used in this document:

|                                   |   |
|-----------------------------------|---|
| <i>"Pension Board" or "Board"</i> | the local Pension Board for Flintshire County Council, administering authority for the Clwyd Pension Fund as required under the Public Service Pensions Act 2013  |
| <i>"Pension Fund Committee"</i>   | The Clwyd Pension Fund Committee or any committee or sub-committee that may be established with delegated powers for the management and administration of the Fund on behalf of Flintshire County Council as Administering Authority. |
| <i>"Fund" or "Pension Fund"</i>   | Clwyd Pension Fund  |

|  |   |
|--|---|
| <i>“the LGPS Regulations”</i>          | The Local Government Pension Scheme Regulations 2013 (as amended)               |
| <i>the Public Service Pensions Act</i> | The Public Service Pensions Act 2013 (as amended)                               |
| <i>“Scheme Manager”</i>                | Flintshire County Council as administering authority of the Clwyd Pension Fund. |
| <i>“Chair”</i>                         | The appointed Chairperson of the Pension Board                                  |
| <i>“LGPS”</i>                          | The Local Government Pension Scheme   |
| <i>“Scheme”</i>                        | The Local Government Pension Scheme   |

## **9.12 Grievance Committee**

### Terms of Reference

- 9.13.1 To hear the grievances, assisted by the Monitoring Officer and the Senior Manager Human Resources and Organisational Development. Where the Committee upholds a grievance and decides that it is a matter of a serious nature it may refer the matter to the Standards Committee.
- 9.13.2. The Grievance Committee must be politically balanced. In order to accommodate all groups on the Committee it will need 11 seats allocated as follows:
- Labour 5, Independent Alliance 2, Conservative 1, Independent 1, Liberal Democrat 1, New Independent 1.
- 9.13.3. It is recommended that the Grievance Committee should appoint its own Chair from those amongst its Membership.

## **9.14 Grievance Appeals Committee**

### Terms of reference

- 9.14.1. To hear appeals arising from grievances, assisted by the Monitoring Officer and the Senior Manager Human Resources and Organisational Development. Where the Committee upholds a grievance and decides that it is a matter of a serious nature it may refer the matter to the Standards Committee.
- 9.14.2. The Grievance Appeals Committee must be politically balanced. In order to accommodate all groups on the Committee it will need 11 seats allocated as follows:

Labour 5, Independent Alliance 2, Conservative 1, Independent 1, Liberal Democrat 1, New Independent 1.

- 9.14.3. It is recommended that the Grievance Appeals Committee should appoint its own Chair from those amongst its Membership.

## **9.15 Investigation & Disciplinary Committee**

### Terms of reference

- 9.15.1. To lead investigations and consider disciplinary action, assisted by the Monitoring Officer and the Senior Manager Human Resources and Organisational Development.

- 9.15.2. The Investigation & Disciplinary Committee must be politically balanced. In order to accommodate all groups on the Committee it will need 11 seats allocated as follows:

Labour 5, Independent Alliance 2, Conservative 1, Independent 1, Liberal Democrat 1, New Independent 1.

- 9.15.3. It is recommended that the Committee should appoint its own Chair from those amongst its Membership.

## **9.16 THE CLIMATE CHANGE COMMITTEE**

### **Composition**

#### **9.16.1 Membership**

2. The Climate Change Committee is composed of 12 Members.
3. The Climate Change Committee is subject to the rules of political balance in the Local Government and Housing Act 1989.

#### **9.16.2 Term of Office**

It is important that members of the Committee are able to build up expertise.

#### **9.16.3 Quorum**

4. A meeting of the Climate Change Committee shall only be quorate when at least one third of the committee's members are attending the meeting

#### **9.16.4 Chairing the Committee**

- 9.16.4.1 The Full Council will appoint the Chair of the Climate Change Committee at the Annual Meeting. The Climate Change Committee will elect its own vice chair.
- 9.16.4.2 The Chair and Vice Chair will serve from the first meeting after the Annual Meeting of Council (or the first meeting at which they were elected if later) until the end of the municipal year or until the member ceases to be a member of the committee or ceases to be a councillor (for whatever reason).

#### **9.16.5 Role and Function**

- 9.16.5.1 The primary objectives of the Climate Change Committee are to:
- 9.16.5.2 Assist and advise the Council on how to become a net zero carbon emitter by December 2030;
- 9.16.5.3 Consult with, and raise awareness amongst, the public, business and suppliers on steps that can be taken to reduce carbon emissions;
- 9.16.5.4 It will have the following roles and functions to help the Council achieve those objectives:
- 9.16.5.5 To gather information on and model annual Council greenhouse gas emissions;
- 9.16.5.6 To consider the economic, environmental and social challenges/risks arising from climate change for businesses, residents, suppliers and the Council;
- 9.16.5.7 Reviewing, leading on and commenting on the Council Plan's Green Theme priorities and complementary priorities within other themes of the Council Plan;
- 9.16.5.8 To continue to develop, for approval by the Cabinet, the Climate Change Strategy and Action Plan with the aim of reducing the Council's net greenhouse gas emissions, the implementation of which it will continue to oversee;
- 9.16.5.9 To promote and support the use of renewable energy opportunities across the Council's estate and wider communities;
- 9.16.5.10 To support and promote Welsh Government's strategy to create a sustainable, circular economy in Flintshire;
- 9.16.5.11 To encourage local businesses in their efforts to reduce their carbon footprint and become more resource efficient.
- 9.16.5.12 To advise the Cabinet on:

- 9.16.5.13 Steps it can take to limit the impact of the Council's services on the natural environment and supporting the wider communities of Flintshire to reduce their own carbon footprint;
- 9.16.5.14 The use, good management and protection of the Council's green spaces to deliver multiple benefits to the environment and its residents and visitors;
- 9.16.5.15 How to reduce the environmental impact of the Council's fleet by maximising the use of sustainable forms of transport;
- 9.16.5.16 How to ensure that the Councils retained housing stock meets the Welsh Housing Quality Standard Developing plans for the de-carbonisation of council homes;
- 9.16.5.17 How to ensure that the Council's non-residential buildings and land supports and contributes to the Councils net zero carbon agenda and supports the aims and objectives within the Councils Climate Change Strategy
- 9.16.5.18 To review and make recommendations on procurement policy and practice to reduce greenhouse gas emissions from our suppliers;

## **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. (see also [Section 6.6](#) above)

#### **10.2 Arrangements to Promote Wellbeing**

The Council or 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 Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.

~~10.3.3~~10.3.4 When considering whether to establish a Joint Committee, the Council and the Cabinet shall have regard to any guidance issued by the Welsh Ministers regarding the

[establishment of joint committees and the circumstances in which it is appropriate to do so.](#)

#### **10.4 Access to Information**

- 10.4.1 The Access to Information Procedure Rules in **Section 14** apply.
- 10.4.2 If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.
- 10.4.3 If the Joint Committee contains Members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

#### **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.

## **10.2 THE NORTH WALES ECONOMIC AMBITION BOARD JOINT COMMITTEE**

10.2.1 The Councils shall form the Joint Committee in accordance with this agreement ("Joint Committee") for the purposes of:-

- 10.2.1 (1) to co-ordinate the planning and delivery of the Growth Vision, with an initial emphasis on a Growth Deal
- 10.2.1(2) to provide direction for key strategies in support of paragraph 10.2.1 above, in particular transport, skills and employment, economic development and land use planning;
- 10.2.1 (3) to unite partners around common purpose in support of 10.2.1 above;
- 10.2.1(4) to provide direction to any Sub-Boards that the Joint Committee chooses to appoint including the commissioning of specific tasks or projects;
- 10.2.1(5) proposing projects that could be undertaken as part of the Growth Deal;
- 10.2.1(6) deliberating on such projects to assess whether further due diligence is warranted and reaching agreement on the costs that should be incurred undertaking further appraisal work;
- 10.2.1(7) agreeing a pro-forma Implementation Plan that will set out the process for agreeing and prioritising projects that will be taken forwards pursuant to the Growth Deal;
- 10.2.1(8) preparing a draft Business Plan in accordance with Clause 7 (Business Plan); and
- 10.2.1(9) overseeing and co-ordinating the discharge of the Councils' preparatory obligations in relation to the Growth Deal,
- 10.2.1(10) To take all necessary decisions to pursue the aims and objectives of the Regional Growth Strategy
- 10.2.1(11) to carry out the functions set out in Schedule 2 (Joint Committee Terms of Reference).

10.2.2 The Joint Committee may carry out such other functions as the Councils determine from time to time and approve as a Matter Reserved to the Parties.

10.2.3 The Joint Committee shall not have power to approve any Matter Reserved to the Parties.

10.2.4 The Advisers shall have the right to attend and speak at meetings the Joint Committee.

- 10.2.5 Each Party shall appoint one (1) representative to the Joint Committee. The details of each of the representatives are set out in Schedule 7 (Details of Representatives).
- 10.2.6 The Chairperson of the Joint Committee shall be a representative of a Council appointed to the Joint Committee and shall be appointed on an annual basis by the Joint Committee at the Annual General Meeting. The Chairperson shall not have a casting vote.
- 10.2.7 Each Party shall be entitled from time to time to appoint a named deputy for its representative. Any deputies may attend meetings of the Joint Committee but shall only be entitled to speak and vote at such meetings in the absence of his or her corresponding principal.
- 10.2.8 Each Party may, at their discretion, replace their representative (and their respective deputies) appointed to the Joint Committee, provided that:-
- 10.2.8(1) at all times, they have a representative appointed to the Joint Committee in accordance with the roles identified in Schedule 2 (Joint Committee Terms of Reference);
  - 10.2.8(2) any such replacement shall have no lesser status or authority than that set out in Schedule 2 (Joint Committee Terms of Reference) unless otherwise agreed by the Parties; and
  - 10.2.8(3) the details of any such representative shall be notified to the other Parties in writing, to replace the relevant details set out in Schedule 7 (Details of Representatives).
- 10.2.9 Unless the Joint Committee decides otherwise (e.g. if a meeting is deemed not to be required), the Joint Committee shall meet either on a monthly basis or as and when required in accordance with the timetable for the Growth Deal. Meetings shall be convened at appropriate times and upon giving the requisite statutory notice (to be issued through the Accountable Body) to deliberate on the Joint Committee Matters referred to in Schedule 1 (Delegations Policy).
- 10.2.10 The expectation is that all of the Councils and Advisers attend all meetings of the Joint Committee where possible.
- 10.2.11 Any representative may by written request to the Executive Team request that a matter be considered at the next meeting of the Joint Committee.
- 10.2.12 The Executive Team shall ensure that all agendas and relevant information in relation to a Joint Committee meeting are circulated in a timely manner and in any event in accordance with legislative requirements.
- 10.2.13 Any representative may, where he or she views that a matter requires urgent consideration, request to the Chairperson at the start of a Joint

Committee meeting that such urgent item is added to the agenda, but its inclusion will be a matter for the Chairperson to decide.

- 10.2.14 The quorum necessary for a Joint Committee meeting shall be a representative or deputy from at least 4 Councils.
- 10.2.15 At meetings of the Joint Committee each representative or appropriate deputy (in the absence of the relevant representative) from each Council shall have one vote.
- 10.2.16 At meetings of the Joint Committee, each representative or appropriate deputy (in the absence of the relevant representative) from each Adviser shall have the right to advise the Joint Committee on decisions and their views shall be recorded by the Joint Committee. Whilst it is not intended that the Advisers shall have formal voting rights, the Joint Committee shall give consideration to any views or representations made by the Advisers and where Advisers do not agree with a proposed decision the Joint Committee shall consider (acting in good faith) declaring a matter a JC Unresolved Matter.
- 10.2.17 Decisions at a meeting of the Joint Committee require a simple majority vote of the representatives (or deputies as applicable) from the Councils in attendance, provided that if:
  - 10.2.17.(1) the votes are tied (i.e. a deadlock); or
  - 10.2.17(2) two or more Parties make such a request at the meeting, that decision shall be declared a JC Unresolved Matter to be dealt with in accordance with Clause 10.2.18.
- 10.2.18 at a meeting of the Joint Committee, a matter is not determined, that matter ("JC Unresolved Matter") shall be deferred for consideration at the next ordinary meeting of the Joint Committee meeting or such sooner time as shall be agreed. If at the reconvened Joint Committee meeting the JC Unresolved Matter is not determined, the JC Unresolved Matter shall not be agreed and shall not be implemented by the Joint Committee.
- 10.2.19 Each Party shall provide all information reasonably required upon request by the Joint Committee to the Executive Team and shall comply with any decisions of the Joint Committee to request such information.
- 10.2.20 Each Party shall consult with the other Parties to ensure the diligent progress of the day to day matters relating to the discharge of the Parties' obligations in relation to the Growth Deal.
- 10.2.21 Where a Party wishes to provide any information and/or serve a notice or demand on the Joint Committee, this should be served on the Executive Team in accordance with Clause 23.3 (Notices). The Executive Team shall keep a record of all information, notices and demands received and shall update each representative promptly.

10.2.22 The Parties acknowledge and agree that the Joint Committee shall adopt (as applicable) the Accountable Body's prevailing contract standing orders, financial procedure rules, and such other applicable policies and procedures for and behalf of the Parties in the discharge of its obligations under this Agreement and that the Accountable Body's chief finance officer ('S151 Officer') and Monitoring Officer (or their nominated deputies) shall, respectively, act as the section 151 officer and monitoring officer

10.2.23 The Advisers acknowledge and agree that their representative or deputy shall comply with the terms of the GA Code of Conduct.

10.2.24 Joint Committee may Delegate

10.2.24(1) The Joint Committee may delegate any of the powers which are conferred on them under this Agreement:

- (a) to a sub-committee or an officer of one of the councils;
- (b) to such an extent;
- (c) in relation to such matters; and
- (d) on such terms and conditions,

as they think fit from time to time (subject to any restrictions that may be imposed upon such delegation by any of the Councils).

10.2.24(2) The Joint Committee may allow that such delegation shall automatically authorise further delegation of the Joint Committee's powers by any person to whom they are delegated provided that the Joint Committee specifically states this within such delegation authority.

10.2.24(3) The Joint Committee may revoke any delegation in whole or part, or alter its terms and conditions at any time.

10.2.25 Sub-Committees

10.2.25(1) The Joint Committee shall establish as soon as reasonably practicable the sub-committees or groups set out below. The initial terms of reference for the sub-committees, subject to approval by the Joint Committee and its powers to vary and or revoke such delegation in accordance with clause 10.2.24 above, will be as set out in the third part of Schedule 2 :

- (a) a transport sub-committee; and
- (b) Digital Delivery.

- 10.2.25(2) The Accountable Body shall be responsible for providing Internal Audit services to the Joint Committee and audit reports in relation to the Joint Committee shall be considered by its Audit Committee in accordance with its usual rules and practices.
- 10.2.25(3) It is acknowledged and agreed by the Parties that the sub-committees or groups referred to in Clauses 10.2.22, 10.2.25.1 and 10.2.25.2:
- (a) shall undertake a number of functions including but not limited to audit, scrutiny and/or consultation services pursuant to their terms of reference; and
  - (b) shall not have any delegated decision making powers (unless otherwise expressly granted by the Joint Committee).
- 10.2.25(4) Sub-committees or groups to which the Joint Committee delegates any of its powers must follow procedures which are based as far as they are applicable on those provisions of this Agreement which govern the taking of decisions by the Joint Committee.
- 10.2.25(5) The Joint Committee shall establish the membership, rules of procedure or terms of reference for all or any such sub-committees or groups to, amongst other matters, clarify their respective role and scope of delegation which shall be approved by the Joint Committee.
- 10.2.25(6) The Joint Committee may create additional sub-committees, sub-groups or SPVs (subject to the need to obtain non-executive approval for a local authority trading company established under the Local Government Act 2003) as it sees fit from time to time.

### 10.3 SCRUTINY

- 10.3.1 Decisions of the Joint Committee shall be subject to scrutiny and call in by any of the Councils.
- 10.3.2 The Councils may from time to time convene a group ("the Scrutiny Co-Ordinating Group") consisting of the chairs of the relevant overview and scrutiny committee with responsibility for the Growth Deal in order to:
- 10.3.2(1) Co-ordinate any planned scrutiny of the work undertaken or to be undertaken by and/or any decisions made or to be made by the Joint Committee
  - 10.3.2(2) Co-ordinate any call in of a decision made by the Joint Committee

10.3.2(3) Agree arrangements for inviting councillors from any or all of the Councils to attend a meeting of one Council's overview and scrutiny committee in order to scrutinise the work and decisions of the Joint Committee

## **SECTION 11**

### **11 OFFICERS**

#### **11.2 Management Structure**

##### **11.2.1 General**

The Full Council may engage such officers as it considers necessary to carry out its functions.

##### **11.2.2 Senior Management Structure**

A table of the Council's senior management structure is attached as Appendix 1

The Council's senior management structure comprises the Chief Executive and six Chief Officers as detailed below:-

#### **Chief Executive ~~(and Head of Paid Service)~~**

##### **Job Purpose**

Provide leadership to the Council's Chief Officer Team and all employees; ensure that the Council has the appropriate structure, staff and other resources needed to deliver high quality, cost effective services to the people of Flintshire; work closely with elected Members to ensure the realisation of the Council's culture, vision, policies and programmes; work with partners and others to realise Flintshire's full potential.

##### **Chief Officers**

##### **Job Purpose**

Each Chief Officer is a member of the Chief Officer Team who personally and actively contribute to and guides the strategic management of Flintshire County Council to ensure the achievement of its corporate aims and to constantly strive for organisational excellence.

Each Chief Officer provides strategic leadership, guidance and professional advice on strategic and operational management responsibilities for a portfolio of services to ensure effective and integrated management of the Council.

##### **Chief Officer, Education & Youth**

##### **Chief Officer, Governance (and Monitoring Officer)**

##### **Chief Officer, Housing & Communities**

##### **Chief Officer, Planning, Environment & Economy**

### Chief Officer, Social Services

### Chief Officer, Streetscene & Transportation

The Chief Officer, Social Services acts as the statutory Director of Social Services under section 6 of the Local Authority Social Services Act 1970 and as lead officer for Children's Services under Welsh Government guidance.

Structure. The ~~Head of Paid Service~~Chief Executive will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

#### 11.2.3 ~~Head of Paid Service~~Chief Executive, Monitoring Officer, Chief Finance Officer and Head of Democratic Services.

The Council will designate the following posts/officers as shown:

| Post/Officer                | Designation                                     |
|-----------------------------|---|
| Chief Executive             | <del>Head of Paid Service</del> Chief Executive |
| Chief Officer, Governance   | Monitoring Officer                              |
| Corporate Finance Manager   | Chief Finance Officer                           |
| Democratic Services Manager | Head of Democratic Services                     |

Such posts will have the functions described below.

#### 11.2.4 Functions of the ~~Head of Paid Service~~Chief Executive

- (a) **Discharge of functions by the Council.** The ~~Head of Paid Service~~Chief Executive will keep under review and report to full Council on:
- (i) the manner in which the discharge of the Council's functions is co-ordinated,
  - (ii) the Council's arrangements in respect of financial planning, asset management, and risk management;
  - (iii) the number and grade of officers required for the discharge of the Council's functions; and
  - (iv) the organisation of the Council's officers;
  - (v) the appointment of officers; and
  - (vi) the arrangements for the management of the Council's officers, including the Council's arrangements for training and development.-
- (a)(b) **Restrictions on functions.** The ~~Head of Paid Service~~Chief Executive may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant.

### 11.2.5 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.** The Monitoring Officer will monitor and review the operation of the Constitution and make recommendations for ways in which it could be amended in order better to achieve the purposes set out in [Section 2.1](#).
- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the ~~Head of Paid Service~~[Chief Executive](#) and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive Function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission will give rise to or has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Ombudsman in respect of Code of Conduct matters and decisions of the case tribunals.
- (e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Ombudsman in relation to Code of Conduct matters and make reports or recommendations in respect of them to the Standards Committee.
- (f) **Advising whether decisions of the Cabinet are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- (g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and Authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or, the ~~Head of Paid Service~~[Chief Executive](#) ~~or the Head of Democratic Services~~.

### 11.2.6 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the ~~Head of Paid Service~~[Chief Executive](#) and the Monitoring Officer, the Chief Finance Officer

will report to the full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if 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.

- (b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility under section 151 of the Local Government Act 1972 for the administration of the financial affairs of the Council.
- (c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and Authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors, and officers in their respective roles.
- ~~(d)~~ ~~(e)~~ **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.
- ~~(e)~~ **Restriction on Posts.** The Chief Finance Officer must be a member of one of the following professional bodies:
  - (i) The Institute of Chartered Accountants in England and Wales;
  - (ii) The Chartered Association of Certified Accountants;
  - (iii) The Chartered Institute of Public Finance and Accountability;
  - (iv) The Chartered Institute of Management Accountants; or
  - (v) Any other body of accountants established in the United Kingdom and for the time being approved by the Welsh Ministers for this purpose.

### 11.2.7 Functions of the Head of Democratic Services

The functions of the Head of Democratic Services are:

- a) to provide support and advice to the authority in relation to its meetings, subject to paragraph (j);
- b) to provide support and advice to committees of the authority (other than the committees mentioned in paragraph (e) and the members of those committees, subject to paragraph (j));

- c) 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 (j);
- d) to promote the role of the authority's Overview and Scrutiny Committees.
- e) to provide support and advice to:
  - (i) the authority's Overview and Scrutiny Committees and the members of those committees; and
  - (ii) the authority's Constitution & Democratic Services Committee and the members of that committee;
  - (iii) to provide support and advice in relation to the functions of the authority's Overview and Scrutiny Committees to each of the following:
    - Members of the authority;
    - Members of the Cabinet of the authority;
    - Officers of the authority;
- f) to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph (k);
- g) to make reports and recommendations in respect of any of the following:
  - (i) the number and grades of staff required to discharge democratic services functions;
  - (ii) the appointment of staff to discharge democratic services functions;
  - (iii) the organisation and proper management of staff discharging democratic services functions;
- h) such other functions as may be prescribed by law.
- i) Restrictions on Posts

The Head of Democratic Services cannot be the ~~Head of Paid Service Chief Executive, the Monitoring Officer~~ or the Chief Finance Officer.
- j) 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 Committees and Constitution & Democratic Services Committee.

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

**11.3 Duty to Provide Sufficient Resources to the ~~Head of Paid Service~~Chief Executive, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

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

**11.4 Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in **Sections 24 and 25** of this Constitution.

**11.5 Employment**

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

**11.6 Officer Employment Procedure Rules**

**11.6.1 Recruitment and Appointment**

(a) Restrictions on the Appointment of Members as Officers

A Member of the Council is disqualified from being appointed to any Officer position at the Council while they remain a Member of the Council.

~~(a)~~(b) Declarations

The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any Councillor or Officer of the Council.

No candidate so related to a Councillor or a senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him.

~~(b)~~(c) 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 or employee of the Council will seek support for any person for any appointment with the Council.

#### **11.6.2 Recruitment of Chief Officers**

Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement including the following:
  - (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 procedures mentioned in paragraph (a) to be sent to any person on request.

#### **11.6.3 Appointment of Chief Executive**

The Full Council will approve the appointment of the Chief Executive, following the recommendation of such appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.

#### **11.6.4 Standing Orders for the Appointment and Dismissal of Chief Officers**

##### **A. Interpretation**

In these Standing Orders–

"the 1989 Act" means the Local Government and Housing Act 1989;

"the 2000 Act" means the Local Government Act 2000;

"the 2011 Measure" means the Local Government (Wales) Measure 2011;

"the 1993 Regulations" means the Local Authorities (Standing Orders) Regulations 1993;

"the 2006 Regulations" means the Local Authorities (Standing Orders) (Wales) Regulation 2006;

"the 2014 Regulations" means the Local Authorities (Standing Orders) (Wales) Regulation 2014

"Chief Officer" in relation to the Council, means –

- (a) the Head of its Paid Service;
- (b) its Monitoring Officer;
- (c) a statutory Chief Officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the 1989 Act, or
- (d) a non-statutory Chief Officer (within the meaning of section 2(7) of the 1989 Act);

and any reference to an appointment or purported appointment of a Chief Officer includes a reference to the engagement or purported engagement of such an officer under a contract of employment;

"Chief Finance Officer" means the Officer having responsibility, for the purposes of Section 151 of the Local Government Act 1972 (Financial Administration) for the administration of the Council's financial affairs;

"Head of Democratic Services" means the officer designated under Section 8 of the 2011 Measure;

"disciplinary action" in relation to a member of staff of a Council means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract;

"Cabinet", "Executive arrangements" and "Cabinet Leader" have the same meaning as in Part II of the 2000 Act;

"Head of the Authority's Paid Service" means the Officer designated under Section 4(1) of the 1989 Act (Designation and Reports of ~~Head of Paid Service~~ Chief Executive);

"member of staff" means a person appointed to or holding a paid office or employment under the Council;

"Monitoring Officer" means the officer designated under Section 5(1) of the 1989 Act (Designation and Reports of Monitoring Officer);

"relevant joint committee" in relation to the Council means a joint committee on which the Council is represented; and

“remuneration” has the same meaning as in Section 43 (3) of the Localism Act 2011.

"working day" means any day which is not a Saturday, a Sunday, Good Friday, a bank holiday in Wales or a day appointed for public thanksgiving or mourning (and "bank holiday" means a day to be observed as such under Section 1 of and Schedule 1 to the Banking and Financial Dealings Act 1971). The days in between Christmas Eve and 2<sup>nd</sup> January are not counted as “working days”.

**B. Standing Orders relating to the Appointment of Chief Officers**

1. The Council must take the steps set out in paragraph 2 below where:
  - (a) it proposes to appoint a Chief Officer; and
  - (b) the remuneration which it proposes to pay to the Chief Officer is a £100K or more per annum:
2. The steps are:
  - (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 publically advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
  - (c) make arrangements for a copy of the statement mentioned in paragraph (a) to be sent to any person on request.
3. Where 1 above applies the Council is not required to take the steps set out in 2 above if it proposes to appoint the Chief Officer for a period of no longer than 12 months
4. Where a post has been advertised as provided in paragraph 2(b) above, the relevant Council must –
  - (a) interview all qualified applicants for the post, or
  - (b) select a short list of such qualified applicants and interview those included on the short list.
5. Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with paragraph 2 (b) above.

6.
  - (a) the steps taken under paragraph 4 or 5 above may be taken by a committee, sub-committee or Chief Officer of the Council;
  - (b) any Chief Officer may be appointed by a committee or sub-committee of the Council, or a relevant joint committee.
7. Where the duties of a Chief Officer include the discharge of functions of two or more Councils in pursuance of Section 101(5) of the Local Government Act 1972 –
  - (a) the steps taken under paragraph 4 or 5 above may be taken by a joint committee of those Councils or a sub-committee of that committee or a Chief Officer of any of the relevant authorities concerned; and
  - (b) any Chief Officer may be appointed by such a joint committee, a sub-committee of that committee or a committee or sub-committee of any of those Councils.

**C Standing Orders relating to other Appointments and Dismissals of Officers**

8. Any appointment in pursuance of Section 9 of the 1989 Act (Assistants for Political Groups) shall be made in accordance with the wishes of the political group in question.
9. Subject to paragraphs 10 and 12, the function of appointment and dismissal of, and taking disciplinary action against, an employee of the Council must be discharged, on behalf of the Council, by the officer designated under Section 4(1) of the 1989 Act (Designation and Reports of ~~Head of Paid Service~~ Chief Executive) as the Head of the Council's Paid Service or by an officer nominated by the Head of the Council's Paid Service.
10. Paragraph 9 does not apply to the appointment or dismissal of, or disciplinary action against –
  - (a) the Officer designated as the Head of the Council's Paid Service;
  - (b) a statutory Chief Officer within the meaning of Section 2(6) of the 1989 Act (Politically Restricted Posts);
  - (c) a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act;
  - (d) a deputy Chief Officer within the meaning of Section 2(8) of the 1989 Act;
  - (e) a person appointed in pursuance of Section 9 of the 1989 Act (Assistants for Political Groups); or

- (f) a person to whom regulations made under Section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local education authority) of the Education Act 2002 apply.
  - (g) the Council's Monitoring Officer.
  - (h) the Council's Head of Democratic Services.
11. (1) Where a committee, sub-committee or officer is discharging, on behalf of the Council, the function of the appointment or dismissal of an officer designated as the Head of the Council's Paid Service, the Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.
- (2) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) (d), (g) or (h) of paragraph 10 –
- (a) at least one member of the Cabinet must be a member of that committee or sub-committee; and
  - (b) not more than half of the members of that committee or sub-committee are to be members of the Cabinet of the Council.
12. Nothing in paragraph 9 prevents a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by –
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
  - (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- 13 The power to approve the appointment or dismissal of the Head of the Council's Paid Service must be exercised by the Council itself and accordingly Section 101 of the Local Government Act 1972 (Arrangements for Discharge of Functions by Local Authorities) does not apply to the exercise of that power.
- 14 No disciplinary action (other than action to which paragraph 15 applies) in respect of the Head of the Council's Paid Service, its Monitoring Officer, its Chief Finance Officer, its Head of Democratic Services or any officer referred to in paragraph 16 below 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).

- 15 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.
16. An officer in relation to whom disciplinary action is proposed where –
  - (a) the officer was, but at the time of the proposed disciplinary action no longer is, an officer referred to in paragraph 14 above; and
  - (b) the alleged misconduct or, as the case may be, the reason for the proposal for dismissal, occurred during a period when the officer was an officer referred to in paragraph 14.

17 Investigation of Alleged Misconduct

- (1) If 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; or
  - (c) its Chief Finance Officer,
  - (d) its Head of Democratic Services
  - (e) an officer who was, but at the time the Investigation Committee is appointed no longer is, an officer referred to in sub-paragraphs (a) to (d) above where the alleged misconduct occurred during the period when the officer was an officer referred to in those sub-paragraphs.

("the relevant officer"), as the case may be, 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") for the purposes of paragraph 14.
- (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 Council terminate any suspension of the relevant officer;
    - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 15;
    - (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 Council 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 17(8) below, the relevant officer and 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 17(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 under paragraph 17(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 this regulation.

**D. Standing Orders relating to Recruitment and**

### **Appointment of all Officers**

18. (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 of an existing Councillor, or officer of the Council; 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 relevant Chief Officer or an officer nominated by him/her.
- (b) Seeking support for appointment.
- i) Subject to paragraph (iii), 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) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
  - iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

### **E. Standing Orders relating to the Remuneration of Chief Officers**

19. Any decision to determine or vary the remuneration of Chief Officers (or those to be appointed Chief Officers) must be made by full Council and cannot be delegated to a committee of the Council or to an officer.

## **11. Officer Scheme of Delegation**

### **SUB-SECTION A - INTRODUCTION**

#### **1. Overall Basis**

- 1.1 This Scheme delegates certain functions of the Council and the Cabinet to officers and should be interpreted widely rather than narrowly. It is

divided into the following sub-sections:

- A – Introduction
- B – General Delegations to Chief Executive
- C – General Delegations to Chief Officers
- D – General Delegations to Operational Managers
- E – Specific Delegations to Statutory Officers
- F – Specific Delegations to other Officers

These sub-sections inter-relate and should not be read in isolation.

- 1.2 In this Scheme “officer” means the holder of any post named in this Scheme as having delegated powers and duties. Where at any time a post named in this Scheme is filled by someone who is not an employee of the Council, that person comes within the definition.
- 1.3 This Scheme delegates powers and duties within broad functional descriptions and includes powers and duties under all legislation present and future within those descriptions and all powers and duties incidental to that legislation.
- 1.4 This Scheme operates under Sections 101, 151 and 270 of the Local Government Act 1972, Section 15 of the Local Government Act 2000 and all other enabling powers.
- 1.5 Decisions on operational, technical or professional issues will normally be taken by Officers without reference to Members. In relation to other issues, each Officer should, when exercising his/her delegated powers:-
  - 1.5.1 keep appropriate Cabinet Member(s) with portfolios for the service area in question fully informed and also have due regard to any comments made by the relevant scrutiny committee regarding the matter in question;
  - 1.5.2 where appropriate ensure that he/she consults with/or informs any local Member(s) that may be affected by the decision in advance;
  - 1.5.3 ensure that he/she consults with/or informs the Chief Executive as appropriate.
- 1.6 Any new functions which become the Council's responsibility will be included within this Scheme and the delegated authority of the Officer given or acquiring responsibility for those functions shall be automatically extended without the need for the full Council, or where appropriate the Leader, to amend the Scheme and if any doubt should arise as to which Officer is responsible for the function the Chief Executive shall decide.

## **2. Overall Limitations**

- 2.1 This Scheme does not delegate to officers:-

- (1) Any decision reserved to full Council
- (2) Any decision which by law may not be delegated to an officer
- (3) Any decision expressly withdrawn from delegation by this Scheme or at any time by the Cabinet

2.2 Officers cannot make decisions which:-

- make, amend or are not in accordance with the budget and policy framework
- determine borrowing limits
- approve the capital programme
- set or change policy and associated service standards set by the Council or the Cabinet
- set service budgets
- respond to formal central government consultation in respect of strategic policy
- make by-laws
- make compulsory purchase orders
- are contrary to statutory requirements or restrictions and such decisions remain the responsibility of the Council/the Cabinet/Committees as appropriate.

2.3 In exercising delegated powers officers shall:-

- (1) not go beyond the provision in the revenue or capital budgets for their service or agree individual items of expenditure or virement beyond that permitted by Standing Orders relating to Contracts and Financial Procedure Rules;
- (2) have regard to any report by the Head of the Paid Service or the Monitoring Officer under Sections 4 and 5 of the Local Government and Housing Act 1989 or of the Corporate Finance Manager under Section 114 of the Local Government Finance Act 1988;
- (3) maintain a full record of the exercise of those powers, including all relevant details, in accordance with any corporate guidance given by the Chief Officer, Governance (for decisions taken within the Scheme, the form of evidence required is shown in sub-sections B, C and D); and
- (4) have regard to any report from the Council's internal and external auditors in relation to a fundamental weakness in management and financial controls.

**3. Further Provisions**

3.1 The County Council may review the delegations it has made at any time. The Leader may review the delegations in relation to Executive Functions at any time.

3.2 Except where the Scheme expressly provides otherwise, an Officer named in

Sub Section B or Sub Section C to whom a function has been delegated may authorise officers within their Portfolio, Service or Team or where lawful to do so other appropriate persons to exercise functions delegated to them subject to such limits as they see fit unless stated otherwise. Any decisions taken under such authority shall be taken in the name of the Officer to whom the function has been delegated and the Officer giving the authorisation shall remain accountable and responsible for decisions made. A written record shall be made of all authorisations given under this paragraph and the Monitoring Officer shall be kept informed of all such arrangements made.

- 3.3 Each Officer in relation to operational, technical or professional matters (having consulted with the Cabinet Member with the relevant portfolio where appropriate) is authorised to take any action necessary to protect or promote the Council's interests, subject to the restrictions noted in paragraph 2 above.
- 3.4 Without prejudice to the generality of 3.3 above, this includes exercising his/her professional judgment to take such decisions as are necessary to implement the Council's policies and to promote the management and delivery of the services which are his/her responsibility.
- 3.5 In all cases delegated authority includes management of the human and material resources made available for their functions, directorates or services subject to the limitations of this Scheme and any other specific delegations provided for in this Scheme or elsewhere to another officer.
- 3.6 In all cases delegated authority includes the power under all legislation relevant to the functional areas of the Officer concerned to:-
  - 3.6.1 issue, make and serve, suspend, revoke/vary and review the suspension of statutory and other notices, including notices to determine whether any person has a legal interest in land;
  - 3.6.2 to consult upon, consider objections and representations received and if appropriate make orders or confirm orders;
  - 3.6.3 authorise the commencement, institution, defence, appearance in or settlement of legal proceedings before courts or tribunals;
  - 3.6.4 take default or enforcement action and/or undertake work in default or with agreement;
  - 3.6.5 authorise officers to appear and/or make applications on behalf of the Council in courts, tribunals, review boards and inquiries, and to sign all necessary documents in respect of any legislation, regulations, codes of practice or bye-laws for the time being enforceable by the Council;
  - 3.6.6 seize or authorise the seizure of goods/other articles forming evidence. (This is not meant to restrict the powers already available to officers duly authorised under specific legislation);

- 3.6.7 lay or authorise the laying of information for the purpose of obtaining a warrant, whether of search entry or otherwise;
- 3.6.8 issue and serve, renew and serve and impose or vary conditions in relation to any licence, registration permit or other authorisation granted or to be granted by him/her or in accordance with any relevant statutory requirements;
- 3.6.9 appoint Inspectors and authorised Officers
- 3.6.10 determine applications for services, assistance, grants or otherwise.
- 3.7 An Officer has authority to authorise his/her staff or consultants or agency workers in appropriate cases to exercise such powers as necessary to enter or inspect any land, buildings or properties and to provide any evidence or authority as necessary for discharging their duties in accordance with the Council's statutory powers.
- 3.8 In all cases, delegated authority includes:
  - 3.8.1 the power to determine applications, subject to any limitations or restrictions set out elsewhere in this Scheme
  - 3.8.2 authorise payments and
  - 3.8.3 implement national agreementswithin the policies and budget set by the Council, Cabinet or Committees.
- 3.9 It shall always be open to an Officer not to exercise delegated powers but to refer the matter to the Council, the Cabinet or a committee (as appropriate).
- 3.10 In exercising delegated powers, officers shall consult with such other relevant officers and shall have regard to any advice given.
- 3.11 Each Officer in Sub Section B and C is authorised as an Authorised Officer for the purpose of the Regulation of Investigatory Powers Act 2000 and may authorise other officers within their service similarly to be Authorised Officers.

#### **4. Record of Exercise of Any Decision**

In the case of decisions taken by full Council, Cabinet meeting, Chief Executive:-

- (a) the written record of the decision, in the prescribed form, will be sent to, and kept by, the Chief Officer, Governance;
- (b) the written record of the decision will be open to public inspection, except where it contains confidential or exempt information; and
- (c) a copy will be sent to the Corporate Finance Manager if the decision requires a call on budget which should be notified to him/her.

Decisions (except those of an operational, technical or professional nature) made by the Cabinet will be published in the Cabinet Decision Register. Similar decisions made by an Officer in connection with an Executive Function will be published in the Cabinet Decision Register.

In the case of all other decisions:-

- (a) the written record of the decision will be kept in accordance with the requirements of the relevant Chief Officer;
- (b) the written record of decision will be open to inspection by a Councillor in accordance with the Access to Information Procedure Rules; and
- (c) a copy will be sent to the Corporate Finance Manager if the decision requires a call on budget which should be notified to him/her.

For the avoidance of doubt, the record of the exercise of a delegated power may relate to the exercise of one or more power where the powers have been exercised contemporaneously.

## **5. Urgent Action – Non Executive Functions**

5.1 Where urgent action is necessary between either County Council or Committee meetings, and the Authority of the County Council or that Committee is necessary to give effect to the action the following provisions will apply:-

- a) The Chief Executive (or in his/her absence his/her duly authorised Deputy or nominee) concerned must consult with the Chair and/or the Vice-Chair of the Council or relevant Committee and the Leader and /or the Deputy Leader of the Council and the Chair or Vice Chair of the relevant Overview and Scrutiny Committee or in the absence of such Chair or Vice Chair, the Chair of the Constitution & Democratic services Committee to consider whether it is either desirable or possible to convene a meeting of the County Council or the Committee in time for the decision to be taken.
- b) If in the opinion of the Chief Executive (or in his absence his duly authorised Deputy) following such consultation, it is either impossible to convene such a meeting or it is not considered desirable, then the County Council expressly delegates to the Chief Executive (or duly authorised Deputy) the power to act, subject only to further detailed consultation with the Chair/Vice-Chair of the Council/Committee and the Leader/Deputy Leader of the Council and the Chair or Vice Chair of the relevant Overview and Scrutiny Committee or in the absence of such Chair or Vice Chair, the Chair of the Constitution & Democratic services Committee and the decision taken being reported to the next meeting of the Council/Committee.
- c) The circumstances of the urgency and the nature of the decisions taken shall be recorded in a record of the decision.

## **6. Urgent Action – Executive Functions**

6.1 In the absence of the Leader, Deputy Leader and appropriate Cabinet Member, the Chief Executive (or, in his absence, his duly authorised Deputy) shall have the delegated power to make decisions on any matter where urgent action is necessary between meetings of the Cabinet provided:-

- (a) The Chief Executive (or duly authorised Deputy) consults with at least 2 other available Members of the Cabinet and the Chair of the relevant Scrutiny Committee.
- (b) The decision is reported to the next meeting of the Cabinet.

**SUB-SECTION B - GENERAL DELEGATIONS TO CHIEF EXECUTIVE**

NOTE: The following delegations must be read in conjunction with the foregoing Sub- Section A which sets out the overall basis, limitations, and further provisions which apply to this Scheme of Delegation.

All delegated decisions taken in this sub-section, apart from CD1 and CD2 (Council Functions), will be published in the Cabinet Decision Register, whether exercised by the delegatee or a person authorised by him/her under his/her authority and in his/her name.

General Delegation:

The Chief Executive shall be authorised:-

- 1.1 To make any decisions relating to any matter within his/her area of responsibility, provided always that the decision is:
  - a) within budget
  - b) in accordance with the Council's policy framework
  - c) in accordance with the Council's Financial Procedure Rules and Contract Procedure Rules
  - d) not a matter specifically reserved for full Council, a committee of the Council, the Cabinet or a Statutory Officer

1.2 To exercise the following Delegations:-

| Ref                    | Delegation / Authorisation   | Form of Evidence |
|------------------------|--|------------------|
| Human Resources<br>CD1 | <p>Authority to manage the Council's human resources, including the appointment, training, terms and conditions of employment, leave of absence, extensions of sick pay, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council's HR and financial policies and procedures and subject to appropriate consultation as outlined therein.</p> <p>Limitations to the delegated authority<br/>Proposals which:-</p> <ul style="list-style-type: none"> <li>(1) involve the probability of redundancies and/or</li> <li>(2) cannot be implemented within existing budgets, and/or</li> <li>(3) have significant effects on the employment of existing staff generally in that or any other Council service area.</li> </ul> | Relevant HR Form |

|                    |   |                                    |
|--------------------|---|------------------------------------|
| CD2                | <p>Authority to consider and approve, as appropriate, in consultation with the Chief Executive, the Corporate Finance Manager and senior manager , Human resources &amp; Organisational Development in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff in the following circumstances:</p> <p>(1) in the interests of the efficiency of the service</p> <p>(2) who request voluntary retirement</p> | Relevant HR Form                   |
| Procurement<br>CD3 | <p>To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to management consultancy) where the estimated value does not exceed £2,000,000 and the sum is allocated in the budget for that purpose subject to compliance with the Contract Procedure Rules and the Policy and Budget Framework.</p> <p><b>Qualification: This may not be further delegated</b></p>   | Contract Pre and Post Tender Forms |
| CD4                | <p>Appointment of temporary staff over and above establishment for periods of 12 months or less where funding for the post(s) is/are from external sources.</p>   |                                    |
| CD5                | <p>To authorise, issue or approve variations in accordance with the values and/or thresholds, as set out in the Contract Procedure Rules.</p>   |                                    |
| CD6                | <p>To appoint persons to undertake management consultancy up to a value of £200,000 where the sum is allocated in the budget and for that purpose, subject to compliance with the Contract Procedure Rules and the Policy and Budget Framework.</p> <p><b>Qualification: This may not be further delegated</b></p>  | Contract Pre and Post Tender Forms |
| Other<br>CD7       | <p>Within service areas to vire sums not exceeding £75,000 provided under any one budget head during the year to other purposes (revenue only), subject to compliance with the Financial Procedure Rules.</p> <p><b>Qualification: This may not be further delegated</b></p>  | Virement Form                      |
| CD8                | <p>To authorise the disposal or acquisition of land not exceeding £2,000,000 provided that the offer represents the best price reasonably obtained by</p>   | Acquisition/ Disposal of           |

|     |   |           |
|-----|---|-----------|
|     | <p>the Authority in the case of a disposal and that the value represents no more than the market value of the land and is allocated in the budget in relation to acquisitions.</p> <p><b>Qualification: This may not be further delegated</b></p>   | Land Form |
| CD9 | <p>To authorise the Chief Officer Planning, Environment &amp; Economy to:</p> <ul style="list-style-type: none"> <li>- fix an appropriate sum which the Council would accept as early payment of a fixed penalty in relation to offences under the Dog Control Order and litter offences under the Clean Neighbourhoods and Environment Act 2005.</li> <li>- set the period within which the fixed penalty has to be paid in full before any case is referred for prosecution in the Magistrates' Court.</li> </ul> |           |

**SUB-SECTION C – GENERAL DELEGATIONS TO ALL CHIEF OFFICERS**

(NOTE: the following delegations must be read in conjunction with the foregoing Sub-Section A which set out the overall basis, limitations and further provisions which apply to this Scheme of Delegation)

**1. General Delegation:**

All Chief Officers shall be authorised:-

1.1 To make any decisions relating to any matter within their area of responsibility, provided always that the decision is:

- a) within budget
- b) in accordance with the Council's policy framework
- c) in accordance with the Council's Financial Procedure Rules and Contract Procedure Rules
- d) not a matter specifically reserved for full Council, a committee of the Council, the Cabinet, a Statutory Officer or the Chief Executive.

1.2 To exercise the following Delegations:

| Ref                        | Delegation / Authorisation  | Form of Evidence |
|----------------------------|---|------------------|
| <b>Human Resources CO1</b> | <p>Authority to exercise the delegated powers of the Chief Executive, as appropriate, and in his/her name to manage the human resources within their area of responsibility, including the appointment, training, terms and conditions of employment, leave of absence, extensions of sick pay, health and safety, discipline, suspension and dismissal of staff, in accordance with the Council's HR and financial policies and procedures and subject to appropriate consultation as outlined therein.</p> <p>Limitations to the delegated authority proposals which:-</p> <ul style="list-style-type: none"> <li>(1) involve the probability of redundancies and/or</li> <li>(2) cannot be implemented within existing budgets, and/or</li> <li>(3) have significant effects on the employment of existing staff generally in that or any other Council service area</li> </ul> <p><b>Qualification: This may not be further delegated</b></p> | Relevant HR Form |
| <b>CO2</b>                 | <p>Authority to exercise the delegated powers of the Chief Executive and in his/her name to consider and approve, as appropriate, in consultation with the Senior Manager, Human Resources &amp; Organisational Development the Corporate Finance</p>   | Relevant HR Form |

|                        |  |                                    |
|------------------------|--|------------------------------------|
|                        | <p>Manager and in accordance with the provisions of the Local Government Pension Scheme and the Council's approved policy and criteria, the early retirement of staff in the following circumstances:</p> <p>(1) in the interests of the efficiency of the service<br/> (2) who request voluntary retirement</p> <p><b>Qualification: This may not be further delegated</b></p>                              |                                    |
| <b>CO3</b>             | To sanction paid time off for Trade Union courses which are in accordance with the ACAS Code of Practice and in consultation with the Chief Officer, People & Resources or her representative.   |                                    |
| <b>Procurement CO4</b> | To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to management consultancy) where the estimated value does not exceed £1,000,000 and the sum is allocated in the budget for that purpose subject to compliance with the Contract Procedure Rules and the Policy and Budget Framework.<br><b>Qualification: This may not be further delegated</b> | Contract Pre and Post Tender Forms |
| <b>CO5</b>             | Appointment of temporary staff over and above establishment for periods of 12 months or less where funding for the post(s) is/are from external sources.   |                                    |
| <b>CO6</b>             | To authorise, issue or approve variations in accordance with the values and/or thresholds, as set out in the Contract Procedure Rules.   |                                    |
| <b>Other CO7</b>       | To make any applications under the planning legislation to the Authority as Local Planning Authority in relation to development of land for which the Chief Officer is responsible including planning applications to develop any land held by the Authority or for the development of any land by the Authority whether on its own or jointly.  |                                    |
| <b>CO8</b>             | To manage any operational land or premises or assets and to secure such maintenance, repair or renewal of the same, save that the purchase repair, leasing, hire, disposal and maintenance of vehicles will be managed in accordance with arrangements made by the officer who is for the time being the Authority's Fleet Manager.  |                                    |
| <b>CO9</b>             | Within service areas to vire sums not exceeding £75,000 provided under any one budget head   | Virement Form                      |

|             |   |                            |
|-------------|---|----------------------------|
|             | during the year to other purposes (revenue only), subject to compliance with the Financial Procedure Rules.<br><b>Qualification: This may not be further delegated</b>  |                            |
| <b>CO10</b> | In accordance with any policy or strategy approved by the Cabinet, the Council or a Committee to set fees and charges (including licences and other consents) which may be made by the Authority and to waive such fees or charges or grant concessions (subject in each case to the prior approval of the Corporate Finance Manager where the sum is less than £100) | Concessionary Letting Form |
| <b>CO11</b> | To make applications or submit bids for funding or financial assistance or assistance in kind, to any person or body and take all necessary steps to accept this assistance.  | Grant Submission Form      |

**SUB-SECTION D – DELEGATIONS TO OPERATIONAL MANAGERS**

**1. General Delegations**

All Operational Managers shall be authorised:-

1.1 To make any decisions relating to any matter within their area of responsibility, provided always that the decision is:

- a) within budget
- b) in accordance with the Council's policy framework
- c) in accordance with the Council's Financial Procedure Rules and Contract Procedure Rules
- d) not a matter specifically reserved for full Council, a committee of the Council, the Cabinet, a Statutory Officer, the Chief Executive or Chief Officers

1.2 To exercise the following Delegations:-

| Ref                        | Delegation / Authorisation  | Form of Evidence                   |
|----------------------------|---|------------------------------------|
| <b>Human Resources OM1</b> | Authority to manage the human resources within their area of responsibility except to the extent that any action would conflict with the approved Human Resources policies and procedures.  | Relevant HR Form                   |
| <b>Procurement OM2</b>     | To procure works, goods, services and/or supplies and manage all aspects of the contract (except in relation to management consultancy) where the estimated value does not exceed £500,000 and the sum is allocated in the budget for that purpose subject to compliance with the Contract Procedure Rules and the Policy and Budget Framework. | Contract Pre and Post Tender Forms |
| <b>OM3</b>                 | To authorise, issue or approve variations in accordance with the values and thresholds, as set out in the Contract Procedure Rules.   |                                    |
| <b>OM4</b>                 | To issue warnings and, where appropriate, dismiss staff under the Council's Sickness Absence Policy/ Procedure.   |                                    |
| <b>OM5</b>                 | To dismiss staff where they have failed their probationary period in accordance with the Council's Probationary Policy.   |                                    |

**SUB-SECTION E – SPECIFIC DELEGATIONS TO STATUTORY, LEGAL, FINANCIAL, HUMAN RESOURCES AND TECHNICAL SERVICES OFFICERS**

(NOTE: the following delegations must be read in conjunction with the foregoing Sub-Sections A and B which set out the overall basis, limitations and further provisions which apply to this Scheme of Delegation and also general delegations to the Chief Executive)

All delegated decisions of Executive Functions taken in this sub-section by the Officers will be published in the Cabinet Decision Register, except those of an operational, technical or professional nature.

| <b><u>Head of Paid Service</u>Chief Executive</b> |  |
|---|--|
| CE1   | To exercise any Executive Function in any case of urgency as set out in paragraph 6 of Sub Section A.  |
| CE2   | In cases of urgency or emergency, to take any decision on behalf of the Council as set out in paragraph 5 of Sub Section A.  |
| CE3   | To be <u>Head of Paid Service</u> Chief Executive  |
| CE4   | To exercise corporate Council functions as appropriate   |
| CE5   | To incur expenditure in the event of a civil emergency   |
| CE6   | For the purposes of the Local Government (Contracts) Act 1997, for the Corporate Finance Manager and any one of the following – Chief Executive, Chief Officer Governance, to sign each certificate given under the Act.   |
| CE7   | To the Chief Executive to make decisions on employee terms and conditions, (including procedures for dismissal), except those relating to: Chief Executive, Chief Officers and other NJC Officer posts; Changes to the Council’s pay and grading structure; Changes of employee terms and conditions which are the subject of contention with the trade unions |
| CE8   | Functions of the Returning Officer.  |
| CE9   | Functions of the Electoral Registration Officer.   |
| CE10  | To appoint proper officers where required at law for the performance of Council and Executive Functions.   |
| CE11  | To approve new operational HR employment policies and changes to existing policies as required.  |
| CE12  | To declare land/property as surplus to operational requirements in consultation with the Corporate Finance Manager and the Chief Officer of  |

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|   | the relevant service area.  |
| <b>Qualifications: these may not be further delegated</b> |   |
|   | <b><u>Local Government Act 1972 Part V – General Provisions as to Members &amp; Proceedings of Local Authorities</u></b>  |
| CE13  | Section 83(1) to (4) – Witness and Receipt of Declarations of Acceptance of Office.   |
| CE14  | Section 84- Receipt of Declaration of Resignation of Office   |
| CE15  | Section 88(2) – Convening meeting to fill casual vacancy of Chairman  |
| CE16  | Section 89(1)(b) – Receipt of Notices of Casual Vacancy   |
| <b>Chief Officer, Governance</b>                          |   |
| LD1   | To authorise an officer of the Authority for any purpose the performance of which is a Council or Executive Function where statute requires that the officer should be authorised for that specific purpose or purposes.  |
| LD2   | All Proper Officer functions not allocated to other officers and to act as Solicitor to the Council.  |
| LD3   | Authority to affix and witness the Common Seal of the Council and to authorise others to do so.<br>Responsibilities in relation to the Sheriff's warrant.   |
| LD4   | In the absence of the Chief Executive to act as the Proper Officer for the purpose of the following sections of the Local Government Act 1972: <ul style="list-style-type: none"> <li>• Witness and receipt of declarations of office. (Section 83)</li> <li>• Receipt of declaration of resignation of office. (Section 84)</li> <li>• Convening of meeting of Council to fill casual vacancy in the office of Chairman. (Section 88)</li> <li>• Receipt of notice of casual vacancy from 2 local government electors. (Section 89)</li> </ul> |
| LD5   | <b><u>Part XI General Provision – Documents and Notices etc</u></b> <ul style="list-style-type: none"> <li>• Section 228(3) – Inspection of accounts.</li> <li>• Section 229(5) – Certification of official documents.</li> <li>• Section 231(1) – Receipt of Notices served on the Council.</li> <li>• Section 233 – Service of Notices by the Council.</li> <li>• Section 234(1) &amp; (2) – Signing of documents.</li> <li>• Section 238 – Certification of by-laws.</li> </ul>  |
|   | <b><u>Local Government Housing Act 1989</u></b>   |
| LD6   | Matters relating to Political Balance (Sections 15 and 16)  |

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| LD7  | <b><u>Local Government (Committees &amp; Political Groups) Regulations 1990</u></b><br>Regulation 8 – Receipt of notice of formation of political groups and changes in membership of political groups.  |
| LD8  | <b><u>Constitution (including Standing Orders)</u></b><br>To exercise delegations as set out in the Constitution (including Standing Orders).  |
| LD9  | <b><u>Appointments</u></b><br>To appoint councillors and/or non-councillor members to committee seats allocated to political groups or nominating bodies (or to make changes, fill vacancies or give effect to temporary membership changes – “substitutions”) in accordance with the wishes of political groups and member nominating body. |
| LD10 | To make appointments to outside bodies in accordance with the decision of the Cabinet, the Council or the delegated decision of a meeting of the Group Leaders/Deputy Leaders.   |
| LD11 | To constitute the membership of appeals and complaints committees and Council Tax/Benefit Revenue Boards from panels of trained members or independent persons where appropriate.  |
| LD12 | <b><u>Representing the Council in the Courts, Tribunals or at Public Inquiries</u></b><br>To commence, institute, defend, withdraw or compromise any claims or legal proceedings, civil or criminal, in consultation with the relevant Officer, except where power to institute proceedings is delegated to or vested in specific officers.  |
| LD13 | To appear personally or authorise officers of the Council to appear on the Council’s behalf in court proceedings or at any tribunal or public or local inquiry.  |
| LD14 | To engage Counsel or external Solicitors to represent the Council at any proceedings.  |
| LD15 | To defend and settle (subject to consultation with the relevant Officer and the Senior manager , Human Resources & Organisational Development any Employment Tribunal proceedings.   |
| LD16 | <b><u>Orders</u></b><br>To make all Statutory Orders.  |

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| LD17 | Instituting criminal proceedings in cases of assault against employees where it is considered appropriate to do so in the interest of the County Council and where such proceedings have not been undertaken by Police.   |
| CE1  | <p>To issue proceedings (and under Section 223 of the Local Government Act 1972 be authorised to appear on behalf of the County Council at the hearing of any legal proceedings in the Magistrates Court) by way of an application for the issue of a Liability Order in respect of:-</p> <ul style="list-style-type: none"> <li>unpaid Council Taxes and penalties under Part VI of the Council Tax (Administration and Enforcement) Regulations 1992; by way of an application for the issue of a warrant of commitment to prison under Part VI of the Council Tax (Administration and Enforcement) Regulations 1992; to require financial information, to make an Attachment of Earnings Order; to levy the appropriate amount by distress and sale goods; and to exercise all other enforcement powers of the County Council under the Council Tax (Administration and Enforcement) Regulations 1992 and any subsequent amendments of such Regulations.</li> <li>unpaid rates; by way of an application for the issue of a warrant of commitment; and to exercise all other powers of enforcement of the County Council under the Non-Domestic (Collection and Enforcement) (Local Lists) Regulations 1989 and any amendments thereto.</li> </ul> |
| CE2  | To engage the services of bailiffs for the service of summonses and warrants of commitment, obtaining financial information, the levying of distress warrants and the sale of goods and any appropriate action for the recovery of outstanding Community Charges under the Local Government Finance Act 1988 and any regulations made thereunder and outstanding Council Taxes and penalties under the Local Government Finance Act 1992 and any Regulations made thereunder.   |
| CE3  | To engage the services of bailiffs to serve such summonses, distress warrants, liability orders or warrants of commitment, to levy distress and to sell goods as may be necessary to recover outstanding rates.   |

**Corporate Finance Manager & Section 151 Officer**

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| FS1 | Delegated powers conferred on the Corporate Finance Manager under the Financial Procedure Rules.   |
| FS2 | To be the Officer with responsibility for the proper administration of the Council's financial affairs under Section 151 of the Local Government Act 1972 and meeting the requirement under Section 113 of the Local Government Finance Act 1988 to be a member of one of the recognised accountancy bodies. |

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| FS3 | To nominate a properly qualified member of staff to deputise should the Corporate Finance Manager be unable to perform his/her duties under Section 114 of the Local Government Finance Act 1988.  |
| FS4 | To facilitate and manage the co-ordination of medium term financial planning, annual budget planning, budget monitoring and the preparation of statutory and other accounts, associated grant claims and supporting records.   |
| FS5 | To manage the Council's financial affairs and services, including all matters relating to the General Fund, Housing Revenue Account, Treasury Management, Reserves and Provisions, Subsidiary Accounts and all other funds established under statutory requirements. |
| FS6 | For the purpose of the Local Government (Contracts) Act 1997, authority for the Corporate Finance Manager and any one of the following – Chief Executive, Chief Officer Governance, to sign each certificate given under the Act.                                    |
| FS7 | To carry out the functions and exercise the powers of the Authority under Parts I and II of the Local Government Finance Act 1992 (except determinations under Sections 8(2) or 12(1) of the 1992 Act) (Administration and Collection of Council Tax).               |
| FS8 | To carry out the functions and exercise the powers of the Authority under Part II of the Local Government Finance Act 1988 (except Sections 47 and 56 and Schedules 7 and 7A) (Administration and Collection of Non-Domestic Rates).                                 |
| FS9 | To determine the appropriate rate of interest where chargeable under the statutory powers of the authority.  |

| <b>Chief Executive</b>            |   |
|-----------------------------------|---|
| PR1                               | To apply the job evaluation scheme in determining or reviewing levels of remuneration for all non-teaching posts within the Council.  |
| PR2                               | To agree time off for authorised Trade Union activities.  |
| PR3                               | To determine the number of employees to attend Trade Union training courses.  |
| PR4                               | Appointment of temporary staff over and above establishment for periods in excess of 12 months where the funding for the post(s) is/are from external sources.  |
| PR5                               | Market Supplements – to approve the payment of market supplements of up to a maximum of 30% of salary.  |
| PR6                               | Determine requests for extension of half sick pay.  |
| PR7                               | To determine appeals from staff with regard to unsuccessful applications for flexible working.  |
| PR8                               | Approval of applications for voluntary severance for Operational Manager and below.   |
| PR9                               | To determine applications under the Injury Allowance Scheme.  |
| PR10                              | To approve deductions from pay in suitable cases when requested by the member of staff in question.   |
| <b>Head of Clwyd Pension Fund</b> |   |
| XX01                              | The day to day management of Clwyd Pension Fund matters including ensuring arrangements for investments of assets and administration of contributions and benefits, excluding matters delegated to the Clwyd Pension Fund Committee.  |
| XX02                              | Establish and Chair a Clwyd Pension Fund Advisory Panel consisting of officers of the Council and advisors to the Clwyd Pension Fund to provide advice and propose recommendations to the Clwyd Pension Fund Committee and carry out such matters as delegated to it from time to time by the Clwyd Pension Fund Committee. |

| <b>Chief Officer, (Housing &amp; Communities)</b> |   |
|---|---|
| TS1   | To approve the acquisition of land or an interest in land at a cost not exceeding £500,000 providing that the value does not exceed the market value. |

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| TS2 | To take or grant leases at rents not exceeding £100,000 pa.  |
| TS3 | To agree rent reviews where the change in rent does not exceed £100,000 pa.  |
| TS4 | To agree renewal or restructuring of existing leases where the rent does not exceed £100,000 pa.   |
| TS5 | To grant the release or modification of restrictive covenants.   |
| TS6 | <p>To accept offers for disposals of land - or an interest in land in accordance with the following and provided that the consideration for which the sale is proposed represents the best consideration that can be reasonably be obtained:-</p> <p>£1 to £250K – Report to be signed by the Case Officer who is to be a chartered surveyor, together with the Corporate Valuer and Chief Officer. The local Member and Cabinet portfolio holder to be consulted on the principle of disposal and their observations/comments noted in the report. If either the local Member or Cabinet Member do not agree to the disposal, no disposal will take place without a report to Cabinet.</p> <p>£250K to £500K – As above plus Corporate Asset Management Group<br/>£500K plus – As above plus Cabinet</p> <p>The above are in the case of properties/land which have been tested on the market. (which will be taken to indicate the best consideration that can be reasonably obtained). In the absence of market testing and for properties/land above £100K the District Valuer to provide a supporting valuation confirming that the consideration is the best that can be reasonably obtained.</p> <p><b>“Under this delegation, and unless Welsh Ministers have granted consent to do otherwise, land may not be sold for less than the best consideration that can reasonably be obtained.”</b></p> <p>The proposed process for declaring land surplus to requirements is as follows:</p> <p><b><u>Declaration that Land/Property is Surplus to Requirements</u></b></p> <p>It is for the service occupying the land/property to formally declare it surplus via the following process:</p> <ul style="list-style-type: none"> <li>• The relevant Chief Officer and Portfolio Member to complete a delegated report. In instances where the asset concerned were/are occupied by a school then the report must state: <ul style="list-style-type: none"> <li>o that the school's Governing Body has been consulted;</li> <li>o confirm whether the school agrees that the land is surplus; and</li> </ul> </li> </ul> |

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|---------------------------------------|---|
|                                       | <p>o summarise any additional relevant comments made by the school</p> <ul style="list-style-type: none"> <li>The proposal must be supported by the Capital and Asset Programme Board.</li> <li>The asset will then transfer to the Valuation and Estates service. A revenue budget to cover any residual running costs for the first twelve months shall also be transferred the sum agreed in advance and noted within the report.</li> </ul> |
| TS7                                   | To grant grazing licences, easements, leases of utility undertakings for operational purposes, temporary licences and renewals.   |
| TS8                                   | To grant landlord's consent to alterations to land involving change of use.   |
| TS9                                   | To agree the sale of residential freehold reversions.   |
| TS10                                  | To grant the release or modification of restrictive covenants for alterations to residential premises.  |
| TS11                                  | To settle Part 1 claims under the Land Compensation Act 1973.   |
| TS12                                  | To grant landlord's consent to the assignment of existing tenancies.  |
| TS13                                  | To grant landlord's consent to the subletting of existing tenancies.  |
| TS14                                  | To grant landlord's consent to alterations to land involving no change of use.  |
| TS15                                  | Determination and Payment of Homeloss, Loss and Disturbance Claims in accordance with the Land Compensation Act 1973  |
| <b>Chief Officer, Social Services</b> |   |
| CSC1                                  | To decide on the reception of persons into guardianship of the authority under sections 7 and 37 of the Mental Act 1983, exercise of functions of nearest relative of persons so suffering and to make appointments of approved social workers.   |
| CSC2                                  | <p>To undertake the responsibilities of the Council's lead officer under the Children Act 2004 as amended and extended from time to time.</p> <p>To decide on the making of applications to the High Court under its inherent powers.</p> <p>To decide on the making of applications in respect of abducted children under the Hague or other conventions.</p>  |

**Chief Officer, Planning, Environment & Economy**

1. Subject to the following restrictions:-

(a) Where a Member requests in writing during the consultation period that any application in his or her ward should be determined by the Planning Committee.

(b) Where an adjoining Ward Members whose Ward is likely to be significantly affected by the development in question requests in writing during the consultation period that the application be determined by the Planning Committee.

(c) Where the application constitutes a departure from the Development Plan.

The Chief Officer, Planning, Environment & Economy shall have power to act and determine applications in accordance with the Council's Planning Policies in the following categories:-

(a) alterations and/or extensions to residential property, the construction of and alterations and/or extensions to domestic garages and structures;

(b) alterations and/or extensions to non-residential buildings or structures where the additional net floor space or ground area does not exceed 2000 sq.m. or 50% of the existing whichever is the greater, where the height, in the case of a building would not exceed 15 metres and in the case of any other structure, 25 metres, and alterations to and the provision of new entrances and means of escape;

(c) new non-residential developments which do not create more than 2000 sq.m. net floor space where the height, in the case of a building would not exceed 15 metres and in the case of any other structure, 25 metres, and/or where the site does not exceed 2 ha;

Note: the limits in (b) and (c) above be increased to 5000 sq.m. and 5 ha. respectively on established industrial estates/business parks or land allocated for such purposes in the UDP.

(d) construction and/or alteration of vehicular and pedestrian accesses to highways;

(e) erection of satellite dishes, radio antennae and other telecommunications equipment;

(f) development on allotments;

(g) provision of means of enclosure;

(h) alterations to and/or provision of new shop and office fronts and the

provision of roller shutters and canopies;

(i) changes of use to buildings and land where the floor area does not exceed 2000 sq.m. or the site area does not exceed 2 ha.

Note: the limits in (i) above be increased to 5000 sq.m. and 5 ha. respectively on established industrial estates/business parks or land allocated for such purposes in the UDP.

(j) residential development which does not exceed 15 units or, where the number of dwellings is not known, 0.5 ha, substitution of house types and variation of housing layouts;

(k) development by the County Council, statutory undertakers (including privatised utilities) and Government departments and agencies falling within any other category (a) to (u) hereof;

(l) construction above and below ground of storage tanks with a volume no greater than 10,000 litres, pipes, sewers, drains and power lines and associated pumping stations and sub-stations;

(m) tipping of inert, non-toxic waste on sites not exceeding 1 ha. in area;

(n) demolition of buildings;

(o) conservation area consent;

(p) listed building consent;

(q) amendments to schemes with planning permission;

(r) renewal of temporary permission;

(s) reserved matters and any application or request for approval, agreement or consent pursuant to a condition imposed on a planning permission or approval and the subsequent discharge of the condition;

(t) renewal of time limited permissions which have not lapsed and where circumstances have not materially altered;

(u) variation or removal of planning conditions.

2. The Chief Officer, Planning, Environment & Economy shall also have delegated powers to act in relation to those matters set out in Schedule One hereto.

3. To determine the need for Environmental Assessments and the issue of screening and scoping opinions in respect of development proposals.

4. (i) To enter into Agreements and receive Unilateral Undertakings on behalf of the Council under Section 106 of the Town and Country

Planning Act 1990 in respect of the payment of a commuted sum by developers in lieu of on-site play/open space provision, educational provision, affordable housing provision, off site highway or drainage works and ecological mitigation, where the residential development concerned provides a maximum of 15 no. dwellings, or in the case of non-residential development it would otherwise fall within the delegated scheme.

(ii) On behalf of the Council to receive the earlier payment of the monies referred to above where the applicant requests this as an alternative to the Section 106 Obligation.

(iii) On behalf of the Council to amend existing Section 106 Obligations covering the above matters.

5. To provide pre-application advice in relation to development proposals, informally and on the basis of formal applications

#### **Executive Functions**

1. To respond to Natural Resources Wales (NRW) in relation to Notices regarding Felling Licence Applications under Section 15 of the Forestry Act 1967.

2. To prepare development briefs.

3. To take any urgent decision arising from the work of the Planning Division following consultation with the Chairman and Vice-Chairman.

4. To determine grant applications under the Flintshire Historic Building Repair Grant Scheme in consultation with the appropriate Cabinet Member.

5. To determine Landscape and Conservation Grant applications in consultation with the appropriate Cabinet Member.

6. To determine Town Heritage Initiative (THI) Grant applications in consultation with the appropriate Cabinet Member.

**Schedule 1****DELEGATED POWERS TO  
CHIEF OFFICER, PLANNING, ENVIRONMENT & ECONOMY**

| <b>LEGISLATION</b>                               | <b>DESCRIPTION</b>   | <b>SECTION</b> | <b>POWER</b>  |
|--|--|----------------|---|
| Town and Country Planning Act 1990 (as amended). | Tree Preservation Orders and Trees in Conservation Areas.  | 198, 201, 300  | Making, service and confirmation of provisional TPO's where no objection is received                              |
|  | Notices requiring replacement of trees.  | 207, 209       | Revocation of TPO's<br>Making and service and recovery of costs in default.                                       |
|  | Determination of requests for consent to fell, top or lop trees covered by TPO's and/or in Conservation Areas. | 198            | Granting or refusal.  |
|  | Dispensations with regard to replanting.   | 206, 213       | Granting or refusal.  |
|  | Notices requiring proper maintenance of land.  | 215, 219       | Making, service and withdrawal and recovery of costs in default.  |
|  | Breach of Condition Notices.   | 187A           | Making, service and withdrawal.   |
|  | Planning Contravention Notices.  | 171C           | Making, service, and determination of response to any offers and representations made at time and place meetings. |

| <b>LEGISLATION</b>   | <b>DESCRIPTION</b>  | <b>SECTION</b>   | <b>POWER</b>                               |
|--|---|--|--|
| Town and Country Planning Act 1990 (as amended) (continued).                                 | Stop Notices.   | 183  | Making, service and withdrawal of Notice.  |
|  | Enforcement and Special Enforcement Notices.  | 172, 173A, 294   | Making, service, variation and withdrawal. |
|  | Information as to interest in land.   | 330  | Making and service of notices.             |
|  | Repetitive Applications.  | 70A  | To decline to determine such applications. |
|  | Applications for Certificates of Lawfulness of existing or proposed use or development. | 191, 192   | Consideration and determination.           |
|  | Applications for Express Consent to Display Advertisements.                             | 220  | Consideration and determination.           |
| Advertisements, Placards or Posters Displayed in Contravention of Advertisement Regulations. | 224, 225  | Removal and/or obliteration and making and service of discontinuance orders. |  |

| <b>LEGISLATION</b> | <b>DESCRIPTION</b> | <b>SECTION</b> | <b>POWER</b> |
|--------------------|--------------------|----------------|--------------|
|--------------------|--------------------|----------------|--------------|

|  |   |                |   |
|--|---|----------------|---|
| Town and Country Planning Act 1990 (as amended) (continued). | Applications for Prior Approval under the Delyn Simplified Planning Zone Scheme.  | 84             | Consideration and determination.                        |
|  | Directions to restrict the exercise of permitted development rights in conservation areas.  | 60             | Making and service.                                     |
| Planning (Listed Buildings and Conservation Areas) Act 1990. | Applications for Prior Approval under Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. | 60             | Consideration and determination.                        |
|  | Building Preservation Notices.  | 3              | Making and service.                                     |
|  | Listed Building Enforcement Notices.  | 38             | Making, service, variation and withdrawal.              |
|  | Listed Building Repairs Notices.  | 48             | Making and service.                                     |
|  | Dangerous Structures Orders.  | 56             | Making and service.                                     |
|  | Urgent works to preserve unoccupied listed buildings.   | 54, 55         | Making and service of notices and recovery of expenses. |
| <b>LEGISLATION</b>   | <b>DESCRIPTION</b>  | <b>SECTION</b> | <b>POWER</b>  |

|  |  |                |   |
|--|--|----------------|---|
| Planning (Listed Buildings and Conservation Areas) Act 1990 (continued). | Contribution to preservation of listed and unlisted buildings of architectural or historic interest. | 57             | Processing and award of grants in accordance with the Council's agreed procedures and policies.   |
| Planning (Hazardous Substances) Act 1990.                                | Hazardous Substances Contravention Notices.  | 24, 24A        | Making, service, variation and withdrawal.  |
| Land Compensation Act 1961 (as amended).                                 | Applications for Certificates of Appropriate Alternative Development.                                | 17             | Consideration and determination.  |
| Environment Act 1995.  | Second list of sites or changes to first list of sites.  | 96             | Obtain relevant information for, or take any other action to publicise.   |
|  | Mineral Planning - Phase I and II Sites  |                | Granting of extensions of time for submissions of applications for appeals of conditions under the Environment Act 1995 (26th November, 1996) |
|  | Mineral Planning - Phase I and II Sites  | Schedule 13(9) | Authority to opine that the Council is unable to determine applications without further specific details                                      |
|  | The Hedgerow Regulations 1997 (S.I. 1160)  |                | Authority to respond to Hedgerow Renewal Notes and to agree extensions of response for building and conduct appeals (24th June, 1997)         |

**Chief Officer, Streetscene & Transportation**

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2. To consider objections/representations received following the advertisement of intention to make Orders under Highways Legislation and to confirm the making of proposed Orders or otherwise including making amendments where appropriate following consultation with local Members and the Cabinet Member for Environment.

**SUB-SECTION F – SPECIFIC DELEGATIONS TO OFFICERS**

1. The Officers named below shall be authorised to exercise the following delegations, provided always that the decision is:
- a) within budget
  - b) in accordance with the Council’s policy framework
  - c) in accordance with the Council’s Financial Procedure Rules and Contract Procedure Rules
  - d) not a matter specifically reserved for full Council, a committee of the Council, the Cabinet, a Statutory Officer, the Chief Executive or Chief Officers.

| Ref  | Delegation / Proper Officer Roles  |
|--|--|
| <p><b>Democratic Services Manager</b></p>                          | <p>To be the Proper Officer for the purpose of the following sections:</p> <p><b><u>Local Government Act 1972</u></b></p> <ul style="list-style-type: none"> <li>• Signature of summons to Council meetings (Section 99 and Schedule 12 Para 4(3))</li> <li>• Receipt of notices of address to which summons should be sent (Section 99 and Schedule 12 Para 4(3))</li> <li>• Access to agenda and connected reports (Section 100B)</li> <li>• Inspection of Minutes and other documents of the meetings (Section 100C)</li> <li>• Written summary of proceedings where Members of the public excluded (Section 100C)</li> <li>• Additional rights of access to documents for Members (Section 100F)</li> </ul> <p><b><u>Local Government and Housing Act 1989</u></b></p> <ul style="list-style-type: none"> <li>• List of Politically Restricted Posts (Section 2).</li> </ul> |
| <p><b>Deputy Monitoring Officer</b></p>                            | <p><b><u>Local Government (Wales) Act 1994</u></b></p> <p>To make determinations as a qualified person under section 36 of the Freedom of Information Act. The Chief Officer, Governance has the same determination power.</p>   |
| <p><b>Public Protection Manager (Business Community) &amp;</b></p> | <p>1. To act as the Proper Officer for the purposes of Section 78 of the Building Act 1984 on the basis that he may authorise other appropriate officers to exercise the functions of the Proper Officer subject to such limits as he sees fit.</p> <p>2. To approve applications under the Licensing Act 2003 for:-</p> <ul style="list-style-type: none"> <li>(a) a personal licence when no objection is made;</li> </ul>   |

|  |   |
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|  | <ul style="list-style-type: none"> <li>(b) a premises licence/club premises certificate where no relevant representation is made;</li> <li>(c) a provisional statement where no relevant representation is made;</li> <li>(d) a variation of a premises licence/club premises certificate where no relevant representation is made.</li> <li>(e) for the variation of a designated premises supervisor;</li> <li>(f) removal as a designated premises supervisor where there is no Police objection, or</li> <li>(g) an application for a transfer of premises licence where no Police objection is received;</li> <li>(h) an application for interim authorities where no Police objection is received.</li> </ul> <p>3. To decide on whether a complaint is irrelevant, frivolous or vexatious, etc.</p> <p>4. Power to enter all non-smoking premises in order to establish that the smoke free legislation is being enacted in accordance with the law including the authority to give out fixed penalty notices to anyone they believe are committing or have committed an offence under the legislation or to institute proceedings generally in relation to offences under the Health Act 2006.</p> <p>5. Power to authorise other appropriate officers to enter premises and issue fixed penalty notices in accordance with the provisions of 3 above.</p> <p>6. The powers granted to Officers in relation to the Gambling Act 2005 set out in the schedule in <b>Section 9.4</b>.</p> |
| <p><b>Chief Officer,<br/>Planning,<br/>Environment &amp;<br/>Economy</b></p> | <ul style="list-style-type: none"> <li>1. To ensure the appointment of a suitably qualified person who shall be designated the Chief Inspector of Weights and Measures for the Authority and to be responsible for the carrying out of the functions related to such post.</li> <li>2. To provide a Home Authority Service to businesses.</li> <li>3. Authorisation to appoint appropriate officers to exercise the powers contained in Section 19 and Sub-Section 2 of Section 20 and Sections 21, 22, 23, and 38 of the Health and Safety at Work, etc. Act 1974.</li> </ul>  |

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|                               | <ol style="list-style-type: none"> <li>4. To appoint a Public Analyst as required by the provisions of the Food Safety Act.</li> <li>5. Authority to appoint any other Inspectors and authorised officers under the legislation relevant to the functional areas of the post.</li> <li>6. To engage testing houses, consultants and other appropriate persons to test, analyse and provide opinions on goods and services in relation to the functions of this Directorate.</li> <li>7. To appoint an Agricultural Analyst and Deputy(ies).</li> </ol> |
| <b>Senior Housing Officer</b> | <ol style="list-style-type: none"> <li>1. To recover possession of Council dwellings in appropriate cases pursuant to the provisions of the Housing Act 1985.</li> </ol>   |

Chief Officer Structure

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## **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 17** of this Constitution.

#### **12.2 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in **Section 18** of this Constitution.

#### **12.3 Legal Proceedings**

The Chief Officer, Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Chief Officer, Governance considers that such action is necessary to protect the Council's interests.

#### **12.4 Authentication of Documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Officer, Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite Authority to some other person.

#### **12.5 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Chief Officer, Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Officer, Governance should be sealed. The affixing of the Common Seal will be attested by the Chief Officer, Governance Legal Services Manager or Senior Solicitor together with the Council Chair or Vice Chair.

**SECTION 13**

**13. RESPONSIBILITY FOR FUNCTIONS**

**13.1 Table 1 – Responsibility for Council Functions**

The following functions can only be exercised by the Council and not the Cabinet

| <b>Committee (Membership)</b>                         |   | <b>Non-Executive Functions</b>  | <b>Provision of Act or Statutory Instrument</b>   | <b>Delegation of functions</b>  |
|---|---|---|---|---|
| Planning Committee<br><br>21 Members of the Authority |   | <b>Functions relating to town and country planning and development control</b>                          |   | See section C, Scheme of Delegation<br>Chief Officer, Planning, Environment & Economy |
|   | 1 | Power to determine applications for planning permission   | Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990 (c.8)  | Chief Officer, Planning, Environment & Economy  |
|   | 2 | Power to determine applications to develop land without compliance with conditions previously attached. | Section 73 of the Town and Country Planning Act 1990  | Chief Officer, Planning, Environment & Economy  |
|   | 3 | Power to grant planning permission for development already carried out.                                 | Section 73A of the Town and Country Planning Act 1990   | Chief Officer, Planning , Environment & Economy                                       |
|   | 4 | Power to decline to determine applications for planning permission.                                     | Section 70A of the Town and Country Planning Act 1990   | Chief Officer, Planning , Environment & Economy                                       |
|   | 5 | Duties relating to the making of determinations of planning applications.                               | Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (SI 1995/419) | Chief Officer, Planning , Environment & Economy                                       |

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|  |    |  | and directions made there under.  |  |
|  | 6  | Power to determine applications for planning permission made by a local Authority, alone or jointly with another person.               | Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492)                         | Chief Officer, Planning, Environment & Economy |
|  | 7  | Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights. | Parts 6, 7, 11, 17, 19, 20, 21 to 24, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418) | Chief Officer, Planning, Environment & Economy |
|  | 8  | Power to enter into agreements regulating development or use of land.  | Section 106 of the Town and Country Planning Act 1990.  | Chief Officer, Planning, Environment & Economy |
|  | 9  | Power to issue a certificate of existing or proposed lawful use or development.  | Sections 191(4) and 192(2) Of the Town and Country Planning Act 1990  | Chief Officer, Planning, Environment & Economy |
|  | 10 | Power to serve a completion notice.  | Section 94(2) of the Town and Country Planning Act 1990   | Chief Officer, Planning, Environment & Economy |
|  | 11 | Power to grant consent for the display of advertisements.  | Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992                    | Chief Officer, Planning, Environment & Economy |
|  | 12 | Power to authorise entry onto land.  | Section 196A of the Town and Country Planning Act 1990  | Chief Officer, Planning, Environment & Economy |
|  | 13 | Power to require the discontinuance of a use   | Section 102 of the Town and Country   | Chief Officer, Planning,                       |

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|  |    | of land.   | Planning Act 1990  | Environment & Economy                          |
|  | 14 | Power to serve a planning contravention notice, breach of condition notice or stop notice.   | Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990   | Chief Officer, Planning, Environment & Economy |
|  | 15 | Power to issue an enforcement notice.  | Section 172 of the Town and Country Planning Act 1990  | Chief Officer, Planning, Environment & Economy |
|  | 16 | Power to apply for an injunction restraining a breach of planning control.   | Section 187B of the Town and Country Planning Act 1990   | Chief Officer, Planning, Environment & Economy |
|  | 17 | Power to determine applications for hazardous substances consent, and related powers.  | Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c 10)  | Chief Officer, Planning, Environment & Economy |
|  | 18 | Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject. | Paragraphs 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c 25) and paragraph 6(5) of Schedule 14 to that Act | Chief Officer, Planning, Environment & Economy |
|  | 19 | Power to require proper maintenance of land.   | Section 215(1) of the Town and Country Planning Act 1990   | Chief Officer, Planning, Environment & Economy |
|  | 20 | Power to determine applications for listed building consent, and related powers.   | Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990  | Chief Officer, Planning, Environment & Economy |
|  | 21 | Power to determine   | Section 16(1) of the   | Chief Officer,                                 |

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|  |    | applications for conservation area consent.  | Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by Section 74(3) of that Act   | Planning, Environment & Economy                |
|  | 22 | Duties relating to applications for listed building consent and conservation area consent. | Section 13(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Regulations 3 to 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 and paragraph 127 of the Welsh Office circular 61/96: Planning and the Historic Environment: Historic Buildings and Conservation Areas | Chief Officer, Planning, Environment & Economy |
|  | 23 | Power to serve a building preservation notice, and related powers.                         | Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990  | Chief Officer, Planning, Environment & Economy |
|  | 24 | Power to issue a listed building enforcement notice.                                       | Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990  | Chief Officer, Planning, Environment & Economy |
|  | 25 | Powers to acquire a listed building in need of repair and to serve a repairs notice.       |  | Chief Officer, Planning, Environment & Economy |
|  | 26 | Power to apply for an injunction in relation to a listed building                          |  | Chief Officer, Planning, Environment & Economy |

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|                     | 27  | Power to execute urgent works.  | Section 54 of the Planning (Listed Buildings and Conservation Areas) Act 1990      | Chief Officer, Planning, Environment & Economy |
|                     | 28  | Power related to mineral working.   | Schedule 9 of the Town and Country Planning Act 1990                               | Chief Officer, Planning, Environment & Economy |
|                     | 29  | Power related to footpaths and bridleways.  | Section 257 of the Town and Country Planning Act 1990                              | Chief Officer, Planning, Environment & Economy |
|                     | 30  | Power as to certification of appropriate alternative development.                       | Section 17 of the Land Compensation Act 1961 (c 33)                                | Chief Officer, Planning, Environment & Economy |
|                     | 31  | Duties in relation to purchase notices.   | Sections 137-144 of the Town and Country Planning Act 1990                         | Chief Officer, Planning, Environment & Economy |
|                     | 32  | Powers related to blight notices.   | Sections 149-171 of the Town and Country Planning Act 1990                         | Chief Officer, Planning, Environment & Economy |
| Licensing Committee | <b>B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)</b> |   |  | Chief Officer, Planning, Environment & Economy |
|                     | 1   | Power to issue licences authorising the use of land as a caravan site ("site licences") | Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c62)        | Chief Officer, Planning, Environment & Economy |
|                     | 2   | Power to licence the use of moveable dwellings and camping sites                        | Section 269(1) of the Public Health Act 1936 (c49)                                 | Chief Officer, Planning, Environment & Economy |
|                     | 3   | Power to licence hackney carriages and private hire vehicles                            | (a) as to hackney carriages, the Town Police Clauses Act 1847 (19 & 11 Vict. C89), | Chief Officer, Planning, Environment & Economy |

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|  |   |   | as extended by Section 171 of the Public Health Act 1875 (38 & 39 Vict. C55), and Section 151 of the Transport Act 1985 (c67); and Section 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c57)<br>(b) as to provide hire vehicles, Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 |  |
|  | 4 | Power to license drivers of hackney carriages and private hire vehicles   | Sections 51, 53, 54, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976  | Chief Officer, Planning, Environment & Economy |
|  | 5 | Power to license operators of hackney carriages and private hire vehicles | Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976  | Chief Officer, Planning, Environment & Economy |
|  | 6 | Power to register pool promoters  | Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c2)   | Chief Officer, Planning, Environment & Economy |
|  | 7 | Power to grant track betting licences                                     | Schedule 3 to the Betting, Gaming and Lotteries Act 1963 [25]   | Chief Officer, Planning, Environment & Economy |
|  | 8 | Power to license inter-   | Schedule 5ZA to   | Chief Officer,                                 |

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|  |    | track betting schemes   | the Betting, Gaming and Lotteries Act 1963 [26]                                    | Planning, Environment & Economy                |
|  | 9  | Power to grant permits in respect of premises with amusement machines                   | Schedule 9 to the Gaming Act 1968 (c65) [27]                                       | Chief Officer, Planning, Environment & Economy |
|  | 10 | Power to register societies wishing to promote lotteries                                | Schedule 1 to the Lotteries and Amusements Act 1976 (c32) [28]                     | Chief Officer, Planning, Environment & Economy |
|  | 11 | Power to grant permits in respect of premises where amusements with prizes are provided | Schedule 3 to the Lotteries and Amusements Act 1976 [29]                           | Chief Officer, Planning, Environment & Economy |
|  | 12 | Power to issue entertainments licences  | Section 12 of the Children and Young Persons Act 1933 (c12)                        | Chief Officer, Planning, Environment & Economy |
|  | 13 | Power to license sex shops and sex cinemas  | The Local Government (Miscellaneous Provisions) Act 1982, Section 2 and Schedule 3 | Chief Officer, Planning, Environment & Economy |
|  | 14 | Power to license performances of hypnotism  | The Hypnotism Act 1952 (c46)   | Chief Officer, Planning, Environment & Economy |
|  | 15 | Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis     | Sections 13 to 17 of the Local Government (Miscellaneous Provisions) Act 1982      | Chief Officer, Planning, Environment & Economy |
|  | 16 | Power to license pleasure boats and pleasure vessels                                    | Section 94 of the Public Health Acts Amendment Act 1907 (c53) [30]                 | Chief Officer, Planning, Environment & Economy |
|  | 17 | Power to license market and street trading  | Part III of, and Schedule 4 to, the  | Chief Officer, Planning,                       |

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|  |    |  | Local Government (Miscellaneous Provisions) Act 1982   | Environment & Economy                          |
|  | 18 | Duty to keep list of persons entitled to sell non-medicinal poisons                                  | Section 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972 (c66) [31]  | Services                                       |
|  | 19 | Power to licence dealers in game and the killing and selling of game.                                | Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c32); sections 2 to 16 of the Game Licences Act 1860 (c90), section 4 of the Customs and Inland Revenue Act 1883 (c10), section 27 of the Local Government Act 1894 (c73), and section 213 of the Local Government Act 1972 (c70) | Chief Officer, Planning, Environment & Economy |
|  | 20 | Power to register and license premises for the preparation of food                                   | Section 19 of the Food Safety Act 1990 (c16)   | Chief Officer, Planning Environment & Economy  |
|  | 21 | Power to license scrap yards   | Section 1 of the Scrap Metal Dealers 1964 (c69)  | Chief Officer, Planning Environment & Economy  |
|  | 22 | Power to issue, amend or replace safety certificates (whether general or special) for sports grounds | The Safety of Sports Grounds Act 1975 (c52) [32]   | Chief Officer, Planning Environment & Economy  |
|  | 23 | Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds  | Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c27)   | Chief Officer, Planning Environment & Economy  |
|  | 24 | Duty to promote fire safety  | Section 6 of the Fire and Rescue Services Act 2004   | None   |

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|  |    |   | (c21)   |   |
|  | 25 | Power to license premises for the breeding of dogs  | Section 1 of the Breeding of Dogs Act 1973 (c60) and Section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c11)  | Chief Officer, Planning Environment & Economy |
|  | 26 | Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business | Section 1 of the Pet Animals Act 1951 (c35) [33]; Section 1 of the Animal Boarding Establishments Act 1963 (c43) [34]; the Riding Establishments Acts 1964 and 1970 (1964 c70 and 1970 c70) [35]; Section 1 of the Breeding of Dogs Act 1973 (c60) [36], and Sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999 | Chief Officer, Planning Environment & Economy |
|  | 27 | Power to register animal trainers and exhibitors  | Section 1 of the Performing Animals (Regulation) Act 1925 (c38) [37]  | Chief Officer, Planning Environment & Economy |
|  | 28 | Power to license zoos   | Section 1 of the Zoo Licensing Act 1981 (c37)   | Chief Officer, Planning Environment & Economy |
|  | 29 | Power to license dangerous wild animals   | Section 1 of the Dangerous Wild Animals Act 1976 (c38)  | Chief Officer, Planning Environment & Economy |
|  | 30 | Power to enforce regulations in relation to animal by-products  | Regulation 49 of the Animal By-products (Wales) Regulations 2006  | Chief Officer, Planning Environment & Economy |

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|  |    |   | (SI 1292 (W 127))   |   |
|  | 31 | Power to license the employment of children   | Part II of the Children and Young Persons Act 1933 (c12) byelaws made under that Part and Part II of the Children and Young Persons Act 1963 (c37)  | Chief Officer, Education & Youth              |
|  | 32 | Power to approve premises for the solemnisation of marriages and the registration of civil partnerships   | Section 46A of the Marriage Act 1949 (c76), Section 6A of the Civil Partnership Act 2004 (c33) and the Marriages and Civil Partnership (Approved Premises) Regulations 2005 (SI 2005/3168) [38] | Chief Officer, Governance                     |
|  | 33 | Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to – 33(a) an exchange of lands effected by an order under Section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c67) or 3(b) an order under Section 147 of the Enclosure Act 1845, (c8 & 9 Vict c118) | Regulation 6 of the Commons Registration (New Land) Regulations 1969 (SI 1969/1843)   | Chief Officer Planning, Environment & Economy |
|  | 34 | Power to register variation of rights of common   | Regulation 29 of the Commons Registration (General) Regulations 1966 (SI 1966/1471) [39]  | Chief Officer Planning, Environment & Economy |
|  | 35 | Power to issue a permit   | Section 68 of the   | Chief Officer                                 |

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|  |    | to conduct charitable collections   | Charities Act 1992  | Planning, Environment & Economy               |
|  | 36 | Power to grant consent for the operation of a loudspeaker   | Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c40)   | Chief Officer Planning, Environment & Economy |
|  | 37 | Power to grant a street works licence   | Section 50 of the New Roads and Street Works Act 1991 (c22)   | Chief Officer, Streetscene & Transportation   |
|  | 38 | Duty to register the movement of pigs   | Regulations 21(3) and (4) of the Pigs (Records Identification and Movement) (Wales) Order 2004 (SI 2004/996) (W104) | Chief Officer Planning, Environment & Economy |
|  | 39 | Power to enforce regulations in relation to the movement of pigs  | Regulation 27(1) of the Pigs (Records, Identification and Movement) (Wales) Order 2004/996 (W104)                   | Chief Officer Planning, Environment & Economy |
|  | 40 | Power to issue a licence to move cattle from a market   | Article 5(2) of the Cattle Identification Regulations 1998 (SI 1998/871)  | Chief Officer Planning, Environment & Economy |
|  | 41 | Power to sanction use of parts of buildings for storage of celluloid  | Section 1 of the Celluloid and Cinematograph Film Act 1922 (c35)  | Chief Officer Planning, Environment & Economy |
|  | 42 | Duty to enforce and execute Regulations (EC) No. 852/2004 and 853/2004 in relation to food business operators as further specified in Regulation 5 of the Food (Hygiene) (Wales) Regulations 2006 | Regulation 5 of the Food (Hygiene)(Wales) Regulations 2006 [40]   | Chief Officer Planning, Environment & Economy |
|  | 43 | (a) to draft, consult upon  | Section 6 of the  | (Sub-   |

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|   |   | and recommend Licensing Policies every three years and keep such Policy under review, recommending any revisions necessary to the County Council.<br>(b) to determine applications for licensable activities under the Licensing Act 2003 including premises licences, personal licences and club premises certificates).<br>(c) to determine applications under the Gambling Act 2005 for premises licences and permits | Licensing Act 2003 (c17)  | Committees and/or officers) in accordance with Article 11 |
| <b>C. Functions Relating to Health and Safety at Work</b> |   | Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the Authority's capacity as an employer.  | Part I of the Health and Safety at Work etc. Act 1974 (c37)     | Chief Officer, Planning, Environment & Economy            |
| <b>D. Functions relating to elections</b>                 | 1 | Duty to appoint an electoral registration officer.   | Section 8(2A) of the Representation of the People Act 1983 (c2) | Chief Executive   |
|   | 2 | Power to assign officers in relation to requisitions of the registration officer.  | Section 52(4) of the Representation of the People Act 1983 [4]  | Chief Executive   |
|   | 3 | Power to dissolve Community Councils.  | Section 28 of the Local Government Act 1972                     | None  |
|   | 4 | Power to make orders grouping communities.   | Section 29 of the Local Government                              | None  |

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|  |    |  | Act 1972  |                 |
|  | 5  | Power to make orders dissolving groups and separating Community Councils from groups.    | Section 29A of the Local Government Act 1972                          | None            |
|  | 6  | Duty to appoint returning officer for local government elections.                        | Section 35 of the Representation of the People Act 1983               | Chief Executive |
|  | 7  | Duty to provide assistance at European Parliamentary elections.                          | Section 6(7) and (8) of the European Parliamentary Elections Act 2002 | Chief Executive |
|  | 8  | Duty to divide constituency into polling districts.                                      | Section 18 of the Representation of the People Act 1983               | None            |
|  | 9  | Power to divide electoral divisions into polling district at local government elections. | Section 31 of the Representation of the People Act 1983               | None            |
|  | 10 | Delegations in respect of holding of elections.  | Section 39(4) of the Representation of the People Act 1983            | Chief Executive |
|  | 11 | Power to pay expenses properly incurred by electoral registration officers.              | Section 54 of the Representation of the People Act 1983               | Chief Executive |
|  | 12 | Power to fill vacancies in the event of insufficient nominations.                        | Section 21 of the Representation of the People Act 1985               | Chief Executive |
|  | 13 | Duty to declare vacancy in office in certain cases.                                      | Section 86 of the Local Government Act 1972                           | Chief Executive |
|  | 14 | Duty to give public notice of a casual vacancy.  | Section 87 of the Local Government Act 1972                           | Chief Executive |

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|  | 15 | Power to make temporary appointments to Community Councils.  | Section 91 of the Local Government Act 1972  | Chief Executive |
|  | 16 | Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.   | Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (SI 1986/2214) and Rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (SI 1986/2215) | Chief Executive |
|  | 17 | Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000. | Section 10 of the Representation of the People Act 2000 (c2)   | Chief Executive |
|  | 18 | Miscellaneous electoral functions under Part II, SI 2003/284   | The National Assembly for Wales (Representation of the People) Order 2003, SI (2003/284) [42]  | Chief Executive |
| <b>E. Functions relating to name and status of areas and individuals</b> | 1  | Power to change the name of the county or county borough.  | Section 74 of the Local Government Act 1972  | None            |
|  | 2  | Power to change the name of a community.   | Section 76 of the Local Government Act 1972  | None            |
|  | 3  | Power to confer title of honorary alderman or to admit to be an honorary freeman   | Section 249 of the Local Government Act 1972   | None            |
|  | 4  | Power to petition for a charter to confer county borough status  | Section 245A of the Local Government Act 1972  | None            |
| <b>F. Power to</b>   |    |  | Any provision of   | None            |

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| <b>make, amend, revoke or re-enact byelaws</b>   |    |   | any enactment (including a local Act), whenever passed, and Section 14 of the Interpretation Act 1978 (c300) [43] |                            |
| <b>G. Power to promote or oppose local or personal Bills</b>   |    |   | Section 239 of the Local Government Act 1972  | None                       |
| <b>H. Clwyd Pension Fund Committee</b><br><br>5 Councillors of Flintshire County Council, 1 Councillor of Wrexham County Borough Council, 1 Councillor of Denbighshire County Council, 1 Representative of the other Scheme Employers (not admission bodies) in the Clwyd Pension Fund and 1 Representative of the scheme members of the Clwyd Pension Fund. | 1  | To carry out the functions of Flintshire County Council as the Scheme Manager and Administering Authority for the Clwyd Pension Fund. | Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972 and the Public Service Pensions Act 2013.   | Head of Clwyd Pension Fund |
|  | 16 | Functions relating to pensions, allowances and gratuities   | Regulations under Section 18 (3A) of the Local Government & Housing Act 1989                                      | Chief Executive            |
| <b>I. Miscellaneous</b>  | 1  | Duty to approve authority's statement of  | The Accounts and Audit (Wales)  | Corporate Finance          |

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| <b>Functions</b>   |   | accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be) | Regulations 2014 [45]   | Manager   |
|  | 2 | Functions relating to sea fisheries  | Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c38)   | Chief Officer, Planning, Environment & Economy  |
|  | 3 | Powers relating to the preservation of trees   | Sections 197 to 214D of the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999 (SI 1999/1892)  | Chief Officer, Planning Environment & Economy   |
|  | 4 | Powers relating to the protection of important hedgerows   | The Hedgerows Regulations 1997 (SI 1997/1160)   | Chief Officer, Planning, Environment & Economy  |
|  | 5 | Power to make standing orders  | Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972   | None  |
| <b>1. Council<br/>70 Members<br/>2. Appointments<br/>Committee<br/>7 Members</b> | 6 | Appointment and dismissal of staff   | Section 112 of the Local Government Act 1972 and Sections 7 and 8 of the Local Government and Housing Act 1989<br><br>(NB The Appointments Committee has the delegated power to make appointments of Deputy Chief Officers and above. Chief Officers have the delegated power to make all | See Section C Scheme of Delegation<br><br>See Standing Orders relating to the Appointment and Dismissal of Officers in Part 4 |

|  |    |  |   |  |
|--|----|--|---|--|
|  |    |  | other appointments within their respective Directorates and Members shall have no involvement in the process) |  |
|  | 7  | Power to make standing orders as to contracts  | Section 135 of the Local Government Act 1972  | None   |
|  | 8  | Power to consider reports from the Public Services Ombudsman for Wales   | Section 19 of the Public Services Ombudsman (Wales) Act 2005 (c10)  | None   |
|  | 9  | Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption | Section 13(2) of the Criminal Justice and Police Act 2001 (c16)   | Chief Officer, Planning, Environment & Economy |
|  | 10 | Powers in respect of registration of motor salvage operators   | Part 1 of the Vehicles (Crime) Act 2001 (c3)  | None   |
|  | 11 | Power to appoint officers for particular purposes (appointment of "proper officers")   | Section 270(3) of the Local Government Act 1972 (c42)   | Chief Officer, Governance                      |
|  | 12 | Duty to designate an officer as the head of the authority's paid service, and to provide staff etc.  | Section 4(1) of the Local Government and Housing Act 1989 (c42)   | None   |
|  | 13 | Duty to designate an officer as the monitoring officer and to provide staff etc.   | Section 5(1) of the Local Government and Housing Act 1989   | None   |
|  | 14 | Duty to determine affordable borrowing limit   | Section 3 of the Local Government Act 2003 (c22)  | None   |
|  | 15 | Approval for annual investment strategy in   | Section 15 of the Local Government  | None   |

|  |    |   |  |                           |
|--|----|---|--|---------------------------|
|  |    | accordance with guidance  | Act 2003   |                           |
|  | 16 | Duty to make arrangements for proper administration of financial affairs  | Section 151 of the Local Government Act 1972 (c11) | Corporate Finance Manager |
| <p><b>Standards Committee</b></p> <p>5 independent members, 3 elected members, (non Cabinet) and 1 town and community council representative</p> |    | <p><b>In accordance with Article 10, the promotion and maintenance of high standards of conduct within the Council</b> including:-</p> <p>(a) To advise the Council on the adoption or revision of its Code of Conduct</p> <p>(b) To monitor and advise the council about the operation of its Code of Conduct in the light of best practice, changes in the law, guidance from the Local Government Ombudsman and recommendations of case tribunals under section 80 of the Local Government Act 2000.</p> <p><b>Assistance to members and co-opted members of the Authority.</b> To ensure that all members of the Council have access to training in all aspects of the Member Code of Conduct, that this training is actively promoted, and that members are aware of the standards expected from local Councillors under the Code.</p> <p>Functions relating to standards of conduct of members under any relevant provision of, or regulations made under, the Local Government</p> |  |                           |

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|   | Act 2000.<br>Other <b>functions</b>  |  |  |
|   | To maintain an Overview of the operation and maintenance of the council's confidential reporting procedure, complaints handling procedures, responses to ombudsman's investigations, planning code of conduct and constitution and report thereon to the Cabinet or County Council as appropriate  |  |  |
| <b>Governance and Audit Committee</b><br><br>7 members of the Authority and 1 co-opted member   | To oversee the council's internal audit function and to receive reports or make recommendations as appropriate in accordance with the provisions of Article 7.   |  |  |
| <b>Appeals Committee</b><br><br>Between 3 and 9 Members selected from a pool of Members, where applicable, appropriately qualified to hear the Appeal | To hear and determine appeals which may be properly brought either at law or under Council Policies/Procedures against (a) the exercise or failure to exercise any power, duty or function or (b) grant or refusal of a licence, permission, request, or appeal, or (c) disciplinary actions where the right of appeal lies to elected Member; in accordance with Article 13.<br>(d) appeals against redundancy where the right of appeal lies to elected Member |  |  |
| <b>Licensing Committee</b>  | (a) To draft, consult upon and recommend to the County Council Licensing   |  |  |

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|---|--|--|---|
| 12 Members of the Authority   | <p>and Gambling Policies every three years and keep such Policies under review, recommending any revisions necessary to the County Council.</p> <p>(b) To determine applications for licensable activities under the Licensing Act 2003 including premises licenses, personal licences and club premises certificates.</p> <p>(c) To determine applications under the Gambling Act 2005 for premises licences and permits.</p> <p>(d) Any other matters delegated to the Committee from time to time</p> |  | <p>Sub-Committees</p> <p>Sub-Committees</p> |
| <p><b>Constitution &amp; Democratic Services Committee</b></p> <p>21 Members of the Authority</p> | To make recommendations to the County Council on matters relating to corporate governance or the Constitution  |  |   |

13.2 **Table 2 - Responsibility For Executive Functions**

| Who is responsible | Membership | Functions               | Onward limits on delegations |
|--------------------|------------|-------------------------|------------------------------|
| Cabinet            | 8 members  | All Executive Functions | See Scheme of Delegation     |

13.3 **Table 3 - Responsibility For Local Choice Functions**

Responsibility for the following functions which may be exercised by the Cabinet or the Council are allocated as set out below

| Function | Function  | Decision making body | Membershi p | Delegation of functions          |
|----------|---|----------------------|-------------|----------------------------------|
| 1        | Any function under a local Act other than a function specified or referred to in Schedule 1.  | Council              | 70 Members  | Appropriate Chief Officer        |
| 2        | The determination of an appeal against any decision made by or on behalf of the authority.  | Council              |             | Appeals Committee                |
| 3        | Functions in relation to the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under Section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000 [46] | Council              |             | Corporate Finance Manager        |
| 4        | The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under Section 52 of the Education Act 2002.   | Council              |             | Chief Officer, Education & Youth |
| 5        | The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998  | Council              |             | Chief Officer, Education & Youth |

|   |  |         |            |   |
|---|--|---------|------------|---|
|   | (admission appeals).   |         |            |   |
| 6 | The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).  | Council |            | Chief Officer, Education & Youth  |
| 7 | The making of arrangements under section 20 (questions on police matters at Council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a Police Authority. | Council |            | Chief Executive   |
| 8 | The making of appointments under paragraphs 2 to 4 (appointment of Members by relevant Councils) of Schedule 2 (Police Authorities established under section 3) to the Police Act 1996.                        | Council | 70 Members | None  |
| 9 | The conducting of Best Value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999.                    | Cabinet |            | The Cabinet will take overall responsibility and set the framework for the Council's Improvement Plan and the programme of Best Value reviews, and the Corporate Resources Overview and Scrutiny Committee will also have a key role in the process by reviewing and monitoring the Council's compliance with the Wales |

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|    |  |         |  | Programme for Improvement.                                      |
| 10 | Any function relating to contaminated land.  | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 11 | The discharge of any function relating to the control of pollution or the management of air quality.                                     | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 12 | The service of an abatement notice in respect of a statutory nuisance.   | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 13 | The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the Authority's area.           | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 14 | The inspection of the Authority's area to detect any statutory nuisance.   | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 15 | The investigation of any complaint as to the existence of a statutory nuisance.  | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 16 | The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.                        | Council |  | Chief Officer, Planning, Environment & Economy                  |
| 17 | The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976. | Council |  | All Chief Officers as appropriate and Chief Officer, Governance |

|    |   |         |  |  |
|----|---|---------|--|--|
| 18 | The making of agreements for the execution of highways works  | Council |  | Chief Officer, Streetscene & Transportation  |
| 19 | The appointment of any individual:<br><br>(a) to any office other than an office in which he is employed by the Authority.<br><br>(b) to any body other than:<br>(i) the Authority;<br>(ii) a Joint Committee of two or more Authorities; or<br><br>(c) to any Committee or Sub-Committee of such a body and the revocation of any such appointment | Cabinet |  |  |
| 20 | Power to make payments or provide other benefits in cases of maladministration, etc.  | Council |  | Chief Officers in consultation with the Monitoring Officer                                 |
| 21 | The discharge of any function by an authority acting as a harbour authority   | Council |  | Chief Officer, Planning, Environment & Economy   |
| 22 | Functions in respect of the calculation of council tax base in accordance with any of the following:<br>(a) the determination of an amount for T in section 33(1) and 44(1) of the Local Government Finance Act 1992;<br>(b) the determination of an amount for item TP   |         |  | The Cabinet if invited by the County Council to do so following the approval of the Budget |

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|     | in sections 34(3), 45(3) 48(3) and 48(4) of the Local Government Finance Act 1992;<br>(c) the determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.  |  |  |   |
| 23. | Licensing functions in accordance with Part 2 of the Licensing Act 2003.   | Council  |  | Licensing Committee has granted delegated powers to its Sub-Committee and officers as set out in Article 11 paragraph 11.4      |
| 24. | Functions in respect of gambling in accordance with any of the following-<br>(a) a resolution not to issue casino licenses in accordance with section 166 of the Gambling Act 2005<br>(c19)<br>(b) prescribing of fees in accordance with section 212 of the Gambling Act 2005<br>(c) making an order disapplying section 279 or section 282(1) of the Gambling Act 2005 in accordance with section 284 of the Gambling Act 2005<br>(d) authorised persons in accordance with section 304 of the Gambling Act 2005<br>(e) prosecutions by a licensing authority in accordance with section 346 of the Gambling Act 2005<br>(f) three year licensing policy in accordance | (a) the Council<br><br>(b) the Council<br><br>(c) the Cabinet<br><br>(d) the Cabinet<br><br>(e) the Cabinet<br><br>(f) the Council |  | The functions in (b), Committee. Those in (d) and (e) have been delegated to the Chief officer, Planning, Environment & Economy |

|    |   |         |  |  |
|----|---|---------|--|--|
|    | with section 349 of the Gambling Act 2005   |         |  |  |
| 25 | Functions under Sections 51 and 53 of the Schools Standards and Organisation (Wales) Act 2013 relating to school reorganisation | Cabinet |  |  |
| 26 | Delegation of powers under the Animal Welfare (Licensing of Activities involving Animals) (Wales) Regulations 2021              | Cabinet |  |  |

## **SECTION 14**

### **14. ACCESS TO INFORMATION PROCEDURE RULES**

#### **14.1 Scope**

These rules apply to all meetings of the Council, the Cabinet, Committees and Fora.

Each Chief Officer shall be responsible for securing compliance with the requirements of the Data Protection ~~Act 1998~~ [Legislation](#), Freedom of Information Act 2000 and the Environmental Information Regulations 2004 in relation to the data and information within the purview of that legislation held in his or her Department and shall make all necessary arrangements within the Department for that purpose.

#### **14.2 Openness Policy**

The Authority wishes to be as open as possible in terms of sharing access to information both with Councillors and with the public, as permitted within the law and with respect to the rights of others. These rules seek to complement and supplement and not detract from any statutory rights to information (for example within the Data Protection [Acts-Legislation](#) and the Freedom of Information Act) which Councillors and the public are afforded from time to time. These rules do not reduce any more specific rights to information contained elsewhere in this Constitution. In the case of any omission or conflict between these rules or the Constitution and statutory rights, statutory rights will always prevail.

#### **14.3 Rights to Attend Meetings**

Members of the public may attend all meetings subject only to the exceptions in the Local Government Act 1972 and other legislation. The right to attend meetings does not extend to taking photographs or the making of video or audio transmissions or recordings without consent. The use of social media, such as Twitter or Facebook, is governed by the Social Media Policy included in [Section 15](#) of the Constitution. The right to attend meetings is subject to the Council's right to exclude persons if their conduct is disorderly or if they misbehave at the meeting. The Press may attend that part of any meeting open to the public.

#### **14.4 Notices of Meeting**

- (a) The Authority will give at least three clear days' notice of any meeting by posting details of the meeting on the public noticeboard at County Hall and on the Council's website.
- (b) Special Urgency – If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected, that a decision must be taken and that it is not possible to provide 3 clear days' notice of the date of the meeting at which the decision must be taken, then with

the agreement of the Chair of the body concerned, the Monitoring Officer is authorised to call such a meeting, subject to the agenda and reports being available to the public at the time at which the meeting is convened.

- (c) Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access the meeting remotely.
- (d) Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access the meeting remotely.
- (e) Where the meeting is not open to the public and is held partly through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.
- (f) Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.

#### 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 at least three clear days before the meeting [or in accordance with 4 (b) above]. Where reports are prepared after the summons has been sent out, the Democratic Services Manager shall make each such report available to the public as soon as the report is completed and sent to Councillors. If an item is added to the agenda later, the revised agenda 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:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Democratic Services Manager thinks fit, copies of any other documents supplied to Councillors in connection with an item:-

to any person on payment of a charge for postage and any other costs.

#### 14.7 **Access to Minutes etc. after the Meeting**

The Council will make available copies of the following for six years after a

meeting:

- (a) 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;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

#### 14.8 **Background Papers**

##### 14.8.1 **List of Background Papers**

The author of any report to Council, Cabinet or Committee will list any documents (called background papers) which:-

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

##### 14.8.1 **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**

These Rules are a written summary of the rights of the public to attend meetings and the rights of the public and Members of the Council to inspect and copy documents. A copy of these Rules will be [published on the Council's website](#) and kept at County Hall and the public shall have the right to inspect them at any reasonable time and free of charge.

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

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

The Cabinet may only make decisions in relation to its functions and conduct formal business in a properly constituted meeting that complies with the Cabinet Procedure Rules in [Section 5.8](#). This does not prevent the Cabinet

from holding informal deliberations in private, with or without officers present, but these meetings shall not take decisions.

#### **14.10.2 Confidential Information – Requirement to Exclude the 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.

#### **14.10.3 Meaning of Confidential Information**

Confidential information means information given to the Council by a Government Department (including the Welsh Assembly Government) on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order

#### **14.10.4 Exempt Information – Discretion to Exclude the Public**

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

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6. Due regard will be had to the wishes of the individual should they elect that the hearing be held in private where the law so permits.

#### **14.10.5 Meaning of Exempt Information**

Exempt information is defined in the Local Government Act 1972 as information falling within the following categories (subject to any qualification):

Includes the following:

1. Information which is likely to reveal the identity of an individual.
2. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
3. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a [Welsh Minister or a Minister of the Crown](#) and employees of, or office holders under, the authority.
4. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
5. Information which reveals that the authority proposes —  
(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or

- (b) to make an order or direction under any enactment.
6. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

**NOTE: this definition is laid down by statute and overlaps with the other definitions within this document e.g. this definition includes information that contains personal data**

Information falling within 1-7 above is not exempt if it relates to proposed development for which the local planning authority may grant permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

#### **14.11 Public Interest Test**

Information within categories 1-4, 6 and 7 set out in **Rule 10.5** may only be treated as exempt if an assessment of the public interest has been made.

The public interest will be assessed on a case by case basis having regard to all relevant factors including, but not limited to the following, to ensure a proper balance is achieved between the right to know, the right to personal privacy and the delivery of effective government.

In making such an assessment the Proper Officer shall have regard to any relevant prejudice which may be caused to the Council or any other party if the information were disclosed, having regard to the full context of any disclosure. Account may be taken of whether disclosure would breach any obligation of confidence not within **Rule 10.4** or the rights of any individual under the Data Protection ~~Act 1998~~ Legislation or the Human Rights Act 1998.

Account will be taken of the fact that the public interest test may be served by allowing access to information which would:

- (a) further the understanding of and participation in debating issues of the day;
- (b) facilitate transparency and accountability in and enhance scrutiny of decisions taken by the Council.
- (c) facilitate transparency and accountability in the spending of public money;
- (d) help individuals understand the decisions made by the Council affecting their lives;
- (e) bring to light information affecting public safety or danger to the environment;

- (f) contribute to the administration of justice and enforcement of the law or the prevention or detection of crime or the apprehension or prosecution of offenders;
- (g) protect the public from unsafe products or rogue traders or practices.

In making such an assessment the following factors shall be regarded as irrelevant;

- (a) possible embarrassment to the Council or its Officers;
- (b) possible loss of confidence in the Council or another public body;
- (c) the seniority of persons involved in the subject matter;
- (d) the risk of the public misinterpreting the information.

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

If the Chief Officer, Governance 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 10**, the meeting is likely not to be open to the public. Such reports will be marked "Not for publication" together with the category of information likely to be disclosed.

#### **14.13 The Forward Work Programme**

##### **14.13.1 Period of Forward Work Programme**

The forward work programme will be prepared by the Democratic Services Manager to cover a rolling period of six months. It will be regularly updated to record changes to maximise the opportunity for consultation and dialogue.

Each Chief Officer in partnership with the relevant Cabinet Member is responsible for identifying future decision-making needs and for informing the Democratic Services Manager.

##### **14.13.2 Contents of Forward Work Programme**

The forward work programme will contain matters which the Cabinet, Overview and Scrutiny Committees, Governance and Audit Committee and full Council are likely to consider. It will contain information on:

- (a) the timetable for considering the budget and any plans forming part of the policy framework and requiring Council approval, and which body is to consider them;
- (b) the timetable for considering any plans which are the

responsibility of the Cabinet;

- (c) any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- (d) the work programme of the Overview and Scrutiny Committees, to the extent that it is known.

The forward work programme will be published on the Council's website and paper copies made available from Committee Services at County Hall.

#### **14.14 Consultation on Proposals to be Considered by the Cabinet**

At least 2 weeks should be permitted in the forward plan timetable for consultation with relevant Overview and Scrutiny Committees and ward members where a matter is to be considered by the Cabinet and is not urgent (as defined below) or confidential or exempt (as defined in paragraph 10) without prejudice to the rights of the Overview and Scrutiny Committee set out herein.

A matter may be considered urgent where the events to which it is addressed were unforeseen at the time that the last forward work programme was produced and a decision is required within (the minimum time provided for consultation as specified above).

A decision can only be treated as urgent if the decision taker (if an individual) or the Chair of the body making the decision obtains the agreement of the Chair of a relevant Overview and Scrutiny Committee that the taking of the decision cannot be reasonably deferred.

If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of each relevant Overview and Scrutiny Committee including the Scrutiny co-ordinating Committee is unable to act, then the agreement of the Chair of the Council, or in his/her absence the Vice Chair will suffice.

Any decisions taken under this urgency procedure will be recorded as having been taken in the absence of consultation in the decision record save as to the urgency of the need to make the decision and that it cannot reasonably be deferred.

#### **14.15 Record of Decisions of the Cabinet**

##### **14.15.1 The Decision Record**

- (a) A written record will be made of every Cabinet decision by the Cabinet and its committees (if any) and individual members and joint committees and joint sub-committees whose members are all members of a local authority Cabinet.

(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) the consultation required to be undertaken prior to the decision and, if such consultation has not taken place, the reason why;
- (vii) any reason for urgency (where applicable).

#### **14.15.2 Preparing the Decision Record**

- (a) The Democratic Services Manager 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 Cabinet, and shall, as soon as reasonably practicable after the meeting produce a decision record.
- (b) Where an individual Member has made any Cabinet Decision:
  - (i) that Member shall as soon as reasonably practicable instruct the Democratic Services Manager to produce a decision record; and
  - (ii) the decision shall not be implemented until that decision record has been produced, subject to paragraph (c) below.
- (c) Where the date by which a Cabinet decision made by an individual Member must be implemented makes compliance with (b)(b)(ii) above impracticable, the decision may be implemented if the decision maker has the agreement of
  - (i) the Chair of the relevant Overview & Scrutiny Committee; or
  - (ii) if there is no such person or that person is unable to act, the Chair of the local authority; or
  - (iii) if there is no Chair of the relevant Overview & Scrutiny Committee or the local authority, the Vice Chairperson of the local authority;

- (iv) that the making of the decision is urgent and cannot reasonably be deferred.

#### 14.15.3 Publishing a note of all meetings of the Cabinet and its Committees

- (a) The Democratic Services Manager or his or her representative shall arrange for a note to be published on the Council's website of every meeting of the Cabinet and its Committees as soon as reasonably practicable and in any event within seven days of the date of the meeting Cabinet or its Committee.
- (b) The note shall record:
  - (i) the Members present at the meeting;
  - (ii) any apologies received;
  - (iii) any personal interests declared;
  - (iv) all decision made at the meeting (excluding any decisions made when the meeting was not open to the public because exempt or confidential information was being considered); and
  - (v) the outcome of any votes taken at the meeting (excluding any votes taken when the meeting was not open to the public).

### **14.16 Decisions by An Individual Member of the Cabinet**

#### **14.16.1 Reports Must Be Taken Into Account**

Where an individual Member of the Cabinet receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least 3 clear days after receipt of that report.

#### **14.16.2 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 every relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

#### **14.16.3 Record of Individual Decision**

The decision recording rules in paragraph 14.15 will apply.

### **14.17 Overview and Scrutiny Committee Members' Access to Documents**

#### **14.17.1 Rights of Access**

Subject to paragraph 14.17.2 below an Overview and Scrutiny Committee (including its sub-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.

#### **14.17.2 Limit on Rights**

An Overview and Scrutiny Committees will not be entitled to any part of a document that contains:

- (a) confidential or exempt information; or
- (b) advice provided by a political advisor or assistant unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of the committee or sub-committee

#### **14.18 Record of Individual Decisions by Employee**

Where a decision is taken by an employee under delegated powers, that employee is responsible for retaining a record of such decision and the reason for such decision sufficient for audit and evidential purposes and for ensuring that all those that need to know are informed promptly of the decision and that the decision and the record of it accords with the requirements of the relevant scheme of delegations under which it is made, and any guidance on decision making issued by the Monitoring Officer. Decisions made by the Chief Executive or Chief Officers will be reported to the next available Cabinet meeting.

#### **14.19 Information Sharing**

##### **INFORMATION SHARING PRINCIPLES**

###### **Principles of disclosing information**

These encompass the underlying principles behind the right to know, the Data Protection Act+Legislation plus the legislation on access to information contained within the amended Local Government Act 1972

The following definitions are used within this document

Confidential Includes the following:

- Information
- 7. information furnished to the council by a Government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
  - 8. information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;

9. information provided to a lawyer for the purposes of obtaining legal advice or the advice received
10. information which would harm the commercial position of an individual, including the council, if it were to be revealed
11. information relating to an investigation into a potential or actual criminal offence or any information relating to the enforcement of laws where it would harm that enforcement if the information were to be revealed.
12. information which is received in circumstances where a duty of confidence arises e.g. communications between a teacher and pupil, the outcome of a disciplinary process, discussions during an employee appraisal

|  |  |
|--|--|
| Exempt information (as defined by the Local Government Act 1972) | Includes the following: <ol style="list-style-type: none"> <li>13. Information which is likely to reveal the identity of an individual.</li> <li>14. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</li> <li>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.</li> <li>16. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</li> <li>17. Information which reveals that the authority proposes —           <ol style="list-style-type: none"> <li>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</li> <li>(b) to make an order or direction under any enactment.</li> </ol> </li> <li>18. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</li> </ol> <p><b>NOTE: this definition is laid down by statute and overlaps with the other definitions within this document e.g. this definition includes information that contains personal data</b></p> |
|--|--|

**Personal data** Information which, on its own or with other information, enables the identification of a living individual

The following principles will apply to the sharing of information between officers and county councillors, whether officer to county councillor, county councillor to county councillor or officer to officer:

- A Openness and transparency is the best policy. Where information is not confidential, exempt, private nor contains personal data then it will be shared on request
- B Information will be shared in a timely manner with county councillors or officers where:
  - the recipient requires that information in order to fulfil a role/task within the council (i.e. that person cannot fulfil the role/task without the information); AND
  - the information is provided, received and used only for the purpose of undertaking that role/task (and not for any other reason)
- C The level of detail provided will be commensurate with the role/task being performed by the recipient

- D County councillors may see any document that does not contain exempt information or the advice of a political adviser which is to be or has been reported to:
- Council, a committee or a sub-committee; OR
  - Cabinet or a sub-committee of Cabinet
- E Whilst councillors may request information under the Freedom of Information Act 2000 or Environmental Information Regulations 2004 any such request will be subject to the limitations and exemptions contained within the legislation
- F Where the information requested identifies, or tends to identify, a living individual then it will only be disclosed when the person intending to disclose the information has satisfied themselves of the identity of the intended recipient and where:
- The person to whom the information relates has given consent or consent can be readily implied (such as where a councillor is acting on behalf of a resident); OR
  - Disclosing the information is necessary for purposes such as law enforcement
- G Any person sharing confidential or exempt information or personal data the person must when doing so:
- Appropriately mark written communications: AND
  - Expressly state that the information is confidential during oral communications; AND
  - Discuss with or advise the recipient what (if anything) can be shared with others
- H Any information that is supplied which is confidential or exempt or which contains personal data must not be further communicated or shared by the recipient without the consent of the sender.
- I Whether or not information is marked as or expressed to be confidential, it remains the responsibility of the person holding that information to decide whether or not to disclose it to another person and the appropriate classification of that information if it is disclosed
- J Improperly disclosing or withholding of information can have a range of consequences which include (but are not limited to):
- It may be a potential breach of the members' or officers' code of conduct
  - It can leave the Council or individual open to prosecution or other enforcement action by the Information Commissioner
  - It can prevent officers or councillors from fulfilling their roles
  - The council can be liable to legal action or judicial review
  - It can cause personal distress and upset
  - It erodes the necessary trust and confidence between councillors and officers
- K Where a county councillor or officer
- i. requests information which is not supplied; OR
  - ii. is uncomfortable about disclosing information that has been requested that person may request advice from the Council's monitoring officer on whether the information should be disclosed.
- L Nothing in these principles should be interpreted as restricting or prohibiting the disclosure (whether voluntary or compelled) of information to the Police, Courts, law enforcement agencies, public inquiries etc.

### **Classification and marking of information when sharing**

- M When communicating personal data, confidential information or exempt information in writing the following shall apply:
- 1) When the information is shared in a letter or email the subject line must be marked "confidential"
  - 2) When the information is included in a document (other than a letter or email) then the top of each page must be marked "confidential" OR each page must be watermarked "confidential"
  - 3) When the information is to be shared in an electronic file then the file name must include the word "confidential"
- N When communicating personal data, confidential information or exempt information orally the following shall apply:
- 1) the information must be expressly stated to be "confidential"; AND
  - 2) the person communicating the information must follow up in writing stating what is confidential

| Nature of Report  | Public Session<br>(Part 1)  | Closed Session<br>(Part 2)   |
|---|---|--|
| <ul style="list-style-type: none"> <li>• Report to provide assurance or update on progress</li> <li>• Performance monitoring</li> <li>• Policy Development</li> <li>• Budget monitoring</li> <li>• (Pre) Scrutiny of Cabinet proposals</li> </ul>   | <p>Such reports will almost always be in part 1 and will contain statistical analysis and performance data. Individual cases will not be reported and if discussed will be anonymised and for illustrative purposes only</p>  | <p>Rarely will reports be taken in closed session. However it will happen where there is a need to protect information that is confidential by reason of commercial or legal sensitivity. It will be extremely rare for such reports to mention or consider individual cases or personal data</p>  |
| <ul style="list-style-type: none"> <li>• Call in</li> </ul>   | <p>Call in will usually be handled in open session</p>  | <p>A call in will be considered in closed session if it relates to a closed session cabinet decision</p>   |
| <p>Regulatory reports for decision e.g.</p> <ul style="list-style-type: none"> <li>• planning application</li> <li>• dispensation application</li> <br/> <li>• Licensing applications</li> <li>• Advice about merits of a planning appeal</li> </ul>  | <p>Such applications will almost always be taken in open session because they relate to information that is already public under legislation e.g. planning legislation requires that the name and address of the applicant and agent be made public<br/>These will only rarely be heard in public</p> | <p>Very occasionally an application for dispensation might include personal data that is sensitive in nature and needs to be considered in closed session</p> <p>The nature of the advice and subject matter under discussion will mean that such reports are almost always heard in private</p>   |
| <p>Reports for decision e.g.</p> <ul style="list-style-type: none"> <li>• Change to service levels</li> <li>• Responding to consultation</li> <li>• Setting up new partnership arrangements</li> <li>• Setting or amending officer structure</li> <li>• Appointment of a senior officer</li> <li>• Award of contract</li> </ul> | <p>These reports will normally be considered in open session</p> <p>These will only rarely, if at all, be heard in public</p>   | <p>Occasionally some aspects of such reports might be confidential. Consideration will be given to splitting the report so that only the confidential information is considered in closed session.</p> <p>The nature of the advice and subject matter under discussion will mean that such reports are almost always heard in private.</p> |

Levels of information to be shared between

| Scenario  | Officer and Member   | Member and Member   | Officer and Officer   | Officer and Public  | Members and public(including town and community councils)  |
|---|--|---|---|---|--|
| <p>Ward enquiries relating to an individual or individuals e.g.</p> <ul style="list-style-type: none"> <li>Resident seeking help with service problems</li> <li>Seeking justification for a decision</li> </ul> | <ul style="list-style-type: none"> <li>Sufficient detail to answer the query and give assurance that the rules have been followed</li> <li>Answer may include confidential information but not personal data</li> <li>If a member is clearly acting for a resident and that resident has provided personal data to the member</li> </ul> | <ul style="list-style-type: none"> <li>Sufficient detail to answer the query and give assurance that the rules have been followed</li> <li>Answer may include confidential information but not personal data</li> <li>Where someone has provided personal data to a member already then an officer may discuss the matter in the</li> </ul> | <ul style="list-style-type: none"> <li>Sufficient detail to answer the query and give assurance that the rules have been followed including revealing confidential information or personal data if the recipient is within the same service or has some other oversight role e.g. manager, auditor, lawyer</li> </ul> | <ul style="list-style-type: none"> <li>Description of the process to be followed and assurance that the process has been fully complied with e.g. confirmation that medical data has been obtained</li> <li>Neither confidential information nor personal data will be disclosed</li> <li>As required by Freedom of Information Act 2000 and/or Environmental Information Regulations if relevant</li> <li>The work contact details of the relevant officer to contact</li> </ul> | <ul style="list-style-type: none"> <li>Description of the process to be followed and assurance that the process has been fully complied with e.g. confirmation that medical data has been obtained</li> <li>Neither confidential information nor personal data will be disclosed</li> <li>The work contact details of the relevant officer to contact</li> </ul> |

|  |   |   |  |  |  |
|--|---|---|--|--|--|
|  | <p>already then an officer may discuss the matter in the same level of detail</p> <ul style="list-style-type: none"> <li>• The work contact details of the relevant officer to contact</li> </ul>   | <p>same level of detail</p> <ul style="list-style-type: none"> <li>• The work contact details of the relevant officer to contact</li> </ul>   |  |  |  |
| <p>Seeking to understand why specific decisions have been made or actions taken e.g.</p> <ul style="list-style-type: none"> <li>• Has value for money been achieved on a land sale</li> <li>• Reasons for imposing a charge for a council service and how the charge was calculated</li> </ul> | <ul style="list-style-type: none"> <li>• Sufficient detail (including alternative options that were considered and rejected) to fully answer the query and to give assurance that the rules have been followed and to demonstrate that the answer is justified by the evidence</li> </ul> | <ul style="list-style-type: none"> <li>• Sufficient detail (including alternative options that were considered and rejected) to fully answer the query and to give assurance that the rules have been followed and to demonstrate that the answer is justified by the evidence</li> </ul> | <ul style="list-style-type: none"> <li>• Sufficient detail to fully answer the query and to give assurance that the rules have been followed including revealing confidential information or personal data if the recipient is within the same service or has some other oversight role e.g. manager, auditor, lawyer</li> </ul> | <ul style="list-style-type: none"> <li>• Description of the process to be followed and assurance that the process has been fully complied with e.g. confirmation that medical data has been obtained</li> <li>• Neither confidential information nor personal data will be disclosed</li> <li>• As required by Freedom of Information Act 2000 and/or Environmental Information Regulations if relevant</li> </ul> | <ul style="list-style-type: none"> <li>• Description of the process to be followed and assurance that the process has been fully complied with e.g. confirmation that the necessary information has been considered and taken into account</li> <li>• Neither confidential information nor personal data will be disclosed</li> <li>• The work contact details of the relevant officer to contact</li> </ul> |

|   |   |   |   |   |  |
|---|---|---|---|---|--|
| <p>Request for service and reporting back on progress</p> <p>e.g. member reporting unlawful encampment</p>  | <ul style="list-style-type: none"> <li>• Answer may include confidential information but not personal data</li> <li>• The work contact details of the relevant officer to contact</li> </ul>  | <ul style="list-style-type: none"> <li>• Answer may include confidential information but not personal data</li> <li>• The work contact details of the relevant officer to contact</li> </ul>  |   |   |  |
| <p>Whistleblowing where member is reporting an issue to an officer (or vice versa) and where an officer is reporting back on progress/outcome</p> | <ul style="list-style-type: none"> <li>• The matter will be discussed in confidence in the level of detail required to address the concern</li> <li>• When reporting back on the outcome of a whistleblowing report sufficient information will be provided to provide</li> </ul> | <ul style="list-style-type: none"> <li>• The matter will be discussed in confidence in the level of detail required to address the concern</li> <li>• When reporting back on the outcome of a whistleblowing report sufficient information will be provided to provide</li> </ul> | <ul style="list-style-type: none"> <li>• The matter will be discussed in confidence in the level of detail required to address the concern and only to the extent that is strictly necessary to fulfil the officer's role within the Council</li> <li>• When reporting back on the</li> </ul> | <ul style="list-style-type: none"> <li>• The matter will be discussed in confidence in the level of detail required to address the concern</li> <li>• When reporting back on the outcome of a whistleblowing report sufficient information will be provided to provide assurance that the matter has been properly addressed. This will not normally include personal data</li> </ul> | <ul style="list-style-type: none"> <li>• The matter will be discussed in confidence in the level of detail required to address the concern</li> <li>• When reporting back on the outcome of a whistleblowing report sufficient information will be provided to provide assurance that the matter has been properly addressed. This will not normally include personal</li> </ul> |

|  |  |  |  |  |   |
|--|--|--|--|--|---|
|  | <p>assurance that the matter has been properly addressed. This will not normally include personal data</p> <ul style="list-style-type: none"> <li>• The work contact details of the relevant officer to contact</li> </ul> | <p>assurance that the matter has been properly addressed. This will not normally include personal data</p> <ul style="list-style-type: none"> <li>• The work contact details of the relevant officer to contact</li> </ul> | <p>outcome of a whistleblowing report sufficient information will be provided to provide assurance that the matter has been properly addressed. This will not normally include personal data</p> |  | <p>data or confidential information</p> <ul style="list-style-type: none"> <li>• The work contact details of the relevant officer to contact</li> </ul> |
|--|--|--|--|--|---|

## **SECTION 15**

### **15 SOCIAL MEDIA PROTOCOL**

This protocol applies to

- Councillors and co-opted members of the County Council;
- Officers; and
- members of the press and public wishing to broadcast or transmit images, sound or messages from any meetings of the County Council, its committees or Cabinet.

#### **Openness and Transparency**

Flintshire County Council recognises that the public has the right to attend and, where not able to attend, to know and understand what has transpired at meetings of the County Council, its committees and the Cabinet (hereinafter called meetings).

The Council wishes to support the use of social media at meetings. Therefore members, the press and public are able to use social media from any meeting that is open to the public provided that it a fair and accurate account is given of the meeting.

The protocol applies to the use of social media, such as Twitter or Facebook, to comment from meetings on what is happening or has happened at that meeting. It does not apply to people sending emails or texts from meetings.

#### **Issues for Members of Flintshire County Council**

For Councillors and co-opted members (“members”) this protocol forms an addendum to the Code of Conduct and failure to adhere to the protocol could be taken into account when considering whether a breach of the Code of Conduct has taken place.

#### **Courtesy, Respect and Impartiality**

Members must make decisions on the basis of all relevant evidence, which includes:

- comments made by the public exercising rights to speak at meetings;
- presentations by officers; and

- comments made during debate by fellow Members of the Council.

Using social media in meetings can be a distraction which can lead to Members missing vital evidence and can also give the impression that members are not listening or paying attention. It is therefore the responsibility of Members to make sure that they take on board all relevant matters during a meeting, even if they are using social media and that they do not appear discourteous by failing to pay attention, which could be seen as failing to treat others with respect.

#### Example

One supporter and one objector are each allowed to speak on an application at the Planning Committee. Being seen to pay close attention to a supporter and then appearing to pay little heed to an objector, because of using social media, could create the impression that a Councillor favours the one side.

#### **Fair, Accurate and Responsible Reporting**

It is incumbent upon members using social media to give a fair and accurate account of what transpires. Whilst people are free to express comment (see below for further advice about defamation and Code of Conduct issues) it is important that if they report what is taking place during the debate that they also report the outcome.

If Members of the Council fail to abide by this protocol, they might find that they are in breach of the Code of Conduct for failing to treat others with respect.

#### Example

During a debate it is possible that a member might violently disagree with a motion that is moved and might thus transmit a note that is scornful of the proposal. However, if the motion were to be voted down in favour of another then it would create the wrong impression of the meeting not to also transmit the fact that a different resolution was reached.

#### **Defamation and Code of Conduct Issues**

Comments made by Members during debate may attract the defence of qualified privilege in respect of subsequent accusations of defamation. However, comments made in social media are unlikely to benefit from this defence.

Likewise, comments made during debate are less likely to be treated as a breach of the Code of Conduct. However, comments made in social media about other people which fail to treat them with respect could be a breach of the Members' Code.

Councillors are also under an obligation not to reveal confidential information. Therefore, the use of social media will not be permitted whilst a meeting is in closed session. Likewise, the outcome of items considered after the exclusion of the press and public is considered to be exempt information until such time as the minute is published.

Members of the Council are also reminded that they must not reveal any confidential or exempt information that is given to them by the Council and that they must comply with the Data Protection [Act Legislation](#).

### **Issues for Officers**

For officers the protocol is an addendum to their code of conduct and could form the basis for disciplinary proceedings.

Officers attend meetings in order to advise members. They shall not use social media whilst at meetings unless they are doing so specifically on behalf of the County Council.

### **Issues for Members of the Press and Public**

For members of the press and public the protocol is intended to lay down the procedures that the Council will follow should they wish use social media in meetings. It is important that the use of social media does not interfere with how the meeting is conducted, and any failure to abide by these requirements that leads to disruption of the meeting could result in members of the press and public being asked to stop and/or to leave the meeting at the discretion of the chairman.

The Council would not seek to control what the press or public say, but would ask that they give a fair and accurate account of the content of debate and the outcome.

## **SECTION 16**

### **16 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

#### **16.10 The Framework for Executive Decisions**

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

#### **16.11 Process for Developing the Framework**

The process by which the policy framework and budget shall be developed

- (a) The Cabinet will publicise by including in the forward plan, and any other means considered appropriate to the subject matter, a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The chairs of Overview and Scrutiny Committees will also be notified. The consultation period shall in each instance be not less than 4 weeks.
- (b) At the end of that period, the Cabinet will then draw up firm proposals having regard to the responses to that consultation. If a relevant Overview and Scrutiny Committee wishes to respond to the Cabinet in that consultation process then it may do so. As the Overview and Scrutiny Committees have responsibility for fixing their own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from an 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.
- (c) Once the Cabinet has approved the firm proposals, the Democratic Services Manager will refer them at the earliest opportunity to the Council for decision.
- (d) In reaching a decision, the Council may adopt the Cabinet's proposals, or in principle amend them, or refer them back to the Cabinet for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in-principle decision. In either case,

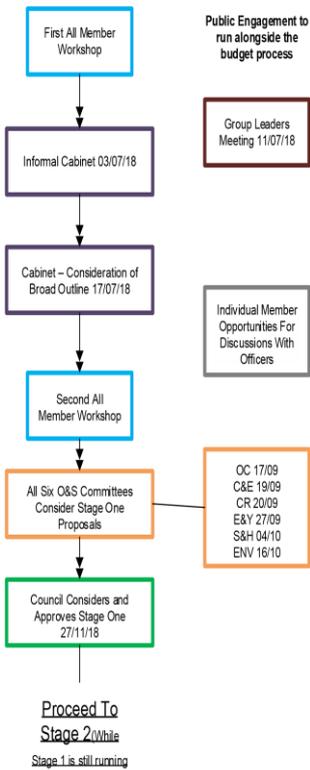
the decision will be made on the basis of a simple majority of votes cast at the meeting.

- (f) An in-principle decision will automatically become effective 10 days from the date of the Council's decision, unless the Leader informs the Democratic Services Manager in writing within 10 days that he/she objects to the decision becoming effective and provides reasons why.
- (g) In that case, the Democratic Services Manager will call a Council meeting within a further 10 days. The Council will be required to re-consider its decision and the Leader's written submission at that meeting. The Council may:-
  - i) Approve the Cabinet's recommendation by a simple majority of votes cast at the meeting; or
  - ii) Approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.
- (h) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
- (i) In approving the budget and policy framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with paragraphs 16.5 and 16.8 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.
- (j) Based on good practice and the need for efficiency, the Council has developed a staged Budget Process, as illustrated in the flow chart. This is not prescriptive; between two and four stages would be equally reasonable, depending on the circumstances in different years. At each stage, there is four weeks available for consultation, both on an individual member basis and through one of the six Overview & Scrutiny Committees. Time is made available for individual Members and Overview & Scrutiny Committees to ask for additional information, or query proposals up to and including a final deadline which will be set out at the start of the process.
- (k) At the end of the consultation, Cabinet will draw up firm proposals, having regard to the responses to the consultation. Any report to Council will reflect comments made by consultees and the Cabinet's response. Overview & Scrutiny Committees may also prepare a response direct to Council for a non-executive decision, such as the Budget. Throughout the process, up to the deadline which will be determined on an annual basis, the Council's statutory officers will be available to guide and assist Members who wish to explore alternative proposals

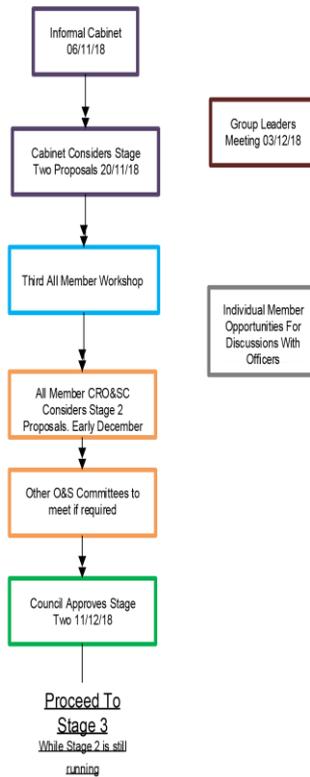


## Illustrative Three Stage Budget Process for 2019/20 Budget.

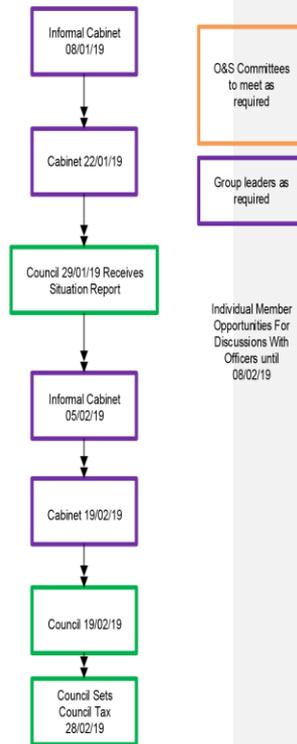
### STAGE 1



### STAGE 2



### STAGE 3



## **16.12 Decisions outside the budget or policy framework**

16.3.1 Subject to the provisions of paragraph 16.5 (virement) the Cabinet, an individual Member of the Cabinet and 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 16.4 below

16.3.2 If the Cabinet, an individual Member of the Cabinet and any officers, area Committees or joint arrangements discharging Executive Functions want to make such a decision, they shall take advice from the Monitoring Officer and/or the Chief Financial Officer as to whether the decision they want to make would be contrary to the policy framework, or contrary to or not wholly in accordance with the budget. If the advice of either 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 4 (urgent decisions outside the budget and policy framework) shall apply.

## **16.4 Urgent Decisions Outside the Budget or Policy Framework**

16.4.1 The Cabinet, an individual Member of the Cabinet or officers, area Committees 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:

- (i) if it is not practical to convene a quorate meeting of the full Council; and
- (ii) if the Chair of a relevant Overview and Scrutiny Committee agrees that the decision is a matter of urgency.

16.4.2 Following the decision, the decision taker will prove 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.

## **16.5 Virement**

16.5.1 The Council shall have the budget heads set out in its budget book or report approved by the Council as the budget.

The rules for virement are set out in rule 5 of the Council's Financial Procedure Rules (included in Section 17 of the constitution) and reference should be made to them

#### **16.5.1.1 Capital**

Steps taken by the Cabinet, an individual Member of the Cabinet or officers or joint arrangements discharging Executive Functions to implement Council policy shall not incur greater expenditure on a scheme than the amount included in the capital programme except, however resources may be transferred between schemes

#### **16.5.2 Revenue**

Steps taken by the Cabinet, an individual Member 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. However, chief officers in consultation with the Corporate Finance Manager shall be entitled to vire across budget heads within the same service up to a maximum of £50,000 provided that the transfer will not result in the adoption of a new policy and will not result in future additional revenue commitment. Beyond that limit, approval to any virement across budget heads can only be given by the Cabinet.

### **16.6 In-Year Changes to Policy Framework**

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the Cabinet, an individual Member of the Cabinet or officers, area Committees or joint arrangements discharging Executive Functions must be in line with it. No changes to any policy and strategy which makes up the policy framework may be made by those bodies or individuals except those changes:

- 16.6.1 which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;
- 16.6.2 which are necessary to ensure compliance with the law, ministerial direction or government guidance;
- 16.6.3 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;
- 16.6.4 which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

### **16.7 Call-In of Decisions Outside the Budget or Policy Framework**

- 16.7.1 Where the relevant Overview and Scrutiny Committee is of the opinion that a Cabinet 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 Financial Officer.

16.7.2 In respect of functions which are the responsibility of the Cabinet, the Monitoring Officer's report and/or Chief Financial 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 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 Overview and Scrutiny Committee if the Monitoring Officer or the Chief Finance Officer conclude that the decision was not a departure.

16.7.3 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 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 10 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 Financial Officer. The Council may either:

- (b) endorse a decision or proposal of the Cabinet 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
- (ii) amend the Council's budget 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
- (iii) 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 17**

### **17 FINANCIAL PROCEDURE RULES**

1<sup>st</sup> March 2018

## **Flintshire County Council Financial Procedure Rules Revised 2018**

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1. Status of Financial Regulations
2. Financial Management – General Roles and Responsibilities
3. Financial Planning
4. Risk Management and Control of Resources
5. Financial Systems and Procedures
6. External Arrangements

#### 1. Status of Financial Regulations

##### **1.1 What are Financial Procedure Rules?**

1.1.1 Financial Procedures provide the framework for managing the Authority's financial affairs. They apply to every member and officer of the authority and anyone acting on its behalf.

1.1.2 The procedures identify the financial responsibilities of the full Council, the Cabinet and officers.

1.1.3 Where there are references to the Chief Executive and Chief Officer the responsibility is as follows:

The Chief Executive ~~as Head of Paid Service~~ at a strategic level provides oversight, coordination and direction across the organisation and ensures the Chief Officer Team work collectively.

Chief Officers are accountable at a strategic and operational level for resource management, performance management and delivery of services for the Portfolio for which they have responsibility.

In addition, the Council holds the following statutory posts:

The ~~Head of Paid Service is the~~ Chief Executive  
The Chief Finance Officer is the Corporate Finance Manager

The Chief Education Officer is the Chief Officer (Education and Youth)  
The Monitoring Officer is the Chief Officer (Governance)  
The Chief Officer Social Services  
Democratic Services Manager

1.1.4 *These Financial Procedure Rules are part of the Authority's Rules of Procedure. They must be read in conjunction with the rest of the Constitution, of which they form part, including the Contract Procedure Rules.*

1.1.5 These Financial Procedure Rules and other regulatory rules apply to the Clwyd Pension Fund except where separate legislation exists, e.g. Local Government Investment Regulations.

## **1.2 Why are they important?**

1.2.1 To conduct its business effectively, the Authority 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 Authority. These procedures have been devised as a control to help the Authority manage its financial matters properly in compliance with all necessary requirements.

1.2.2 Good, sound financial management is a key element of the Authority's Corporate Governance framework which helps to ensure that the Authority is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

1.2.3 Good financial management secures value for money, controls spending, ensures due probity of transactions and allows decisions to be informed by accurate accounting information.

1.2.4 Good financial management requires secure and reliable records and systems to process transactions and information and substantiate the effective use of public money.

1.2.5 Financial Procedures should not be seen in isolation, but rather as part of the overall regulatory framework of the Authority as set out in the Council's Constitution.

## **1.3 Who do Financial Procedures apply to?**

1.3.1 Financial Procedures apply to every member and officer of the Authority 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 Authority policies and priorities, and is properly Authorised, provides value for money and achieves best value.

- 1.3.2 Separate financial procedures have been incorporated into the Authority's Scheme for Financing of Schools and relate to those matters where decisions have been delegated to school governing bodies.
- 1.3.3. These Financial Procedures shall apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise. Where services are provided via an 'Alternative Delivery Model', specific financial procedures will be incorporated into the individual models.
- 1.3.4 Failure to observe Financial Procedures may result in action under the Authority's disciplinary procedures.

#### **1.4 Who is responsible for ensuring that they are applied?**

- 1.4.1 The Chief Executive and Chief Officers 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 Authority's behalf and for reporting to the Chief Finance Officer any known or suspected breaches of the procedures.
- 1.4.2 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 Members.
- 1.4.3 The Chief Finance Officer is responsible for issuing advice and guidance to underpin the Financial Procedures which Members, Chief Executive and Chief Officers and others acting on behalf of the Authority are required to follow.
- 1.4.4 Where any 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 Local Authority, 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.

## **2. Financial Management – General Roles and Responsibilities**

### **The Role of the Full Council**

- 2.1.1. The Council has a duty towards its Council Tax payers with regard to financial decisions and their consequences. The full Council is responsible for adopting the Council's Constitution and Members' Code of Conduct and for approving the budget and policy framework within which the Cabinet operates. It is also responsible for approving and monitoring compliance with the authority's overall framework of accountability and control. The full Council is also responsible for monitoring compliance with policies and related Cabinet decisions.

## 2.2 The Role of the Cabinet

2.2.1 The Cabinet (as the Council's Executive) 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.

## 2.3 The Role of the Chief Finance Officer

2.3.1 The Chief Finance Officer is accountable to the Chief Executive 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:

- Section 151 of the Local Government Act 1972
- The Local Government Finance Act 1988
- [The Local Government and Housing Act 1989](#)
- [The Housing \(Wales\) Act 2014](#)
- The Accounts and Audit Regulations (Wales) Regulations currently in force

2.3.2 The Chief Finance Officer among other functions is responsible for;

- a) The proper administration of the Council's financial affairs.
- b) Setting and monitoring compliance with financial management standards.
- c) Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management.
- d) Advising on all matters which affect, or potentially affect, the finances or financial administration of the Council.
- e) Providing financial information.
- f) Making recommendations to the Cabinet and Council for the preparation of the revenue budget and capital programme.
- g) Preparing the approved revenue budget and capital programme.
- h) Treasury management.

The Chief Executive and Chief Officers are responsible for promoting the financial management standards set by the Chief Finance Officer in their portfolio and monitoring adherence to the standards and practices, liaising as necessary with the Chief Finance Officer.

Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to every Member of the Cabinet or the Council as appropriate and to the External Auditor, if the Council, a Committee or Officer of the Authority, or a Joint Committee on which the Council is represented:

- Has made, or is about to make, a decision which involves or would involve the Council incurring expenditure which is unlawful.

- Has taken, or is about to take, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency to the Council.
- Is about to make an unlawful entry in the Council's accounts.

The Chief Finance Officer must consult with the [Head of Paid Service Chief Executive](#) and the Monitoring Officer when preparing any report under Section 114.

The Chief Finance Officer shall make a report under this Section if it appears to him or her that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet that expenditure.

Section 114 of the 1988 Act also requires:

- The Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she is unable to perform the duties under Section 114 personally, due to absence or illness.
- The Council 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 114.

(All references to a Committee (joint or otherwise) include Sub-Committees).

Where a report has been issued by the Chief Finance Officer under Section 114 of the Local Government Finance Act 1988, the Council and the Local Authority's Head of the Paid Service shall then follow the requirements of Sections 115 and 116 of the said Act.

## **2.4 The Role of Chief Officers**

2.4.1 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.

2.4.2 Chief Officers are responsible for:

- a) 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 Finance Officer.
- b) Ensuring that Cabinet members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer.
- c) 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.
- d) Consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.

## **3. Financial Planning**

### **3.1 Strategic Planning**

#### **Why is this important?**

Planning is a continuous process and is a fundamental tool in the management and control of the Authority. The Local Authority has a statutory responsibility to produce various plans. Financial planning is a key part of this process, setting out the financial consequences of the actions planned to meet the objectives and targets set within the plan.

#### **Key Controls**

- Ensure that all relevant plans are produced and that they are consistent with Corporate objectives
- Produce plans in accordance with statutory requirements
- Meet the timetables set
- Ensure that all performance information is accurate, complete and up to date
- Provide improvement targets that are meaningful, realistic and challenging

#### **Responsibilities of the Chief Finance Officer**

- a) To advise and supply the financial information that needs to be included in plans in accordance with the statutory requirements and agreed timetables
- b) To contribute to the development of corporate and service targets and objectives and performance information
- c) To ensure that performance information is monitored frequently to allow corrective action to be taken if targets are not likely to be met

#### **Responsibilities of the Chief Officers**

- a) To contribute to the development of plans in line with statutory requirements
- b) To contribute to the development of corporate and service targets and objectives and performance information.

### **3.2 Budgets and Medium Term Planning**

#### **Why is this important?**

The Local Authority is a complex organisation responsible for delivering a wide variety of services. It needs to plan effectively to enable scarce resources to be allocated in accordance with the Council's priorities.

Flintshire's Medium Term Financial Strategy (MTFS) provides a framework for the financial principles through which revenue and capital resources will be forecast, organised and managed to deliver the Authority's vision and strategic objectives.

The MTFS uses detailed intelligence led forecasting to estimate available resources, investment needs linked to the Authority's Council Plan and priorities, demand and

externally led cost pressures and opportunities for efficiencies / savings for both revenue services and the capital programme over the medium term. The MTFS enables the gap between forecast funding levels and resource requirements to be identified over the medium term.

Detailed work is undertaken on an annual basis by Corporate Finance Team, in conjunction with the Chief Executive and Chief Officer Team to build on the MTFS to enable a balanced revenue budget and capital programme which is approved by Authority for the following financial year.

#### **Responsibilities of the Chief Finance Officer**

- a) To prepare and submit reports on budget prospects for the Cabinet including resource constraints set by the Welsh Government
- b) To determine the detailed form of revenue estimates after consultation with the Cabinet, Chief Executive and Chief Officers
- c) To prepare and submit forecasting reports to the Cabinet on the aggregate spending plans and resources available to fund them.
- d) To advise on the medium term implications of spending decisions and prepare forecasts.
- e) To encourage the best use of resources and value for money by working with Chief Officers to identify opportunities to improve economy, efficiency and effectiveness
- f) To advise the Authority on proposals in accordance with responsibilities under section 151 of the Local Government Act 1972

#### **Responsibilities of the Chief Officers**

- a) To integrate financial and budget plans into service planning so that budget plans can be supported by financial and non financial performance measures
- b) To encourage the best use of resources and value for money by working with the Chief Finance Officer to identify opportunities to improve economy, efficiency and effectiveness.

### **3.3 Budgeting**

#### **3.3.1 Revenue Budget**

##### **Why is this important?**

Budgetary control and monitoring procedures ensure that once the budget has been formally approved by the County Council, resources allocated are used for their intended purposes and are properly accounted for. Budgetary control is a continuous

process, enabling the authority to review and adjust its budget targets during the financial year.

By continuously identifying and explaining variances against budgetary targets, the authority can identify changes in trends and resource requirements at the earliest opportunity.

### **Key Controls**

The key controls for managing and controlling the revenue budget are:

- Budget managers should be responsible only for income and expenditure that they can influence
- There is a nominated budget manager for each cost centre heading and the responsibilities for budgetary control are clearly defined.
- Budget managers accept accountability for their budgets and the level of service to be delivered and understand their financial responsibilities
- Budget managers follow an approved certification process for all expenditure
- Income and expenditure are properly recorded and accounted for
- Performance levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget.
- An annual cycle is established to ensure budgets are promptly prepared

### **Responsibilities of the Chief Finance Officer**

To ensure an appropriate framework of budgetary management and control that ensures that:

- a) A revenue budget is prepared on an annual basis, together with a revenue projection over the medium term, for consideration by the Cabinet, which will make recommendations to the Council. The Council is responsible for the approval of the revenue budget.
- b) A resource allocation process is developed and maintained for consideration by Members at each stage of the revenue budget process
- c) The revenue budget includes the proposed level of unallocated Council Fund reserves, proposed taxation levels and the proposed budgets for each Chief Officer and for central and corporate budget heads.
- d) Each Chief Officer has available timely information on receipts and payments on each budget which is sufficiently detailed to enable managers to fulfil their budgetary responsibilities
- e) Expenditure is committed only against an approved budget head
- f) Significant variances from approved budgets are investigated and reported by budget managers on a regular and timely basis

## **Responsibilities of the Chief Officers**

- a) To maintain budgetary control within their departments and ensure that all income and expenditure are properly recorded and accounted for.
- b) To ensure that an accountable budget manager is identified for each area of income and expenditure under the control of the Chief Officer. As a general principle, budget responsibility should be aligned as closely as possible to the decision making that commits expenditure
- c) Ensure that Managers and all staff understand their financial responsibilities.
- d) Ensure that budget managers follow the monthly budget monitoring procedures when using Collaborative Planning (CP) system.
- e) To prepare annual service plans linked to the Council Plan identifying any budgetary implications for inclusion in the Medium Term Financial Plan for Member consideration.
- f) To ensure that spending remains within the service's overall cash 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. Variances in excess of £50k should be reported with an explanation to the Chief Finance Officer.
- g) Prepare budget action plans where an overspend variance of greater than 0.5% of budget is forecast at Portfolio level. The action plan should identify if mitigation of the overspend is possible and explain the action that can be taken to show how expenditure will be brought back into line with budget, and identify any pressures that cannot be mitigated by such action which may need corporate attention and resolution.
- h) Report areas of forecast under spend, along with the implications for future years, for corporate consideration of where any available resources should be re-allocated. The use of budget savings other than in accordance with the approved budget is not permitted without Cabinet approval.
- i) Consult with the Chief Finance Officer and seek advice on further action to be taken before any commitments are incurred, where these are not covered by the Council's approved budget.
- j) Report significant variations from budget to the Chief Finance Officer, who will report the position and any budget actions plans in the overall budget monitoring report to Cabinet and subsequently to Corporate Overview and Scrutiny Committee. In certain circumstances it may be that the significance of the variance requires a separate report to Cabinet for consideration or approval. The report will outline the reasons for the projected variance, the implications for future years' budgets, along with the budget action plan to bring expenditure in line with the budget wherever possible.

- k) Budget action plans will be monitored by the relevant Chief Officer who will notify the Chief Finance Officer should it emerge that a budget action plan will fail to prevent an overspend. The Chief Finance Officer will report the position to Cabinet.
- l) In exceptional cases submit reports to the Cabinet and to the Authority, in consultation with Chief Finance Officer, where a Chief Officer is unable to balance expenditure and resources within existing approved budgets under his or her control, requesting a supplementary budget allocation for the current financial year only.
- m) Nothing in the Financial Procedure Rules shall prevent expenditure being incurred which is essential to meet any immediate needs arising from an emergency, including any expenditure under Section 155 of the Local Government and Housing Act 1989 (Emergency Financial Assistance Scheme, formerly known as the “Belwin” scheme). Such action shall only be taken after consultation with the Chief Finance Officer, and any such expenditure must be reported retrospectively to the Cabinet, and the funding for such expenditure must be agreed as soon as possible.
- n) To ensure compliance with the scheme of virement.

### 3.3.2 Budget Virements/Accounting Adjustments

#### Why is this important?

Transfers between budgets is an integral and important feature of budgetary control for an organisation to ensure sound financial management.

In general terms there are two main types of budget transfers:-

1. Accounting Adjustments – this is where it is necessary to transfer a budget from one place to another to account properly for the relevant expenditure or income but where the approved purpose of that expenditure/income does not change from that approved by County Council. An example of this is the allocation of energy inflation which is held centrally and allocated to portfolio areas based on evidenced need.
2. Formal Virements – this is where there is an intended action to transfer budget from one place to another that does change the purpose of the expenditure/income approved by County Council. An example of this would be the transfer of an amount from Adult Social Services to Children’s Social Services to deal with a pressure in the Children’s Services area.

The Key Principles underpinning the control of budget transfers are as follows:

- Where Budget transfers relate to a change of use or policy they should be authorised and there should be formal evidence of this.
- Transferring budgets simply to minimise variances are specifically precluded.

- Where an approved budget is a lump sum provision or contingency intended for allocation during the year, its allocation will not be treated as a virement provided the amount is used in accordance with the purposes for which it was originally intended, or if Cabinet has approved the basis on which it will be allocated.

Formal Virements in excess of £100,000 (this includes cumulative amounts over £100,000) should be submitted to Cabinet for Approval.

- Where there are policy implications for the Council which require a budget virement, Cabinet approval must be obtained.

Overall control of budget transfers is undertaken within the Strategy, Accounting and Systems team which tracks the movements as part of the budget monitoring process and also ensures that any virements that change the purpose of the funding are subject to the relevant approval.

The Corporate Finance Manager as Section 151 officer for the Council has a legal responsibility to ensure the proper management of the Councils financial affairs and is content that the rules and procedures in place governing the virement of budget are adequate.

#### **Key Controls**

- Performance levels of service are monitored in conjunction with the budget and necessary action is taken to align service outputs and budget
- Notification of virements should be given to the Chief Finance Officer and approved

#### **Responsibilities of the Chief Finance Officer**

- a) Ensure that budget virements in excess of £100,000 (cumulative) are submitted to Cabinet for approval.
- b) Where there are policy implications for the Council ensure that Cabinet approval is obtained where it is proposed to vire between budgets of different Cabinet Portfolio holders or vire between budgets managed by different Chief Officers.
- c) Where there are implications to the policy framework submit a joint report with the relevant Chief Officer.

#### **Responsibilities of the Chief Officers**

- a) To ensure compliance with the scheme of virement
- b) To agree with the relevant Chief Officer where it appears that a virement proposal may impact materially on another service area.

### **3.4 Capital Programmes**

#### **Why is this important?**

Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the authority such as land, buildings and major items of plant, equipment and 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.

### **Key Controls**

The key controls for capital programmes are:

- Specific approval by the County Council for the programme of capital expenditure
- Expenditure on capital schemes is subject to the approval of the Chief Officer
- A scheme and estimate, including project plan, progress targets and associated revenue expenditure is prepared for each capital project
- Accountability for each proposal is accepted by a named manager
- Monitoring of progress in conjunction with expenditure and comparison with approved budget.

### **Responsibilities of the Chief Finance Officer**

- a) To prepare capital estimates jointly with Chief Officers to report them to the Cabinet for approval which will make recommendations to the Council.
- b) To be responsible for the monitoring of the capital programme in conjunction with the Chief Officer for Organisational Change.
- c) To prepare and submit reports to the Cabinet on the projected income, expenditure and resources compared with the approved estimates on a quarterly basis. The report will identify changes in capital resources, including the generation of capital receipts and the effect of carry forward together with quantifying contractually uncommitted values by scheme.
- d) To obtain authorisation from the Cabinet for individual schemes where the estimated expenditure exceeds the capital programme provision by more than the specified amount.
- e) To ensure that whole schemes, or distinct parts thereof, which are identified as slipping into the following financial year, shall be included in the Capital Programme assessments for the later year.
- f) Ensure that the approved Capital Programme includes information on grant funded schemes if appropriate.

### **Responsibilities of the Chief Officers**

- a) To comply with guidance concerning capital schemes and controls issued by the Chief Finance Officer

- b) To ensure that all capital proposals have undergone a project appraisal in accordance with guidance issued by the Chief Finance Officer.
- c) To prepare regular reports reviewing the capital programme provisions for their services
- d) To ensure that adequate records are maintained for all capital contracts
- e) To proceed with projects only when there is adequate provision in the capital programme and with the agreement of the Chief Finance Officer, where required.
- f) To ensure that credit agreements such as leasing agreements are not entered into without the agreement of the Chief Finance Officer (via the Treasury Management Team) and if applicable approval of the scheme through the capital programme.
- g) To ensure that for the purchase of all items which are not brand new that a Hire Purchase Information (HPI) check has been undertaken to ensure that there is no outstanding finance.

### **3.5 Maintenance of Reserves**

#### **Why is this important?**

The Council must decide the general level of 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 therefore protect it from overspending should such events occur. Reserves for specific purposes may also be maintained such as the purchase or renewal of capital items.

#### **Key Controls**

To maintain reserves in accordance with the CIPFA Code of Practice and agreed accounting policies.

The Councils Reserves protocol must be adhered to by all officers to ensure the controls governing reserves are followed.

#### **Responsibilities of the Chief Finance Officer**

To advise the Cabinet and/or the full Council on prudent levels of reserves for the authority and to provide an annual statement as to the adequacy of the level of reserves held.

#### **Responsibilities of the Chief Officers**

To ensure that resources are used only for the purposes for which they were intended. To ensure the Reserves Protocol is followed.

## **4. Risk Management and Control of Resources**

## **4.1 Risk Management**

### **Why is this important?**

The Local Authority like any organisation faces risk to people, property and continued business operations. Risk is the chance or possibility of loss, damage, injury or failure to achieve objectives caused by an unwanted or uncertain action or event. Risk management is the planned and systematic approach to the identification, evaluation and control of risk. Its objectives are to secure the assets of the Authority and ensure the continued financial and organisation well-being of the organisation. Risk management is concerned with evaluating the measures the Authority has in place to manage identified risks and recommending the course of action the organisation needs to take to control these risks effectively.

Risk Management is an integral part of the Council's Governance Framework and Internal Control. The Council has a Risk Management Strategy which outlines how the Authority manages risk corporately.

### **Key Controls**

The key controls for risk management are:

- Procedures are in place to identify, assess, prevent or contain material known risks
- A monitoring process is 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.
- Managers know that they are responsible for managing relevant risk and are provided with relevant information
- Provision is made for losses that might result from the risks that remain
- Procedures are in place to investigate claims within required timescales
- Acceptable levels of risk are determined and insured against where appropriate
- Business Continuity Plans are in place.

### **Responsibilities of the Chief Finance Officer**

- a) To develop and implement risk management controls in conjunction with Chief Officers.
- b) To include all appropriate employees of the authority in a suitable fidelity guarantee insurance
- c) To effect corporate insurance cover, through external insurance and internal funding and negotiate all claims in consultation with other officers.

### **Responsibilities of the Chief Officers**

- a) To notify the Chief Finance Officer immediately of any loss, liability or damage that may lead to a claim against the authority, together with any information or explanation required by the Chief Finance Officer for the Authority's insurers.

- b) To take responsibility for risk management, having regard to advice from the Chief Finance Officer and other specialist officers e.g. health and safety
- c) To implement the Risk Management Strategy and ensure a regular review of risks within the service they manage
- d) To notify the Chief Finance Officer promptly of all new risks, properties or vehicles that require insurance and of any alterations affecting existing insurances
- e) To ensure that employees or anyone covered by the Authority'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.
- f) To ensure Business Continuity plans are in place and regularly reviewed

## **4.2 Internal Controls**

### **Why is this important?**

Overall responsibility for the control environment rests with the Authority as a whole. The Chief Officer Team is responsible for overseeing and monitoring the control environment.

Monitoring of compliance with policies, procedures, laws and regulations is undertaken by relevant key officers. The Chief Finance Officer and Monitoring Officer have statutory responsibilities. Chief Officers have responsibility for the development and maintenance of the internal control environment to ensure:

- The Authority's objectives are achieved in a manner that promotes economical, efficient and effective use of resources and that the Authority's assets and interests are safeguarded.
- Compliance with all applicable statutes and procedure rules, and other relevant statements of best practice.

### **Key Controls**

The key controls and objectives for internal control systems are:

- Key controls should be reviewed on a regular basis
- Financial and operational control systems and procedures, which include physical safeguards for assets, segregation of duties, authorisation and approval procedures and information systems.
- An effective internal audit function that is properly resourced.

### **Responsibilities of the Chief Finance Officer**

To assist the authority to put in place an appropriate control environment and effective internal controls which provide reasonable assurance of effective and efficient operations, financial stewardship, probity and compliance with laws and regulations.

### **Responsibilities of the Chief Officers**

- a) To 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.
- b) To be responsible for having in place procedures to ensure that established controls are being adhered to and for evaluating their effectiveness. Chief Officers are required to periodically assess their systems of internal control to ensure that they are adequate to manage the risks associated with the service. They are also required to undertake such reviews when material changes are to be made either to structures or to working practices. This requirement applies equally to those arrangements in which the Authority has a partnership relationship with a third party.
- c) Assess, at least once a year, the effectiveness of the systems of internal control, in line with current Accounts & Audit (Wales) Regulations.
- d) Provide appropriate information to the Corporate Governance Working Group to enable the Annual Governance Statement to be included within the financial statements, as required.
- e) Review existing controls in the light of changes affecting the Authority and establish and implement new controls as necessary. Also remove controls that are unnecessary or not cost or risk effective – for example, because of duplication.
- f) Ensure that staff have a clear understanding of all procedures, and of the consequences of lack of control.

### **4.3 Audit Requirements – Internal Audit**

#### **Why is this important?**

The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972 and is required by the Accounts and Audit (Wales) Regulations 2005. The regulations state that ‘a local government body shall maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control in accordance with proper internal audit practices’.

Internal audit is defined in the Public Sector Internal Audit Standards as:

‘Internal Auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes’

#### **Key Controls**

The key controls for internal audit are:

- That it is independent in its planning and operation

- The Internal Audit Manager has direct access to the ~~Head of Paid Services~~ Chief Executive, the Monitoring Officer, External Audit and the Chair of the Audit Committee

## Responsibilities of the Chief Finance Officer

To ensure that an effective Internal Audit function is resourced and maintained. Under Section 151 the local authority should 'make arrangements for the proper administration of their financial affairs'. Proper administration includes compliance with the statutory requirements for accounting and internal audit.

## Responsibilities of the Chief Officers

Chief Officers will:

- Ensure that internal and external 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.
- Ensure that auditors are provided with any information and explanations that they seek in the course of their work.
- Consider and respond promptly to recommendations in audit reports.
- Ensure that any agreed actions arising from audit recommendations are carried out timely and efficiently.
- Ensure that whenever any matter arises which involves, or potentially involves, any suspected fraud, theft, irregularity, improper use or misappropriation of the Authority's property or resources, Internal Audit are notified and take any such other immediate action as considered necessary (subject to any Authority rules and protocols).
- Internal Audit shall notify the Chief Officer Governance where appropriate, and take such action by way of investigation and report, including informing and consulting with the relevant Chief Officer, Chief Officer People and Resources, notifying the ~~Head of Paid Service~~ Chief Executive, the Police and/or the External Auditor, as considered appropriate. Pending investigations and reporting, the Chief Officer will follow the fraud response plan and will take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- Where sufficient evidence exists to believe that a criminal offence may have been committed, Internal Audit will consult with the Chief Officer People and Resources and Monitoring Officer and determine whether to refer the matter to the Police. The Police will determine with the Crown Prosecution Service whether any prosecution will take place. Where fraud, theft, improper use or misappropriation of the Authority's property or resources is proved, and the Authority has suffered a financial loss, the Authority will seek to recover the full value of any loss as outlined in the Corporate Anti-Fraud and Anti-Corruption Strategy, Fraud Response Plan and Prosecution Policy.
- Instigate the Authority's disciplinary procedure when the outcome of an audit investigation indicates improper behaviour (by a member of staff), or indicates that a wider investigation is appropriate.

- (i) Ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by the Internal Audit Manager prior to implementation, to ensure that control issues are fully considered and complied with.

## 4.4 Security of Assets

### Why is this important?

The Authority holds assets in the form of property, vehicles, equipment, furniture, and other items. 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 pre-requisite for sound asset management.

### Key Controls

The key controls for the security of resources such as land, buildings, fixed plant machinery, equipment, software and information are:

- Resources are used only for the purposes of the authority and are properly accounted for
- Resources are available for use when required
- Resources no longer required are disposed of in accordance with the law and the regulations of the Authority so as to maximise benefits
- An asset register is maintained, assets are recorded when acquired and the record is updated as changes occur with respect to the location and condition of the asset
- All staff are aware of their responsibilities with regard to safeguarding the Authority's assets and information including the requirements of the Data Protection [Act-Legislation](#) and software copyright legislation
- All staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to the information held on them and the compliance with the authority's computer and internet security policies.

### Responsibilities of the Chief Finance Officer

Ensure that an asset register is maintained in accordance with good practice for all fixed assets. The function of the asset register is to provide the authority with information about fixed assets so that they are safeguarded, used efficiently and effectively and adequately maintained.

To receive the information required for accounting, costing and financial records from each Chief Officer.

To ensure that assets are valued in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC).

Ensure appropriate accounting entries are made to remove the value of disposed assets from the Authority's records and to include the sale proceeds.

### **Responsibilities of the Chief Officers**

- a) Ensure that records and assets are properly maintained and securely held.
- b) The corporate property function resides within the Organisational Change Portfolio, with property records maintained by Valuation and Estates Services in conjunction with Legal.
- c) The Chief Officer Governance, in consultation with the Chief Officer for Organisational Change, shall maintain a register of:
  - All lands and properties owned by the Authority (with the exception of dwellings provided under the Housing Acts) in a form agreed with the Chief Finance Officer, recording the holding Committee, purpose for which held, location, extent, plan reference, purchase details, particulars of all interests, tenancies granted and rents receivable.
  - All lands and properties leased to the Authority in a form agreed with the Chief Finance Officer, recording the holding Committee, purpose for which held, location, extent, plan reference and lease rental payment details.
- d) The Chief Officers (Planning and Environment and Organisational Change) will arrange for the valuation of assets for accounting purposes to meet requirements specified by the Chief Finance Officer and, in accordance with the *Code of Practice on Local Authority Accounting in the United Kingdom* (CIPFA/LASAAC).
- e) The Legal Services Manager shall have custody of all title deeds and will put in place secure arrangements for this.
- f) The Chief Officer Community & Enterprise shall maintain a record of all dwellings provided under the Housing Acts in a form agreed with the Chief Finance Officer.
- g) Chief Officers shall be responsible for maintaining proper security and confidentiality of all financial and related information in the Chief Officer's possession including complying with the requirements of the Authority's Information Security Policy, Data Protection ~~Act, (General Data Protection Regulation – May 2018 GDPR)~~Legislation, the Computer Misuse Act and any subsequent legislation.
- h) Chief Officers must ensure that:
  - All staff are aware of their responsibilities with regard to safeguarding the Authority's assets and the protection and confidentiality of information, whether held in manual or computerised records, including the requirements of the Data Protection ~~Act (GDPR May 2018)~~Legislation and software copyright legislation.

- All staff are aware of their responsibilities with regard to safeguarding the security of the Authority's computer systems, including maintaining restricted access to the information held on them and compliance with the Authority's computer, portable storage media acceptable usage, e-mail and internet security policies.
- Arrangements are in place for the proper security and safe custody of all buildings, vehicles, equipment, furniture, stock, stores and other assets under their control.
- Lessees and other prospective occupiers of authority land or buildings are not allowed to take possession or enter the land or building until a lease or legal agreement, in a form approved by the Chief Officer Governance in consultation with the Chief Finance Officer, has been established as appropriate.
- Where land or buildings are surplus to requirements, a recommendation for sale is the subject of a report by the Chief Officer, or where action is taken under delegated powers this is reported to the Cabinet.
- Each Chief Officer maintains a register of assets with a value of over £500 which are moveable or desirable assets. The register should list the asset, location recorded, and that they are appropriately marked and insured.
- Cash holdings on premises are kept to a minimum and shall not exceed such limit as the Chief Finance Officer may prescribe, and that the arrangements for such cash holdings have been agreed with Internal Audit. Each Chief Officer must, in consultation with the Chief Finance Officer ensure safe and efficient cover for cash in transit.
- Keys to safes and similar receptacles are carried in the possession of those responsible at all times; loss of any such keys must be reported to the Chief Finance Officer as soon as possible. All official keys of buildings, alarms and secure places shall be securely maintained at all times using a designated key tagging system by the individual responsible for their custody. If not held on the person of the individual responsible for their custody, they should be held under secure arrangements. The loss of any such keys shall be reported to the Chief Finance Officer immediately.
- Assets are only used in the course of the Authority's business, unless the Chief Officer concerned has given permission, in writing, for personal use by an employee.
- Records are kept of the disposal or part-exchange of assets.

- Inventories or other records are maintained, in a form approved by the Chief Finance Officer, of all vehicles, plant, equipment (including portable equipment such as FCC Laptops), machinery, protective clothing and such other items as the Chief Finance Officer may require for each location under the Chief Officer's control. Unless otherwise authorised in writing by the Chief Finance Officer, each inventory shall record, in respect of each item a brief description of the item, the serial number or other identifying mark (where applicable), particulars of acquisition (including details of ownership where applicable) and, in due course, particulars of disposal.
- An annual check of all items on the inventory is carried out in order to verify location, review condition and to take action in relation to surpluses or deficiencies, annotating the inventory accordingly. Attractive and portable items such as computers, cameras and video recorders should be identified with security markings as belonging to the Authority.
- There are arrangements for the care and custody of stocks and stores in the Portfolio. Each Chief Officer shall be responsible for the care and custody of all stocks and stores held in that Portfolio and shall account for their purchase, control, issue and return and disposal in a manner approved by the Chief Finance Officer.
- Items shall be held in stock only where ready availability or where purchase in bulk is more economical than purchase of individual items, having due regard to the storage and administration costs associated with each method. Stocks shall not exceed the level required to meet reasonable anticipated needs or to obtain the benefits of bulk purchasing, except in special circumstances in consultation with the Chief Finance Officer.
- 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, referring issues to Internal Audit, where appropriate.
- The Chief Finance Officer shall receive from the appropriate Chief Officer such information relating to stocks as the Chief Finance Officer may require for accounting or costing purposes, and shall require the appropriate Chief Officer to conduct, by persons other than the storekeeper, a complete stock-take at intervals of not more than one year together with one interim stock check.
- Sample checks are made of all actual stock holdings against recorded stock holdings. The checks should be such that all items of stock are included within the check at least once a year.
- Discrepancies are investigated and written off as necessary.

- i) Surplus, obsolete or defective items held in stock shall be disposed of at regular intervals not exceeding one year. Procedures for disposal of such stocks and equipment, including inventory items, should be by competitive quotations or auction, unless, following consultation with the Chief Finance Officer, the Cabinet decides otherwise in a particular case. Such write-offs or disposals will be reported to the Cabinet.
- j) When the Chief Officer considers it appropriate, the stock or inventory item may be offered to other Portfolio's or employees for the highest quotation received in a sealed bid process and competitive basis or disposed of by public auction. In each case officers, should seek to achieve the highest amount of value for the Council, whichever method of disposal is appropriate. Disposal shall be certified in the stock records or inventory by the signature of the Chief Officer or other authorised Officer.
- k) The names of Officers authorised to certify such disposals shall be agreed with and notified to the Chief Finance Officer by each Chief Officer, who shall provide the Chief Finance Officer with the specimen signature and initials of each such authorised Officer and amendments as they may occur. Disposal of items by any other method shall be subject to prior written authority from the Chief Finance Officer.
- l) In the event that the Authority decides to become involved in the commercial exploitation of intellectual property e.g. software development, the matter should be agreed by the Cabinet.
- m) Whenever, in case of eviction, re-possession or similar circumstances, the Authority takes possession or custody of private moveable property, an itemised inventory shall be taken in the presence of two persons, one of whom shall be an Authority Officer or representative, who both shall witness it as a correct record.
- n) Each Chief Officer shall be responsible for ensuring safe custody and maintaining adequate records of lost property found on premises for which that Chief Officer is responsible. Unclaimed items shall be disposed of by the Chief Officer under arrangements approved by the Chief Finance Officer.
- o) Each Chief Officer will ensure that controls are in place to ensure that staff do not carry out private work in Authority time and that staff are aware of an employer's rights with regard to intellectual property. The Chief Officer People and Resources will ensure that this is reflected in the Authority's HR Policies.
- p) Ensure that income received for the disposal of an asset is properly banked and recorded.
- q) If any aspect of security is considered defective, or if special security arrangements are considered desirable, the Chief Officer concerned shall consult with the Chief Finance Officer with a view to remedial action.

## **4.5 Treasury Management**

### **Why is this important?**

Many millions of pounds pass through the authority's books each year. This has led to the establishment of codes of practices. These aim to provide assurances that the authority's money is managed in a way that balances risk with return with the overriding consideration being given to the security of the authority's capital sum.

### **Key Controls**

That the authority's borrowing and investments comply with the CIPFA Code: Treasury Management in Public Services: Code of Practice and Cross-Sectoral Guidance Notes (2011 Edition), Welsh Government (WG) guidance on local authority investments and the authority's Treasury Management Strategy.

The Authority nominates Governance and Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

### **Responsibilities of the Chief Finance Officer**

- a) Ensure that the Authority has an annual Treasury Management Strategy which fulfils the Council's legal obligation under the Local Government Act 2003 and to have regard to both the CIPFA code and the WG guidance.
- b) The Chief Finance Officer will operate bank accounts as are considered necessary. Opening or closing any bank account shall require the approval of the Chief Finance Officer. Heads of Service will follow the instructions on banking issued by the Chief Finance Officer.
- c) The Chief Finance Officer will act as the Authority's registrar of stocks, bonds and mortgages and maintain records of all borrowing of money by the Authority.

### **Responsibilities of the Chief Officers**

- a) Arrange for all trust funds to be held, wherever possible, in the name of the Authority. All officers acting as trustees by virtue of their official position shall deposit securities, etc relating to the trust with the Chief Finance Officer, unless the deed otherwise provides.
- b) Arrange where funds are held on behalf of third parties, for their secure administration, approved by the Chief Finance Officer, and for the maintenance of written records of all transactions.
- c) Ensure that trust funds are operated within any relevant legislation and the specific requirements for each trust.

## **4.6 Imprest Accounts**

### **Responsibilities of the Chief Finance Officer**

- a) Provide employees of the Authority with cash or bank imprest accounts to meet minor expenditure on behalf of the Authority and prescribe rules for operating these accounts.
- b) Agree, in consultation with the relevant Chief Officer, the petty cash limit and maintain a record of all transactions and petty cash advances made, and periodically review the arrangements for the safe custody and control of these advances.
- c) Reimburse imprest holders as often as necessary to restore the imprests, but normally not more than monthly.
- d) Issue to Officers authorised to receive official money, such change floats as considered necessary, following consultation with the relevant Chief Officer, for the efficient performance of cash collection duties. Such a float shall not be used for any purpose other than the giving of change, and the Officer to whom it is issued shall be responsible at all times for its safe custody until such time as it is repaid to the Chief Finance Officer.
- e) The Chief Finance Officer may at any time require the authorised Officer to produce the float for inspection, to repay it or to sign a certificate of the amount held.
- f) Where considered appropriate the Chief Finance Officer shall open an account with the Authority's bankers or other approved agency.

### **Responsibilities of the Chief Officers**

Ensure that a business case is submitted to the Chief Finance Officer for any new Imprest Account. Payments shall be limited to minor items of expenditure up to a general individual limit of £50.

Ensure that employees operating an imprest account:

- (a) Obtain and retain receipts/invoices and vouchers to support each payment from the imprest account. Where appropriate, an official receipted VAT invoice must be obtained in order to ensure the correct recovery of VAT as per Her Majesty's Revenue and Customs (HMRC) regulations.
- (b) Ensure reimbursement claims are signed by the claimant and one authorising signatory. Imprest controllers must ensure that two authorising signatories are obtained where there are no valid receipts/invoices to support the expenditure.
- (c) Make adequate arrangements for the safe custody of the account.
- (d) Produce upon demand by the Chief Finance Officer cash and all receipts/invoices and vouchers to the total value of the imprest amount.
- (e) Record transactions promptly.
- (f) Reconcile and balance the account at least monthly irrespective of the frequency of reimbursement claims. Reconciliation sheets are to be signed by the imprest holder and two authorising signatories and placed on file.

- (g) The Imprest holder shall not allow the account to become overdrawn. It shall be a standing instruction to the Authority's bankers or approved agency that the amount of any overdrawn balance on a Petty Cash Imprest holder's bank account be reported to the Chief Finance Officer.
- (h) Provide the Chief Finance Officer with a certificate of the value of the imprest account/float at the date requested by the Chief Finance Officer.
- (i) Ensure that the imprest 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.
- (j) Ensure that payments are never made to individuals, contractors, consultants, casual staff or self-employed persons. The exceptions are where incentive bonus payments are made to service users in Social Services Day Opportunities and payments are made to residents from deputyship monies. Payments can be made from petty cash and then coded appropriately to the correct budget. In the case of deputyship, this is then reclaimed from personal monies.
- (k) Where emergency loans are made to service users, Officers will comply with the Monitoring and Recovery of Loans Procedure.
- (l) On leaving the Authority's employment or otherwise ceasing to be entitled to hold or be a signatory for an imprest account inform the Chief Finance Officer so that arrangements can be made to close the account or transfer to another authorised Officer.

## **4.7 Staffing**

### **Why is this important?**

In order to provide the highest level of service, it is crucial that the authority recruits and retains high calibre, knowledgeable staff, qualified to an appropriate level

### **Key Controls**

The key controls for staffing are:

- a) An appropriate workforce strategy and policy exists in which staffing requirements and budget allocations are matched
- b) Procedures are in place for forecasting staffing requirements and cost
- c) Controls are implemented that ensure that staff time is used efficiently and to the benefit of the authority
- d) Checks are undertaken prior to employing new staff to ensure that they are appropriately qualified, experienced and trustworthy

The management of employee costs within schools is the responsibility of the governing body.

## **Responsibilities of the Chief Finance Officer**

To act as an advisor on workforce related costs (e.g. pension contributions) as appropriate.

## **Responsibilities of the Chief Officers**

The Senior Manager (HR & OD) will act as an advisor to a Chief Officer on Human Resources (HR) policies.

Chief Officers will:

- (a) Ensure that budget provision exists for all existing and new employees.
- (b) Monitor staff activity to ensure adequate control over such costs as sickness, overtime, training and temporary staff.
- (c) Ensure that the staffing budgets are not exceeded without due authority and that they are managed to enable the agreed level of service to be provided.
- (d) When reporting to the Cabinet or Authority on any matter which has, or is liable to have, staffing / HR implications, the Chief Officer shall, in consultation with the Chief Finance Officer and the Senior Manager (HR & OD), incorporate into the report both the staffing / HR and financial implications of the matter under discussion.
- (e) Maintain a register of interests, in which any hospitality or gifts accepted, must be recorded:
  - In compliance with the Flintshire County Authority Code of Conduct for Local Government Employees, no employee of the Authority shall accept any fee, gift or reward which is intended as, or might be construed as, an inducement to influence that employee in the execution of that employee's duties.
  - The offer of any such fee, gift or reward shall be reported immediately by the employee concerned to the appropriate Chief Officer, and shall be recorded in the register of gifts and hospitality.

The Senior Manager (HR & OD) will ensure that this policy will be reflected in the HR Policies and other policies, as relevant, of the Authority.

## **5. Financial Systems and Procedures**

### **5.1 General**

#### **Why is this important?**

The information held in financial systems must be accurate and the systems and procedures well administered. They should contain controls to ensure that transactions are properly processed and errors detected promptly.

#### **Key Controls**

The key controls for systems and procedures are:

- a) Basic data exists to enable the authority's objectives, targets, budgets and plans to be formulated
- b) Performance is communicated to the appropriate managers on an accurate, complete and timely basis
- c) Early warning is provided of deviations from target, plans and budgets that require management attention
- d) Operating systems and procedures are secure

### **Responsibilities of the Chief Finance Officer**

To make arrangements for the proper administration of the authority's financial affairs, including to:

- a) Issue advice, guidance and procedures for officers and others acting on the authority's behalf
- b) Determine the accounting systems, form of accounts and supporting financial records
- c) Establish arrangements for audit of the authority's financial affairs
- d) Approve any new financial systems to be introduced
- e) Approve any changes to be made to existing financial systems

### **Responsibilities of the Chief Officers**

- 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
- c) To ensure that a complete management trail, allowing financial transactions to be traced from the accounting records to the original documents and vice versa is maintained
- d) To incorporate appropriate controls to ensure where relevant that all input is genuine, complete, accurate, timely and not previously processed. All processing is carried out in an accurate, complete and timely manner and 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 there is a documented and tested disaster recovery plan to allow for 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 payments, income collection and placing orders, including variations 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 and any subsequent variations

- k) To ensure that where appropriate, computer systems are registered in accordance with current ~~e~~Data ~~p~~Protection ~~l~~egislation and that staff are aware of their responsibilities under the legislation. ~~The law around data~~

## 5.2 Income and Expenditure

### Why is this important?

Effective income collection systems are necessary to ensure that all income 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 cashflow and avoids the time and cost of administering debts.

### Key Controls

The key controls for income are:

- a) All income due to the Authority is identified and charged correctly, in accordance with the approved charging policy which is regularly reviewed
- b) All income is collected from the correct person at the right time using the correct procedures
- c) All money received by an employee on behalf of the authority is paid without delay to the Chief Finance Officer or as he or she directs to the Authority's bank account and properly recorded. The responsibility for cash collection should be separated from that of identifying the amount due and for reconciling the amount due to the amount received.
- d) Effective action is taken to pursue non-payment within defined timescales
- e) Formal approval for debt write-off is obtained
- f) Appropriate write-off action is taken within defined timescales
- g) Appropriate accounting adjustments are made following write-off action
- h) All appropriate income documents are retained and stored for the defined period in accordance with the document retention schedule
- i) Money collected and deposited is reconciled to the bank account by a person who is not involved in the collection or banking process.
- j) The Council's position on money laundering is contained within the Money Laundering Policy, which is available upon request from the Chief Finance Officer. Officers involved in the collection of income should make themselves aware of this policy and report suspected cases to the Chief Finance Officer. For this purpose, the Council cannot accept cash in excess of £5,000, although it is for individual officers to decide if, in specific instances, they should report incidents involving lesser amounts. In any situation requiring a sizeable refund the Officer involved should check the original type of lodgement.

### Responsibilities of the Chief Finance Officer

- a) To agree arrangements for the collection of all income due to the authority and to approve the procedures, systems and documentation for its collection

- b) Order, control and issue all receipts, invoices, tickets and other documents recording, acknowledging, or demanding the receipt of monies paid to the Council, except where the Chief Finance Officer has given written approval to alternative arrangements in specific instances.
- c) Agree the write-off of bad debts up to £5,000 in aggregate for each single domestic or business debtor, agree in consultation with Cabinet the write-off of bad debts over those amounts but up to £25,000 and refer for approval items for write-off in excess of £25,000 to the Cabinet. A record of all sums written off up to the approved limit is maintained to adhere to the requirements of the Accounts and Audit Regulations. Where a bad debt relates to a Clwyd Pension Fund transaction, the responsibilities of the Cabinet are carried out by the Clwyd Pension Fund Committee.
- d) Make or approve secure and efficient arrangements for the recording of all income received by direct debit, standing order, debit and credit cards and such other methods of payment as the Council may approve
- e) To ensure that appropriate accounting adjustments are made following write-off action

### **Responsibilities of the Chief Officers**

- a) To comply with the Income Generation Policy which has been established to support the provision of setting the Council's fees and charges and annual increases.
- b) Where possible income should be obtained in advance of supplying goods or services to improve the Council's cash flow, to avoid the time and cost of administering debts, and to reduce the risk of non-collection, particularly for low value items.
- c) No Sundry debt invoices with a value of less than £40, with the exception of invoices relating to peppercorn rents, licenses or leases in connection with the occupation of council land or property shall be raised without the approval of the Chief Finance Officer.
- d) To separate the responsibility for identifying amounts due and the responsibility for collection
- e) To initiate appropriate debt recovery procedures in accordance with the Corporate Debt policy
- f) To issue official receipts or to maintain other documentation for income collection
- g) To ensure that at least two employees are present when post is opened so that money received by post is properly identified and recorded.
- 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 authority bank account in the form in which it is received
- j) To ensure 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 or other amounts due, to enable the Chief Finance Officer to record correctly the sums due to the authority and to ensure accounts are sent out promptly. If possible all invoices should be raised within 5 working days of the provision of goods or services or at the earliest opportunity.
- l) Have a responsibility to assist the Chief Finance Officer in collecting debts that they have originated, by providing any further information requested by the debtor, and in pursuing the matter on the Council's behalf.
- m) To recommend to the Chief Finance Officer all debts to be written off and keep a record of all sums written off up to the approved limit. Once raised, no bona fide debt may be cancelled except by full payment or by it being subject to formal writing off.
- n) Ensure that levels of cash held on the premises do not exceed approved limits.
- o) Keep a record of every transfer of cash between employees of the Council. The receiving officer must sign for the transfer and the transferor must retain a copy. Every transfer of cash shall be made direct by hand and not through the internal or external post (unless by prior approval from the Chief Finance Officer).
- p) To obtain the approval of the Chief Finance Officer when writing off debts in excess of the approved limit and the approval of Cabinet where required.

### **5.3 Ordering and paying for work, goods and services**

#### **Why is this important?**

Public money should be spent with demonstrable probity and in accordance with the authorities' policies. The Authority has a statutory duty to achieve best value through economy and efficiency. The Authority's procedures should help ensure that services obtain value for money from their purchasing arrangements. These procedures should be read in conjunction with the authority's Contract Procedure Rules.

#### **General**

Every officer and member of the authority has a responsibility to declare any links or personal interests that they may have with purchasers, suppliers and/or contractors if they are engaged in contractual or purchasing decisions on behalf of the authority in accordance with the appropriate codes of conduct.

Official orders must be submitted in advance via the Purchase to Pay system (P2P). No retrospective orders should be placed. Official orders must be issued for all work, goods or services to be supplied to the authority except for petty cash purchases or other exceptions specified by the Chief Finance Officer.

Each order must conform to the guidelines approved by the full authority on central purchasing and the standardisation of supplies and materials. Standard terms and conditions must not be varied without the prior approval of the Chief Finance Officer.

Apart from petty cash, schools own bank accounts and other payments in advance accounts, the normal method of payment from the authority shall be by BACS or other instrument or approved method drawn on the authority's bank account. The use of direct debit shall require the prior agreement of the Chief Finance Officer.

Official orders must not be raised for any personal or private purchases, nor must personal or private use be made of authority contracts.

### **Key Controls**

The key controls for ordering and paying for work, goods and services are:

- a) All goods and services are ordered only by appropriate persons and are correctly recorded
- b) All goods and services shall be ordered in accordance with the authority's contract procedure rules
- c) All orders are submitted via Purchase to Pay (P2P) and placed in advance of the relevant work, goods services or works being supplied.
- d) Goods and services received are checked to ensure they are in accordance with the order. Goods should not be received by the person who placed the order
- e) Payments are not made unless goods have been received by the authority to the correct price, quantity and quality standards
- f) All payments are made to the correct person, for the correct amount and are properly recorded, regardless of the payment method.
- g) All appropriate evidence of transaction and payment documents are retained and stored for the defined period in accordance with the document retention schedule.
- h) All expenditure, including VAT, is accurately recorded against the right budget and any exceptions corrected.
- i) The effect of electronic purchasing requires that processes are in place to maintain the security and integrity of data for transacting business electronically.

### **Responsibilities of the Chief Finance Officer**

- a) To ensure that all the authority's financial systems and procedures are sound and properly administered.
- b) All procurement activities (ordering of goods, services and works) will be undertaken on the Council's approved Purchase to Pay (P2P) system.
- c) To approve any changes to existing financial systems and to approve any new systems before they are introduced
- d) To approve the form of official orders and associated terms and conditions
- e) To make payments from the authority's funds on the Chief Officer's authorisation that the expenditure has been duly incurred in accordance with financial procedure rules

- f) 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
- g) To make payments to contractors on the certificate of the appropriate Chief Officers which must include details of the value of work, retention money, amounts previously certified and amounts now certified
- h) To provide advice and encouragement on making payments by the most economical means
- i) 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 accounts in budget monitoring reports.

### **Responsibilities of the Chief Officers**

- a) To ensure that upfront electronic orders using the Purchase to Pay (P2P) system are placed for all goods and services other than petty cash purchases and any other exemptions specified by the Chief Finance Officer.
- b) To ensure that orders are only used for goods and services provided to the Portfolio. Individuals must not order goods or services for their private use
- c) To ensure that only those staff authorised by the Chief Officer approve orders and to maintain an up to date list of such authorised staff including specimen signatures identifying in each case the limits of their authority. The list should be reviewed annually. Names of authorising Officers together and details of the limits of their authority shall be forwarded to the Chief Finance Officer and any subsequent amendments incorporated into the P2P system
- d) The authoriser of the order should be satisfied that the goods and services ordered are appropriate and that there is adequate budgetary provision and that quotations or tenders have been obtained if necessary. Best value principles should underpin the authority's approach to procurements. Value for money should always be achieved.
- e) To ensure that all expenditure, including VAT, is accurately recorded against the correct budget head and any exceptions are corrected. If it is deemed that a budget amount has been incorrectly allocated, a Chief Officer will request a journal adjustment. Under no circumstances will the expenditure be incorrectly coded in order to match the expenditure with an incorrect budget allocation.
- f) Each Chief Officer shall be responsible for all orders issued from, or on behalf of, his or her Portfolio. Where one Chief Officer places an order on behalf of another, that Chief Officer shall obtain the latter's consent in advance.
- g) To ensure that goods and services are checked on receipt to verify that they are in accordance with the order. This check should where possible be carried out by a different officer from the person who authorised the order.

- h) To ensure that payment is not made unless a proper VAT invoice has been received, checked, coded and certified for payment confirming:
- Receipt of goods or services
  - That the invoice has not been previously paid
  - That expenditure has been properly incurred and is within budget provision
  - That prices and arithmetic are correct and accord with quotations, tenders, contracts or catalogue prices
  - Correct accounting treatment of tax
  - That discounts have been taken where available
  - That appropriate entries will be made in accounting records
- i) To ensure that two authorised members of staff are involved in the ordering, receiving and payment process and appropriate segregation of duties are maintained at each stage.
- j) To ensure that the Portfolio maintains and reviews periodically a list of staff approved to authorise the invoices. Names of authorising officers together with specimen signatures and details of the limits of their authority shall be forwarded to the Chief Finance Officer
- k) To ensure that payments are not made on a photocopied or faxed invoice, statement or other document other than the formal invoice
- l) To encourage suppliers of goods and services to receive payments by the most economical means for the authority. Payments made by direct debit must have the prior approval of the Chief Finance Officer.
- m) To ensure that the directorate obtains the best value from purchases by taking appropriate steps to obtain competitive prices for goods and services of the appropriate quality with regard to best value principles and contract procedure rules
- n) To ensure that loans, leasing or rental arrangements are not entered into without prior agreements from the Chief Finance Officer.
- o) To notify the Chief Finance Officer of outstanding expenditure relating to the previous financial year as soon as possible after 31 March in line with the timetable determined by the Chief Finance Officer.
- p) To notify the Chief Finance Officer immediately of any expenditure 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 the defined period in accordance with the document retention schedule.

#### **5.4 Payments to employees and members**

### **Why is this important?**

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 accord with individuals' conditions of employment. It is important that all members' allowances are authorised in accordance with the scheme adopted by the full council.

### **Key Controls**

The key controls for payments to employees and members are:

- a) Proper authorisation procedures are in place and that there are corporate timetables in relation to starters, leavers and variations to pay.
- b) Frequent reconciliation of payroll expenditure against approved budget and bank account.
- c) All appropriate payroll documents are retained and stored for the defined period in accordance with the retention schedule.
- d) Compliance with HMRC and other statutory regulations.
- e) All claims for payment of financial loss, attendance, travelling, subsistence and car allowances and other incidental expenses paid for by the claimant, shall be completed and signed by the claimant in a form approved by the Corporate Finance Manager or Senior Manager, HR & OD as appropriate.
- f) The off-payroll (IR35) working rules are in place to ensure that where an individual would have been an employee if they were providing their services directly, their payments are processed via payroll.

### **Responsibilities of the Corporate Finance Manager**

The Corporate Finance Manager or Senior Manager, HR & OD as appropriate will:

- a) Arrange and control secure and reliable payment of salaries, pensions, compensation or other emoluments to existing and former employees, in accordance with procedures prescribed by him or her, on the due date.
- b) Record and make arrangements for the accurate and timely payment to all appropriate statutory and non statutory bodies including Pay as you Earn (PAYE), pensions and other payroll deductions.
- c) Make arrangements for payment of all travel and subsistence claims or financial loss allowance.

- d) Make arrangements for paying Members' under the Members Allowances Scheme and the Members Travel and Subsistence Scheme, which will be maintained by the Corporate Finance Manager or Senior Manager, HR & OD as appropriate.
- e) Ensure that there are adequate arrangements for administering pension scheme matters on a day-to-day basis.
- f) Maintain a list of all officers who are approved to authorise any payroll related records as notified by the relevant Chief Officer. This shall be reviewed on a regular basis. Chief Officers must communicate any changes as soon as they are known.
- g) Implement pay agreements as soon as possible after their notification from the appropriate body and process increments. Arrangements for funding such awards will be determined each year as part of the budgetary process.
- h) Retain for each employee, a copy of contracts and terms and engagements together with sufficient information to identify service, salary scale and current amount payable and absences from duty (apart from approved leave).

### **Responsibilities of the Chief Officers**

- a) To provide the Corporate Finance Manager or Senior Manager, HR & OD as appropriate, in writing with the names of officers authorised to certify claims for expenses together with the specimen signature of each such authorised Officer, and any amendments on the occasion of any change. Certification of a claim by, or on behalf of, a Chief Officer shall signify that the certifying Officer is satisfied that the journeys were authorised, that the expenses were necessarily incurred in the performance of duty, that the allowances are properly payable by the Council, and that cost-effective travel arrangements are achieved.
- b) To ensure that claims are submitted to the Corporate Finance Manager or Senior Manager, HR & OD as appropriate for payment within the specified timescale. Ensure appointments are made in accordance with the Procedure Rules of the Council and approved establishments, grades, scale of pay and that adequate budget provision is available.
- c) Notify the Corporate Finance Manager or Senior Manager, HR & OD as appropriate of all appointments, terminations (resignations, dismissals) or variations (secondments, transfers, absences from duty through sickness or other reasons apart from approved leave, changes in remuneration, other than normal increments and pay awards and agreements of general application) which may affect the pay or pension of an employee or former employee, in the form and to the timescale required by the Corporate Finance Manager or Senior Manager, HR & OD as appropriate.

- d) Ensure that adequate and effective systems and procedures are operated in a form approved by the Senior Manager, HR & OD, so that payments are only authorised to bona fide employees:
- Payments are only made where there is a valid entitlement.
  - Conditions and contracts of employment are correctly applied.
  - Employees' names listed on the payroll are checked at regular intervals to verify accuracy and completeness.
- e) Provide information necessary to maintain records of service for pensions, income tax, national insurance or other statutory obligations.
- f) 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. HMRC applies a tight definition for employee status, and in cases of doubt, advice should be sought from the Senior Manager, HR & OD.
- g) Ensure that the Senior Manager, HR & OD is notified of the details of any employee benefits in kind, to enable full and complete reporting within the income tax self-assessment system.
- h) In conjunction with the Senior Manager, HR & OD, maintain an up to date establishment structure and adhere to the Establishment Control Maintenance Process.
- i) The Senior Manager, HR & OD will be responsible for recovering payroll overpayments where the employee continues to have employment with the Council and where the overpayment is £750 or less. A repayment schedule, ensuring repayment is made within the same financial year as the overpayment, will be formally agreed with the employee.
- j) For all payroll overpayments in excess of £750, irrespective of employment status, recovery of the overpayment will be the responsibility of Debt Recovery, ensuring that such overpayments are included within the Council's total debt.
- k) All pay documents shall be, in a manner prescribed by the Senior Manager, HR & OD, certified manually by or on behalf of the appropriate Chief Officer. The names of Officers authorised to certify such documents shall be agreed with, and notified in writing to the Senior Manager, HR & OD by each Chief Officer, who shall provide the Corporate Finance Manager with the specimen signature and initials of each such authorised Officer and any amendments on the occasion they arise.
- l) Chief Officers and the Senior Manager, HR & OD will ensure that all appropriate payroll documents are retained and stored, as required, by the Senior Manager, HR & OD.

- m) No cheque made payable to a Member or Employee will be cashed by the Council, unless it is under a scheme approved by the Corporate Finance Manager and is presented by the person named on the cheque, and duly endorsed.
- n) Members and employees will submit claims for travel and subsistence on a monthly and comply with the Mileage and Expenses Policy. Mileage and Expense claims over three months old will only be paid once a satisfactory written explanation of the late submission has been provided from the relevant Service Manager to the Senior Manager – HR and OD.
- o) Timesheets, Employee Self Service and other documents which are used to generate payment of salaries or other employee related expenses must be on official forms or via authorised electronic inputs. Chief Officers are responsible for ensuring that they are certified by an authorised Certifying Officer.

## **5.5 Taxation**

### **Why is this important?**

The Authority is responsible for ensuring its tax affairs are in order. Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe. It is therefore very important that all officers are made aware of their role.

### **Key Controls**

The key controls for taxation are:

- a) Budget managers are provided with the relevant information and kept up to date on tax issues
- b) Budget managers are instructed on required record keeping
- c) All taxable transactions are identified, properly carried out and accounted for within stipulated timescales
- d) Records are maintained in accordance with instructions
- e) Returns are made to the appropriate authorities within the stipulated timescale

### **Responsibilities of the Chief Finance Officer**

- a) The Chief Finance Officer and / Senior Manger HR & OD (as appropriate as described below) is responsible for advising Chief Officers and Heads of Service, on all taxation issues that affect the Council.
- b) The Chief Finance Officer or Senior Manger HR & OD as appropriate is responsible for maintaining the Council's tax records, making tax payments, receiving tax credits and submitting tax returns by their due date.

- c) Complete a monthly return of Value Added Tax (VAT) inputs and outputs to HMRC.
- d) Be responsible for accounting to the appropriate agency for other forms of taxation payable to or by the Council and for supplying to such agencies such other information as they may validly require.
- e) Provide details to HMRC regarding the construction industry tax deduction scheme.
- f) Maintain up-to-date guidance for each Chief Officer on their responsibilities in regard to any taxation matters, and to individual Council employees on taxation issues.
- g) The Senior Manger HR & OD, with guidance from the Chief Finance Officer, will:
  - Account to HMRC for all tax deducted from employees' emoluments under the PAYE arrangements.
  - Maintain up-to-date guidance for Chief Officers on their responsibilities in regard to taxation matters relating to Payroll, and inform Council employees of taxation issues arising within Payroll.
- h) The Chief Finance Officer or Senior Manger HR & OD as appropriate may require from any employee of the Council such information as is necessary for fulfilment of their obligation under this Financial Procedure Rule.

### **Responsibilities of the Chief Officers**

- (a) Ensure that for any purchase which is taxable under current VAT legislation, payment will only be made on receipt of a proper invoice complying with the VAT regulations. The only exceptions are where an invoice is properly issued by the supplier on receipt of payment or where the use of authenticated VAT receipts has been agreed with the supplier.
- (b) Ensure that the correct VAT liability is attributed to all income due and that the recovery of VAT on purchases, including those paid for via an imprest account or corporate card, complies with HMRC Customs regulations.
- (c) Ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.
- (d) Ensure that all persons employed by the Council are added to the Council's payroll and tax deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

- (e) Follow the guidance on taxation issued by the Senior Manger HR & OD such as the “Tax Management: Corporate Policy Statement”; in the “VAT Manual” and in taxation updates issued periodically.
- (f) Seek advice from the Chief Finance Officer or Senior Manger HR & OD as appropriate on VAT, or other tax implications, when entering into partnerships and other joint working arrangements.

## **5.6 Trading Accounts and Business Units**

### **Why is this important?**

Trading accounts and business units will become more important as services develop a more commercial culture. Authorities are required to keep trading accounts for services provided on a basis other than a straightforward recharge of cost.

Where services are provided via an ‘Alternative Delivery Model’ (separate legal entities), specific financial procedures will be incorporated into the individual models.

### **Responsibilities of the Chief Finance Officer**

To advise on the establishment and operation of trading accounts and business units.

### **Responsibilities of the Chief Officers**

- a) To consult with the Chief Finance Officer where a business unit wishes to enter into a contract with a third party where the contract exceeds the remaining life of their main contract with the authority
- b) To observe all statutory requirements in relation to business units, including the maintenance of a separate revenue account to which all relevant income is credited and all relevant expenditure, including overhead costs is charged to produce an annual report in support of the final accounts.
- c) To ensure that the same accounting principles are applied in relation to trading accounts as for other services or business units
- d) To ensure that each business unit prepares an annual business plan

## **6. External Arrangements**

### **6.1 Partnerships**

#### **Why is this important?**

Partnerships play a key role in delivering community strategies and in helping to promote and improve the well being of an area. The Local Authority can still deliver some services, but their distinctive leadership role is to bring together the contributions of the various stakeholders and deliver a shared vision of services based on user wishes.

### **Key Controls**

The key controls for authority partners are:

- a) If appropriate to be aware of their responsibilities under the authority's financial regulations and contract standing orders
- b) To ensure that risk management processes are in place to identify and assess all known risks
- c) To ensure that project appraisal processes are in place to assess the viability of the project in terms of resources, staffing and expertise
- d) To agree and accept formally the roles and responsibilities of each of the partners involved in the project before the project commences
- e) To communicate regularly with other partners throughout the project so that problems can be identified and shared to achieve their successful resolution

### **General**

- a) Both the Council and the Cabinet are responsible for approving delegations, including frameworks for partnerships and joint ventures. The Cabinet is the focus for forming partnerships and joint ventures with other local public, private, voluntary and community sector organisations to address local needs.
- b) Both the Council and the Cabinet can delegate functions – including those relating to partnerships – to Officers. These are set out in the Scheme of Delegation that forms part of the Council's Constitution. Where functions are delegated the Officers remain accountable for them to the Council and the Cabinet as appropriate.
- c) The ~~Head of Paid Service~~Chief Executive or other nominated Officers will represent the Council on partnerships and external bodies, in accordance with decisions of the Council/Cabinet or otherwise as authorised by the ~~Head of Paid Service~~Chief Executive

### **Responsibilities of the Chief Finance Officer**

- a) Be responsible for (with the Monitoring Officer) for encouraging the same high standards of conduct (with regard to financial administration and other matters, respectively) in partnerships and joint ventures that apply throughout the Council insofar as the constitutions of respective organisations permit them to do so.

- b) Ensure that the accounting arrangements to be adopted relating to partnerships and joint ventures are appropriate. He or she, in consultation with the Monitoring Officer, must also consider the overall corporate governance arrangements and legal issues when arranging contracts with external bodies, ensuring that the risks have been fully appraised before agreements are entered into.
- c) Advise on the key elements of funding a project, including:
  - An options appraisal scheme for financial viability.
  - Risk appraisal and management.
  - Resourcing, including taxation and pension issues.
  - Audit, security and control requirements.
  - Carry-forward arrangements.
- d) Ensure that the accounting arrangements are appropriate.

### **Responsibilities of the Chief Officers**

- a) To be responsible for ensuring that appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies. (The Monitoring Officer will advise on legal matters)
- b) Maintain a register of all contracts entered into with external bodies in accordance with procedures specified by the Chief Finance Officer.
- c) Ensure that, before entering into agreements with external bodies, a risk management and options appraisal has been prepared for the Cabinet, in consultation with the Chief Finance Officer and Monitoring Officer.
- d) Ensure that all agreements and arrangements are properly documented.
- e) Provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Council's Statement of Accounts concerning material items.
- f) Ensure that the project progresses in accordance with the agreed plan and that all expenditure is properly incurred and recorded.
- g) 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 Council, following consultation with the Chief Finance Officer.
- h) Seek advice from the Chief Finance Officer or Chief Officer People and Resources as appropriate on VAT, or other tax implications, when entering into partnerships.

## **6.2 External Funding including Grants**

### **Why is this important?**

External funding is potentially a very important source of income, but funding conditions need to be carefully considered to ensure that they are compatible with the aims and objectives of the authority. Local authorities are increasingly

encouraged to provide seamless service delivery through working closely with other agencies and private service providers.

### **Key Controls**

The key controls for external funding are:

- a) To ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- b) To ensure that funds are acquired only to meet the priorities approved in the policy framework by the full council.
- c) To ensure that any match funding requirements are given due consideration prior to entering into long term agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Chief Finance Officer**

- (a) Ensure that all funding notified by external bodies is received and properly recorded in the Council's accounts.
- (b) Ensure that all grant income and associated information is logged on the Corporate Grants Database and adhere to the requirements of the Grant Manual.
- (c) Ensure that audit requirements are met.
- (d) Ensure that match funding requirements are considered prior to entering into the agreements and that future revenue budgets reflect these requirements.

### **Responsibilities of the Chief Officers**

- a) Ensure that key conditions of funding and any statutory requirements are complied with and that the responsibilities of the accountable body are clearly understood.
- b) Ensure that funds are acquired only to meet the priorities approved by the Council in the policy framework.
- c) Ensure that any match-funding requirements are given due consideration and that future revenue budgets reflect these requirements, before entering into long-term agreements.
- d) Ensure that all claims for funds are made by the due date.
- e) Ensure that proposals are costed properly and that the approval of the Cabinet is obtained before any negotiations are concluded to work for third parties.
- f) Ensure that contracts are drawn up and maintain a register of all contracts entered into with third parties.
- g) Ensure that appropriate insurance arrangements are made, via the Chief Finance Officer.

- h) Ensure that, as far as possible, the Council is not put at risk from any bad debts.
- i) Ensure that no contract is subsidised by the Council.
- j) Ensure that such contracts do not impact adversely upon the services provided for the Council.
- k) Have in place an exit strategy to implement when the funding ceases. This strategy must allow for all costs associated with the winding up, including any costs arising because staff have gained employment rights, being met from within the externally provided monies and, therefore, at no additional cost to the Council. If the terms of the external funding do not allow such costs to be met from it, then they must be met from within the base budget of the Portfolio concerned.
- l) Provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Statement of Accounts, as required.
- m) Ensure that all grant income is coded, in the first instance, to the appropriate balance sheet code in order to avoid double counting the overall income and expenditure of the Council.

## **Other Funds**

### **Why is this important?**

The Council will not as a general rule supervise the financial administration of, nor audit, unofficial funds, and accepts no liability whatsoever for any loss however caused. Unofficial funds are defined as those which are not the property of the Council, for example school monies collected by schools for school trips and monies held in Amenities Funds in Social Services establishments. Those operating such funds, therefore, have an overall responsibility to ensure that proper financial stewardship is observed.

### **Key Controls**

- (a) A Treasurer and independent auditor are formally appointed.
- (b) Proper rules are operated to secure adequate standards.
- (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 on a timely basis.

## **General**

The School Fund Regulations, 2013 must be followed for the operation of all school funds in Flintshire Schools and ensure that funds are only used for the purpose that they are intended for as per the regulations.

## **Responsibilities of the Chief Finance Officer**

Prepare the note to be entered into the Statement of Accounts

### **Responsibilities of the Chief Officers**

Those operating or intending to operate unofficial funds are also required to:

- (a) Notify the Chief Finance Officer of details of the fund as soon as it is set up.
- (b) Provide an independent audit certificate for the fund on an annual basis.
- (c) Provide appropriate information to the Chief Finance Officer to enable a note to be entered into the Statement of Accounts, as required.

### **Protection of Clients Assets**

#### **Why is this important?**

Where the Council is appointed as a Deputy for a Client by the Office of the Public Guardian (OPG), the Chief Officer will ensure that all OPG regulations and guidelines are complied with.

Where the Council is approved by the Department for Work and Pensions (DWP) to act as a Corporate Appointee for a Client, Chief Officers will ensure that all guidelines provided by the DWP are complied with.

### **Key Controls**

#### **Responsibilities of the Chief Officers**

Heads of Service will ensure that a separate bank account is arranged for each Client, with the bank account reconciled on a regular basis, at least monthly.

Every transfer of clients monies from one Officer to another shall be recorded immediately in a manner approved by the Chief Finance Officer and shall be evidenced by the signature of the receiving Officer.

17.3 **FLINTSHIRE COUNTY COUNCIL**

**TREASURY MANAGEMENT  
STRATEGY**

**2021/22**

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# Treasury Management Strategy Report 2021/22

The Council is recommended to:

- approve the Treasury Management Strategy for 2021/22
- approve the Treasury Management Indicators for 2021/22

## **1.0 Introduction**

In April 2019 the Council adopted the Chartered Institute of Public Finance and Accountancy's *Treasury Management in the Public Services: Code of Practice 2017 Edition* (the CIPFA Code) which requires the Council to approve a Treasury Management Strategy before the start of each financial year.

In addition, the Welsh Government (WG) issues guidance on local authority investments that requires the Council to approve an investment strategy before the start of each financial year. Welsh Government updated this guidance in November 2019.

This report fulfils the Council's legal obligation under the Local Government Act 2003 to have regard to both the CIPFA Code and the WG Guidance.

The successful identification, monitoring and control of risk are central to the Council's Treasury Management Strategy as the Council has borrowed and invested substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates.

In accordance with the WG Guidance, the Council will be asked to approve a revised Treasury Management Strategy should the assumptions on which this report is based change significantly. Such circumstances would include, for example, a large unexpected change in interest rates, in the Council's capital programme or in the level of its investment balance.

## **2.0 Economic Context (including interest rate forecast – as provided by Arlingclose Ltd, January 2021)**

**Economic background:** The impact on the UK from coronavirus, lockdown measures, the rollout of vaccines, as well as the new trading arrangements with the European Union (EU), will remain major influences on the Authority's Treasury Management Strategy for 2021/22.

The Bank of England (BoE) maintained Bank Rate at 0.10% in December 2020 and Quantitative Easing programme at £895 billion having extended it by £150 billion in the previous month. The Monetary Policy Committee (MPC) voted unanimously for both, but no mention was made of the potential future use of negative interest rates. In the November Monetary Policy Report (MPR) forecasts, the Bank expects the UK economy to shrink -2% in Q4 2020 before growing by 7.25% in 2021, lower than the

previous forecast of 9%. The BoE also forecasts the economy will now take until Q1 2022 to reach its pre-pandemic level rather than the end of 2021 as previously forecast. By the time of the December MPC announcement, a COVID-19 vaccine was approved for use, which the Bank noted would reduce some of the downside risks to the economic outlook outlined in the November MPR.

UK Consumer Price Inflation (CPI) for November 2020 registered 0.3% year on year, down from 0.7% in the previous month. Core inflation, which excludes the more volatile components, fell to 1.1% from 1.5%. The most recent labour market data for the three months to October 2020 showed the unemployment rate rose to 4.9% while the employment rate fell to 75.2%. Both measures are expected to deteriorate further due to the ongoing impact of coronavirus on the jobs market, particularly when the various government job retention schemes start to be unwound in 2021, with the BoE forecasting unemployment will peak at 7.75% in Q2 2021. In October, the headline 3-month average annual growth rate for wages were 2.7% for total pay and 2.8% for regular pay. In real terms, after adjusting for inflation, total pay growth was up by 1.9% while regular pay was up 2.1%.

GDP growth rebounded by 16.0% in Q3 2020 having fallen by -18.8% in the second quarter, with the annual rate rising to -8.6% from -20.8%. All sectors rose quarter-on-quarter, with dramatic gains in construction (41.2%), followed by services and production (both 14.7%). Monthly GDP estimates have shown the economic recovery slowing and remains well below its pre-pandemic peak. Looking ahead, the BoE's November MPR forecasts economic growth will rise in 2021 with GDP reaching 11% in Q4 2021, 3.1% in Q4 2022 and 1.6% in Q4 2023.

GDP growth in the euro zone rebounded by 12.7% in Q3 2020 after contracting by -3.7% and -11.8% in the first and second quarters, respectively. Headline inflation, however, remains extremely weak, registering -0.3% year-on-year in November, the fourth successive month of deflation. Core inflation registered 0.2% y/y, well below the European Central Bank's (ECB) target of 'below, but close to 2%'. The ECB is expected to continue holding its main interest rate of 0% and deposit facility rate of -0.5% for some time but expanded its monetary stimulus in December 2020, increasing the size of its asset purchase scheme to €1.85 trillion and extended it until March 2022.

The US economy contracted at an annualised rate of 31.4% in Q2 2020 and then rebounded by 33.4% in Q3. The Federal Reserve maintained the Fed Funds rate at between 0% and 0.25% and announced a change to its inflation targeting regime to a more flexible form of average targeting. The Fed also provided strong indications that interest rates are unlikely to change from current levels over the next three years.

Former vice-president Joe Biden won the 2020 US presidential election. Mr Biden is making tackling coronavirus his immediate priority and will also be reversing several executive orders signed by his predecessor and take the US back into the Paris climate accord and the World Health Organization.

**Credit outlook:** After spiking in late March as coronavirus became a global pandemic and then rising again in October/November, credit default swap (CDS) prices for the larger UK banks have steadily fallen back to almost pre-pandemic levels. Although uncertainty around COVID-19 related loan defaults lead to banks

provisioning billions for potential losses in the first half of 2020, drastically reducing profits, reported impairments for Q3 were much reduced in some institutions. However, general bank profitability in 2020 and 2021 may be significantly lower than in previous years.

The credit ratings for many UK institutions were downgraded on the back of downgrades to the sovereign rating. Credit conditions more generally though in banks and building societies have tended to be relatively benign, despite the impact of the pandemic.

Looking forward, the potential for bank losses to be greater than expected when government and central bank support starts to be removed remains a risk, suggesting a cautious approach to bank deposits in 2021/22 remains advisable.

**Interest rate forecast:** The Authority's Treasury Management adviser Arlingclose is forecasting that BoE Bank Rate will remain at 0.1% until at least the first quarter of 2024. The risks to this forecast are judged to be to the downside as the BoE and UK government continue to react to the coronavirus pandemic and the new EU trading arrangements. The BoE extended its asset purchase programme to £895 billion in November while keeping Bank Rate on hold and maintained this position in December. However, further interest rate cuts to zero, or possibly negative, cannot yet be ruled out but this is not part of the Arlingclose central forecast.

Gilt yields are expected to remain very low in the medium-term while short-term yields are likely remain below or at zero until such time as the BoE expressly rules out the chance of negative interest rates or growth/inflation prospects improve. The central case is for 10-year and 20-year to rise to around 0.60% and 0.90% respectively over the time horizon. The risks around the gilt yield forecasts are judged to be broadly balanced between upside and downside risks, but there will almost certainly be short-term volatility due to economic and political uncertainty and events.

**Table 1: Interest rate forecast**

|         | Bank Rate | 3 month Money Market Rate | 5 year Gilt Yield | 20 year Gilt Yield | 50 year Gilt Yield |
|---------|-----------|---------------------------|-------------------|--------------------|--------------------|
| Q1 2021 | 0.10      | 0.10                      | 0.00              | 0.70               | 0.60               |
| Q2 2021 | 0.10      | 0.10                      | 0.00              | 0.70               | 0.60               |
| Q3 2021 | 0.10      | 0.15                      | 0.05              | 0.75               | 0.65               |
| Q4 2021 | 0.10      | 0.15                      | 0.10              | 0.75               | 0.65               |
| Q1 2022 | 0.10      | 0.20                      | 0.15              | 0.75               | 0.65               |
| Q2 2022 | 0.10      | 0.20                      | 0.20              | 0.80               | 0.70               |
| Q3 2022 | 0.10      | 0.20                      | 0.20              | 0.80               | 0.70               |
| Q4 2022 | 0.10      | 0.20                      | 0.25              | 0.85               | 0.75               |
| Q1 2023 | 0.10      | 0.20                      | 0.25              | 0.85               | 0.75               |
| Q2 2023 | 0.10      | 0.20                      | 0.25              | 0.85               | 0.75               |
| Q3 2023 | 0.10      | 0.20                      | 0.25              | 0.90               | 0.80               |
| Q4 2023 | 0.10      | 0.20                      | 0.25              | 0.90               | 0.80               |

For the purpose of setting the budget, it has been assumed that new investments will be made at an average rate of 0.10%, and that new long-term loans will be borrowed at an average rate of 2.1%.

### 3.0 Current Treasury Portfolio

The Council's treasury portfolio as at 31<sup>st</sup> December 2020 was as follows:

**Table 2: Current Treasury Portfolio**

|                                 | Principal £m | Interest rate % |
|---------------------------------|--------------|-----------------|
| <b>Investments:</b>             |              |                 |
| Call accounts                   | 4.0          | 0.01            |
| Money market funds              | 6.0          | 0.03            |
| Short-term deposits             | 24.0         | -0.03           |
| Long-term deposits              | 0.0          | n/a             |
| <b>Total Investments</b>        | <b>34.0</b>  |                 |
| <b>Borrowing:</b>               |              |                 |
| Short-term loans                | 38.0         | 0.04            |
| Long-term PWLB loans (fixed)    | 262.6        | 4.73            |
| Long-term PWLB loans (variable) | 0.0          | n/a             |
| Long-term market loans (LOBOs)  | 18.9         | 4.53            |
| Other Government loans          | 5.1          | 0.00            |
| <b>Total Borrowing</b>          | <b>324.6</b> |                 |
| <b>Net Borrowing</b>            | <b>290.6</b> |                 |

### 4.0 Local Context

Forecast changes in the sums in section 3 are shown in the balance sheet analysis in the table below.

**Table 3: Balance Sheet Summary and Forecast**

|  | 31.3.20<br>Actual<br>£m | 31.3.21<br>Estimate<br>£m | 31.3.22<br>Estimate<br>£m | 31.3.23<br>Estimate<br>£m | 31.3.24<br>Estimate<br>£m |
|--|-------------------------|---------------------------|---------------------------|---------------------------|---------------------------|
| Council Fund Capital Financing Requirement (Borrowing only)            | 211                     | 223                       | 231                       | 244                       | 256                       |
| Housing Revenue Account Capital Financing Requirement (Borrowing only) | 135                     | 137                       | 139                       | 147                       | 157                       |
| <b>Capital Financing Requirement (Borrowing only)</b>                  | <b>346</b>              | <b>360</b>                | <b>370</b>                | <b>391</b>                | <b>413</b>                |
| Less: Current ST borrowing   | (53)                    | (280)                     | (275)                     | (271)                     | (267)                     |
| Less: Current LT borrowing   | (291)                   |                           |                           |                           |                           |
| <b>Funding Required</b>  | <b>2</b>                | <b>80</b>                 | <b>95</b>                 | <b>120</b>                | <b>146</b>                |
| Less: Usable reserves  | (53)                    | (30)                      | (26)                      | (24)                      | (23)                      |
| Adj: Working capital   | 20                      | 21                        | 21                        | 21                        | 21                        |

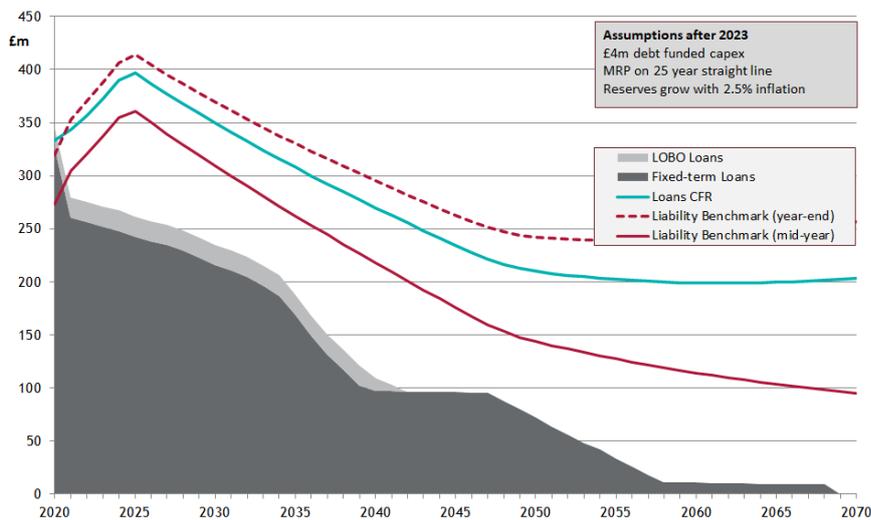
|  |           |             |             |              |              |
|--|-----------|-------------|-------------|--------------|--------------|
| <b>Investments /<br/>New borrowing</b> | <b>31</b> | <b>(71)</b> | <b>(90)</b> | <b>(117)</b> | <b>(144)</b> |
|--|-----------|-------------|-------------|--------------|--------------|

The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. The Council's current strategy is to maintain borrowing below the CFR, sometimes known as internal borrowing. Internal borrowing is currently cheaper and incurs lower credit risk than external long term borrowing.

Table 3 shows the Council's CFR increases during 2021/22, this is linked with the capital programme (examples of schemes funded by borrowing include the 21<sup>st</sup> century schools building programme and the HRA capital programme which includes building new social housing). The level of reserves the Council has is expected to fall in 2020/21 as funding earmarked for specific purposes falls due for payment. The combination of the increase in capital expenditure and a reduction in reserves, results in a sustained requirement for new borrowing over the medium term.

The graph in table 4 shows the Council's anticipated liability benchmark over the next 50 years, being the net requirement for borrowing after considering resources available from reserves and working capital. The rise in the liability benchmark corresponds with the need to borrow to fund the increase in capital expenditure described above. The strategy in 2021/22, the same as in previous years, is to ensure that any new borrowing undertaken does not exceed the liability benchmark and cause the council to borrow more than it needs.

**Table 4: Liability Benchmark - Flintshire County Council (January 2021)**



### Budget implications

The budget for investment income in 2021/22 is £10k, based on an average investment portfolio of £10m at an average interest rate of 0.1%. The total budget for loan interest paid in 2021/22 is £14.8m, based on a debt portfolio of £369m at an average interest rate of 4.06%. This will be apportioned between the Council Fund and the HRA. If levels of investments, borrowing and interest rates differ from those forecast, performance against budget will be correspondingly different.

## **5.0 Treasury Investment Strategy**

The Council holds surplus funds, representing income received in advance of expenditure plus balances and reserves held. In the past 12 months, the Council's treasury average investment balance was £35m, with similar or slightly lower levels expected to be maintained in the forthcoming year.

Non-treasury investments including loans to subsidiaries and purchases of investment property are not normally considered to be treasury investments, and these are therefore covered separately in Appendix B.

Both the CIPFA Code and the WG Guidance require the Council to invest its treasury funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.

### Strategy

Given the increasing risk and very low returns from short-term unsecured bank investments, the Council continues its aim to diversify into more secure and/or higher yielding asset classes during 2021/22, so far as cash liquidity requirements allow. This is especially the case if any medium to longer-term investments are made. This represents a continuation of the strategy adopted in recent years.

### Investment criteria and limits

The Council may invest its surplus funds with any of the counterparties in the following table, subject to the monetary and time limits shown.

**Table 5: Treasury investment counterparties and limits**

This table must be read in conjunction with the notes below

| <b>Sector</b>                                 | <b>Time limit</b> | <b>Counterparty limit</b> | <b>Sector limit</b> |
|---|-------------------|---------------------------|---------------------|
| The UK Government                             | 50 years          | Unlimited                 | n/a                 |
| Local authorities & other government entities | 25 years          | £3m                       | Unlimited           |
| Secured investments *                         | 25 years          | £3m                       | Unlimited           |

|                                    |           |     |           |
|------------------------------------|-----------|-----|-----------|
| Banks (unsecured) *                | 13 months | £2m | Unlimited |
| Building societies (unsecured) *   | 13 months | £2m | Unlimited |
| Registered providers (unsecured) * | 5 years   | £2m | Unlimited |
| Money market funds *               | n/a       | £3m | Unlimited |
| Strategic pooled funds             | n/a       | £1m | £5m       |
| Real estate investment trusts      | n/a       | £1m | £1m       |
| Other investments *                | 5 years   | £2m | £10m      |

\* **Minimum credit rating:** Treasury investments in the sectors marked with an asterisk will only be made with entities whose lowest published long-term credit rating is no lower than A-. Where available, the credit rating relevant to the specific investment or class of investment is used, otherwise the counterparty credit rating is used. However, investment decisions are never made solely based on credit ratings, and all other relevant factors including external advice will be taken into account.

For entities without published credit ratings, investments may be made either

- (a) where external advice indicates the entity to be of similar credit quality; or
- (b) to a maximum of £100k per counterparty as part of a diversified pool.

**Government:** Loans to, and bonds and bills issued or guaranteed by, national governments, regional and local authorities and multilateral development banks. These investments are not subject to bail-in, and there is generally a lower risk of insolvency, although they are not zero risk. Investments with the UK Government are deemed to be zero credit risk due to its ability to create additional currency and therefore may be made in unlimited amounts for up to 50 years.

**Secured investments:** Investments secured on the borrower's assets, which limits the potential losses in the event of insolvency. The amount and quality of the security will be a key factor in the investment decision. Covered bonds and reverse repurchase agreements with banks and building societies are exempt from bail-in. Where there is no investment specific credit rating, but the collateral upon which the investment is secured has a credit rating, the higher of the collateral credit rating and the counterparty credit rating will be used. The combined secured and unsecured investments with any one counterparty will not exceed the cash limit for secured investments.

**Banks and building societies (unsecured):** Accounts, deposits, certificates of deposit and senior unsecured bonds with banks and building societies, other than multilateral development banks. These investments are subject to the risk of credit loss via a bail-in should the regulator determine that the bank is failing or likely to fail. See below for arrangements relating to operational bank accounts.

**Registered providers (unsecured):** Loans to, and bonds issued or guaranteed by, registered providers of social housing or registered social landlords, formerly known as housing associations. These bodies are regulated by the Regulator of Social

Housing (in England), the Scottish Housing Regulator, the Welsh Government and the Department for Communities (in Northern Ireland). As providers of public services, they retain the likelihood of receiving government support if needed.

**Money market funds:** Pooled funds that offer same-day or short notice liquidity and very low or no price volatility by investing in short-term money markets. They have the advantage over bank accounts of providing wide diversification of investment risks, coupled with the services of a professional fund manager in return for a small fee. Although no sector limit applies to money market funds, the Authority will take care to diversify its liquid investments over a variety of providers to ensure access to cash at all times.

**Strategic pooled funds:** Bond, equity and property funds that offer enhanced returns over the longer term but are more volatile in the short term. These allow the Authority to diversify into asset classes other than cash without the need to own and manage the underlying investments. Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Authority's investment objectives will be monitored regularly.

**Real estate investment trusts:** Shares in companies that invest mainly in real estate and pay the majority of their rental income to investors in a similar manner to pooled property funds. As with property funds, REITs offer enhanced returns over the longer term, but are more volatile especially as the share price reflects changing demand for the shares as well as changes in the value of the underlying properties.

**Other investments:** This category covers treasury investments not listed above, for example unsecured corporate bonds and company loans. Non-bank companies cannot be bailed-in but can become insolvent placing the Authority's investment at risk.

**Operational bank accounts:** The Authority may incur operational exposures, for example through current accounts, collection accounts and merchant acquiring services, to any UK bank with credit ratings no lower than BBB- and with assets greater than £25 billion. These are not classed as investments but are still subject to the risk of a bank bail-in, and balances will therefore be kept as low as possible. The Bank of England has stated that in the event of failure, banks with assets greater than £25 billion are more likely to be bailed-in than made insolvent, increasing the chance of the Authority maintaining operational continuity.

#### Risk assessment and credit ratings

Credit ratings are obtained and monitored by the Authority's treasury advisers, who will notify changes in ratings as they occur. The credit rating agencies in current use are listed in the Treasury Management Practices document.

Where an entity has its credit rating downgraded so that it fails to meet the approved investment criteria then:

- no new investments will be made,
- any existing investments that can be recalled or sold at no cost will be, and

- full consideration will be given to the recall or sale of all other existing investments with the affected counterparty.

Where a credit rating agency announces that a rating is on review for possible downgrade (also known as “rating watch negative” or “credit watch negative”) so that it is likely to fall below the above criteria, then no further investments will be made in that organisation until the outcome of the review is announced. This policy will not apply to negative outlooks, which indicate a long-term direction of travel rather than an imminent change of rating.

#### Other information on the security of investments

The Council understands that credit ratings are good, but not perfect, predictors of investment default. Full regard will therefore be given to other available information on the credit quality of the organisations in which it invests, including credit default swap prices, financial statements, information on potential government support, reports in the quality financial press and analysis and advice from the Council’s treasury management adviser. No investments will be made with an organisation if there are substantive doubts about its credit quality, even though it may otherwise meet the above criteria.

When deteriorating financial market conditions affect the creditworthiness of all organisations, as in 2008 and 2020, this is not generally reflected in credit ratings, but can be seen in other market measures. In these circumstances, the Council will restrict its investments to those organisations of higher credit quality and reduce the maximum duration of its investments to maintain the required level of security. The extent of these restrictions will be in line with prevailing financial market conditions. If these restrictions mean that insufficient commercial organisations of “high credit quality” are available to invest the Council’s cash balances, then the surplus will be deposited with the UK Government, via the Debt Management Office for example, or with other local authorities. This will cause investment returns to fall but will protect the principal sum invested.

#### Specified investments

The WG Guidance defines specified investments as those:

- denominated in pound sterling,
- due to be repaid within 12 months of arrangement unless the counterparty is a local authority,
- not defined as capital expenditure by legislation, and
- invested with one of:
  - the UK Government,
  - a UK local authority, parish council or community council, or
  - a body or investment scheme of “high credit quality”.

The Council defines ‘high credit quality’ organisations as those having a credit rating of A- or higher that are, domiciled in the UK, or a foreign country with a sovereign rating of AA+ or higher. For money market funds and other pooled funds “high credit quality” is defined as those having a credit rating of A- or higher.

#### Non-Specified Investments

Any financial investment not meeting the definition of a specified investment is classed as non-specified. The Council does not intend to make any investments in foreign currencies. Given the wide definition of a loan, this category only applies to units in pooled funds and shares in companies. Limits on non-specified investments are shown in the table below. The Authority confirms that its current non-specified investments remain within these limits.

**Table 6: Non-Specified Investment Limits**

|  | Cash Limit |
|--|------------|
| Total invested in pooled funds without credit rating | £5m        |
| Shares in real estate investment trusts              | £1m        |
| Shares in local organisations                        | £1m        |
| Total non-specified investments                      | £7m        |

Foreign countries

Investments in foreign countries will be limited to a maximum of £5 million per foreign country. Investments in countries whose lowest sovereign rating is not AAA will be limited to one year’s duration. No country limit will apply to investments in the UK, irrespective of the sovereign credit rating.

Liquidity management

The Council uses purpose-built cash flow forecasting software to determine the maximum period for which funds may prudently be committed. The forecast is compiled on a prudent basis, with receipts under-estimated and payments over-estimated to minimise the risk of the Council being forced to borrow on unfavourable terms to meet its financial commitments. Limits on long-term investments are set by reference to the Council’s medium term financial plan and cash flow forecast.

Negative Interest Rates

The COVID-19 pandemic has increased the risk that the Bank of England will set its Bank Rate at or below zero, which is likely to feed through to negative interest rates on all low risk, short-term investment options. Since investments cannot pay negative income, negative rates will be applied by reducing the value of investments. In this event, security will be measured as receiving the contractually agreed amount at maturity, even though this may be less than the amount originally invested.

Business models

Under the new IFRS 9 standard, the accounting for certain investments depends on the Council’s “business model” for managing them. The Council aims to achieve value from its internally managed treasury investments by a business model of collecting the contractual cash flows and therefore, where other criteria are also met, these investments will continue to be accounted for at amortised cost.

## **6.0 Borrowing Strategy**

The Council currently holds £286.7m of long-term loans, as part of its strategy for funding previous years' capital programmes, which includes £6.87m of new long-term borrowing undertaken to date during 2020/21. The balance sheet forecast in section 4 shows that the Council expects to undertake new borrowing during the remainder of 2020/21 and 2021/22.

The Council's chief objective when borrowing money is to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which the funds are required. The flexibility to renegotiate loans should the Council's long-term plans change is a secondary objective.

The Council's capital expenditure plans will continue to be monitored throughout 2021/22 to inform and confirm the Council's long term borrowing need (figures in section 4 are an estimate). This is to ensure that the Council does not commit to long term borrowing too early and borrow unnecessarily which will be costly. The use of short-term borrowing will assist with such. This will be balanced against securing low long term interest rates currently being forecast.

Given the significant cuts to public expenditure and in particular to local government funding, the Council's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio. With short-term interest rates currently lower than long-term rates, it is likely to be more cost effective in the short-term to use internal resources, and to borrow short-term instead.

By doing so, the Council is able to reduce net borrowing costs (despite forgone investment income) and reduce overall treasury risk, credit risk as a result of bail-in legislation in particular. The benefit of internal and short term borrowing will be monitored regularly against the potential for incurring additional costs by deferring borrowing into future years when the long term borrowing rates are forecast to rise modestly. Arlingclose will assist the Council with this 'cost of carry' and breakeven analysis. Its output may determine whether the Council borrows additional sums at long-term fixed rates in 2021/22 with a view to keeping future interest costs low, even if this causes additional costs in the short-term.

The Authority has previously raised the majority of its long-term borrowing from the PWLB but will consider long-term loans from other sources including banks, pensions and local authorities, and will investigate the possibility of issuing bonds and similar instruments, in order to lower interest costs and reduce over-reliance on one source of funding in line with the CIPFA Code. PWLB loans are no longer available to local authorities planning to buy investment assets primarily for yield; the Authority intends to avoid this activity in order to retain its access to PWLB loans.

Alternatively, the Council may arrange forward starting loans, where the interest rate is fixed in advance, but the cash is received in later years. This would enable certainty of cost to be achieved without suffering a cost of carry in the intervening period.

In addition, the Council may borrow for short periods of time to cover unexpected cash flow shortages.

#### Sources of borrowing

The approved sources of long-term and short-term borrowing will be:

- HM Treasury's PWLB lending facility (formerly the Public Works Loan Board)
- any institution approved for investments (see above)
- any other bank or building society authorised to operate in the UK
- any other UK public sector body
- UK public and private sector pension funds (except Clwyd Pension Fund)
- Insurance companies
- capital market bond investors
- UK Municipal Bonds Agency plc and other special purpose companies created to enable local authority bond issues

In addition, capital finance may be raised by the following methods that are not borrowing, but may be classed as other debt liabilities:

- leasing
- hire purchase
- Private Finance Initiative
- sale and leaseback
- WG Mutual Investment Model

Municipal Bonds Agency: UK Municipal Bonds Agency plc was established in 2014 by the Local Government Association as an alternative to the PWLB. It issues bonds on the capital markets and lends the proceeds to local authorities. This is a more complicated source of finance than the PWLB for two reasons: borrowing authorities will be required to provide bond investors with a guarantee to refund their investment in the event that the agency is unable to for any reason; and there will be a lead time of several months between committing to borrow and knowing the interest rate payable. Any decision to borrow from the Agency will therefore be the subject of a separate report to full Council

#### LOBOs

The Council holds £18.95m of LOBO (Lender's Option Borrower's Option) loans where the lender has the option to propose an increase in the interest rate at set dates, following which the Council has the option to either accept the new rate or to repay the loan at no additional cost. All of these LOBOs have options during 2021/22, and although the Council understands that lenders are unlikely to exercise their options in the current low interest rate environment, there remains an element of refinancing risk. The Council will take the option to repay LOBO loans at no cost if it has the opportunity to do so.

#### Short-term and Variable Rate loans

As at 31<sup>st</sup> December 2020, the Council held £38m of short term (temporary) loans with an average rate of 0.044% and no variable rate loans.

These loans leave the Council exposed to the risk of short-term interest rate rises and are therefore subject to the limit on the net exposure to variable interest rates in the treasury management indicators in section 10.

#### Debt Rescheduling

The PWLB allows authorities to repay loans before maturity and either pay a premium or receive a discount according to a set formula based on current interest rates. Other lenders may also be prepared to negotiate premature redemption terms. The Council may take advantage of this and replace some loans with new loans, or repay loans without replacement, where this is expected to lead to an overall cost saving or a reduction in risk.

#### Planned borrowing strategy for 2021/22

The Corporate Finance Manager will:

- Manage the Council's debt maturity profile, i.e. to leave no one future year with a high level of repayments that could cause problems in re-borrowing with the limits stated in this Strategy Statement. Appendix A analyses the debt portfolio of the Council, as at 31st December, 2020.
- Effect any borrowing that may be required in 2021/22 at the cheapest cost commensurate with future risk based on interest rate forecasts.
- Monitor and review the level of variable interest rate loans in order to take greater advantage of interest rate movements, within the limits stated in this Strategy.
- Continue to monitor options for debt-restructuring and debt re-payment.

The Corporate Finance Manager will monitor the interest rate market and adopt a pragmatic approach to any changing circumstances, reporting any decisions and actions taken under delegated powers to Cabinet via the Governance and Audit Committee.

### **7.0 Policy on Use of Financial Derivatives**

In the absence of any explicit legal power to do so, the Council will not use standalone financial derivatives (such as swaps, forwards, futures and options). Derivatives embedded into loans and investments, including pooled funds and forward starting transactions, may be used, and the risks that they present will be managed in line with the overall treasury risk management strategy.

### **8.0 Policy on Apportioning Interest to HRA**

The Council has adopted a single pool of loans which funds the capital expenditure of both Council Fund and HRA activities. The interest payable and other costs/income arising from long term loans (e.g. premiums and discounts on early redemption) is apportioned between the revenue accounts using the average

Capital Financing Requirement (which measures the underlying need to borrow to fund capital expenditure) during the year.

Given that the HRA has minimal level of reserves compared to the total level of reserves held by the Council, any interest received on investments will be credited to the Council Fund revenue account.

## **9.0 Markets in Financial Instruments Directive**

The Council has opted up to professional client with its providers of financial services, including advisers, banks, and brokers, allowing it access to a range of services but without the greater regulatory protections afforded to individuals and small companies. Given the size and range of the Council's treasury management activities, the Corporate Finance Manager believes this to be the most appropriate status.

## **10.0 Treasury Management Indicators**

The Council measures and manages its exposures to treasury management risks using the following indicators. The Council is asked to approve the following indicators:

### Interest rate exposures

This indicator is set to control the Council's exposure to interest rate risk. The upper limits on fixed and variable rate interest rate exposures, expressed as an amount of net principal borrowed will be:

|   | 2021/22 | 2022/23 | 2023/24 |
|---|---------|---------|---------|
| Upper limit on fixed interest rate exposures    | £390m   | £411m   | £433m   |
| Upper limit on variable interest rate exposures | £100m   | £100m   | £100m   |

Fixed rate investments and borrowings are those where the rate of interest is fixed for at least 12 months, measured from the start of the financial year or the transaction date if later. All other instruments are classed as variable rate.

### Maturity structure of borrowing

This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of fixed rate borrowing will be:

|                                 | Lower | Upper |
|---------------------------------|-------|-------|
| Under 12 months                 | 0%    | 20%   |
| 12 months and within 24 months  | 0%    | 20%   |
| 24 months and within five years | 0%    | 30%   |
| Five years and within 10 years  | 0%    | 50%   |
| 10 years and above              | 0%    | 100%  |

Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

### Principal sums invested for periods longer than 364 days

The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the long term principal sum invested to final maturities beyond the period end will be:

|   | 2021/22 | 2022/23 | 2023/24 |
|---|---------|---------|---------|
| Limit on total principal invested beyond year end | £5m     | £5m     | £5m     |

Any long term investments carried forward from previous years will be included in each years limit.

### Borrowing limits

The Council is being asked to approve these Prudential Indicators as part of the Capital Strategy report. However they are repeated here for completeness.

|  | 2021/22     | 2022/23     | 2023/24     |
|--|-------------|-------------|-------------|
| Operational boundary – borrowing                   | £370m       | £391m       | £413m       |
| Operational boundary – other long-term liabilities | <u>£20m</u> | <u>£20m</u> | <u>£20m</u> |
| Operational boundary – TOTAL                       | £390m       | £411m       | £433m       |
| Authorised limit – borrowing                       | £390m       | £411m       | £433m       |
| Authorised limit – other long-term liabilities     | <u>£35m</u> | <u>£35m</u> | <u>£35m</u> |
| Authorised limit – TOTAL                           | £425m       | £446m       | £468m       |

## **11.0 Other Matters**

The WG Investment Guidance requires the Council to note the following matters each year as part of the investment strategy:

### Treasury Management Advisers

The Council's treasury management adviser, Arlingclose continues to provide advice and information on the Council's investment and borrowing activities, although responsibility for final decision making remains with the Council and its officers. The services received include:

- advice and guidance on relevant policies, strategies and reports,
- advice on investment decisions,
- notification of credit ratings and changes,
- other information on credit quality,
- advice on debt management decisions,
- accounting advice,
- reports on treasury performance,
- forecasts of interest rates, and
- training courses.

The quality of this service is controlled by Financial Procedure Rules and Contract Procedure Rules.

#### Capacity and skills training

The needs of the Council's treasury management team for training in treasury management are assessed as part of the employee appraisal process, and additionally when the responsibilities of individual members of the treasury team change.

Employees regularly attend training courses, seminars and conferences provided by Arlingclose and CIPFA. Relevant employees are also encouraged to study professional qualifications from CIPFA and other appropriate organisations.

Training for elected Members is provided by Arlingclose on an annual basis and by the treasury management team on an ongoing basis.

Training ensures that those elected members and statutory officers involved in the investments decision-making process have appropriate capacity, skills and information to enable them to: 1. take informed decisions as to whether to enter into a specific investment; 2. to assess individual investments in the context of the strategic objectives and risk profile of the Council; and 3. understand how the quantum of these decisions have changed the overall risk exposure of the Council.

The Council is reviewing steps taken to ensure that those negotiating commercial deals are aware of the core principles of the prudential framework and of the regulatory regime within which local authorities operate.

#### Investment of Money Borrowed in Advance of Need

Welsh Government guidance states that local authorities must not borrow more than or in advance of their needs purely in order to profit from the investment of the extra sums borrowed.

The Council will not borrow more than or in advance of their needs to profit from the investment but may, from time to time, borrow in advance of need, where this is expected to provide the best long term value for money for example in a climate of rising interest rates. Since amounts borrowed will be invested until spent, the Council is aware that it will be exposed to the risk of loss of the borrowed sums, and the risk that investment and borrowing interest rates may change in the intervening period. These risks will be managed as part of the Council's overall management of its treasury risks.

The total amount borrowed will not exceed the authorised borrowing limit of £425million. The maximum period between borrowing and expenditure is expected to be two years, although the Council is not required to link particular loans with particular items of expenditure.

#### Climate change

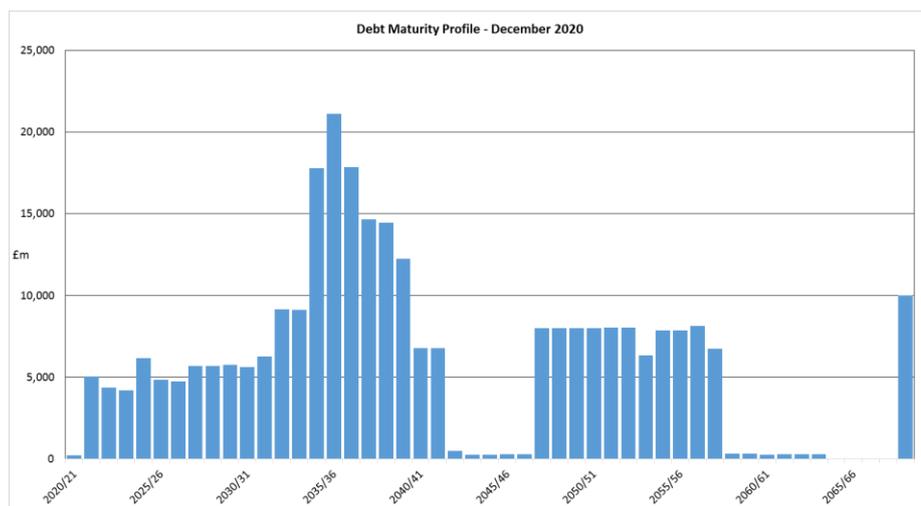
The Council is reviewing its approach to investment decisions to consider long-term climate risks to support a low carbon economy.

### Other Options Considered

The WG Investment Guidance and the CIPFA Code of Practice do not prescribe any particular treasury management strategy for local authorities to adopt. The Corporate Finance Manager believes that the above strategy represents an appropriate balance between risk management and cost effectiveness. Some alternative strategies, with their financial and risk management implications, are listed in the following table.

| Alternative  | Impact on income and expenditure   | Impact on risk management  |
|--|--|--|
| Invest in a narrower range of counterparties and/or for shorter periods. | Interest income will be lower  | Reduced risk of losses from credit related defaults, but any such losses may be greater  |
| Invest in a wider range of counterparties and/or for longer periods.     | Interest income will be higher   | Increased risk of losses from credit related defaults, but any such losses may be smaller  |
| Borrow additional sums at long-term fixed interest rates                 | Debt interest costs will rise; this is unlikely to be offset by higher investment income | Higher investment balance leading to a higher impact in the event of a default; however long-term interest costs will be more certain            |
| Borrow short-term or variable loans instead of long-term fixed rates     | Debt interest costs will initially be lower  | Increases in debt interest costs will be broadly offset by rising investment income in the medium term, but long term costs will be less certain |
| Reduce level of borrowing  | Saving on debt interest is likely to exceed lost investment income                       | Reduced investment balance leading to a lower impact in the event of a default; however long-term interest costs will be less certain            |

## APPENDIX A – DEBT MATURITY PROFILE



## APPENDIX B: Additional requirements of Welsh Government Investment Guidance – Non-Treasury Investments

The Welsh Government (WG) published revised Investment Guidance in November 2019 which places additional reporting requirements upon local authorities and covers investments that are not part of treasury management. In this appendix the Council sets out the information required to comply with the WG guidance for Non-Treasury Investments.

The Council has given loans to wholly owned companies for service purposes and has historical non-financial investments in property defined as Investment Properties within the Council's Statement of Accounts. The Council considers both to be non-treasury investments.

### Loans to Wholly Owned Subsidiaries

The WG Guidance defines a loan as a written or oral agreement where the Council temporarily transfers cash to a third party, joint venture, subsidiary or associate who agrees a return according to the terms and conditions of receiving the loan, except where the third party is another local authority.

### Contribution:

The Council's investments in the form of loans to wholly owned companies contribute to its service delivery objectives and/or to promote wellbeing as follows:

The Council has embarked on an ambitious house building programme as part of its Strategic Housing and Regeneration Programme (SHARP). Over a 5 year period 500 new homes will be built at a range of sites across the county, a mixture of new council houses and affordable homes, alongside commissioning a range of linked regeneration initiatives and community benefits.

Affordable homes are being developed through the Council's wholly owned subsidiary North East Wales Homes (NEW Homes) in partnership with the Council. Affordable homes for rent are built or purchased by NEW Homes funded by loans from the Council. New affordable homes for rent have been built in Flint, Penyffordd (Holywell), Dobshell and are under construction in Gronant, and Mold.

Controls and Limits:

The Council considers that its financial exposure to loans to wholly owned companies is proportionate and has set the limits in table B1. The Council's loan book is currently within these self-assessed limits.

NEW Homes was established on 3<sup>rd</sup> April 2014 to own, lease and manage properties with the aim of increasing the quantity and quality of affordable housing across the county.

NEW Homes is a company limited by shares, wholly owned by the Council (1 at £1 par value), established under section 95 of the Local Government Act 2003. The Council has a high level of control over NEW Homes as the single shareholder, approving:

- the issue of share capital
- the distribution of trading surplus
- the annual business plan
- any asset disposals
- any borrowing against assets
- appointment of directors to the board

**Table B1: Loan limits**

| • <b>Borrower</b>  | • <b>Cash Limit</b> |
|--|---------------------|
| • Wholly owned companies   | • £40m              |
| • Treasury management investments meeting the definition of a loan | • Unlimited         |

The Council, as required, has considered allowing for an 'expected credit loss' model for loans and receivables as set out in International Financial Reporting Standard 9: *Financial Instruments* as adopted by proper practices to measure the credit risk of its loan portfolio. When calculated the expected credit loss was very small. Given the high level of control the Council has over NEW Homes and the security arrangements, the Council decided against setting up a provision for expected credit loss from the loans to NEW Homes.

Appropriate consideration is given to state aid rules and competition law. The Council sought specific legal and finance advice to ensure existing and future loans are compliant with State Aid regulations. The rates applied are below what NEW Homes would receive on the open market, and therefore are granted to NEW Homes under the Services of

General Economic Interest Decision (a State Aid exemption). Arrangements are in place to monitor and ensure that the amount of aid granted through the loan does not exceed the net cost of providing the Service of General Economic Interest. A deed of entrustment is in place to clearly set out the requirements of both parties.

#### Liquidity

The Council has borrowed from the PWLB to on-lend at a small margin to NEW Homes on the same terms and conditions, therefore the impact on the Council's Treasury Management activities is limited.

The length of the loans has been determined by assessing the cash flow of each housing development scheme to ensure over the long term affordable rents are sufficient to repay borrowing, interest, management costs, cyclical maintenance costs and reasonable allowances for voids and bad debts. Most schemes require an annuity loan commitment of 45 years, the maximum the Council would commit to is 50 years.

Agreements are in place ensuring that the Council has security on all NEW Homes properties which includes properties built using the loan funding and also other properties that NEW Homes owns outright (acquired from developers as part of Section 106 Planning Act agreements to provide affordable housing). In the event of a default, the Council could either sell the properties to repay its borrowing, or include within the Housing Revenue Account and continue to rent at social housing rent levels.

Compared with other investment types, property is relatively difficult to sell and convert to cash at short notice and can take a considerable period to sell in certain market conditions. The Council accepts that the invested funds have been invested in NEW Homes for the length of the loans – approx. 45 years – and cannot readily be accessed for other purposes.

#### Yield (net profit)

The loans generate a small income for the Council as there is a margin of approx. 0.25% charged to NEW Homes on the Council's borrowing rate from the PWLB. The income makes a very small contribution to achieving a balanced revenue budget. The yield as a proportion of net revenue budget is less than 0.01%.

#### **Investment Properties**

The Welsh Government guidance includes an investment category covering non-financial assets held primarily or partially to generate a profit, primarily investment property. Proper accounting practice defines an investment property as those that are held solely to earn rent and / or for capital appreciation.

The Council has a portfolio of investment properties, in the form of agricultural property and industrial units. Although these are classified as investment properties, they are legacy assets and the council is managing down its agricultural portfolio and is reviewing its position in regard to industrial units.

#### Contribution:

The Council's investments, in the form of investment properties, contribute to its service delivery objectives and/or to promote wellbeing by providing a net financial surplus that is reinvested into local public services.

Security:

The Welsh Government guidance requires that security is determined by comparing each asset's purchase price to its fair value using the model in International Accounting Standard 40: *Investment Property*, as adapted by proper practices.

As the Council's Investment Portfolio is of a historic nature, built up over many years, property purchase prices are not readily available to compare with current fair values. The table below shows the fair values of the current portfolio over the last 5 years demonstrating that the historic capital invested has remained stable over the past 5 years.

**Table B2: Fair Value of Investment Properties**

|                               | 31.3.2020<br>£m | 31.3.2019<br>£m | 31.3.2018<br>£m | 31.3.2017<br>£m | 31.3.2016<br>£m |
|-------------------------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| Fair Value<br>Inv. Properties | 25.0            | 25.2            | 25.2            | 24.8            | 25.0            |

Liquidity

The Council's investment properties are historical investment decisions and therefore will have limited impact on the Council's liquidity. No recent investment has taken place in investment properties, and therefore there is no recent borrowing associated.

Yield (net profit)

The profit generated by investment activity makes a small contribution to achieving a balanced revenue budget. Table B3 below details the extent to which funding expenditure to meet the service delivery objectives and or promote wellbeing in the Council is dependent on achieving the expected yield over the life cycle of the Medium Term Financial Plan.

**Table B3: Proportionality of Investment Properties**

|                       | 2019/20<br>Actual £m | 2020/21<br>Budget £m | 2021/22<br>Budget £m |
|-----------------------|----------------------|----------------------|----------------------|
| Net Revenue Budget    | 271,350              | 271.350              | 286.986              |
| Net Investment income | 1.72                 | 1.73                 | 1.50                 |
| Proportion            | 0.63%                | 0.64%                | 0.52                 |

**17.2 FLINTSHIRE COUNTY COUNCIL**

**DRAFT TREASURY MANAGEMENT POLICY STATEMENT**

**2019 - 2022**

## **1.0 TREASURY MANAGEMENT POLICY STATEMENT**

The Council defines the policies and objectives of its treasury management activities as follows: -

- 1.1 "The management of the Council's investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks".
- 1.2 The Council regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the Council, and any financial instruments entered into to manage these risks.
- 1.3 The Council acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.
- 1.4 The Council greatly values revenue budget stability and will therefore borrow the majority of its long-term funding needs at long-term fixed rates of interest. Short-term and variable rate loans will only be borrowed to the extent that they either offset short-term and variable rate investments or can be shown to produce revenue savings.
- 1.5 The Council will set an affordable borrowing limit each year in compliance with the *Local Government Act 2003*, and will have regard to the *CIPFA Prudential Code for Capital Finance in Local Authorities* when setting that limit. It will also set limits on its exposure to changes to interest rates and limits on the maturity structure of its borrowing in the treasury management strategy report each year.
- 1.6 The Council's primary objectives for the investment of its surplus funds are to protect the principal sums invested from loss, and to ensure adequate liquidity so that funds are available for expenditure when needed. The generation of investment income to support the provision of local authority services is an important, but secondary, objective.
- 1.7 The Council will have regard to Welsh Government Guidance on Local Government Investments and will approve an investment strategy each year as part of the treasury management strategy. The strategy will set criteria to determine suitable organisations in which cash may be invested, limits on the maximum duration of such investments and limits on the amount of cash that may be invested with any one organisation.
- 1.8 The Council has adopted the 2017 edition of the Chartered Institute of Public Finance and Accountancy's Treasury Management in Public Services: Code of

Practice and its required clauses in section 2 below.

## **2.0 CLAUSES FORMALLY ADOPTED**

CIPFA recommends that all public service organisations adopt, as part of their formal policy documents the following four clauses.

- 2.01 The Council will create and maintain, as the cornerstones for effective treasury management:
- a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
  - suitable 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.

The content of the policy statement and TMPs will follow the recommendations contained in the Code, subject only to amendment where necessary to reflect the particular circumstances of the Council. Such amendments will not result in the Council materially deviating from the Code's key principles.

- 2.02 The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
- 2.03 The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the Council's policy statement, TMPs and, CIPFA's Standard of Professional Practice on Treasury Management.
- 2.04 The Council nominates the Governance and Audit Committee to be responsible for ensuring effective scrutiny of the treasury management

## **17.3 TREASURY MANAGEMENT PRACTICES Part 1: Main Principles 2019 – 2022 - Flintshire County Council**

### **TREASURY MANAGEMENT PRACTICES**

Treasury Management Practices (TMPs) set out the manner in which the Council will seek to achieve its treasury management policies and objectives and how it will manage and control those activities.

|                                      | <b>Page</b> |
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| Treasury Management Practices (TMPs) | 2           |
| TMP 1 Treasury risk management       | 3- 4        |

|   |       |
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| TMP 2 Performance Measurement   | 5     |
| TMP 3 Decision-making and analysis  | 5     |
| TMP 4 Approved instruments, methods and techniques  | 5     |
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## **TMP1 TREASURY RISK MANAGEMENT**

The Council regards a key objective of its treasury management activities to be the security of the principal sums it invests. Accordingly it will ensure that robust due diligence procedures cover all external investments.

The Chief Finance Officer will design, implement and monitor all arrangements for the identification, management and control of treasury management risk, will report at least annually on the adequacy/suitability thereof, and will report, as a matter of urgency, the circumstances of any actual or likely difficulty in achieving the Council's objectives in this respect, all in accordance with the procedures set out in TMP6 Reporting requirements and management information arrangements.

In respect of each of the following risks, the arrangements which seek to ensure compliance with these objectives are set out in the schedule to this document.

### **[1] Credit and counterparty risk management**

The Council will ensure that its counterparty lists and limits reflect a prudent attitude towards organisations with whom funds may be deposited, and will limit its investment activities to the instruments, methods and techniques referred to in TMP4 Approved instruments, methods and techniques and listed in the schedule to this document. It also recognises the need to have, and will therefore maintain, a formal counterparty policy in respect of those organisations from which it may borrow, or with whom it may enter into other financing or derivative arrangements.

## **[2] Liquidity risk management**

The Council will ensure it has adequate though not excessive cash resources, borrowing arrangements, overdraft or standby facilities to enable it at all times to have the level of funds available to it which are necessary for the achievement of its business/service objectives.

The Council will only borrow in advance of need where there is a clear business case for doing so and will only do so for the current capital programme or to finance future debt maturities.

## **[3] Interest rate risk management**

The Council will manage its exposure to fluctuations in interest rates with a view to containing its interest costs, or securing its interest revenues, in accordance with the amounts provided in its budgetary arrangements as amended in accordance with TMP6 Reporting requirement and management information arrangements.

It will achieve this by the prudent use of its approved instruments, methods and techniques, primarily to create stability and certainty of costs and revenues, but at the same time retaining a sufficient degree of flexibility to take advantage of unexpected, potentially advantageous changes in the level or structure of interest rates. This should be subject at all times to the consideration and, if required, approval of any policy or budgetary implications.

It will ensure that any hedging tools such as derivatives are only used for the management of risk and the prudent management of financial affairs and that the policy for the use of derivatives is clearly detailed in the annual strategy.

## **[4] Exchange rate risk management**

The Council will manage its exposure to fluctuations in exchange rates so as to minimise any detrimental impact on its budgeted income/expenditure levels.

## **[5] Inflation risk management**

The Council will keep under review the sensitivity of its treasury assets and liabilities to inflation, and will seek to manage the risk accordingly in the context of the whole Council's inflation exposures.

## **[6] Refinancing risk management**

The Council will ensure that its borrowing, private financing and partnership arrangements are negotiated, structured and documented, and the maturity profile of the monies so raised are managed, with a view to obtaining offer terms for renewal or refinancing, if required, which are competitive and as favourable to the Council as can reasonably be achieved in the light of market conditions prevailing at the time.

It will actively manage its relationships with its counterparties in these transactions in such a manner as to secure this objective, and will avoid over-reliance on any one source of funding if this might jeopardise achievement of the above.

## **[7] Legal and regulatory risk management**

The Council will ensure that all of its treasury management activities comply with its statutory powers and regulatory requirements. It will demonstrate such compliance, if required to do so, to all parties with whom it deals in such activities. In framing its credit and counterparty policy under TMP1.1 credit and counterparty risk management, it will ensure that there is evidence of counterparties' powers, authority and compliance in respect of the transactions they may effect with the Council, particularly with regard to duty of care and fees charged.

The Council recognises that future legislative or regulatory changes may impact on its treasury management activities and, so far as it is reasonably able to do so, will seek to minimise the risk of these impacting adversely on it.

## **[8] Fraud, error and corruption, and contingency management**

The Council will ensure that it has identified the circumstances which may expose it to the risk of loss through fraud, error, corruption or other eventualities in its treasury management dealings. Accordingly, it will employ suitable systems and procedures, and will maintain effective contingency management arrangements, to these ends.

## **[9] Market risk management**

The Council will seek to ensure that its stated treasury management policies and objectives will not be compromised by adverse market fluctuations in the value of the principal sums it invests, and will accordingly seek to protect itself from the effects of such fluctuations.

## **TMP2 PERFORMANCE MEASUREMENT**

The Council is committed to the pursuit of value for money in its treasury management activities, and to the use of performance methodology in support of that aim, within the framework set out in its treasury management policy statement.

Accordingly, the treasury management function will be the subject of ongoing analysis of the value it adds in support of the Council's stated business or service objectives. It will be the subject of regular examination of alternative methods of service delivery, of the availability of fiscal or other grant or subsidy incentives, and of the scope for other potential improvements. The performance of the treasury management function will be measured using the criteria set out in the schedule to this document.

## **TMP3 DECISION-MAKING AND ANALYSIS**

The Council will maintain full records of its treasury management decisions, and of the processes and practices applied in reaching those decisions, both for the purposes of learning from the past, and for demonstrating that reasonable steps were taken to ensure that all issues relevant to those decisions were taken into account at the time. The issues to be addressed and processes and practices to be pursued in reaching decisions are detailed in the schedule to this document.

## **TMP4 APPROVED INSTRUMENTS, METHODS AND TECHNIQUES**

The Council will undertake its treasury management activities by employing only those instruments, methods and techniques detailed in the schedule to this document, and within the limits and parameters defined in TMP1, Risk management.

Where the Council intends to use derivative instruments for the management of risks, these will be limited to those set out in its annual treasury strategy. The Council will seek proper advice (to include that of its Treasury Management advisors) and will consider that advice when entering into arrangements to use such products to ensure that it fully understands those products.

The Council has reviewed its classification with financial institutions under MIFID II and has set out in the schedule to this document those organisations with which it is registered as a professional client and those with which it has an application outstanding to register as a professional client.

#### **TMP5 ORGANISATION, CLARITY AND SEGREGATION OF RESPONSIBILITIES, AND DEALING ARRANGEMENTS**

The Council considers it essential, for the purposes of the effective control and monitoring of its treasury management activities, and for the reduction of the risk of fraud or error, and for the pursuit of optimum performance, that these activities are structured and managed in a fully integrated manner, and that there is at all times a clarity of treasury management responsibilities.

The principle on which this will be based is a clear distinction between those charged with setting treasury management policies and those charged with implementing and controlling these policies, particularly with regard to the execution and transmission of funds, the recording and administering of treasury management decisions, and the audit and review of the treasury management function.

If and when the Council is required, as a result of lack of resources or other circumstances, to depart from these principles, the Chief Finance Officer will ensure that the reasons are properly reported in accordance with TMP6 Reporting requirements and management information arrangements, and the implications properly considered and evaluated.

The Chief Finance Officer will ensure that there are clear written statements of the responsibilities for each post engaged in treasury management, and the arrangement for absence cover. The Chief Finance Officer will also ensure that at all times those engaged in treasury management will follow the policies and procedures set out. The present arrangements are detailed in the schedule to this document.

The Chief Finance Officer will ensure there is proper documentation for all deals and transactions, and that procedures exist for the effective transmission of funds. The present arrangements are detailed in the schedule to this document.

The delegations to the Chief Finance Officer in respect of treasury management are set out in the schedule to this document. The Chief Finance Officer will fulfil all such responsibilities in accordance with the Council's policy statement and TMPs and, if a CIPFA member, the Standard of Professional Practice on Treasury Management.

#### **TMP6 REPORTING REQUIREMENTS AND MANAGEMENT INFORMATION**

## **ARRANGEMENTS**

The Council will ensure that regular reports are prepared and considered on the implementation of its treasury management policies; on the effects of decisions taken and the transactions executed in pursuit of those policies; on the implications of changes, particularly budgetary, resulting from regulatory, economic, market or other factors affecting its treasury management activities; and on the performance of the treasury management function.

As a minimum:

The County Council will receive:

- An annual report on the strategy and plan to be pursued in the coming year
- A mid-year review
- An annual report on the performance of the treasury management function, on the effects of the decisions taken and the transactions executed in the past year, and on any circumstances of non-compliance with the Council's treasury management policy statement and TMPs.

In addition to the above, the Governance and Audit Committee will receive regular monitoring reports on treasury management activities and risks. Governance and Audit Committee will also have responsibility for the scrutiny of treasury management policies and practices.

Treasury management indicators will be reported in the strategy report. The present arrangements and the form of these reports are detailed in the schedule to this document.

## **TMP7 BUDGETING, ACCOUNTING AND AUDIT ARRANGEMENTS**

The Chief Finance Officer will prepare, and the Council will approve and, if necessary, from time to time amend, an annual budget for treasury management, which will bring together all of the costs involved in running the treasury management function, together with associated income. The matters to be included in the budget will at minimum be those required by statute or regulation, together with such information as will demonstrate compliance with TMP1 Risk management, TMP2 Performance measurement, and TMP4 Approved instruments, methods and techniques. The Chief Finance Officer will exercise effective controls over this budget, and will report upon and recommend any changes required in accordance with TMP6 Reporting requirements and management information arrangements.

The Council will account for its treasury management activities, for decisions made and transactions executed, in accordance with appropriate accounting practices and standards, and with statutory and regulatory requirements in force for the time being.

## **TMP8 CASH AND CASH FLOW MANAGEMENT**

Unless statutory or regulatory requirements demand otherwise, all monies in the hands of the Council will be under the control of the Chief Finance Officer, and will be aggregated for cash flow and investment management purposes. Cash flow projections will be prepared on a regular and timely basis, and the Chief Finance Officer will ensure that these are adequate for the purposes of monitoring compliance with TMP1 [2] liquidity risk management. The present arrangements for preparing cash flow projections, and their

form, are set out in the schedule to this document.

#### **TMP9 MONEY LAUNDERING**

The Council is alert to the possibility that it may become the subject of an attempt to involve it in a transaction involving the laundering of money. Accordingly, it will maintain procedures for verifying and recording the identity of counterparties and reporting suspicions, and will ensure that staff involved in this are properly trained. The present arrangements are detailed in the schedule to this document.

#### **TMP10 STAFF TRAINING AND QUALIFICATIONS**

The Council recognises the importance of ensuring that all staff involved in the treasury management function are fully equipped to undertake the duties and responsibilities allocated to them. It will therefore seek to appoint individuals who are both capable and experienced and will provide training for staff to enable them to acquire and maintain an appropriate level of expertise, knowledge and skills. The Chief Finance Officer will recommend and implement the necessary arrangements.

The Chief Finance Officer will ensure that committee/council members tasked with treasury management responsibilities, including those responsible for scrutiny, have access to training relevant to their needs and those responsibilities.

Those charged with governance recognise their individual responsibility to ensure that they have the necessary skills to complete their role effectively.

The present arrangements are detailed in the schedule to this document.

#### **TMP11 USE OF EXTERNAL SERVICE PROVIDERS**

The Council recognises that responsibility for treasury management decisions remains with it at all times. It recognises that there may be potential value in employing external providers of treasury management services, in order to acquire access to specialist skills and resources. When it employs such service providers, it will ensure it does so for reasons which have been submitted to a full evaluation of the costs and benefits. It will also ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review. And it will ensure, where feasible and necessary, that a spread of service providers is used, to avoid over reliance on one or a small number of companies. Where services are subject to formal tender or re-tender arrangements, legislative requirements will always be observed. The monitoring of such arrangements rests with the Chief Finance Officer, and details of the current arrangements are set out in the schedule to this document.

#### **TMP12 CORPORATE GOVERNANCE**

The Council is committed to the pursuit of proper corporate governance throughout its businesses and services, and to establishing the principles and practices by which this can be achieved. Accordingly, the treasury management function and its activities will be undertaken with openness and transparency, honesty, integrity and accountability.

The Council has adopted and has implemented the key principles of the Code. This, together with the other arrangements detailed in the schedule to this document, are considered vital to the achievement of proper corporate governance in treasury

management, and the Chief Finance Officer will monitor and, if and when necessary, report upon the effectiveness of these arrangements.



## **SECTION 18**

### **CONTRACT PROCEDURE RULES**

July 2016

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**Appendix A – Glossary of Terms**

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**Appendix C – OJEU and LTR Thresholds**

**Appendix D – Schedule 3 of the Public Contract Regulations 2015**

**Appendix E – Useful Websites**

## 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"> <li>Use of Quick Quotes function encouraged</li> </ul>  | 4.1         |
| £10,001 to £25,000   | 4 quotations via the Council's electronic procurement system  | <ul style="list-style-type: none"> <li>Prepare a formal "request for quotation" (RFQ)</li> <li>Sell2Wales advertisement can be used in place of RFQ</li> <li>Quotations must be received via electronic procurement system</li> </ul>  | 4.2         |
| £25,001 to <del>OJEU</del> <u>PCR</u> threshold (Goods & Services) | Advertisement on Sell2Wales via the Council's electronic procurement system   | <ul style="list-style-type: none"> <li>Must be supported by a named officer from Corporate Procurement team</li> <li>A commissioning form must be completed</li> <li>Complete a corporate sustainability assessment</li> <li>Prepare all tender documents prior to placing advertisement</li> <li>Tenders must be received via electronic procurement system</li> <li>Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m</li> </ul> | 4.3         |
| £25,001 to <del>OJEU</del> <u>PCR</u> threshold (Works)            | <ul style="list-style-type: none"> <li>Advertisement on Sell2Wales via the Council's electronic procurement system</li> <li>4 quotations via the Council's electronic procurement system – for certain contracts below</li> </ul> | <ul style="list-style-type: none"> <li>Must be supported by a named officer from Corporate Procurement team</li> <li>A commissioning form must be completed</li> <li>Complete a corporate sustainability assessment</li> <li>Prepare all tender documents prior to placing advertisement</li> <li>Tenders must be received via electronic procurement system</li> </ul>  | 4.4         |

|                                   |   |  |                      |
|-----------------------------------|---|--|----------------------|
|                                   | £25k (see CPR 4.4.3)  | <ul style="list-style-type: none"> <li>Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m</li> </ul>  |                      |
| Above the relevant OJEU threshold | Advertisement on both <a href="#">OJEU Find a Tender</a> and Sell2Wales via the Council's electronic procurement system | <ul style="list-style-type: none"> <li>Must be supported by a named officer from Corporate Procurement team</li> <li>A commissioning form must be completed</li> <li>Complete a corporate sustainability assessment</li> <li>Prepare all tender documents prior to placing advertisement</li> <li>Minimum <a href="#">OJEU-CPR</a> time limits for tender submissions must be followed</li> <li>Tenders must be received via electronic procurement system</li> <li>Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m</li> <li><a href="#">OJEU-CPR</a> requirements for notifying bidders must be followed (CPR 5.6)</li> </ul> | 4.5                  |
| Light-Touch Regime (below OJEU)   | As above depending on the value of the contract   | <ul style="list-style-type: none"> <li>As above depending on the value of the contract</li> <li>A commissioning form must be completed if the contract is above £25k</li> </ul>  | 4.6, 4.1<br>4.2, 4.1 |
| Light-Touch Regime (above OJEU)   | Advertisement on both <a href="#">OJEU Find a Tender</a> and Sell2Wales via the Council's electronic procurement system | <ul style="list-style-type: none"> <li>Must be supported by a named officer from Corporate Procurement team</li> <li>A commissioning form must be completed</li> <li>Complete a corporate sustainability assessment</li> <li>Prepare all tender documents prior to placing advertisement</li> <li>Tenders must be received via electronic procurement system</li> <li>Community Benefits mandatory for contracts above £1m and encouraged for contracts below £1m</li> </ul>   | 4.6                  |

## Table 2

### Authorisation thresholds for approving procurement strategy and inviting competitive bids

| Value                    | Authorisation Required from   | Documents Required  |
|--------------------------|---|---|
| Up to £250,000           | 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 Chief Officer where the procurement activity is taking place.              | <ul style="list-style-type: none"> <li>No formal report required</li> </ul>                             |
| £250,001 to £1,000,000   | Chief Officer 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"> <li>Commissioning Form</li> </ul>                                    |
| £1,000,001 to £2,000,000 | The relevant Cabinet Member (with agreement from Chief Officer 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"> <li>Commissioning Form</li> <li>Delegated decision report</li> </ul> |
| £2,000,001 and above     | Cabinet   | <ul style="list-style-type: none"> <li>Commissioning Form</li> <li>Cabinet report</li> </ul>            |

# SECTION 1

## GENERAL ARRANGEMENTS

### 1.1 Over-riding principles

- 1.1.1 These CPRs are not intended to conflict with [European Union and domestic UK procurement](#) 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 Transparency is key to demonstrating probity and so all stages of the procurement process must be open to scrutiny by councillors, especially the relevant cabinet member(s) who can ask to see or have demonstrated any documentation or electronic records associated with procurement activity for which they are responsible.
- 1.1.7 Arrangements for contracts made by schools shall not be subject to these CPRs but shall be subject to their own contract procedure rules.
- 1.1.8 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.
- 1.1.9 Whilst officers will be operationally responsible for conducting procurement they derive their authority from councillors who are jointly accountable for the council's actions. These CPRs and the authorisation levels specified within them do not override normal arrangements for briefing, discussion and agreement of proposed actions with councillors especially those within the Cabinet/Executive.

### 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; and

~~ii. Insofar as they apply, the relevant European procurement rules;~~

~~iii.~~ ii. 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

1.3.2 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 staff**

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 knowingly use their position to improperly 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 Procurement of ICT requirements**

- 1.7.1 All ICT procurement - including hardware, software and licences – shall be undertaken centrally by the Council's ICT team (or its successor). Any exception to this will need to be justified by the Chief Officer where the procurement activity is taking place and approved by the Chief Officer with responsibility for ICT, and a record of this justification and approval attached to the contract file on the council's electronic procurement system

## **1.8 Procurement of transport requirements**

- 1.8.1 All transport procurement requirements – including vehicle hire, taxi and bus hire, rail tickets, school transport, etc – shall be undertaken centrally by the Council's Integrated Transport Unit (ITU) (or its successor). Any exception to this will need to be justified by the Chief Officer where the procurement activity is taking place and approved by the Chief Officer with responsibility for ITU, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.

## **1.9 Procurement of consultants**

- 1.9.1 Any procurement of consultants, as defined in the "Consultancy Appointment Procedure", for contracts up to £25,000 requires completion of a business case and prior authorisation from the appointing Chief Officer. Procurement of consultants above the £25,000 threshold require completion of the business case, approval by appointing Chief Officer and the additional prior authorisation of the Chief Executive Officer.

## **1.10 Procurement of property and works related requirements**

- 1.10.1 All property and works related procurement projects shall be undertaken either by:
- i. Property Design & Maintenance 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 Chief Officer where the procurement activity is taking place and approved by the Chief Officer with responsibility for the Property design & Maintenance Team, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.
  - ii. Housing Area Renewal 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

Chief Officer where the procurement activity is taking place and approved by the Chief Officer with responsibility for the Housing Area Renewal Team, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.

- iii. Streetscene & Transportation Team (or its successor) for highways construction and civil engineering projects. Any exception to this will need to be justified by the Chief Officer where the procurement activity is taking place and approved by the Chief Officer with responsibility for the Streetscene & Transportation Team, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.
- iv. Housing & Asset Management (or its successor) for building construction and/or building maintenance works relating to the council's housing portfolio. Any exception to this will need to be justified by the Chief Officer where the procurement activity is taking place and approved by the Chief Officer with responsibility for the Housing Area Renewal Team, and a record of this justification and approval attached to the contract file on the council's electronic procurement system.

1.10.2 Where Services have existing frameworks that can be called upon without the need for the involvement of the teams listed in CPRs 1.10.1 then this should be allowed where it offers value for money.

### **1.11 Approved lists**

1.11.1 The council will seek to replace all of these approved lists with more formal procurement arrangements by 31<sup>st</sup> March 2017.

### **1.12 Land contracts and appointment of developers**

1.12.1 All land transactions must comply with section 120 – 123 of the Local Government Act 1972.

1.12.2 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.

### 1.13 Electronic procurement

1.13.1 From 1<sup>st</sup> November 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.

### 1.14 Amendment and review of the CPRs

1.14.1 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 arrangements

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 (save where this is duly justified in accordance with the PCR) 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~~ three ways:

1. Without re-opening competition where the Framework Agreement sets out (i) all the terms governing the provision of the works, services and supplies concerned and (ii) the objective conditions for determining which of the economic operators that are party to the Framework shall perform them (a **Direct Award**); ~~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 Framework Agreement sets out all the terms governing the provision of the works, services and supplies concerned (i) partly by Direct Award and (ii) partly through reopening competition amongst the economic operators which are party to the framework agreement (**Further Competition**); or
- ~~2-3.~~ Where not all the terms governing the provision of the works, supplies, or services are laid down in the Framework Agreement, through Further Competition.

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- 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 Chief Officer 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 Chief Officer 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-PCR~~ 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 CPR2.4.1), 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.

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## **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 Chief Officer 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 Chief Officer by the Corporate Procurement Team, the Chief Officer 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 Chief Officer 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 bids**

2.7.1 For procurement activity where the value of the contract is estimated to be less than £250,000, 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 Chief Officer where the procurement activity is taking place

2.7.2 For procurement activity where the value of the contract is estimated to be greater than £250,000, the authority to decide the appropriate procurement strategy and invite competitive bids is as follows:

- i. £250,001 to £1,000,000: By agreement in writing from Chief Officer 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 Chief Officer 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 for contribution to core funding only
- 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;
- 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;
- 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;

- 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;
- 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;
- x. for supplies purchased which are second hand and/or sold in a public market or auction;
- xi. for the engagement of actors or performers;
- 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;
- 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;
- xiv. where delay attributable to the quotation or tendering process would, in the estimation of the Chief Officer 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;
- xv. where delay attributable to the quotation or tendering process would, in the estimation of the Chief Officer concerned, create or increase danger to life or limb;
- xvi. where delay attributable to the quotation or tendering process would, in the estimation of the Chief Officer concerned, result in or continue an unacceptable level or standard of service; or

- 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), retrospectively where the exception has been sought under urgent circumstances.

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 £250,000:** 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 Chief Officer where the procurement activity is taking place;
- ii. **£250,001 to £1,000,000:** By agreement in writing from Chief Officer 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 Chief Officer 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 Chief Officer 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 DOCUMENT PREPARATION

#### 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 in line with the authorisation thresholds and process set out in CPR 2.11.
- 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.

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### 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 manager 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 Lower 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.
- 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 QJEU-PCR 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-PCR 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.
- 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-PCR** threshold)

##### **Above the relevant **OJEU-PCR** 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) through the Find a Tender service**, 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-CPR](#) 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~~ Find a Tender 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-iii.~~ Conduct the procurement in conformance with the information provided in the ~~OJEU advert~~procurement documentation (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-iv.~~ 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-CPR~~ 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 Chief Officer where the procurement activity is taking place. The envelope shall be re-sealed and signed by the officer who opened the envelope and the Chief Officer. If the Chief Officer 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-CPR](#) thresholds – ~~in-through~~ the ~~Office Journal of European~~

~~Union (OJEU) Find a Tender service.~~ 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 PCR~~ thresholds – ~~through~~ ~~in the Office Journal of European Union (OJEU) Find a Tender service.~~

4.9.2 As per CPR 1.3.1, **all** advertisement in Sell2Wales and, where relevant, ~~in~~ ~~through~~ the ~~Office Journal of the European Union (OJEU) Find a Tender service~~, **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~~ PCR level) the Chief Officer 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 Chief Officer 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 £250,000, 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 Chief Officer 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 £250,000, 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. **£250,001 to £1,000,000:** By agreement in writing from Chief Officer 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 Chief Officer 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 Chief Officer 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-PCR](#) 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-PCR](#) 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~~ [through the Find a Tender service](#) 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-PCR](#) 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 PCR](#) threshold (high-value procurement), the council must publish a bilingual contract award notice on Sell2Wales ~~for inclusion in the OJEU~~ [and on Find a Tender](#) 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 a 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 Chief Officer 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 [PCOJEU](#) 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 1<sup>st</sup> 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 1<sup>st</sup> 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 Chief Officer 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 contractor;
- ii. The value of the contract;
- iii. The start and expiry date of the contract;
- iv. 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 C.P.R. 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 variations**

- 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 £250,000:** 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 Chief Officer where the procurement activity is taking place;
  - ii. **£250,001 to £1,000,000:** By agreement in writing from Chief Officer 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 Chief Officer 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 contract 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   |
|-----------------------|--|
| Chief Officer         | Chief Officer of the relevant Council Service Area   |
| 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, <a href="#">OJEU on Find a Tender</a> 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, <a href="#">OJEU on Find a Tender</a> 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   |
| High value procurement         | Procurement of goods, services and works where the value is at or above the <del>OJEU</del> PCR 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 <del>OJEU</del> PCR 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  |
| Lower 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  |
| <u>OJEU</u>                                  | <u>The Official Journal of the European Union</u>  |
| <u>OJEU threshold</u>                        | <u>The values that are determined by the European Union every two years, which are shown in Appendix C of these CPRs</u>   |
| <u>PCR</u>                                   | <u>Public Contracts Regulations 2015</u>   |
| <u>PCR threshold</u>                         | <u>The values that are determined by the UK Government and published in a public procurement note from time to time, which are shown in Appendix C to these CPRs</u>   |
| Prior Information Notice (PIN)               | A notice place on Sell2Wales and/or <u>OJEU Find a Tender</u> 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 <del>EU Regulations and</del> UK legislation governing the procurement of contracts by Contracting Authorities, <u>including but not limited to the PCR</u>                                    |
| 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.     |
|---|--|------------|
| <b>Built Environment Team Manager</b> /   | Property and works related procurement   | 1.8.1 (ii) |
| <b>Cabinet Cabinet Portfolio Holder</b> / | 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      |
| <b>Contract Managers</b>                  | 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        |
| <b>Corporate Procurement Team</b>                    | Guidance and clarification of over-riding principles   | 1.1.7      |
|  | 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 4.4.1       | 4.3.1      |
|  |  | 4.4.1      |
|  | Provision of a named officer to provide supervision and guidance on high value (i.e. above <a href="#">OJEU-PCR</a> 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              |
| <b>Chief Officers</b>   | Procurement carried out by consultants, agency staff, or other non-DCC staff        | 1.5.7              |
|   |   | 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         |
| <b>Legal Services</b>     | Bespoke contract terms and conditions  | 3.5.1 (iv)    |
|                           | Affixation of Council seal to contracts where appropriate  | 5.14.2        |
| <b>Monitoring Officer</b> | 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) |
| <b>Section Officer</b> 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)  |
| <b>Team Managers</b>       | 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 <u>OJEU-PCR</u> 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-PCR and LTR thresholds

Details of the Sterling thresholds applicable from 1st January ~~2016~~2022 are given below. Thresholds are net of VAT.

Sterling values are re-calculated every two years.

|   | <b>GOODS</b>               | <b>SERVICES</b>            | <b>WORKS</b>                 | <b>NOTE</b> |
|---|----------------------------|----------------------------|------------------------------|-------------|
| General Contracts                           | <del>213,477,464,476</del> | <del>464,176,213,477</del> | <del>5,336,937,410,394</del> | 1           |
| Contracts subject to the Light Touch Regime | N/A                        | <del>589,148,663,540</del> | 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;<br>98133110-8 and 98130000-3  | Other community, social and personal services<br><br>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,<br><br>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-  | Investigation and security services   |

|  |                        |
|--|------------------------|
| 1(Graphology services), 79723000-8<br>(Waste analysis 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), 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) | Postal 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/bettervfm/>

Public Contract Regulations 2015:

<http://www.legislation.gov.uk/ukxi/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](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 19

18 **MEMBERS' CODE OF CONDUCT**

**ADOPTED BY RESOLUTION OF**

**THE COUNTY COUNCIL**

8<sup>th</sup> April 2008

to take effect from 2<sup>nd</sup> May 2008

and updated 25 November 2014

and updated 10<sup>th</sup> May 2016

**THE LOCAL AUTHORITIES**

**(MODEL CODE OF CONDUCT) (WALES) ORDER 2008**

With the determination of the amount of £10.00  
for the purposes of paragraph 17 recorded in paragraph 18

## PART 1 INTERPRETATION

1.(1) In this code —

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who —

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

“meeting” means any meeting —

- (a) of the relevant authority,
- (b) of any Cabinet 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 Cabinet 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 (Committee and Political Groups) Regulations 1990(OF<sup>1</sup>),

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

“member” includes, unless the context requires otherwise, a co-opted member;

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

“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 Cooperative 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;

“relevant authority” means—

- (b) a county council,
- (c) a county borough council,
- (d) a town or community council,

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(<sup>1</sup>) S.I. 1990/1553 as amended by S.I. 1991/1389; S.I. 1993/1339; S.I. 1998/1918; and S.I. 1999/500.

(e) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004<sup>(1F<sup>2</sup>)</sup> or a scheme to which section 4 of that Act applies,

(f) a National Park authority established under section 63 of the Environment Act 1995<sup>(2F<sup>3</sup>)</sup>;

“you” means you as a member or co-opted member of a relevant authority; and

“your authority” means the relevant authority of which you are a member or co-opted member.

(2) “(2) In relation to a community council—

(3) (a) “proper officer” (“swyddog priodol”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972(1); and

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

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<sup>(2)</sup> 2004 c.21. <sup>(2)</sup> 1995 c.25.

**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 attached 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 —
- (i) (a) on another relevant authority, or any other body, which includes a Local Health Board you must, when acting for that other authority or body, comply with the code of conduct of that other authority or body; or
  - (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.
4. You must —
- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
  - (b) show respect and consideration for others;
  - (c) not use bullying behaviour or harass any person; and
  - (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, your authority.
5. You must not —
- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;

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

**6.(1) You must —**

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute;
- (b) report, whether through your authority's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, your authority which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to your authority's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, your authority.

**(2) You must –**

- (a) adhere to the Flintshire standard of conduct
- (b) cooperate with the Local Resolution Procedure
- (c) comply with any request of the 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~~ Chief Executive;
  - (ii) the authority's Section 151 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.

**10. If you are the leader of a political group, you must —**

- (a) take reasonable steps to promote and maintain high standards of conduct by the members of the group; and
- (b) cooperate with the Council's Standards Committee (and any sub-committee of that Committee) in the exercise of the Committee's functions.

In complying with a) and b) above, you must have regard to guidance issued by the Welsh Ministers.

### **PART 3**

### **INTERESTS**

#### ***Personal Interests***

- ~~10-11.~~ (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 sub-paragraph (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, ~~industrial and provident~~ registered society, charity, or ~~any~~ 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;
- (b) or
- (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) anybody 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***

- 44-12.**(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 a Cabinet 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***

- 42-13.**(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;
  - (ii) 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;
  - (iii) 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(2), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;
- (c) your role as a town or community councillor in relation to a grant, loan or other form of financial assistance made by your town or community council to community or voluntary organisations up to a maximum of £500.





### **Overview and Scrutiny Committees**

**13.14.** 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 Cabinet, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Cabinet, 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**

**14.15.**(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 or online platform 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 Cabinet 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 a 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 Financial and Other Interests and Memberships and  
Management Positions***

- 45-16.**(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 financial interests and ~~other 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 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, or in the case of a community council to your authority's proper 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***

- 46-17.**(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" 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***

**17-18.** (1) You must, within 28 days of receiving any gift, hospitality material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, of the existence and nature of that gift, hospitality material benefit or advantage, or in relation to a community council, your authority's proper officer

(2) You must, provide written notification to your authority's monitoring officer, of the existence and nature of any gifts, hospitality, material benefits and/or advantages, received from the same source during any rolling 12 month period, where the total value of those gifts, hospitality, and/or material benefits is above £100.

(3) Where you have received gifts, hospitality, material benefits and/or advantages, under 17(2) you must provide written notification to your authority's monitoring officer within 28 days

**18-19.** The Authority has determined that for the purposes of paragraph 17 the amount shall be £10.00 until further determination.

## APPENDIX 1 TO SECTION 19

### THE PRINCIPLES

The Local Government Act empowered the National Assembly to issue principles to which you must have regard in undertaking your role as a member. The Code is based on these principles which are designed to promote the highest possible standards. These principles draw on the 7 Principles of Public Life which were set out in the Nolan Report “Standards of Conduct in Local Government in England, Scotland and Wales”. Three more were added to these: a duty to uphold the law, proper stewardship of the Council’s resources and equality and respect for others.

Members elected to local authorities give generously of their time and commitment for the benefit of their communities. The principles provide a framework for channelling your commitment in a way which will reflect well on you and your authority, and which will give your communities confidence in the way that your authority is governed.

The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship.

The current principles were set out in a statutory instrument<sup>1</sup> and are detailed below.

#### 1. Selflessness

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

#### 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, sex, sexual orientation, marital status, 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.

The principles are not part of the Model Code, and failure to comply with the Principles is not of itself, therefore, indicative of a breach of the Code. However, it is likely that a failure, for example, to adhere to the principle concerning equality and respect would constitute a breach of the requirements of paragraphs 4 (a) and (b) in the Code in respect of equality of opportunity and respect.

In any event, the Principles offer a sound basis for your conduct in office and I encourage members to have regard to them at all times.

**Public Services Ombudsman for Wales**

## **SECTION 20**

### **THE FLINTSHIRE STANDARD**

This document explains the standard of conduct expected from Flintshire County Councillors and co-opted members in dealing with each other and with officers. It should be read in conjunction with the Members Code of Conduct and the Protocol on Member-Officer Relations. It adds to those documents and does not detract from them.

This standard applies to Councillors whilst they are acting in their official capacity, as defined within the Code of Conduct, including when they are on line or using social media in an official capacity.

In each case behaviour under the Flintshire Standard will be judged objectively. That is to say, it will be judged based on what a reasonable person knowing all the facts would conclude from observing the behaviour.

Freedom of speech, particularly political expression is important within a democratic society. In exercising the right to free speech and when acting on Council business, the following standards are expected of Flintshire County Council members:-

#### **Behaviour towards others:**

- Show respect to each other and officers
- Do not make personal or abusive comments about each other or officers
- Do not accuse each other or officers of lying or falsifying facts or documents
- Do not make malicious allegations against each other or officers
- Do not publish or spread any false information about each other or officers
- Show respect to diversity and equality
- Do not accuse or imply that officers are acting from political motives
- Behave with dignity in meetings
- Show respect to and obey decisions of the Chair
- Make points based on the issue under discussion not personal remarks about others
- Allow others to speak without interruption or heckling
- Not to use indecent language nor make discriminatory remarks or remarks which prejudice any section of society
- Exclude officers from the scope of political remarks

#### **Confidentiality:**

- Keep the confidentiality of exempt papers and any other documents which are not public.
- Not to release confidential information to the press or the public.
- Return or securely destroy confidential papers.
- Not to use confidential information for purposes other than intended.

### Local members

- Work with any joint ward member and/or members of adjoining wards for the benefit of the locality.
- If dealing with any matter relating to another ward
  - Explain to anyone seeking assistance that he/she is not the local member
  - Inform the local member, unless it would lead to a breach of confidentiality
- Ensure that officers are treated with respect at public meetings within their ward. Where several Councillors are at the same public meeting all share this obligation equally.

## **18.3 LOCAL RESOLUTION PROCEDURE FOR COMPLAINTS ABOUT BEHAVIOUR**

### **INTRODUCTION**

1. The Flintshire Standard and the Protocol for Member-Officer Relations are important in promoting good co-operation between members and between members and officers within the Council, thereby allowing the council to fulfil its duties effectively and professionally. It is therefore important that any allegations against a member that he/she has breached the standard and/or protocol can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy way to understand the method of dealing with such allegations.
2. It is important that poor behaviour is quickly addressed and matters are handled whilst recollections are fresh. This procedure will therefore only apply to incidents or behaviour occurring in the 90 days prior to a complaint being made in writing to the Monitoring Officer.

### **STAGE 1 OF THE PROCEDURE**

3. Any member or officer who wishes to submit an allegation under this procedure should send the complaint to the Monitoring Officer. Officers wishing to make a complaint should first consult with their Chief Officer. Following receipt of the complaint the Monitoring Officer will act as follows:-
4. The Monitoring Officer will not deal with the allegation at this stage in order to preserve their ability to advise the Standards Committee later in the process. In the first place the allegation will be referred either the Deputy Monitoring Officer (or another officer nominated by the Monitoring Officer) who will advise whether the allegation falls within this procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Members Code of Conduct.  
N.B. The complainant has the statutory right to complain to the Public Service Ombudsman for Wales ("PSOW"). Should the complainant exercise that right then this procedure will not be used, and any efforts

to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.

5. This procedure is only suitable for allegations made by officers or members of Flintshire County Council that a member has breached the Flintshire Standard or the Protocol on Member/Officer relations. It is not suitable for complaints:

- made by members of the public;
- which in the opinion of the Monitoring Officer allege a serious breach of the code of conduct; or
- alleging repeated breaches of the code of conduct, or breaches where are similar to complaints that have been handled at Stage 3 of this procedure.

If the complaint is suitable for this procedure then the Deputy Monitoring Officer will give advice about how to possibly resolve the complaint. If the complaint is not suitable for this procedure then the Deputy Monitoring Officer will give advice about what (if anything) can be done.

6. If, following the first stage, the complainant wishes to proceed with the allegation under this procedure the matter may be referred either :-

- to a conciliation meeting under Stage 2; or
- to a hearing by the Standards Committee under Stage 3.

### **STAGE 2 OF THE PROCEDURE**

7. At Stage 2 a meeting will be held between:

- the complainant;
- the member against whom the complaint is made;
- the Chief Executive
- the leader of any relevant political group(s), that is to say the subject member's group leader and, if the complainant is a member, his/her group leader.

If the complainant is an officer, then it will be possible for the complainant to have a colleague or senior officer with him/her. A non-aligned (ungrouped) member may bring another Councillor with him/her.

It is also possible for the matter to be dealt with in the complainant's absence in exceptional cases.

8. The purpose of this meeting will be to try to resolve the matter by conciliation. If deemed necessary the Chief Executive can call on the Monitoring Officer, or the Deputy Monitoring Officer for advice and assistance.

### **STAGE 3 OF THE PROCEDURE**

9. The third Stage is a hearing before the Standards Committee. The complainant will be asked to submit the substance of the complaint in writing and the member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.
10. Both the complainant and the member have the right to appear before the Standards Committee and to submit evidence from witnesses. Both will have the right to representation or to have a colleague present. The Council will not meet the costs of representation.
11. If either side wishes not to be present or fails to attend the hearing may be held in their absence.
12. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Standards Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.
13. The Committee can come to one of three conclusions, namely :-

|    |  |
|----|--|
| a) | That there is no basis to the complaint.                                       |
| b) | That there is a basis to the complaint but that no further action is required. |
| c) | That there is a basis to the complaint and that the member should be censured. |

In addition the Committee can make recommendations to the Council regarding changing any procedures or taking any further action.

#### **SUPPLEMENTARY MATTERS**

14. The papers for the hearing will be exempt and it will be recommended that the hearing will take place with the press and public excluded. Publicity will not be given to the names of either the member or the complainant unless it is decided TO UPHOLD the complaint and that the member should be censured.
15. Stages 2 and 3 do not have to be following sequentially. Although it is possible for a complainant who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Standards Committee, it is also possible for a matter to proceed directly to the Standards Committee without going first to a conciliation meeting.
16. The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents a complainant from submitting a complaint to the Public Services Ombudsman for Wales that a member has breached the Members Code of Conduct.

## 20.2 MEMBER PROTOCOL ON INVOLVEMENT IN OTHER WARDS

(adopted at Council 22<sup>nd</sup> July 2021)

### 1. Introduction

- 1.1 Sometimes as a Member, you might become involved in a ward other than your own. If this is at the invitation of the local Member, there is no problem. For example, you could be approached to act by a colleague because they have a conflict of interest or would like some help.

However, if the involvement in another ward is because of a direct approach by a resident or on your own initiative, this is potentially contentious. This protocol has been written to help you. "Local Member" means the Councillor(s) who represent the ward. "Local issue" means within a ward and not wider.

### 2. Exceptions to the protocol

- 2.1. The following are not seen as local issues for the ward member(s) alone:-
- a) Pursuing something as a prospective Senedd or Parliamentary candidate.
  - b) Involvement because of a role you have on other public bodies or organisations rather than as a member of Flintshire.
  - c) Acting because of your role as a Cabinet Member or as Chair or Vice Chair of the Council.
  - d) Canvassing at election times.
  - e) Pursuing a County-wide issue or a Council-wide policy.
  - f) Where you have been contacted because of an item to be considered at a meeting of the County Council or of a Committee on which you sit.

### 3. Procedure to be followed

- 3.1. When, on your own initiative, you wish to (or have been asked to) pursue an issue outside your ward, then - before doing so and out of courtesy- you should inform the local Member(s). Agreement between the non-ward member and ward members(s) will be required as to the next steps.
- 3.2. If subsequently pursuing this with officers, you must explain why you are involved. Officers approached in this way will be expected to inform the local Member(s) of the approach and how they have dealt with the issue. Officers can become 'caught in the middle' where this happens.
- 3.3. Where you have been approached by a resident or body about a local issue not in your ward, you should:-

- a) Explain that you are not the local Member(s) and say who the local Member(s) is/are.
- b) If the resident or body still wants you to pursue the matter, you should inform the local Member(s) as a matter of courtesy of the approach that has been received, (see also section 3.1).

3.4 Particular care should be taken when commenting on issues on social media relating to other Member's wards.

3.5 Issues in one ward may impact upon the inhabitants of adjoining ward(s). If you are representing people in your ward who are being affected because of something from the adjoining ward, as a matter of courtesy you should inform the local member(s) what you are doing.

#### **4. Monitoring**

4.1. If you do need to act outside your own ward, please notify Member Services of the local issue so that a record is kept of all such occasions. Where Members are thought to be acting contrary to this protocol, the issue will be flagged up with their Group Leader for discussion.

Breaches of the protocol will be reported annually to the Standards Committee as part of a report monitoring compliance.

#### **5. Officers**

5.1 The officers have been informed of this updated protocol. Where there are concerns about where a ward boundary lies, the Electoral Services Team (01352 702412, 01352 702327 or 01352 702329) will be able to provide advice.

## **SECTION 21**

### **19 PROTOCOL FOR MEMBERS IN THEIR DEALINGS WITH PARTIES SEEKING OR ENGAGED IN CONTRACTS WITH THE COUNCIL**

#### **1. INTRODUCTION**

- 1.1 This Protocol has been developed to assist Members by identifying some of the existing provisions in Codes of Conduct, Guidance and Procedure Rules most relevant to dealings with existing or would be contractors for easy access when advice on individual circumstances is needed. It also extends to include advice on meetings or discussions with external bodies, and in particular private companies, which might at some stage be seeking to benefit from an association with the Council and/or its partner organisations.
- 1.2 It is recognised that Members may be contacted by a range of public, private and voluntary organisations for various reasons and in various ways. Occasionally this will be to acquaint a Member with an event that is planned for the Member's particular ward. However, more often than not the contact will be in the hope that the Member will support a proposal in one way or another.
- 1.3 The Code of Conduct for Members sets out general principles which Members must have regard to in the roles they fulfil. The Planning Code of Conduct builds upon the Members' Code of Conduct and members should refer to that document on what to do if they are lobbied by a planning applicant or objector.
- 1.4 This Protocol covers any situation where a person or business may be seeking a contract, or may already be in a contract, with the Council. For example
- A company might approach a councillor offering to sell land or buildings to the Council at a "good price". A software company might send a promotional email to a councillor explaining how its products could save the Council money
  - A company which is not fulfilling its contractual obligations complain to a Cabinet member that it is being "unfairly treated"

#### **2. CODE OF CONDUCT**

- 2.1 The Members' Code of Conduct includes the following provisions which are particularly relevant in relation to Members in their dealings with (would be) contractors and other third parties.
- 2.2 Paragraph 4 of the Members' Code requires that Members must carry out their duties and responsibilities with due regard to the principle of equality of opportunity for all people regardless of their gender, race, disability, sexual orientation, age or religion.

- 2.3 Paragraph 7 of the Members' Code provides that Members must not use their position improperly to confer on or secure for themselves an advantage nor seek to avoid a disadvantage. Likewise, they should not do these things in respect of other people.
- 2.4 Part 3 of the Members' Code contains detailed provisions concerning the disclosure of personal interests and where Members believe these provisions may be relevant they should seek advice from the Monitoring Officer or Deputy Monitoring Officer at the earliest opportunity. These provisions are particularly important in dealings with contractors, people or companies seeking business with the Council or third parties with whom the Member has a close personal association.
- 2.5 Paragraph 8 of the Members' Code requires that when reaching decisions Members must do so on the basis of the merits of the circumstances involved and in the public interest having regard to relevant advice provided by officers.
- 2.6 Paragraphs 9, 17 and 18 of the Members' Code contain provisions concerning accepting from anyone gifts or hospitality. Where a Member is in any doubt as to the application of these provisions, advice should be obtained from the Monitoring Officer or Deputy Monitoring Officer at the earliest opportunity.
- 2.7 The above provisions are merely a summary of some of the contents of the Members' Code of Conduct, the full details of which appear elsewhere in this Constitution.

### 3. **PROCEDURE RULES**

- 3.1 The Council's Financial Procedure Rules make reference to the Council's responsibility to achieve the most favourable terms possible from suppliers and requires procurement rules and procedures to be set up for that purpose.
- 3.2 The Contract Procedure Rules have been adopted by the Council based upon a number of basic principles and emphasise that purchasing and disposal procedures must:-
- Seek value for money and achieve the aims of the Council's procurement strategy such as social value, carbon reduction etc
  - Show no undue or improper favour to any contractor, nor discriminate against any contractor.
  - Ensure that all procurement is in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information).
  - Do nothing that contravenes domestic law
  - Ensure that adequate contract files are kept.
- 3.3. One of the overriding principles that must be complied with is that neither officers nor members should show any undue or improper favour to any contractor.

### 4. **ROLES AND RESPONSIBILITIES OF MEMBERS**

- 4.1 The Council has adopted role descriptions for the various roles that Members undertake such as Leader of the Council, Cabinet Member, Committee Chair and ordinary Member. These are all available on the Council's Infonet.
- 4.2 The roles and responsibilities envisage Members, particularly at Cabinet level, having significant input into the development of policy in relation to the Authority's functions.
- 4.3 In the formulation of policy, Members will often rely on developmental work undertaken by Officers and in such circumstances there will often be a necessary overlap in this area. Equally, in their ward role, members may wish to advocate on behalf of businesses or residents in their area and may, for example, seek progress reports or request greater urgency be shown. However, care should be taken to ensure that members do not become embroiled in operational matters.
- 4.4 In fulfilling their respective roles, Cabinet Members and Officers will frequently find it convenient to be present in discussions with private companies and other external bodies in the development of options for service provision. There may be occasions when non-Cabinet Members are present at such meetings and this Protocol also covers such situations.
- 4.5 Such discussions with private companies and other external bodies will often be held for explanatory reasons to assist in undertaking an options appraisal exercise or in an attempt to understand and gain knowledge of the market ahead of a procurement exercise. Accordingly, great caution is needed in all such discussions to ensure that there can be no perception that an expectation is created that the discussions were anything more than exploratory in nature.
- 4.6 Accordingly a few simple precautions should always be put in place to avoid any ambiguity on the part of the private company or any perception by others who get to hear of the discussions that they were for irregular purposes. Such precautions will include:-
- Serious consideration should be given to the appropriateness of Members attending the meeting of that company or its representatives at all;
  - the risks involved should be assessed and the potential benefits/disadvantages identified, e.g. where there is a major contract to be awarded it may not be appropriate to meet;
  - The Council must comply both with statutory requirements in relation to procurement as well as its Contract Procedure Rules;
  - It is important that no discussions or meetings prejudice the ability of the Council to demonstrate equal treatment and transparency. Officers should always provide objective advice to Members in such

circumstances. If there are any doubts, advice should be sought from the ~~Head of Paid Service~~ Chief Executive, S.151 Officer and/or Monitoring Officer; and

- An audit trail must be kept as to why the decision was taken for Members to attend the meetings of that company or its representatives.

4.7 If it is considered appropriate for the discussions to proceed with Members, further precautions should be put in place:-

- A written invitation to the company in question setting out the purpose of the proposed discussions.
- Where the invitation is from a private company, the purpose of the discussions should be ascertained and contained in a letter accepting the invitation.
- Appropriate Officers should always be present to advise Members.
- A record must be made of the discussion and where possible agreed by the attendees. This record can take many forms such as notes or a recording of a meeting (though this should only happen with the explicit agreement of all persons in the meeting). The record must set out any conclusions arrived at. It should always be borne in mind that such notes could be the subject of a Freedom of Information Act request and the extent to which any commercially sensitive information needs to be discussed should be assessed and agreed in advance with the contractor.
- It must be made clear to the company that similar discussions may be held with any other interested party.
- Where the matter to be discussed is likely to lead to a procurement exercise, either because of the Procurement Rules, Contract Procedure Rules or best practice, it must be made clear that all interested tenderers will need to be financially vetted and comply with all other pre-tender requirements. This will probably be required even in circumstances where procurement is not at issue if it is likely to lead to a contractual arrangement if discussions are successful.
- Care must be taken to ensure that no company is given any advantage over others as a consequence of the discussions.
- Unless there is a good reason for doing so, which can be objectively justified, discussions must take place in the Council's offices.
- The Council should meet all costs associated with a visit to a contractor or to a development site or developer.

- 4.8 If Members are in any doubt about the provisions of this Protocol they should seek advice from either the Monitoring Officer or the Deputy Monitoring Officer as the impact of their actions could potentially have serious consequences for themselves and the Council.

## **SECTION 22**

### **20 PROTOCOL ON THE PRODUCTION OF COUNCILLOR NEWSLETTERS**

Paragraph 7(b) of the Members' Code of Conduct makes clear that Members must not use Council resources improperly for political purposes. Guidance issued by the Public Services Ombudsman for Wales indicates that an authority may authorise the use of its resources and facilities for some political purposes.

At its meeting on 3 September 2012 the Council's Standards Committee considered a report on the Use of Council Resources for the Production and Distribution of Councillor Newsletters. The recommendation of the Standards Committee was that Members should be free to use the computers available in Members' Services and in the group rooms for the purposes of designing and setting up newsletters to their constituents. This was considered at the County Council meeting on the 25 October 2012. At that meeting it was decided that Members cannot use any Flintshire I.T. software to produce Councillor newsletters. Any use of Council resources for the production of newsletters would therefore be a breach of paragraph 7(b) of the Members' Code of Conduct.

**SECTION 23**

**PLANNING CODE OF PRACTICE**

**HOW WE DEAL WITH PLANNING APPLICATIONS AND OTHER PLANNING  
ISSUES**

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## 1. **INTRODUCTION**

- 1.1 The Planning system involves taking decisions about the use and development of land in the wider public interest having regard to the Development Plan, national Planning Guidance and other material considerations. Planning can be contentious because its decisions affect the daily lives of individuals, landowners and developers.
- 1.2 It is important therefore that the process is open and transparent. In other words the system should not only be fair but it should be seen to be fair. The Nolan Committee's report on Standards in Public Life gave close consideration to these issues and its recommendations feature significantly in the Local Government Association's revised 2002 guidance for Members and Officers in dealing with planning matters. Members are advised to read the LGA guidance as it provides useful background to the Code of Practice.
- 1.3 This Code of Practice provides guidance to elected Members, officers and developers on the planning process. It is supplementary to the Flintshire Member and Officer Codes of Conduct and the Protocol on Member/officer relations all of which are contained in the Council Constitution.
- 1.4 Whilst the principles set out in this document apply primarily to the manner in which individual planning applications should be dealt with, they also apply to the decision-making process relating to any aspect of the planning function.

## 2. **ROLE OF MEMBERS AND OFFICERS**

### 2.1 **General**

- 2.1.1 Members and officers have different but complementary roles. Both serve the public but Members are responsible to the electorate, whilst officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not individual Members, and Members instructions may only be given to officers through a decision of the Council, its Cabinet or a Committee.
- 2.1.2 It is important that a good relationship exists between Members and officers and that this is based on mutual trust and understanding of each other's positions. This relationship and trust must never be abused or compromised.

### 2.2 **Role of Officers**

- 2.2.1 The officer's function is to advise and assist Members in the formulation of planning policies, in the determination of planning applications and, deciding whether or not to take enforcement action for breaches of planning control. Officers should:-

- Provide impartial and professional advice.

- Make sure that all accurate information necessary for the decision to be made is given.
- Provide a clear and accurate analysis of the issues.
- Set applications and enforcement issues against the broader Development Plan policies and all other material considerations.
- Give a clear recommendation based on the above requirements.
- Carry out the decisions made by Members in committee or through the delegated authority of the Chief Officer, Planning Environment and Economy Update Members on new legislation and guidance.
- Provide appropriate training and briefings for Members.

## 2.3 **Role of Members**

2.3.1 The full Council is responsible for setting the Council's formal planning policy framework through the Development Plan(s). As a general principle there is an expectation that Members will uphold the Council's planning policies.

2.3.2 When Members come to make a decision they must:-

- Be clear as to whether or not they have an interest which needs to be declared if not already done so or seek advice from the legal officer if unsure.
- Act fairly and openly.
- Approach each application with an open mind.
- Carefully weigh up all relevant issues.
- Determine each application on its own merits.
- Avoid giving the impression that the Member has made her / his mind up prior to the application being determined.
- Ensure that there are clear and substantial reasons for their decisions, and that those reasons are clearly stated.

2.3.3 Where a planning application relates to a Member's ward the views of the local Member are important to the Chief Officer, Planning, Environment and Economy, and to the Chair and Members of the Planning Committee. Ward Members should not become too closely identified with special interest groups if they wish to vote in the Planning Committee. Whilst Members have a responsibility to their constituents their overriding duty is to the whole County and therefore need to consider proposed developments in the interests of the wider community.

2.3.4 Members should not decide how to vote on any application at any formal political group meeting. Political group meetings should never dictate how Members should vote on a planning issue.

## 2.4 **Member / Officer Contact**

- 2.4.1 The officer / Member relationship is extremely important for good decision making and an effective planning service. The mutual understanding of their respective roles and respect for each other's position is vital for good relations
- 2.4.2 In making enquiries regarding individual applications Members should make contact with the Case Officer or Line Manager and make an appointment if necessary. Where an assistance is requested the Case Officer or Line Manager will respond in a timely manner. Whilst Members may wish to seek advice or information from the Chief Officer, Planning, Environment and Economy or the Development Manager, Members should in the first instance seek information from the Case Officer. Information can be sought and provided by e-mail.
- 2.4.3 Officers will provide every reasonable help to Members in the carrying out of their duties. Meetings between officers and Members may sometimes be helpful, but are only likely to be of value if prior arrangements have been made. This allows the officer to have all relevant documents available at the meeting. Prior arrangements may be made by telephoning the relevant Officer or the Planning Services Reception staff or by email. Members rooms can be utilised and suitable rooms can be made available by mutual agreement if privacy is required or a virtual meeting may be arranged where all parties agree.
- 2.4.4 It is acknowledged that Members and officers may well have differing views on a proposal but Members should on no account interfere with or put pressure on officers to make a particular recommendation.

### 3. **TRAINING**

- 3.1 All members of the Council are required to have received core planning training covering planning policies, procedures, law and this Code.
- 3.2 Other training will be arranged by officers in consultation with members in the form of additional sessions, seminars and workshops on topical issues and to keep members up to date on new procedures, advice and guidance.
- 3.3 Members of the Planning Committee are required at all times between ordinary County Council elections to attend at least 75% of the planning training topics covered during their membership of the Committee.
- 3.4 Attendance at planning training will be monitored and reported to the Planning Strategy Group who may grant an exception to the requirements of paragraph 3.3 where there is good reason for a member temporarily failing to meet this requirement.

### 4. **REGISTRATION AND DECLARATION OF INTERESTS**

#### 4.1 **Code of Conduct**

4.1.1 Members should follow scrupulously the County Council's **Members' Code of Conduct** in relation to registration and declaration of interests and, if an interest is declared, in deciding whether the Member should participate in the consideration of an application. Not only should impropriety be avoided but also any appearance or grounds for suspicion of improper conduct. If a Member considers he/she may have a personal interest they should consult the Monitoring Officer, Deputy Monitoring Officer or a Senior Officer of Legal & Democratic Services for advice on their position ideally in advance of the meeting.

#### 4.2 **Personal Interests**

4.2.1 The principles about the disclosure of interests should be applied, not only to formal meetings, but also to any of a Member's dealings with Council officers, or with other Members. Where a Member has a personal interest, as defined by the Code, it must always be declared. It does not necessarily follow that the Member is debarred from participation in the discussion. The responsibility for declaring an interest lies with the Member, but the Monitoring Officer is there to advise. If there is any doubt in a Member's mind, he / she should seek early advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer of Legal & Democratic Services on their position. Members should err on the side of declaring an interest when they are not sure.

4.2.2 Members who have substantial property, professional or other interests relating to the planning function which would prevent them from voting on a regular basis, should avoid serving on the Planning Committee.

4.2.3 Where a Local Member has decided he / she has a personal interest making it inappropriate for that Member to be involved in the processing and determination of a planning application in his / her ward such a Member may arrange for another Member to act as local Member instead to represent constituents' views. In such a situation the local Member should inform the Monitoring Officer and the Chief Officer, Planning, Environment and Economy of the arrangement made and take no further part in the processing and determination of the planning application other than referring any representations or communications received to the Member who is acting as local Member.

#### 4.3 **Declaration**

4.3.1 When declaring an interest at committee, this should be done at the beginning of the meeting or at the point in the meeting where the interest becomes apparent to the relevant Member. Members should be clear and specific in identifying the item on the agenda in which they have an interest, and the nature of that interest.

#### 4.4 **Predetermination**

- 4.4.1 A Member has predetermined a planning application where the Member shows (e.g. in local press) he/she has made their mind up on the merits of the application prior to it being considered at committee. A predisposition is where a Member has an inclination or preliminary view on the merits of the application.
- 4.4.2. A Member who has predetermined the merits of a planning application in advance of it being considered at committee should not be a Member of the committee that considers that application. A Member of the committee may have a predisposition or a preliminary view. If in doubt a Committee Member should seek advice prior to the Committee meeting from either the Monitoring Officer or the Solicitor who attends committee meetings.
- 4.4.3 Those Members who do not sit on the Planning Committee may predetermine their stance on an application but should respect the fact that Planning Committee Members cannot do the same.

#### 4.5 **Register**

- 4.5.1 A register of Members' interests is maintained by the Council's Monitoring Officer. It is available for public inspection. Each Member has a responsibility to provide the Monitoring Officer with up to date written details of relevant interests.

#### 4.6 **Dual Community / Town and County Council Membership**

- 4.6.1 Membership of a Town / Community Council which has expressed a view on a planning matter does not in itself mean that the Member cannot take part in the determination of the matter when it comes before the Planning Committee provided that the Member has kept an open mind and not committed himself / herself to a final view on the matter until all the arguments for and against have been aired at committee. The Member can enter into discussion and ask questions, but should make clear that a view in favour or against the proposal is on the basis of knowledge and information known at that time.
- 4.6.2 Where an application submitted by a Community or Town Council is being considered then a Member of that Council may not vote on the proposal to determine the application unless the Member has obtained dispensation from the Standards Committee.

#### 4.7 **Cabinet Members who also sit as members of the Planning Committee**

Where a Member of the Planning Committee is also a Cabinet Member, there are likely to be occasions where an application for planning permission is being considered by the Planning Committee that also relates to a Cabinet Members' Portfolio. For example, there may be a planning application for a new school and the Cabinet Member responsible for Education may also sit as a Member of the Planning Committee. This does not give rise to a personal and prejudicial interest, as the Councillor is acting as a County

Councillor both as a Cabinet Member and as a Planning Committee Member. However, it may be the case that if the planning application is very closely related to a specific decision made by a Cabinet Member they may be perceived to have predetermined their stance. If a Member is unsure of their position in this regard they should contact the Monitoring Officer, Deputy Monitoring Officer or a Senior Officer of Legal Services for advice on their position, ideally in advance of the meeting.

## 5. **LOBBYING**

- 5.1 Lobbying is a part of the political process and it is quite common for applicants or other interested parties to wish to discuss a proposed development with Members before a planning application is determined. Welsh Government guidance on pre-application planning consultations encourages developers to speak to local councillors in order to understand the local context and their concerns as well as to explain any proposed development. This can help Members' understanding of the issues and concerns associated with an application. Officers should be made aware of any lobbying correspondence Members receive.
- 5.2 However, Members of the Planning Committee are under an obligation to determine matters on their merits and in a manner that is seen to be impartial. That means that they should not take a firm view on a planning matter before receiving and reading the officer's report or receiving any new information reported to the committee nor create the impression that they favour one outcome or another. Whilst Members of the committee may form an initial view or opinion, and indicate their view that an application is contrary to policy, they should not openly declare which way they intend to vote in advance of the Planning Committee meeting nor suggest that they support either the applicant or any objector(s). To avoid compromising their position before they have received all the relevant information, committee Members are advised that they should:-
- > **Refer** applicants / developers who approach them for planning or procedural advice to the appropriate Planning Officer.
  - > **Avoid** making it known in advance whether they support or oppose the proposal.
  - > **Avoid** campaigning actively in support of a particular outcome.
  - > **Direct** lobbyists or objectors to the appropriate Planning Officer, who will include reference to their opinions where relevant in their report.
- 5.3 Prior to the committee meeting any member who has significant contact with applicants and objectors must without delay seek advice from the Monitoring Officer or Deputy Monitoring Officer on whether there is a risk that the member's impartiality might be seen as compromised. Significant contact is where a Member has been contacted on four or more occasions by the applicant or the same objector (either orally or in writing). Officers might advise a member that they should only speak but not vote on an application in order to protect the impartiality of the decision making process.

- 5.4 Members must advise the Ward Member and adjoining ward members as a courtesy in cases where they are seeking to be involved in a development proposal or enforcement issue outside of their own Ward. It is accepted that where a planning application has a significant effect on another ward the Member(s) for that ward is entitled to become involved in the development proposal.
- 5.5 Members of the Planning Committee must avoid organising support for or against a planning application. Where such a Member does organise support for or against a planning application then that Member must not participate in the decision-making on that application when it is considered by the Planning Committee. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer in Legal & Democratic Services ideally in advance of the meeting.
- 5.6 If a Planning Committee Member expresses support for, or opposition to a proposal before the matter is formally considered at the relevant meeting, whether or not there has been lobbying, he / she could have some difficulty in being able to claim to retain an open mind on the issue and to be prepared to determine the application on its merits. If such a Member does express an opinion, then it should make it clear that it is a preliminary opinion and that he / she will only be in a position to take a final decision when all the evidence and arguments have been considered.
- 5.7 Where a member of the committee has not complied with 5.2, 5.5 or 5.6 above and has predetermined the merits of the application, they must not participate in the decision-making on that application.
- 5.8 If a Member becomes a new member of the Planning Committee it is possible that they may have made clear their position on a particular application prior to becoming a member of the Planning Committee. If that application is subsequently before the Planning Committee for determination they must not participate in the decision-making on that application. Where a Member is in doubt about such issues the Member should seek advice from the Monitoring Officer, Deputy Monitoring Officer or other Senior Officer in Legal & Democratic Services ideally in advance of the meeting.

## **6. APPLICATIONS SUBMITTED BY MEMBERS AND OFFICERS**

- 6.1 Planning applications submitted by or on behalf of Members, or officers involved in the planning application process, or the close relatives\* of Members or such officers and where the officer or Member knows of the application shall be decided by the Planning Committee and not by the Chief Officer, Planning Environment and Economy under delegated powers.

[\* Close relative is defined as spouse, partner, parent, child or sibling].

6.2 A Member affected by clause 6.1 shall declare the personal and prejudicial interest at any meeting of the Planning Committee to determine the application, take no part in the decision and leave the meeting place unless granted a dispensation by the Standards Committee.

6.3 The affected officer shall take no part in the processing of the application and its determination.

## 7. **APPLICATIONS SUBMITTED BY THE COUNCIL**

7.1 It is important that the Council is seen to be treating applications for its own development (or a development involving the Council and another party) on an equal footing with all other applications as well as actually doing so.

7.2 Subject to any legislative restrictions all such proposals will be subject to the same administration processes, including consultation, as private applications with consideration being made in accordance with policy and any other material planning considerations and in accordance with the Council's scheme of delegation for all planning applications as set out in the Council's constitution.

## 8. **PRE-APPLICATION AND ENFORCEMENT DISCUSSIONS AND PRE-APPLICATION CONSULTATIONS**

8.1 Pre-application meetings between officers and potential applicants and negotiations regarding breaches of planning control are encouraged. The aim of such meetings is to ensure beneficial development and to resolve matters that might otherwise lead to the refusal of planning permission. Such discussions will normally take place at officer level and Members should refer requests for such advice to the officers. If Members become involved in such discussions they should make it clear that their views are personal and provisional. To avoid such meetings being misunderstood:-

> **It will be made clear** prior to and at such meetings that only personal and provisional views based upon the Development Plan and other material considerations can be given and no commitments can be made which would bind or otherwise compromise the Planning Committee or any member of this committee.

> **A note** of the discussion will be taken and placed on file and made available for public inspection once an application has been made.

> **Where** exceptionally meetings are to involve Members the meetings will be arranged by and attended by officers and the adjoining ward member will be invited to attend when the application significantly affects their ward.

8.2 Pre-application Consultation (PACs) requirements are different from the meetings referred to at paragraph 8.1 above. They are statutory requirements that have been introduced to require developers to consult on certain development proposals, prior to submitting a planning application. Members are usually consulted directly by the developers as part of these requirements.

Planning officers are not required to be consulted as there is no requirement as part of the PAC process to consult the local planning authority. However, depending on the size of the proposal other officers within the Council may be consulted, such as the Council's Highway Engineers. If Members are requested to attend any meetings as part of this process it is still recommended that they contact a planning officer and that the advice at paragraph 8.1 above is followed. The advice at paragraph 5 above equally applies where developers contact Members as part of the PAC process and Officers should be made aware of any correspondence Members receive. Further advice about the PAC process can be found on the gov.wales website.

## **9. PLANNING COMMITTEE SITE VISITS**

### **9.1 Purpose**

9.1.1 Planning Committee site visits are not meetings where decisions are made and neither are they public meetings. They are essentially fact finding exercises held for the benefit of Members where a proposed development may be difficult to visualise from the plans and supporting material. They may be necessary for careful consideration of relationships to adjoining property or the general character of the area due to the scale or design of the development.

### **9.2 Request for a Site Visit**

9.2.1 A request for a site visit is normally made by the local Ward Member in response to being consulted on the proposed development. The request must be in writing (e.g. e-mail) and should clearly indicate the planning reasons for the visit which will appear on the agenda for site visits. Site visits can be costly and cause delay so it is important that they are only held where necessary and prior to committee. Site visits are held pursuant to a decision of the Chair of the Planning Committee or pursuant to a request from a local Member including another Ward Member consulted because the application significantly affects the other ward. All local Members will be advised when a site visit has been arranged.

9.2.2 Examples where a site visit would not normally be appropriate include where;

- purely policy matters or issues of principle are at issue
  - the Member wishes to consider boundary or neighbour disputes
  - issues of competition
  - loss of property values
  - any other issues which are not material planning considerations
- where Members have already visited the site within the last 12 months, except in exceptional circumstances

Where no planning reason is given for the site visit or the reason for the site visit is any of the above the Chair should not convene the site visit.

### 9.3 **Format and Conduct at the Site Visit**

- 9.3.1 Members of the Planning Committee and the Local Ward Member(s) will be notified in advance of any visit. Such visits are not formal meetings of the Committee and there is no right of public attendance at the visit itself. If the public in lobbying Members on their way to or from a site visit seek to present documentation they should be advised to send it to the Planning Department instead.
- 9.3.2 Advance notice of the site visit will also be sent to the applicant or agent requesting that access to the site for Members/officers be provided at the specified time/date and pointing out that the applicant/agent will not be allowed to participate in the site visit. Any Member with a personal and prejudicial interest must not take part in the site visit.
- 9.3.3 The Chair will invite the Planning Officer to briefly outline the proposal and point out the key issues raised by the application and of any vantage points from which the site should be viewed then the local ward Member (and adjoining ward Member in the exceptional circumstances that they are also present) will be invited to speak, followed by other Members of the Committee who may ask questions and seek clarification from officers who will respond. Any statement or discussion concerning the principles and policies applicable to the development should not be allowed by the Chair.
- 9.3.4 Although site visits are not part of the formal committee consideration of the application, the Code of Conduct still applies to site visits and Members should have regard to the guidance on declarations of personal interest.
- 9.3.5 A file record will be kept of those attending the site visit, together with a brief note of any points raised.
- 9.3.6 For the avoidance of doubt references in this section to Local Member(s) includes adjacent ward Members where the application significantly affects their ward.
- 9.3.7 Occasionally the applicant/agent/owner of the site to be visited may not permit Members and officers onto the site. There may be good reason for this, for example, if someone was injured they could have a claim against the landowner. Where access is refused to one or more of the elected Members, the Chair will be advised that none of the Members and officers should enter onto the land. In such circumstances the site should be viewed from the nearest public land such as the public highway.
- 9.3.8. In summary site visits are:-  
**Fact** finding exercise.  
> **Not part** of the formal committee meeting and therefore public rights of attendance do not apply.  
> **To enable** officers to point out relevant features.

> **To enable** questions to be asked on site for clarification. However, discussions on the application will only take place at the subsequent committee.

## 10. **PROCEDURE AT PLANNING COMMITTEE**

- 10.1 The majority of planning applications are determined by the Chief Officer, Planning, Environment and Economy under the Council's delegation scheme. This is necessary to ensure that most decisions are made in a timely manner. Whilst Members have a right to request that applications, affecting their ward be determined by the Planning Committee such requests should be justified by clearly identifying in writing why a committee decision is required. This is generally done on the return notification form sent out to Members.
- 10.2 Officers will produce written reports on all planning applications reported to committee. In respect of each proposal the report will include, amongst other matters;
- description of the proposal
  - description of the site
  - responses to consultations and officer observations thereon.
  - summary of objections and / or support received
  - relevant site history
  - relevant Development Plan policies
  - relevant planning guidance where appropriate
  - any other material planning consideration
  - an appraisal by the Case Officer which will include the relevant views of other consulted officers within the Planning Division
  - a clear recommendation
  - brief details of the substance of any conditions to be imposed or;
  - full details of reasons for refusal.
- 10.3 Late observations received by 5.00 p.m. the day before a committee meeting will be summarised and reported separately and circulated to Members immediately prior to the start of the meeting.
- 10.4 The Planning Officer will briefly introduce each item highlighting the key issues for Members consideration.
- 10.5 Where an application is being reported to committee, the Chair will allow oral representations to be made in accordance with the protocol on public speaking prior to the committee debating the application.
- 10.6 Where written submissions are received from the applicant or any other person intending to speak in accordance with the protocol on public speaking and any such person is unable to attend, their written submissions will be read out by an officer on their behalf.

- 10.7 Where a Member seeks and obtains a majority for a deferment for a specific purpose then there will be no further debate on that matter until such time as the proposal is re-presented.
- 10.8 Members who read out at committee, or refer to, communications they have received should provide an advance copy to officers

## **11. DECISIONS CONTRARY TO OFFICER RECOMMENDATION**

- 11.1 From time to time members of the Planning Committee will disagree with the professional advice given by the Chief Officer, Planning Environment and Economy. The committee's decisions must be in accordance with the provisions of the Development Plan unless material considerations indicate otherwise. If Members propose to make a decision contrary to the officer recommendation (whether for approval or refusal), the proposer should set out clearly the reasons for doing so. The Chair will ensure that the officer is given the opportunity to explain the implications of the contrary decision, before a vote is taken.
- 11.2 In cases where the Planning Committee decides for good and valid reasons to depart from the Chief Officer, Planning Environment and Economy's recommendation, the committee must always define the reasons for rejecting the officer's recommendation and those reasons must be recorded in the minutes of the meeting.
- 11.3 In the case of conditions which the committee has resolved to add or amend the precise wording is delegated to the Chief Officer, Planning Environment and Economy and, if appropriate, in consultation with the Chair of committee.
- 11.4 In cases of refusal the reasons shall be clearly stated and agreed by Members. There may be occasions when officers need to clarify the reasons for refusal either at the meeting itself or by a report to a subsequent meeting.
- 11.5 A legal advisor present at the committee meeting may subsequently prevent a decision notice being issued until a report by the Chief Officer Governance has been considered at the subsequent committee meeting. The reason for this report may be concerns of a legal nature or that at the committee meeting the Chief Officer, Planning Environment and Economy indicated the proposed decision represents a significant departure from planning policy and the legal officer subsequently agreed.

## **12. PLANNING APPEALS**

- 12.1 There are a wide variety of different factual situations relating to appeals. There can be appeals against non-determination or against a refusal made under officers' delegated powers or by the Planning Committee, either in accordance with the officer recommendation or contrary to the officer

recommendation. Appeals can be heard by way of written representations, informal hearing or at an inquiry. The appeal may relate to a major or a minor planning proposal, a development that has attracted a lot of interest from Members and the public or a proposal that is of limited interest. Because of the range of circumstances, the way the Council responds to an appeal will be individual to the circumstances of that appeal. The following principles will guide the Council's response to each specific appeal.

- 12.2 The Council recognises the importance of complying with the timescales within the appeal process as a failure to meet these timescales can lead to an award of costs against the Council.
- 12.3 The Council will adopt a team approach to appeals whereby Members and officers work together in the best interest of the Council, irrespective of how the decision appealed against was arrived at.
- 12.4 The decision whether an appeal is determined by way of written representations, informal hearing or public inquiry is a matter for the Planning Inspectorate but the Council is given the opportunity of making representations as to the appropriate format. The Chief Officer, Planning Environment and Economy will make representations on behalf of the Council as to its preferred format where possible following consultation with the local Member(s).
- 12.5 In the case of Informal Hearings and Inquiries, the Chief Officer, Planning, Environment and Economy will determine who shall present the case on behalf of the Council following consultation with the Chair and Vice Chair of the Planning Committee.
- 12.6 Where the decision appealed against was made by officers under delegated powers or was pursuant to an officer recommendation, the case will normally be presented by the Council's officers.
- 12.7 Where the decision was made by Members contrary to officer recommendation, attendance by one or more Members would assist the Council's case and relevant Members will be approached by the Chief Officer, Planning Environment and Economy to ascertain their availability. Officers will assist any such Member in preparing for the appeal.
- 12.8 External legal representation and/or consultants will be engaged where the Chief Officer, Planning, Environment and Economy following consultation with the Local Member(s) and the Chair and Vice Chair of the Planning Committee, believes this to be appropriate in all the circumstances. One relevant circumstance is the need for Planning Officers who are members of The Royal Town Planning Institute to comply with its Code of Professional Conduct and not make statements purporting to be their own which are contrary to their bona fide professional opinion.

13. **PLANNING OBLIGATIONS**

- 13.1 The Planning Committee may, when considering the merits of an individual planning application, consider any planning obligation which has been raised with the applicant or agent but should form a view solely on the basis of the contents of the application and should take into account offered planning obligations only to the extent that they are necessary to make a proposal acceptable in land use planning terms.
- 13.2 Members should avoid becoming involved in discussions with applicants, prospective applicants, their agents, landowners or other interested parties regarding benefits, which may be offered to the Council, or benefits which the Council itself wishes to obtain.

14. **REGULAR REVIEW OF DECISIONS**

- 14.1 As part of the aim to continually improve the quality of planning decisions Members will have the opportunity to revisit a sample of implemented planning decisions. Such reviews will be a positive step to improve the quality and consistency of decision-making, not only strengthening public confidence in the planning system but also assist with the review of planning policy.
- 14.2 Such a review will take place annually and briefing notes will be prepared for each case. The Planning Strategy Group will formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.

15. **COMPLAINTS**

- 15.1 Any issues or concern arising from this Code of Practice can be raised with the Chair of the Planning Committee, the Monitoring Officer, the Chief Officer, Planning Environment and Economy or the Legal Officer present at committee. (The Council also has a formal complaints system in operation, which can be used if necessary).

- 15.2 Where members of the public are concerned about any matters arising from this Code of Practice such concerns can be raised under the Public Complaints Procedure via the following link:  
<https://www.flintshire.gov.uk/en/Resident/Contact-Us/Concerns-and-Complaints.aspx>

16. **STATUTORY DUTIES**

The Council is also subject to a number of statutory duties which it must comply with when carrying out its statutory functions. These will apply to the planning function except when such matters are clearly immaterial because they are not capable of relating to the use of development land. Examples of these duties include:

## **Equality**

Section 149 provides that:

- (a) A council must, in the exercise of its functions, have due regard to the need to:
  - (i) eliminate discrimination, harassment, victimisation and any other conduct which is prohibited by or under the Equality Act 2010;
  - (ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (iii) foster good relations between persons who share a protected characteristic and persons who do not share it.
- (b) The above powers relate to the following protected characteristics:
  - (i) ages;
  - (ii) disability;
  - (iii) gender reassignment;
  - (iv) marriage and civil partnership;
  - (v) pregnancy and maternity;
  - (vi) race (including colour, nationality and ethnic or national origins);
  - (vii) religion or belief;
  - (viii) sex; or
  - (ix) sexual orientation.

## **Human Rights**

Section 6(1) of the Human Rights Act 1998 provides that:

"It is unlawful for a public authority to act [or fail to act] in a way which is incompatible with a Convention right."

## **Best Value**

Section 3(1) of the Local Government Act 1999 and Part 1 of the Local Government (Wales) Measure 2009 provides that:

"A best value authority must make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness."

## **Crime and Order**

Section 17(1) of the Crime and Disorder Act 1998 provides that:

"Without prejudice to any other obligation imposed on it, it shall be the duty of a [local authority] to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area."

### **Well-being of Future Generations**

Section 2(2) of the Planning (Wales) Act 2015 provides that:

“[A local authority’s planning functions] must be exercised, as part of carrying out sustainable development in accordance with the Well-being of Future Generations (Wales) Act 2015, for the purpose of ensuring that the development and use of land contribute to improving the economic, social, environmental and cultural well-being of Wales”.

### **Biodiversity**

Sections 6(1) and 6(2) of the Environment (Wales) Act 2016 provides that:

“A public authority must seek to maintain and enhance biodiversity in the exercise of functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions.”

“In complying with [this duty], a public authority must take account of the resilience of ecosystems, in particular the following aspects

- (a) diversity between and within ecosystems;
- (b) the connections between and within ecosystems;
- (c) the scale of ecosystems;
- (d) the condition of ecosystems (including their structure and functioning);
- (e) the adaptability of ecosystems.”

### **Welsh Language**

Section 61 of the Planning and Compulsory Purchase Act 2004 provides that:

“The local planning authority must keep under review the matters which are expected to affect the development of their area or the planning of its development. These matters include the principal physical, economic, social and environmental characteristics of the area of the authority (including the extent to which the Welsh language is used in the area)”;

Section 62 of the Planning and Compulsory Purchase Act 2004 provides that:

Local planning authorities must carry out an appraisal of the sustainability of their local development plan.

“The appraisal must include an assessment of the likely effects of the plan on the use of the Welsh Language in the area of the authority.”

## **SECTION 24**

## 21 **EMPLOYEES' CODE OF CONDUCT**

The words in italics comprise the statutory Employees' Code of Conduct which is automatically incorporated into Employees' Contracts of Employment and will prevail in circumstances where there is any contradictory provision elsewhere in the Code.

### **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.*
- 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. Flintshire employees are expected to show respect and courtesy in their dealings with the public, Councillors and fellow employees providing them with impartial and appropriate advice.

### **Accountability**

2. *Qualifying employees of relevant authorities work for their employing Authority and serve the whole of that Authority. Qualifying employees are defined as all employees of a relevant Authority unless exempted by statutory regulation, e.g. Teachers and Officers of Fire Authorities. 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.*
- 2.1 Employees must report any impropriety or breach of procedure to their immediate manager, except where that relates to the conduct of the manager when it must be reported to the manager's manager. Managers should, in turn, report breaches to their manager. The Chief Officer shall notify the Head of Legal & Democratic Services of the occurrence.
- 2.2 All employees are required to familiarise themselves with and comply with the Council's Financial Procedure Rules. Any employee who fails to observe Financial Procedure Rules may be subject to disciplinary action.
- 2.3 Orders and contracts must be awarded on merit and no special favour should be shown in the procurement process to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.
- 2.4 Employees involved in the procurement 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.

- 2.5 Employees in Contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, other Contractors and sub-Contractors.
- 2.6 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.
- 2.7 Employees contemplating a management buyout must, as soon as they have formed a definite intent, inform their manager and withdraw from the contract awarding processes.
- 2.8 Employees must 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.
- 2.9 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.
- 2.10 Local Government Act 1972 117 - Pecuniary Interests - provides that if officers know that a contract in which they have a pecuniary interest is before the local Authority, they must give notice of their interest to the Authority. This does not, of course, apply to a contract with them in their own name because the Authority will then know of their interest. Section 117(2) forbids any officer "under colour of' their office or employment to accept "any fee or reward" whatsoever other than proper remuneration.

#### 2.11 *The Bribery Act 2010*

The Bribery Act 2010 creates criminal offences for any individual who either offers or receives a financial or other advantage intending the advantage to be rewarded by the improper performance of a function or activity. The Act also creates an offence of directly or indirectly offering, promising or giving a bribe to a foreign public official so as to influence the actions of the foreign public official. Any individual found guilty of any of these offences is liable to imprisonment for up to a maximum period of 10 years.

- 2.12 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. Any offer of sponsorship should only be accepted if the appropriate Chief Officer has so decided. Particular care must be taken when dealing with Contractors or potential Contractors.

- 2.13 Any offers of sponsorship received by employees should be referred to their Chief Officer for decision
- 2.14 Where the Authority wishes to sponsor an event or service neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full disclosure to an appropriate manager of any such interest. 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.

### **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 or the nature of the work they do), they must comply with any statutory restrictions on their political activities.*
- 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 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.
- 3.5 The Local Government and Housing Act 1989, Pt 1 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 (sl(1)), from being an MP, AM or MEP and are subject to prescribed restrictions on their political activity (sl(5),(6)).
- 3.6 The Local Government & Housing Act 1989 requires each Council to maintain a list of its politically restricted posts. These are posts which are:-
- (a) specified in the legislation, such as the Head of Paid ServiceChief Executive, Chief Officers and their Deputies.

- (b) those posts which have delegated powers to make decisions on behalf of the Council.
- (c) those posts that regularly provide advice at Council, Cabinet or formal Committee or sub Committee meetings.
- (d) those posts that speak on behalf of the authority on a regular basis to journalists and broadcasters.

3.7 The political restrictions are deemed to be incorporated in the contract of employment of every local Authority employee who holds a politically restricted post. If you are uncertain as to whether your post is politically restricted you should seek clarification from your immediate manager and, if uncertainty remains, contact the Democracy and Governance Manager.

***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.*

5.1 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.

5.2 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.

5.3 Contractors

Orders and contracts must be awarded on merit, by fair competition and no special favour should be shown to businesses run by, for example, friends, partners or relatives in the procurement process. No part of the local community should be discriminated against.

If during the course of your work you are dealing with an external Contractor with whom you have, or have had within the last 12 months, a business or private relationship you must immediately make your manager aware of that relationship.

### **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.*
- 6.1 All local government employees must 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.

### **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.*
- 7.1 All employees are required to familiarise themselves with the Council's Financial Procedure Rules and Contract Procedure Rules and know where they can inspect a copy of them. Any doubt concerning Financial Procedure Rules and Contract Procedure Rules should be raised with your immediate manager and, if the doubt continues, with the Finance Department
- 7.2 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.

### **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.*
- 8.1 In addition to the criminal offence under Section 117 of the Local Government Act 1972 concerning pecuniary interests (see paragraph 2.10 above) there are the following rules concerning personal interests.

- 8.2 Employees have a personal interest whenever a reasonable person would perceive a conflict between the employee's private affairs and the work the employee does for the authority. A personal interest can arise in a range of different circumstances as set out in the following paragraphs, including (but not limited to) the matters listed below:
- Dealing with friends, family or an organisation with which the employee is associated
  - Gifts or hospitality
  - Outside work including paid and non-paid roles
- 8.3 There would be a personal interest under 8.2 if in the course of the employee's Council work he/she would normally deal with a matter that would affect him/her, their family, a close personal associate, their property, or an organisation they are associated with. For instance, if in the course of the employee's work they would normally deal with a planning application affecting a relative's property or where the employee is involved in processing a payment to an organisation with which the employee is associated.
- 8.4 Wherever the employee has such a personal interest they should immediately draw it to the attention of their Line Manager who would normally decide that the employee should not be involved in dealing with that matter. This does not mean that the employee can not be trusted but is to protect both the Council's reputation and the employee's reputation against allegations of favouritism. In exceptional circumstances where the employee's skills can not be replicated the Manager may allow the employee to undertake the work but put in place other controls such as being copied into all communications.
- 8.5 The arrangements must be recorded in writing and communicated to all other employees who need to know what the arrangements are. Each Chief Officer should have a register to record all such declarations of interest and any consequential working arrangements promptly in it. It is the employee's responsibility to ensure their declaration of interest is recorded.
- 8.6 The Council has approved forms which may be used for the reporting and recording of interests, and which give guidance on when to declare an interest and how managers should handle such interests once declared.

#### 8.7 Intellectual property

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.

#### 8.8 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 the 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.
- 8.9 Chief Officers, those Managers reporting directly to them and employees with delegated powers will be asked to voluntarily register their membership of all clubs, societies and organisations.

### **Section 9 – Gifts & Hospitality**

- 9.1 In addition to the criminal offences covered by the Bribery Act 2010 referred to in paragraph 2.11 above there are the following rules concerning gifts and hospitality.
- 9.2 Employees must not retain personal gifts obtained, whether directly or indirectly, as a result of their work for the authority. The only gifts that employees are entitled to retain are insignificant items of token value such as pens and diaries. With any other gifts the employee should draw this to the attention of their Line Manager who may decide that rather than the gift being returned it should be forwarded to the Member Support Office as a donation to the Chair's charity. All offers of gifts should be recorded in the register maintained by the Chief Officers.
- 9.3 Offers of hospitality can only be accepted when authorised by Chief Officers or where covered by paragraph 9.4 below.
- 9.4 Unless specifically authorised by the Chief Officer hospitality can only be accepted when an employee is attending conferences or courses, launch events, award ceremonies and other events/functions organised by Council, partners or other public bodies at which the Council needs to be represented where it is clear the hospitality is being offered indiscriminately and the value of any such hospitality does not exceed £10.
- 9.5 When gifts or hospitality are declined those making the offer should be courteous but firmly informed of the procedures and standards operating within the authority that require it to be declined.
- 9.6 It is the employee's responsibility to ensure that offers of gifts and hospitality are recorded in the appropriate departmental register.

### **Section 10 – Employees' Outside Work**

- 10.1 All employees have conditions of service which require them to obtain written

consent before they take on any outside employment. This includes:

- running a business that is related to an employee's work for the council e.g. a lawyer running a private law firm ; or
- having any other work or employment outside of the Council that is related to the work carried out for the Council e.g. a licensing officer running licensed premises

- 10.2 Employees must not undertake outside work if their official work for the authority overlaps in any way with such outside work. It is irrelevant whether or not the outside work is paid for or not.
- 10.3 No outside work of any sort can be undertaken on Council premises or use Council facilities such as telephones or IT. Incoming correspondence or telephone calls relating to outside work are also not allowed.
- 10.4 Whilst an employee's right to a private life is respected that does not justify conduct which could reasonably be regarded as bringing the authority into disrepute or significantly and fundamentally affect the employee's ability to work for the Council.
- 10.5 There would be a breach of paragraph 10.4, for example:
- if an employee acts in such a way that when other employees or service users became aware of it they reasonably refuse to work or communicate with the employee; or
  - the employee works extremely long hours across both jobs to the detriment of their work for the Council; or
  - the employee is distracted in the performance of Council duties by the outside job.

## **Section 11 – Disclosure of Information**

- 11.1 Flintshire supports the principles of open government and encourages employees to assist the public in obtaining public documentation in accordance with the rights contained in the Local Government Act 1972, the Freedom of Information Act 2000 and Environmental Information Regulations 2004.
- 11.2 The Council's Constitution, available on the Infonet, contains Access to Information Procedure Rules explaining the legislation relating to these information rights. If an employee is uncertain as to whether information being sought should be disclosed the employee must seek advice from his/her Manager and, if uncertainty remains, the Manager can seek guidance from the Information Governance Manager.
- 11.3 Only employees with specific delegated authority may disclose to members of the public any information arising, documentation considered or events occurring at a time when a Council, Cabinet, Committee or sub-Committee meeting has decided to exclude the press and public from that part of its meeting.

- 11.4 Employees must not disclose personal data where this is not permitted under the ~~General Data Protection Regulation~~[Data Protection Legislation](#). If in doubt seek advice from your Manager and explain to the person requesting the information the importance of complying with the data protection legislation. If the Manager is uncertain, advice is available from the appropriate member of the Council's Information Governance Team.
- 11.5 These rules apply not only to the press and public but also to requests from partner agencies or external bodies. Requests for information from councillors must be handled in accordance with the Council's Information Sharing Rules that are in the Constitution.
- 11.6 Where enforcing authorities such as the Police, Wales Audit Office or Health & Safety Executive are seeking information they may be doing so pursuant to statutory powers which they would quote. It is important to ensure that the request is being made by the regulatory body not an impostor. Legitimate bodies accept the need to produce written authority. If in doubt advice is available from the Council's Legal Department. Where such bodies are not using their statutory powers to obtain information then personal information should not be disclosed without ensuring it would not breach the ~~General Data Protection Regulation~~[Data Protection Legislation](#).
- 11.7 Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor 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 must not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

### **Whistleblowing**

12. *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.*

### **Appointment of Employees**

13. *Qualifying employees of relevant authorities involved in the recruitment and appointment of employees 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.*
- 13.1 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.

- 13.2 Similarly, employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close personal friend.
- 13.3 All candidates for any appointment under Flintshire County Council shall, when making an application, disclose in writing to the Authority whether to their knowledge they are related to any Member of the Authority or to a holder of any senior office under the Authority. Deliberate omission to make such a disclosure will disqualify the candidate and, if the omission is discovered after appointment, he/she shall be liable to dismissal. Every senior officer of the Authority shall similarly disclose to the Authority any relationship known to him/her to exist between himself/herself and a candidate for an appointment of which he/she is aware. The Chief Executive's office will keep a record of any such disclosure made.

#### ***Investigations by Monitoring Officers***

14. 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.

## **SECTION 25**

### **PROTOCOL ON MEMBER/OFFICER RELATIONS**

#### **1.0 Introduction**

- 1.1 Effective local governance and community leadership depends on good working relationships between Members and Officers.
- 1.2 This Protocol provides guidance for Members (which includes co-opted members) and Officers in their working relations with each other. The Protocol covers the more common working situations, but is not comprehensive. The principles underlying it may be applicable to other situations.
- 1.3 This Protocol applies only to working relations between Members in their role as Members and Officers in their capacity as Officers.

#### **2.0 Working Relations**

- 2.1 Members and Officers shall establish sound and effective working relations that engender mutual respect and put aside any personal differences.
- 2.2 Members will comply with the Members' Code of Conduct and Officers with the Officers' Code of Conduct.
- 2.3 The National Conditions of Service for Staff in Local Government provide:  
*"The public is entitled to demand, of a local government Officer, conduct of the highest standard".*
- 2.4 Members and Officers must recognise their different roles, needs and objectives. They must be ready to discuss positively how working relations between each other can most effectively be developed (which is normally undertaken by discussion following elections and periodically thereafter). Members and Officers must set aside any personal differences in the interests of maintaining effective working relations.
- 2.5 It is important that Officers develop political awareness of issues that are sensitive to the individual political groups represented on the Council.

#### **3.0 Roles of Members and Officers**

- 3.1 The respective roles of Members and Officers can be summarised as follows:-  
Members and Officers are servants to the public and they are indispensable to one another. Their responsibilities are distinct. Members are responsible to the electorate and set policy and direction. They can help to guide implementation of policy (especially Cabinet Members) but typically do not get involved in decisions on specific cases (other than at quasi-judicial committees such as Planning and Licensing). Officers are responsible to the Council. An Officer's job is to give advice to the Council and to carry out the Council's work under the direction and

control of the Council, the Cabinet and relevant committees. Senior Officers will help Members to develop policy.

3.2 Members have four main areas of responsibility:-

- Contributing to determining the policy of the Council and giving it leadership;
- Monitoring and reviewing the performance of the Council in implementing that policy and delivering services;
- Representing the Council in their local areas and externally;
- Acting as advocates on behalf of their constituents.

3.3 An Officer's role is:-

- To give advice and information to all Members on an impartial basis;
- To help Members formulate policies; and
- To implement policies determined by the authority, provided the policies are within the law.
- In all advice, including reports, it is the responsibility of the Officer to express his/her own professional advice in an objective manner and make recommendations based on this.

3.4 Through performance appraisal, target setting and day to day management, Officers receive guidance and direction from their Line Managers. Members are not authorised to ask Officers to undertake specific tasks other than:-

- Through the formal decision-making process (Council, Cabinet, Committees etc);
- To request the provision of consumable resources provided by the Council for the use of Members;
- Where staff have been specifically allocated to give support to a Member, a group of Members, or all Members.

#### 4.0 **Expectations**

4.1 Members can expect from Officers:-

- a) A commitment to the Council as a whole and not to any political group.
- b) A working partnership.
- c) An understanding of and support for respective roles, workloads and the differing pressures.
- d) Timely response to enquiries and complaints in accordance with the agreed procedure for handling Member queries.
- e) Clear, objective advice, not influenced by political views or preference, which does not compromise the political neutrality of Officers.
- f) Regular, up-to-date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- g) Awareness of and sensitivity to the political environment.
- h) Respect, courtesy and dignified behaviour appropriate to the occasion.
- i) Training and development in order to carry out their role effectively.
- j) A high level of integrity and confidentiality, appropriate to the situation.

- k) Not to have Officers' personal issues raised with them outside the agreed procedures.
- l) That they will not attempt to influence improperly any Member to advance Officers' personal interests or influence improperly a decision
- m) At all times compliance with the Code of Conduct for Officers
- n) Support for the role of Members as the local representatives of the Council, within any scheme of support for Members' , which may be approved by the authority.
- o) feedback from employees on the outcome of issues raised with them by the Member – such feedback will be in accordance with the Information Sharing Rules in the Constitution

#### 4.2 Officers can expect from Members:

- a) A working partnership.
- b) An understanding of and support for respective roles, workloads and differing pressures.
- c) Leadership and direction.
- d) Respect for their advice and as a person, courtesy and dignified behaviour appropriate to the occasion as set out within the Flintshire Standard.
- e) A high level of integrity and confidentiality appropriate to the situation.
- f) Not to be subject to bullying or to be put under undue pressure to accord with a Member's wishes.
- g) Not to use their position or relationship with Officers improperly to advance their personal interests, or those of others, or to improperly influence decisions.
- h) That Members will at all times comply with the Council's Code of Conduct.
- i) Appropriate scrutiny of decisions that focuses on objective measures of performance and outcomes
- j) Respect for differing working hours and working patterns with appropriate time being allowed for responding to queries and concerns as set out in the agreed procedure

#### 5.0 **Courtesy**

5.1 Mutual respect between Members and Officers is essential, it is important that any dealings between the parties should observe the highest standards of behaviour and courtesy towards each other and will not take or attempt to take unfair advantage of their position.

5.2 Members and Officers should have regard to the formality of the occasion as to the mode of address they choose to adopt. In particular, in formally convened meetings and/or meetings open to the public a formal mode of address should be adopted. In all other cases Members and Officers will respect preferred modes of address.

5.3 The behaviours expected are set out in more detail within the Flintshire Standard which also includes a mechanism for informally resolving disputes between Members and Officers.

## **6 Officers Giving Advice and Information to Political Groups**

- 6.1 There is statutory recognition for political groups. It is common practice for such groups to give preliminary consideration to matters of Council business in advance of them being considered at Council, Cabinet or Committee, though for some committees (such as Planning Committee and Overview and Scrutiny Committees) it is not appropriate to apply a "political whip". Officers may properly be called upon to support and contribute to such deliberations by political groups.
- 6.2 The support provided by Officers can take many forms, ranging from a briefing meeting with a Chairperson or Spokesperson prior to a Committee meeting, to a presentation to a full political group meeting. Whilst in practice such Officer support is likely to be in most demand from whichever political group is for the time being in control of the Council, such support is available to all political groups.
- 6.3 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
- (a) Officer support 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. The observance of this distinction will be assisted if Officers are not expected to be present at meetings, or parts of meetings, when matters of political group business are to be discussed;
  - (b) Political group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not, therefore, rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
  - (c) Similarly, where Officers provide information and advice to a political group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the County Council or the relevant Committee or Sub-Committee when the matter in question is considered.
- 6.4 Special care needs to be exercised whenever Officers are involved in providing information and advice to a political group meeting which includes persons who are not Members of the Council. Such persons will not be bound by the National Code of Local Government Conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons Officers may not be able to provide the same level of information and advice as they would to a Members only meeting.
- 6.5 Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussions to another political group.

6.6 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 Leader(s).

#### **7.0 Support Services to Members**

7.1 Members will use support services and resources provided by the Council only for Council business. Support services shall not be used for political or campaigning activity, or for private purposes.

7.2 The Council provides support services to Members (including stationery, IT facilities, printing, photo-copying, travel, transport and parking arrangement, etc.) to assist Members in discharging their role as Members of the Council.

7.3 Support services are provided by the Members' Services Section of the Governance Portfolio. Individual services may, in addition, provide support to a Cabinet Member, Chairs of Committee and Panel Chairs.

#### **8.0 Communications and Meetings**

8.1 Members and Officers will not, without the agreement of the author, copy a communication, whether physical or electronic, from a member of the public (including MPs, AMs or MEPs) or Member to another Member or to any other third party. This is not intended to restrict the normal sharing of correspondence by Officers with each other and their managers in order to respond to and handle that communication.

8.2 Most correspondence between Officers or from Officers to Members will be open and may be copied as a part of the normal arrangements for dealing with the matter within it. Members and Officers may from time to time raise matters confidentially with each other and such confidences shall be respected.

8.3 It may be necessary or appropriate for an Officer to discuss the content of a confidential communication with a Member, particularly where political consultation is required before action is taken under Officer delegated powers. In these circumstances, the communication should not be copied or shown to another Member or the identity of the author revealed without the express permission of that author.

8.4 Official communications on behalf of the Council should be sent in the name of the appropriate Officer, rather than in the name of a Member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister or Assembly Secretary) for a communication to appear in the name of a Member, but this should be the exception rather than the norm. Communications which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

8.5 Members and Officers need to meet or speak to discuss Council business. Officers will often keep a written note of such meetings as an aide memoire. Sometimes a more formal note of the discussion will be prepared such as a

confirmatory email or minutes. Such record keeping is to be expected, and is normally taken to be agreed. Covert recording of meetings or conversations should not take place.

#### **9.0 Specific Member/Officer Working Relations**

9.1 Members and Officers will not allow a working relationship to become so close or appear to be so close as to bring into question the Officer's ability to deal impartially with other Members, political groups and other Officers. Where a Member and an Officer have a close relationship (whether familial, social, business, emotional etc) its existence must be declared, through the relevant process for declaring interests, so that appropriate steps can be taken to ensure that the relationship does not

- impinge upon the functioning of the Council or the exercise of council functions
- undermine or circumvent procedural safeguards
- impact upon the Council's reputation

9.2 Cabinet Members with Portfolios, and other appropriate members are routinely consulted by Officers, prior to making decisions under delegated powers, as required by specific requirements within the Constitution or based on the Officer's assessment of the significance of the decision.

9.3 The Cabinet Member and/or the Chair and/or the Vice-Chair of the Committee or Panel will be consulted as a part of the agenda preparation for meetings.

9.4 Officers having delegated decision-making Authority are entitled, where considered expedient, to refer a matter to the Cabinet Committee or appropriate Sub-Committee for decision. Officers of Cabinet Management are responsible for the contents of all reports submitted in their name.

9.5 Members must acknowledge that Officers within a department are accountable to their Chief Officer. Officers should always be prepared to assist Members, but they cannot go beyond the bounds of the Authority given to them by their Chief Officer and they must not be asked to do so. Members must also recognise that Officers are bound by professional standards, codes of conduct or professional ethics and they should not be asked to go outside of the bounds set in such codes.

#### **10.0 Involvement of Ward Councillors**

10.1 Ward Members will be invited to attend any public meeting organised by the Council which relates to issues affecting their ward.

10.2 Ward Members must be apprised of local issues affecting their ward and involved in any public meeting or consultation exercise. They must be notified, at the outset, of any consultation on a local issue affecting their ward.

10.3 It is the responsibility of a Member who invites an Officer to a public meeting, or who is present at a public meeting to which an Officer has been invited by

others, to ensure that the Officer is treated with appropriate levels of courtesy and respect by those at the meeting.

#### **11.0 Members' Access to Information and to Council Documents**

11.1 Members have legal rights to access information and Council documents that go beyond the rights enjoyed by members of the public. The law relating to Member's rights to information is complex and includes common law and statutory rights. The Council has agreed procedures for what information will be shared with Members in the Information Rules contained within the Constitution. If at any time a Member believes access to information or Council documents is being denied contrary to the Member's legal rights the issue should be raised with the Monitoring Officer or a member of the Legal Service.

#### **12.0 Confidentiality of Reports and Correspondence**

12.1 All Chief Officers have a duty to satisfy themselves that Committee reports to which they are signatories are only classified as 'exempt information' when the statutory criteria for confidentiality are met. The Chief Executive and the Chief Officer, Governance have an overriding responsibility to determine this compliance.

12.2 Once a report has been issued within Part II of the agenda for a meeting and until a Committee decides that it should be discussed in public, Members and Officers must respect the confidentiality of the report and not disclose it to a third party.

12.3 It does not, however, follow that all the contents of the report must be regarded as secret. It may only be certain items of information or terms of negotiations that justify the inclusion of that report within Part II; other aspects may already be within the public domain or otherwise outside the definition of 'exempt'. A Member may accordingly refer to these aspects in discussions with third parties but must exercise proper care and judgement not to reveal those elements of the paper which are protected but it will always be prudent for that Member to consult the Chief Officer, Governance before doing so.

#### **13.0 Access to Council Premises**

13.1 All Members of the Council shall be entitled to use, and have access to, any Council building or premises, when that building or the premises are open, as follows:

- a) anywhere which is open to the public;
- b) the Council Chamber and Committee Rooms for the purposes of attending and/or observing scheduled meetings of the Council, its Committees and Sub-Committees, Fora and the Cabinet (subject to any restrictions set out in the Access to Information Procedure Rules) or any public meeting held in those rooms by any other agency or body.
- c) areas set aside for the use of Members as a whole (such as the Members' Services Suite), as a group (such as group rooms), or as an individual (such as the Leader's office, Chair's parlour etc)

- d) any room to which the Member has been invited for a meeting by an Officer.
- e) the canteen
- f) rooms being used for meetings of political groups

13.02 Such access is to be used for Council purposes and fulfilling the Member's role and responsibilities within the Council only. Members, as with officers, when they are not acting in pursuit of their roles and duties as a Member, have no greater rights of access to Council buildings and premises than members of the public.

13.3 There is a general presumption that Members will not require access to Council buildings outside of the hours 7.30 am to 7.00 pm except for scheduled or public meetings referred to in 13.1 above. In exceptional circumstances where a Member remains in the building beyond 7.00 pm, he/she must inform security of his/her presence and location and give an indication as to how long he/she intends to stay.

13.4 Where individual Groups have been allotted rooms for their sole use ("group rooms"), Members of that group shall be entitled to have access to the group room subject to any reasonable restrictions which that Group may wish to place upon access from time to time.

13.05 Members shall not be entitled to enter certain restricted sensitive areas including the central computer suite, benefits service (including the corridor on that part of the ground floor on Phase 2), payroll, and child protection unless by invitation of the Chief Officer or a duly authorised Officer in exceptional circumstances.

13.06 Subject to 13.01 and 13.05 above, Members will not be entitled to enter other areas in Council buildings so as to preserve the physical security of personal data under GDPR and so as to respect the fact that they are workplaces where Officers are expected to be concentrating on their duties. Members may enter such areas following express invitation to attend a meeting with an Officer, or to arrange a meeting with an Officer. When seeking meetings, Members will endeavour to make appointments with Officers in advance giving them sufficient time to research the matter to be discussed. A suitable venue for the proposed meeting will be arranged at that time.

13.07 In situations where Members and Officers inadvertently meet in the course of their business there should be no expectation on the part of the Member that the Officer will deal with any issue that the Member wishes to raise, unless both agree that it is an urgent issue which cannot wait for a formal appointment to be arranged.

13.08 Areas set aside for the use of Members or Groups are for by councillors only, and councillors must not invite members of the public into those areas

#### **14.0 Criticism of Members and Officers**

14.1 As employer, the Council has a duty to provide and maintain a working environment which is reasonably tolerable to all employees and to protect them from unacceptable treatment and behaviour and unauthorised interference in work duties. All Members must ensure they discharge their duties as employer fairly and impartially and not do anything to undermine the relationship of mutual trust and confidence which must exist between the Council and its employees.

14.2 No public comment will be made on ongoing disciplinary proceedings as it could prejudice their outcome or breach the confidentiality that employees are entitled to expect in relation to such matters.

#### **15.0 Political Group Leaders and the Chief Executive**

15.1 The Political Group Leaders and the Chief Executive will develop and conduct appropriate working relations.

15.2 Regular Briefing arrangements between the Political Group Leaders and the Chief Executive are an essential part of the democratic machinery of the Council. It is important that the Chief Executive, as Head of the Paid Service, is accessible by all political groups represented on the Council through their respective Leaders.

#### **16.0 Issues regarding Working Relations between Members and Officers**

16.1 Members and Officers will seek to resolve any issues arising within their working relations. In the first instance this will be done by the relevant Member and Officer.

16.2 Where a Member and an Officer are unable to resolve any such issue then the:

- Member's Group Leader; and/or
- Officer's line manager and/or Chief Officer

may be involved.

16.3 The relevant Political Group Leader and the Chief Executive will seek to resolve by mediation and conciliation any unresolved problem or breakdown in working relationships between Members and Officers.

#### **17.0 Review**

17.1 This Protocol will be reviewed from time to time.

**SECTION 26**

**WHISTLEBLOWING POLICY**

**FLINTSHIRE COUNTY COUNCIL**  
**(Excluding staff employed by School Governing Bodies)**

Whistleblowing Policy  
December 2019

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|   |   |
|---|---|
| Policy Owners   | Internal Audit Manager and Senior Manager, Human Resources & Organisational Development |
| Date Implemented  | April 2007  |
| Date Last Reviewed  | April 2014  |
| Current Review:   |   |
| Approved by Governance and Audit Committee (Version 1.9)                  | February 2019   |
| Approved by Constitution and Democratic Services Committee (Version 1.10) | June 2019   |
| Approved by Council (Version 2)   | December 2019   |

**1. Introduction**

- 1.1 Flintshire County Council (the Council) encourages a free and open culture in dealings between its managers, employees and all people with whom it engages in business and legal relations. In particular, the Council recognises that effective and honest communication is essential if concerns about breaches or failures are to be effectively dealt with and the organisation's success ensured.
- 1.2 The Council aims to create an environment where an individual (employees or member) or a third party (supplier / contractor/volunteers) feels able to share their concerns internally in confidence and does not suffer any detriment or victimisation as a result of making a protected disclosure.
- 1.3 Flintshire County Council are committed to this policy and to maintaining high ethical standards. If you raise a genuine concern under this policy, your concern will be taken seriously and you will not be at risk of losing your job or suffering any form of retribution as a result, even if the concern proves to be unfounded.

**2. The Council's Commitment**

- Individuals who reasonably believe that the disclosure they are making is true will not face sanctions.
- Anybody attempting to deter individuals from raising concerns or victimising them for doing so may be subject to disciplinary action.
- At the same time someone who maliciously raises a matter they know is untrue may also be subject to disciplinary action (where applicable).

### 3. Aims of the Policy

- 3.1 This policy sets out how to make a disclosure under the Public Interest Disclosure Act 1998. This policy is designed to provide guidance to all those who work with or within the Council, who may from time to time feel that they need to raise certain issues relating to the organisation with someone in confidence.
- 3.2 This Policy ensures that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.
- 3.3 Procedures for raising concerns internally (within the Council), members and externally are given. When raising concerns internally we would encourage you to follow procedures 1 and 2 but if you feel you cannot do so, please follow the procedure 3 rather than doing nothing. For members and concerns raised externally procedure 3 should be followed.
- 3.4 This policy should be read in conjunction with the Council's Anti-Fraud and Corruption Strategy and the Fraud and Irregularity Response Plan which can be found on the Council's website and Infonet.

### 4. Definitions

- 4.1 Whistleblowing is the raising of concern, either within the workplace or externally, about a danger, risk, malpractice, wrongdoing or unethical practices which affects others. It is primarily for concerns where the interests of others or the organisation itself are at risk.
- 4.2 **Fraud:** for the purpose of this policy fraud refers to where an individual has undertaken, or intends to undertake, actions in order to obtain gain for him/herself or another, or cause loss to another, or expose another to risk of loss. The term 'fraud' encompasses:
  - Fraud by false representation;
  - Fraud by failing to disclose information; and
  - Fraud by abuse of position.

Descriptions of the above can be found within the Fraud Act 2006.

- 4.3 **Corruption:** for the purpose of this policy corruption refers to an individual who has given or obtained advantage through means which are illegitimate, immoral, and/or inconsistent with their duty to the Authority or the rights of others. Examples include accepting bribes or incentives during procurement processes and/or seeking to influence others.
- 4.4 **Malpractice:** for the purpose of this policy malpractice refers to actions which may be:

- illegal, improper, negligent or unethical;
- in breach of a professional code and ethics;
- possible maladministration, fraud or misuse of public funds; or
- acts which are otherwise inconsistent with the Officers Code of Conduct and Members Code of Conduct.

4.5 **Irregularity:** Any administrative or financial mismanagement that comes about either by act or omission.

4.6 This policy does not include grievances about your personal position. If you have a complaint that relates to personal disputes or your own terms and conditions of employment, this should be raised initially with your line manager and if the issue is not resolved by your line manager, the Grievance Policy should be followed.

## 5. Scope of the Policy

- 5.1 This policy applies to all workers (including centrally employed teachers) of Flintshire County Council (As defined by the Employment Rights Act) and is commended to School Governing Bodies and other associated employers as best practice e.g. NEWydd, Aura. The policy also applies to Members and Third Party individuals who work with the Council.
- 5.2 Workers are defined as employees, agency workers, people that are training with Flintshire County Council but are not employed and self-employed workers.
- 5.3 Members must, under the Model Code of Conduct (Wales) Order 2008, report through the Council's confidential reporting procedure, any conduct by another member or anyone who works for, or on behalf of, the Council which they believe involves or is likely to involve criminal behaviour.
- 5.4 **Members should follow Procedure 3 of the Reporting Procedure detailed in Section 8 of this policy.**
- 5.5 Third party individuals are defined as partners, consultants, suppliers, contractors, volunteers and employees of Council suppliers and contractors (who are employed to deliver a service / goods to the Council).
- 5.6 The Public Interest Disclosure Act 1998 applies to all workers within the Council. The Council is also committed to ensuring that any third party or contractor who raises a concern under this Policy will not be harassed or victimised as a result.

**5.7 Third party individuals should follow Procedure 3 of the Reporting Procedure detailed in Section 8 of this policy.**

5.8 Additionally if concerns raised relate to modern slavery and trafficking or any safeguarding issues Social Services should be contacted on 01352 701053 (Children) or 01352 702540 (Adults).

5.9 This procedure applies to, but is not limited to, allegations about any of the following:

- Conduct which is an offence or breach of the law;
- Alleged miscarriage of justice;
- Serious Health and Safety risks;
- The unauthorised use of public funds;
- Possible fraud, corruption or malpractice;  
Sexual, physical or verbal abuse, or bullying or intimidation of employees, customers or service users. This includes concerns relating to modern day slavery and human trafficking;
- Abuse of authority;
- Other unethical conduct e.g. Criminal activity within supply chains, employment practices within the Council or of suppliers / contractors of the Council.

## **6. Independent Advice**

6.1 If you are unsure whether to use this policy or you want independent advice at any stage you should contact:

- The HR Department.
- Your Trade Union representative.
- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.

## **7. Confidentiality**

7.1 We recognise that you may want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent apart from exceptional cases. For example, this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. In such as case the matter will be discussed with you in the first instance. It is also possible that the investigation itself may serve to reveal the source of information, although this will be avoided where possible.

7.2 This policy encourages you to put your name to your allegation, as concerns expressed anonymously are often much more difficult to investigate. However, we would prefer that you raised serious concerns anonymously than not at all. Anonymous allegations will be considered at the discretion of the Council.

## 8. Reporting Procedure

8.1 As an employee of the Council, when raising a concern you follow the reporting **PROCEDURES** described in **8.3** below and as detailed in Appendix D.

8.2 For Members and third party individuals (and their employees) you go directly to **PROCEDURE 3** of the reporting procedure and contact any one of those listed in the first instance. (As stated previously Members must, under the Model Code of Conduct (Wales) Order 2008, report through the Council's confidential reporting procedure, any conduct by another member or anyone who works for, or on behalf of, the Council which they believe involves or likely to involve criminal behaviour).

8.3 Reporting Procedures:

**Procedure 1** Raise the issue first with your line manager in order for practices to be modified before they reach the point where problems are created or harm is caused. These issues will initially be dealt with informally where possible. This may be done orally or in writing.

**Procedure 2** If you feel unable to raise the matter with your line manager, for whatever reason, please raise the matter with the next immediate line manager whom you trust, or with someone outside line management within the Portfolio. Please say if you want to raise the matter in confidence so that they can make appropriate arrangements.

**Procedure 3** If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, or you are a Member or third party please contact one of the following:

- the Internal Audit Manager;
- the Senior Manager, Human Resources & Organisational Development ;
  - the Chief Officer (Governance) and Council's Monitoring Officer; and
- a Member of the Council, who will refer to the appropriate officer.

## 9. The Council's Response

- 9.1 The Council will assess the concern once it is raised, which may involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact them and whether further assistance may be needed. If you request it, we will write to you summarising your concern and how we propose to handle it. Some concerns may be resolved by agreed action without the need for investigation.
- 9.2 While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can within an agreed timescale. The length of time will depend on the nature of the concern. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe upon a duty of confidence owed by us to someone else or being in breach of any statutory requirement.
- 9.3 The Council will ensure that an Officer with knowledge and experience of this procedure will be given the responsibility for obtaining initial information from the referrer. A trained and suitable Officer will also conduct any initial meetings that are required.
- 9.4 At an appropriate stage in any investigation due consideration will need to be given to informing the subject of the concerns raised. It will be necessary to do this to comply with the Council's duties under the Human Rights legislation. However, all efforts will be made to ensure that the source of the concerns remains confidential where possible. The source of the concern will not be disclosed without their consent apart from exceptional cases. For example, this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. In such as case the matter will be discussed with you in the first instance.

## 10. Appeals

- 10.1 If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this Policy.
- 10.2 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 and properly. By using this policy you will help us to achieve this.

## 11. Alternative Reporting Procedure

- 11.1 If all reporting channels have been followed or you do not feel you can raise your concerns within the Council, you can contact a relevant prescribed body.

Examples of prescribed bodies which are relevant to the Council are shown at Appendix C.

11.2 You can also raise your concerns with other external persons such as a Minister of the Crown and the Press or Media.

## 12. Legal Protection

12.1 Providing that you reasonably believe the disclosure you are making is in the public interest and you follow the procedures outlined in this policy then whistleblowing legislation protects you from detriment.

12.2 As an employee, you have a right not to be demoted, suspended, unfairly dismissed or victimised and you will be protected from suffering a detriment, bullying or harassment. Disclosures will be protected if the employee or worker discloses:

- in the course of obtaining legal advice
- to the employer
- to any Member of Parliament (a prescribed person)
- in certain circumstances to a Minister of the Crown
- to a prescribed body (see Appendix B for list of prescribed bodies)
- to another non prescribed person or body e.g. the press or media

12.3 As a Member you have a right not to be unfairly treated or victimised and you will be protected from suffering a detriment, bullying or harassment. Disclosure will be protected if the Member discloses.

- in the course of obtaining legal advice
- to the employer
- to any Member of Parliament (a prescribed person)
- in certain circumstances to a Minister of the Crown
- to a prescribed body (see Appendix B for list of prescribed bodies)
- to another non prescribed person or body e.g. the press or media

12.4 If you are a third party individual raising concerns with the Council you will not suffer any detriment providing you reasonably believe the disclosure is being made in the public interest.

12.5 It should be noted that if disclosures are made to a non-prescribed external body then a number of detailed conditions need to be met. These include a requirement that you do not make the disclosure for personal gain and that it is reasonable to make the disclosure in the circumstances.

12.6 Where a concern is raised directly with the Council by an employee of a third party or contractor, the employee should not suffer any detriment from the employing third party or contractor.

## 13 Responsibilities

### 13.1 Role of the Employee

- Employees are expected to raise concerns they become aware of.
- Employees must reasonably believe the disclosure of information is in the public interest.
- Employees must **not** act maliciously or make false allegations.
- Employees must **not** seek any personal gain.

### 13.2 Role of the Member

- Members are expected to raise concerns they become aware of.
- Members must reasonably believe the disclosure of information is in the public interest.
- Members must **not** act maliciously or make false allegations.
- Members must **not** seek any personal gain.

### 13.3 Role of a Third Party Individual (Partner, Consultant, Supplier, Contractor, volunteers and employees of Council Suppliers and Contractors)

- The Third Party is expected to raise concerns they become aware of.
- The Third Party must reasonably believe the disclosure of information is in the public interest.
- The Third Party must **not** act maliciously or make false allegations. □  
The Third Party must **not** seek any personal gain.

### 13.4 Role of the Manager

- To deal with and respond to any complaints raised under this policy if within their area of control.
- If necessary to escalate the concern to one of the contacts listed under procedure 3.
  - To ensure employees are protected from suffering a detriment as a result of raising an issue under this policy.
- The policy will be reviewed regularly to ensure compliance with changes in employment legislation or recommended best practice. Any future amendments to the policy will be considered by the Governance and Audit Committee.
- A central log of concerns reported under this Policy will be kept by Internal Audit.

- An annual summary of the number and outcomes of whistleblowing cases will also be reported to the Governance and Audit Committee, whilst respecting confidentiality.

### 13.5 Training and Development

Training will be provided to ensure that those with management responsibility for employees are clear about the policy and the procedures contained within it.

## 14 Other Related Policies

14.1 The Council's Anti-Fraud and Corruption Strategy and the Fraud Response Plan can be found on the Council's website and the Infonet.

## Appendix A

### Examples of concerns which could be raised

This policy will apply in cases where employees reasonably believe that the disclosure they are making is in the public interest. Examples of this are:

- a criminal offence has been committed, is being committed or is likely to be committed.
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject to.

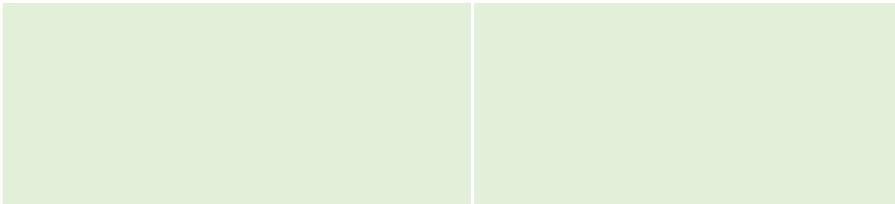
- a miscarriage of justice has occurred, is occurring or is likely to occur.
- the health and safety of any individual has been, is being or is likely to be endangered.
- the environment has been, is being or is likely to be damaged.
- information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- the unauthorised use of public funds.
- possible fraud and corruption e.g. Recent data hacking incidents to obtain payment card information.
- other unethical conduct e.g. not acting with honesty, fairness, equality, dignity and diversity.
- where a criminal act takes place dealing within computers, network or over the internet (Cyber Crime).
- computers are used to manipulate programmes or data dishonestly (e.g. by altering, substituting or destroying records or creating spurious records), or where the use of an IT system was a material factor in the perpetration of fraud (Computer Fraud).
- where unlawful and or unethical employment practices exists such as the unethical treatment of workers by a supplier or contractor of the Council as a result of undue cost and time pressures.
- undue cost and time pressures are not applied to any of our suppliers if this is likely to result in unethical treatment of workers.
- concerns relating to procurement can also be raised directly with Value Wales (supplier feedback service) online on the following websites listed in **Appendix B**

Concerns may relate to modern slavery and trafficking issues. If this is the case, any concerns should be reported on the numbers listed in **Appendix B**

#### Appendix B

#### Initial Contacts for Reporting a Concern

|   |   |
|---|---|
| <p><b>Internal Audit Manager</b><br/>           Flintshire County Council,<br/>           County Hall<br/>           Mold,<br/>           CH7 6NA<br/> <a href="mailto:Lisa.brownbill@flintshire.gov.uk">Lisa.brownbill@flintshire.gov.uk</a></p> <p>Tel: 01352 702231</p>                | <p><b>Council's Monitoring Officer</b><br/>           Flintshire County Council,<br/>           County Hall<br/>           Mold,<br/>           CH7 6NA<br/> <a href="mailto:Gareth.legal@flintshire.gov.uk">Gareth.legal@flintshire.gov.uk</a></p> |
| <p><b>Senior Manager, Human Resources &amp; Organisational Development</b><br/>           Flintshire County Council,<br/>           County Hall<br/>           Mold,<br/>           CH7 6NA<br/> <a href="mailto:Sharon.carney@flintshire.gov.uk">Sharon.carney@flintshire.gov.uk</a></p> |   |



|  |   |
|--|---|
| Modern Day Slavery & Human Trafficking<br>Children - 01352 701053<br>Adults 01352 702540 | Value You Wales (Procurement)<br><a href="https://gov.wales/topics/improvingservices/bettervfm/supplier-feedbackservice/?lang=en">https://gov.wales/topics/improvingservices/bettervfm/supplier-feedbackservice/?lang=en</a><br><a href="https://gov.wales/topics/improvingservices/bettervfm/supplier-feedback-service/?skip=1&amp;lang=cy">https://gov.wales/topics/improvingservices/bettervfm/supplier-feedback-service/?skip=1&amp;lang=cy</a> (Welsh version) |
| Safeguarding<br>Senior Safeguarding Manager-01352 702503                                 |   |

## Appendix C

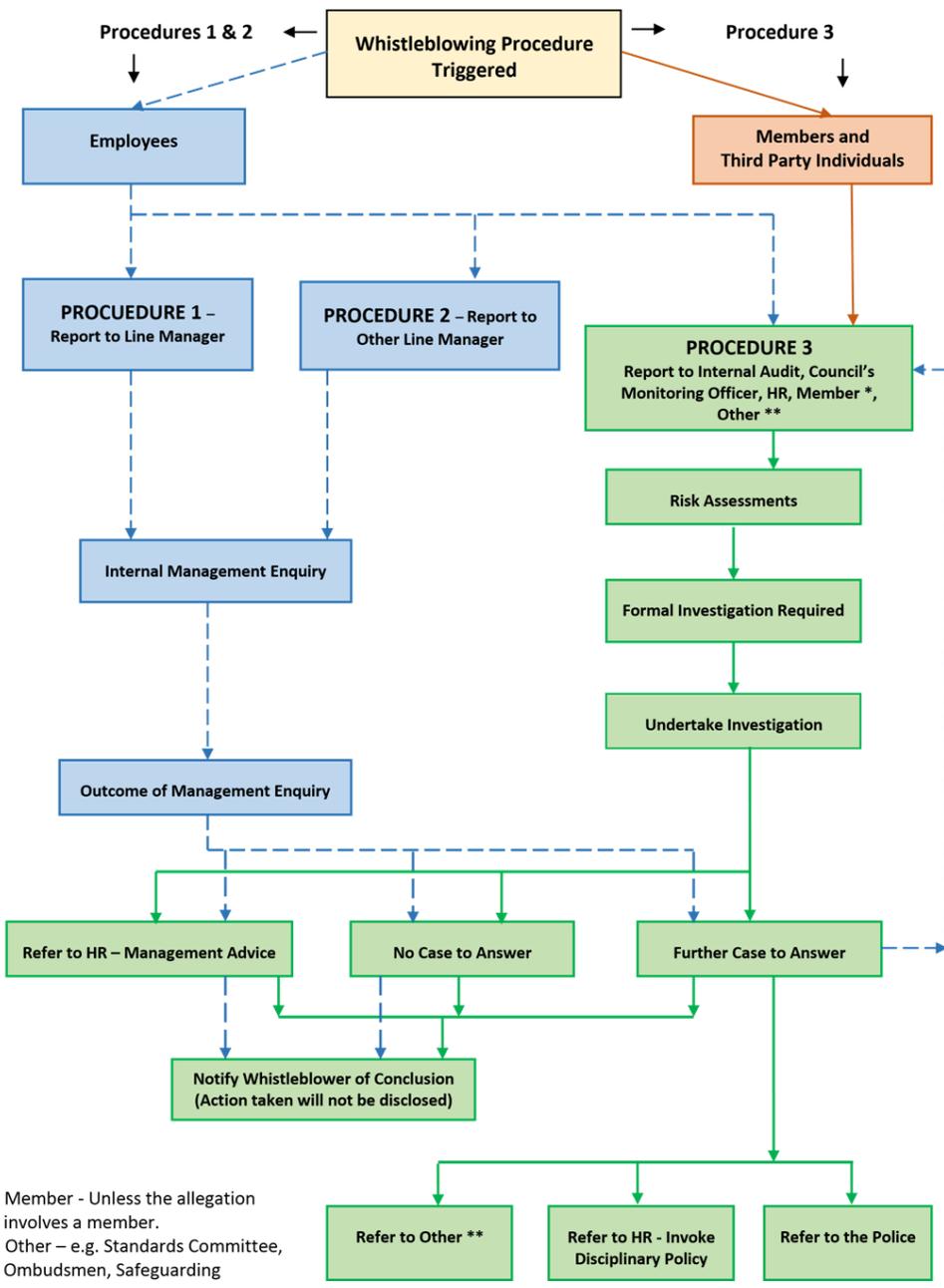
### Alternative Relevant Organisations

Relevant organisations (prescribed regulators) you can contact to make a protected disclosure.

|   |  |
|---|--|
| Auditor General Wales<br>24 Cathedral Road<br>Cardiff,<br>CF11 9LJ Tel:<br>01244 525980<br><a href="mailto:whistleblowing@wao.gov.uk">whistleblowing@wao.gov.uk</a> | Your Local Council Member<br><br><a href="http://committeemeetings.flintshire.gov.uk/mgMemberIndex.aspx?bcr=1">http://committeemeetings.flintshire.gov.uk/mgMemberIndex.aspx?bcr=1</a> |
|---|--|

|   |   |
|---|---|
| Information Commissioner<br>Wycliffe House<br>Water Lane<br>Wilmslow<br>Cheshire<br>SK9 5AF Tel: 01625 545745<br><a href="mailto:mail@ico.gsi.gov.uk">mail@ico.gsi.gov.uk</a> | Health & Safety Executive<br>Rose Court<br>2 Southwark Bridge<br>London<br>SE1 9HS<br>Tel: 0300 0031647 <a href="http://www.hse.gov.uk">www.hse.gov.uk</a><br>(online form)                 |
| The Environmental Agency<br>Horizon House<br>Deanery Road<br>Bristol<br>BS1 5AH<br>Tel: 03708 506506  | The Director of the Serious Fraud Office<br>2-4 Cockspur Street<br>London<br>SW1Y 5BS<br>Tel: 020 7239 7272<br><a href="mailto:confidential@sfo.gsi.gov.uk">confidential@sfo.gsi.gov.uk</a> |
| Any Members of Parliament   |   |
| David Hanson<br>01352 763159<br><a href="mailto:David.hanson.mp@parliament.uk">David.hanson.mp@parliament.uk</a>  | Mark Tami 01244<br>819854<br><a href="mailto:tamim@parliament.uk">tamim@parliament.uk</a>   |
| Any Assembly Member for Alyn & Deeside or Delyn   |   |
| Jack Sargeant<br>0300 200 6565<br><a href="mailto:Jack.sargeant@assembly.wales">Jack.sargeant@assembly.wales</a>  | Hannah Blythyn<br>0300 200 7132<br><a href="mailto:Hannah.Blythyn@assembly.wales">Hannah.Blythyn@assembly.wales</a>   |
| Mandy Jones 0300<br>200 7387<br><a href="mailto:mandy.jones@assembly.wales">mandy.jones@assembly.wales</a>  | Mark Isherwood<br>0300 200 7217<br><a href="mailto:Mark.Isherwood@assembly.wales">Mark.Isherwood@assembly.wales</a>   |
| Michelle Jones<br><a href="mailto:Michelle.Brown@assembly.wales">Michelle.Brown@assembly.wales</a>  | Llyr Gruffydd<br>01824 703 593<br><a href="mailto:Llyr.Gruffydd@assembly.wales">Llyr.Gruffydd@assembly.wales</a>  |

There are many other prescribed regulators who can be contacted to raise a concern, they can be found at <http://www.direct.gov.uk/>.



\* Member - Unless the allegation involves a member.  
 \*\* Other - e.g. Standards Committee, Ombudsmen, Safeguarding

## **SECTION 27**

### **MEMBERS CONFIDENTIAL REPORTING PROCEDURE**

1. For any complaint by a member of staff against the conduct of an elected member of the Council be put in writing in an envelope addressed to the Chair of the Standards Committee, Chief Officer, Governance's Portfolio, County Hall, Mold and for the envelope to be marked confidential.
2. For the Monitoring Officer/Deputy Monitoring Officer to forward any such letters unopened to the Chair (or in his/her absence to the Vice-Chair).
3. For the Chair/Vice-Chair to consult with the Monitoring Officer/Deputy Monitoring Officer or other appropriate senior officer as to how best to progress the matter. The Chair/Vice-Chair will not disclose the identity of the complainant unless the complainant has agreed to such disclosure.
4. If at any stage the complaint can only be progressed if the identity of the complainant is disclosed the Chair of the Standards Committee will make this clear to the complainant.
5. The Monitoring Officer/Deputy Monitoring Officer or the appropriate senior officer will carry out a preliminary investigation and inform the Chair/Vice-Chair of the result of that preliminary investigation.
6. Where the Monitoring Officer/Deputy Monitoring Officer/other appropriate senior officer believes there is a case to answer by the Member concerned then a report will be submitted to the Standards Committee to determine how the matter should be progressed.
7. In any event the Standards Committee will be informed of the nature of the complaint and the way it has been dealt with.
8. If there is a need to take urgent action before the next meeting of the Standards Committee the Chair/Vice-Chair of the Standards Committee will be consulted.

## **SECTION 28**

### **CODE OF CORPORATE GOVERNANCE**

#### **Introduction**

Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the basic principles of openness and inclusivity, integrity and accountability together with the overarching concept of leadership. It is an inter-related system that brings together the underlying set of legislative requirements, governance principles and management processes.

Flintshire County Council recognises the need for sound corporate governance arrangements and over the years Members and senior Officers have put in place policies, systems and procedures designed to achieve this and the stewardship of the resources at their disposal. In adopting a Code, the Council has drawn together all those elements of corporate governance which were already in place.

This code recognises the emphasis placed upon corporate governance by the Welsh Government and also takes into account relevant legislation and the contents of guidance documents which have been issued as follows: -

- Delivering Good Governance in Local Government: Framework and Addendum – Chartered Institute of Public Finance and Accountancy (CIPFA) / The Society of Local Authority Chief Executives (SOLACE)
- Delivering Good Governance in Local Government – Guidance Notes for Welsh Authorities – CIPFA/SOLACE
- The Annual Governance Statement – A Rough Guide for Practitioners issued by the CIPFA Finance Advisory Network
- International Framework: Good Governance in the Public Sector – International Federation of Accountants / CIPFA

The Council's Corporate Governance arrangements are reviewed annually by way of a self-assessment. The self-assessment is undertaken by senior officers of the Council and used to inform the Annual Governance Statement reported each year to the Council's Governance and Audit Committee and Council.

The Code forms part of the Constitution and applies to all aspects of the Council's business. Members and staff of the Council must, in carrying out its business, conduct themselves in accordance with the high standards expected by the citizens of Flintshire and to the aspirations set out below.

The Code is based upon and reflects the various requirements that underpin the six core principles contained in the document entitled "Delivering Good Governance in Local Government: Framework". Those six core principles are: -

- Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area.

- Members and Officers working together to achieve a common purpose with clearly defined functions and roles.
- Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
- Developing capacity and capability of Members and Officers to be effective.
- Engaging with local people and other stakeholders to ensure robust public accountability.

Many of the requirements that underpin the six core principles are inter-related and the various sections of the Code need to be read together to obtain a full understanding of the arrangements in place. The Code specially identifies the actions to be taken for each of the six core interlocking principles governing our business.

The Cabinet in consultation with the Constitution Committee are responsible for approving this Code and the Chief Executive and Monitoring Officer are responsible for ensuring that it is kept up to date by way of annual reviews commencing in October each year.

1. **Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area**

1.1 The County Council is committed through the carrying out of its general and specific duties and responsibilities and its ability to exert wider influence, to: -

- Work for and with its communities.
- Exercise leadership in its communities, where this is appropriate.
- Undertake an “ambassadorial” role to promote the well-being of Flintshire where appropriate.
- Engaging and working in partnership with other organisations and authorities for the benefit of its communities.

1.2 The Council has developed and is working on establishing Alternative Models of Delivery for Council assets and services. The purpose of this is in a difficult financial climate to sustain services and jobs that otherwise would be at risk. The types of alternative delivery will include models run by the community, commercial models, and co-operative or social purpose models. Key requirements for the Council in each instance will be:

- Ensuring proper governance arrangements are established and maintained
- Ensuring business plans are developed and achieved
- Ensuring Council specified services are delivered to a high quality
- Ensuring staff are treated fairly

- Ensuring community benefits are delivered

1.3 The Council will maintain effective arrangements: -

- For explicit accountability to stakeholders for the Authority's performance and its effectiveness in the delivery of services and the sustainable use of resources.
- To demonstrate integrity and openness in the Authority's dealings with partnerships established with other public agencies and the private/voluntary sectors.
- To demonstrate inclusivity by communicating and engaging with all sections of the community to encourage active participation.
- The impact of the county vision as set by the Local Service Board (LSB) is monitored and reviewed by the LSB and the Council's Cabinet as each partner body translates the vision into its working and governance arrangements.
- Ensure that the partnership arrangements below the Single Integrated Plan are supported by a common vision.
- Ensure appropriate governance arrangements are in place when developing alternative delivery models for services.

1.4 An audited and signed Statement of Accounts is published on an annual basis to reflect a true and fair view of the Authority's financial position, as judged by the Council's external auditor (currently Wales Audit Office). Contained within the Statement of Accounts is a statement of responsibilities which includes: -

- Compliance with proper practices as set out in the CIPFA/LASAAC Code of Practice on Local Authority Accounting in Great Britain.
- The Authority manages its affairs to secure economic, efficient and effective use of resources and safeguard its assets.
- Suitable accounting policies have been selected and consistently applied.
- Ensuring judgements and estimates which have been made were reasonable and prudent.
- Reasonable steps have been taken to prevent and detect fraud and other irregularities.
- Proper accounting records have been kept and are up to date.
- The Statement of the Authority's Responsibilities for the Statement of Accounts is signed by the Chair of the County Council and the Chief Finance Officer.

1.5 An Annual Governance Statement is presented to Governance and Audit Committee and Council for approval every year. Once approved the Statement is signed by the Leader of the Council and the Chief Executive. The statement explains how the Authority has complied with the Code of

Corporate Governance, and met the requirements of the Accounts and Audit (Wales) (Amendment) Regulations 2014.

- 1.6 The Council Planning Framework has been developed to incorporate both the Council's accountability arrangements through i) annual and periodic reporting of performance and risk and challenges in relation to the Council's administration and improvement priorities; ii) 3 year business efficiency plans and iii) internal structural arrangements to support improvement and change through strategies and plans: Medium Term Financial Strategy, Asset and Capital Strategy, People Strategy, ICT Strategy, Procurement Strategy and Customer Services Strategy.
- 1.7 The business efficiency plans are one of three elements within the Council's Medium Term Financial Strategy (September 2015) contributing towards reducing the funding gap up to 2017/18.
- 1.8 These elements of the Council Planning Framework are encapsulated within relevant plans and strategies. Progress against these plans and the Improvement Plan monitoring is subject to regular reporting. The contents of the Council Plan (Governance) Framework have been agreed by Cabinet.
- 1.9 The Medium Term Financial Strategy (MTFS) is a critical part of the Council's overall Governance Framework with the dual purpose of forecasting the financial resources available to the Council for a given period, and to set out plans for how to best deploy these resources to meet its priorities, duties and obligations.

The latest version of the MTFS has been published in two parts – Part 1: Forecasting the Challenge was approved by Cabinet in June and Part 2: Meeting the Challenge was approved in September. The MTFS has been published for the three year period 2015/16 – 2017/18 which will take Flintshire to the end of the first year of the new Council and will be revised and republished twice per year. Firstly, in January/February as part of the annual budget setting process and then in September/October as part of setting the context for the following budget year.

The MTFS includes an ever evolving forecast of the Council's overall financial position and will be kept under constant review.

- 1.10 The County Council's financial and operational reporting processes are independently examined by: -
  - The Wales Audit Office whose annual audit letter is presented to the Governance and Audit Committee and their audit certificate is included in the annual Statement of Accounts.
  - The Council's independent Internal Audit who report regularly to the Governance and Audit Committee including an annual report.

- Other external review agencies such as ESTYN and the Care and Social Services Inspectorate Wales (CSSIW).
- 1.11 The Council's Overview and Scrutiny Committees have a significant input into the review and development of service delivery issues and policy development. This role includes the examination of performance outturn and budget monitoring which assist in assessing success and failure. These are some of the checks and balances which have been put in place. External regulations add to the process through the publication of reports on service and performance.
- 1.12 Other ways in which the Council measures and monitors the quality of its services includes: -
- The use of quality assurance models.
  - Internal and external audit and inspections.
  - Customer Satisfaction Surveys.
  - Benchmarking Clubs.
  - Reports on performance, risk and achievement of Improvement Objectives (priorities) to Overview & Scrutiny Committees and the Cabinet.
- 1.13 The Council strives to ensure continuous improvement in the delivery of its services through performance measurement and management, establishing service quality standards, creating clear lines of accountability and monitoring standards and performance. The Council has a procedure for dealing with Compliments, Comments and Complaints which enables complaints to be recorded on a central database and monitored corporately and within each portfolio.
- 1.14 A central register of contracts and lists of defaults is being developed to assist in contract monitoring and review. In some areas the Council has put in place arrangements and backup capacity to respond to service or market failure.
- 1.15 A number of methods are employed to demonstrate value for money: -
- The annual Improvement Plan provides detailed information of the Council's plans and their desired impacts. The annual Performance Report provides a general performance and progress profile as to how the Council is improving the level of efficiency and effectiveness of its services in line with its Improvement Plan.
  - An annual budget setting process is in place and all portfolios have monthly meetings to review their budgets.
  - The Terms of Reference of the Council's Overview & Scrutiny Committees enables them to review, scrutinise, question and make recommendations in relation to their areas of activity including policy, finance, performance, risk and governance.

- The business plans are reviewed through a common governance structure of Programme Boards with officer and member involvement, including efficiency trackers and risk logs.
- 1.16 The Wales Audit Office review the Council's performance and value for money arrangements through their Improvement Assessment work and report their findings in various letters and their Annual Improvement Report. WAO have recently completed their in-depth Corporate Assessment of the Council. Corporate Assessments are undertaken approximately every four years. Formal feedback is awaited.
- 1.17 Various impacts such as equality, financial, personnel, environmental and anti-poverty of the Council's policies, plans and strategies are identified on all committee reports in the following sections as appropriate:  
 Section 1 – Explaining the XXX (report subject)  
 Section 2 – Resource implications  
 Section 3 – Consultations Required / Carried Out  
 Section 4 – Risk Management  
 In addition, Equality Impact Assessments are undertaken and published in relation to policy and business decisions as well as setting the budget.
- 1.18 The Council has adopted the principle that in the conduct of public business and the administration of justice in Wales it will treat the Welsh and English languages on a basis of equality. The Council's new Welsh Language Standards will apply from April 2016 and set out how the Council will give effect to the principle above when providing services to the public in Wales, and where appropriate, in the conduct of its internal business. The Council reports bi-annually to the Council's Cabinet and annually to the Welsh Language Commissioner on its performance.

**2. Members and Officers working together to achieve a common purpose with clearly defined functions and roles**

- 2.1 The Council recognises the need to have effective political and management structures and processes to govern decision-making and the exercise of authority within the organisation. It has therefore established a number of arrangements to secure this.
- 2.2 The Council's Constitution includes the names and a description of the portfolios held by the Leader and other Members of the Cabinet. Their respective roles have been agreed and documented. Role descriptions have also been agreed for all chairs and vice-chairs of Overview and Scrutiny Committees, regulatory committees and Members of Overview and Scrutiny Committees are similarly documented.
- 2.3 Job descriptions are in place for all Senior Officers of the Council and the senior management structure is kept under review to ensure its continued appropriateness.

- 2.4 The Constitution includes a Delegation Scheme which identifies those decisions reserved to the County Council, those local choice issues which are decided by the County Council and those by the Cabinet at the Council's discretion. Local choice issues are reviewed at the Council's Annual Meeting. The Delegation Scheme identifies those general and specific delegated powers given to Chief Officers and Senior Officers and is subject to frequent review.
- 2.5 The Council has appointed a Chief Executive as Head of the Paid Service and with responsibility for all aspects of operational management. The Corporate Finance Manager is responsible for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts and for maintaining an effectual system of internal financial control fulfilling the Council's requirements under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988. The Chief Officer, Governance has been designated as the statutory Monitoring Officer and is accountable for the statutory requirements of that role under Section 5 and 5(a) of the Local Government and Housing Act 1989. The three Statutory Officers consult each other as required by their statutory roles and meet regularly to consider the work of the Cabinet.
- 2.6 The Council has put in place a number of mechanisms to ensure effective communication between Members and Officers in their respective roles. A Protocol on Member/Officer Relations provides guidance for Members and Officers covering the more common situations that tend to arise. The Protocol encourages the establishment of sound and effective working relations for engendering mutual respect and the observance of the highest standards of behaviour and courtesy towards each other. It gives advice to Officers on the information that Members are entitled to expect, for the purposes of undertaking their various roles. It includes a section relating to communications and emphasises the need to maintain confidentiality where such an expectation exists. It also recognises the need of Members to be apprised of local issues affecting their Ward including public meetings and consultation exercises.
- 2.7 Briefing sessions are provided to Chairs and Vice-chairs of Committees in advance of committee meetings and wider briefings are organised from time to time with Group Leaders, members of the Cabinet and Ward Members in relation to specific issues.
- 2.8 The levels of Member allowances are set annually by the Independent Remuneration Panel for Wales. Their specific application to the Council is considered at the annual meeting and then detailed in the Schedule of Member Remuneration which forms part of the Constitution.
- 2.9 The terms and conditions and the remuneration of Officers are negotiated nationally. A job evaluation exercise covering former manual and former administrative, professional, technical and clerical staff has been completed

and a single status agreement has been implemented. This project was central to the development of an equality proofed pay structure.

2.10 The Chief Executive leads the management of the Council through its Chief Officer Team which through the review of the Council Improvement Plan and supporting plans and strategies, is responsible for communicating the Council's shared values with the community and the Council's partners. It communicates these through: -

- Partnership working
- Reports to the Council and its committees and the Cabinet
- The e-magazine 'Your Council'.
- Meetings with the Flintshire Joint Trades Union Council
- Meetings of the Joint Consultative Committees
- Change Exchange and Team Briefings
- Staff appraisal process
- Senior Management Team and other team meetings
- Workforce Bulletins
- Social Media e.g. Twitter

2.11 Following the Annual Meeting of the Council, Members from all political groups are nominated to undertake roles on various outside bodies. Guidance has been provided to assist Members in carrying out those roles and responsibilities and separate guidance for those nominated as company directors. Whenever a new partnership is created, care is taken to ensure that its legal status is clear, that it has appropriate terms of reference and that representatives are aware of the extent to which they can bind the Council. The Cabinet has set and agreed a protocol for the governance of partnership working including the full involvement of appropriate Overview & Scrutiny Committees and the Governance and Audit Committee.

### **3. Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

3.1 The County Council recognises that the openness, integrity and accountability of individuals within a local authority form the cornerstone of effective corporate governance. Also the Council's reputation depends on the standards of behaviour of everyone in it, whether Members, employees or agents contracted to it.

3.2 Members and Senior Officers are therefore expected to maintain shared values and exercise leadership by conducting themselves as role models within the County Council to follow. As a result: -

- The Council has a Code of Conduct governing the behaviour of all Members and co-opted Members of the County Council. This Code requires all Members to declare personal (and prejudicial where appropriate) interests in any matters which come before them for consideration. Where the interest is prejudicial Members must withdraw from the room where the discussion is taking place unless they have received a dispensation from the Standards Committee. Interests must be declared in all meetings including informal meetings with Officers and in correspondence.
- A Local Resolution Procedure has been adopted to resolve the less serious internal complaints of a Member not complying with the Code.
- The Code applies to Members in their dealings with other organisations to which they have been nominated except where that organisation has its own separate code when that code will apply.
- A supplementary Code has been adopted to deal specifically with planning matters.
- The majority of members on the Council's Standards Committee are independent co-opted members, one of whom is the Chairman of the Committee, with the responsibility for monitoring the operation of the Members' Code and providing training and guidelines on it to all Members.
- Officers are subject to a Code of Conduct which includes a wide range of standards of behaviour required of them. These standards include requirements to perform their duties diligently, to respect the dignity and rights of the public, customers and other employees at all times; and to serve the public courteously, efficiently and impartially. There are other requirements relating to the use of Council resources, gifts and hospitalities, outside commitments, conflicts of interest, confidentiality, political neutrality, relationships with Members and general conduct. The Code is issued to all new employees as part of their induction. All staff have been asked to confirm that they have read the Code.

3.3 The County Council has in place a timetable of meetings which seeks to ensure that the roles described above can be exercised effectively. The full County Council is scheduled to meet every 10 weeks, special meetings also take place when they are required, Cabinet meets every four weeks and each of the six Overview and Scrutiny Committees meet regularly several times a year. Details of Overview & Scrutiny work is contained in an annual report reported to Council each year and available on the Council's website.

3.4 The County Council has adopted an Anti-Fraud and Corruption Strategy, Fraud Response Plan and Whistleblowing Policy which are reviewed and updated periodically. Their key elements are: -

- To promote a culture of honesty and opposition to fraud and corruption within the Council.

- To ensure arrangements are in place for the prevention of fraud and corruption within the Council, including internal control mechanisms and effective recruitment procedures.
- To set up basic principles to apply where instances of fraud are detected, including the involvement of the Police and the taking of disciplinary measures.
- To remind staff to be alert to possible causes of fraud and corruption.
- To provide arrangements whereby concerns can be raised with senior Officers on a confidential basis.
- Encourage staff, contractors and suppliers and partners to feel confident in raising serious concerns and to question and act upon concerns.
- Ensure that people receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
- Reassure those raising concerns that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have raised any concern in good faith.

3.5 Processes are also in place to ensure the continued operation of arrangements for ensuring that Members and employees are not influenced by prejudice, bias and conflicts of interest. In particular: -

- Members receive advice on a regular basis from the Standards Committee on the application of the Members' Code of Conduct.
- A Code of Planning Practice has been adopted.
- A Protocol has been agreed and published giving guidance to Members on dealings with Developers and Contractors.
- A Members' Register of Interests is maintained.
- There is a formal opportunity for Members at the beginning of all meetings to declare interests.
- Officers are required to register any interests, gifts and hospitality on registers kept by their Chief Officer. Members of the Chief Officer Team should inform the Monitoring Officer of any interests, gifts and hospitality they receive which will be kept on a central register.

3.6 The requirements and terms of the various codes and policies are drawn to the attention of those who need to know about them in a variety of forms: -

- Through formal Member training, in the case of the Members' Code of Conduct.
- Through informal member workshops to raise awareness
- Through publicity of the Officers Code of Conduct, Whistle Blowing Policy and Anti-Fraud and Corruption Policy on the County Council's intranet site.
- Through the County Council's staff induction programme.

3.7 In addition to the Codes of Conduct and Protocols referred to above, the Council seeks to maintain high standards in the conduct of its business and avoid prejudice, bias and conflicts of interest through: -

- The adoption and publication of an Equal Opportunities and Diversity Policy and the provision of training.
- The adoption of a Strategic Equality Plan and annual reporting.
- Through the adoption and monitoring of the Council's Welsh Language Scheme and Policy.

3.8 In addition, the Council's Infonet site has guidance on, for example:-

- Diversity and Equality
- Dignity at Work
- Health and Safety at Work
- Data Protection

3.9. The Local Service Board has developed a Strategic Partnership Governance Framework that considers: -

- Procedures for forming or joining any Strategic Partnership
- Strategic Partnerships Agreements
- Performance Management
- Risk Management
- Resource Management
- Information Sharing and Communication
- Annual Partnership Review / Self-Assessment

The purpose of this is to provide a consistent approach to Strategic Partnership Governance.

This Framework is used by the LSB and related partnerships including: -

- Employment, Skills & Jobs Project Board
- Health, Wellbeing and Independence Board
- People are Safe Board
- Youth Justice Executive Management Board

#### **4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk**

4.1 The Council has also adopted a Constitution which: -

- Clearly defines those functions which are reserved to the full Council for decision, those decisions which will be taken by the Cabinet or its individual members, and those which are delegated to senior Officers. In this respect, the basic principle on which these rules are established is that the full Council sets the strategic direction through the adoption of policies and the budget, the Cabinet takes major decisions within the overall policy and budget framework and helps to develop new policies and Officers take the day to day decisions within the policy and budget framework.
- Established through the six Overview and Scrutiny Committees a robust overview and scrutiny role. These bodies have between them powers to review and scrutinise decisions relating to any of the Council's activities, including considering policy issues referred to them by the Council or the Cabinet.
- Sets out clearly the role of the Leader and Cabinet and in particular makes it clear that they are responsible for providing effective strategic leadership to the Council and for ensuring that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole.
- Ensures through Financial Procedure Rules and the Scheme of Delegated Powers that there is effective control over the day to day conduct of the Council's business by requiring Member approval for decisions outside defined parameters.
- Makes clear the role of all Councillors both in their formal decision making/ policy development role and as local members and ensures through the Schedule of Member Remuneration that they are properly remunerated for this work.

4.2 The Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. The Constitution is divided into **30 sections** that set out how each part of the council works.

4.3 The Constitution sets out the responsibilities and procedures for decision making. Each section of the Constitution describes the relevant delegated powers for that part of the council. The fundamental principles to be applied in all decision making are as follows: -

- Proportionality (i.e. the action must be proportionate to the desired outcome).
- Due consultation and the taking of professional advice from Officers.
- Respect for human rights.
- A presumption in favour of openness.
- Clarity of aims and desired outcomes.
- Consideration of alternative options.
- Recording reasons for the decision, including details of any alternative options considered and rejected.

- In addition the Council's policies and protocols set out the processes that must be followed in decision making e.g. in relation to planning applications processes are detailed in the Flintshire Planning Code of Best Practice.

4.4 The decision making process is clearly explained on the Council's web site.

4.5 The Constitution contains comprehensive Contract and Financial Procedure Rules governing the process to be adopted in conducting the Council's business; these are further supported by more detailed local codes, protocols and notes of guidance.

4.6 The Constitution sets out clear protocols and codes of conduct to ensure that the implications of supporting community political leadership for the whole Council are acknowledged and resolved, including: -

- Members' Code of Conduct
- Protocols for Members placing items on an agenda of an Overview and Scrutiny Committee
- Protocol on Member / Officer Relations
- Protocol for Members in their dealings with Contractors / Developers and other third parties
- Planning Code of Practice

4.7 The Council has an Governance and Audit Committee consisting of 7 politically balanced Members and a lay member. The Chair and Vice Chair are chosen by the Committee itself from amongst the opposition group(s), non-aligned Councillors, or lay member. It meets on a regular basis and is advised by the Council's Internal Audit Manager, and is normally attended by representatives of the Council's external auditors. All Members receive training and it is a requirement that only trained substitutes are allowed.

The Committee's terms of reference include those prescribed by the Local Government (Wales) Measure 2011 and were agreed by the Council. They give the committee the following functions: -

- Review the effectiveness of the Authority's systems of corporate governance, internal control and risk management systems, and to make reports and recommendations to the County Council on the adequacy and effectiveness of these arrangements;
- Oversee the reporting of the statutory financial statements process to ensure the balance, transparency and integrity of published financial information, and to review the financial statements prepared by the authority and recommend them to the County Council;

- Monitor the performance and effectiveness of the internal and external audit functions within the wider regulatory context;
- Review and scrutinise the County Council's financial affairs, and to make reports and recommendations on them. The role of the committee is to assure the budgetary control systems of the Council rather than the scrutiny of the use and value for money of expenditure which is the role of the respective Overview and Scrutiny Committees.

4.8 The Governance and Audit Committee is further supported in the discharge of its functions by:-

- Having appropriate arrangements in place for delivery of an adequate and effective Internal Audit function and ensuring adequate reporting arrangements to safeguard its independence.
- An up to date risk based Internal Audit Plan.
- Systematic risk assessments in all areas of the Council's activities; both at a strategic level supporting the Council's improvement priorities and at an operational Chief Officer level.
- Clear Terms of Reference.
- External Auditors who annually consider the Council's approach to legality, its response to major legislation and any matter of legality relevant to the Audit of financial transactions and the outcome is considered by the Governance and Audit Committee.
- Appropriate training for Members of the Governance and Audit Committee.

4.9 A refreshed approach to risk management was approved by the Governance and Audit Committee in June 2015. It incorporates:

- Enhanced descriptions of risk including an explanation of the impact if the 'risk' were to be realised and become the 'issue' to be dealt with.
- A more sophisticated risk matrix, moving from a 3 x 3 matrix to a 6 x 4 matrix for likelihood and impact; allowing more options to show how the risk is increasing or decreasing dependent on the success of mitigating actions and influence of external conditions.
- Clearer guidance for escalating and reviewing/reporting risk; the more the significant the risk, the more frequently it is reviewed.
- An improved format to capture both new and emerging risks and also allow for a risk to be 'closed' once it has been mitigated or realised as an issue being dealt with.
- The reporting of 'risk' more prominently within Council reports

4.10 The Council has identified and evaluated its strategic risks in relation to the priorities within the Improvement Plan. These form the basis of the Council's strategic risk register. They are reported on quarterly to Cabinet and the relevant Overview and Scrutiny Committees as part of the Improvement Plan Monitoring Reports. Additionally, Governance and Audit Committee receives a report twice yearly which includes a strategic risk summary/overview.

4.11 Operational risks are captured and monitored through supporting plans and strategies within their operational areas and through project/programme boards as appropriate. Partnership and project risks are captured by and reported to the appropriate boards.

4.12 The Council has developed a resilient approach to Business Continuity including: -

- The development of a Corporate Business Continuity Plan which provides the overall framework within which the Business Continuity Plans operate and identifies the actions to be taken to aid recovery during a major business interruption e.g. loss of IT or accommodation.
- Service Continuity Plans are being updated for those services which must be maintained or recovered as a priority should a business interruption occur e.g. severe weather.

Both the above are periodically tested through training and scenarios and lessons applied through these and in year events.

4.13 The Council actively recognises the limits of lawful activity placed upon them whilst also striving to utilise powers to the full benefit of their communities through: -

- Legal advice in the preparation of Council, Committee and Cabinet reports.
- The availability of legal advice at meetings of the Council, the Cabinet and various Committees.
- The pro-active work of the Council's Legal Service and its close working relationship with service managers.
- Professional development and training (including multi-agency training for Children's Services staff in particular).
- The Council's policies and protocols set out the processes.

4.14 The Overview & Scrutiny function has developed as a critical friend, providing constructive challenge in order to contribute to continuous service improvement. This role is discharged both through consultation by the Cabinet

and Chief Officers and also through the 'calling in' of Cabinet decisions by the 6 functional Overview & Scrutiny Committees. Each of those Committees engages in performance monitoring and management through the consideration of appropriate items such as performance indicator outturns, risk identification and mitigation. The work programmes of Overview & Scrutiny are updated and published on a regular basis and there is a dedicated team of Officers to support the function.

- 4.15 Other Committees will take decisions based upon detailed reports with any late information being referred to in the minutes. Overview and Scrutiny Committees when undertaking work requested by Council or the Cabinet or when undertaking their own investigations, will agree reports containing the evidence which was considered to be material.
- 4.16 The Cabinet and County Council reports contain all the information, evidence and comments needed to take decisions. The decisions made by Officers under delegated powers are documented on files or where they are of a significant nature, incorporated in Delegated Action Forms which are reported to the Cabinet for information purposes.
- 4.17 The Monitoring Officer and Deputy Monitoring Officer are available to give advice to Members and staff on conflicts of interest that might arise from time to time. Guidance is also available on the Council's Infonet.
- 4.18 A set of customer service standards are in place which are supported by a complaints procedure, which in turn is supported by a central database system which aims to: -
- Make it easy for anyone to make a compliment, comment or complaint.
  - Solve problems as close to where they occur as possible, and pass back compliments to the right people.
  - Prevent problems happening again and also encourage good practice.
- 4.19 Monitoring of the arrangements set out above is carried out in a number of ways, particularly: -
- Through the Corporate Complaints Officer in the case of compliments, comments and complaints.
  - Through the Standards Committee, in the case of the Members' Code of Conduct.
  - Through the Monitoring Officer, in respect of the Whistle Blowing Policy.
  - By Internal Audit, in the case of the Anti-Fraud and Corruption Strategy.
- 4.20 Member Services provide a support service to Members in relation to their ward issues. Cabinet Members are supported through the Executive Office.

- 4.21 In line with statutory guidance the Council has developed a separate complaints handling system for social services matters. The prescribed process has three stages. Stage one provides for local consideration and resolution, stage two a formal independent investigation/review with a response from the Chief Officer for Social Services. The third and final stage involves appeal to the Local Government Ombudsman.
- 4.22 There are statutory appeal processes involving independent panels for school exclusions and admissions.
- 4.23 Planning appeals can be made to the Welsh Ministers against all planning decisions.
- 4.24 Requests can be made to the Council to review certain housing decisions, including decisions relating to homelessness applications and decisions to seek possession from introductory tenants and demoted tenants. Such reviews are carried out by officers who were not involved in the original decision. Statutory appeals can be made in the court against homelessness decisions where the original decisions are upheld by the reviewing officer.
- 4.25 All decisions of the Council that do not carry a right to a statutory review or appeal can be subject to Judicial Review or can be the subject of a complaint to the Public Services Ombudsman for Wales.

**5. Developing capacity and capability of Members and Officers to be effective**

- 5.1 Managers are responsible for ensuring all new staff have an induction. There is a generic induction checklist which needs to be completed in addition to a service specific induction. A generic induction session is also provided for all new employees in groups the purpose of which is to cover modules including equalities and diversity awareness, customer care and governance.
- 5.2 After County Council elections a Member induction programme is devised and delivered. The Council ensures that both Members and Officers have the skills required to undertake their roles and that those skills are developed on a continuing basis to improve performance through: -
- Staff appraisal as part of a performance management system which also identifies training and development needs and how these will be met.
  - Induction training for officers.
  - The development of leadership and management behavioural competencies.
  - Development and training programmes, including those provided by professional organisations for both Members and Officers.
  - Management Development Programme for Officers.
  - Member induction training.

- A mentoring system for Members.
- An annual Member Development Programme.
- The Council's Member Development Strategy.
- Training on the Members' Code of Conduct.
- Specific training for Members on planning, licensing, audit and risk management.

5.3 The Council benefits from its membership of the Welsh Local Government Association which provides support and assistance over the whole range of Council functions, partnership working, policy development and liaison with the Welsh Government. CIPFA/SOLACE and other professional associations also assist and support statutory and other service officers in performing their roles.

5.4 The People Strategy and underpinning action plan, which aims to ensure that employees deliver services that meet existing and future demands was refreshed at the end of 2014 and will run until 2017. The HR Business Partner, aligned to each portfolio, works in partnership with portfolio Management Teams to develop and implement activities under the People Strategy at local / service level in relation to the four key themes namely Effective Leadership, High Performance, Enabled Workforce and Improved Skills and Resources.

5.5 The Council ensures that career structures are in place for all staff and encourages participation and development through: -

- development of a Corporate Performance Management framework
- development of a People Strategy
- periodic restructuring of the Council's senior management
- continuous professional development

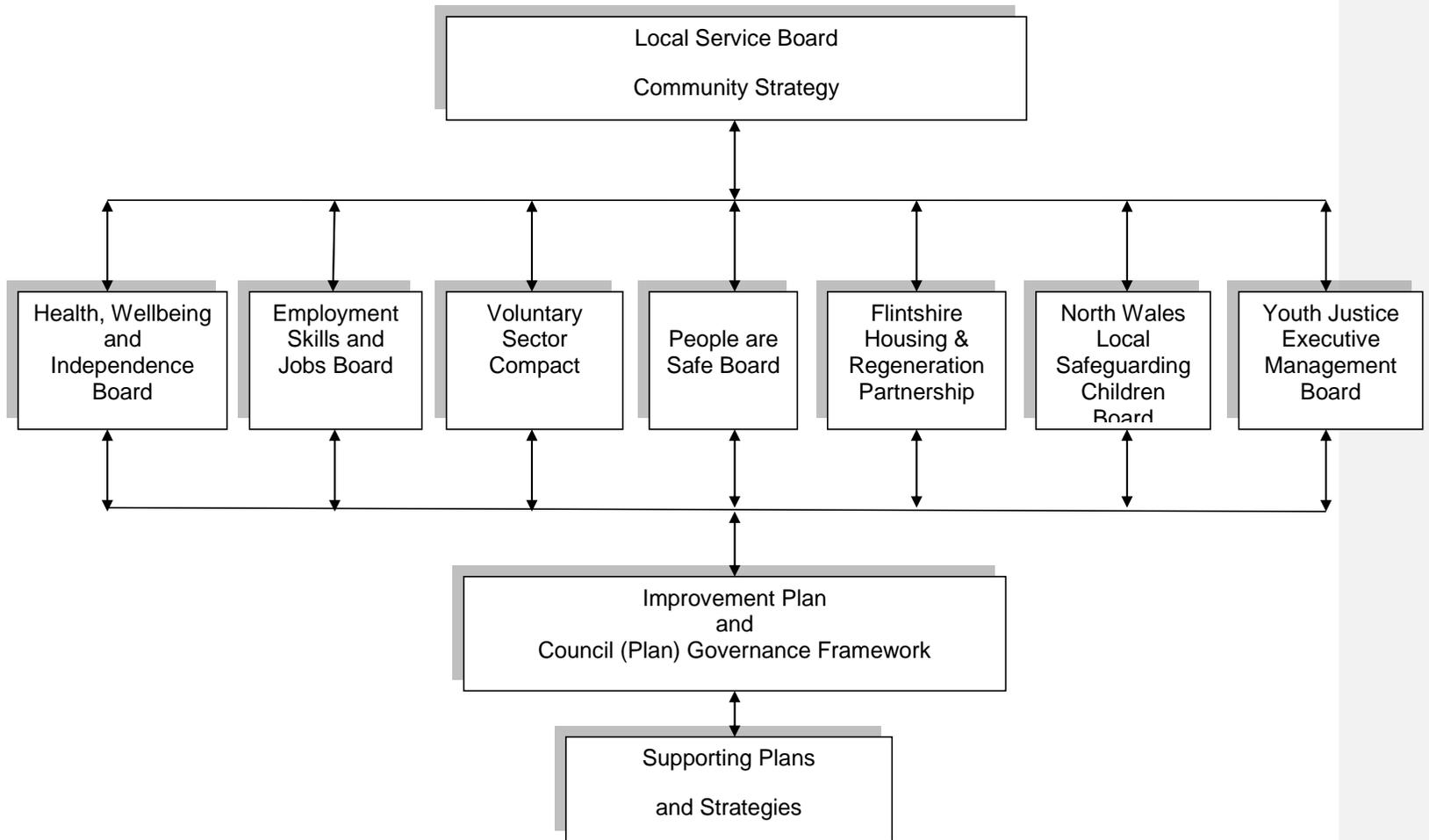
**6. Engaging with local people and other stakeholders to ensure robust public accountabilities**

6.1 The Council continues to enhance arrangements to demonstrate the levels of accountability in the provision of services through: -

- The Single Integrated Plan (Wellbeing Plan)
- The Council's Improvement Plan
- Business Plans
- Medium Term Financial Strategy
- Supporting Plans and Strategies
- Clear statements of roles and accountabilities in job descriptions of staff
- Clear statements of the roles of Members in their various offices

- Unambiguous provisions in partnership and service level agreements
  - Terms of reference of committees
- 6.2 The vast majority of reports are considered in public and in the rare cases where this is not the case, the Committee has resolved to exclude the press and public after the Monitoring Officer or Deputy Monitoring Officer have decided there is a proper legal basis for doing so.
- 6.3 The Council's Overview and Scrutiny Committees produce an annual report on their work which is considered by the Council.
- 6.4 The Council encourages individuals from all sections of the community to engage with, contribute to and participate in the work of the Authority and seeks to achieve this aim through: -
- The Single Integrated Plan and its extensive consultation with partners.
  - The Improvement Plan produced annually which is consulted on through the Members as representatives of local residents.
  - Supporting Communities First programmes to enable people to participate effectively in their own communities.
  - The development and implementation of a consultation and engagement framework and guidelines/policy document.
  - The adoption of a set of core consultation and engagement principles based on nationally identified best practice.
- 6.5 The Council has established clear channels of communication with all sections of the community and other stakeholders and put in place proper monitoring arrangements to ensure they operate effectively.
- The Council has many ways of communicating with its citizens and stakeholders, including: -
    - The e-magazine 'Your Council'
    - Website
    - Social Media
    - Publications and leaflets
    - Events
    - Established links and regular meetings with local interest groups/forums
    - Invitations to members of the public to submit issues they consider should be considered by Overview and Scrutiny Committees
    - Consultation on the budget process with local stakeholders (residents and businesses) to help shape its budget proposals and encourage community involvement.

Recognising the value of media as a method of communicating information to the public and using news releases, statements and media briefings to do this.



## **SECTION 29**

### **AUDIT PROCEDURES**

#### **Internal Audit Charter**

##### **Introduction**

Internal Audit is a statutory independent review function, covered by the Accounts and Audit (Wales) Regulations 2014. It is set up within the Governance portfolio as a service to the Council and all levels of management. It supports the Corporate Finance Manager, the "responsible officer" (Section 151 officer under the Local Government Act 1972), in meeting his statutory responsibilities for the proper administration of financial affairs.

Public Sector Internal Audit Standards (PSIAS) published in 2013 define the activity and standards that must be met. They are mandatory for all internal audit departments in the UK public sector.

They include a Code of Ethics which Internal Auditors must conform to, covering integrity, objectivity, confidentiality and competency.

The existence of Internal Audit does not diminish the responsibility of management to establish systems of internal control to ensure that activities are conducted in a secure, efficient and well-ordered manner.

#### **Definition of Internal Audit**

The PSIAS state that 'Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.'

It objectively examines, evaluates and reports on the adequacy of the control environment as a contribution to the proper, economic, efficient and effective use of resources.

It may also undertake consulting services at the request of the organisation, subject to there being no impact on the core assurance work and the availability of skills and resources.

#### **Role and Scope of Internal Audit**

The role of Internal Audit is to provide the Authority, through the Governance and Audit Committee with an independent and objective opinion on the adequacy and effectiveness of internal control, risk management and governance arrangements. The department reviews, appraises and reports on:

- The adequacy and effectiveness of the systems of financial, operational and management control and their operation in practice in relation to the business risks to be addressed;
- The extent of compliance with and relevance of, policies, standards, plans and procedures established by the County Council and the extent of compliance

with external laws and regulations, including reporting requirements of regulatory bodies;

- The extent to which the assets and interests are acquired economically, used efficiently, accounted for and safeguarded from losses of all kinds arising from waste, extravagance, inefficient administration, poor value for money, fraud or other cause, and that adequate business continuity plans exist;
- The suitability, accuracy, reliability and integrity of financial and other management information and the means used to identify, measure, clarify and report such information;
- The integrity of processes and systems, including those under development, to ensure that controls offer adequate protection against error, fraud and loss of all kinds; and that the process aligns with the Council's strategic goals;
- The follow-up action taken to remedy weaknesses identified by Internal Audit review, ensuring that good practice is identified and communicated widely;
- The operation of the Council's corporate governance arrangements;
- The potential within the Council for fraud and other violations through the analysis of systems of control in high-risk operations.

The Internal Audit department completes advisory / consultancy work in agreement with Chief Officers and Senior Managers by responding to requests for audit reviews and by contributing to projects and working groups throughout the Authority.

Where the Authority has entered into a partnership with other organisations the partnership arrangement will be subject to review. In addition, where Flintshire County Council is the lead authority of a partnership or collaboration, the work undertaken will be subject to review by Flintshire Internal Audit.

All managers are responsible for applying controls to reasonably prevent and detect fraud. Furthermore, internal audit is not responsible for identifying fraud, however it will assess the risk of fraud and be aware of the risk of fraud when planning and undertaking any internal audit work. All actual or suspected incidents of fraud, corruption or impropriety should be reported without delay to Internal Audit in accordance with Financial Procedure Rules (ref 11.17e). The internal audit department investigates fraud and irregularity in terms of:

- The undertaking of investigations into reports of violations of the Council's regulations or criminal activities i.e. fraud against the Council
- The undertaking of investigations of reports from staff, other persons engaged in activities on behalf of the Council and members of the public, reporting perceived cases of possible violations of rules or regulations, mismanagement, misconduct, or fraudulent abuse of authority.

Referrals to the police are made if there is suspected criminal activity, in accordance with the Corporate Anti-Fraud and Corruption Strategy and the Fraud and Irregularity Response Plan, following consultation with the Monitoring Officer or Human Resources where appropriate.

The investigation of Housing and Council Tax Benefit fraud is undertaken by the Benefit s Fraud Team, however Internal Audit will overview these procedures.

Where it is thought necessary, External Audit may conduct investigations, either in liaison with Internal Audit or independently.

### **Independence and Authority**

Internal Audit is independent of the activities that it audits to ensure the unbiased judgements essential to its proper conduct and impartial advice to management.

To ensure independence, Internal Audit operates within a framework that gives it the authority to:

- have unrestricted access to all activities undertaken in the Council.
- have unrestricted access to all functions, records and property, including those of partner organisations. In very exceptional circumstances if the “responsible officer” (Section 151 Officer) and Monitoring Officer believe this would constitute a breach of the laws of confidentiality, or the provisions of the Human Rights Act or the Data Protection [Act-Legislation](#) the matter will be referred to the Governance and Audit Committee for consideration.
- have full and free access to the Governance and Audit Committee via the Internal Audit Manager, and an annual private meeting with the committee;
- have full and free access to the Chief Executive, Corporate Finance Manager, Monitoring Officer, Chair and Vice Chair of the Governance and Audit Committee and External Auditors via the Internal Audit Manager;
- have unrestricted access to senior management, members and all employees;
- receive any information and explanation considered necessary concerning any matter under consideration from all Members and Officers;
- require any employee of the Council to produce or account for cash, stores or any other Council asset or asset of a third party under his or her control;
- allocate resources, set timeframes, define review areas, develop ,scopes of work and apply techniques to accomplish the overall audit objectives;
- issue audit reports in its own name.

The Internal Audit department is part of the Governance portfolio. The Internal Audit Manager reports to the Chief Officer (Governance) and through him to the Chief Officer Team.

He also reports to the Governance and Audit Committee, which is responsible for

- approving the internal audit charter
- approving the internal audit Strategic and Operational plans
- receiving reports from the Internal Audit Manager on the departments performance relative to its plan and other matters
- making appropriate enquiries of management and the Internal Audit Manager to determine whether there are inappropriate scope or resource limitations

The department's budget is approved annually as part of the Council's overall budget. Remuneration and arrangements for the appointment and removal of the Internal Audit Manager are managed in accordance with the Council's adopted HR policies.

Every effort is made to preserve objectivity by ensuring that all members of internal audit staff are free from any conflicts of interest and do not undertake any non-audit duties. Internal Audit has complete segregation from Council operations and is not responsible for the management of areas that are audited. The Internal Audit Manager and internal audit staff are not authorised to:

- perform any operational duties associated with the Authority;
- initiate or approve accounting transactions on behalf of the Authority
- direct the activities of any employee unless specifically seconded to Internal Audit

### **Audit Responsibility**

The primary task of Internal Audit is to review the systems of internal control operating throughout the authority, and in doing this it will adopt a predominantly risk-based approach to audit.

The Internal Audit Manager is required to manage the provision of a complete audit service to the Council that will include systems, regularity, computer and advisory audit in addition to the investigation of potential fraud and irregularity. In discharge of this duty, the Internal Audit Manager has a responsibility to:

- prepare a rolling strategic risk-based audit plan in consultation with Chief Officers and senior management, for formal approval by the Governance and Audit Committee. This strategic plan is regarded as flexible rather than as an immutable expression of audit policy;
- translate the strategic plan into annual plans for formal agreement with Chief Officers and Governance and Audit Committee;
- implement the audit plan as approved, including any additional work requested by management and the Governance and Audit Committee;
- ensure that the scopes of individual audit assignments are agreed with departmental management;
- prepare and maintain an Audit Manual detailing departmental procedures and standards;
- ensure a system of close supervision of audit work, and maintain a Quality Assurance and Improvement Programme of internal and external assessments;
- maintain knowledge, skills and expertise within the section specifically for the investigation of fraud and irregularity;
- bring a systematic disciplined approach to evaluate and report on the effectiveness of risk management, internal control and governance processes;
- highlight control weaknesses and required associated improvements together with corrective action recommended to management based on an acceptable and practicable timeframe;

- undertake follow up reviews and recommendation tracking to ensure management has implemented agreed internal control improvements within specified and agreed timeframes;
- liaise with the external auditor for the purpose of providing optimal audit coverage to the Authority;
- work with the external auditor to provide consistent advice to management and the Governance and Audit Committee;
- prepare, for agreement with the Chief Officer, Governance, annual reports on audit and special investigation activities for presentation to the Governance and Audit Committee, and such other reports on audit issues as may be required by the Chief Executive or the Governance and Audit Committee.

All audit work contributes to the overall review of effectiveness of the control environment. The Internal Audit Manager is also a member of the Corporate Governance Working Group which undertakes this review and prepares the draft Annual Governance Statement for consideration by the Governance and Audit Committee and Council.

All Internal Audit activity is carried out in accordance with Financial Procedure Rules and PSIAS requirements. In order to maintain an audit presence and sound, informal lines of communication, as much audit work as possible will be done on location. Internal Audit testing may go beyond the records and involve observations and interviews.

### **Audit Resources**

The staffing structure of the section will comprise qualified Internal Auditors, Accountants and Accounting Technicians with a mix of professional specialisms to reflect the varied functions of the section.

Internal Audit will not participate in the day-to-day operation of any systems of internal financial control. However, in strict emergency situations only, audit personnel may be called upon to carry out non-audit work on a temporary basis. If such a call is made the decision to allocate resources will be the Internal Audit Managers but the Chief Officer, Governance and Audit Committee Chair or Vice Chair will be advised.

Upon request from the Chief Officer, Governance appropriate specialists from other Directorates and departments should be made available to take part in any audit review requiring specialist knowledge.

### **Audit Training**

The Internal Audit Manager carries out a continuous review of the development and training needs of all audit personnel through the Authority's appraisal system and will arrange, within budget provision, in-service training covering both internal and external courses.

Specific resources are devoted to specialised training in relation to computer audit, contract audit and fraud investigation to keep abreast of developments.

## **Audit Reporting**

All audit assignments are the subject of formal reports. Debrief meetings are held with the managers responsible for the area under review for agreement to the factual accuracy of findings. After agreement, draft reports are issued to the manager and Chief Officer of the department under review. Once the recommendations and action points have been agreed, final reports are issued. The Internal Audit Manager considers the release of special investigations audit reports for disciplinary purposes on a case-by-case basis. Access to audit files is restricted to the Chief Officer, Governance and External Auditor.

The Internal Audit Manager issues progress reports to the Governance and Audit Committee and management summarising outcomes of audit activities, including follow up reviews and the tracking of audit recommendations. These are presented at quarterly Governance and Audit Committee meeting.

He reports to the Committee on the progress of investigations into possible fraud and irregularity and also briefs the Audit Chair on any high profile investigations. The assignment opinions that audit provides during the year are part of the framework of assurances that assist the Authority to prepare an informed Annual Governance Statement.

Internal Audit provides the Chief Officer, Governance with an opinion on the adequacy and effectiveness of the Authority's governance, risk management and control arrangements. In giving the opinion it should be noted that assurance can never be absolute, the most that can be provided is a reasonable assurance that there are no major weaknesses in governance, risk management and control processes. The annual opinion is provided in the Annual Report after the year end.

## **Performance Reporting**

Performance Indicators for Internal Audit are reported to each Governance and Audit Committee meeting and to the Chief Officer, Governance.

The department participates in benchmarking within the Wales Chief Auditors Group. Results are reported to the Governance and Audit Committee.

## **Related Documents**

This document is one of a series that, together, constitute the policies of the Council in relation to anti-fraud and corruption measures. The other documents are:

- Financial Procedure Rules and Contract Procedure Rules;
- Anti-Fraud and Corruption Strategy;
- Fraud and Irregularity Response Plan;
- Whistle-blowing Policy;
- Disciplinary Procedure



## 21.3 Corporate Anti-Fraud And Corruption Strategy

### FLINTSHIRE COUNTY COUNCIL

#### Corporate Anti-Fraud and Corruption Strategy December 2019

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|   |                        |
|---|------------------------|
| Policy Owners   | Internal Audit Manager |
| Date Implemented  | April 2007             |
| Date Last Reviewed  | November 2014          |
| Current Review:   |                        |
| Approved by Governance and Audit Committee ( <i>Version 1.7</i> )                 | February 2019          |
| Approved by Constitution and Democratic Services Committee ( <i>Version 1.8</i> ) | June 2019              |
| Approved by Council ( <i>Version 2</i> )  | December 2019          |

## CORPORATE ANTI-FRAUD AND CORRUPTION STRATEGY

### 1. Policy Statement

- Flintshire County Council (the Council) has a zero tolerance approach to fraud, bribery and corruption. This Policy outlines how the Council delivers an effective approach to managing the risk of fraud and corruption.
- The Council is committed to this policy and to maintaining high ethical standards.
- The Council is committed to the prevention, deterrence, detection and investigation of all forms of fraud or corruption within or against all its activities.
- The Council will support prosecutions or apply other relevant sanctions to those who commit acts of fraud or corruption.
- The Council encourages anyone who suspects fraud and corruption to report it, and the Council will support anyone who does this.

### 2. Introduction

- 2.1 Flintshire County Council has a workforce of around 6,000 and spends in excess of £400m a year. The Council commissions and provides a wide range of services to individuals and households and works with many other private, public and voluntary sector organisations.
- 2.2 The size and nature of the Council's services means that there is an ongoing risk of loss due to fraud and corruption from both internal and external sources. The Council is continuously developing anti-fraud initiatives and remains committed to:
  - The prevention, detection, deterring, investigation and correcting all forms of fraud and corruption, whether these are attempted from within or external to the organisation.
  - Minimising losses caused by fraud, corruption and breaches of regulations.
  - Embedding management of fraud risk throughout the organisation.
  - Increasing awareness of counter-fraud responsibilities at all levels within and outside the Council.
- 2.3 The Council's commitment to the protection of public funds against fraud and corruption is set out in this strategy and supporting policies.

2.4 The strategy is structured to reflect the CIPFA code of practice on Managing the Risk of Fraud and Corruption. The five key elements of the code are to:

- Acknowledge the responsibility of the governing body for countering fraud and corruption
- Identify the fraud and corruption risks
- Develop an appropriate counter fraud and corruption strategy
- Provide resources to implement the strategy
- Take action in response to fraud and corruption

2.5 The Strategy applies to:

- All employees (including centrally employed teachers) of Flintshire County Council (as defined by the Employment Rights Act) and is commended to School Governing Bodies and other associated employers as best practice.
- All Members of the Council
- Partner Organisations, including Aura and NEWydd
- Third Party individuals such as Partners, Consultancy, Suppliers, Contractors, volunteers and employees of Council Suppliers and Contractors who are employed to deliver goods / services to the Council.
- General Public

2.6 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. Members of the public are encouraged to report any concerns which they may have.

2.7 The Strategy has the full support of Members and the Council's Senior Accountable Officers. It is approved by Governance and Audit Committee and The Cabinet.

2.8 This policy should be read in conjunction with the Council's Whistleblowing Policy and the Fraud & Irregularity Response Plan.

### 3. Definitions

3.1 **Fraud:** For the purpose of this policy refers to where an individual has undertaken, or intends to undertake, actions in order to obtain gain for him/herself or another, or cause loss to another, or expose another to risk of loss.

3.2 The Fraud Act 2006 came into force on 15<sup>th</sup> January 2007. It created a single offence of fraud which can be committed in three separate ways:

- Fraud by false representation;

- Fraud by failing to disclose information where there is a legal duty to do so; and
- Fraud by abuse of position.

3.3 **Theft:** “A person shall be guilty of theft if he/she dishonestly appropriates property belonging to another with the intention of permanently depriving the other of it” (Theft Act 1968).

3.4 **Corruption:** For the purpose of this policy corruption refers to an individual who has given or obtained advantage through means which are illegitimate, immoral, and/or inconsistent with their duty to the Authority or the rights of others. Examples include accepting bribes or incentives during procurement processes, seeking to influence others through the offering of, giving, soliciting or acceptance of an inducement or reward.

3.5 **Irregularity:** Any administrative or financial mistrust that comes about either by act or omission.

The Bribery Act 2010 creates criminal offences for any individual who either offers or receives a financial or other advantage intending the advantage to be rewarded by the improper performance of a function or activity. The Act also creates an offence of directly or indirectly offering, promising or giving a bribe to a foreign public official so as to influence the actions of the said official. Any individual found guilty of any of these offences is liable to imprisonment for up to a maximum period of 10 years.

## 4. Adopting the Right Strategy

4.1 To reduce losses to fraud and corruption to an absolute minimum, a strategic approach is implemented encompassing a clear remit covering all areas of fraud and corruption affecting the Council.

4.2 The approach adopted by the Council involves a three stage process:

- 1) **Deter** by having a culture within the Council which deters the committing of fraud.
- 2) **Prevent** by having measures in place to help prevent fraud occurring.
- 3) **Detect** by having measures in place to detect fraud should it occur.

The approach is covered in more detail in section 8 of this document.

4.3 The full range of actions for each stage of the process should be taken forward with the focus on outcomes (i.e. reduced losses) rather than activity (i.e. number of investigations).

## 5. Accurately Identifying the Risk of Fraud and Corruption

- 5.1 Fraud and corruption risks are considered as part of the Council's strategic risk management arrangements.
- 5.2 The nature and scale of losses to fraud and corruption are identified where they can be practically established. By measuring the scale of losses, and learning from where they are detected, knowledge is gained of where controls within systems should be strengthened or introduced to reduce the risk of fraud and corruption in the future.

## 6. Creating and Maintaining a Strong Structure

- 6.1 The Council is committed to the Nolan Principles of Standards in Public Life, namely objectivity, openness, leadership, accountability, honesty, selflessness and integrity. High ethical standards should be adhered to and be demonstrated in all the Council's actions and decisions.
- 6.2 The Council's commitment to the highest standard of governance is supported by a strong framework including the Constitution, Code of Corporate Governance, Member and Officer's Codes of Conduct and specific counter fraud policies e.g. Whistleblowing Policy and the Anti-Money Laundering Policy. The Annual Governance Statement includes reference to the measures taken to counter fraud and corruption.
- 6.3 The Council expects elected members and all employees to lead by example in demonstrating support for anti-fraud and corruption measures by adhering to rules and regulations, and that all practices and operating procedures are beyond reproach.
- 6.4 Within the Council those charged with countering fraud and corruption have the appropriate authority to pursue their remit effectively. In order for the Council to effectively deal with allegations of fraud those charged with investigating matters must receive full support from all employees and members.
- 6.5 It is the responsibility of Service Teams and Senior Accountable Officers to establish sound systems of internal controls in order to prevent and detect fraud, and reduce the risk posed by fraud within service areas. The Authority has a zero tolerance to acts of fraud and corruption.
- 6.6 The Accounts and Audit (Wales) Regulations require every local authority to maintain adequate and effective Internal Audit Service.
- 6.7 One of the roles of Internal Audit is to promote anti-fraud and corruption best practice and to ensure management has effective systems in place to detect and prevent corrupt practices. The Internal Audit team are properly trained to gain the appropriate knowledge and skills in respect of fraud awareness, prevention, detection and investigation. In Flintshire a clear mandate has been provided to Internal Audit to investigate potential fraud and irregularities and this is specified in the Audit Charter and the Financial Procedure Rules (4.3).

6.8 Where appropriate, the Council will co-operate with other local authorities and public sector bodies in the prevention, detection and investigation of fraud and corruption e.g. participation in the National Fraud Initiative and liaison with the Police.

## 7. Responsibilities

| Individual / Group                                     | Role / Responsibility   |
|--|---|
| <b>Chief Executive</b>                                 | Ultimately accountable for the effectiveness of the Council's arrangements for countering fraud and corruption.   |
| <b>Chief Officer Governance (Monitoring Officer)</b>   | <ul style="list-style-type: none"> <li>Advise members and employees on ethical issues, standards and powers to ensure that the Council operates within the law and statutory Codes of Practice.</li> <li>Prepare a report to Council where it appears that the authority has or is about to do anything which would be in contravention of the law or which would constitute maladministration.</li> </ul>  |
| <b>Corporate Finance Manager (Section 151 Officer)</b> | <ul style="list-style-type: none"> <li>Ensure proper arrangements are made for the Council's financial affairs.</li> <li>Maintain an adequately resourced internal audit team.</li> </ul>   |
| <b>Chief Officer Team</b>                              | Overseeing the corporate approach to counter-fraud activity, setting the tone to embed a culture of high standards and integrity.   |
| <b>Senior Accountable Officers</b>                     | <ul style="list-style-type: none"> <li><b>Notify Internal Audit of all suspected fraud or corruption incidents in their area – see Fraud and Irregularity Response Plan, para 6.</b></li> <li>Ensuring that adequate systems of internal control exist within their areas of responsibility, and that such controls, checks and supervision operate in such a way as to prevent or detect fraudulent activity.</li> <li>Regularly need to assess the types of risks and scope for potential fraud associated with the operations in their area.</li> <li>Ensure that employees receive fraud awareness training. The extent of this will depend on the work that individual carry out.</li> <li>Remind employees who are an integral part of the control framework of fraud and risk issues.</li> <li>Ensure this Strategy and the Fraud Response Plan are available to all employees.</li> </ul> |
| <b>Workforce</b>                                       | <ul style="list-style-type: none"> <li>A duty to act if they believe there is a possibility of fraud or corruption taking place or the rules are being breached – see Fraud and Irregularity Response Plan para 3</li> <li>Their own conduct and for contributing towards the safeguarding of corporate standards (including declaration of interest, private working, whistleblowing, etc.).</li> <li>Acting with propriety in the use of official resources and in the handling and use of corporate funds. <ul style="list-style-type: none"> <li>Be alert to any financial transactions that may suggest money laundering.</li> </ul> </li> </ul>   |

|  |   |
|--|---|
| <b>Internal Audit</b>  | <ul style="list-style-type: none"> <li>• Providing a pro-active corporate anti-fraud function to facilitate the identification and subsequent investigation of alleged acts of fraud or corruption.</li> <li>• Completion of any and all investigations of fraud and corruption that do not fall within the remit of other investigative bodies, such as Housing Benefit.</li> <li>• Receiving and reviewing notifications of all frauds reported within the Council and analysing fraud risk.</li> <li>• Making appropriate arrangements to co-ordinate the Council's work on the National Fraud Initiative.</li> <li>• Undertake internal data matching across Council systems.</li> <li>• Reporting to and liaising with the local police on individual cases.</li> <li>• Provide reports to the Governance and Audit Committee on incidents of fraud and corruption.</li> <li>• Issuing guidance to members and management in relation to fraud and corruption related legislation and procedures.</li> <li>• Provide advice and guidance on internal controls to prevent or detect fraud or corruption.</li> <li>• Promoting fraud awareness and training.</li> <li>• Acting as the Council's consultant on issues of fraud and corruption.</li> </ul> |
| <b>External Audit</b>  | Considering if the Council has adequate arrangements in place to prevent and detect fraud and corruption.   |
| <b>Trade Unions</b>  | <ul style="list-style-type: none"> <li>• <b>Notifying the appropriate individuals if they believe there is a possibility of fraud or corruption taking place or the rules are being breached, see Fraud and Irregularity Response Plan para 4.</b></li> <li>• Support their members throughout the process.</li> </ul>  |
| <b>Members</b>   | <ul style="list-style-type: none"> <li>• <b>Notifying the appropriate individuals if they believe there is a possibility of fraud or corruption taking place or the rules are being breached, see Fraud and Irregularity Response Plan para 5.</b></li> <li>• Responsible for their own conduct.</li> <li>• Contributing towards the safeguarding of corporate standards, as detailed in the Members Code of Conduct.</li> </ul>  |
| <b>Governance and Audit Committee</b>  | <ul style="list-style-type: none"> <li>• Reviewing and monitoring policies for preventing and detecting fraud.</li> <li>• Reviewing reports relating to fraud from internal and external auditors.</li> </ul>   |
| <b>Third Party Individuals - Partners, Suppliers, volunteers, Contractors (and employees of), Consultants and the Public</b> | To be aware of the possibility of fraud and corruption within their organisation or against the Council and report any genuine concerns / suspicions.   |

## 8. Taking Action to Tackle the Problem

### Deterrence

- 8.1 The Council will publicise its counter fraud measures using all available means e.g. the press, newsletters, the Infonet and internet.
- 8.2 Publicised information makes the workforces aware that fraud and corruption are serious offences and that they may face disciplinary action if there is evidence that they have been involved in these activities.
- 8.3 The Authority has a suite of policies and procedures in place to manage the risk of fraud and corruption which are:
  - Corporate Anti-Fraud and Corruption Strategy
  - Fraud and Irregularity Response Plan
  - Whistleblowing Policy
  - Anti-Money Laundering Policy
- 8.4 Where fraud and corruption is proved, and the Council has suffered a financial loss, the Council will seek to recover the full value of any loss. In some cases, this may involve civil proceedings being instigated through the courts. As a deterrent to others the Council will seek to publicise such cases.

### Prevention

- 8.5 Managers at all levels within the Council have a responsibility for the prevention of fraud and corruption (within their own remit) and for implementing appropriate strategies to minimise the risk effectively. Such strategies include promoting fraud awareness, assessing compliance with Council policies (e.g. Financial Regulations) and ensuring sufficient levels of internal control are maintained within systems and procedures.
- 8.6 The internal audit plan includes time for audit involvement in the development of new systems. Involvement at this stage should help to ensure that controls are designed into the systems to help prevent the risk of fraud and corruption. The risk based annual plan also reviews the internal control framework of the Authority and includes reviews of all high risk areas of operation where the potential for fraud is included as part of the review.

### Detection

- 8.7 Managers play a key role in ensuring that systems and processes are in place to detect fraudulent activity.
- 8.8 In many cases, the diligence of individuals and the alertness and good citizenship of the public at large detect acts of fraud or corruption. Fraud and

corruption may also be discovered by Internal Audit during routine audits, proactive fraud audits or through the use of data matching. Frauds are also detected as a result of the Council's participation in the National Fraud Initiative exercise.

- 8.9 Employees, elected members and external stakeholders (including third party individuals) are expected to report suspected fraud or corruption in accordance with Council's Financial Regulations and the Whistleblowing policy.

### Investigation

- 8.10 Reporting suspected cases of fraud and corruption by the above means will ensure that all reported incidents are considered by Internal Audit in accordance with the Fraud and Irregularity Response Plan. All referrals are logged and assessed with timescales being agreed for completion of the investigation taking into account any future loss of evidence or funds.
- 8.11 Not all referrals are fraud related and the investigation may be undertaken by departmental management or appointed investigating officers for cases of misconduct.
- 8.12 During the investigation, the Investigating Officer will contact any other relevant parties e.g. the Monitoring Officer, People and Resources or the Police, to ensure all allegations and evidence are properly investigated and reported upon. When referrals are passed to the Police, the Crown Prosecution Service will determine whether a prosecution will be pursued.
- 8.13 Internal Audit investigation reports identify the specific control weaknesses which were present at the time of the fraud and allowed it to be committed. Actions required to address these weaknesses and strengthen the control environment are included within investigation reports. Actions are graded depending upon their severity and the manager responsible must complete an action plan detailing dates for implementation and officer responsible.
- 8.14 Where necessary, the Council's Disciplinary policy will be used to facilitate a thorough investigation of any allegations of improper behaviour by employees. The decision to invoke the Disciplinary policy will be a consideration of Chief Officers and Senior Manager, Human Resources & Organisational Development.
- 8.15 To prevent misuse of the investigation process, someone who maliciously raises a matter they know is untrue may be subject to disciplinary action.

### Sanctions and Redress

- 8.16 Where fraud or corruption has been identified the Council will recover any losses (where applicable) and prosecute or apply other sanctions as detailed within the Fraud Response Plan. Sanctions will be applied in a comprehensive, consistent and proportionate manner. Examples of the type of sanctions that could be

considered are disciplinary action (against employees) and/or civil and criminal action.

8.17 Redress will be applied in accordance with the Investigation Outcome (Recovery and Sanctions) section detailed in Fraud and Irregularity Response Plan. Rates of recovery will be monitored as part of the quality process.

## **9. Defining Success**

9.1 Annually the Governance and Audit Committee will be informed on the performance against this strategy, this forms part of the Internal Audit annual report.

## **10. Awareness and Training**

10.1 Training and guidance are vital to maintaining the effectiveness of the Anti-Fraud and Corruption Strategy. The Council supports induction and work related training and will ensure that fraud awareness training is provided to all Members, Senior Accountable Officers and the workforce of the Council.

10.2 The Internal Audit team will receive specific training to ensure compliance with professional standards and relevant legislation.

10.3 In order to raise awareness of this strategy, and fraud and corruption in general, the Council will arrange periodic publicity campaigns and will issue advice encouraging fraud awareness.

## **11. Conclusion**

11.1 Flintshire County Council has in place a clear framework of systems and procedures to deter, prevent, detect and investigate fraud and corruption.

11.2 The Council will monitor performance of the Anti-Fraud and Corruption Strategy through regular reports submitted to the Governance and Audit Committee. The Audit Manager will, in addition, keep this policy under review in order to take account of any changes in Council policy and government legislation.

11.3 Related policies such as Whistleblowing Policy and the Fraud Response Plan can be found on the Council's Website and the Infonet.



## 21.4 Fraud & Irregularity Response Plan

# FLINTSHIRE COUNTY COUNCIL Fraud and Irregularity Response Plan

Final December 2019

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|   |                        |
|---|------------------------|
| Policy Owners   | Internal Audit Manager |
| Date Implemented  | April 2007             |
| Date Last Reviewed  | November 2014          |
| Current Review:   |                        |
| Approved by Governance and Audit Committee ( <i>Version 1.7</i> )                 | February 2019          |
| Approved by Constitution and Democratic Services Committee ( <i>Version 1.8</i> ) | June 2019              |
| Approved by Council ( <i>Version 2</i> )  | December 2019          |

## 1. Introduction

- 1.1 This document provides guidance to all employees (including centrally employed teachers) of Flintshire County Council (as defined by the Employment Rights Act) and is commended to School Governing Bodies and other associated employers as best practice e.g. NEWydd, Aura. The document also applies to Third Party individuals (Partners, Consultants, Suppliers, Volunteers, Contractor and employees of Council suppliers and contractors, who are employed to deliver a service / goods to the Council)
- 1.2 A one page flowchart is also included at the end of this document, to provide an at-a-glance summary of the process.
- 1.3 The plan is not intended for use where there is suspicion of child abuse. Where concerns are noted in relation to child protection, these should be referred in the first instance to the Duty and Assessment Team, Social Services on 01352 701000 for a preliminary discussion. Additionally if concerns raised relate to modern slavery and trafficking or any safeguarding issues please contact Social Services on 01352 701053 (Children) or 01352 702540 (Adults).

## 2. Objectives

- 2.1 The objectives of this Fraud and Irregularity Response Plan are to ensure that timely and effective action can be taken to:
  - establish there is a clear understanding over who will lead any investigation and to ensure local managers, Internal Audit and People and Resources are involved as appropriate;
  - prevent further losses of funds or other assets where fraud has occurred and maximise recovery of losses;
  - demonstrate there is substance and evidence to support any allegation against an employee before that employee is subject to disciplinary action;
  - minimise the risk of inappropriate action or disclosure taking place which would compromise an investigation or recovery of losses;
  - secure evidence and containment of any information or knowledge of any investigation into the matter reported;
  - identify the perpetrators and maximise the success of any disciplinary / legal action taken.

## 3. Whistleblowing Policy

- 3.1 If you prefer to raise your concerns confidentially the Council has a whistleblowing Policy (available on the infonet) in accordance with the provisions of the Public Interest Disclosure Act 1998. The policy provides the individual with a method of raising concerns about any financial or other malpractice in the Council.
- 3.2 Under that policy, if you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent apart from exceptional cases. For example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. It is also possible that the investigation itself may serve to reveal the source of information, although this will be avoided where possible.
- 3.3 Subject to the constraints of Data Protection Legislation and the Council's duty of confidentiality to the workforce staff and Councillors, we will give you as much feedback as we properly can within an agreed timescale.

## 4. Responsibilities

- 4.1 As an individual (employee, member or third party individual of the Council), there are a number of actions you may be required to take depending on who is involved in the fraud or irregularity. You should remember, however, that when you know of or suspect a fraud or irregular act, you must not discuss it with other individuals or work colleagues either before or after reporting it to the appropriate person so that the investigation is not compromised.
- 4.2 An irregularity is an administrative or financial mismanagement that comes about either by act or omission.
- 4.3 You should never confront the suspected individual or act in a manner which might draw their attention to your suspicions.
- 4.4 At the earliest opportunity you should clearly record all the activities you have witnessed and information you have received or are aware of. It is important to record as much information as possible to inform any subsequent management assessment or investigation, including dates, times and sequences of events.

### Suspected Fraud by another Council Employee

- 4.5 As an employee if a work colleague is giving rise to suspicions that she / he is committing a fraudulent or corrupt act within the Authority, then under normal circumstances you should report it to your **line manager**. However, you may not wish to report to your line manager, particularly if you suspect them of committing a fraud or corrupt act, or having an involvement in what you have observed. Therefore, the option exists to report your concerns to any of the following officers:

- **Your line Manager's Manager**
- **Your Chief Officer**
- **The Internal Audit Manager**

In addition, suspicions can be reported to your Trade Union, see Para 4.

#### **Suspected Fraud by an Elected Member**

4.6 If you need to report a suspicion, an actual fraud or corrupt act by a Councillor, you should report this to one of the following officers in the Council:

- **The Chief Officer Governance, who is the Council's Monitoring Officer**
- **The Internal Audit Manager**

#### **Suspected Fraud by a Contractor, Supplier, Volunteer or a Member of the Public**

4.7 If the fraud or corrupt act is being committed in your Service area, then under normal circumstances you should report your concerns to your **line manager**. If your suspicions do not relate directly to your area, then you should not ignore the information you have, but should report the matter directly to the **Internal Audit Manager**. This could include information that comes into your possession through your profession or social life.

#### **Members Responsibilities**

4.8 Where Members come into possession of information which may indicate that a fraudulent or corrupt act is being perpetrated against Flintshire County Council, they must report this to either the **Chief Executive, the Internal Audit Manager, the relevant Chief Officer, or the Council's Monitoring Officer (Chief Officer Governance)**. The officer in receipt of the report should ensure that any subsequent investigation follows the requirements of this fraud response plan.

4.9 Under no circumstances should a Member discuss a suspected fraud with other Members or the press

#### **Third Party Responsibilities (Partners, Consultants, Suppliers, Contractors, Volunteers and employees of these)**

4.10 Where a Third Party comes into possession of information which may indicate that a fraudulent or corrupt act is being perpetrated against Flintshire County Council, they must report this to either the Chief Executive, the Internal Audit Manager, the relevant Chief Officer, or the Council's Monitoring Officer (Chief Officer Governance).

## Senior Accountable Officers Responsibilities

- 4.11 As soon as a complaint or an allegation is received by a manager (including referrals made by Members as in 4.1), it is their responsibility to inform the **Internal Audit Manager** in accordance with **Finance Procedure Rule 4.3 and People and Resources** (where the allegation relates to an employee) to undertake an initial risk assessment of the facts. This enquiry should be carried out as quickly as possible, with the objectives of either substantiating or repudiating the allegation that has been made.
- 4.12. At no time during the preliminary investigation should the manager confront the alleged suspect, nor put evidence at risk. Under no circumstances should a manager discuss a suspected employee fraud with other staff members or peer managers.
- 4.13. If there are suspicions that similar frauds are or could be being committed the situation should be discussed with the **Internal Audit Manager**.

## Trade Union Responsibilities

- 4.14 Should any employee who is a member of a recognised Trade Union have any concerns regarding their own behaviour, or that of others, in relation to any potential fraudulent activity then they can seek advice and assistance from their Trade Union.
- 4.15 Whilst discussions between the Trade Union member and their Trade Union are confidential, the disclosure of any potential fraudulent activity to a Trade Union Official will result in it being disclosed to the Organisation for them to investigate it fully. Disclosure of information to the Trade Unions will protect the identity of the individual making the disclosure and they will receive the full support of their Trade Union throughout the ensuing process

## 5. What will Happen Next?

- 5.1 After the initial assessment has been carried out and where evidence suggests there is a potential fraud or irregularity, a detailed investigation will need to be undertaken. Depending on the nature of the allegation the options for this will be:
  - Appoint an Investigating Officer; this will usually be a senior officer in the relevant service and will be appointed by People and Resources. He/she will carry out the investigation (for investigations under the disciplinary policy) in conjunction with People and Resources;
  - Internal Audit carry out the investigation (for all fraud related investigations) in conjunction with the Investigating Officer;
  - The matter is referred to the Police (in conjunction with Internal Audit where required);

- The matter is referred to an external agency for investigation e.g. Housing Benefit fraud or National Anti-Fraud Network (NAFN).

## 6. How will the Investigation Proceed?

6.1 Every case is unique. The Internal Audit Manager will work with the appointed Investigating Officer and People and Resources to ensure the most appropriate course of action is taken.

Considerations will include:

- The preparation of an investigation plan;
- The potential requirement to suspend a member of staff, in accordance with the Council's Disciplinary Procedure, while the investigation is undertaken;
- The need to secure evidence (including documents, computer records, CCTV recordings etc.);
- The commissioning of specialist services from both within and outside the Council (e.g. surveillance experts, forensic IT specialists, specific service areas or subject matter experts);
- Carrying out interviews to gather information and witness statements (any interviews must be conducted fairly and will, where possible, be recorded);
- Potential referral to other internal or external agencies, e.g. Housing Benefit Fraud team, the Department for Work & Pensions, the Police, Standards Committee, National Anti-Fraud Network;
- Consider whether RIPA (Regulation of Investigatory Powers Act) approval is required. This is usually where surveillance needs to be undertaken; and
- Advise and assist management in implementing new procedures and internal controls where necessary.

## 7. Investigation Outcomes (Recovery and Sanctions)

### Allegations against an Employee

7.1 If an allegation is substantiated following an investigation, the disciplinary process will be instigated.

- 7.2 At the same time, if there is evidence that fraud has been committed against the Council, the Internal Audit Manager will formally consider referring the matter to the Police (if not already done so at initial assessment stage), and liaise with them over whether formal charges will be brought and an investigation taken forward to possible prosecution. A referral to the Police will be carried out, normally following consultation with the Senior Manager, Human Resources and Organisational Development, the Chief Officer Governance and the Chief Executive.
- 7.3 In appropriate circumstances the Council will consider taking civil action against the accused employee to recover any debt caused as a result of their actions.

#### **Allegation against a Councillor**

- 7.4 Any allegations which are substantiated against a Councillor will be considered under their Code of Conduct by the Council's Monitoring Officer and could result in a referral to the standards committee, Public Service Ombudsman for Wales or the Police.

#### **Allegation against a Contractor or Supplier**

- 7.5 If an allegation of fraud against the Council by a contractor or supplier is substantiated, it will be referred to the police and may result in prosecution.
- 7.6 In addition to the criminal route, wherever applicable, the action taken by the Council will also follow a civil route, in order to recover assets or monies obtained by the potential offender.

#### **External Audit**

- 7.7 In some cases it may be necessary to immediately inform the Council's External Auditor of the fraud or corruption. This will be the responsibility of the Internal Audit Manager.

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

- 7.8 Except in special circumstances, after taking into consideration issues of confidentiality, fraud investigations will normally be reported in outline to the Governance and Audit Committee every quarter. Where it would be proper to do so, the Chair of the Governance and Audit Committee will be briefed immediately with any sensitive/serious matters.
- 7.9 Any variation from the approved Fraud and Irregularity Response Plan, together with reasons for the variation, will be reported to the Governance and Audit Committee where it would be appropriate to do so.

## Press and Publicity

- 7.10 The Business and Communications Team will deal with the press and publicity in all matters regarding fraud and corruption. Where appropriate, the details of all successful prosecutions for fraud will be released to the media through the Business and Communications Team. Such disclosures will maintain the confidentiality of the initial referral. Staff, Managers or Members must not directly disclose to the press the details of any cases suspected or under investigation.
- 7.11 Disclosure of details to the media without the express authority of the Business and Communications Team could be regarded as a disciplinary matter. The aim is to publicise the Council's intolerance of fraud or corruption both within the Council and by users of its services. It also serves to publicise our successes against those who would perpetrate such fraud or corruption against the Council.

## 8. Conclusion

- 8.1 The Fraud and Irregularity Response Plan for the Council's Workforce, Service Teams and Senior Accountable Officers, is part of a number of policies listed below which supports the Council's objectives in countering and investigating corporate fraud and corruption.

- Anti-Fraud and Corruption Strategy
- Whistleblowing Policy
- Codes of Conduct (Officers and Members)
- Prosecution Policy
- Employee Disciplinary Policy
- Code of Corporate Governance
- Financial Procedure Rules
- Contract Procedure Rules

However no guidance such as this can be expected to cover all eventualities and, therefore, if you have any issues or are unsure of the action to take in a given situation you should immediately contact the Internal Audit Manager.

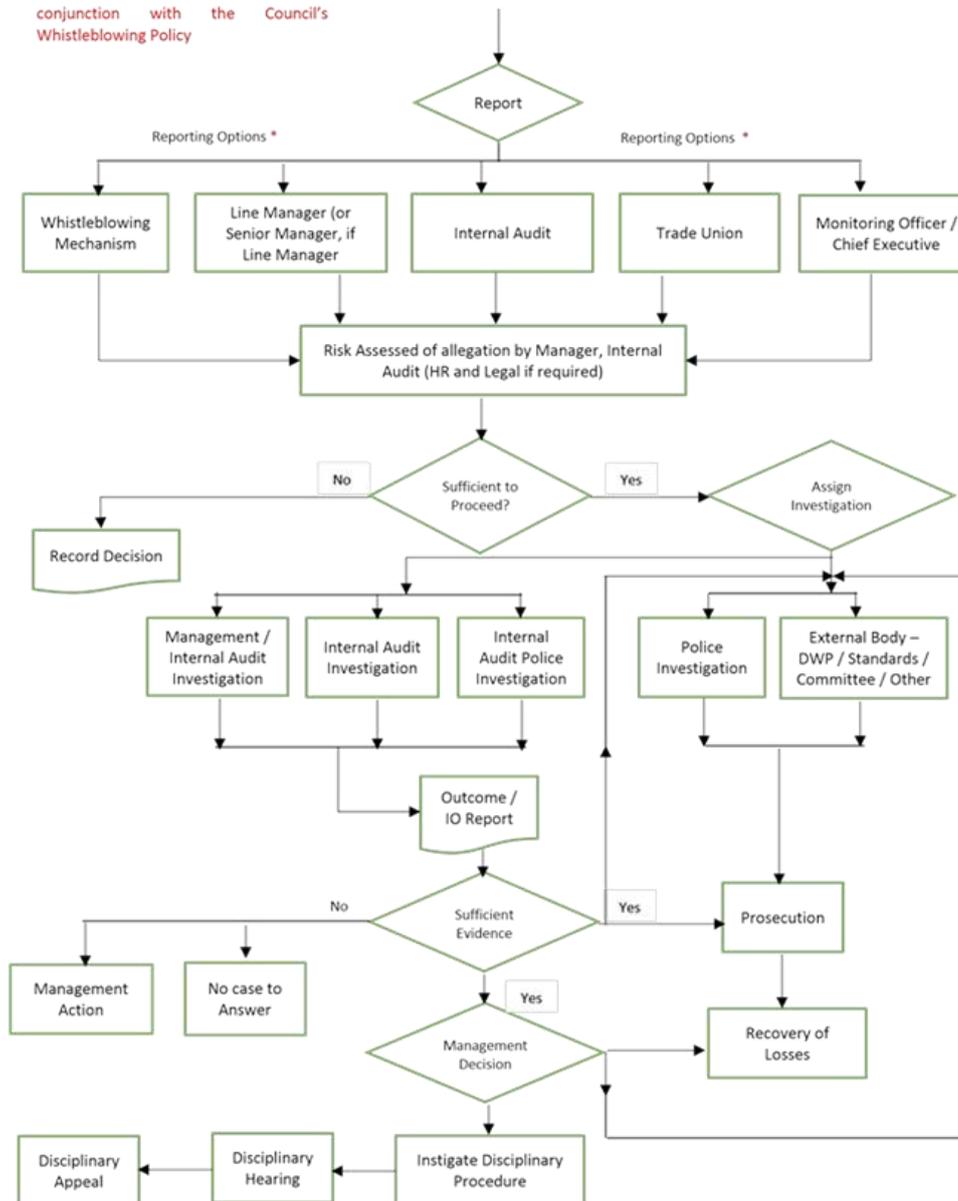
## 9. Monitoring

- 9.1 The Fraud and Irregularity Response Plan will be subject to annual review and update.
- 9.2 All related policies such as the Whistleblowing Policy and Anti-Fraud and Corruption Strategy can be found on the Council's Website and the Infonet

## Response Plan

### Fraud Concern Identified

\* This document should be read in conjunction with the Council's Whistleblowing Policy



## **SECTION 30**

### **FLINTSHIRE COUNTY COUNCIL**

#### **MEMBERS' SCHEDULE OF REMUNERATION**

This Scheme is made under the Local Government (Wales) Measure 2011 with regard to Independent Remuneration Panel for Wales (IRPW) Regulations which apply to payments made to members and co-opted members of local authorities.

#### **1. Basic Salary**

- 1.1 A Basic Salary shall be paid to each elected Member of the Authority.
- 1.2 In accordance with the Regulations, the rate of the Basic Salary shall be reviewed annually as determined by the Independent Remuneration Panel for Wales.
- 1.3 Where the term of office of a Member begins or ends other than at the beginning or end of a year, their entitlement to the Basic Salary will be pro-rata.
- 1.4 No more than one Basic Salary is payable to a Member of the Authority.

#### **2. Senior Salaries & Civic Salaries**

- 2.1 Members occupying specific posts shall be paid a Senior Salary as set out in **Schedule 1**.
- 2.2 In accordance with the Regulations, the rates of Senior Salaries and Civic Salaries shall be reviewed annually as determined by the Annual or Supplementary Report of the Independent Remuneration Panel for Wales.
- 2.3 Only one Senior Salary or Civic Salary is payable to a Member of the Authority.
- 2.4 A Member of the Authority cannot be paid a Senior Salary and a Civic Salary.
- 2.5 All Senior and Civic Salaries are paid inclusive of Basic Salary.
- 2.6 A Senior Salary may not be paid to more than the number of members specified by the Independent Remuneration Panel for Wales in its Annual Report and cannot exceed fifty percent of the total membership of the authority, except to include a temporary Senior Salary office holder providing temporary cover for the family absence of the appointed office holder.
- 2.7 A Member of the Authority in receipt of a Senior Salary **cannot** receive a salary from any National Park Authority (NPA) or Fire and Rescue Authority (FRA) for which they have been nominated.
- 2.8 Where the term of Senior Salary or Civic Salary of a Member begins or ends other than at the beginning or end of a year, their entitlement to the Salary will be pro-rata.

#### **3. Election to Forgo Entitlement to Allowance**

- 3.1 A Member may, by notice in writing delivered to the Proper Officer of the authority, personally elect to forgo any part of their entitlement to any salary, allowance or fee payable under this Scheme from the date set out in the notice.

#### **4. Suspension of a Member**

- 4.1 Where a Member of the Authority is suspended or partially suspended from their responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the part of the Basic Salary payable to them in respect of that period for which they are suspended will be withheld by the Authority (Section 155 (1) of the Measure).
- 4.2 Where a Member in receipt of a Senior Salary is suspended or partially suspended from being a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, the Authority must not make payments of the Member's Senior Salary for the duration of the suspension (Section 155 (1) of the Measure). If the partial suspension relates only to the specific responsibility element of the payment, the Member may retain the Basic Salary.

#### **5. Repayment of salaries, allowances or fees**

- 5.1 Where payment of any salary, allowance or fee has been made to a Member of the Authority or Co-opted Member in respect of any period during which the Member concerned:
- (a) is suspended or partially suspended from that Member's or Co-opted Member's duties or responsibilities in accordance with Part 3 of the 2000 Act or regulations made under that Act;
  - (b) ceases to be a Member of the Authority or Co-opted Member; or
  - (c) is in any other way not entitled to receive a salary, allowance or fee in respect of that period,

The Authority will require that such part of the allowance as relates to any such period be repaid.

#### **6. Payments**

- 6.1 Payments of all allowances will be made by the Employment Services Manager by Bank Credit in instalments of one-twelfth of the Member's annual entitlement on 28<sup>th</sup> of the Month, or nearest Friday if the 28<sup>th</sup> falls on a Saturday or Sunday.
- 6.2 Where payment has resulted in a Member receiving more than their entitlement to salaries, allowances or fees the Authority will require that such part that is overpayment be repaid.
- 6.3 All payments are subject to the appropriate tax and National Insurance deductions.

#### **7. Contribution towards Costs of Care and Personal Assistance**

- 7.1 Contribution towards Costs of Care and Personal Assistance shall be paid to a Member or Co-opted Member, who has caring responsibility for dependent children or adults, or a personal care requirement, provided the Member incurs expenses in the provision of such care whilst undertaking 'approved' council duties.

7.2 Contribution towards Costs of Care and Personal Assistance applies in respect of a dependant under 16 years of age, or a minor or adult who normally lives with the member as part of their family and who cannot be left unsupervised for whom the Member or Co-opted Member can show that care is required. If a Member or Co-opted Member has more than one dependant the Member may claim more than one allowance, provided the Member can demonstrate a need to make separate arrangements for care.

7.3 Eligible Members may claim contribution towards costs of care and personal assistance for actual and receipted costs as set out in **Schedule 1**. All claims for the contribution towards costs of care and personal assistance should be made in writing to Democratic Services detailing times, dates and reasons for claim. Receipts are required for both informal and formal care arrangements.

## **8. Family Absence**

8.1 Members are entitled under the provisions of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 to a period of family absence, during which if they satisfy the prescribed conditions they are entitled to be absent from authority meetings.

8.2 When taking family absence Members are entitled to retain a basic salary irrespective of their attendance record immediately preceding the commencement of the family absence.

8.3 Should a senior salary holder be eligible for family absence they will be able to continue to receive their senior salary for the duration of the absence.

8.4 If the authority agrees that it is necessary to make a substitute appointment to cover the family absence of a senior salary holder the Member substituting will be eligible if the authority so decides to be paid a senior salary.

8.5 If the paid substitution results in the authority exceeding its maximum number of senior salaries, an addition to the maximum will be allowed for the duration of the substitution.

## **9. Co-optees' payments**

9.1 *A daily fee (with a provision for half day payments) shall be paid to Co-optees, provided they are statutory Co-optees with voting rights. In addition a daily fee (which will be paid from the Clwyd Pension Fund) will be paid to the Co-optees who are representatives of other employers and scheme members on the Pension Fund Committee.*

9.2 Co-optees' payments will be capped at a maximum of the equivalent of 15 full days a year for each committee to which an individual may be co-opted.

9.3 Payments will take into consideration travelling time to and from the place of the meeting, reasonable time for pre meeting preparation and length of meeting (up to the maximum of the daily rate).

9.4 The Head of Democratic Services is designated as the "appropriate officer" and will determine preparation time, travelling time and length of meeting, the fee will be paid on the basis of this determination.

9.5 The Head of Democratic Services can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.

- 9.6 A half day meeting is defined as up to 4 hours.
- 9.7 A full day meeting is defined as over 4 hours.
- 9.8 The daily and half day fee for the Chairpersons of the Standards Committee and Governance and Audit Committee, as determined by the Independent Remuneration Panel for Wales, is set out in **Schedule 1**.
- 9.9 The daily and half day fee for other statutory Co-optees with voting rights, as determined by the Independent Remuneration Panel for Wales, is set out in **Schedule 1**.
- 10. Travel and Subsistence Allowances**
- 10.1 General Principles**
- 10.2 Members and Co-opted Members are entitled to claim travelling expenses when travelling on the Authority's business for 'approved duties' as set out in **Schedule 2**. Where Members travel on the Authority's business they are expected to travel by the most cost effective means. In assessing cost effectiveness regard will be given to journey time. A Member who does not travel by the most cost effective means may have their claim abated by an appropriate amount.
- 10.3 Where possible Members should share transport.
- 10.4 The distance claimed for mileage should be the shortest reasonable journey by road from the point of departure to the point at which the duty is performed, and similarly from the duty point to the place of return.
- 10.5 The rates of Members' Travel and Subsistence Allowances are set out in **Schedule 3** and are subject to annual review by the Independent Remuneration Panel for Wales
- 10.6 Where a Member is suspended or partially suspended from their responsibilities or duties as a Member of the Authority in accordance with Part III of the Local Government Act 2000 (Conduct of Members), or regulations made under the Act, any travel and subsistence allowances payable to them in respect of that period for which they are suspended or partially suspended must be withheld by the Authority.
- 11. Travel by Private Vehicle**
- 11.1 The Independent Remuneration Panel for Wales has determined that the maximum travel rates payable should be the rates set out by Her Majesty's Revenue & Customs for the use of private cars, motor cycles and pedal cycles plus any passenger supplement.
- 11.2 The mileage rates for private vehicles as determined by the Independent Remuneration Panel for Wales are set out in **Schedule 3**.
- 11.3 Where a Member makes use of their private vehicle for approved duty purposes, the vehicle must be insured for business use. Proof of appropriate insurance must be provided to the Authority on request.
- 12. Travel by Public Transport**

#### 12.1 Rail or Coach Travel

Unless otherwise authorised rail tickets will be second-class.

Civic & Members' Services will purchase requisite rail and coach tickets for Members in advance of journeys. In the unlikely event that a Member needs to purchase a ticket directly, payment will be reimbursed upon production of the used ticket and or a receipt.

#### 12.2 Taxi Fares

Taxi fares will only be reimbursed where their use has been authorised for cases of urgency, where no public transport is reasonably available, or a Member has a particular personal need. Re-imburement will be upon receipt only.

#### 12.3 Travel Abroad

Travel abroad on the Authority's business will only be permitted where authorised by the Chief Executive, Chief Officer (Governance) or Corporate Finance Manager. Civic & Members' Services will arrange travel and accommodation.

#### 12.4 Other Travel Expenses

Members are entitled to reimbursement of toll fees, parking fees, overnight garaging and other necessary travel associated expenses. Re-imburement will be upon receipt only.

#### 13. Overnight Accommodation

13.1 Overnight stays will only be permitted where the Authority's business extends to two days or more, or the venue is at such a distance that early morning or late night travel would be unreasonable. All overnight stays must receive prior authorisation from the Chief Executive/Chief Officer (Governance)/Corporate Finance Manager.

13.2 Overnight accommodation will be booked by Civic & Members' Services. Wherever possible the overnight accommodation will be pre-paid or invoiced.

13.3 Direct booking of overnight accommodation by a Member will only be permitted in the event of an emergency. Reimbursement will only be made upon the production of a receipt and will be at a level deemed reasonable and not in excess of the rates set out in **Schedule 3**.

#### 14 Subsistence Allowance

14.1 The day subsistence rate to meet the costs of meals and refreshments in connection with approved duties (including breakfast when not provided as part of overnight accommodation) is set out in **Schedule 3**. The maximum daily rate covers a 24 hour period and can be claimed for any meal that is relevant, providing such a claim is supported by receipt(s)

14.2 No provision is made for subsistence claims within the Authority.

#### 15. Claims and Payments

15.1 A claim for travel and subsistence allowances must be made in writing within 4 months of the end of the calendar month in which entitlement to allowances arises and must be accompanied by the relevant receipts.

15.2 Allowances will be paid by the Employment Services Manager by direct bank credit.

## 16. Pensions

16.1 The Authority shall enable its Members who are eligible to join the Local Government Pension Scheme.

## 17 Supporting the work of Authority Members

17.1 The Independent Remuneration Panel for Wales expects Members to be provided with adequate support to carry out their duties and that the support provided should take account of the specific needs of individual Members. The Authority's Democratic Services Committee is required to review the level of support provided to Members and should take proposals for reasonable support to the full council.

17.2 All elected Members & Co-opted Members should be provided with adequate telephone, email and internet facilities to give electronic access to appropriate information.

17.3 Such support should be without cost to any Member. Deductions must not be made from Members' salaries as a contribution towards the cost of support which the Authority has decided is necessary for the effectiveness and or efficiency of Members.

## 18 Compliance

18.1 In accordance with the Regulations, the Authority must comply with the requirements of Independent Remuneration Panel for Wales in respect of the monitoring and publication of payments made to Members and Co-opted Members as set out in **Schedule 4**.

**Members & Co-opted Members are reminded that expense claims are subject to both internal and external audit.**

### SCHEDULE 1

#### SCHEDULE OF REMUNERATION 2022/23

|    | MEMBERS ENTITLED TO BASIC SALARY | ANNUAL AMOUNT OF BASIC SALARY ACCEPTED |
|----|----------------------------------|--|
| 1. | Mike Allport                     | £16,800                                |
| 2. | Bernie Attridge                  | £16,800                                |
| 3. | Glyn Banks                       | £16,800                                |
| 4. | Pam Banks                        | £16,800                                |
| 5. | Marion Bateman                   | £16,800                                |
| 6. | Sean Bibby                       | £16,800                                |
| 7. | Chris Bithell                    | £16,800                                |
| 8. | Gillian Brockley                 | £16,800                                |
| 9. | Helen Brown                      | £16,800                                |

|     |                     |         |
|-----|---------------------|---------|
| 10. | Mel Buckley         | £16,800 |
| 11. | Teresa Carberry     | £16,800 |
| 12. | Tina Claydon        | £16,800 |
| 13. | David Coggins Cogan | £16,800 |
| 14. | Geoff Collett       | £16,800 |
| 15. | Steve Cople         | £16,800 |
| 16. | Bill Crease         | £16,800 |
| 17. | Paul Cunningham     | £16,800 |
| 18. | Jean Davies         | £16,800 |
| 19. | Rob Davies          | £16,800 |
| 20. | Ron Davies          | £16,800 |
| 21. | Adele Davies-Cooke  | £16,800 |
| 22. | Chris Dolphin       | £16,800 |
| 23. | Rosetta Dolphin     | £16,800 |
| 24. | Mared Eastwood      | £16,800 |
| 25. | Carol Ellis         | £16,800 |
| 26. | David Evans         | £16,800 |
| 27. | Chrissey Gee        | £16,800 |
| 28. | David Healey        | £16,800 |
| 29. | Gladys Healey       | £16,800 |
| 30. | Ian Hodge           | £16,800 |
| 31. | Andy Hughes         | £16,800 |
| 32. | Dave Hughes         | £16,800 |
| 33. | Ray Hughes          | £16,800 |
| 34. | Dennis Hutchinson   | £16,800 |
| 35. | Alasdair Ibbotson   | £16,800 |

|     |                  |         |
|-----|------------------|---------|
| 36. | Paul Johnson     | £16,800 |
| 37. | Christine Jones  | £16,800 |
| 38. | Richard Jones    | £16,800 |
| 39. | Simon Jones      | £16,800 |
| 40. | Richard Lloyd    | £16,800 |
| 41. | Dave Mackie      | £16,800 |
| 42. | Gina Maddison    | £16,800 |
| 43. | Roz Mansell      | £16,800 |
| 44. | Allan Marshall   | £16,800 |
| 45. | Hilary McGill    | £16,800 |
| 46. | Ryan McKeown     | £16,800 |
| 47. | Billy Mullin     | £16,800 |
| 48. | Debbie Owen      | £16,800 |
| 49. | Ted Palmer       | £16,800 |
| 50. | Andrew Parkhurst | £16,800 |
| 51. | Mike Peers       | £16,800 |
| 52. | Michelle Perfect | £16,800 |
| 53. | Vicky Perfect    | £16,800 |
| 54. | Carolyn Preece   | £16,800 |
| 55. | David Richardson | £16,800 |
| 56. | Ian Roberts      | £16,800 |
| 57. | Dan Rose         | £16,800 |
| 58. | Kevin Rush       | £16,800 |
| 59. | Dale Selvester   | £16,800 |
| 60. | Jason Shallcross | £16,800 |
| 61. | Sam Swash        | £16,800 |

|     |                |         |
|-----|----------------|---------|
| 62. | Linda Thew     | £16,800 |
| 63. | Linda Thomas   | £16,800 |
| 64. | Ant Turton     | £16,800 |
| 65. | Roy Wakelam    | £16,800 |
| 66. | Arnold Woolley | £16,800 |
| 67. | Antony Wren    | £16,800 |

|    | <b>SENIOR SALARIES ENTITLEMENTS<br/>(includes basic salary)</b>                                     |                 | <b>ANNUAL<br/>AMOUNT OF<br/>SENIOR<br/>SALARY</b> |
|----|---|-----------------|---|
|    | <b>ROLE</b>   | <b>MEMBER</b>   |   |
| 1. | Leader & Cabinet Member for Education Welsh Language, Culture and Leisure                           | Ian Roberts     | £56,700   |
| 2. | Deputy Leader of the Council and Cabinet Member for Social Services and Wellbeing                   | Christine Jones | £36,855   |
| 3. | Deputy Leader of the Council and Cabinet Member for Streetscene and the Regional Transport Strategy | Dave Hughes     | £36,855   |
| 4. | Cabinet Member – Planning, Public Health & Public Protection  | Chris Bithell   | £34,020   |
| 5. | Cabinet Member for Governance and Corporate Services include Health and Safety and Human Resources  | Billy Mullin    | £34,020   |
| 6. | Cabinet Member – Finance, Inclusion, Resilient Communities including Social Value & Procurement     | Paul Johnson    | £34,020   |
| 7. | Cabinet Member – Housing and Regeneration   | Sean Bibby      | £34,020   |
| 8. | Cabinet Member for Climate Change and Economy   | Dave Healey     | £34,020   |
| 9. | Chair of Governance & Audit Committee   | Sally Ellis     | £268.00   |

| <b>SENIOR SALARIES ENTITLEMENTS<br/>(includes basic salary)</b> |  |                   | <b>ANNUAL<br/>AMOUNT OF<br/>SENIOR<br/>SALARY</b> |
|---|--|-------------------|---|
|   | <b>ROLE</b>  | <b>MEMBER</b>     |   |
| 10.   | Chair of Community, Housing & Assets Overview & Scrutiny Committee | Helen Brown       | £25,593   |
| 11.   | Chair of Corporate Resources Overview & Scrutiny Committee         | Richard Jones     | £25,593   |
| 12.   | Chair of Education Youth & Culture Overview & Scrutiny Committee   | Teresa Carberry   | £25,593   |
| 13.   | Chair of Environment & Economy Overview & Scrutiny Committee       | David Evans       | £25,593   |
| 14.   | Chair of Social & Healthcare Overview & Scrutiny Committee         | Hilary McGuill    | £25,593   |
| 15.   | Leader of the largest opposition group                             | Bernie Attridge   | £25,593   |
| 16.   | Chair of Planning Committee  | Richard Lloyd     | £25,593   |
| 17.   | Chair of Licensing Committee                                       | Rosetta Dolphin   | £25,593   |
| 18.   | Chair of Climate Change Committee                                  | Alasdair Ibbotson | £25,593   |

A maximum of 18 senior salaries for Flintshire County Council may be paid and this has not been exceeded.

| <b>ENTITLEMENT TO CIVIC SALARIES</b>      |                | <b>ANNUAL<br/>AMOUNT OF<br/>CIVIC SALARY</b> |
|---|----------------|--|
| <b>ROLE</b>                               | <b>MEMBER</b>  |  |
| Civic Head (Chair of Council)             | Mared Eastwood | £25,593                                      |
| Deputy Civic Head (Vice-chair of Council) | Gladys Healey  | £20,540                                      |

| <b>ENTITLEMENT AS STATUTORY CO-OPTTEES</b>                |                   | <b>AMOUNT OF CO-OPTTEES ALLOWANCES</b> |
|---|-------------------|--|
| <b>ROLE</b>   | <b>MEMBER</b>     |  |
| Chair of Standards committee                              | Julia Hughes      | £268 Daily Fee<br>£134 ½ Day Fee       |
| Member of Standards Committee                             | Mark Morgan       | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Standards Committee                             | David Wynn Davies | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Standards Committee                             | Jacqueline Guest  | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Standards Committee                             | Gill Murgatroyd   | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Standards Committee                             | Ian Papworth      | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Education & Youth Overview & Scrutiny Committee | Lynn Bartlett     | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Education & Youth Overview & Scrutiny Committee | Wendy White       | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Education & Youth Overview & Scrutiny Committee | Vacant            | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Education & Youth Overview & Scrutiny Committee | Vacant            | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of Education & Youth Overview & Scrutiny Committee | Vacant            | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of the Governance and Audit Committee              | Allan Rainford    | £210 Daily Fee<br>£105 ½ Day Fee       |
| Member of the Governance and Audit Committee              | Rev Brian Harvey  | £210 Daily Fee<br>£105 ½ Day Fee       |

| <b>Contribution towards Costs of Care and Personal Assistance</b>   |                                   |
|---|-----------------------------------|
| All Members are entitled to claim towards the costs of care and personal assistance, for activities that the individual council has designated official business or an approved duty. | Variable –<br>Determination<br>43 |

| <b>Members Support – what is provided in terms of telephone, internet or email (see Determination 6)</b> |  |
|--|--|
| Telephone Support for Executive Members  | Mobile phones provided to Cabinet members  |
| Telephone Support for Chairs of Committees   | Mobile phones provided to 4 out of the 9 committee chairs.   |
| Telephone Support for all other Members  | Not personally, but available in Group Rooms   |
| Access to Email for Executive Members  | Yes  |
| Access to Email for Chairs of Committees   | Yes  |
| Access to Email for all other Members  | Yes  |
| Internet Support for Executive Members   | IPads issued to Cabinet Members are wi fi enabled<br>Broadband allowance of up to £30 per month offered to all elected Members.              |
| Internet Support for Chairs of Committees  | Not personally, but available in Group Rooms computer terminals<br>Broadband allowance of up to £30 per month offered to all elected Members |
| Internet Support for all other Members   | Not personally, but available in Group Rooms computer terminals<br>Broadband allowance of up to £30 per month offered to all elected Members |

## SCHEDULE 2

### Approved duties: -

- attendance at a meeting of the Authority or of any committee of the Authority or of any body to which the Authority makes appointments or nominations or of any committee of such a body;
- attendance at a meeting of any association of authorities of which the Authority is a member;
- attendance at any other meeting the holding of which is authorised by the Authority or by a committee of the Authority or by a joint committee of the Authority and one or more other Authorities;
- a duty undertaken for the purpose of or in connection with the discharge of the functions of Cabinet;
- a duty undertaken in pursuance of a standing order which requires a Member or Members to be present when tender documents are opened;
- a duty undertaken in connection with the discharge of any function of the Authority which empowers or requires the Authority to inspect or authorise the inspection of premises;
- attendance at any training or developmental event approved by the Authority or its Cabinet;
- the following duties which have been approved by Council:
  - a) Attendance at any training or developmental event approved by a Committee of the Council or by the Chief Executive or appropriate Chief Officer in consultation with the Chair or Vice Chair of the Council.
  - b) Any attendance required by financial regulations or Contract Standing Orders.
  - c) Any attendance authorised/required by the Council's Scheme of Delegation (e.g. attendances for consultation purposes).
  - d) Attendance upon an Officer of the Council upon Ward business.
  - e) Attendance upon an Officer of the Council upon Council business.
  - f) Attendance to inspect background documents under Section 100D Local Government Act 1972.
  - g) Any other attendances expressly authorised by Committee, Cabinet or Council.

***Where the above official business is carried out within the Council area, this will not entitle payment of a subsistence allowance except where it relates to a co-opted Member living outside the Council area.***

### **SCHEDULE 3**

#### **Mileage Rates**

|   |  |
|---|--|
| All sizes of private motor vehicle<br>Up to 10,000 miles<br>Over 10,000 miles | 45 pence per mile<br>25 pence per mile |
| Private Motor Cycles<br>Pedal Cycles  | 24 pence per mile<br>20 pence per mile |
| Passenger supplement  | 05 pence per mile                      |

#### **Reimbursement of subsistence costs**

|                |  |
|----------------|--|
| £28 per day    | Day allowance for meals, including breakfast, where not provided in the overnight charge |
| £200 per night | London   |
| £95 per night  | Elsewhere  |
| £30 per night  | Staying with friends and or family   |

#### ***Subsistence Allowance***

The day subsistence rate is up to a maximum of £28 and covers a 24 hour period and can be claimed for any meal if relevant provided such a claim is supported by receipts.

Re-imbusement of alcoholic drinks is not permitted.

#### **Overnight Stay**

The maximum allowances for an overnight stay are £200 for London and £95 for elsewhere. A maximum of £30 is available for an overnight stay with friends or relatives whilst on approved duty.

#### **SCHEDULE 4**

##### **Compliance**

- The Authority will arrange for the publication on the council's website the total sum paid by it to each Member and Co-opted Member in respect of salary, allowances, fees and reimbursements not later than 30 September following the close of the year to which it relates. In the interests of transparency this will include remuneration from all public service appointments held by elected Members.
- The Authority will publish on the council's website a statement of the basic responsibility of a councillor and role descriptors for senior salary office holders, which clearly identify the duties expected.
- The Authority will publish on the council's website the annual schedule of Member Remuneration not later than 31 July of the year to which the schedule refers.
- The authority will send a copy of the schedule to the Independent Remuneration Panel for Wales not later than 31 July of the year to which the schedule refers.
- The Authority will maintain records of Member or Co-opted Members attendance at meetings of council, cabinet and committees and other approved duties for which a Member or Co-opted Member submits a claim for reimbursement.
- The Authority will arrange for the publication on the council's website of annual reports prepared by Members.
- When the Authority agrees a paid substitution for family absence it will notify the Independent Remuneration Panel for Wales within 14 days of the date of the decision of the details including the particular post and the duration of the substitution.

## SECTION 31

### MEMBER ROLE DESCRIPTIONS

#### 1. Elected Member Role Description

##### 1.1 Accountabilities

- (a) To Full Council.
- (b) To the electorate of their ward.

##### 1.2 Role Purpose and Activity

###### (a) Representing and Supporting Communities

- (i) To represent ward interests.
- (ii) To be an advocate for the Council in the ward and communities they serve.
- (iii) To be a channel of communication to the community on council strategies, policies, services and procedures.
- (iv) To represent individual constituents and local organisations, undertaking casework on their behalf and serving all fairly and equally.
- (v) 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.
- (vi) To promote tolerance and cohesion in local communities.

###### (b) Making Decisions and Overseeing Council Performance

- (i) To participate in Full Council meetings, reaching and making informed and balanced decisions, and overseeing performance.
- (ii) To participate in informed and balanced decision making on committees and panels to which they might be appointed.
- (iii) To adhere to the principles of democracy and collective responsibility in decision making.
- (iv) To promote and ensure efficiency and effectiveness in the provision of council and other public services.

(c) Representing the Council (Subject to Appointment)

- (i) To represent the Council on local outside bodies as an appointee of the Council.
- (ii) To represent the Council on local partnership bodies, promoting common interest and co-operation for mutual gain.
- (iii) To represent and be an advocate for the Council on national bodies and at national events.

(d) Internal Governance, Ethical Standards and Relationships

- (i) To promote and support good governance of the Council and its affairs To provide community leadership and promote active citizenship.
- (ii) To promote and support open and transparent government.
- (iii) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (iv) To adhere to the Member's Code of Conduct, the Member/Officer Protocol and the highest standards of behaviour in public office.

(e) Personal and Role Development

To participate in opportunities for development provided for members by the authority.

1.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

2. Leader (and Deputy) Role Description

2.1 Accountabilities

- (a) To Full Council.

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(b) The Public.

2.2 Role Purpose and Activity

(a) Providing Political Leadership to the Council

- (i) To be a political figurehead for the Council; to be the principal political spokesperson for the Council.
- (ii) To provide leadership in building a political consensus around council policies.
- (iii) To form a vision for the Council and community.
- (iv) To provide strong, clear leadership in the co-ordination of policies, strategies and service delivery.

(b) Appointing the Cabinet

- (i) To designate the appropriate portfolios.
- (ii) To appoint appropriate elected members to each portfolio.
- (iii) To allocate cabinet members to roles with regard to their abilities.
- (iv) To designate the Deputy Leader.

(c) Representing and Acting as Ambassador for the Authority

- (i) To represent the Authority to a high standard. Provide a strong, competent and eloquent figure to represent the Authority both within the County and at external bodies.
- (ii) To represent the Authority on the WLGA coordinating committee and the WLGA regional partnership board.
- (iii) To represent the Authority on the Public Services Board.
- (iv) To be the Council member on the North Wales Corporate Joint Committee
- (v) To provide leadership and support local partnerships and organisations.
- (vi) To represent the Authority in regional and national bodies as appropriate.

(d) Providing Leadership within the Portfolio

To fulfil the role of a portfolio holder, having regard to the role purpose and activities, and role specification of an executive member.

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(e) *Managing and Leading the Work of the Cabinet and Chairing Meetings*

- (i) To ensure the effective running of the Cabinet by managing the Forward Work Programme and ensuring its continuing development.
- (ii) To ensure the work of the Cabinet meets national policy objectives.
- (iii) To advise and mentor other cabinet members in their work.
- (iv) To chair meetings of the Cabinet in line with the Constitution.
- (v) In the Leader's absence the Deputy Leader should fulfil this role.

(f) *Participating in the Collective Decision Making of the Cabinet*

- (i) To work closely with other cabinet members to ensure the development of effective council policies and the budgetary framework for the Council, and the delivery of high quality services to local people.
- (ii) To accept collective responsibility and support decisions made by the Cabinet once they have been made.

(g) *Working with Officers to Lead the Organisation*

- (i) To liaise with the Chief Executive, and other appropriate officers, on a regular basis.
- (ii) To work with employees of the Council in relation to the strategic vision and direction of the Council, the management roles of officers and the development of policy issues.

(h) *Leading Partnerships and Community Leadership*

- (i) To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- (ii) To negotiate and broker in cases of differing priorities and disagreement.
- (iii) To act as a leader of the local community by showing vision and foresight.

(i) *Internal Governance, Ethical Standards and Relationships*

- (i) To promote and support good governance of the Council and its affairs.

- (ii) To provide community leadership and promote active citizenship.
- (iii) To promote and support open and transparent government.
- (iv) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (v) To adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

### 2.3 Values

To be committed to and demonstrate the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability;
- (g) inclusive leadership;
- (h) consensus building.

### 3. Deputy Leader

3.1 To fulfil the duties of the Leader in his or her absence.

3.2 To assist the Leader[s] in specific duties as required.

### 4. Cabinet Member Role Description

#### 4.1 Accountabilities

- (a) To the Leader.
- (b) To the Cabinet (through collective responsibility).
- (c) To Full Council.

#### 4.2 Role Purpose and Activities

- (a) Providing Portfolio Leadership
  - (i) To give political direction to officers working within the portfolio.

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- (ii) To gain the respect of officers within the portfolio; provide support to officers in the implementation of portfolio programmes.
  - (iii) To provide leadership in the portfolio.
  - (iv) To liaise with the appropriate scrutiny chair and receive scrutiny reports as required.
  - (v) To be accountable for choices and performance in the portfolio.
  - (vi) To have an overview of the performance management, efficiency and effectiveness of the portfolio.
  - (vii) To make Executive Decisions within the Portfolio.
- (b) *Contributing to the Setting of the Strategic Agenda and Work Programme for the Portfolio*
- (i) To work with officers to formulate policy documents both strategic and statutory. Ensure that the political will of the majority is carried to and through the Cabinet.
  - (ii) To provide assistance in working up and carrying through a strategic work programme both political and statutory. Carry out consultations with stakeholders as required. Make sure that the portfolio's Forward Work Programme is kept up to date and accurate.
- (c) *Providing Representation for the Portfolio*
- To provide a strong, competent and persuasive figure to represent the portfolio. Be a figurehead in meetings with stakeholders.
- (d) *Reporting and Accounting*
- (i) To report as appropriate to the Leader[s], Full Council, Cabinet, appropriate chair of scrutiny, regulatory bodies and the media.
  - (ii) To be the principal political spokesperson for the portfolio.
  - (iii) To appear before scrutiny committees in respect of matters within the portfolio.
- (e) *Taking an Active Part in Cabinet Meetings and Decision Making*
- (i) To show an interest in and support for the portfolios of others.
  - (ii) To recognise and contribute to issues which cut across portfolios or are issues of collective responsibility.

(f) *Leading Partnerships and Community Leadership*

- (i) To give leadership to local strategic partnerships and local partners in the pursuit of common aims and priorities.
- (ii) To negotiate and broker in cases of differing priorities and disagreement.
- (iii) To act as a leader of the local community by showing vision and foresight.

(g) *Internal Governance, Ethical Standards and Relationships*

- (i) To promote and support good governance of the Council and its affairs.
- (ii) To provide community leadership and promote active citizenship.
- (iii) To promote and support open and transparent government.
- (iv) To support, and adhere to respectful, appropriate and effective relationships with employees of the Council.
- (v) To adhere to the Members' Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

4.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability;
- (g) inclusive leadership.

5. Chair of Democratic Services Committee Role Description

5.1 Accountabilities

To Full Council.

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## 5.2 Role Purpose and Activity

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### (a) Providing Leadership and Direction

- (i) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- (ii) To lead the committee in its role in:
  - 1. designating the Head of Democratic Services;
  - 2. keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, ensuring that these are adequate;
  - 3. make annual reports to the full council in relation to the above;
  - 4. appointing sub committees and chairs of sub-committees to undertake functions delegated by the committee;
  - 5. considering reports prepared by the Head of Democratic Services;
  - 6. developing the Authority's member support and development strategy;
  - 7. ensuring that members have access to a reasonable level of training and development as described in the Authority's member development strategy and the Wales Charter for Member Support and Development;
  - 8. ensuring that the budget for member development is sufficient;
  - 9. ensuring that members have access to personal development planning and annual personal development reviews;
  - 10. work with the member support and development champion where relevant to promote the role of members and necessary support and development.
- (iii) To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.

### (b) Promoting the Role of the Democratic Services Committee

- (i) To act as an ambassador for the DS committee, facilitating understanding of the role.

(ii) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.

(iii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings.

(c) Internal Governance, Ethical Standards and Relationships

(i) To develop the standing and integrity of the committee and its decision making.

(ii) To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility.

(iii) To promote and support good governance by the Council.

5.3 Values

To be committed to the values of the council and the following values in public office:

(a) openness and transparency;

(b) honesty and integrity;

(c) tolerance and respect;

(d) equality and fairness;

(e) appreciation of cultural differences;

(f) sustainability.

6. Member of a Democratic Services Committee Role Description

6.1 Accountabilities

(a) To Full Council.

(b) To the Chair of the Democratic Services Committee.

6.2 Role Purpose and Activity

(a) Understanding the Nature of the Governance and Audit Committee:

(i) To be aware of and effectively undertake the role of the committee in:

1. designating the Head of Democratic Services;

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2. keeping under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, ensuring that these are adequate;
  3. make annual reports to the full council in relation to the above;
  4. appointing sub committees and chairs of sub-committees to undertake functions delegated by the committee;
  5. considering reports prepared by the Head of Democratic Services;
  6. developing the Authority's member support and development strategy;
  7. ensuring that members have access to a reasonable level of training and development as described in the member development strategy and the Wales Charter for Member Support and Development;
  8. ensuring that the budget for member development is sufficient;
  9. ensuring that members have access to personal development planning and annual personal development reviews.
- (b) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (c) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.
- (d) Participating in Meetings and Making Decisions
- (i) To participate effectively in meetings of the Democratic Services Committee.
  - (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (e) Internal Governance, Ethical Standards and Relationships
- (i) To ensure the integrity of the committee's decision making and of his/ her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
  - (ii) To promote and support good governance by the Council.

- (iii) To understand the respective roles of members, officers and external parties operating within the Democratic Services Committee's area of responsibility.

### 6.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

## 7. Chair of a Regulatory Committee Role Description

### 7.1 Accountabilities

- (a) To Full Council.
- (b) To the members of the regulatory committee.

### 7.2 Role Purpose and Activity

- (a) *Providing Leadership and Direction*
  - (i) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
  - (ii) To ensure that applicants and other interested parties are satisfied as to the transparency of the regulatory process.
  - (iii) To demonstrate integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
  - (iv) To delegate actions to sub committees as appropriate
- (b) *Promoting the Role of the Regulatory Committee and Quasi-Judicial Decision Making*
  - (i) To act as an ambassador for the regulatory committee, facilitating understanding of the role.
  - (ii) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.

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(iii) 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.

(c) Internal Governance, Ethical Standards and Relationships

(i) To develop the standing and integrity of the committee and its decision making.

(ii) To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility.

(iii) To promote and support good governance by the Council.

7.3 Values

To be committed to the values of the council and the following values in public office:

(a) openness and transparency;

(b) honesty and integrity;

(c) tolerance and respect;

(d) equality and fairness;

(e) appreciation of cultural differences;

(f) sustainability.

**8. Member of a Regulatory Committee Role Description**

8.1 Accountabilities

(a) To Full Council.

(b) To the Chair of the regulatory committee.

8.2 Role Purpose and Activity

(a) Understanding the Nature of the Regulatory Committee and Quasi-Judicial Decision Making

(i) To be aware of the quasi-judicial nature of regulatory committee decision making.

(ii) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.

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(iii) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and individual cases/applications before the committee.

(b) Participating in Meetings and Making Decisions

(i) To participate effectively in meetings of the regulatory committee, ensuring that both local considerations and policy recommendations are balanced to contribute to effective decision making.

(ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.

(c) Internal Governance, Ethical Standards and Relationships

(i) To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.

(ii) To promote and support good governance by the Council.

(iii) To understand the respective roles of members, officers and external parties operating within the regulatory committee's area of responsibility.

8.3 Values

To be committed to the values of the Council and the following values in public office:

(a) openness and transparency;

(b) honesty and integrity;

(c) tolerance and respect;

(d) equality and fairness;

(e) appreciation of cultural difference;

(f) sustainability.

9. Chair of Standards Committee Role Description

9.1 Accountabilities

To Full Council.

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## 9.2 Role Purpose and Activity

### (a) Providing Leadership and Direction

- (i) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- (ii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice on the Code of Conduct.
- (iii) To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- (iv) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.
- (v) To lead the committee in its role in:
  - 1. promoting and maintaining high standards of conduct by Councillors and co-opted members;
  - 2. assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
  - 3. advising the Council on the adoption or revision of the Members' Code of Conduct;
  - 4. monitoring the operation of the Members' Code of Conduct;
  - 5. advising, training or arranging to train Councillors, co-opted members on matters relating to the Members' Code of Conduct;
  - 6. granting dispensations to Councillors and co-opted members on 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;
  - 7. the exercise of these functions in relation to community councils and the members of those community councils.

## 9.3 Values

To be committed to the values of the council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;

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- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural differences;
- (f) sustainability.

## **10. Member of a Standards Committee Role Description**

### **10.1 Accountabilities**

- (a) To Full Council.
- (b) To the Chair of the Standards Committee.

### **10.2 Role Purpose and Activity**

- (a) Understanding the nature of the Standards committee and effectively fulfilling its functions by:
  - (i) promoting and maintaining high standards of conduct by Councillors and co-opted members;
  - (ii) assisting the Councillors and co-opted members to observe the Members' Code of Conduct;
  - (iii) advising the Council on the adoption or revision of the Members' Code of Conduct;
  - (iv) monitoring the operation of the Members' Code of Conduct;
  - (v) advising, training or arranging to train Councillors, co-opted members on matters relating to the Members' Code of Conduct;
  - (vi) granting dispensations to Councillors and co-opted members on 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.
- (b) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (c) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.

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(d) Participating in Meetings and Making Decisions

- (i) To participate effectively in meetings of the Standards committee.
- (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.

(e) Internal Governance, Ethical Standards and Relationships

- (i) To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
- (ii) To promote and support good governance by the Council.
- (iii) To understand the respective roles of members, officers and external parties operating within the Standards committee's area of responsibility.

10.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

11. Chair of Governance and Audit Committee Role Description

11.1 Accountabilities

To Full Council.

11.2 Role Purpose and Activity

(a) Providing Leadership and Direction

- (i) To demonstrate independence, integrity and impartiality in decision making which accord with legal, constitutional and policy requirements.
- (ii) To provide confident and effective management of meetings to facilitate inclusivity, participation and clear decision making.

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(iii) To agree the agendas for Governance and Audit Committee meetings .

(iv) To lead the committee in its role in:

1. reviewing and scrutinising the authority's financial affairs;
2. making reports and recommendations in relation to the authority's financial affairs;
3. reviewing and assessing the risk management, internal control and corporate governance arrangements of the authority;
4. making reports and recommendations to the authority on the adequacy and effectiveness of those arrangements;
5. overseeing the authority's internal and external audit arrangements;
6. reviewing the financial statements prepared by the authority and approving them when powers are delegated;
7. developing relationships with internal and external auditors and the Authority's Monitoring Officer;
8. developing a Forward Work Programme designed to deliver the governance and audit committees functions;
9. reviewing and self-assessing the performance of the Committee and its members; and
10. reviewing and making recommendations in relation to the self-assessment report pursuant to section 91 of the Local Government and Elections (Wales) Act 2021.

(b) Promoting the Role of the Governance and Audit Committee

- (i) To act as an ambassador for the governance and audit committee, facilitating understanding of the role.
- (ii) To act within technical, legal and procedural requirements to oversee the functions of the committee fairly and correctly.
- (iii) To ensure thoroughness and objectivity in the committee, receiving and responding to professional advice in the conduct of meetings and in the audit process.

(c) Internal Governance, Ethical Standards and Relationships

- (i) Understanding the financial risks associated with corporate governance; being satisfied that the authorities assurance statements including the annual governance statement reflects the risk environment and any activities required to improve it.
- (ii) To develop the standing and integrity of the committee and its decision making.
- (iii) To understand the respective roles of members, officers and external parties operating within the governance and audit committee's area of responsibility.
- (iv) To promote and support good governance by the Council.

11.3 Values

To be committed to the values of the council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural differences;
- (f) sustainability.

**12. Member of a Governance and Audit Committee Role Description**

12.1 Accountabilities

- (a) To Full Council.
- (b) To the Chair of the Governance and Audit Committee.

12.2 Role Purpose and Activity

- (a) Understanding the role of the Governance and Audit Committee and undertaking its functions:
  - (i) reviewing and scrutinising the authority's financial affairs;
  - (ii) making reports and recommendations in relation to the authority's financial affairs;
  - (iii) reviewing and assessing the risk management, internal control and corporate governance arrangements of the authority;

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- (iv) making reports and recommendations to the authority on the adequacy and effectiveness of those arrangements;
- (v) overseeing the authority's internal and external audit arrangements;
- (vi) reviewing the financial statements prepared by the authority.
- (b) To have sufficient technical, legal and procedural knowledge to contribute fairly and correctly to the function of the committee.
- (c) To be thorough and objective in receiving and responding to professional advice in the conduct of meetings and issues before the committee.
- (d) Participating in Meetings and Making Decisions
  - (i) To participate effectively in meetings of the governance and audit committee; questioning and seeking clarification on matters falling within the committee's remit.
  - (ii) To make informed and balanced decisions, within the terms of reference of the committee, which accord with legal, constitutional and policy requirements.
- (e) Internal Governance, Ethical Standards and Relationships
  - (i) Understanding the financial risks associated with corporate governance; being satisfied that the authorities assurance statements including the annual governance statement reflects the risk environment and any activities required to improve it.
  - (ii) To ensure the integrity of the committee's decision making and of his/her own role by adhering to the Code of Conduct(s) and other constitutional and legal requirements.
  - (iii) To promote and support good governance by the Council.
  - (iv) To understand the respective roles of members, officers and external parties operating within the governance and audit committee's area of responsibility.

### 12.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;

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(d) equality and fairness:

(e) appreciation of cultural difference:

(f) sustainability.

### **13. Overview and Scrutiny Chair Role Description**

#### **13.1 Accountabilities**

(a) Full Council.

(b) The Public.

#### **13.2 Role Purpose and Activity**

(a) *Providing Leadership and Direction*

(i) To provide confident and effective management of the member team.

(ii) To promote the role of overview and scrutiny within and outside the council, liaising effectively both internally within the council and externally with the Council's partners.

(iii) To demonstrate an objective and evidence based approach to overview and scrutiny.

(iv) To evaluate the impact and added value of overview and scrutiny activity and identify areas for improvement.

(b) *Managing the Work Programme*

(i) To develop a balanced work programme of the committee which includes pre decision scrutiny, policy development and review, investigative scrutiny, and holding the executive to account including performance monitoring.

(ii) To ensure the programme takes account of relevant factors such as: the work programmes of the executive and other committees, strategic priorities and risks, and relevant community issues.

(iii) To ensure that the work programme is delivered.

(iv) To report on progress against the work programme to Council, and others as appropriate.

(v) To liaise with officers, other members and community representatives to resource and deliver the work programme.

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(c) *Effective Meeting Management*

- (i) To set agendas containing clear objectives and outcomes for the meeting.
- (ii) To manage the progress of business at meetings, ensuring that meeting objectives are met, and the code of conduct, standing orders and other constitutional requirements are adhered to.
- (iii) To ensure that the necessary preparation is done beforehand  
To ensure that all participants have an opportunity to make an appropriate contribution.

(d) *Community Leadership*

- (i) To act as a focus for liaison between the council, community and external bodies in relation to the scrutiny function.
- (ii) To build understanding and ownership of the overview and scrutiny function within the community.
- (iii) To identify relevant community based issues for scrutiny.
- (iv) To promote the full involvement of external stakeholders for example, service users expert witnesses and partners in scrutiny activity.

(e) *Involvement and Development of Committee Members*

- (i) To encourage effective contributions from all committee members in both committee and task and finish groups.
- (ii) To assess individual and collective performance within the committee and facilitate appropriate development.
- (iii) To champion the importance of learning and development.

13.3 *Values*

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

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## 14. Overview and Scrutiny Member Role Description

### 14.1 Accountabilities

- (a) Chair of the appropriate ~~{Overview and Scrutiny Committee}~~ ~~{add other arrangements}~~.
- (b) Full Council.
- (c) The public.

### 14.2 Role Purpose and Activity

~~To participate fully in the activities of the {Overview and Scrutiny Committee} {add other arrangements}, the development and delivery of its work programme and any associated task and finish groups.~~

- (a) *Reviewing and Developing Policy*
  - (i) To assist in the creation, development, improvement and refinement of council policy.
  - (ii) To challenge policies on a sound basis of evidence for example against legislation or local political priority.
  - (iii) To assess impact of existing policy.
- (b) *Holding the Executive to Account, Monitoring Performance and Service Delivery*
  - (i) To monitor the performance of internal and external providers against standards and targets including questioning of executive and senior officers over time.
  - (ii) To contribute to the identification and mitigation of risk.
  - (iii) To investigate and address the causes of poor performance.
  - (iv) To evaluate the validity of Executive Decisions and challenging decisions through call in where appropriate.
- (c) *Promoting the Work of Overview and Scrutiny*
  - (i) To promote the role of overview and scrutiny within and outside the council, developing effective internal and external relationships.
  - (ii) To demonstrate an objective and evidence based approach to overview and scrutiny.
  - (iii) To add value to the decision making and service provision of the authority through effective scrutiny.

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(d) Community Leadership

- (i) To use scrutiny as a means to address community issues and engage the public.
- (ii) To encourage stakeholders to participate in the work of the authority To develop locally viable and acceptable policy solutions.
- (iii) To build a dialogue around priorities, objectives and performance, among communities and stakeholders.

(e) Meeting Participation

- (i) To make adequate and appropriate preparation for meetings through research and briefings.
- (ii) To participate in a proactive, informed and effective manner taking account of the Code of Conduct, Standing Orders and other constitutional requirements.

14.3 Values

To be committed to the values of the Council and the following values in public office:

- (a) openness and transparency;
- (b) honesty and integrity;
- (c) tolerance and respect;
- (d) equality and fairness;
- (e) appreciation of cultural difference;
- (f) sustainability.

**15. Leader of the Opposition Role Description**

15.1 Accountabilities

To the nominating group within the constitution.

15.2 Role Purpose and Activity

(a) Providing Political Leadership for an Opposition Group

- (i) To be a political figurehead for the opposition group; to be the principal political spokesperson for the Council's opposition.
- (ii) To provide leadership in the constructive challenge of the Council's policies.

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(iii) To constructively challenge the vision for the Council and community where appropriate.

(iv) To provide strong, clear leadership in the co-ordination of alternative policies, strategies and service delivery.

(b) Representing the Authority's Opposition

(i) To represent the Opposition Group to a high standard; providing a strong, competent and eloquent figure to represent the opposition within the Authority.

(ii) To represent the Council on external bodies.

(c) Internal Governance, Ethical Standards and Relationships

(i) To promote and support good governance of the Council and its affairs.

(ii) To provide community leadership and promote active citizenship.

(iii) To promote and support open and transparent government.

(iv) To promote, support, and adhere to respectful, appropriate and effective relationships with employees of the Council.

(v) To promote, support and adhere to the Member's Code of Conduct, Member/Officer Protocol and the highest standards of behaviour in public office.

15.3 Values

To be committed to and demonstrate the following values in public office:

(a) openness and transparency;

(b) honesty and integrity;

(c) tolerance and respect;

(d) equality and fairness;

(e) appreciation of cultural difference;

(f) sustainability;

(g) inclusive leadership;

(h) consensus building.

16. Role of the Deputy Leader of the Opposition

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16.1 -To fulfil the duties of the Leader in his or her absence.

16.2 To assist the Leader in specific duties as required.

## 17. Member Champion Purpose and Role

(a) Member Champions exist to provide a voice for traditionally underrepresented groups, or issues which need to be kept at the forefront of council business although they may not be the responsibility of any individual or committee.

(b) Member Champions, (sometimes called lead members) are elected members who in addition to their other council responsibilities make sure that the issue or group that they are championing are taken into account when council policy is being developed and decisions are made. Members act as champions in areas such as children, homelessness, equalities, older people, young people, scrutiny, member support and development, health improvement and anti-poverty. There is a statutory role for a lead member of children's and young people's services with a responsibility for over-seeing the arrangements made under sections 25 and 26 of the 2004 Children Act.

(c) Guidance on undertaking the role with regard to the subject knowledge that members need is sometimes available from the outside bodies associated with the issue being championed for example the toolkit for older peoples' champions from the LGA. Otherwise they will be reliant on their authority for guidance in the subject they lead on and also their role as lead member in this area.

What do they do?

Typically, the lead member will:

(a) make sure that their area of interest is taken into account when developing policy or making decisions;

(b) ask questions about performance and resourcing for the area;

(c) raise the profile of the area and make the authority aware of good practice;

(d) engage with external bodies who work in the area;

(e) engage with other officers and members in relation to the role;

(f) engage with community groups with an interest/stake in the area;

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(g) report action to the council.

How does their role fit within the Corporate Structure?

(a) This will vary according to the area/issue that is being championed and how the authority functions. There is potential for confusion and overlap between the role of the member champion and those of the relevant executive member or overview and scrutiny members. The champion role itself could be undertaken by either the relevant executive member or a non-executive member.

(b) It is therefore important that members and officers work together to agree roles and action for the area being championed and that there are mechanisms for lead members to report on their activities. It is helpful for the authority to draft a protocol which sets out what powers champions have and do not have, such as whether or not they are able to make decisions on behalf of the authority. Similarly, the appointment of champions varies between authorities, and includes appointments being made by full council meetings or by the leader.

The Role Description

It is difficult to create a role description that fits with the different roles expected of champions and how they operate in the different authorities' structures. The following is a generic model which will require local adaptation, particularly to reflect the difference that may exist between a statutory role, one undertaken by an executive member and a non-executive lead.

### Member Champion Role Description

To Full Council.

Role Purpose and Activities

(a) *Within the Council*

- (i) To promote the interest being championed within the Council's corporate and service priorities.
- (ii) To promote the needs of the client group represented in the interest to the decision makers within the council.
- (iii) To work with the decision makers in the Council to establish strategies/ policies/work plans connected with the interest.
- (iv) To maintain an awareness of all matters connected with the interest.

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(v) To contribute to good practice and the continuous improvement of services and functions related to the interest.

(vi) To engage with members in matters related to the interest such as attending Overview and Scrutiny/Cabinet /Full Council meetings etc.

(vii) Raising awareness of and taking a lead role in the development of all members and officers in relation to the interest.

(b) In the Community

(i) To raise the profile of the interest in the community.

(ii) To engage with citizens and community groups in matters related to the interest.

(iii) To lead and support local initiatives related to the interest.

Values

To be committed to the values of the Council and the following values in public office:

(a) openness and transparency;

(b) honesty and integrity;

(c) tolerance and respect;

(d) equality and fairness;

(e) appreciation of cultural difference;

(f) sustainability;

(g) inclusive leadership.

**18. Elected Member Person Specification**

To fulfil his or her role as laid out in the role description, an effective member requires the following:

18.1 Representing and Supporting Communities

(a) Good advocacy skills.

(b) Interpersonal skills.

(c) Integrity and the ability to set aside own views and act impartially.

(d) The ability to present relevant and well-reasoned arguments.

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(e) Good communication skills.

#### 18.2 Making Decisions and Overseeing Council Performance

(a) Knowledge and understanding of meetings law, rules and conventions.

(b) An understanding of strategic, policy and service contexts for decisions.

(c) The ability to challenge ideas and contribute positively to policy development.

#### 18.3 Representing the Council (Subject to Appointment)

(a) Good public speaking skills.

(b) Good presentation skills.

(c) The ability to persuade others and act with integrity.

#### 18.4 Internal Governance, Ethical Standards and Relationships

(a) An understanding of the roles of officers, members and different agencies.

(b) Respect for, and desire to work with, different groups and individuals.

(c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.

(d) A knowledge and commitment to the values of the Council.

#### 18.5 Personal and Role Development

(a) An ability to assess personal and role development needs.

(b) Desire and skills to participate in development.

### 19. Leader Person Specification

To fulfil his or her role as laid out in the role description, an effective leader requires:

#### 19.1 Providing Political Leadership to the Council

(a) Knowledge of community strengths, areas of improvement and key issues.

(b) An understanding of the relationship between national and local politics.

(c) Have a good strategic awareness of issues facing the Council.

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(d) An understanding of the Council's strategy, policies and operations.

19.2 Appointing the Cabinet\*

(a) An understanding of the rules for the appointment of Cabinet Members.

(b) An ability to recognise talent amongst members.

(c) An ability to negotiate the most advantageous appointments within and across political groups.

(d) To appraise, guide and mentor senior members.

19.3 Representing and Acting as Ambassador for the Authority

(a) High level communication skills to communicate to the media, local community and wider audience.

(b) Good public speaking skills.

19.4 Providing Leadership within the Portfolio

-The skills necessary for a cabinet member to fulfil their role.

19.5 Managing and Leading the work of the Cabinet and Chairing Meetings of the Cabinet

(a) An understanding of the Cabinet procedure rules.

(b) Skills to Chair meetings, including encouraging participation from all members.

(c) A knowledge and understanding of national policy objectives.

(d) An overview of the work being carried out by cabinet members.

19.6 Participating in the Collective Decision Making of the Cabinet

The ability to constructively challenge decisions and suggest alternatives.

19.7 Working with Officers to Lead the Organisation

An understanding of the roles and responsibilities of the Chief Executive and other officers.

19.8 Leading Partnerships and Community Leadership

(a) Adaptive leadership skills.

(b) Negotiation and brokerage skills.

(c) Creative and lateral thinking skills; the ability to see ahead and be predictive.

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19.9 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies.
- (b) Respect for, and desire to work with, different groups and individuals.
- (c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (d) A knowledge and commitment to the values of the Council.

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20. Cabinet Member Person Specification

To fulfil his or her role as laid out in the role description, an effective Cabinet Member requires:

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20.1 Portfolio Leadership

- (a) An understanding of the Council's strategy, policies and operations.
- (b) Leadership skills.

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20.2 Contributing to the setting of the Strategic Agenda and Work Programme for the Portfolio

- (a) The ability to present to others.
- (b) The ability to exercise strategic awareness and judgement.
- (c) Knowledge of relevant issues and who to involve in decision making.
- (d) The ability to persuade others.
- (e) Knowledge of Council and national objectives.

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20.3 Providing Representation for the Portfolio

- (a) Public speaking skills.
- (b) Good presentation skills.

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20.4 Reporting as Appropriate

-High level communication skills.

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20.5 Taking an Active Part in Cabinet Meetings and Decisions

- (a) The ability to constructively challenge decisions and suggest alternatives.
- (b) The knowledge, confidence and ability to contribute to discussion and resolution of cross cutting and collective issues.

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## 20.6 Leading Partnerships and Community Leadership

- (a) Adaptive leadership skills.
- (b) Negotiation and brokerage skills.
- (c) Creative and lateral thinking skills; the ability to see ahead and be predictive.

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## 20.7 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies.
- (b) Respect for, and desire to work with, different groups and individuals.
- (c) Have knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (d) A knowledge and commitment to the values of the Council.

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## Chair of the Council Person Specification

To fulfil his or her role as set out in the role description, an effective regulatory committee chair requires:

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### 21.1 Providing Leadership and Direction

- (a) Ability to conduct meetings to ensure that applicants feel that they have been dealt with fairly and fully even if their application is refused.
- (b) Understanding of the Council's role and ability to ensuring that stake holders are aware of that role.
- (c) Communication skills Knowledge of local issues.
- (d) Ability to manage the work of the committee.
- (e) Ability to support and develop necessary skills in fellow members of the committee.

### 21.2 Promoting the Role of the Regulatory Committee and Quasi-Judicial Decision Making

- (a) Understanding and appreciation of the regulatory framework.
- (b) Ability to inspire and enthuse committee members for the work of the committee.
- (c) Integrity and the ability to set aside own views and act impartially.
- (d) Knowledge and understanding of the relevant code(s) of conduct and protocols and the ability to champion them.

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### 21.3 Internal Governance, Ethical Standards and Relationships

(a) Knowledge and understanding of the Code of Conduct(s) and protocols.

(b) Knowledge of and commitment to the values of the Council.

## 22. Regulatory Committee Member Person Specification

To fulfil his or her role as laid out in the role/job description, an effective member of a regulatory committee requires the following:

### 22.1 Understanding the Nature of the Regulatory Committee and Quasi-Judicial Decision Making

(a) Integrity and the ability to set aside own views and act impartially.

(b) Knowledge of law, policy and procedures for that regulatory/quasi-judicial area.

(c) Maintenance of knowledge.

(d) Objectivity and judgement.

### 22.2 Participating in Meetings and Making Decisions

(a) Ability to listen and to consider and respect the views of other contributors.

(b) Good public speaking skills.

(c) Good advocacy skills.

### 22.3 Internal Governance, Ethical Standards and Relationships

(a) Knowledge and understanding of the Code of Conduct(s) and protocols.

(b) Knowledge of and a commitment to the values of the Council.

## 23. Scrutiny Chair Person Specification

To fulfil his or her role laid out in the role description an effective Scrutiny Chair requires:

### 23.1 Providing Leadership and Direction

(a) Understanding of council role and functions.

(b) Understanding of role of scrutiny, terms of reference for the committee, role of chair, and other aspects of the democratic arrangements.

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(c) Understanding of member support functions Understanding of council priorities and risks Ability to develop work programmes.

(d) Understanding of community issues.

(e) Objectivity.

(f) Negotiation and consensus building.

(g) Ability to build constructive and 'critical friend' relationships with the Executive.

### 23.2 Managing the Work Programme

(a) Ability to manage projects and resources.

(b) Ability to manage people.

(c) Ability to prioritise.

(d) Ability to report progress to different groups in different styles.

### 23.3 Effective Meeting Management

(a) Understanding and application of meeting protocols, code of conduct, standing orders and other constitutional requirements.

(b) Ability to chair meetings effectively, managing the agenda and progressing business.

(c) Ability to facilitate effective discussions.

(d) Ability to listen and question effectively.

### 23.4 Community Leadership

(a) Understanding of the community leadership role.

(b) Knowledge of local issues and expectations.

(c) Ability to work effectively with all members of the community and build understanding and ownership of scrutiny.

(d) Knowledge of the individuals and organisations in the community especially those traditionally excluded.

### 23.5 Involving and Developing of Committee Members

(a) Understanding of the role and skills of the scrutiny committee and its individuals.

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(b) Ability to support members and the committee in assessing their performance.

(c) Ability to identify any training and development needs and Champion and participate in appropriate learning and development.

## **24. Scrutiny Member Person Specification**

To fulfil his or her role as laid out in the role description, an effective scrutiny member requires:

### 24.1 Participating Fully in the Activities of the Scrutiny Function

(a) Full understanding of the scrutiny remit and role, and terms of reference for their own committee and others.

(b) Understanding of member support functions.

(c) Willingness to work within the guidance of the chair.

(d) Willingness to undertake training as necessary.

### 24.2 Reviewing and Developing Policy

(a) Knowledge of and ability to evaluate existing policy.

(b) Understanding of best practice.

(c) Understanding of national and local legislative and policy context.

### 24.3 Monitoring Performance and Service Delivery and Holding the Executive to Account

(a) Understanding of the Wales Programme for Improvement (WPI) and associated risk assessment arrangements.

(b) Understanding of the principles and practice of performance management.

(c) Understanding of council's performance management arrangements.

(d) Ability to analyse data and challenge performance.

(e) Understanding of arrangements for call in.

### 24.4 Promoting the Work of Scrutiny

(a) Ability to negotiate and build consensus.

(b) Ability to act objectively and on the basis of evidence.

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## 24.5 Community Leadership

- (a) An understanding of the community leadership role.
- (b) Knowledge of local issues and expectations.
- (c) Ability to work effectively with all members of the community and build understanding and ownership of scrutiny.
- (d) Knowledge of the individuals and organisations in the community especially those traditionally excluded.

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## 24.6 Meeting Participation

- (a) Ability to interpret information and data from a range of sources.
- (b) Understanding and application of meeting protocols, code of conduct, standing orders and other constitutional requirements.
- (c) Ability to participate in meetings including effective listening, questioning and speaking.

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## 25. Leader of the Opposition Person Specification

To fulfil his or her role as laid out in the role description, an effective leader of the opposition requires:

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### 25.1 In Providing Political Leadership for the Opposition Group

- (a) Knowledge of community strengths, areas of improvement and key issues.
- (b) An understanding of the relationship between national and local politics.
- (c) Have a good strategic awareness of issues facing the Council.
- (d) An understanding of the Council's strategy, policies and operations.
- (e) An ability to challenge different strategies, policies and operations.

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### 25.2 In Representing the Authority's Opposition

- (a) High level communication skills to communicate to the media, local community and wider audience.
- (b) Good public speaking skills.
- (c) Creative and lateral thinking skills; the ability to see ahead and be foresighted.
- (d) Leadership skills.

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### 25.3 Internal Governance, Ethical Standards and Relationships

- (a) An understanding of the roles of officers, members and different agencies Respect for, and willingness to work with, different groups and individuals.
- (b) A thorough knowledge and understanding of the Code of Conduct and Member/Officer Protocol.
- (c) A knowledge of and commitment to the values of the Council.

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## **26. Member Champion Person Specification**

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### 26.1 Within the Council

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- (a) Understanding of the area of interest being championed in terms of council strategies and policy, good practice, improvement and national agendas and the needs of the client group.
- (b) Ability to engage with a range of members and officers around the area of interest and listening to requirements.
- (c) Ability to advocate on behalf of the area of interest within the council.

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### 26.2 In the Community

- (a) Understanding of the needs of the community in relation to the interest
- (b) Ability to engage with citizens and community groups in matters related to the interest.
- (c) Ability to lead and support local initiatives related to the interest.
- (d) Ability to represent the position of the council to the community in relation to the interest.

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