

Council Procedure Rules

INTRODUCTION

These are the rules of debate and procedure for the conduct of meetings of full Council, indicating also where these rules apply to committee and sub-committee meetings.

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NOTE:

- (a) ***All references to the "proper officer" in these Rules are to the Council's Chief Executive;***
- (b) ***References to "in writing" shall include messages sent by e-mail in the name of the member, or by a faxed message signed by that member.***

1. ANNUAL MEETING OF THE COUNCIL

1.1 Timing and business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place on such day in the month of March, April or May as the Council may fix.

The annual meeting will:

- (i) elect a person to preside if the chairman of Council is not present;
- (ii) elect the Mayor;
- (iii) elect the Deputy Mayor;
- (iv) receive any announcements from the Mayor and/or head of the paid service;
- (v) elect the leader; the leader will hold office for a period of five years or until he/she ceases to be a member (whichever is the shorter) or is removed from office by a majority vote of the Council following the inclusion on the Agenda of the Council of an item of business to consider this matter).
- (vi) agree the number of members to be appointed to the executive and to be told by the leader of the names of councillors he/she has chosen to be member of the cabinet.
- (vii) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);
- (viii) 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);

1.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the council meeting will:

- (i) decide which committees to establish for the municipal year;

- (ii) decide the size and terms of reference for those committees;
- (iii) decide the allocation of seats to political groups in accordance with the political balance rules;
- (iv) receive nominations of councillors to serve on each committee and outside body; and
- (v) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive.

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 chairman and vice chairman are not present;
- (ii) approve the minutes of the last meeting;
- (iii) receive any declarations of interest from members;
- (iv) receive any announcements from the chairman or leader or the head of paid service;
- (v) deal with any business from the last Council meeting;
- (vi) receive recommendations from the executive and the Council's committees and receive questions and answers on any of those reports;
- (vii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (viii) consider motions; and
- (ix) consider any other business specified in the summons to the meeting, including consideration of recommendations from the executive in relation to the Council's budget and policy framework and reports of the overview and scrutiny committees for debate.

3. EXTRAORDINARY MEETINGS

3.1 Calling extraordinary meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;

- ii) the chairman of the Council;
- iii) the monitoring officer; and
- iv) any five members of the Council if they have signed a requisition presented to the chairman of the council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4. SUBSTITUTE MEMBERS

4.1 Allocation

A political group may in the case of sickness or unavoidable absence nominate a substitute member for the following committees in place of the member unable to attend.

- (a) Disciplinary/Grievance appeals;
- (b) Appointments (Heads of Service/Chief Officer related posts);
- (c) Pensions/Compensation;
- (d) Regrading review;
- (e) Rights of Way

NOTE THAT for the Disciplinary/Grievance appeals:

- (i) substitutes must be named in advance by political groups;
- (ii) no member may participate in the committee without having first received training in a format approved by the Head of People Management.

Note: The use of substitute Members for the Planning Committee is prohibited.

4.2 Powers and duties

Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.3 Substitution

Substitute members may attend meetings in that capacity only:

- (i) to take the place of the ordinary member for whom they are the designated substitute;
- (ii) where the ordinary member will be absent for the whole of the meeting; and
- (iii) after notification has been given to the proper officer by the designated Secretary of a political group prior to the meeting of the intended substitution.

5. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the proper officer and notified in the summons. Where the meeting is to be conducted in accordance with the Council's arrangements for multi-location meetings, the summons will also include details of how to access the meeting by remote means.

6. NOTICE OF AND SUMMONS TO MEETING

6.1 Calling a meeting

The proper officer 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 working days before a meeting unless the meeting is called in accordance with law on shorter notice, the proper officer will send a summons signed by him or her by post to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and, where meetings are conducted in accordance with the Council's arrangements for multi-locations meetings, details of how to access the meeting by remote means. The summons will also specify the business to be transacted, and will be accompanied by such reports as are available.

6.2 Cancelling or postponing a meeting

The proper officer may cancel or postpone a meeting, after consultation with the chairman of that meeting, if it appears that in the interests of the proper dispatch of the Council's business the meeting should be cancelled or postponed.

7. CHAIRMAN OF MEETING

The person presiding at the meeting may exercise any power or duty of the chairman. Where these rules apply to committee and sub-committee meetings, references to the chairman also include the chairman of committees and sub-committees.

8. QUORUM

8.1 Save for meetings of the Planning Committee the quorum of a meeting will be one quarter of the whole number of members. The start of a meeting will be delayed for up to 15 minutes if a quorum is not present at the appointed start time of a meeting. During any meeting if the chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8.2 No business is to be transacted at the Planning Committee unless at least half of the total number of Members of the Planning Committee rounded to the nearest whole number is present.

8.3 Remote Attendance

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

8.3.2 For the purposes of section 8.3.1, attendance "by remote means" means attendance in a different physical location to that of other participants and participating through an online meeting platform.

9. DURATION OF MEETING

9.1 Any meeting of the Council or a committee or sub-committee which has sat for a total period of three hours shall stand adjourned unless the majority of the Members present, by vote without discussion, determine to continue to sit. PROVIDED THAT the meeting may not be extended by longer than one hour and that no meeting in any event continue beyond 9.00 p.m.

9.2 This restriction shall not apply in relation to meetings of the Licensing Committee, the Planning Committee, the Investigating & Disciplinary Committee and Appeals Committee.

10. QUESTIONS BY MEMBERS

- (1) A member of the Council may ask the Leader or the appropriate Cabinet member any question upon an item of the report of a committee when that item is under consideration by Council.
- (2) A member of the Council may ask the Leader any question on any matter in relation to which the Council has powers or duties or which affects the area of the council or any part of it or the inhabitants of the area or any part of it if at least five clear working days' notice in writing of the question has been given to the Chief Executive.
- (3) A member of the Council may ask a Cabinet member any question on any matter within their portfolio if at least five clear working days' notice in writing of the question has been given to the Chief Executive.
- (4) A maximum of three questions will be answered orally, (counting as 2 to the Leader, if a question and a supplementary question is asked to the Leader) at each meeting of Council.
- (5) With the permission of the Mayor, a member of the Council may put to the Leader or a member of the Cabinet any question relating to urgent business of which such notice in writing of the question has been given to the Chief Executive not later than 9.00am on the day of the meeting.

- (6) The Chief Executive in consultation with the Monitoring Officer may reject a question if:-
- (a) it does not meet the criteria set out in 10(2) or 10(4).
 - (b) it is defamatory frivolous or offensive.
 - (c) it repeats a question which has been put at a meeting of the Council in the past six months.
 - (d) it requires the disclosure of confidential or exempt information.
 - (e) it relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a court or tribunal or to a Government Minister or the Welsh Assembly or an ongoing investigation by the Public Services Ombudsman for Wales or relates to a decision which has been made by the Council in exercise of its regulatory functions in respect of which there are legal rights of redress.
 - (f) it relates to the personal circumstances or conduct of an officer or Councillor or to the conditions of service of individual employees.
 - (g) it seeks to promote a political party or organisation.
 - (h) it is a statement and not a genuine enquiry.
 - (i) the preparation of the answer would require the expenditure of a disproportionate amount of time, public money or effort.
 - (j) it relates to information that is readily available in a report submitted to Council, Cabinet or Scrutiny Committee previously in which case the Member will be advised of the date of the relevant Report.

The decision of the Chief Executive in the above matter shall be final and the reasons for rejection will be provided to the relevant Member, in writing.

- (7) Questions of which notice has been given under 10(2) and/or 10(3) will be listed on the agenda in the order received by the Chief Executive.
- (8) Every question shall be put and answered without discussion.
- (9) A Member asking a question under 10(2) may ask one supplementary question without notice to the Leader. The supplementary question must arise directly out of the original question or the reply.
- (10) The Leader or Cabinet member in answering each question may speak for no longer than three minutes.
- (11) An answer to a question asked in the meeting of Council may take the form of:
 - (a) a direct oral answer; or
 - (b) where the desired information is contained in a publication of the Council, a reference to that publication.
- (12) Questions received over the maximum number of three referred to in paragraph 10(4) will receive a written answer.
- (13) The questions and answers to questions will be incorporated within the minutes of the meeting.

11. MOTIONS ON NOTICE

- (1) Except for motions which can be moved without notice, notice of every motion shall be in writing, signed by the Member or Members giving the notice at the office of the Chief Executive by whom it shall be dated and numbered in the order in which it is received and entered in a book which shall be open to the inspection of every Member of the Council.
- (2) The Notice of Motion must contain only the wording which those members wish the Council to record as its decision, and must not contain any comment or argument about the merits of the matter. A Notice of Motion may be accompanied by supporting information or photographs which will be included in the Agenda papers setting out the Notice of Motion. The Proper Officer may after consultation with the Chairman reject all or part of a Notice of Motion which contains a personal criticism of a member.
- (3) A Notice of Motion shall, after being presented, be automatically referred to the appropriate overview and scrutiny committee. There is a limit of one Notice of Motion to be considered by each Scrutiny Committee per ordinary meeting. Only Notices of Motion receiving the support of the overview and scrutiny committee will be referred to the Council or the Executive dependant on who has responsibility for the decision making function in relation to the subject matter of the Notice of Motion. The signatories to the Notice of Motion may attend the Scrutiny Committee as of right, speak but not vote.

Provided that the Chairman of Council may, if he/she considers it convenient and conducive to the dispatch of business, allow the motion to be dealt with at the first available Council, without the motion being first discussed at an overview and scrutiny committee.

- (4) When the Notice of Motion is being considered the signatories to the motion shall be entitled to amend the Motion so long as it is not amended in a significant way. The ruling of the Chairman on whether an amendment is significant shall be final.
- (5) Every motion shall be relevant to some matter in relation to which the Council have powers or duties or which affects the County Borough.
- (6) Only one Notice of Motion will be considered at a meeting of the Council or the Executive.

12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) to appoint a chairman 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 three 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 these rules or to exclude them from the meeting under these rules; 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 chairman may require it to be written down and handed to him/her before it is discussed.

13.3 Secunder'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

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order. With the exception of the Leader of the Council no speech may exceed five minutes without the consent of the chairman.
- (b) The length of speeches at a Scrutiny Committee shall be at the discretion of the Chairman of that meeting.

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) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order;
- (f) by way of personal explanation;
- (g) at a Scrutiny Committee, with the leave of the Chairman of that meeting.

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 chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.
- (f) A member may give notice of a further amendment at any time before the amendment under discussion is disposed of and such further amendments will be considered in the order in which notice is given.

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

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 three 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 who has not spoken in the debate 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 chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

13.12 Point of order

A member may raise a point of order at any time. The chairman will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The member must indicate the rule or law and the

way in which he/she considers it has been broken. The ruling of the chairman on the matter will be final.

13.13 Personal explanation

A member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which may appear to have been misunderstood in the present debate. The ruling of the chairman 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:

- (a) by way of notice of motion signed by at least thirty five members
- (b) significant new information relevant to the matter was not available when the matter was first discussed, which if available would materially have affected the consideration of the issue.

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 the notice of motion or amendment is signed by at least thirty five 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 at the time the question was put. Voting will be undertaken via the software used by the council at the time of the vote.

15.2 Chairman's casting vote

If there are equal numbers of votes for and against, the chairman will have a second or casting vote. There will be no restriction on how the chairman chooses to exercise a casting vote. The casting vote will be given verbally irrespective of whether the vote is being taken electronically or by a show of hands.

15.3 Show of hands

Where electronic voting is not being used or the system has failed, the Chair will take the vote by show of hands and announce the result, or if there is no dissent by the affirmation of the meeting.

Where electronic voting is not being used or the system has failed and a recorded vote is demanded the provisions of Rule 15.5 shall apply.

15.4 Recorded vote (where electronic voting is not used, or the system has failed)

- (1)(a) At any meeting of the whole Council, on the requisition of any ten members, made before the vote is taken, the voting on any motion shall be recorded so as to show how each member present and voting gave his/her vote. The name of any member then present who abstained from voting shall also be recorded.
- (b) At any meeting of a committee or sub-committee of the Council a member may, immediately before a vote is taken, move that there be a recorded vote. If this is seconded it shall be put without discussion and if carried by a majority on a show of hands then the voting on that motion shall be recorded so as to show how each member present and voting gave his/her vote. The name of the member then present who abstained from voting shall also be recorded.

15.5 Right to require individual vote to be recorded

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

15.6 Voting on appointments

Voting on appointments shall reflect the result of scoring of candidates achieved by evaluation sheets used as part of the interview process.

16. MINUTES

16.1 Signing the minutes

The chairman will sign the minutes of the proceedings at the next suitable meeting. The chairman of the meeting whose minutes are being considered (if present) will move that the minutes of the previous meeting be signed as a correct record. Any member may second that proposal. The only part of the minutes that can be discussed is their accuracy.

16.2 No requirement to sign minutes of previous meeting at extraordinary meeting

(This is a mandatory standing order under the Local Authorities (Standing Orders) (Wales) Regulations 2006. The wording for this standing order is prescribed in the regulations.)

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

16.3 Form of minutes

Minutes will contain all motions and amendments in the exact form and order the chairman put them. Only motions or amendments which are passed (other than where there is a recorded vote) will be recorded in the Minutes.

17. RECORD OF ATTENDANCE

- (1) All members physically present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance. All Members attending a meeting by remote means will have their attendance recorded.

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 chairman. If more than one member stands, the chairman 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 Chairman standing

When the chairman 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 in the opinion of the Chairman a member persistently disregards the ruling of the chairman by behaving improperly or offensively or deliberately obstructs business, the chairman may move that the member be not heard further. If seconded, the motion will be voted on without discussion.

19.4 Member to leave the meeting

In the event of behaviour by a member of whatever nature, which the Chairman considers prevents the meeting being properly conducted the Chairman may require that member to leave the meeting.

19.5 General disturbance

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

20. DISTURBANCE BY PUBLIC

20.1 Removal of member of the public

If a member of the public interrupts proceedings, the Mayor will warn the person concerned. If they continue to interrupt, the Mayor will order their removal from the meeting room or their removal from the online platform by which they are accessing the meeting from another location.

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 chairman may call for that part to be cleared. If there is a general disturbance on the online meeting platform, the Mayor may call for the online meeting platform to be muted, temporarily suspended or closed.

21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1 Suspension

All of these Council Rules of Procedure except Rule 15.5 and 16 may be suspended:-

- (a) by motion on notice;
- (b) 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.

21.2 Amendment

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

22. INSPECTION OF LANDS, PREMISES ETC.

Unless specifically authorised to do so by the Council or a committee, no member of the Council shall issue any order respecting any works which are being carried out by or on behalf of the Council or claim by virtue of his/her membership of the Council any right to inspect or to enter upon any lands or premises which the Council have the power or duty to inspect or enter.

23. MATTERS REPORTED FOR INFORMATION

Matters reported to any meeting and expressed to be "For Information" shall not be the subject of any decision or debate, except in an emergency and subject to the discretion of the Chairman.

24. ATTENDANCE AT COMMITTEES

- (1) The Leader of Council and the Deputy Leaders of Council where they are not already attending as a member of the Committee, shall be entitled to attend and speak at meetings of the Committees and Sub-Committees of which they are not member(s) but shall not be empowered to vote thereat.
- (2) A member wishing to participate in the proceedings of a standing Committee (other than a Scrutiny Committee) of which he/she is not a member, may participate (but not vote) provided

EITHER -

- (i) That he/she gives notice to the Chairman of the Committee not less than twenty four hours before the meeting takes place;
- (ii) That the matter in question directly relates to an item in respect of the division which he/she represents and is not a matter or question of common interest to all members of the Council as such and is on the Agenda of the meeting in question;
- (iii) That his/her contribution shall be restricted to one address lasting no longer than five minutes;

OR

That a motion moved in consequence of notice duly given which has been referred by the Council to a Committee, was moved by him/her.

- (3) A member wishing to participate in the proceedings of a Scrutiny Committee of which he/she is not a member may participate (but not vote) provided:
 - (i) that the member gives notice to the Chairman of the Committee not less than one clear day before the meeting takes place of the item that he/she wishes to speak upon, and
 - (ii) that the Chairman of the Committee gives permission for that attendance.

- (4) A member attending a meeting in accordance with the provisions of this standing order may remain at the meeting while that item is under discussions (whether or not that item relates to discussion of exempt information) and may speak thereon but shall not be entitled to vote.
- (5) Signatories to a Notice of Motion shall be entitled as of right to attend the meeting at which the Notice is debated and shall be entitled to speak, but not vote, in respect of that item.
- (6) In relation to the Planning Committee a member attending under rule (2) above may only attend on one occasion, and where the applicant or an objector are addressing the committee will be entitled to attend on that occasion only.

25. RECORDING OF MEETINGS

- (1) Anyone entitled to attend a meeting of the Council its Committees or Sub-Committees may take written notes.
- (2) Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.
- (3) 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 after the meeting.

26. DECLARATION OF INTERESTS BY MEMBERS

If any member of the Council has declared a personal and prejudicial interest, in accordance with the Council's Code of Conduct that member shall withdraw from the meeting and the room while the matter is under consideration by the Council or Committee unless:-

- (a) provisions within the Code of Conduct allow the member to remain, or
- (b) a dispensation has been granted by the Standards Committee.

27. DEPUTATIONS AND PETITIONS

- (1) Deputations wishing to attend before the Council shall be requested in the first instance to submit to the Council a notice in writing, at least ten clear days before the meeting stating the object and the names of the persons who will form the deputation and the Chief Executive shall bring the notice before the Council and/or appropriate Committee of the Council or appropriate scrutiny committee or advisory or working or liaison group. In respect of decisions made within ten days of the meeting, the Chairman shall have the discretion to waive the requirement for 10 days notice.

- (2) On receipt of such notice, the Chief Executive shall communicate with the Chairman of Council or, in his/her absence, the Deputy Chairman of Council or in their absence, the Chairman of the appropriate Committee or in his/her absence, the Vice-Chairman, either of whom shall have power to determine whether such deputations shall attend before the Council or whether they shall attend before the Committee.
- (3) Petitions (which for the purpose of this Rule shall apply to a petition containing greater than ten signatories) to the Council may be:-
 - (a) presented at an ordinary meeting of the Council to the Chairman of Council by the local ward member(s) or by any member authorised by that ward member.
 - (b) at the request of the Lead Petitioner be handed directly to the Chief Executive at his office at Penallta House, Tredomen Park, Ystrad Mynach, Hengoed, CF82 7PG.
 - (c) posted to the Chief Executive.
 - (d) Via the E-Petition Scheme which can be found in Part 5 of the Constitution.
- (4) Petitions to a Committee shall be presented to the Chairman of the Committee by the local ward member(s) or by any member authorised by that ward member and shall on receipt stand referred without discussion to the appropriate Director for action and report as necessary unless the Chairman in his/her discretion shall decide to have them discussed at the meeting of the Committee to which they are presented.
- (5) In presenting a petition to the Council or Committee a member may only speak to briefly outline the petition request and may not speak on the merits of the issue the subject of the petition.

Procedure for dealing with petitions

Following the presentation of the petition, by any of the means outlined in 28 (3) the Proper Officer will enter it into the register kept for this purpose. Following this the appropriate Director will ensure that :-

- (a) there will be appropriate consultation with the public, ward members and the appropriate Cabinet member about any proposed action;
- (b) *there is appropriate and timely feedback to the lead petitioner and the member who presented the petition about:-*
 - (i) *progress in dealing with the petition, and*
 - (ii) *the decision made by the Council about the petition.*
- (6) Every deputation must be about the provision of services for which the Council is responsible or which affects the area of the authority or any part of

it or any or all of its inhabitants and the deputation may only be from members of the public, community or trade organisations.

- (7) Only two members of the deputation may speak and their speeches must not last longer than five minutes each.
- (8) The presiding chairman at any meeting will have sole discretion as to whether any member of the public will be permitted to speak and may stop a speaker if the address contains unruly or abusive or irrelevant content.

28. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

- (1) All of the Council Rules of Procedure apply to meetings of full Council.
- (2) Only Rule 8.2 and Rule 32 apply to meetings of the executive.
- (3) Only Rules 5–9, 12-20, 24-27, 29 and 32 apply to meetings of committees and sub-committees.

29. URGENT MATTERS

- (1) The Chief Executive (or in his absence the appropriate Director) shall be empowered to exercise the powers of the Council in any matter which in the opinion of that officer requires immediate attention or is so urgent that there is insufficient time in which to convene a meeting.
- (2) These powers shall be additional to any specific powers delegated by the Council or a Committee.

30. OFFICER EMPLOYMENT PROCEDURE RULES

The Officer Employment Procedure Rules set out in this Part of the Constitution are deemed to be incorporated within the Council's procedure rules.

Access to Information Procedure Rules

References:

Sections 100A – H and schedule 12A Local Government Act 1972

Section 22, Local Government Act 2000

Local Authorities (Executive Arrangements) (Decisions, Documents, Meetings) (Wales) Regulations 2001

Chapter 5, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001

Note: Reference to the proper officer is to the Chief Executive.

1. SCOPE

These rules apply to all meetings of the Council, the executive, overview and scrutiny committees, area committees (if any), the Standards Committee and regulatory committees.

2. ADDITIONAL RIGHTS TO INFORMATION

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

3. RIGHTS TO ATTEND MEETINGS

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

4. NOTICES OF MEETING

4.1.1 Unless a meeting is convened at short notice, the Council will give at least 3 clear days' notice of any meeting by posting details of the meeting at Penallta House, Tredomen Business Park, Ystrad Mynach, CF82 7PG and on its website.

4.1.2 Where the meeting or part of the meeting is open to the public and is held wholly through remote means, the notice must include details of the time of the meeting, and how to access it.

4.1.3. Where the meeting or part of the meeting is open to the public and is held partly through remote means, the notice must include details of the time and place of the meeting and how to access it.

4.1.4. Where the meeting is not open to the public and is held partly through remote means or not held through remote means, the notice must include details of the time and place of the meeting and the fact that it is not open to the public.

- 4.1.5 Where the meeting is not open to the public and is held through remote means only, the notice must include details of the time of the meeting, the fact that it is being held through remote means only and the fact that it is not open to the public.

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. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection for the time the item was added to the agenda.

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 proper officer 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.

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 executive, 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.

8. BACKGROUND PAPERS

8.1 List of background papers

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

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

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents is kept at and available to the public at the Council's offices at Penallta House, Ystrad Mynach and published on the Council's website.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Public and private meetings of the executive

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

10.2 Confidential information – requirement to exclude public

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

10.3 Exempt information – discretion to exclude public

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

Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.4 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.5 Meaning of exempt information

(This information is extracted from the Local Government Act 1972).

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

EXEMPT INFORMATION	QUALIFICATION
12. Information relating to a particular individual.	Public interest test applies (see below)
13. Information which is likely to reveal the identity of an individual.	Public interest test applies (see below)
14. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under — the Companies Act 1985; the Friendly Societies Act 1974; the Friendly Societies Act 1992; the Industrial and Provident Societies Acts 1965 to 1978; the Building Societies Act 1986; or the Charities Act 1993. Public interest test applies (see below)
15. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Public interest test applies (see below)

<p>16. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>17. Information which reveals that the authority proposes :</p> <p>(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or</p> <p>(b) to make an order or direction under any enactment.</p>	<p>Public interest test applies (see below)</p>
<p>18. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>	<p>Public interest test applies (see below)</p>
<p><i>(In relation to a meeting of a standards committee, or a sub-committee of a standards committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000):</i></p> <p>18A. Information which is subject to any obligations of confidentiality.</p> <p>18B. Information which relates in anyway to matters concerning national security.</p> <p>18C. The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.”.</p>	<p>Public interest test applies (see below)</p>
	<p>Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992</p>

Public Interest Test:

Information which —

- (a) falls within any of paragraphs 12 to 15, 17 and 18 above; and
- (b) is not prevented from being exempt by virtue of the 'qualifications' above, is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
- (c) The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the proper officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 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.

12. THE FORWARD WORK PROGRAMME

12.1 Period of forward work programme

The forward work programme will be prepared by the proper officer to cover a period of four months. It will be updated quarterly.

12.2 Contents of forward work programme

The forward work programme will contain matters which the executive, overview and scrutiny committees 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 executive;
- (c) any individual matters on which the executive 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 and determined by those committees.

The forward work programme will be published at least 14 days before the start of the period covered. The proper officer will publish once a year a notice in at least one

newspaper circulating in the area, stating that a forward work programme will be published and giving the publication dates for that year.

13. CONSULTATION ON PROPOSALS TO BE CONSIDERED BY THE EXECUTIVE

At least 4 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 executive and is not urgent (as defined below) or confidential or exempt (as defined in para 10).

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 chairman of the body making the decision obtains the agreement of the chairman of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chairman of a relevant overview and scrutiny committee, or if the chairman of each relevant overview and scrutiny committee is unable to act, then the agreement of the chairman of the Council, or in his/her absence the vice chairman 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.

14. RECORD OF DECISIONS OF THE EXECUTIVE

14.1 The decision record

A written record will be made of every executive decision made by the executive and its committees (if any) and to joint committees and joint sub-committees whose members are all members of a local authority executive.

This decision record will include a statement, for each decision, of:

1. the decision made
2. the date the decision was made
3. the reasons for that decision;
4. any personal interest declared;
5. any dispensation to speak granted by the authority's standards committee;
6. the consultation undertaken prior to the decision and, if such consultation has not taken place, the reason why.

14.2 Preparing the decision record

The proper officer or his or her representative shall attend any meeting of the executive, a committee of the executive or a joint committee or joint sub-committee where all its members are members of a local authority executive, and shall as soon as reasonably practicable after the meeting produce a decision record.

15. RIGHTS OF ACCESS FOR MEMBERS OF SCRUTINY COMMITTEES

15.1 Rights of access

All members will be entitled to inspect any document which is in the possession or under the control of the executive or its committees and contains material relating to any business transacted at a meeting of a decision making body of that authority or executive, following the making of a decision by the Executive.

15.2 Limitation on rights

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

- (a) it would disclose exempt information falling within paragraphs 12 to 18, 21, 23, 24 and 26 of Part 4 of Schedule 12A of the Local Government Act 1972, or
- (b) it would disclose advice of a political advisor or assistant.

15.3 Supplying information

Requests for information in accordance with statutory and common law rights will be provided to members in a timely manner

15.4 Nature of rights

These rights of a member are additional to any other right he/she may have in common law or statute.

Budget and Policy Framework Procedure Rules

References:

Chapter 3, 6 and 7, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001

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

The Local Authorities (Alternative Arrangements) (Wales) Regulations 2001

The Assembly Guidance points out that the executive will have the responsibility for proposing policies and the budget to the full council, and consequently the constitution provides that the full council will only adopt a policy framework or budget on the basis of proposals from the executive.

1. The framework for executive decisions

The Council will be responsible for the adoption of its policy framework and budget as set out in Article 4 Part 2 of the Constitution. The policy framework and budget adopted by the Council will be based on that proposed by the executive. Once a budget or a policy framework is in place, it will be the responsibility of the executive to implement it.

2. Process for developing the framework

The process by which the policy framework and budget shall be developed is:

- (a) The executive will publicise 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. There will be an adequate consultation period in each instance.
- (b) At the end of that period, the executive 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 executive 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 executive 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 executive's response.
- (c) Once the executive has approved the firm proposals, the proper officer will refer them at the earliest opportunity to the Council for decision.

- (d) In reaching a decision, the Council may adopt the executive's proposals, amend them, refer them back to the executive for further consideration, or in principle, substitute its own proposals in their place.
- (e) If it accepts the recommendation of the executive 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) The decision will be publicised in accordance with Article 4 and a copy shall be given to the leader.
- (g) An in-principle decision will automatically become effective ten working days from the date of the Council's decision, unless the leader informs the proper officer in writing within that period that he/she objects to the decision becoming effective and provides reasons why.
- (h) In that case, the proper officer will call a Council meeting as soon as practicable. The Council will re-consider its decision and the leader's written submission. The Council may:
 - i) approve the executive'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 executive by a simple majority.
- (i) The decision shall then be made public in accordance with Article 4, and shall be implemented immediately;
- (j) 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 executive, in accordance with paragraphs 5 and 6 of these Rules (virement and in-year adjustments). Any other changes to the policy and budgetary framework are reserved to the Council.

3. Decisions outside the budget or policy framework

- (a) The executive, committee of the executive, an individual member of the executive (if so authorised) and any officers, area committees 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 4 below.
- (b) If the executive committee of the executive, an individual member of the executive 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 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.

4. Urgent decisions outside the budget or policy framework

This procedure covers decisions contrary to the policy framework and contrary to or not wholly in accordance with the budget.

- (a) The executive committee of the executive, an individual member of the executive 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 chairman of a relevant overview and scrutiny committee agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of full Council and the chairman of the relevant overview and scrutiny committees' consent to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the chairman of a relevant overview and scrutiny committee the consent of the chairman of the Council, and in the absence of both the vice-chairman will be sufficient.

- (b) Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

5. In-year changes to policy framework

The responsibility for agreeing the budget and policy framework lies with the Council, and decisions by the executive, a committee of the executive, an individual member of the executive (if so authorised) 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:

- (a) which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint;

- (b) necessary to ensure compliance with the law, ministerial direction or government guidance or to avoid maladministration or injustice;
- (c) 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.
- (d) which relate to policy in relation to schools, where the majority of school governing bodies agree with the proposed change.

6. Call-in of decisions outside the budget or policy framework

- (a) Where an overview and scrutiny committee is of the opinion that an executive decision is, or if made would be, contrary to the policy framework, or contrary to or not wholly in accordance with the Council's budget, then it shall seek advice from the monitoring officer and/or chief financial officer.
- (b) In respect of functions which are the responsibility of the executive, the monitoring officer's report and/or chief financial officer's report shall be to the executive with a copy to every member of the Council. Regardless of whether the decision is delegated or not, the executive 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.
- (c) 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 financial 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 as soon as practicable. 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:
 - i) endorse a decision or proposal of the executive decision taker as falling within the existing budget and policy framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all councillors in the normal way;

Or

 - 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 executive to reconsider the matter in accordance with the advice of either the monitoring officer/chief financial officer.

Executive Procedure Rules

References:

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions are 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 law provides that the arrangements or the leader may provide for executive functions to be discharged by:

- i) the executive as a whole;
- ii) a committee of the executive;
- iii) an individual member of the executive (if so authorised);
- iv) an officer;
- v) an area committee;
- vi) joint arrangements; or
- vii) another local authority.

(The Council has not included in its arrangements (iii) or (v) above).

1.2 Sub-delegation of executive functions

- (a) Where the executive, a committee of the executive or an individual member of the executive is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.3 The Council's scheme of delegation and executive functions

The Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

1.4 Conflicts of Interest

- (a) Where the leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the

person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.5 Executive meetings – when and where?

The executive will meet on a regular basis at times to be agreed by the leader. The executive shall meet at the Council's main offices or another location to be agreed by the leader. The date time and location will be published by list, and will appear on the published Agenda for each meeting. The Council's arrangements for multi-locational meetings apply to meetings of the Executive.

1.6 Public or private meetings of the executive?

The Access to Information Rules in Part 4 of this Constitution set out the legal requirements covering public and private meetings. There is no specific requirement in relation to frequency or place.

1.7 Quorum

The quorum for a meeting of the executive, or a committee of it, shall be three.

Remote Attendance

- (a) Members will be regarded as present at a meeting of the Cabinet [or a committee of the Cabinet where they attend that meeting by remote means in accordance with the Council's arrangements for multi-location meetings providing that they can speak to, and be heard by, other attendees at the meeting.
- (b) For the purposes of section 1.7, attendance "by remote means" attendance in a different physical location to that of other participants and participating through an online meeting platform.

1.8 How are decisions to be taken by the executive?

- (a) Executive decisions which have been delegated to the executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- (b) Where executive decisions are delegated to a committee of the executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the executive as a whole.

2. HOW ARE THE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

If the leader is present he/she will preside. In his/her absence, then a person appointed to do so by those present shall preside.

2.2 Who may attend?

- (a) These details are set out in the Access to Information Rules in Part 4 of this Constitution. For the avoidance of doubt where meetings that are not open to the public, members of the Council who are not Executive members may remain in the meeting;
- (b) The chairman of the meeting may call any councillor of the authority to speak at the meeting where the chairman feels that member's contribution could assist in the decision-making process.

2.3 What business?

At each meeting of the executive 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 executive (whether by an overview and scrutiny committee or by the Council) for reconsideration by the executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iv) consideration of reports from overview and scrutiny committees; and
- v) reports from officers of the authority.

2.4 Consultation

All reports to the executive from any member of the executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with members, officers, 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.

The Council on the 1 August 2006 approved rules relating to the consultation process, which apply in relation to any proposed report to members, or in relation to any proposed decision under delegated powers. The "rules on consultation" appear later in this part of the Constitution.

The Council has approved a format for reports, which for ease of reference is set out here at Appendix A (amended as a result of the implementation of the Socio Economic duty under Section 1 of the Equality Act 2010 and the associated introduction of the Integrated Impact Assessment).



**NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPH OF PART 4,
SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972**

Above paragraph to be included if report is to be exempt

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FONT FOR REPORT ARIEL 11

SUBJECT: ARIEL 12

REPORT BY: ARIEL 12

1. PURPOSE OF REPORT - HEADINGS ARIEL 11

- 1.1 This section should contain a brief statement as to the purpose of the report (e.g. to recommend to Members that they decide to). If this is a report for a scrutiny committee that is to be referred to Cabinet for decision, there must be included within this section a sentence which explains that the report is seeking the views of Members prior to its presentation to Cabinet.

2. SUMMARY

- 2.1 All reports **must** include a short summary of the report. With the expectation the relevant cabinet member will present the report at cabinet or council, the cabinet member will use this section to explain the report.

3. RECOMMENDATIONS

- 3.1 This section would set out the recommendations of the Director concerned.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 The minutes record the reasons for making any decisions reached. It is therefore essential that reports set out clear "reasons" for making the decision as recommended.

5. THE REPORT

5.1 The precise nature of this part of the report will vary from one issue to another and according to the background info which needs to be provided. The section should set out what options are available to the decision maker and why the option recommended for approval has been chosen.

5.2 Conclusion

Pulls together any themes running through the report/rounding up the issues referenced in the main body of the report section and which option is recommended for approval.

6. ASSUMPTIONS

6.1 This section should set out what assumptions have been made in proposing the recommendations in the report. The assumptions could include, amongst other things, inflation, costs, expenditure, population, policy, service demand etc. If no assumptions have been made or were thought necessary, then this should be stated.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

7.1 In this section please copy the summary you have included in Section 12 of the Integrated Impact Assessment (IIA) 'Reason(s) for Recommendation'. This summary should conclude the key points raised by the IIA, including what it tells you, what data/evidence you used, any significant impacts identified and how any negative impacts (if any) were mitigated.

If your report is an **Information Only** item then a completed IIA is not necessary at this stage, however an IIA must be drafted when the proposal/project reaches the formative stage and then updated as the proposal/project develops. A completed IIA must be included in any final reports going forward for a decision. The IIA should be included as a hyperlink which will require a request to IT Helpdesk for it to be created.

Link to full Integrated Impact Assessment

<http://sc-aptdken1/KENTICO/Departments/Equalities-and-Welsh-Language/Socio-Economic-Duty.aspx>

8. FINANCIAL IMPLICATIONS

8.1 There must be a section outlining the financial implications of the report/recommendations and a clear statement as to how these implications (immediate and long term) will be funded –the Head of Corporate Finance/Section 151 Officer must be consulted. Where there are no financial implications the report can simply state that there are none. If there are assumptions being made about funding, then they need to be stated here.

9. PERSONNEL IMPLICATIONS

- 9.1 There must be a section outlining any personnel implications of the report. The Head of People Services must be consulted. If there are no implications the report can state that there are none.
- 9.2 If the subject of the report relates to a restructure of a Service Area, a Welsh Assessment on the vacant posts, after any ring fencing exercise has been undertaken, will be required.
Guidance on undertaking a Welsh Assessment can be found in Guidance On Assessing The Welsh Needs Within Posts. <http://sc-aptdken1/KENTICO/Departments/HR/Policies-Procedures/Recruitment-Guidance-On-Assessing-The-Welsh-Needs.aspx>

10. CONSULTATIONS

- 10.1 If any consultee expresses views which differ from the recommendations, the author must include them in this section and as part of the main body of the report state whether the author is of the view that they have been addressed satisfactorily in the report, whether they can/should be incorporated in the recommendation and if not incorporated into the recommendation then why not.

11. STATUTORY POWER

- 11.1 This is to identify the enabling statutory power(s) for the decision under consideration. It should also state whether the power(s) are the responsibility of full Council or Cabinet and if it has been delegated to officers. If you have any queries on powers, please consult the Monitoring Officer/Head of Legal Services.

12. URGENCY (CABINET ITEMS ONLY)

- 12.1 All Cabinet decisions will be subject to a “call-in” procedure whereby the relevant Scrutiny Committee can ask for the implementation of the decision to be delayed until it has considered the matter and, if the Scrutiny Committee is so inclined, to ask Cabinet to reconsider its decision. The only exceptions will be items where the call-in request is not in accordance with the call-in procedure or the decision needs to be implemented urgently. If this is the case the report should state that this is so, and explain why. The Chairman of the Council must agree both that the decision proposed is reasonable in all circumstances and to it being treated as a matter of urgency.

Author: name, title and email address
Consultees: Insert names and titles and email address, one under the other.
Consultees will be the Chief Executive, , relevant Directors, Head of Legal Services and Monitoring Officer, Head of People Services, Head of Corporate Finance/s.151 officer, other relevant Heads of Service, Cabinet Member(s), Chairman and Vice Chairman of the relevant Scrutiny Committee and local ward Members. Any consultee comments should be incorporated in the report with the view of the officer whether the comments are accepted or not.

Caerphilly County Borough Council - Integrated Impact Assessment

This integrated impact assessment (IIA) has been designed to help support the Council in making informed and effective decisions whilst ensuring compliance with a range of relevant legislation, including:

- Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
- Socio-economic Duty – Sections 1 to 3 of the Equality Act 2010
- Statutory Consultation v Doctrine of Legitimate Expectation and Gunning Principles
- Welsh Language (Wales) Measure 2011
- Well-being of Future Generations (Wales) Act 2015

PLEASE NOTE: Section 3 *Socio-economic Duty* only needs to be completed if proposals are of a strategic nature or when reviewing previous strategic decisions. See page 6 of the Preparing for the Commencement of the Socio-economic Duty Welsh Government Guidance.

1.		Proposal Details	
Lead Officer	Head of Service	Service Area & Department	

What is the proposal to be assessed? *Provide brief details of the proposal and provide a link to any relevant report or documents.*

2. Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

(The Public Sector Equality Duty requires the Council to have “due regard” to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between different groups; and foster good relations between different groups). Please note that an individual may have more than one protected characteristic.

Protected Characteristics	Does the proposal have any positive, negative or neutral impacts on the protected characteristics and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
Age (<i>people of all ages</i>)			
Disability (<i>people with disabilities/ long term conditions</i>)			
Gender Reassignment (<i>anybody who’s gender identity or gender expression is different to the sex they were assigned at birth</i>)			
Marriage or Civil Partnership (<i>people who are married or in a civil partnership</i>)			
Pregnancy and Maternity (<i>women who are pregnant and/or on maternity leave</i>)			
Race (<i>people from black, Asian and minority ethnic communities and different racial backgrounds</i>)			

Protected Characteristics	Does the proposal have any positive, negative or neutral impacts on the protected characteristics and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
Religion or Belief (<i>people with different religions and beliefs including people with no beliefs</i>)			
Sex (<i>women and men, girls and boys and those who self-identify their gender</i>)			
Sexual Orientation (<i>lesbian, gay, bisexual, heterosexual, other</i>)			

3. Socio-economic Duty (Strategic Decisions Only)

(The Socio-economic Duty gives us an opportunity to do things differently and put tackling inequality genuinely at the heart of key decision making. Socio-economic disadvantage means living on a low income compared to others in Wales, with little or no accumulated wealth, leading to greater material deprivation, restricting the ability to access basic goods and services)

Please consider these additional vulnerable groups and the impact your proposal may or may not have on them:

<ul style="list-style-type: none"> ➤ Single parents and vulnerable families ➤ People with low literacy/numeracy ➤ Pensioners ➤ Looked after children ➤ Homeless people 	<ul style="list-style-type: none"> ➤ Carers ➤ Armed Forces Community ➤ Students ➤ Single adult households ➤ People misusing substances 	<ul style="list-style-type: none"> ➤ People who have experienced the asylum system ➤ People of all ages leaving a care setting ➤ People living in the most deprived areas in Wales (WIMD) ➤ People involved in the criminal justice system
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Socio-economic Disadvantage	Does the proposal have any positive, negative or neutral impacts on the following and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
Low Income / Income Poverty <i>(cannot afford to maintain regular payments such as bills, food, clothing, transport etc.)</i>			
Socio-economic Disadvantage	Does the proposal have any positive, negative or neutral impacts on the following and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view?
Low and/or No Wealth <i>(enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provisions for the future)</i>			
Material Deprivation <i>(unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, hobbies etc.)</i>			
Area Deprivation <i>(where you live (rural areas), where you work (accessibility of public transport) Impact on the environment?</i>			
Socio-economic Background <i>(social class i.e. parents education, employment and income)</i>			



Socio-economic Disadvantage <i>(What cumulative impact will the proposal have on people or groups because of their protected characteristic(s) or vulnerability or because they are already disadvantaged)</i>			
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4. Corporate Plan – Council’s Wellbeing Objectives
 (How does your proposal deliver against any/all of the Council’s Wellbeing Objectives? Which in turn support the national wellbeing goals for Wales as outlined in the Wellbeing of Future Generations (Wales) Act 2015. Are there any impacts (positive, negative, neutral? If there are negative impacts how have these been mitigated. [Well-being Objectives](#))

Objective 1 - Improve education opportunities for all	
Objective 2 - Enabling employment	
Objective 3 - Address the availability, condition and sustainability of homes throughout the county borough and provide advice, assistance or support to help improve people’s well-being	
Objective 4 - Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impact on the environment	
Objective 5 - Creating a county borough that supports healthy lifestyle in accordance with the Sustainable Development principle with in the Well-being of Future Generations (Wales) Act 2015	
Objective 6 – Support citizens to remain independent and improve their well-being	

4a. Links to any other relevant Council Policy
 (How does your proposal deliver against any other relevant Council Policy?)

5. Wellbeing of Future Generations (Wales) Act 2015 – The Five Ways of Working (ICLIP)
 (Also known as the sustainable development principles. The Act requires the Council to consider how any proposal improves the economic, social, environmental, and cultural wellbeing of Wales using the five ways of working as baseline.)

Ways of Working	How have you used the Sustainable Development Principles in forming the proposal?
<p>Long Term</p> 	<p>Consider the long-term impact of the proposal on the ability of communities to secure their well-being.</p>
<p>Prevention</p> 	<p>Consider how the proposal is preventing problems from occurring or getting worse</p>


<p>Integration</p> 	<p>Consider how your proposal will impact on other services provided in our communities (these might be Council services or services delivered by other organisations or groups)</p>
<p>Collaboration</p> 	<p>Consider how you are working with Council services or services delivered by other organisations or groups in our communities.</p>
<p>Involvement</p> 	<p>Consider how you involve people who have an interest in this proposal and ensure that they represent the diversity of our communities.</p>

6. Wellbeing of Future Generations (Wales) Act 2015

Well-being Goals	Does the proposal maximise our contribution to the Well-being Goal and how?
<p>A Prosperous Wales <i>An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment</i></p>	<p>Efficient use of resources, skilled, educated people generates wealth and provides jobs</p>

<i>opportunities, allowing people to take advantage of the wealth generated through securing decent work</i>	
A Resilient Wales <i>A nation which maintains and enhances a biodiverse natural environment healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for climate change)</i>	Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change). Have you considered the environmental impact your proposal will have and have you completed an Environmental Impact Assessment or Strategic Environmental Assessment if required?
A Healthier Wales <i>A society in which people's physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood</i>	People's physical and mental well-being is maximised and health impacts are understood
A More Equal Wales <i>A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances)</i>	People can fulfil their potential no matter what their background or circumstances. This includes the protected characteristics listed in Q2 above. Also consider the cumulative impacts.
Well-being Goals	Does the proposal maximise our contribution to the Well-being Goal and how?
A Wales of Cohesive Communities <i>Attractive, viable, safe and well-connected communities</i>	Communities are attractive, viable, safe and well connected
A Wales of Vibrant Culture and Thriving Welsh Language <i>A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation</i>	Culture, heritage and the Welsh language are promoted and protected. People are encouraged to participate in sport, art and recreation.

<p>A Globally Responsible Wales <i>A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being</i></p>	<p>Taking account of impact on global well-being when considering local social, economic and environmental well-being. Have you considered the environmental impact your proposal will have and have you completed an Environmental Impact Assessment or Strategic Environmental Assessment if required?</p>
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<p>7. Welsh Language Wales Measure 2011 and Welsh Language Standards (The Welsh Language Measure 2011 and the Welsh Language Standards require the Council to have 'due regard' for the positive or negative impact a proposal may have on opportunities to use the Welsh Language and ensuring the Welsh Language is treated no less favourable than the English Language. Policy Making Standards - Good Practice Advice Document)</p>	
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Requirement	Does the proposal have any positive, negative or neutral impacts on the following and how?	If there are negative impacts how will these be mitigated?	What evidence has been used to support this view? e.g the WESP, TAN20, LDP, Pupil Level Annual School Census
<p>Links with Welsh Government's Cymraeg 2050 Strategy and CCBC's Five Year Welsh Language Strategy 2017-2022 and the Language Profile</p>			
<p>Compliance with the Welsh Language Standards. <i>Specifically Standards 88 - 93</i></p>	<p>Consider the rights of Welsh speakers to use Welsh when dealing with the council and for staff to use Welsh at Work</p>	<p>Ensure correspondence and details on the website is bilingual even if the proposal has no impact on the Welsh language e.g road resurfacing works</p>	
<p>Opportunities to promote the Welsh language e.g. status, use of Welsh language services, use of Welsh in everyday life in work / community</p>	<p>Actively encourage and promote the use of our services in Welsh to see an increase in demand over time</p>		

Opportunities for persons to use the Welsh language e.g. staff, residents and visitors	The rights of Welsh speakers to use Welsh when dealing with the council and for staff to use Welsh at Work		
Treating the Welsh language no less favourably than the English language			

7a. Having considered the impacts above, how has the proposal been developed so that there are positive effects, or increased positive effects on (a) opportunities for persons to use the Welsh language and (b) treating the Welsh language no less favourably than the English language.

Impact on the use of Welsh, sustainability of Welsh speaking communities, numbers and/or percentages of Welsh speakers, fluency and confidence of Welsh speakers and learners to use Welsh, transmission of Welsh at home/from one generation to the next, using Welsh in the workplace, increase Welsh language digital media infrastructure and/or media, promoting Welsh in everyday life and its status

8. Data and Information

(What data or other evidence has been used to inform the development of the proposal? Evidence may include the outcome of previous consultations, existing databases, pilot projects, review of customer complaints and compliments and or other service user feedback, national and regional data, academic publications and consultants' reports etc.)

Data/evidence <i>(Please provide link to report if appropriate)</i>	Key relevant findings	How has the data/evidence informed this proposal?
What data / evidence was used? Provide links to any reports if appropriate e.g. Household Survey 2017	What were the key findings? What did the data / evidence used tell you?	How has the data / evidence available helped inform the proposal? Did it support the proposal and how? If the data / evidence didn't support the proposal why was this?

Were there any gaps identified in the evidence and data used to develop this proposal and how will these gaps be filled?

Details of further consultation can be included in Section 9.

Are there any gaps in the existing data and how will you go about filling these gaps?

9. Consultation

(In some instances, there is a legal requirement to consult. In others, even where there is no legal obligation, there may be a legitimate expectation from people that a consultation will take place. Where it has been determined that consultation is required, The Gunning Principles must be adhered to. Consider the Consultation and Engagement Framework. Please note that this may need to be updated as the proposal develops and to strengthen the assessment.

Briefly describe any recent or planned consultations paying particular attention to evidencing the Gunning Principles.

Who was consulted?

When they were consulted did the consultation take place at the formative stage and was adequate time given for consultees to consider and respond?

Was sufficient information provided to consultees to allow them to make an informed decision on the proposal?

What were the key findings?

How have the consultation findings been taken into account?

10.

Monitoring & Review

How will the implementation and the impact of the proposal be monitored, including implementation of any amendments?	For example, what monitoring will be used? How frequent?
What are the practical arrangements for monitoring?	For example, who will put this in place? When will it start?
How will the results of the monitoring be used to develop future proposals?	
When is the proposal due to be reviewed?	
Who is responsible for ensuring this happens?	

11.

Recommendations & Reasoning

- | |
|--|
| <input type="checkbox"/> Implement proposal with no amendments |
| <input type="checkbox"/> Implement proposal taking account of the mitigating actions outlined |
| <input type="checkbox"/> Reject the proposal due to disproportionate impact on equality, poverty and socio-economic disadvantage |

Have you contacted relevant officers for advice and guidance?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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12. Reason(s) for Recommendation

(Provide below a summary of the Integrated Impact Assessment. This summary should be included in the “Summary of Integrated Impact Assessment” section of the Corporate Report Template. The Integrated Impact Assessment should be published alongside the Report proposal).

Include here a conclusion to your IIA. What is it telling you? How has the data / evidence used helped you to make the decision for Section 11 above? Mention any significant impacts (positive, negative or neutral) if any negative ones identified, how have they been mitigated to lessen the impact? Did you identify any cumulative impact your proposal will have? The summary you provide here will be copied into your report going forward for a decision through the committee process, therefore this section must be concise but informative.

13. Version Control

(The IIA should be used in the early stages of the proposal development process. The IIA can be strengthened as time progresses to help shape the proposal. The Version Control section will act as an audit trail to evidence how the IIA has been developed over time)

Version No.	Author	Brief description of the amendments/update	Revision Date

Integrated Impact Assessment Officer

Name:	
Job Title:	
Date:	

Head of Service Approval

Name:	
Job Title:	
Signature:	
Date:	

2.5 Who can put items on the executive agenda?

- (a) The leader will decide upon the schedule for the meetings of the executive. He/she may put on the agenda of any executive meeting any matter which he/she wishes, whether or not authority has been delegated to the executive, a committee of it or any member or officer in respect of that matter. The proper officer will comply with the leader's requests in this respect.
- (b) The proper officer will make sure that an item is placed on the agenda of the next available meeting of the executive where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the executive.
- (c) Any member of the Council may ask the leader to put an item on the agenda of an executive meeting for consideration, and if the leader in his/her absolute discretion agrees the item will be considered at the next available meeting of the executive. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.
- (d) Officers with the prior approval of the Council's Corporate Management Team.
- (e) The monitoring officer and/or the chief financial officer may include an item for consideration on the agenda of an executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief financial officer and monitoring officer are of the opinion that a meeting of the executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an executive meeting. If there is no meeting of the executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

Overview and Scrutiny Procedure Rules

1. What will be the number and arrangements for overview and scrutiny committees?

The Council will have the overview and scrutiny committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such committees may appoint sub-committees. The Terms of Reference and delegated powers of each committee are detailed in Article 6.

Each overview and scrutiny committee comprises 18 members, and each committee is politically balanced. Joint Scrutiny Committee will comprise of all 60 Non-executive Members.

2. Who may sit on overview and scrutiny committees?

All councillors except members of the executive 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.

3. Co-optees

Each overview and scrutiny committee or sub-committee shall be entitled to recommend to Council the appointment of a number of people as non-voting co-optees.

4. Education representatives

Each relevant overview and scrutiny committee/sub-committee dealing with education matters will include in its membership voting representatives of religious faiths and of parent governors, as required by law and guidance from the National Assembly.

If the overview and scrutiny committee/sub-committee deals with matters other than the education function, these representatives shall not vote on those other matters and may only attend as co-opted non voting members of the committee for discussion of those other matters if invited to do so.

5. Meetings of the overview and scrutiny committees

Overview and scrutiny committees will meet on a regular pre-planned basis. In addition, extraordinary meetings may be called from time to time as and when appropriate. An overview and scrutiny committee meeting may be called by the chairman of the relevant overview and scrutiny committee, or by the proper officer if he/she considers it necessary or appropriate.

6. Quorum

The quorum for an overview and scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

7. Who chairs overview and scrutiny committee meetings?

7.1 The overview and scrutiny committees/sub-committees will be chaired by a councillor.

7.2 The arrangements included in section 66 to 75 of the Local Government (Wales) Measure 2011 will be followed for appointing persons to Chair overview and scrutiny Committees.

8. Work programme

The overview and scrutiny committees/sub-committees will 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.

9. Agenda items

- (a) Any member of an overview and scrutiny committee or sub-committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the committee or sub-committee (including delegated powers decisions subject to scrutiny) 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 proper officer will ensure that it is included on the next available agenda. The agenda will include an item "to record any requests from committee members to include an item on the next available agenda".

The above paragraph is a requirement of the Local Government Act 2000

- (b) Any ten members of the Council who are not members of the overview and scrutiny committee may give written notice to the proper officer that they wish an item to be included on the agenda of a named overview and scrutiny committee. If the proper officer receives such a notification, then he/she will include the item on the first available agenda of the relevant overview and scrutiny committee for consideration by the committee.
- (c) Any councillor not in any political group may request the chairman to include an item on the agenda of the next meeting.
- (d) 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 executive 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 executive.

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 executive for developments in so far as they relate to matters within their terms of reference.
- (d) 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. They may be authorised by the Council to hold a budget to fund these activities.

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 proper officer for consideration by the executive (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 executive as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or executive with the majority report.

12. Making sure that overview and scrutiny reports are considered by the executive

Once an overview and scrutiny committee has completed its deliberations on any matter it will forward a copy of its final report to the proper officer who will allocate it to either or both the executive 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 proper officer 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 executive will have four 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 executive to the overview and scrutiny proposals.

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 executive and overview and scrutiny committee as appropriate depending on the particular matter under consideration.

14. Members and officers giving account

- (a) Any 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 the head of paid service 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. The appropriate Cabinet member(s) will automatically attend meetings of the committee but will do so purely to respond to questions, and not to initiate debate.

- (b) Where any member or officer is required to attend an overview and scrutiny committee under this provision, the chairman of that committee will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least five 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, or information or documentation cannot reasonably be prepared in time for that date, then the overview and scrutiny committee shall in consultation with the member or officer arrange an alternative date for attendance.

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

16. Call-in

16.1 Rules

(a) General

When a decision is made by the executive, by an individual member of the executive (if so authorised) or a committee of the executive or an officer with delegated powers a decision notice shall be published, including where possible by electronic means, and shall be available at the main offices of the Council the day following on which the decision is made. The person responsible for publishing the decision notice will send chairmen of all overview and scrutiny committees copies of the records of all such decisions within the same timescale.

- (b) That decision notice will bear the date on which it is published. The decision will come into force, and may then be implemented, on the expiry of the Call In period referred to in para 16.1(g), unless there is a request for it to be called-in for review as allowed for by this paragraph.

(c) Who can call-in a decision

A decision that has been taken but not implemented may be called in. A call-in can be made by:-

- (i) The chairman of the appropriate scrutiny committee **or**
- (ii) Any four members (from more than one political group) who must be members of the scrutiny committee which will be scrutinising the decision. A leader of any political group other than the leader of the council may be one of those four members (irrespective of whether that person is a member of the scrutiny committee which will be scrutinising the decision) and co-opted members of the

scrutiny committee may be regarded as a political group for the purpose of a call-in.

[NOTE: The Corporate and Regeneration Scrutiny Committee (or its chairman) has the power to bring in for consideration by itself a matter which may fall in the terms of reference of another scrutiny committee]

(d) Grounds of call-in

The grounds on which a call-in can be made are:-

- (i) that it conflicts with the Council's policy framework; or
- (ii) that it conflicts with the Council's approved budget; or
- (iii) that it has been made without regard to a material fact or information or without proper consultation which in the opinion of the members making the request would lead to a different decision being made by the Executive.

(e) What can be called in

- (i) Decisions formally taken in the Cabinet;
- (ii) Officer delegated power decisions appearing on the "decisions" notices on the Intranet which are shown as "subject to call-in". (Broadly, these are Executive power delegated decisions taken by the Chief Executive, a Director or a Head of Service).

(f) Procedure for call-in

- (i) In writing. The call-in request must state the details of the decision and the grounds of the call-in and be signed by four appropriate members. The notice must be delivered to the Monitoring Officer before the deadline for call-in expires, or
- (ii) By e-mail. The e-mail requesting the call-in must set out the details of the decision and the grounds of the call-in and the names of the members supporting the call-in. It must be sent to the Monitoring Officer **and** to the officer dealing with the matter, before the deadline for call-in expires.

(g) Limitations on call-in

- (i) **Deadline.** For Cabinet decisions this is end of the third working day following the day on which a decision is taken in Cabinet. For officer decisions it is the end of the third working day after the day on which the decision is published on the Intranet.
- (ii) If a decision is urgent - see 16.2 below - it cannot be called in.
- (iii) Council functions cannot be called in.
- (iv) Executive functions in the following categories cannot be called in:-
 - prosecutions, cautions, warnings, enforcement and legal proceedings
 - individual debt recovery cases

- decisions on individual housing and council tax benefit cases
 - decisions on individual compensation claim cases
 - decisions on individual child and vulnerable adult protection cases
 - day to day management matters, employment, staff discipline and regrading matters
 - all contracts below £25,000, contracts between £25,000 and the EU limit where there has been consultation with the Head of Procurement
 - Returning Officer, Electoral Registration Officer or Registrar matters
 - commercial lettings and grants to individual businesses in accordance with the Council's policies
 - sales or lettings of land within standing orders or the approved protocol
 - emergency actions
- (v) Where the officer involved can show by reference to existing paperwork that the decision-making process was properly carried out then call-in is not permitted:-
- Where the call-in says "inadequate consultation", if the officer is able to show consultation with the appropriate Cabinet member, local member(s), appropriate officers or with the scrutiny committee if the matter is covered in the service improvement plans, Cabinet workplan or the WPI annual plan.
 - Where the call-in says "didn't take something into account", if by reference to the paperwork recording the decision the officer can prove that the matter was taken into account, no call-in will be permitted.

(h) **Validity of the request**

The validity of a request will be determined by the Monitoring Officer in consultation with the chairman of the scrutiny committee (or in the absence or inability to act of the chairman, then with the vice-chairman). This is limited to deciding procedural compliance (including abuse of the process) but is not a decision on the merits of the call-in, as this is a matter for the scrutiny committee

(i) **What happens to a valid request**

The matter will go to the next meeting of the scrutiny committee unless the chairman (or in his absence or inability to act, the vice-chairman) indicates the matter is urgent, in which case a meeting will be convened within ten working days.

(j) **After a call-in has been considered**

If, having considered the decision, the overview and scrutiny committee is still concerned about it, then it may refer it back to the Cabinet for reconsideration, setting out in writing the nature of its concerns, and/or refer the matter to full Council.

Officer delegated power decisions referred for re-consideration will go to the Cabinet for decision, and not back to the officer.

If following an objection to the decision, the overview and scrutiny committee does not refer the matter back to the decision making person or body or to the Council, the decision shall take effect on the date of the overview and scrutiny meeting.

(k) **After re-consideration**

When a matter has been referred by the Overview and Scrutiny Committee for reconsideration and the points raised by the scrutiny committee have been considered by the Cabinet then no further call-in of that decision is permitted.

16.2 Call-in and urgency

(a) General

The call-in procedure set out above shall not apply where the decision being taken by the executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously 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.

(b) Certification of urgency – Cabinet decisions

The Mayor 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 or the inability to act of the Mayor, the Deputy Mayor's consent shall be required. In the absence or inability to act of both, the head of paid service 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.

(c) Certification of urgency – officer decisions

There must be agreement both that the decision proposed is reasonable in all the circumstances and that it should be treated as a matter of urgency and these reasons should be recorded. The certification of urgency will be taken as follows:-

- (i) Head of Service decision - any Director
- (ii) Director decision - Chief Executive
- (iii) Chief Executive decision - Chief Executive

17. The party whip

The Assembly Guidance views whipping as incompatible with overview and scrutiny. The following paragraphs, however, provide a means of safeguard where whipping does occur.

When considering any matter in respect of which a member of an overview and scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

"Whip" means any instruction given by or on behalf of a political group to any councillor who is a member of that group as to how that councillor shall speak or vote on any matter before the Council or any committee or sub-committee, or the application or threat to apply any sanction by the group in respect of that councillor should he/she speak or vote in any particular manner.

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) consideration of any matter referred to the committee for a decision in relation to call in of a decision;
 - iv) responses of the executive to reports of the overview and scrutiny committee; and
 - v) the business otherwise set out on the agenda for the meeting.
- (b) The rules of procedure at an overview and scrutiny committee will be the same as the Council Procedure Rules except that the Chairman of the meeting may allow the rules of debate to be relaxed so as to allow a full contribution by those attending the meeting whether as members of the committee or in any other capacity which allows them to contribute to the work of the meeting.
- (c) 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.
- (d) Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the executive and/or Council as appropriate and shall make its report and findings public.

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 Corporate and Regeneration Scrutiny Committee or in its discretion considered by it.

Financial Procedure Rules

Financial Regulations

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NOTE: in any instance where the male gender has been used in these Regulations e.g. “he, his”, the female gender can be substituted with equal weight, e.g. “she, her”.

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FINANCIAL REGULATIONS

1. GENERAL RESPONSIBILITIES AND AUTHORISATIONS

1.01 Chief Finance Officer / Head of Corporate Finance

1.01.1 The Head of Corporate Finance is the officer appointed by the Council under Section 151 of the Local Government Act 1972 for the administration of the financial affairs of the Council and in accordance with the Accounts and Audit (Wales) Regulations 2005 and is the officer with overall responsibility, subject to any instructions given by the Council, for determining the system of accounting control and the form of the published accounts. The Officer appointed under Section 151 of the Local Government Act 1972 has overall responsibility for providing financial advice on all budgetary and accounting matters affecting the Council's corporate financial affairs. In the remainder of this document this person will be referred to as the "Head of Corporate Finance".

1.01.2 Under the provisions of Section 114 of the Local Government and Finance Act 1988, the Head of Corporate Finance is the officer personally responsible for reporting to both the External Auditor and each member of the Authority (or Joint Committee on which the Authority is represented) any instance where the Authority,

- (a) has made or is about to make a decision which involves or would involve the authority in incurring expenditure which is unlawful.
- (b) 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 on the part of the Authority, or
- (c) is about to enter an item of account the entry of which is unlawful.

A report is also required if it appears that the expenditure of the Authority in a financial year is likely to exceed the resources available to meet the expenditure. Any expenditure (or further expenditure) is prohibited until any such report has been considered by the Authority.

1.01.3 The Head of Corporate Finance, being the statutorily appointed officer for the administration of the financial affairs of the Council, shall have the right to attend or be represented at all meetings of the Council and its Committees and Sub-Committees and at such working parties as the Head of Corporate Finance considers necessary.

1.01.4 The Head of Corporate Finance or their authorised representative shall be allowed access to all financial documents or records (or supporting documents and records) maintained by or on behalf of the Council.

1.01.5 The form and method of keeping any records which may effect the corporate financial systems shall be agreed in consultation with the Head of Corporate Finance.

1.01.6 The Head of Corporate Finance shall be responsible for the administration of all matters related to the income and expenditure arrangements for the Council as set out in the currently approved constitution.

1.02 **The Chief Executive**

1.02.1 The Chief Executive is designated as “Head of Paid Service” under Section 4 of the Local Government and Housing Act 1989 and has the responsibility for reporting, where considered appropriate, to the Council within the terms of the Act on matters relating to the co-ordination of the discharge by the Authority of its different functions and staffing resources generally.

1.03 **The Head of Legal Services & Governance and the Monitoring Officer**

1.03.1 The Head of Legal Services & Governance has designated functions under these Regulations as legal adviser to the authority. The Council's designated “Monitoring Officer” acts under Section 5 of the Local Government and Housing Act 1989 which requires any matters involving any contravention of any enactment or rule of law or code of practice or any maladministration or injustice to be reported to the Council.

1.04 **Head of Service**

1.04.1 For the purpose of these Financial Regulations “Head of Service” relates to any officer who has a direct reporting line to the Chief Executive, any Director or to any Headteacher where there is a delegation or budget to that headteacher's school.

1.04.2 Each Head of Service shall be responsible to the Head of Corporate Finance for the day to day operation of financial processes and procedures within their service area and the accuracy and timeliness of any information or data affecting that or other service areas which is to be entered into the Council's accounting system from which the corporate budget and the published accounts are ultimately prepared. Where corporate and departmental financial systems are operated in tandem, priority must always be given to the maintenance of the corporate financial systems as these represent the Head of Service's responsibilities in financial terms as approved by the Council.

1.04.3 Each Head of Service shall consult with the Head of Corporate Finance with respect to any matter within their purview which is liable to affect the finances of the Council before any provisional or other commitment is incurred or before reporting thereon to the Cabinet.

1.04.4 Every Head of Service shall be responsible for ensuring that any commitment to spend money or collect income will result in the Council's objectives being achieved in the most economical efficient and effective way possible in compliance with such constraints as may be imposed by current policies.

1.04.5 Every Head of Service shall provide all information necessary to enable the Head of Corporate Finance to carry out their role effectively, particularly with regard to accounting for Council assets and taxation.

1.05 **The Cabinet** (the Council's 'Executive' under the Local Government Act 2000)

1.05.1 The Cabinet is responsible, amongst other matters as set out in the Constitution, for making recommendations upon the finances, the overall plan, priorities, policies, and objectives of the Council and to be responsible for the operation of the Council's budget and financial strategy and decide the allocation of the available finances of the Council. The Head of Corporate Finance, as the Council's financial adviser, shall report to the Cabinet with respect to the level of resources proposed to be utilised in each financial year.

- 1.05.2 The Cabinet shall make recommendations to Council on the preparation of the Council's Capital and Revenue Estimates for the financial year.
- 1.05.3 The Audit Committee shall make recommendations to Council in respect of the External Auditors' report in respect of the auditing of the Council's accounts.
- 1.05.4 The Cabinet shall also be responsible under delegated powers for those aspects of financial administration, including income and expenditure monitoring, as set out in the current Constitution.

1.06 Other Committees

- 1.06.1 The Head of Corporate Finance shall ensure that all Council Committees and the Cabinet are kept informed with respect to the financial implications of their activities. Each Service, through its Director or Head of Service, shall be responsible for compliance with the Financial Regulations throughout all areas under its control.

1.07 Level of Responsibility

- 1.07.1 Throughout these Financial Regulations the designated officers referred to are the minimum level of responsibility required. More senior officers can be substituted in all cases.

2. APPLICATION OF FINANCIAL REGULATIONS

- 2.01 The Head of Corporate Finance is empowered to supplement these Financial Regulations by specific accounting instructions if necessary to further explain, expand or specify any matters contained within these Regulations. Such supplements shall recognise the need for compliance with current professional standards as set out in professional statements issued by the various accountancy bodies, in particular the Chartered Institute of Public Finance and Accountancy, and which relate directly in the opinion of the Head of Corporate Finance to the sound management of the financial affairs of the Council.
- 2.02 These Financial Regulations and those issued to schools shall apply to activities under the purview of the DLO/DSO and schools only to the extent that they are consistent with the statutory provisions which shall always take precedence.
- 2.03 Directors and Heads of Service must ensure that their staff comply with all accounting protocols and instructions issued from time to time by the Head of Corporate Finance.
- 2.04 Staff who fail to comply with Financial Regulations and accounting protocols and instructions may be subject to disciplinary action.
- 2.05 Heads of Service shall be responsible for the accountability of staff, and the security, custody and control of all other resources including plant, vehicles, equipment (including computers and other I.T. assets), buildings, materials, cash and stores appertaining to their individual departments in accordance with detailed procedures agreed with the Head of Corporate Finance.
- 2.06 The Head of Corporate Finance shall be notified of all Government or other circulars, orders, sanctions, regulations, etc. affecting finance.

3. FINANCIAL PLANNING - ANNUAL BUDGET

3.01 Revenue

3.01.1 The Head of Corporate Finance will report to Cabinet on the likely Revenue Support Grant Settlement for the following year. Arising from this a provisional budget strategy will be determined by Cabinet.

3.01.2 The Head of Corporate Finance shall collate the revenue estimates which will then form part of a report to Cabinet with proposals for setting the budget and determining funding. The Cabinet will then endorse these estimates with or without amendments to the Council for approval.

3.01.3 As soon as practicable, the detailed revenue budgets should be reported to the appropriate Scrutiny Committees.

3.02 Capital

3.02.1 “Capital Expenditure” is defined in the Code of Practice on Local Authority Accounting in Great Britain as:

“Expenditure on the acquisition of a tangible asset or expenditure which substantially adds to the value of an existing asset, provided the asset yields benefit to the Authority and the service it provides for a period of more than one year.”

3.02.2 The capital programme for the budget year will reflect the first year of the medium term capital programme (refer to paragraph 4). This programme will be reported to Cabinet who will make recommendations to Council. The capital programme will be agreed prior to the start of the financial year.

3.02.3 Each Head of Service will need to ensure that all revenue consequences of the capital programme are identified and included in their revenue budget projections.

3.02.4 Upon approval by the Council of a programme of capital expenditure, the officers concerned shall take the necessary steps to ensure the capital programme is delivered including:

- (a) take steps to enable land required for the purposes of the programme to be acquired in due time, and
- (b) initiate action for detailed design preparation.

3.03 Distribution

3.03.1 Each member of the Council shall be provided with a copy of the proposed capital programme and revenue estimates, together with a statement by the Head of Corporate Finance of their effect on the Council’s finances and the precepts to be levied. The estimates and statement shall be provided with the summons to attend the meeting of the Council at which such matters will be considered.

4. FINANCIAL PLANNING - MEDIUM TERM

- 4.01 In order to facilitate the annual financial planning/budgeting process and provide strategic focus, the Head of Corporate Finance will prepare and maintain a rolling medium term (3-5 years) financial plan. This will be reported to and approved by Council as part of the annual budget setting process.
- 4.02 The revenue element of the medium term plan will be prepared by the Head of Corporate Finance in consultation with Cabinet Members, Directors and appropriate senior officers. The plan will recognise the objectives and priorities set out in the Corporate Improvement Plan and views expressed during any consultation period.
- 4.03 The capital element of the medium term plan will be prepared by the Head of Corporate Finance in consultation with the Capital Strategy Group. In order for the Capital Strategy Group to evaluate competing bids, there will be a need for each Director to submit appropriate information to the Group in accordance with an agreed timescale.

5. POWER TO INCUR CAPITAL AND REVENUE EXPENDITURE

- 5.01 The provision in the estimates is authority to incur expenditure. There are however exceptions i.e. where the type of revenue expenditure is new, or where the acquisition will involve an increased and continuing financial commitment. In these cases Cabinet approval should be obtained where additional resources can be identified.
- 5.02 The inclusion of any item in the approved estimates shall not confer authority to incur any capital expenditure (except on design work and land acquisition) until:-
- (a) All necessary statutory approvals have been obtained
 - (b) Action has been taken to obtain quotations or tenders in accordance with Standing Orders for Contracts.
- 5.03 Where it appears that the amount of any head of estimate of approved expenditure may be exceeded or the amount of any head of income may not be reached, it shall be the duty of the Head of Service concerned in consultation with the Head of Corporate Finance, to inform the Cabinet forthwith, unless the difference can be funded by virement, (refer to paragraph 6.03).

6. BUDGETARY CONTROL

6.01 Revenue

- 6.01.1 The Head of Corporate Finance shall provide all Directorates with statements of revenue expenditure and income in order that they may be compared with the approved budget provisions. These would normally be 3 times per annum as a minimum and include forecast expenditure and income. Any budget variations which in the view of the Head of Corporate Finance are significant shall be reported to Corporate Management Team in the first instance.
- 6.01.2 The Head of Corporate Finance shall ensure that a report to the relevant Scrutiny Committees is prepared three times a year comparing forecast revenue expenditure and income against the approved budget for each service area.
- 6.01.3 In addition to the regular reporting requirements set out in 6.01.2 significant budget variations that cannot be funded from the Directorate's service area and/or service area reserves will be reported as soon as practical by way of exception reports

prepared by the appropriate Director. The exception reports will be considered by both the Cabinet and the appropriate Scrutiny Committee with proposals to Council where required.

6.01.5 Should there be occasions where inescapable additional expenditure has been identified which cannot be met from revenue budgets (and therefore has to be met from General Balances) then Cabinet must recommend such action to Council for approval.

6.02 Capital

6.02.1 The Head of Corporate Finance shall ensure that a report to the relevant Scrutiny Committee is prepared twice a year showing expenditure incurred to date against the approved capital budget and providing appropriate explanations for any major variations in relation to the capital programme.

6.02.2 Should there be occasions where inescapable additional expenditure has been identified which cannot be met from capital budgets (and therefore has to be met from General Balances) then Cabinet must recommend such action to Council for approval.

6.03 Virement

For the purposes of these regulations, a virement is defined as a movement of monies between main activities of the Council. It is not a transfer between different elements of service running costs.

It is recognised that there may need to be clarification of what constitutes a main activity and this will be a matter for the Head of Corporate Finance.

6.03.1 Revenue

6.03.1.1 A Director, may, in consultation with the Head of Corporate Finance utilise underspending under one budget activity head to supplement overspending in another (as detailed in para. 6.03.1.2), during a financial year. This activity would not normally require a virement, but must be reported to the relevant Scrutiny Committee.

6.03.1.2 Where a virement is required it shall be approved in writing according to the following table:-

Amount	Approved by
under £20,000	Head of Service
£20,000 - £50,000	Service Director
£50,000 - £100,000	Head of Corporate Finance & Service Director
over £100,000	Cabinet

All virements must be included in budget monitoring reports for the next available Scrutiny Committee.

Carried forward monies for service areas can be used to offset overspends in the financial year, after agreement with the Head of Corporate Finance. Any use of service reserves for this reason should be reported to Scrutiny Committees as part of the budget monitoring process.

Carried forward reserves can be used for one off expenditure i.e. capital. Approval is required in line with the virements process outlined in 6.03.1.2 above.

6.03.2 Capital

6.03.2.1 Apart from programmes of minor or special works, and vehicles there shall be no virement of capital expenditure without the consent of:

- (a) below £50,000, the Head of Corporate Finance and Service Director;
- (b) above £50,000, the Cabinet.

6.03.2.2 A Director may propose a variation to Year 1 of its programme by the inclusion of a scheme which does not form part of the approved capital programme, or by rolling forward a scheme from a later year of the programme, but only if the costs of the new scheme can be contained within its capital estimates, for example, by re-scheduling expenditure on its existing schemes into later years, or by deleting a project.

6.03.2.3 Except in cases of emergency as in 6.04, no expenditure shall be incurred on any item not included in the annual estimates or in excess of the amount included under any particular head unless virement is available or it becomes the subject of a supplementary estimate duly submitted to and approved by the Cabinet or Council.

6.03.2.4 Every Director shall inform the Head of Corporate Finance as soon as underspendings have been identified which are not being reallocated under the virement approval procedure in paragraph 6.03.2.1. These underspends can then be incorporated into future capital expenditure plans for Member approval.

6.04 Supplementary Estimates And Emergencies

6.04.1 Expenditure plans identified by a Director which cannot be met from the budget or service reserves shall, in consultation with the Head of Corporate Finance be reported to the Cabinet with a request for support for the use of General Fund balances. All supplementary estimates funded in this manner must be approved by full Council.

6.04.2 Nothing in these Financial Regulations shall prevent the incurring of expenditure which is essential to meet any immediate needs created by a sudden emergency within the meaning of Section 138 of the Local Government Act 1972 which may be authorised by the Head of Corporate Finance subject to the spending being reported to the Cabinet as soon as is practicable.

6.04.3 In emergencies where there is no identified budget any Director or Head of Service will report any action taken to incur expenditure and how this is to be funded as soon as possible after the event:-

- (a) below £50,000 to the Head of Corporate Finance;
- (b) above £50,000 to the Cabinet.

6.05 Leasing

- 6.05.1 The Head of Corporate Finance will ensure that the Council maintains a leasing register relating to expenditure so funded and Directors shall be under an obligation to furnish the information needed to maintain such a register (including the prompt notification of the disposal of assets subject to a lease agreement).
- 6.05.2 Each Head of Service shall always obtain the approval of the Head of Corporate Finance before the Council commits itself to any leasing arrangements and before any provisions are made within the Council's estimates to cover the annual cost of leasing. The Head of Corporate Finance must be provided with a copy of any proposed terms of any lease and must give prior approval to any leasing agreement being signed.
- 6.05.3 All leasing agreements shall be submitted to the Head of Legal Services & Governance for examination and approval before any firm commitment is made by the Council.
- 6.05.4 The Head of Corporate Finance shall be responsible for obtaining quotations or tenders from Finance Houses providing lease arrangements for the acquisition of Buildings, Plant, Vehicles and Equipment. Directors shall be under an obligation to notify their spending plans in relation to leases to the Head of Corporate Finance giving adequate time for tenders to be obtained based on expected volumes of business.
- 6.05.5 Sale/Lease-back, rental agreements and other deferred purchase arrangements also come within the controls of this section.

7. ACCOUNTANCY

- 7.01 The Council's income and expenditure transactions for both capital and revenue shall take account of current recommended accounting procedures and Directors and Heads of Service must ensure their staff comply with all accounting protocols issued from time to time by the Head of Corporate Finance.
- 7.02 The Head of Corporate Finance, in discharge of the responsibility placed thereon by the Accounts and Audit Regulations relating to the maintenance and closure of the Council's accounts, shall be responsible for the implementation of such procedures. The Head of Corporate Finance shall be provided with such information as required in an accurate and timely manner in order that the preparation of budgets and the closing of accounts is not delayed.
- 7.03 The Head of Corporate Finance shall be responsible for the whole of the accounting records of the Council and Directors or an authorised officer shall confer with the Head of Corporate Finance before introducing any books, forms, computer systems or procedure relating to cash, stores or other accounts of the Council and it shall be the duty of the Head of Corporate Finance to see that uniform systems shall as far as practicable, be adopted throughout the Council.
- 7.04 It shall be the responsibility of the Director who maintains any subsidiary record, account or system which supports or is a constituent of the Council's financial ledger to reconcile such figures to the satisfaction of the Head of Corporate Finance. The Head of Corporate Finance will arrange for the closure of the Council's accounts on the basis of the figures contained in the financial ledger system.
- 7.05 All allocations of expenditure and income shall be in accordance with a scheme approved by the Head of Corporate Finance. In accordance with the statutory requirements and relevant

codes of practice for the preparation of the Council's accounts, all financial codes will be issued by the Finance Manager (Corporate Services) and every officer will adhere to the standard definitions of such codes when allocating budgets, expenditure and income. Expenditure will only be incurred (or income received) against financial codes for which there is a properly approved budget.

- 7.06 The Finance Manager (Corporate Services) will be responsible for actioning all journal entries to the Council's accounts. The responsibility for the accuracy of those journals shall remain with the officer who authorises the journal request.
- 7.07 Where the Director has a budgetary responsibility, access will be available to the appropriate area of the Council's financial ledger.
- 7.08 The Head of Corporate Finance shall be responsible for the methods to be employed for the financing of all capital and revenue expenditure and may negotiate appropriate procedures to achieve these aims.
- 7.09 Where any report contains financial implications the Head of Corporate Finance or their representative will always be a consultee on the report. The finance representative should be at group accountant level as a minimum.
- 7.10 Where there is any external/grant funding bid then the Head of Corporate Finance or their representative shall be consulted on all bids prior to their submission.
- 7.11 The Head of Corporate Finance must be informed of any external/grant funding due to the Authority and any other non-recurring income due in excess of £50,000.

8. UNOFFICIAL FUNDS

- 8.01 An "unofficial fund" shall mean any fund in the management of which an employee of the Council is concerned in an official capacity and which may affect any person or property for which the Council has a responsibility, notwithstanding that no contributions towards such funds may have been made by the Council.
- 8.02 The Director concerned shall be responsible for the financial management and audit of unofficial funds with a balance of more than £5,000 or a turnover of more than £10,000 and shall consult the Internal Audit Manager before formulating regulations which will apply to such funds. In this paragraph "unofficial funds" does not include school private funds.
- 8.03 Notwithstanding the duties of any Director in para 8.02 the Internal Audit Manager shall have the right to audit any unofficial fund at any time.
- 8.04 The financial management and responsibility of school private funds is a matter for the Headteacher and governing body of each individual school. Audit requirements in respect of school private funds are referred to in the 'Scheme for Financing schools'.

9. ADVANCE ACCOUNTS/IMPREST ACCOUNTS

- 9.01 Where appropriate, the Head of Corporate Finance on the reasonable request of any Head of Service shall arrange for advance accounts for such employees of the Council as may need them for the purposes of defraying petty cash and other expenses. Such accounts shall be maintained on an imprest basis in accordance with the notes of guidance issued to imprest holders by the Head of Corporate Finance.

- 9.02 Where appropriate the Head of Corporate Finance shall open an account with the Council's bankers for use by the imprest holder who shall not cause the account to be overdrawn. It shall be a standing instruction to the Council's bankers that the amount of any overdrawn balance on an imprest holder's banking account shall forthwith be reported to the Head of Corporate Finance. Where an employee holds a cheque book in respect of any account they must ensure that all cancelled cheques are retained with the counterfoils of the original cheque book.
- 9.03 No income received on behalf of the Council may be paid into an advance account but must be banked or paid to the Council as provided elsewhere in these Financial Regulations. Neither should personal or third party cheques be encashed in advance accounts/imprest accounts.
- 9.04 Except as otherwise agreed between the Head of Corporate Finance and the Head of Service concerned, payments out of the accounts shall be limited to petty disbursements and shall not include sums due to any tradesman with whom the Council has a current account, travelling expenses of more than £5, nor any account for goods exceeding £50.
- 9.05 An officer responsible for an advance account shall, if so requested, give to the Head of Corporate Finance a certificate as to the state of the imprest advance.
- 9.06 Whenever an employee who is an imprest holder leaves the employment of the Council, or ceases to be entitled to hold an imprest advance, that person shall repay to the Council the unexpended balance of the advance and shall submit an account and vouchers in respect of the amount expended, or shall transfer monies, records and vouchers relating to the account, to the new imprest holder if agreed by the Head of Corporate Finance.
- 9.07 Every transfer of official money from one employee to another will be officially recorded and include the signature of the receiver who will verify the sum concerned.

10. AUDIT

- 10.01 Internal Audit Services has been established by the Council as an independent appraisal function for the review of the internal control system as a service to the Authority. Internal Audit Services is responsible for objectively examining, evaluating and reporting on the adequacy of internal control to inform the annual governance process and the Council's formal Risk Assessment as a contribution to the proper, economic, efficient and effective use of resources e.g. the safeguarding of assets, value for money, and includes an assessment of the suitability and reliability of financial and related management information.
- 10.02 The Accounts and Audit Regulations require that "A relevant body shall maintain an adequate and effective system of internal audit of their accounting records and control systems..". This responsibility has been delegated by the Council to the Head of Corporate Finance who exercises overall control of Internal Audit Services.
- 10.03 Arising from the above statutory requirement, the Head of Corporate Finance or authorised representative shall have authority to:
- (a) have access to all Council premises and land
 - (b) have access to all records, documents and correspondence relating to any transaction of the Council

- (c) require and receive such explanations as are necessary concerning any matter under examination
- (d) require the production of any cash, stores or other Council property under an individuals control
- (e) advise on controls to be incorporated in new or revised systems prior to implementation (whilst not abrogating the responsibility of the appropriate Director for the development and installation of such changes).

10.04 Whenever any matter arises which involves, or is thought to involve, any irregularity with regard either to the assets of the Council or the functions of the Authority whether or not a loss has actually occurred, the Head of Service concerned shall immediately notify the relevant Director and the Head of Corporate Finance.

10.05 The Head of Corporate Finance shall ensure that enquiries are conducted into any irregularities and must be satisfied that appropriate steps have been taken within the Authority to investigate and correct any such irregularities. Whilst the initial responsibility for such enquiries rests with the Director concerned, the Head of Corporate Finance may require that the Internal Audit Manager manages and reports on any matter for investigation.

10.06 The Internal Audit Manager shall co-operate with the external auditor, who is statutorily appointed, to exchange relevant information in order to maximise audit resources. In addition to any statutory rights, the external auditor shall have the same rights of access as are set out for the Head of Corporate Finance in paragraph 10.03 above.

10.07 The arrangements set out in these Financial Regulations shall not relieve any Director of responsibility to safeguard Council assets and to properly manage the functions of their service area.

10.08 The Head of Corporate Finance shall report annually to the Audit Committee upon the nature and extent of internal audit work both carried out and proposed.

11. BANKING ARRANGEMENTS AND CHEQUES

11.01 All arrangements with the Council's bankers shall be the responsibility of the Head of Corporate Finance, who is empowered to delegate specific functions for the day to day operation of the Council's bank accounts.

11.02 The Head of Corporate Finance will be responsible for determining the number of bank accounts and funds necessary for the administration of the system of local taxation in being at any time and the operation of such accounts and funds. The Head of Corporate Finance shall also agree the overdraft limits which shall not be exceeded.

11.03 The Head of ICT & Customer Services shall be responsible for the ordering and maintenance of stocks of cheques and shall ensure that proper arrangements are made for their safe custody.

11.04 Cheques drawn on any of the Council's banking accounts shall bear the facsimile signature of the Head of Corporate Finance or the signature of such other officer/employee as notified to the Council's bankers as an authorised officer by the Head of Corporate Finance. Cheques of a greater value than £50,000 must be signed by the Head of Corporate Finance or their nominated representative. NOTE the provisions of para. 18.08 relating to proper VAT accounting.

- 11.05 The Head of Corporate Finance will arrange for the carrying out of a bank reconciliation and producing a bank reconciliation statement which should, at intervals to be determined by the Head of Corporate Finance, show the current state of the Council's bank account and the status of individual transactions/cheques within it.
- 11.06 No bank account or banking facility shall be opened in the Council's name unless this has been approved in advance by the Head of Corporate Finance. All bank mandates must be signed by the Head of Corporate Finance or Finance Manager (Corporate Services).

12. PROPERTY/ESTATES

- 12.01 The Deputy Chief Executive shall maintain a terrier of all land and property owned by the Council, recording the purpose for which held, location, extent and plan reference, purchase details, particulars of nature of interest and rents payable and particulars of tenancies granted, with the exception of tenancies of Council Houses, Council built garages and garage plots on Council housing land. A record shall also be kept of all disposals.
- 12.02 The Deputy Chief Executive shall arrange for the maintenance of a terrier of all Council dwellings, Council built garages and garage plots on Council housing land, including details of current tenancies.
- 12.03 A Director proposing to carry out works which will potentially significantly increase or decrease the value of any Council owned or leased asset must consult with and be advised by the Head of Performance & Property Services before any Council expenditure is committed.
- 12.04 Before the Council acquires any property, the appropriate Director shall consult with and be advised by the Head of Performance & Property Services and report to the Cabinet on the cost of acquisition and future maintenance costs.
- 12.05 Whilst each Service Director will be responsible for the day to day running of operational buildings the Head of Performance & Property Services shall have overall responsibility for the strategic management of the Council's estates and specific responsibility for the management of the corporate offices, in accordance with the Protocol for the Management of Property, and the transfer of non operational land and buildings.
- 12.06 The Deputy Chief Executive shall ensure that all property transactions shall be carried out either in accordance with the Protocol for Disposal of Property, or on the open market and at open market value, as appropriate, unless the Cabinet approves otherwise and that, where appropriate, the approval of the Welsh Government is obtained.
- 12.07 The Head of Legal Services & Governance shall have the custody of all title deeds under secure arrangements.

13. INCOME

- 13.01 The arrangements for the collection of all money due to the Council need to be approved by the Head of Corporate Finance.
- 13.02 Directors shall ensure that the Head of Corporate Finance is provided with such particulars in connection with work done, goods supplied, or services rendered and of all amounts due as may be required to record correctly all such sums and Directors shall ensure the prompt rendering of accounts for the recovery of relevant income.

- 13.03 All Council officers collecting income shall be issued with or have access to official receipts in a form prescribed by the Head of Corporate Finance. All income shall be recorded only on such receipts or receipting systems and shall be brought into account on the date received.
- 13.04 The Head of Corporate Finance shall take such steps as considered necessary to recover all arrears of income. Any employee responsible for the billing of credit income will keep the Head of Corporate Finance informed of all matters affecting the accounts raised and will periodically review all unpaid accounts and take all appropriate action prior to any uncollectable amounts being written off and reported to members for information.
- 13.05 The Head of Corporate Finance shall be responsible for the maintenance of a scheme for writing off uncollectable income subject, where appropriate, to the agreement of the Cabinet both as to the scheme in operation at any one time and also to any significant amounts written off.
- 13.06 The Head of Corporate Finance shall be notified forthwith of all money due to the Council and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Council and shall have the right to inspect and copy any documents or other evidence in this connection.
- 13.07 All fees and charges will be reviewed annually by each Director. Inflationary increases will be agreed as part of the budget setting process for Council. Increases above those agreed as part of the budget setting process will require Cabinet approval. Statutory charges will be reported as and when the Council is notified of any increases.
- 13.08 All money received by an employee on behalf of the Council shall without delay be paid to the Council's Bank Account under arrangements approved by the Head of Corporate Finance. No deductions may be made from such money.
- 13.09 All "shorts" or "overs" are the responsibility of each individual collecting officer who will be expected to declare all such instances on a daily basis. Minor "shorts" as determined by the appropriate Head of Service will not be paid in but all "overs" must be paid in daily. Any collecting officer who continually under or over banks may ultimately be disciplined for failing to properly account for collections. Such action may involve recovery of significant shortages.
- 13.10 All floats will be extracted from collections in their full amount prior to the preparation of banking. All employees handling cash must produce any cash float immediately to any authorised Council officer.
- 13.11 Personal cheques shall not be cashed out of the money held on behalf of the Council unless under an arrangement approved by the Head of Corporate Finance.
- 13.12 Every transfer of official money from one employee to another will be evidenced in the records of the Service Area concerned by the signature of the receiving employee.

14. INSURANCES

- 14.01 The Head of Corporate Finance shall effect all insurance cover and negotiate all claims in consultation with other officers where necessary.
- 14.02 Directors shall give prompt notification to the Head of Corporate Finance of all new risks, properties or vehicles which require to be insured and of any alterations affecting existing insurances.

- 14.03 Each Director shall forthwith notify the Head of Corporate Finance in writing of any loss, liability or damage arising out of a criminal act or where required by the terms of any Council insurance policy the Police Authority shall be informed following consultation with the appropriate Directors. An estimate of the cost of reinstatement shall be obtained.
- 14.04 All appropriate employees of the Council shall be included in a suitable fidelity guarantee insurance.
- 14.05 The Head of Corporate Finance shall annually, or more frequently as may be considered necessary, review all insurances in consultation as appropriate. The Head of Corporate Finance shall provide advice on risk management to all Heads of Service.
- 14.06 Each Director shall consult the Head of Corporate Finance and the Council's Head of Legal Services & Governance respecting the terms of any indemnity which the Council is requested to give.
- 14.07 No admission of liability should be made under any circumstances whatsoever, except with the express approval of the Council's insurers.

15. INVENTORIES

- 15.01 Inventories of all Council owned equipment shall be maintained by each Directorate which will record an adequate description of furniture, fittings and equipment, all plant and machinery and their respective base locations. The form and extent of any inventory shall be determined by the Director responsible in consultation with the Internal Audit Manager.
- 15.02 Where practicable, all Council equipment will be prominently marked, numbered and labelled and also discreetly marked with the Council's postcode with a prescribed marking system.
- 15.03 Each Director shall be responsible for maintaining an annual check of all items on the inventory, for taking action in relation to surpluses and deficiencies and noting the inventory accordingly.
- 15.04 Every transfer of items contained in the inventory from one establishment to another shall be evidenced in the records of the establishment concerned by the signature of the receiving employee.
- 15.05 The Council's property shall not be removed from the Council's establishments otherwise than in accordance with the ordinary course of the Council's business or used otherwise than for the Council's purposes except in accordance with specific written directions issued by the Director or authorised representative.
- 15.06 The Head of Corporate Finance shall be entitled to receive from any Director such information as required in relation to stores for the accounting, costing and financial records. All surplus materials, stores or equipment shall be disposed of at the best possible price by the Head of Service responsible for the respective Council store who shall consult with and be advised by the Head of Procurement.

16. INVESTMENTS, BORROWING AND TRUST FUNDS

- 16.01 All securities, the property of or in the name of the Authority and the title deeds of all property in its ownership, shall be held in the custody of the Council's Head of Legal Services & Governance.

- 16.02 All borrowings shall be effected in the name of the Council.
- 16.03 The Head of Corporate Finance shall be the Council's registrar of stocks, bonds and mortgages and shall maintain records of all borrowing of money by the Council.
- 16.04 All trust funds shall be in the name of the Council and the trust deeds agreed with the Head of Legal Services & Governance.
- 16.05 All employees acting as trustees by virtue of their official position shall deposit all securities, etc. relating to the Trust with the Council's Head of Legal Services & Governance, unless the deed otherwise provides.
- 16.06 The Head of Corporate Finance shall ensure that the Council complies with appropriate codes of practice.
- 16.07 The Head of Corporate Finance shall invest surplus funds under the control of the Council at minimum risk and do so in the name of the Council.
- 16.08 The annual investment strategy must be prepared by the Head of Corporate Finance and reported to the Council for approval.
- 16.09 Suitable institutions for investments are to be considered in accordance with the Council's annual investment strategy.
- 16.10 Part of risk management will be that investment in any one institution will be limited in value as prescribed in the Council's Treasury Management Policy Statement and associated Treasury Management Practices.
- 16.11 The Head of Corporate Finance shall ensure that records are maintained of all investments of money made in the name of the Council.
- 16.12 The Head of Corporate Finance shall be responsible, on an annual basis, for compiling the indicators required by the Prudential Code on Capital Accounting and reporting thereon to the Council for approval and then to Corporate and Regeneration Scrutiny to monitor during the year.

17. ORDERS FOR WORKS, GOODS AND SERVICES

- 17.01 Orders for the supply of goods or services shall only be issued by the Head of Service or a nominated representative. Goods or services so ordered will only be for approved Council purposes. An order shall be created by the Council's e-procurement system (or in another format prescribed by the Head of Corporate Finance). All official orders will be issued in advance of the provision of the goods or services. Where it is necessary in an emergency to place an order orally it must be confirmed not later than the next working day by an electronic order (which will be marked in such a way to indicate the previous verbal placing of the order).
- 17.02 The Head of Service placing an order for the supply or disposal of goods or services or any order where the future supply of goods or services is committed, should adhere to the Standing Orders for Contracts.
- 17.03 Orders must only be issued for goods or services where provision has been made in the current approved estimates.

- 17.04 The employee who completes an official order shall ensure that sufficient detail is entered to ensure that there is no mistake or misunderstanding as to the descriptions, quantity, quality, timescale, agreed price (quotations or tenders where appropriate) terms and conditions of contract and delivery requirements for the goods or services to be provided. All invoices received will be agreed to the official order and the official order will provide an audit trail to payments made against it.
- 17.05 A copy of each order shall, if requested, be made available to the Head of Corporate Finance and the Internal Audit Manager, such order to show estimated cost of goods, budget heading and expenditure code.
- 17.06 Where circumstances prevent the use of official orders, periodic payment records should be set up to ensure that each payment is recorded in sufficient detail to prevent the possibility of duplicate payments.

18. PAYMENT OF ACCOUNTS

- 18.01 All invoices for goods and services shall be examined in the Department concerned and checks applied prior to the invoice being authorised for payment. Steps will be taken to ensure that:
- (a) the goods have been received or work done in accordance with the terms of the official order;
 - (b) Standing Orders for Contracts and Financial Regulations have been complied with;
 - (c) the prices are in accordance with tenders or quotations or are otherwise reasonable;
 - (d) the account is arithmetically correct, trade discounts, other allowances, credits and tax are correct;
 - (e) the account has not been paid before by the Council, either in whole or in part;
 - (f) appropriate entries have been made in inventories, stores records, or stock books as required;
 - (g) the expenditure was incurred under the head of estimates indicated and was necessary for the purpose;
 - (h) the expenditure is being charged to the correct year of account;
 - (i) the invoice is a genuine invoice made out against the Council in sufficient detail to satisfy all legal requirements, in particular the VAT requirements of H.M. Revenue & Customs and the Construction Industry Tax Deduction Scheme;
 - (j) the invoice and the order are not certified by the same officer;
 - (k) payment of the account is in all respects proper.
- 18.02 The Head of Service or nominated officer, shall certify each invoice as being correct following its entry into the Council's payments system. The Head of Corporate Finance shall ensure that payments are only made against properly authorised invoices or payment vouchers.

- 18.03 The Head of Corporate Finance shall approve arrangements for the cancellation of paid invoices and their subsequent accessibility and archiving to conform with all current regulations and statutory requirements.
- 18.04 Any amendment to an account shall be made in ink and initialled by the person making it, stating briefly the reasons where they are not self-evident. VAT amounts should not be altered. Any amendment involving VAT should result in a revised invoice/credit note being received.
- 18.05 Each Director shall, in accordance with the final account timetable prepared annually by the Head of Corporate Finance, notify the Head of Corporate Finance of all outstanding revenue and capital expenditure relating to the previous financial year.
- 18.06 It shall be the responsibility of each Director or authorised officer to notify the Head of Corporate Finance of each nominated officer to certify invoices and other official documents at any one time. In making such nominations every Director shall comply with the requirements for division of duties as set out elsewhere in these Financial Regulations.
- 18.07 All payments other than petty cash, shall be made by cheque, bank transfer or other instrument drawn on the Council's bank accounts by the Head of Corporate Finance (or such other nominated officer) under authority granted by the Council in these Financial Regulations.
- 18.08 All cheques over £50,000 shall be countersigned by another officer authorised by the Head of Corporate Finance. For all payments of £100,000 and above invoice documentation must be provided to the Head of Corporate Finance to ensure VAT is properly accounted for.
- 18.09 For all VAT only payments, invoice documentation is to be provided to the Head of Corporate Finance for payment.

19. SEPARATION OF DUTIES

- 19.01 In all financial and related transactions of the Council, there shall be separation of duties to ensure that more than one person is involved in recording and processing each and every transaction.
- 19.02 The duties of providing information regarding sums due to or from the Council and of calculating, checking and recording these sums, shall be separated as completely as possible from the duty of collecting or disbursing them.
- 19.03 Employees charged with examining and checking the accounts of cash transactions shall not themselves be engaged in any of these functions.
- 19.04 The duty to certify any invoice should be separated from the duty to certify an official order for goods and services.

20. SALARIES WAGES AND PENSIONS

- 20.01 The Deputy Chief Executive through the Head of Human Resources & Organisational Development is responsible for advising the Council upon the efficient utilisation of manpower resources (including training and development) and upon the operation and control of procedures for appointment, discipline, grievance, salaries and wages and general conditions of service as applied nationally, provincially and locally.

- 20.02 Appointments of all employees shall be made in accordance with the policies of the Council and the approved establishments, grades, and rates of pay, as agreed with the Head of Human Resources & Organisational Development.
- 20.03 The payment of all salaries and wages, pensions, compensation, and other emoluments to all employees and former employees of the Council shall be made by the Head of Human Resources & Organisational Development or under approved and controlled arrangements.
- 20.04 In accordance with the Council's declared policy the Head of Human Resources & Organisational Development shall be notified as soon as possible of all matters affecting the payment of such emoluments, and in particular:
- (a) appointments, resignations, dismissals, suspensions, secondments and transfers;
 - (b) absences from duty for sickness or other reason, apart from approved leave;
 - (c) changes in remuneration, other than normal increments and pay awards and agreements of general application;
 - (d) The Head of Human Resources & Organisational Development is responsible for passing that information to the Head of Corporate Finance in order to maintain records for income tax, national insurance and the like.
- 20.05 All time records or other pay documents shall be in a form prescribed by the Head of Human Resources & Organisational Development in consultation with the Head of Corporate Finance. The names of officers authorised to sign such records shall be sent to the Head of Corporate Finance with specimen signatures and the Head of Corporate Finance shall be advised of any changes in names and signatures as the occasion arises.
- 20.06 The Head of Human Resources & Organisational Development shall be responsible for the overall operation of the Council's agreed system for attendance control and the submission of appropriate attendance reports to each Head of Service. Arrangements shall exist within each Department to ensure that any deviations from the approved system are properly dealt with and that the Council's approved policies for the attendance of staff at their workplace are observed.

21. CONSULTANTS

- 21.01 Where consultants, including architects, engineers, quantity surveyors, solicitors, barristers (not being officers of the Council) or agency workers are engaged to carry out professional services for the Council, the relevant Director in consultation with the Head of Legal Services & Governance or the Head of Human Resources & Organisational Development shall be responsible for ensuring that a formal agreement or a detailed letter of employment, is sent to the consultants setting out the terms on which they are engaged. The Head of Human Resources & Organisational Development must be informed of any such engagement. Any appointments made must be in accordance with Standing Orders for Contracts.
- 21.02 The formal agreement or letter of employment shall specify amongst other matters:-
- (i) the precise scope and timetable of the commission (the relevant Director and relevant Cabinet member(s) will also determine and document the employment status of individuals involved, having regard to guidance issued from time to time by the Head of Corporate Finance);

- (ii) the extent of responsibilities;
- (iii) the supervision and liaison required;
- (iv) any cost limits and controls;
- (v) the appointment of and collaboration with any other consultants and officers of the Council;
- (vi) insurance cover;
- (vii) the basis of remuneration/reference to precise scale fees where appropriate;
- (viii) the basis for reimbursing expenses;
- (ix) the method and frequency of payment.

21.03 It shall be a condition of engagement for the professional services of any consultant that :-

- (i) there is compliance with the Council's Constitution, Standing Orders for Contracts and Financial Regulations as apply to an employee of the Council;
- (ii) all records and documents in relation to the services or work carried out for the Council are returned to the Council either during or on completion of the services/work;
- (iii) confidential or sensitive information obtained during the course of employment as a consultant is not divulged for a period to be agreed with the appropriate Head of Service.

21.04 A report will be prepared annually for the Corporate and Regeneration Scrutiny Committee detailing all spend relating to this Section.

22. SERVICE LEVEL AGREEMENTS

22.01 Where Service Level Agreements are in operation, it shall be the responsibility of each Head of Service:

- (a) to maintain such detail as necessary to support any recharge made;
- (b) to operate the Department on the basis of total recovery of costs in each financial year;
- (c) to agree, in accordance with any system currently in operation, the recharges being received by the Department;
- (d) to comply with the requirements of the Head of Corporate Finance regarding the programming and other requirements of operating any system for recharge allocations.

23. SECURITY

23.01 All buildings, stocks, stores, furniture, equipment and other assets under the control of a Director shall be properly secure at all times. The Chief Property Officer, Insurance & Risk
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Manager and Internal Audit Manager will be consulted in any case where security is thought to be defective or where it is considered that special security arrangements may be needed.

- 23.02 Maximum limits for cash holdings shall be agreed with the Head of Corporate Finance and shall not be exceeded without express permission. Any changes shall be notified to the Head of Corporate Finance who will arrange for any amendments required to the Council's insurance cover.
- 23.03 Keys to safes and similar receptacles are to be carried on the person of those responsible or kept in a safe and secure location at all times; the loss of any such keys must be reported to the Insurance & Risk Manager forthwith. The relevant Head of Service will maintain a key register to include all spare keys.
- 23.04 Keys to property are to be carried on the person of those responsible or kept in a safe and secure location at all times. Service directorates will be responsible for risk assessment and key holder training and, in liaison with the Chief Property Officer, shall maintain the physical security of the property in the event that such keys are lost. Nominated officers will maintain the corporate database of key holders for which the Chief Property Officer will act as system administrator.
- 23.05 The Common Seal of the Council shall be kept in a safe place in the custody of the Head of Legal Services & Governance.
- 23.06 The Head of ICT & Customer Services shall be the manager responsible in terms of the Data Protection Act for maintaining proper security and privacy as respect information held in the computer installation. The Head of ICT & Customer Services shall be responsible for compliance with any other legal requirements currently in force. Each Director is required to notify the Head of ICT & Customer Services of any changes to procedures, data and purpose which may have an effect on the role and responsibility of the Head of ICT & Customer Services prior to those changes being committed. It is the responsibility of each Director to ensure that only data registered with the Information Commissioner is held.
- 23.07 Directors shall ensure that access to all I.T. systems and the ability to carry out transactions within those systems is granted only to those staff whose work directly involves such systems. The personal written authority of each Head of Service will be required to ensure that the extent of access by any individual to any system is limited to that necessary to effectively discharge the individual's duties and responsibilities. As soon as there is any change in personnel or duties which will require changes either to passwords or to the extent of access by any individual, each Head of Service shall immediately ensure that appropriate action is taken. Heads of Services shall also be responsible for assessing any possible or potential abuse within their service area and the appropriate Director must notify the Head of ICT & Customer Services accordingly.
- 23.08 All Council employees given or knowing security passwords or access codes are individually responsible for ensuring that no other person is able to obtain access to such codes or passwords or is able to make unauthorised use of such information. This regulation shall recognise the unique position of the security officer as nominated by the Head of ICT & Customer Services.
- 23.09 Heads of Service shall be responsible for ensuring that records are kept for an appropriate length of time and in such format and order to enable compliance with any statutory requirements currently in force (taxation, Access to Information, etc.). Retention periods must also be sufficient so as not to prejudice the effective working of the Council or its auditors.

23.10 Each Director shall be responsible for ensuring that the requirements of the Local Government (Access to Information) Act 1985 are met with regard to the confidentiality of certain information. Directors must also ensure that all staff are aware of the potential sensitivity of certain categories of financial information both of a personal and contractual nature and that such information is not either deliberately or inadvertently transmitted to any person other than those within the organisation with a need to know.

24. STOCKS AND STORES

24.01 Each Director shall ensure that there is clear responsibility for the care and custody of departmental stocks and stores, as well as for reconciling all movements and balances of such stocks and stores with the Council's final accounts.

24.02 Stocks shall not be in excess of those required in accordance with sound stores procedures.

24.03 Each Director shall arrange for periodical test examinations of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year. Any surpluses or deficiencies revealed by such test examinations shall be reported to the Internal Audit Manager who after consultation with the Head of Corporate Finance will decide what action to take.

24.04 The Head of Corporate Finance shall be entitled to receive from any Director such information as required in relation to stores for the accounting, costing and financial records. All surplus materials, stores or equipment shall be disposed of at the best possible price by the Head of Service responsible for the respective Council store who shall consult with and be advised by the Head of Procurement.

25. VEHICLES AND PLANT

25.01 Each Director shall ensure that registers/records are maintained for all vehicles and plant controlled by the Directorate.

25.02 Such registers/records shall include details of:-

- (i) use;
- (ii) mileage;
- (iii) fuel issued;
- (iv) other relevant information necessary to maintain proper control and comply with current legislation.

25.03 No vehicles or plant shall be used other than in accordance with the ordinary course of the Council's business.

26. PROTECTION OF PRIVATE PROPERTY

26.01 Every Director will ensure that appropriate security measures shall be taken where possession is taken of valuables such as jewellery, watches and other small articles of a similar nature and documents of title belonging to a third party and will ensure that an itemised inventory will be maintained and kept in a safe place.

27. TRAVELLING, SUBSISTENCE AND FINANCIAL LOSS ALLOWANCE

- 27.01 All claims for payment of car allowances, subsistence allowances, travelling and incidental expenses shall be submitted to the Head of Human Resources & Organisational Development in a form or via a system approved by the same, duly certified and made up to a specified day of each month. The names of officers authorised to approve such records shall be sent to the Head of Human Resources & Organisational Development by each Head of Service with specimen signatures (where applicable) and the Head of Human Resources & Organisational Development shall be advised of any changes in names and signatures (where applicable) as the occasion arises.
- 27.02 Heads of Service shall be responsible for ensuring that all authorised vehicle users (including drivers of Council vehicles) have adequate insurance for business purposes and the appropriate current valid driving licence.
- 27.03 All claims for payment of incidental expenses such as removal, lodging and disturbance allowances and post entry training expenses will be submitted to the Head of Human Resources & Organisational Development in such a manner as prescribed. Expenses will only be claimed for expenditure actually incurred or attendances actually made. Assistance will only be provided once for each stage of training. The Council reserves the right to require books and training material for which expenditure has been reimbursed to be returned to the Head of Human Resources & Organisational Development for general Council use.
- 27.04 Payments to Members, including co-opted Members of the Council or its Committees who are entitled to claim travelling or other allowances will be made by the Head of Human Resources & Organisational Development upon receipt of the prescribed form duly completed. The procedures for the payment of claims will be in accordance with the currently approved Council scheme and all claims for a financial year are to be submitted within one month of the 31st March.
- 27.05 The certification of expenses claims by or on behalf of the Head of Service shall be taken to mean that the certifying officer is satisfied that the journeys were authorised, the expenditure properly and necessarily incurred and that the fixed allowances payable by the Council are properly due.
- 27.06 Officers' claims submitted more than six months after the expenses were incurred will be paid only with the express approval of the appropriate Service Director.

28. CONTRACTS OTHER THAN PURCHASE OF MATERIALS

- 28.01 Where contracts provide for interim payments to be made on the basis of valuation certificates, a scheme contract register shall be maintained showing the state of account on each contract between the Council and the contractor together with the related professional fees and any other payments. The register will be kept centrally by the Head of Procurement.
- 28.02 Payments to contractors on account of contracts shall be made only on a certificate issued by the appropriate Head of Service (or Technical Consultant endorsed by the appropriate Head of Service). The Head of Service must ensure that each certificate is properly supported by sufficient detail to enable the payment to be reconciled to the contract documents. The Head of Service must also ensure that proper arrangements have been made for dealing with Value Added Tax and any deduction necessary under the Construction Industry Scheme.

- 28.03 In the case of certification by a Technical Consultant, the appropriate Head of Service shall undertake a monitoring role of the project to ensure that each certificate is supported by a copy of the valuation and to ascertain that it contains no unusual features, such as large variations, of which the Council has no knowledge.
- 28.04 Subject to the provisions of the contract in each case, every variation shall be authorised in writing by the relevant Head of Service or Technical Consultant.
- 28.05 Any such extra or variation which relates to contracts of £100,000 or above and which will increase the total cost of the scheme by more than 10% shall be reported to the relevant Service Director by the Head of Service as soon as practicable.
- 28.06 Subject to the conditions of the contract, the final payment certificate shall not be issued until the appropriate Head of Service has produced to the Internal Audit Manager a detailed statement of account, and all relevant documents, if required for audit purposes. The Internal Audit Manager shall to the extent considered necessary, examine all final accounts for contracts. The Internal Audit Manager shall also be entitled to examine contracts at any interim stage and make site visits to that end after having informed the responsible supervising officer. The Internal Audit Manager shall be entitled to make all such enquiries and receive such information and explanations as may be required in order to be satisfied as to the accuracy of the accounts. The Internal Audit Manager shall not unreasonably delay examination of final accounts.
- 28.07 Provision shall be made, if possible, in contracts for works and in such agreements as are mentioned in the foregoing regulations that the contractor shall retain for production as required by the Council, all accounts, vouchers and documents relating to the contract, until after the accounts have been audited.
- 28.08 If the final account has not been agreed within twelve months of completion of the works (including periods of extended maintenance), then the responsible officer shall report to Corporate Management Team on the outstanding items. Any report under this regulation shall include a comparison of the final or likely final cost with the original contract sum together with reasons for any differences.
- 28.09 It shall be the duty of the Council's Head of Legal Services & Governance in all cases to:
- (a) keep in secure custody all the contract documents, including plans, specifications, bills of quantities, bonds, etc.;
 - (b) require that all insurance which the contractor is required to effect, is duly entered into prior to the commencement of the contract and maintained until handing over the contract works.
- 28.10 Tenders for construction related contracts will be invited from contractors approved in accordance with current policy. Where any other form of tendering is used, for example, open tendering, then the successful contractor must comply with that policy prior to the awarding of the contract. It will be the responsibility of the supervising officer to ensure that suitable security is provided for the due performance of the contract. This shall be done in consultation with the Council's Head of Legal Services & Governance and will have to meet or exceed the minimum requirements as set out in the current Procurement Code of Practice.
- 28.11 The Head of Service responsible for or supervising any Council contract shall be responsible for considering any claims which are not within the existing contract terms. The Head of Service may refer any matters as necessary to the Council's

Head of Legal Services & Governance, especially where a precedent may be set, for consideration of the Authority's legal liability before any settlement is reached.

- 28.12 Where completion of a contract is delayed it shall be the duty of the Head of Service supervising the contract to either issue the appropriate extension of time certificate or to take action in respect of liquidated damages.

29. FINANCIAL STATIONERY

- 29.01 All official receipt forms, books, tickets, order books and other documents representing money or moneysworth, shall be ordered, controlled and issued by and be in the custody of the Principal Incomes Officer as far as deemed necessary who shall supply the requirements of any Department. A register shall be kept of all receipts and issues of such documents, and each issue shall be acknowledged by the signature of the official to whom the issue is made. The quantity issued is to be governed by ascertained needs. All completed documents shall be retained safely by the service area in line with the Councils document retention policy.

30. NON-COMPLIANCE WITH FINANCIAL REGULATIONS

- 30.01 Any non-compliance with these Financial Regulations will be regarded as a potentially serious matter and should be reported to the appropriate Director and the Head of Corporate Finance. If such matters involve fraud or theft, the Head of Corporate Finance must be informed who will decide whether or not the circumstances warrant referral to the Police. In an urgent situation, any officer has the duty to report a matter to the Police where time is of the essence. All matters so reported must be confirmed in writing, normally under the hand of the Head of Corporate Finance unless carried out under the "urgent" provision when the Head of Service should write with a copy for the information of the Head of Corporate Finance (who is therefore aware of any investigation).
- 30.02 The Head of Corporate Finance shall report all matters involving fraud and theft of Council assets and any other matters considered appropriate to the Chief Executive and the Council's External Auditor. All significant matters should be referred as soon as possible in confidence to the Audit Committee.
- 30.03 The Head of Human Resources & Organisational Development shall maintain an approved scheme for the operation of disciplinary matters within the Authority which shall recognise that procedures may be necessary to require adherence to or to deal with departures from proper financial procedures as set out in these Financial Regulations. This scheme shall include a Code of Conduct setting out procedures to be followed by employees who are offered gifts or hospitality and shall also regulate the conduct of those employees who are in receipt of remuneration outside their Council employment.
- 30.04 If delegated powers are used to waive the provisions of the Financial Regulations then the officer exercising the delegated power will report that to the Head of Corporate Finance.

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STANDING ORDERS FOR CONTRACTS

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1. Introduction

These Standing Orders for Contracts are made under Sections 135 (1) and 135(2) of the Local Government Act 1972. They shall apply to all areas of Council activity, including any type of sub-contracting, apart from contracts for the acquisition and sale of interests in land and the Exempt Contracts described in section 4 below. The funding for all contracts must be in accordance with approved budgets and comply with Financial Regulations.

One of the most significant areas of Council contracting is procurement. 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 'Standing Orders' should be read in conjunction with the Council's Procurement Code of Practice.

Procurement by the Council is governed by detailed European and UK 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 and disproportionate manner. In the event of statutory or other legal requirement exceeding the requirements contained within these Standing Orders for Contracts, then statute shall take precedence over any provision in these Standing Orders.

All references to competitive tenders and quotations within these Standing Orders shall apply (with such changes as are appropriate) equally to circumstances where the contract involves the receipt of income by the Council or the disposal of any asset or undertaking by the Council, as they do to purchases to be made by the Council, unless specifically stated otherwise. However, the disposal of any interest in land and buildings is governed by a separate protocol contained within the Council's Constitution.

Any doubt or uncertainty as to how these Standing Orders are to be interpreted and any inconsistency between these Standing Orders and any other Council document shall be referred to the Head of Legal Services, whose decision shall be final.

2. Form and Certification of Contracts

2.1 Every Council Contract shall be in writing in a form and on terms approved by the Head of Legal Services and shall specify: -

- (a) The work, materials, services or things to be furnished, had, done or disposed of.
- b) 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.
- c) The time or times within which the contract is to be performed, together with the termination date of the contract.

- 2.2 The flowcharts in the Appendices set out the prescribed routes for all procurements in the six bands of contact value (A, B, C, D, E and F– see sections 13 to 18 below). These flowcharts show the principal rules and components of the relevant processes only, including the numbers of tenders or quotes to be invited. Detailed guidance of the processes is contained in the Procurement Code of Practice, which should be followed in all cases.
- 2.3 The flowcharts in the Appendices specify who is Delegated to sign a contract on behalf of the Council in each Band. Signatories are the minimum level of responsibility required. More Senior Officers can be substituted in all cases.
- 2.4 Contracts in Band C,D, E and F can be (as well as those contracts specified by the Head of Legal Services) under seal and attested by the Head of Legal Services or the Chief Executive or such other Officer Delegated in writing by either of them.

3. Compliance

- 3.1 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:
 - (a) All relevant statutory provisions;
 - (b) The relevant European Procurement Directives (the EU Treaty, the general principles of community law and the European Union's Public Contracts Directive (2014/24/EU) implemented by the Public Contracts Regulations 2015 or such other amendment, variation or replacement Regulations in force from time to time (" Regulations"))
 - (c) The Council's Constitution including these Standing Orders for Contracts, the Council's Financial Regulations and Scheme of Delegation.
- 3.2 The highest standards of probity are required of all Officers and Members involved in the procurement, award and management of Council contracts. Any serious non-compliance could lead to the Council's disciplinary procedures being invoked.
- 3.3 Officers and Members are reminded of their responsibilities in relation to gifts and hospitality and should ensure that they comply with the obligations set out in the Members' Code of Conduct and Officers' Code of Conduct respectively and any guidance issued in that regard.
- 3.4 Officers shall take appropriate measures to effectively prevent, identify and remedy Conflicts of Interest arising in the conduct of procurement procedures so as to avoid any distortion of competition and to ensure equal treatment of all Contractors as set out in the Regulations.
- 3.5 All contracts must contain a provision allowing the Council to terminate without compensation in the event that there has been actual or attempted fraud or corruption in connection with the procuring, continuation, renewal or performance of the contract. Including appropriate exclusion grounds as set out in the Regulations.
- 3.6 Any failure to comply with any of the provisions of these Standing Orders for Contracts, the Financial Regulations or UK and European Union legal requirements must be reported by the appropriate Director to the S151 Officer.

4. Exempt Contracts

4.1 The following contracts are exempt from the requirements of these Standing Orders:

- (a) Employment contracts (this exemption does not extend to the recruitment of agency staff or external secondment arrangements).
- (b) Contracts relating **solely** to disposal or acquisition of an interest in land and property, for which there is a separate protocol contained within the Council's constitution.
- (c) In a genuine emergency threatening public health, injury to persons or serious and immediate damage to property the Authorised Officer can take any necessary action to alleviate the threat. This power is limited to the alleviation of the threat and does not extend to any works beyond what is strictly essential.
- (d) In circumstances where a matter, which is not deemed to be an emergency, but nonetheless is considered to be of an urgent nature, arises, prior approval from the appropriate Head of Service must be given in writing. However, should the estimated expenditure exceed £20,000 approval must be sought from 2 of the following Officers:
 - S.151 Officer, Head of Legal or Head of Procurement subject to an upper threshold prior to the commencement of the procurement process of £100,000 for goods, works and services.

Where it has been necessary to procure under 4.1 (c) or (d) every such case must be reported to the next available meeting of Corporate Management Team.

- (e) The appointment of Counsel.
- (f) The award of contracts for 'emergency' individual placements will remain at the discretion of the Corporate Directors with responsibility for Education & Lifelong Learning and Social Services in accordance with the Regulations.
- (g) Where the approving (or Delegated) Officer considers that additions, maintenance or repairs can only be carried out by the original contractor or supplier.

Where it has been necessary to procure under 4.1 (e), (f) or (g) the provisions of para. 19.2, 19.3 and 19.4 should be followed.

- (h) Where an external funder makes specific requirements i.e. the terms and conditions of the funding must be followed.

5. Internal Providers

5.1 Before commencing the procurement activity and subject to 4(h) above, the Head of Service or Authorised Officer shall ascertain whether an in-house service provider is able to carry out the works or service. If it is confirmed in writing by the in house provider that they do not have the capacity to undertake the works, the relevant Head of Service can proceed to procure in accordance with these Standing Orders. For the purposes of this clause an in-house provider must be able to demonstrate that not more than twenty five percent on

the labour element of the value of work for the proposed contract would need to be sub-contracted to the private sector.

- 5.2 Where the in-house provider is able to and has the capacity to undertake the works, the works should automatically be allocated subject to approval of the relevant Head of Service and in accordance with any funding terms and conditions and such decisions shall be recorded in writing. If in such a case the relevant Head of Service does not wish to use the in-house provider then they must seek approval from the Council's Corporate Management Team prior to the commitment of the procurement.
- 5.3 All contracts over £10,000 allocated directly to in-house providers must be entered on the Corporate Contracts Register.

6. Authorised and Delegated Officers

- 6.1 Authorised Officer - This phrase refers to those Officers named in the Central Register held by the Head of Procurement. These Officers are Authorised to lead a given procurement process on behalf of the Council but have no Delegated powers.
- 6.2 Delegated Officer - This phrase refers to those Officers who have powers Delegated to them in writing by either; the Chief Executive, Director, Head of Service or Head of Procurement and can therefore complete actions where explicitly permitted in accordance with the processes and procedures as detailed within these Standing Orders for Contracts.

7. Preliminary Market Consultations

- 7.1 Before commencing a Procurement the Council may conduct market consultations with a view to preparing the procurement and informing Contractors of the Council's procurement plans and requirements, including seeking or accepting advice from independent experts or Contractors.
- 7.2 Prior to undertaking market consultation, advice and guidance must be sought from the Head of Procurement to ensure that such preliminary consultation does not have the effect of distorting competition and does not result in violation of the principles of non-discrimination, transparency and proportionality.

8. Division of Contracts into Lots

- 8.1 The Council may where it considers appropriate decide to award a contract in a form of separate lots and may determine the size and subject matter of such lots in accordance with the Regulations.
- 8.2 Where the Council has decided not to subdivide a contract into lots it shall provide an indication of the main reasons within the procurement documentation or as provided within the Regulations.

9. Framework Agreements

- 9.1 Before commencing the procurement activity, in consultation with the Head of Procurement (or Delegated Procurement Officer), the Authorised Officer must ascertain whether there is an approved Framework Agreement in place that should be used. Details of all Framework Agreements are held on the Council's Corporate Contracts Register. Details of use of Framework Agreements can be found in the Procurement Code of Practice.
- 9.2 The Framework Agreement may include within its terms a requirement for a mini competition exercise between those Contractors who are parties to the Framework Agreement. These shall be tendered in accordance with the particular Framework Agreement and these Standing Orders for Contracts. Procedure details are available within the Procurement Code of Practice.
- 9.3 Where the Council is able to call off from existing Framework Agreements procured by central Government agencies, purchasing consortia or other local authorities or public bodies, then the Council may benefit from using those contracts without entering into a separate procurement exercise. Where such Framework Agreements contain a number of different Contractors able to provide a particular category of goods or services a mini competition exercise between those Contractors who are parties to the Framework Agreement must be carried out in accordance with the particular Framework Agreement.
- 9.4 However, if such Framework Agreements are used it will be in accordance with the terms of those agreements which may not always be appropriate to the particular procurement in question. Advice should be sought from the Head of Procurement (or Delegated Procurement Officer) prior to commencing procurement through any Framework Agreement.
- 9.5 The setting up of Framework Agreements is governed by detailed EU and UK legislation. Before setting up any framework Agreement, the Procurement Code of Practice must be consulted, and any uncertainties or questions addressed to the Head of Procurement (or Delegated Procurement Officer). Any Framework Agreement set up by a client department must be notified to the Head of Procurement by the Head of Service or Authorised Officer in order that the Procurement department can incorporate the Framework Agreement into the Corporate Contracts Register for use by other departments where applicable.

10. Shared Services

- 10.1 Prior to the Council committing to a shared service arrangement with another public body approval must be sought from Corporate Management Team.

11. Collaborative Arrangements

- 11.1 When a requirement can be fulfilled through an existing arrangement already established by another Public Sector Organisation and the requirements of the Regulations complied with by that Public Sector Organisation, the arrangement will be in compliance with these Standing Orders for Contracts. This includes purchasing through arrangements that have been entered into for example but not limited to the National Procurement Service (NPS), Crown Commercial Services (CCS) and the Welsh Purchasing Consortium (WPC).

- 11.2 Before committing the Council to a contract as set out in 11.1, the Authorised Officer must seek written advice from the Head of Procurement.

12. Estimating the Contract Value

- 12.1 For the sake of consistency, all Contract values should be calculated, strictly in accordance with the Regulations. For the purposes of these Standing Orders the value of any contract shall be taken as the value or consideration for the contract as a whole over the contract period (which is normally a three or four year period). The Council shall make the best use of its purchasing power by aggregating purchases wherever possible. In particular contracts for supplies, services or works shall not be split (disaggregated) in an attempt to avoid the applicability of these Standing Orders for Contracts or the Regulations.
- 12.2 The evaluation of cost shall be carried out on the basis that the Council seeks the most economic packaging of the contract. Deliberate downsizing of contracts in order to avoid any provisions of Standing Orders of Contracts or the Regulations shall not be permitted.
- 12.3 Full details on assessing the value of all contracts can be found in the Procurement Code of Practice.

13 Low Value Procurement (Quotations) – Below £10,000 (Band A)

- 13.1 See Appendix A

14. Intermediate Value Procurement (Tenders) - Between £10,000 and £75,000 (Band B)

- 14.1 See Appendix B

15. Medium Value Procurements (Tenders) - Between £75,000 and £164,176 (for Goods and Services) or less than £4,104,394 (for Works). (Band C)

- 15.1 See Appendix C

16. High Value Contracts for Goods & Services (Tenders) – Over £164,176 (Band D)

- 16.1 See Appendix D

17. Schedule 3 Services (Light Touch Regime) between £164,176 and £589,148 (Band E)

- 17.1 See Appendix E

18. High Value Contracts for Works (Tenders) – Over £4,104,394 (Band F)

- 18.1 See Appendix F

19. Late Quotations or Tenders – Reduced number of Tenders

- 19.1 Any tender, quotation or pre-qualification questionnaire received after the specified closing date and time shall not be formally considered but will be opened for the sole reason of being returned to the person who submitted the document, unless the following provisions apply. The only discretion in the above shall be exercised by the Head of Procurement (even for quotations not returned to him/her) who shall record reasons in writing for allowing a late submission to be considered. Any reasons must include confirmation that the contents of the late quotation or tender have not been considered and that the other quotations or tenders have in the meantime been kept securely sealed so that all are opened at the same time and that no person submitting a quotation or tender is thereby disadvantaged.
- 19.2 For a procurement with a value between £10,000 and less than £75,000 where an Authorised Officer wishes to invite less than four tenderers to bid, he/she must seek the approval of the Head of Procurement.
- 19.3 For a procurement in excess of £75,000, where an Authorised Officer wishes to invite less than five tenderers to bid, he/she must seek the approval of the appropriate Director following consultation with the Head of Procurement.
- 19.4 For all procurements in excess of the EU thresholds where an Authorised Officer wishes to invite less than five tenderers to bid he/she must seek the approval of Corporate Management Team following consultation with the Head of Procurement.
- 19.5 Where, having invited the required number of quotations or tenders as specified in these standing orders there is less than a 50% priced response, then consideration must be given (which must be recorded in writing) to re-running the procurement. If the contract is for a sum less than £75,000 the decision can be taken by the Head of Service. If the contract is for a sum in excess of £75,000 the decision will be taken by the appropriate Director after consultation with the Head of Procurement.

20. Tender Evaluation

- 20.1 In the event of establishing award criteria other than the lowest price (or, in the case of the disposal of an asset, the highest price), the evaluation criteria shall be predetermined and approved by the Head of Procurement (or Delegated Procurement Officer) and listed in the Invitation to Tender documentation in order of importance. Any particular scoring or weighting attributable to any criteria must be clearly stated. In addition, the criteria shall be strictly observed (and remain unchanged) at all times throughout the contract award procedure. Tenders shall only be evaluated in accordance with the evaluation criteria set out in the Invitation to Tender.

21. Errors in Tenders/Quotations and Non-Compliant Tenders/Quotations

- 21.1 Tenders/Quotations which do not comply with the Council's requirements as set out in the invitation to tender/quote or which contain minor errors must be dealt with in accordance with the guiding principles set out within the Regulations and upon compliance with advice

received from the Head of Procurement (or Delegated Procurement Officer). An example would be (but not limited to) in the event that a genuine pricing and/or arithmetical error has been made by the contractor which has come to the attention of the Council prior to a contract award being made. In such a case, they may be given an opportunity to correct that error. No correction shall be allowed unless considered proportionate and does not distort competition in accordance with the Regulations. No other adjustment, revision or qualification is permitted. All areas of rectification or clarification must be conducted in writing.

- 21.2 Tender/Quotation documents must state how errors in Tenders/Quotations will be dealt with.

22. Abnormally Low Tenders

- 22.1 Where as a result of identifying that the overall tendered price or costs raises significant doubts that the Contractor will be able to complete the contract within the contract terms, the Council shall require tenderers to explain the price or costs proposed. This must be undertaken in accordance with the Regulations and in consultation with the Head of Procurement.

23. Post Tender Negotiation

- 23.1 Where procurement is conducted pursuant to the Regulations, no post-tender negotiations are permitted. The Head of Service may seek clarification from tenderers where appropriate in consultation with the Head of Procurement. Negotiations on price are never permissible except where provided for within the Regulations.
- 23.2 Where procurements do not need to strictly comply with the Regulations the Head of Procurement may authorise negotiations if considered to be in the best interest of the Council in accordance with guiding principles of the Regulations.
- 23.3 At all times during the procurement process the Council shall ensure that all tenderers are treated equally and in a non-discriminatory, transparent and proportionate manner.

24. Contract Award Notice

- 24.1 Where a contract has been tendered pursuant to the Regulations, the Council shall publish a contract award notice in the Official Journal of the European Union no later than 30 days after the date of award of the contract or such other requirements or time limits as are set out in the Regulations. This is the responsibility of the Authorised Officer and undertaken in consultation with the Head of Procurement (or Delegated Procurement Officer).

25. Contract Terms and Conditions

- 25.1 The relevant Head of Service shall use their best endeavours to ensure that Contracts are entered into on the appropriate set of Council's terms and conditions, which shall be included with each purchase order or invitation to tender. Where this is not possible, variations to the relevant Council terms and conditions and/or the terms and conditions submitted by a contractor must be formally approved in writing by the Head of Legal

Services. However, no amendment to the Council's terms and conditions or the terms and conditions submitted by a Contractor shall contravene the requirements set out within the Regulations and in particular but not limited to Regulation 73.

- 25.2 All Contracts with the provision to extend may be extended before the expiry date of the contract where it is in accordance with its original terms and conditions (which must expressly allow for extension) and proves to deliver Best Value for Money. Approval for such an extension shall be sought from the Head of Procurement or in accordance with the form of contract.
- 25.3 Where the terms do not expressly provide for extension and prior to the expiry of the contract, if it is felt to be in the Council's interests to extend a contract, then this can only be to the extent that the Regulations allow. For instance, if the Regulations apply to the goods, works or services under the contract and if the value of the proposed extension exceeds the relevant threshold, then this is likely to be regarded as a new contract and should be competitively procured, unless one of the narrow exceptions in the Regulations applies. In cases to which the Regulations do not apply, any extension must be by negotiation in accordance with the guiding principles of the Regulations. In all cases, the extension must follow the rules set out in the Procurement Code of Practice and be approved by the relevant Head of Service and reported to the Head of Procurement for information prior to the extension becoming legally binding on the Council.
- 25.4 All Contract variations must be carried out within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not allowed.
- 25.5 All significant Contract variations must be in writing and signed by both the Council and the Contractor. It will be for the appropriate Head of Service to determine whether or not a variation is deemed to be significant (significant is deemed to be the higher of £10,000 or 10% of the contract value). The value of each variation must be assessed by the relevant Head of Service and all necessary approvals sought prior to the variation taking place. Any variation that may be of such significance that it could affect service delivery must be reported to the appropriate Director for approval.

26. Security and Performance

- 26.1 Any Authorised Officer shall, before accepting or recommending acceptance of a quotation or tender, consider whether it is appropriate in all the circumstances to require and take sufficient security for the due performance of any contract. Where the Council's approved procedure for selective tendering is being used, the minimum requirements of that scheme must be followed.

27. Liquidated and Other Damages

- 27.1 Where appropriate contracts for the execution of works shall provide for liquidated damages to be paid by the contractor in case the terms of the contract are not duly performed, save where the Head of Legal Services approves another type of remedy.
- 27.2 Every contract for the supply of goods or materials by a particular date or series of dates which falls into Bands C or D shall contain a clause to secure that, should the contractor fail

to deliver the goods or materials, or any portion thereof within the time specified in the contract, the Council, without prejudice to any other remedy for breach of contract, shall be at liberty to determine the contract either wholly, or to the extent of such default and to purchase other goods, or materials, as the case may be, of the same or similar description to make good (a) such default, or (b) in the event of the contract being wholly determined the goods or materials remaining to be delivered. The clause shall further secure that the amount by which the cost of such purchasing other goods or materials exceeds the amount by which would have been payable to the contractor in respect of the goods or materials, as the case may be, replaced by such purchase if they had been delivered in accordance with the contract, shall be recoverable from the contractor save where the Head of Legal Services approves otherwise another type of remedy.

- 27.3 The above provisions are without prejudice to the obligation to ensure that the form and terms and conditions of all contracts are as approved by the Head of Legal Services.

28. Termination of Contract

- 28.1 For any Contract exceeding £75,000 in value, early termination must be approved by the Head of Procurement and the Head of Legal Services. Contracts of a lesser value may be terminated early by agreement prior to the expiry date or in accordance with the termination provisions set out in the contract following consultation with the Head of Procurement.

29. Sub-Contracting

- 29.1 Any form of Council sub-contracting must comply fully with these Standing Orders for Contracts and the Regulations.
- 29.2 Where the Council has determined that a particular type of product or provision of service will be stipulated as an essential requirement of a contract then this must be approved by the Head of Service following consultation with the Head of Procurement.

30. Consultants

- 30.1 The commissioning/engagement of Consultants to work within the Council or to undertake work on behalf of the Council as part of a wider project will be subject to these Standing Orders for Contracts and Section 21 of the Council's Financial Regulations.
- 30.2 Where the Council uses consultants to act on its behalf in relation to any procurement, then the Head of Service shall ensure that the consultants carry out any procurement in accordance with these Standing Orders for Contracts. No consultant shall make any decision on whether to award a Contract or who a Contract should be awarded to. The Head of Service shall ensure that the consultant's performance in relation to procurement is in accordance with these Standing Orders for Contracts and the Regulations.
- 30.3 Where the Council uses consultants to act on its behalf in relation to any procurement the consultant must declare any potential conflict of interest that may arise to the Head of Service prior to the commencement of the procurement process.
- 30.4 Where the Head of Service considers that such a conflict of interest is significant the consultant shall **not** be allowed to participate in the procurement process.

31. Record and Document Retention and Control

- 31.1 A Corporate Contracts Register of all Contracts over the value of £10,000 shall be administered by the Corporate Procurement Unit and all qualifying contracts must be input by the Authorised Officer.
- 31.2 For every individual Contract above £10,000 a contracts file shall be maintained with appropriate documentation as detailed within the Procurement Code of Practice.

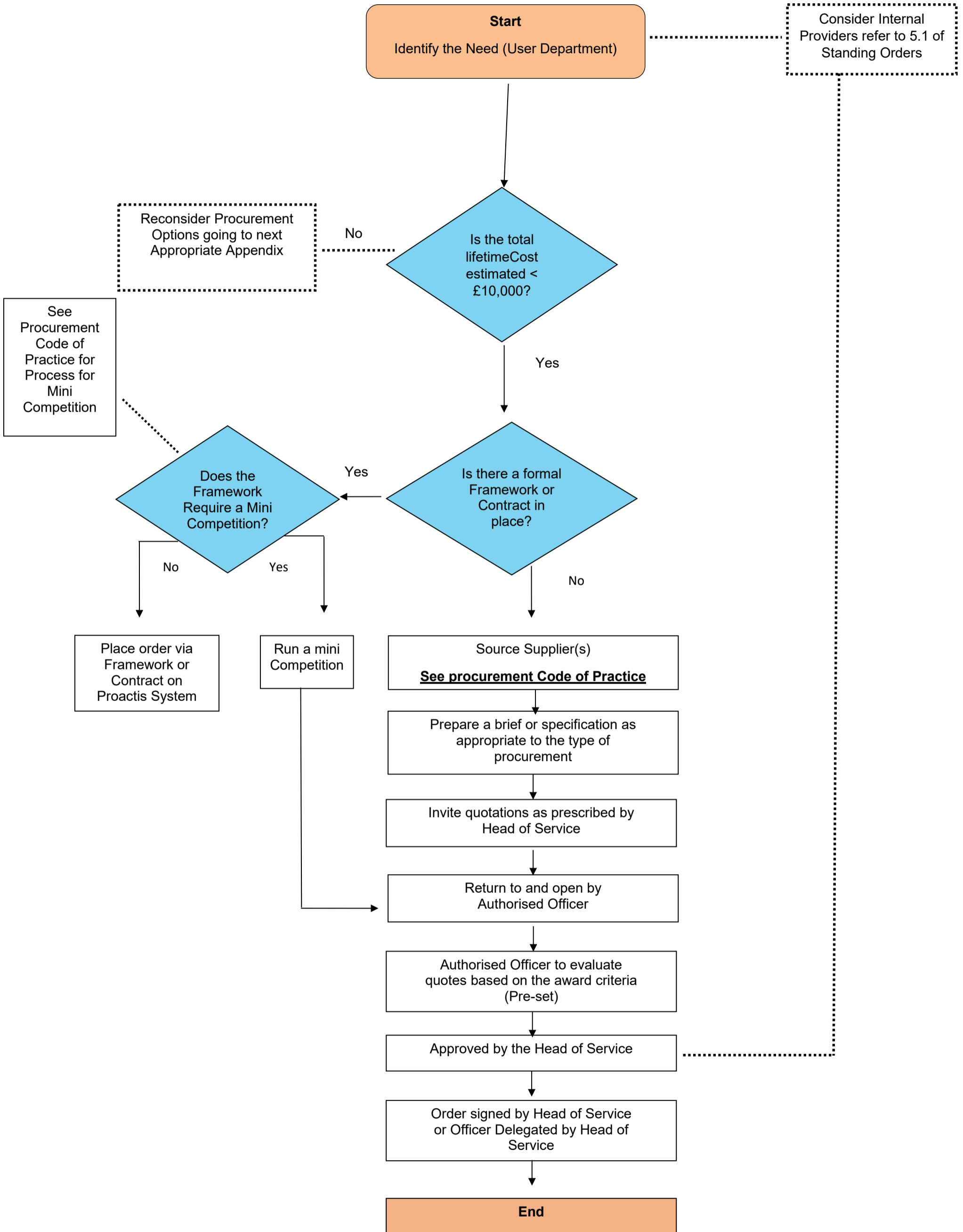
32. Waiver of Standing Orders for Contracts

- 32.1 Approval of waiver of any of these Contract Standing Orders shall only be given in exceptional circumstances and only following a written report to S.151 Officer, following consultation with and the written approval of the Head of Procurement and the Corporate Director with responsibility for Procurement.
- 32.2 When consulting with the Head of Procurement and the Corporate Director with responsibility for Procurement, the originator of the report requesting a waiver of Standing Orders is responsible and accountable for making sure that the contents of the report are factually correct. The originator of the report should ensure that all supporting documentation is retained on an easily accessible file for auditing purposes. Should it be found that incorrect information has been knowingly or negligently submitted or omitted in order to obtain approval for a waiver of these Standing Orders the originator of the report may be subject to the Council's disciplinary procedures.

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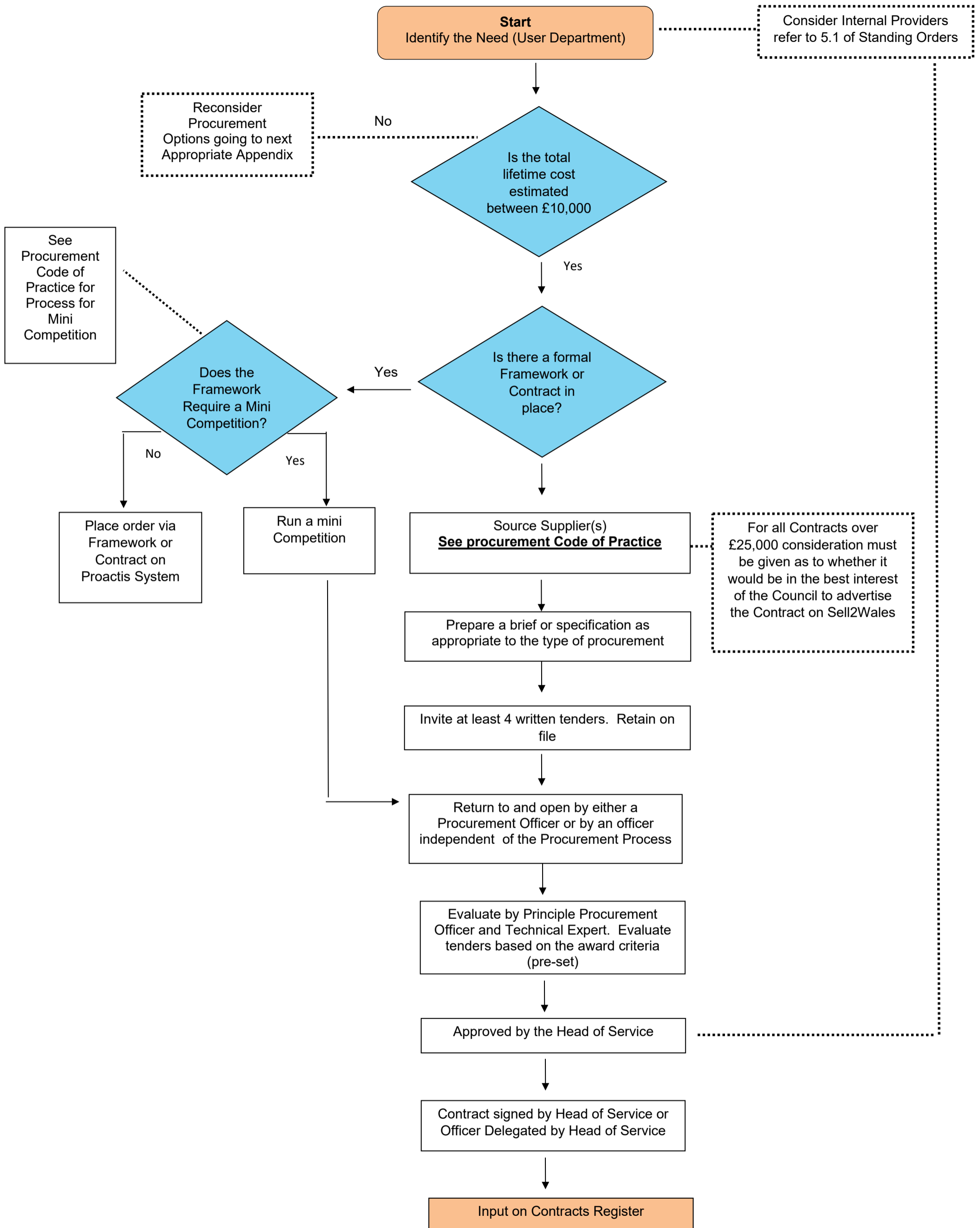
Appendix A: Low Value Procurement (Quotations) below £10,000

Estimating the contract value should always take into account the provisions of para. 12.



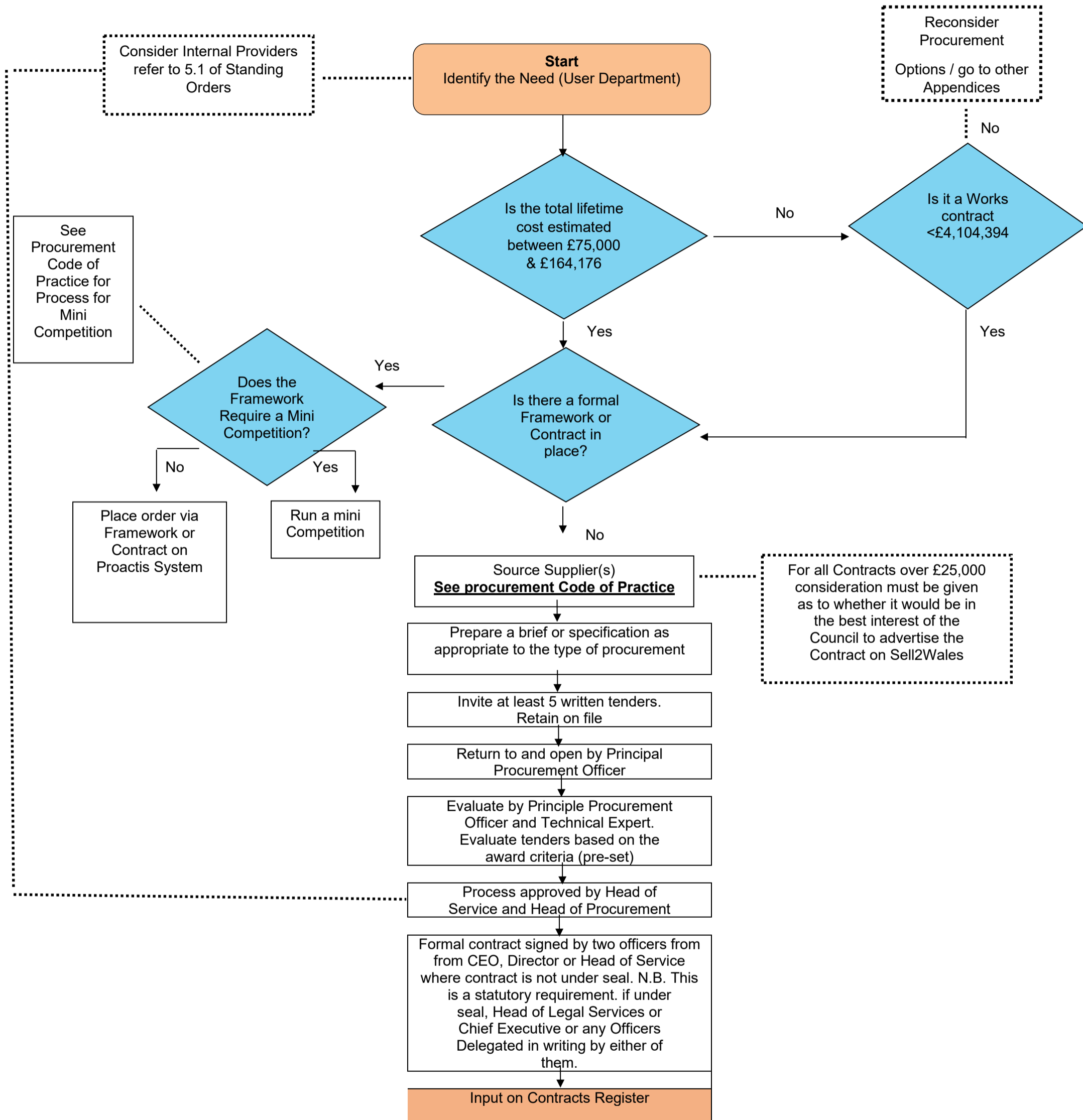
Appendix B: Intermediate Value Procurement (Tenders) between £10,000 and £75,000

Estimating the contract value should always take into account the provisions of para. 12.



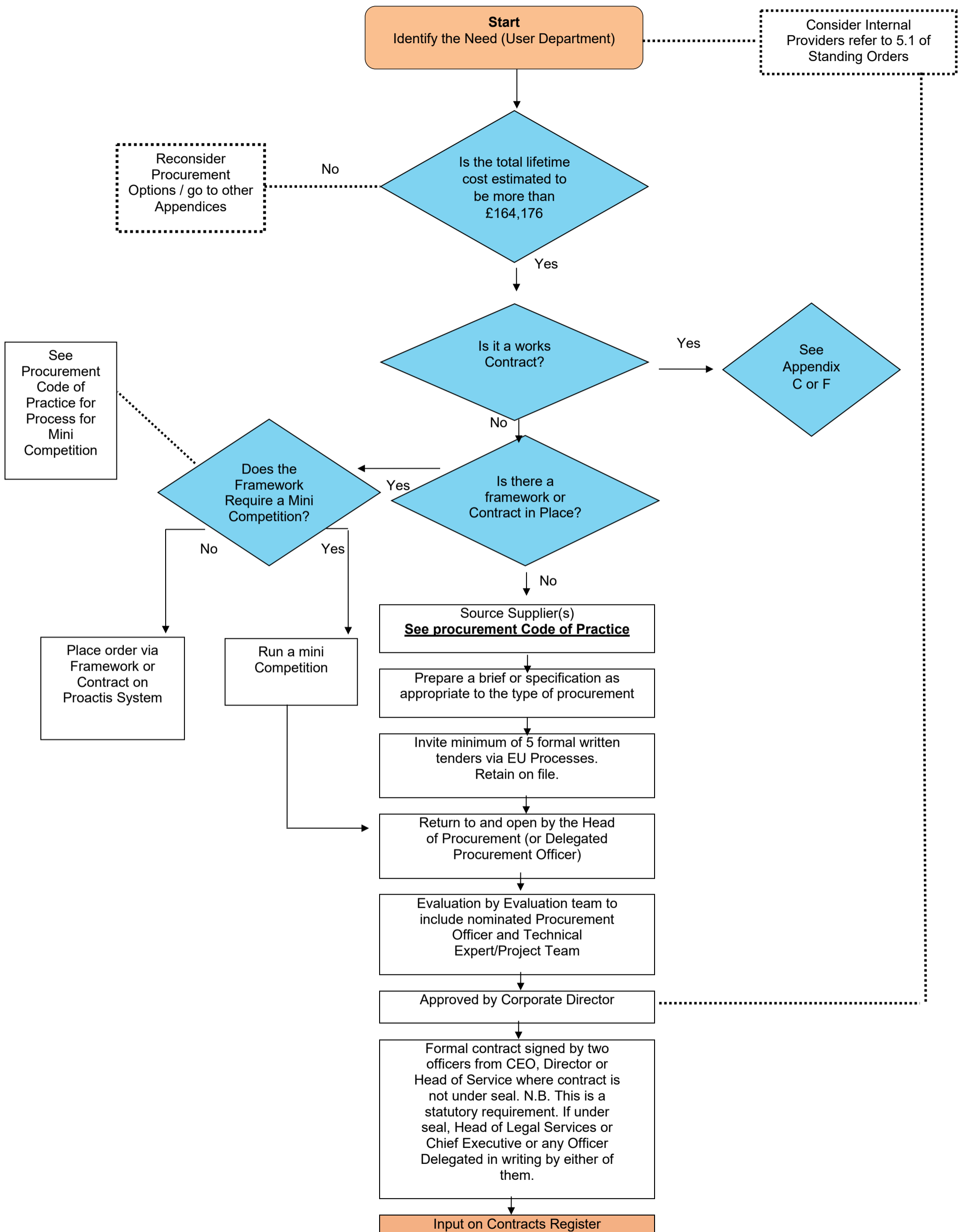
Appendix C: Medium Value Procurements (Tenders) - Between £75,000 and £164,176 (for Goods and Services) or less than £4,104,394 (for Works).

Estimating the contract value should always take into account the provisions of para. 12.



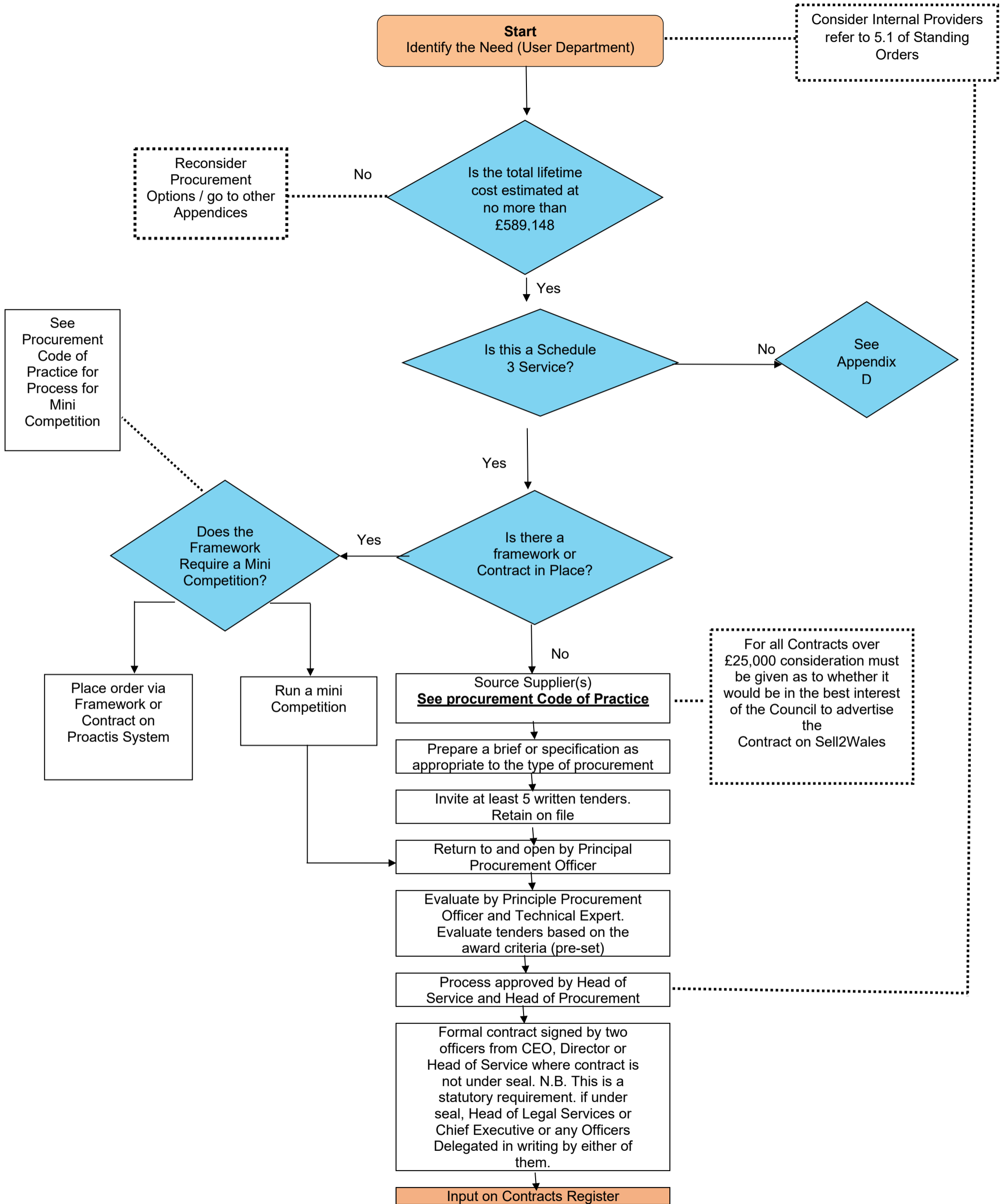
Appendix D: High Value Contracts for Goods & Services (Tenders) – Over £164,176 and Over £589,148 for Schedule 3 Services (Light Touch Regime)

Estimating the contract value should always take into account the provisions of para. 12.



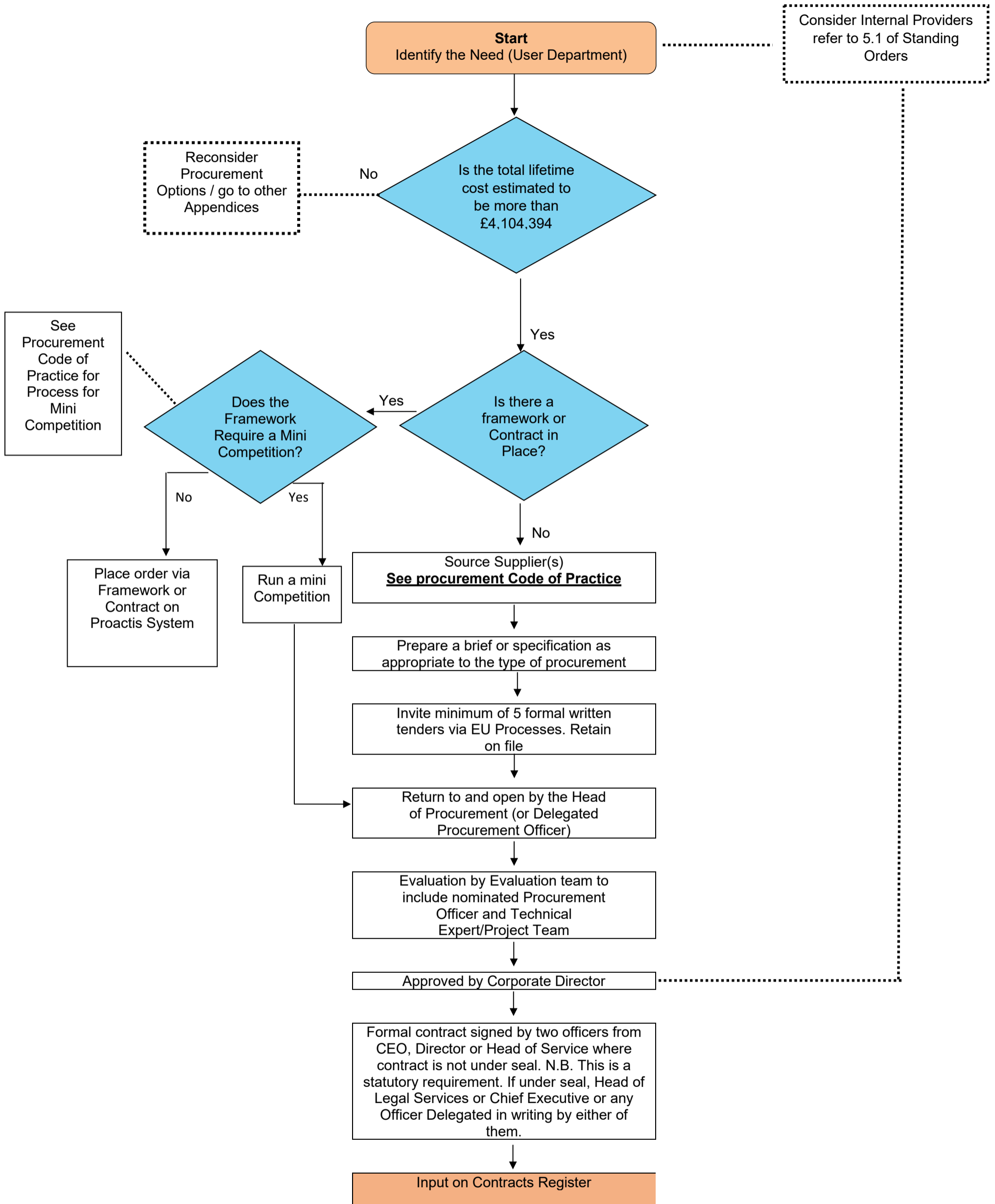
Appendix E: Schedule 3 Services (Light Touch Regime) between £164,176 and £589,148

Estimating the contract value should always take into account the provisions of para. 12



Appendix F: High Value Contracts for Works (Tenders) – Over £4,104,394

Estimating the contract value should always take into account the provisions of para. 12.



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PROTOCOL FOR DISPOSAL OF PROPERTY

1. PROTOCOL

- 1.1 This Protocol is to be read in conjunction with the Standing Orders for Contracts.

2. INTRODUCTION

- 2.1 Local authorities should act in a transparent and consistent manner in the disposal of property. Procedures are necessary to protect officers and members from accusations of unfairness or impropriety. These procedures need to be clearly set out and approved by Councillors.
- 2.2 This protocol sets out suggested principles of best practice in the disposal of property, taking account of the Commission for Local Administration Guidance Note, issued in November 1995.

3. INVOLVEMENT OF MEMBERS

- 3.1 Councillors play an important role in approving procedures and, where appropriate, taking the final decision on whether to dispose of property on negotiated terms. However, advice is clearly given by the Local Government Ombudsman that accusations of unfairness or impropriety are more likely to be made where Councillors involve themselves directly in the negotiation of terms, and that such negotiations should be left to the council's professional officers or independent advisers. No decisions by members on disposals should take place without appropriate professional advice being received.
- 3.2 Disposals should normally take place only after inviting competitive bids. Exceptions to this principle in relation to property which could be of interest to more than one potential purchaser, should only be with prior approval of elected members following a written report from officers, which should include full consideration of the effect of the action on other parties' interests and on the level of capital receipt.
- 3.3 Any proposal to dispose of property for less than the best terms reasonably obtainable, may require the consent of Welsh Assembly Government and should also be approved by members.

4. CONSULTATION PROCEDURES

- 4.1 Surplus property can be identified in three ways:-
- (i) A service directorate declares property surplus to its requirements. The service directorate may make a recommendation on the future use of property but it cannot make a decision on this use.
 - (ii) Surplus land or buildings identified through the property review process.

(iii) An application to purchase received from a third party.

4.2 The internal consultation procedures adopted by the Property Division comprise the following:

The Planning Division on proposed land use.

If not declared surplus under paragraph 4.1(i) above, the holding directorate.

All service directorates, when it is appropriate to do so, to ascertain whether there is an internal need for the property. (Note: Consultations will not take place for small areas of land such as garden land).

Corporate Finance in case there are any outstanding financial liabilities to the Council on the part of a third party applicant.

The Community Council Liaison Officer (where appropriate).

Any service directorate which might be affected by the application, or wish to comment on the proposed use of the land in relation to their professional remit (e.g. Environmental Services).

If surplus to requirements and no other objections or internal expressions of interest received, ward members.

4.3 If there are no objections to the sale, the property will be sold. If objections are raised by local members, issues of principle need to be decided or there are objections to a Public Open Space advertisement (see paragraph 7.2), a report is placed before Cabinet.

5. **MARKETING OF PROPERTY**

5.1 The Chief Inspector of Audit made a number of general recommendations in the 1995 Guidance Note. The council's procedures generally comply with these recommendations. Key principles of the procedure are:-

(i) Disposals normally (but not always) require the invitation of competitive bids.

(ii) Terms are not finalised without a current valuation being available.

(iii) Property disposed of by auction is subject to a reserve price not less than its current open market valuation.

(iv) Where property is disposed to a developer under a building agreement and subsequent lease or sale, developer's proposals are invited by public advertisement and considered by members.

5.2 The vast majority of sales are by private treaty. The advantages of this method are that it allows a flexible approach; time pressures are seldom imposed on either the vendor or the purchaser and it is widely understood and accepted by the general public. The major disadvantages are that the proceedings cannot always overcome

suspicious of unfair dealing and offers made are subject to contract which, until exchange of contract, can lead to late increased bids or a reduced bid from the original highest bidder. Under a formal tender process, the offer is not subject to contract and, once accepted, a contract exists.

5.3 Informal tendering may take place as part of a private treaty sale. Informal tendering is a process by which offers are invited but perhaps without a firm closing date, unlike a formal tendering process (where tenders are submitted in a sealed envelope to be opened at one time). Offers received during this process can be opened as they are received. Bidders may be invited to increase their offer, possibly having been told that a higher bid has been received. This procedure may result in the council obtaining a higher price than if bidding was restricted to a single informal tendering process. At the end of the process all parties will be asked to re-submit a final bid in accordance with the following procedure:-

- i. An addressed envelope marked “not to be opened before (date and time)” and the address or identification of the property will be provided to each party.
- ii. Each party will be asked to supply the name and address of the solicitor who will act in the matter.
- iii. Each party should include confirmation from the bank, building society or other financial institution as to the funds it is prepared to provide if that best offer is accepted together with evidence that the balance if any, of the price is available from other resources.
- iv. The offer should state the period within which contracts can be exchanged following receipt of title documents from the Head of Legal Services.
- v. The offer should be submitted subject to contract only. Any other conditions on which it is made are to be specified.
- vi. Any offers sent by facsimile will not be considered and may invalidate any offer received in the sealed envelope due to potential breach of confidentiality.
- vii. Only offers of a non-variable nature will be considered. The Council will reserve the right not to accept the highest or any offer made.

These bids will be opened at the same time with two officers in attendance.

5.4 The Chief Property Officer will, in each case, need to consider the advantages and disadvantages of each potential method of sale and decide which is most appropriate and likely to result in the achievement of the highest sale price for the Authority. Cabinet approval is required to dispose of properties other than by formal tender where the estimated proceeds of sale is expected to exceed £150,000.

6. DEALING WITH LATE OR REDUCED BIDS

6.1 There is a particular difficulty if a higher offer is received by the council after an offer has been accepted “subject to contract”. Problems with late bids may be minimized by an early exchange of contracts, the use of Exclusivity Agreements and by making it clear in writing to the original highest bidder that if a higher offer is received before exchange of contracts there is an obligation on the council to consider it.

Alternatively, a form of contract can be sent out with the tender documents. The Head of Legal Services advises that in this situation, the council should invite one further round of bids from all previous bidders. If the bidding process was restricted at this stage, the council could be perceived as being unfair and, as a public body, may be subject to judicial review.

- 6.2 The council may also encounter a situation where a successful bidder seeks to reduce the offer, particularly if the bidder believes that the Council will be prepared to accept any offer above the next highest bid in their general obligation to obtain the best price. This could be avoided by early exchange of contracts and/or requiring final bids to be in the form of an offer which is not subject to contract, but this will probably be unacceptable to most prospective purchasers in a private treaty sale. In a situation where a successful bidder seeks to reduce an offer, all previous bidders should be invited to submit new bids or the property be re-marketed. If the circumstances of a particular disposal are such that this procedure is not considered to be in the best interests of the authority, the Chief Property Officer, with the approval of the Director of the Environment, can accept a lower bid, as long as it is still the highest.

7. RELATED ISSUES

- 7.1 Circumstances can arise where a Council may resolve not to proceed with a disposal, or may determine an alternative course of action. In such situations, it is appropriate to consider reimbursement of costs to prospective purchasers who in good faith have incurred abortive expenditure in pursuing negotiations with the Council.
- 7.2 Land which could be considered to be public open space cannot be disposed of by a Council unless the proposal has first been advertised for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and any objections considered. The Town and Country Planning Act 1990 defines public open space as any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. No commitment in principle to disposal of such land should be made until objections have been considered in accordance with the requirements of the Local Government Act 1972, Section 123. Objections are reported to Cabinet before a final decision is made on disposal.
- 7.3 Councils are recommended to have regard to the “Crichel Down” rules when disposing of surplus land. The rules apply to all property acquired by or under threat of compulsion and requires an acquiring authority to offer it back, if surplus, at open market value if it has not materially changed in character since acquisition. Also, current legislation requires that if the property is not returned to its former owner or successor in title, then the former owner is to be reimbursed any uplift in value if the value of land is enhanced by any planning permission given within ten years of any acquisition completed on or after 25th September 1991.

8. DISPOSAL PROCEDURE

- 8.1 The key principles set out in this Protocol are summarised in the following procedure:

- (i) Before any property is disposed of, appropriate internal consultation will take place and “offer back” and compensation payments to previous owners considered.
- (ii) Ward members will be consulted prior to any final decision made on the sale of property. If ward members object to an officer recommendation on the sale or retention of property, Cabinet will decide on the matter.
- (iii) Property will normally be sold on the open market but there are cases when this is not possible. In those cases where it is evident that a property can, realistically, only be sold to a single party, the Chief Property Officer can, in consultation with the Director of the Environment and the appropriate Cabinet member, decide not to invite competitive bids.
- (iv) In those cases where it is possible to market a property but the Chief Property Officer is of the opinion that this course of action may not be in the best financial or service interests of the Authority, Cabinet approval will be obtained before direct negotiations are opened with a single party, and the views of ward members will be taken into consideration.
- (v) Where property is to be disposed of to a developer under a building agreement and subsequent lease or sale, developers’ proposals will be invited by public advertisement and considered by Cabinet and reported to the Corporate and Regeneration Scrutiny Committee.
- (vi) All disposals will be at the best price achievable. Any disposal at less than this price must be approved by Cabinet and, if appropriate, the National Assembly for Wales.
- (vii) Terms of disposal will not be agreed without a current valuation being in place.
- (viii) If a property is sold by private treaty, sealed bids from all interested parties will be invited at the end of the marketing process. These bids will be opened at the same time with two officers present.
- (ix) If a higher offer is received after a previous offer has been accepted but before contracts are exchanged, the original highest bidder will be informed of the higher bid and all previous bidders will be asked to re-submit bids (in a form which, when accepted by the Authority, will create a binding contract immediately) by a specified date.
- (x) If a successful bidder seeks to reduce an offer, all previous bidders will normally be invited to submit new bids or the property be re-marketed. However, if the Chief Property Officer is of the opinion that acceptance of the reduced offer is in the best financial interests of the authority, he/she can, with the approval of the Director of the Environment, and in consultation with the appropriate Cabinet member, accept the bid as long as it is still the highest.
- (xi) All terms of sale approved by the Chief Property Officer under delegated powers may be subject to scrutiny.

- (xii) In those cases where the Council resolves not to proceed with a disposal after legal instructions have been issued, consideration will be given to the reimbursement of abortive costs to prospective purchasers.
- (xiii) Any objections to public open space advertisements be reported to Cabinet and given full consideration before a final decision is made on disposal.

Officer Employment Procedure Rules

References:

Chapter 2, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001, Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.

Interpretation

For the purposes of these rules and Section (I) paragraph 6, of Part 3 of the Constitution:

"Chief Officer"	has the same meaning as in the Local Authorities (Standing Orders) (Wales) Regulations 2006 namely the Head of Paid Service, the Monitoring Officer, a statutory chief officer mentioned in paragraph (a), (c) or (d) of section 2(6) of the Local Government and Housing Act 1989 (the 1989 Act) which for the Council's purposes includes the Director of Education, the Director of Social Services and the Chief Finance Officer (Section 151 Officer), a non statutory officer within the meaning of section 2(7) of the Local Government and Housing Act 1989, which for the Council's purposes includes the Deputy Chief Executive and all other Directors, 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.
"Deputy Chief Officers"	has the same meaning as set out in section 2(8) of the Local Government and Housing Act 1989 which for the Council's purposes includes Heads of Service
"Head of Paid Service"	means the officer designated under Section 4(1) of the Local Government & Housing Act 1989 (designation and reports of Head of Paid Service).
"Chief Finance Officer"	means the officer having responsibility for the purposes of Section 151 of the Local Government Act 1972 (financial administration) for the administration of the Local Authority Financial affairs.
"Monitoring Officer"	means the officer designated under Section 5(1) of the Local Government and Housing Act 1989 (designation and reports of Monitoring Officer)
"Head of Democratic Services"	means the officer designated under section 8 of the Local Government (Wales) Measure 2011
"Assistants To Political	has the same meaning as a person appointed in

Caerphilly County Borough Council Constitution

Groups”	pursuance of Section 9 of the 1989 Act
"School Based Employees"	has the same meaning as a person to whom regulations made under Section 35(4) and (5) of the Education Act 2002 (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the Local Education Authority
“remuneration”	has the same meaning as Section 43(3) of the Localism Act namely: <ul style="list-style-type: none"> a. The Chief Officer's salary or, in the case of a chief officer engaged by the authority under a contract for services, payments made by the authority to the Chief Officer for those services; b. Any bonuses payable by the authority to the Chief Officer c. Any charges, fees or allowances payable by the authority to the Chief Officer d. Any benefits in kind to which the chief officer is entitled as a result of the chief officer's office or employment e. Any increase in or enhancement of the chief officer's pension entitlement where the increase or enhancement is as a result of a resolution of the authority and f. Any amounts payable by the authority to the Chief Officer on the Chief Officer ceasing to hold office under or be employed by the authority, other than amounts that may be payable by virtue of any enactment.

1. Recruitment and appointment

- (a) Declarations
 - (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece 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) The Council will disqualify any applicant who directly or indirectly seeks the support of any councillor for any appointment with the

Council. The content of this paragraph will be included in any recruitment information.

- (ii) No councillor will seek support for any person for any appointment with the Council.

2. Recruitment of Chief Officers (including Head of Paid Service)

2.1 The Council must take the steps set out in paragraph 2.2 below where

- (a) it proposes to appoint a Chief Officer and the remuneration which it proposes to pay to the chief officer is £100,000 or more per annum.

2.2 The steps are to

- (a) draw up a statement specifying:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the statement mentioned in paragraph 2.2 (a) above to be sent to any person on request.

2.3 Where paragraph 2.1 applies the Council is not required to take the step set out in paragraph 2.2 (b) if it proposes to appoint the Chief Officer for a period of no longer than 12 months.

2.4 Where a post has been advertised as provided in paragraph 2.2 (b) above, the 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.

2.5 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 2.2 (b) above.

3. Appointment of Head of Paid Service

The full council will make the appointment of the Head of Paid Service following the recommendation of a short list for such an appointment by a committee of the Council. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

4. Appointment of Chief Officers, Deputy Chief Officers, and Head of Democratic Services

A committee of the Council will appoint all Chief Officers (other than the Head of Paid Service) Deputy Chief Officers, and the Head of Democratic Services. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

5. Remuneration of Chief Officers

The Council must determine the level and any change in level of the remuneration to be paid to a Chief Officer.

6. Other appointments

- (a) **Officers other than those in (4) above.** Appointment of these officers (other than assistants to political groups) is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by councillors. This process is covered by the Council's approved Recruitment and Selection procedures.
- (b) **Assistants to political groups.** Appointment of an assistant to a political group shall be made in accordance with the wishes of that political group.
- (c) **School based employees.** Appointments of school based employees are made by the school in line with their own procedures.

7. Disciplinary action - Head of Paid Service, Chief Finance Officer, (Section 151 Officer), Monitoring Officer and Head of Democratic Services

- (a) Disciplinary action in relation to any of the Council's statutory officers named above or any other officer referred to in paragraph 7(b) below will be undertaken in accordance with the Disciplinary Procedure for Statutory Officers set out at Appendix A to these Rules.
- (b) An officer in relation to whom disciplinary action is proposed where
 - (i) the officer was, but at the time of the proposed disciplinary action no longer is an officer referred to in paragraph 7(a) above and
 - (ii) the alleged misconduct or as the case may be the reason for the proposal for dismissal occurred during the period when the officer was an officer referred to in paragraph 7(a) above

8. Disciplinary action – Other Chief Officers and Deputy Chief Officers (excluding officers listed in paragraph 7 above).

- (a) Disciplinary action in relation to any of the Council's other Chief Officers, Deputy Chief Officers or any other officer referred to in paragraph 8(b) below shall be undertaken in accordance with the Disciplinary Procedures for other Chief Officers set out at Appendix B to these rules.

- (b) An officer in relation to whom disciplinary action is proposed
 - (i) who was but at the time of the proposed disciplinary action no longer is an officer referred to in paragraph 8(a) above and
 - (ii) where the alleged misconduct or as the case may be the reason for the proposal for dismissal occurred during the period when the officer was an officer referred to in paragraph 8(a) above.

9. The terms of reference of the Investigating & Disciplinary Committee referred to in the Procedures are set out at Appendix C to these rules.

10. Disciplinary Action

(a) Officers Other Than Those Referred To In paragraphs 7 and 8 above.

The Disciplinary action in relation to these officers shall be undertaken in accordance with the Council's Ordinary Disciplinary Procedure.

(b) Assistants To Political Groups

Disciplinary action of an assistant to a political group shall be made in accordance with the procedures of that political group

(c) School Based Employees

Disciplinary action of a school based employee is taken by the school in line with their own procedures and not by the Council.

APPENDIX A

DISCIPLINARY PROCEDURE FOR STATUTORY OFFICERS

Approved by Council 21.3.13

CAERPHILLY COUNTY BOROUGH COUNCIL

DISCIPLINARY PROCEDURE FOR STATUTORY OFFICERS

1. Scope of Procedure

- 1.1 (a) This Procedure applies to the following officers of the Council, namely the Head of Paid Service, the Monitoring Officer, Chief Finance Officer (Section 151 Officer) Head of Democratic Services and an officer in relation to whom disciplinary action is proposed where the officer was, but at the time of the proposed disciplinary action no longer is an officer referred to in this paragraph and the alleged misconduct or as the case may be the reason for the proposal for dismissal occurred during the period when the officer was an officer referred to in this paragraph.
- (b) The officers referred to in 1.1(a) above are referred to collectively in this procedure as “Statutory Officers”
- 1.2 This Procedure has been adopted by the Council for the purpose of dealing with disciplinary, capability and other similar issues in relation to Statutory Officers of the Council. For the avoidance of doubt, this Procedure also applies to a breakdown of trust and confidence between the Statutory Officer and the Authority.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this Procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this Procedure is to:-
- (i) encourage employees to achieve and maintain acceptable standards of behaviour;
 - (ii) provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - (iii) minimise disagreements about disciplinary matters; and
 - (iv) reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Council and the Chief Executive or the Statutory Officer, the steps set out in this Procedure should be followed. The parties recognise that it may be necessary to depart from the Procedure, from time to time, according to particular circumstances of a case. In such circumstances, both parties agree to give fair consideration to reasonable proposals to modify the Procedure accordingly.
- 1.6 This Procedure does not form part of a Statutory Officer’s contract of employment and it may be amended at any time, subject to overall compliance with the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014.
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2. Roles and Responsibilities

- 2.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Statutory Officer, the matter will be referred to an Investigating and Disciplinary Committee (“Investigating and Disciplinary Committee”) for consideration.
- 2.2 The Investigating and Disciplinary Committee shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 5 below.
- 2.3 The Investigating and Disciplinary Committee should:-
- (i) include no fewer than three elected members;
 - (ii) should not include any member with a direct personal involvement in the complaint;
 - (iii) should be politically balanced.
 - (iv) include a member of the Executive.
- 2.4 The Investigating and Disciplinary Committee shall appoint a chair person to oversee the function of the Committee (“Chair”).
- 2.5 The Investigating and Disciplinary Committee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration by a Designated Independent Person. The Investigating and Disciplinary Committee may choose to appoint a Chief Officer of the Council or an independent person to carry out the preliminary investigation on its behalf and whoever undertakes that role shall be referred to as the “Preliminary Independent Investigator” in this Procedure.
- 2.6 The Investigating and Disciplinary Committee shall be advised throughout by a suitable adviser who may be employed by or independent of the Council, (“the Independent Adviser”) who shall ordinarily be accompanied by a member of the Council’s HR Team, save in cases where a conflict of interest could arise, in which case the Chair shall appoint a nominee, who may be an external adviser.
- 2.7 Save where the Investigating and Disciplinary Committee is satisfied, following a preliminary investigation, that the issue requires no further action or can be resolved informally, the matter must be referred to a Designated Independent Person, who shall be responsible for determining the matter in accordance with paragraph 5 below.

3. Timescale

- 3.1 The Procedure does not generally incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. Where time limits do apply, they are included within the relevant section of this Policy. However, it is implicit that all stages of the Procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

4. Suspension

- 4.1 Suspension is not regarded as disciplinary action under this Procedure but as a neutral act which may be implemented where, in the opinion of the Investigating and Disciplinary Committee, it is believed that the Statutory Officer's continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Council's functions.
- 4.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 4.3 In ordinary cases, power to suspend a Statutory Officer will rest with the Investigating and Disciplinary Committee. However, in cases which in the reasonable opinion of the Leader of the Council (or in his absence the Deputy) are urgent cases, the Leader of the Council (or in his absence his Deputy) shall have power to suspend a Statutory Officer.
- 4.4 Save in urgent cases, prior to imposing suspension in any case, the Investigating and Disciplinary Committee shall inform the Statutory Officer, in writing, of the reason for the proposed suspension and the Statutory Officer shall have the opportunity to make representations before a decision is taken.
- 4.5 In urgent cases, the Statutory Officer shall be informed of such reasons in writing within 2 working days and make representations to the Investigating and Disciplinary Committee, which shall be considered within 5 working days.
- 4.6 The necessity for the Statutory Officer to remain suspended should be reviewed at regular intervals and where possible lengthy periods of suspension should be avoided. Further specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Statutory Officer's suspension, whilst avoiding any compromise to the investigation or to the efficient exercise of the Council's functions.
- 4.7 Absence from duty during any period of suspension shall be on full pay.
- 4.8 Any suspension must not last longer than 2 months from the day on which it takes effect unless a Designated Independent Person has used their power to direct a continuation of the suspension after the expiry of that period.

5. Preliminary Investigation

- 5.1 The Chair of the Investigating and Disciplinary Committee will be responsible for informing the Statutory Officer, in writing, of the allegations or other issues under investigation. The date of this notification shall be the "Commencement Date" for the purpose of this Procedure.
- 5.2 The Chair of the Investigating and Disciplinary Committee shall be responsible for determining the arrangements for conducting a preliminary investigation, as set out in paragraph 2.2 above.
- 5.3 The Chair of the Investigating and Disciplinary Committee shall, where a decision has been taken to appoint another to conduct the preliminary investigation on its

behalf, determine the terms of appointment of the Preliminary Independent Investigator, agree any remuneration payable to the Preliminary Independent Investigator (if appropriate), and provide facilities and all available information regarding allegations or other issues under investigation as are necessary to enable the Preliminary Independent Investigator to fulfil their role.

- 5.4 The Investigating and Disciplinary Committee or Preliminary Independent Investigator will be entitled to interview witnesses and carry out such enquiries as they deem necessary. This may include examining the Council's email, internet, and other IT systems, including the accounts of the Statutory Officer. The Statutory Officer shall fully cooperate with the Investigating and Disciplinary Committee or Preliminary Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant documentation or information as the Investigating and Disciplinary Committee or the Preliminary Independent Investigator deems necessary.
- 5.5 The Statutory Officer shall be given reasonable facilities and access to the Council's premises and systems as well as personal files/diary, etc. to allow them to prepare their responses on such terms as may be agreed by the Investigating and Disciplinary Committee or Preliminary Independent Investigator.
- 5.6 The Investigating and Disciplinary Committee or Preliminary Independent Investigator shall prepare a short report following their investigation which shall be submitted to the Chair of the Investigating and Disciplinary Committee for their consideration ("Preliminary Investigation Report") and it is expected that this will be done within 7 working days of the Commencement Date. A copy of the Preliminary Investigation Report shall be provided to the Statutory Officer within seven working days of receipt by the Chair of the Investigating and Disciplinary Committee.
- 5.7 The Statutory Officer shall, if they so wish, request further information and documents in relation to the Preliminary Investigation Report, within five working days of receipt by the Statutory Officer of the Preliminary Investigation Report.
- 5.8 Once the period for requesting further information has elapsed and any request for information and documents made under 5.7, the Chair of the Investigating and Disciplinary Committee shall summon a meeting of the Investigating and Disciplinary Committee.
- 5.9 Before determining whether the allegations or other issues warrant referral to the Designated Independent Person for further consideration. The Chair of the Investigating and Disciplinary Committee shall advise the Statutory Officer, in writing, that:-
 - they are required to attend a meeting with the Investigating and Disciplinary Committee;
 - they may make oral representations to the Investigating and Disciplinary Committee at that meeting; and
 - they may put forward written representations and/or evidence, including written witness evidence, which they wish the Investigating and Disciplinary Committee to consider at this stage. Any such written representations, witness statements or supporting evidence must be submitted to the Chair of the Investigating and Disciplinary Committee at least three working days before the meeting. The Investigating and Disciplinary Committee will give careful consideration to the allegations or other issues, the Preliminary

Investigator's Report, supporting evidence and any representations put forward by the Statutory Officer before taking further action.

- 5.10 The Investigating and Disciplinary Committee shall decide within 1 month of the referral of the allegation to it whether:-
- (i) the issue requires no further formal action under this Procedure (in which case they will consider what other steps, if any, should be taken, for example a requirement for training) and would ordinarily lift any suspension immediately; or
 - (ii) there is a case to answer which requires further investigation and the issue should be referred to a Designated Independent Person, in which case the following paragraphs of this Procedure shall apply.
- 5.11 The Investigating and Disciplinary Committee shall inform the Statutory Officer of the decision, in writing, as soon as practicable.

6. The Role of the Designated Independent Person

- 6.1 The identity of the Designated Independent Person must be agreed within one month of the decision to appoint a Designated Independent Person. If the Chair of the Investigating and Disciplinary Committee and the Statutory Officer (or their representative) have not agreed the appointment of a Designated Independent Person within that timeframe, the Council will appoint the individual nominated by the Welsh Ministers.
- 6.2 The Chair of the Investigating and Disciplinary Committee shall determine the terms of appointment of the Designated Independent Person, agree the Designated Independent Person's remuneration, procure the necessary facilities, including access to sources of information and people identified as relevant to the case and provide all available information about the allegations or other issues under investigation as shall be necessary to enable them to fulfil their role.
- 6.3 The Designated Independent Person should operate on the basis of a combination of independent investigation using their powers to access information, and a formal hearing, at which the allegations and supporting evidence (including evidence provided by witnesses) are presented by the Council's representative, and the Statutory Officer or their representative is able to present their case.
- 6.4 Once appointed, the Designated Independent Person will consider whether it is appropriate to terminate or continue any suspension arrangements within 2 months of the commencement of any suspension.
- 6.5 The Investigating and Disciplinary Committee must, after consulting the Designated Independent Person, attempt to agree a timetable within which the Designated Independent Person is to undertake the investigation. Where there is no agreement, the Designated Independent Person must set a timetable which they consider appropriate.
- 6.6 It will be the responsibility of the Designated Independent Person to carry out a further investigation into the allegations or other issues under investigation and to submit a report ("Investigation Report") to the Investigating and Disciplinary Committee:-

- (i) stating in their opinion whether (and if so, the extent to which) the evidence they have obtained supports any allegation of misconduct, or incapability or supports a need for action under this Procedure for some other substantial reason; and
- (ii) Recommending what, if any, disciplinary action or range of actions appears to be appropriate for the Council, through its Investigating and Disciplinary Committee, to take against the Statutory Officer having regard to all the circumstances of the case.

7. Receipt of the Designated Independent Person's Report

- 7.1 Within three working days of receipt of the Designated Independent Person's Report, the Chair of the Investigating and Disciplinary Committee, or his nominee, shall send a copy to the Statutory Officer.

8. Pre-Disciplinary Hearing Procedure

- 8.1 If the Investigation Report recommends disciplinary action is taken against the Statutory Officer, the Chair of the Investigating and Disciplinary Committee shall summon a meeting of the Investigating and Disciplinary Committee as a Disciplinary Hearing ("Disciplinary Hearing").
- 8.2 The Chair of the Investigating and Disciplinary Committee or their nominee shall give the Statutory Officer not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
- (i) the time and place of the Disciplinary Hearing;
 - (ii) who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;
 - (iii) a copy of the Designated Independent Person's Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
 - (iv) confirmation that the Disciplinary Hearing is convened under this Procedure and could result in disciplinary action;
 - (v) confirmation that the Statutory Officer may be accompanied at the Disciplinary Hearing by a trade union representative, an official employed by a trade union or a fellow work colleague ("Companion");
 - (vi) confirmation that the Statutory Officer may ask any person to be present as a witness or adduce any documents or written statements in support of their response, provided full details of such witnesses and copies of any such documents or statements are provided to the Chair of the Investigating and Disciplinary Committee, or their nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.

- 8.3 Within two working days, the Statutory Officer shall either agree the date for the Hearing or propose to the Chair or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the Statutory Officer's Companion. If the Statutory Officer requests a postponement, the Chair of the Investigating and Disciplinary Committee or their nominee and the Statutory Officer (or his representative) shall agree the date for the Hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 8.4 The Statutory Officer and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the Statutory Officer fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 8.5 At least five working days before the date of the Disciplinary Hearing the Statutory Officer shall give to the Chair of the Investigating and Disciplinary Committee, or their nominee:-
- (i) Full details of any witnesses they wish to call;
 - (ii) Copies of any documents which they wish to refer to in support of their response;
 - (iii) Any written statements or submissions which they wish to submit; and
 - (iv) Details of the Companion they wish to bring to the Disciplinary Hearing.
- 8.6 The Chair of the Investigating and Disciplinary Committee or their nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

9. The Investigating and Disciplinary Committee Hearing

- 9.1 The procedure for the Disciplinary Hearing will be as follows:-
- (i) the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
 - (ii) the Designated Independent Person, or their nominee will present the complaint and introduce evidence in support of the complaint, including the Designated Independent Person Report, documents and witness evidence either in person or in writing as previously notified;
 - (iii) the Statutory Officer or their Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Designated Independent Person and/or his nominee, including direct questions to the witnesses;

- (iv) the Statutory Officer or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
 - (v) the Designated Independent Person, or their nominee, and the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the Statutory Officer and/or their Companion, including direct questions to the witnesses;
 - (vi) both sides will sum-up their presentations, commencing with the Designated Independent Person or his nominee.
- 9.2 The Statutory Officer's Companion can address the hearing, put and sum up the Statutory Officer's case, make representations on behalf of the Statutory Officer to any views expressed at the Disciplinary Hearing and confer with the Statutory Officer during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the Statutory Officer's behalf. If the Statutory Officer's choice of companion is unreasonable, the Investigating and Disciplinary Committee may request that another companion be selected e.g. where the companion may have a conflict of interest or prejudice the Disciplinary Hearing.
- 9.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need to carry out any further investigations such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The Statutory Officer will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 9.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:-
- (i) taking no further action;
 - (ii) recommending informal resolution or other appropriate procedures be followed;
 - (iii) referring back to the Designated Independent Person for further investigation and a further report;
 - (iv) taking disciplinary action against the Statutory Officer.
- 9.5 In the case of disciplinary action, the Investigating and Disciplinary Committee may impose the necessary penalty up to the maximum recommended by the Designated Independent Person and this can include the following:-
- (v) a recorded or oral warning;
 - (vi) a written warning;
 - (vii) a final written warning;
 - (viii) a final written warning accompanied by:-
 - (A) suspension on half pay or no pay for a specified period; and/or

- (B) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
 - (C) demotion;
 - (ix) dismissal (whether summary or on notice)
 - (x) alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post where there are issues relating to capability or loss of trust and confidence in the Chief Officer in their current role.
- 9.6 For the avoidance of doubt, the actions set out in paragraph 9.5 (iv) above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.
- 9.7 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
- 9.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
- 9.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the Statutory Officer in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.
- 9.10 A letter will be sent out to the Statutory Officer which outlines the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).
- 9.11 Where the Investigating and Disciplinary Committee has determined that dismissal or action short of dismissal is the appropriate action in the circumstances, the Council must approve that dismissal before notice of dismissal is given.

10. Appeal Process

- 10.1 This procedure provides for different arrangements for appeals against dismissal and appeals against action short of dismissal.

Appeals against dismissal

- 10.2 The Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014 require any decision to dismiss the Council’s Head of Paid Service by the Investigating and Disciplinary Committee shall be subject to approval by Full Council. In view of this requirement and to provide an appeals process, the meeting of Full Council will fulfil the function of an appeal meeting if one is made. In these circumstances:

- (a) Where an appeal is made, the appeal will be considered by full Council following the procedure set out at 10.8 to 10.16 below; and
 - (b) Where no appeal is made, the Full Council will consider the recommendation to dismiss by the Investigating and Disciplinary Committee and approve that decision or otherwise determine an alternative disciplinary penalty.
- 10.3 Where the case involves a Statutory Officer, other than the Council's Head of Paid Service, there is no requirement for Full Council to approve the dismissal. As a result of this, the Statutory Officer may appeal the decision of the Investigation and Disciplinary Committee to Full Council.

Appeals against action short of dismissal

- 10.4 A Statutory Officer (including the Council's Head of Paid Service) shall have the right to appeal the Investigating and Disciplinary Committee's decision to the Council's Appeals Committee. The Appeals Committee will consider the report of the Designated Independent Person and any other relevant information considered by the Investigating and Disciplinary Committee.
- 10.5 Any appeal must be made in writing to the Chair of the Appeals Committee or their nominee as set out in the Decision Letter within ten working days of the date of the Decision Letter including the grounds of appeal ("Notice of Appeal").
- 10.6 Within five working days thereafter the Statutory Officer must inform the Chair of the Appeals Committee of the following details in relation to the Notice of Appeal and provide the following information:
- (i) whether the Statutory Officer is to be accompanied at the appeal hearing by a Companion and if so by whom;
 - (ii) whether they wish to call witnesses and if so, their names and the nature of the evidence they will provide;
 - (iii) copies of any additional documents or information relevant to the appeal that was not provided at the Disciplinary Hearing;
- 10.7 The appeal hearing will normally take the form of a review of the decision taken by the Investigating and Disciplinary Committee.
- 10.8 The Appeals Committee will consider the appeal as soon as reasonably practicable after the Notice of Appeal has been received. It will invite the following persons to be present at an appeal hearing:
- (i) the Statutory Officer, who may be accompanied by a Companion; and
 - (ii) the Chair of the Investigating and Disciplinary Committee or another member of the Committee if so nominated by the Chair, to explain their reasons for their decision and to answer any questions.
- 10.9 The Procedure for convening the Appeal Hearing will follow that set out above in relation to the Disciplinary Hearing.

- 10.10 The Appeals Committee shall be advised by an independent adviser who shall not usually be the same adviser who advised the Investigating and Disciplinary Committee.
- 10.11 The Appeals Committee may take into account any additional information which has become available in relation to the allegations or other issues under investigation following the Disciplinary Hearing.
- 10.12 The Appeals Committee may decide to uphold or dismiss the original decision of the Investigating and Disciplinary Committee or impose a different sanction, as long as it is no higher than originally recommended by the Designated Independent Person and within the range of penalties as set out in paragraphs 10.4 and 10.5.
- 10.13 The decision reached will be final and there is no further right of appeal.
- 10.14 If it is not practicable for the Appeals Committee to provide their decision orally at the conclusion of the appeal hearing, it will be notified to the Statutory Officer, in writing, within five working days of the date of the appeal hearing, or as soon thereafter as is reasonably practicable.

Disciplinary Procedure For Other Chief Officers

Approved by Council 21.3.13

CAERPHILLY COUNTY BOROUGH COUNCIL
DISCIPLINARY PROCEDURE FOR CHIEF OFFICERS

1. Scope of Procedure

- 1.1 (a) This Procedure applies to all Chief Officers, Deputy Chief Officers of the Council and any other officer referred to in paragraph 1.1(b) below other than those designated as “Statutory Officers” namely the Head of Paid Service, the Monitoring Officer, Chief Finance Officer (Section 151 Officer) and the Head of Democratic Services.
- 1.1 (b) An officer in relation to whom disciplinary action is proposed who was but at the time of the proposed disciplinary action no longer is an officer referred to in paragraph 1.1(a) above and where the alleged misconduct or as the case may be the reason for the proposal for dismissal occurred during the period when the officer was an officer referred to in paragraph 1.1(a) above.
- 1.1 (c) Reference to Chief Officer(s) in this procedure shall include the persons specified in paragraphs 1.1(a) and (b) above.
- 1.2 This Procedure has been adopted by the Council for the purpose of dealing with disciplinary, capability and other similar issues in relation to Chief Officers of the Council. For the avoidance of doubt, this Procedure also applies to a breakdown of trust and confidence between the Chief Officer and the Authority.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this Procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this Procedure is to:-
- (i) encourage employees to achieve and maintain acceptable standards of behaviour;
 - (ii) provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - (iii) minimise disagreements about disciplinary matters; and
 - (iv) reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Council and the Chief Executive or the Chief Officer, the steps set out in this Procedure should be followed. The parties recognise that it may be necessary to depart from the Procedure, from time to time, according to particular circumstances of a case. In such circumstances, both parties agree to give fair consideration to reasonable proposals to modify the Procedure accordingly.
- 1.6 This Procedure does not form part of a Chief Officer’s contract of employment and it may be amended at any time, subject to overall compliance with the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended by the Local Authorities (Standing Orders) (Wales) (Amendments) Regulations 2014.

- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2. Roles and Responsibilities

- 2.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Chief Officer, the Chief Executive will be responsible for conducting the preliminary investigation which is further referred to in paragraph 5 below.
- 2.2 The Chief Executive shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration by an Investigating and Disciplinary committee (“Investigating and Disciplinary Committee”). The Chief Executive may choose to appoint a Chief Officer of the Council or an independent person to carry out the preliminary investigation on its behalf and whoever undertakes that role shall be referred to as the “Preliminary Independent Investigator” in this Procedure.
- 2.3 Save where the Chief Executive is satisfied, following a preliminary investigation, that the issue requires no further action or can be resolved informally, the matter must be referred to the Investigating and Disciplinary Committee, which shall be responsible for determining the matter in accordance with paragraph 5 below.

3. Timescale

- 3.1 The Procedure does not generally incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. Where time limits do apply, they are included within the relevant section of this Policy. However, it is implicit that all stages of the Procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

4. Suspension

- 4.1 Suspension is not regarded as disciplinary action under this Procedure but as a neutral act which may be implemented where, in the opinion of the Chief Executive, it is believed that the Chief Officer’s continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Council’s functions.
- 4.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 4.3 Prior to imposing suspension in any case, the Chief Executive shall inform the Chief Officer, in writing, of the reason for the proposed suspension and the Chief Officer shall have the opportunity to make representations before a decision is taken.
- 4.4 The necessity for the Chief Officer to remain suspended should be reviewed at regular intervals and where possible lengthy periods of suspension should be avoided. Further specific consideration should be given as to whether alternative

working arrangements might be implemented which could avoid the need for the Chief Officer's suspension, whilst avoiding any compromise to the investigation or to the efficient exercise of the Council's functions.

4.5 Absence from duty during any period of suspension shall be on full pay.

5. Preliminary Investigation

5.1 The Chief Executive will be responsible for informing the Chief Officer, in writing, of the allegations or other issues under investigation. The date of this notification shall be the "commencement date" for the purpose of this Procedure

5.2 The Chief Executive shall be responsible for determining the arrangements for conducting a preliminary investigation, as set out in paragraph 2.2 above.

5.3 The Chief Executive shall where a decision has been taken to appoint another to conduct the preliminary investigation on its behalf, determine the terms of appointment of the Preliminary Independent Investigator, agree any remuneration payable to the Preliminary Independent Investigator (if appropriate), and provide facilities and all available information regarding the allegations or other issues under investigation as are necessary to enable the Preliminary Independent Investigator to fulfil their role.

5.4 The Chief Executive or Preliminary Independent Investigator will be entitled to interview witnesses and carry out such enquiries as they deem necessary. This may include examining the Council's email, Internet, and other IT systems, including the accounts of the Chief Officer. The Chief Officer shall fully cooperate with the Chief Executive or Preliminary Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant documentation or information as the Chief Executive or Preliminary Independent Investigator deems necessary.

5.5 The Chief Officer shall be given reasonable facilities and access to the Council's premises and systems as well as personal files/diary, etc. to allow them to prepare their responses on such terms as may be agreed by the Chief Executive or Preliminary Independent Investigator.

5.6 The Chief Executive or the Preliminary Independent Investigator shall prepare a short report following their investigation which, where required, shall be submitted to the Chief Executive for their consideration ("Preliminary Investigation Report"). A copy of the Preliminary Investigation Report shall be provided to the Chief Officer within seven working days of receipt by the Chief Executive or where completed by the Chief Executive within seven working days of its completion.

5.7 The Chief Officer shall, if they so wish, make representations in relation to the Preliminary Investigation Report, within five working days of receipt by the Chief Officer of the Preliminary Investigation Report.

5.8 Before determining whether the allegations or other issues warrant referral to the Investigation and Disciplinary Committee for further consideration, the Chief Executive shall advise the Chief Officer, in writing, that:-

- they are required to attend a meeting with the Chief Executive;

- they may make oral representations to the Chief Executive at that meeting; and
 - they may put forward written representations or evidence, including written witness evidence, which they wish the Chief Executive to consider at this stage. Any such written representations, witness statements or supporting evidence must be submitted to the Chief Executive at least three working days before the meeting.
6. The Chief Executive will give careful consideration to the allegations or other issues, the Preliminary Investigator's Report, supporting evidence and any representations put forward by the Chief Officer before taking further action.
- 6.1 The Chief Executive shall decide whether:-
- (i) The issue requires no further formal action under this Procedure (in which case they will consider what other steps, if any, should be taken) and would ordinarily lift any suspension immediately; or
 - (ii) The issue should be referred to the Investigating and Disciplinary Committee, in which case the following paragraphs shall apply.
- 6.2 The Chief Executive shall inform the Chief Officer of the decision, in writing, as soon as practicable.
- 7. The Role of the Investigating and Disciplinary Committee and appointing an Investigator**
- 7.1 If the Chief Executive decides that the matter should be referred to the Investigating and Disciplinary Committee, it shall be its responsibility to appoint a Chief Officer of the Council, or an independent person, to carry out any further investigation required into the allegations or other issues as soon as practicable. This Investigator can be the same person who carried out the preliminary investigation.
- 7.2 The Investigating and Disciplinary Committee should:-
- (a) no fewer than three elected members;
 - (b) should not include any member with a direct personal involvement in the complaint;
 - (c) should be politically balanced; and
 - (d) should include a member of the Executive.
- 7.3 The Investigating and Disciplinary Committee shall appoint a chairperson to oversee the function of the Committee ("Chair").
- 7.4 The Investigating and Disciplinary Committee shall be advised throughout by a suitable adviser who may be employed by or independent of the Council, ("the Independent Adviser") who shall ordinarily be accompanied by a member of the Council's HR Team, save in cases where a conflict of interest could arise, in which case the Investigating and Disciplinary Committee shall appoint a nominee.

- 7.5 The Chief Executive shall determine the terms of appointment of the Investigator, agree the Investigator's remuneration (if appropriate), procure the necessary facilities and provide all available information about the allegations or other issues under investigation as shall be necessary to enable them to fulfil their role.
- 7.6 The Chief Officer will be informed that the matter has been referred to the Investigating and Disciplinary Committee, the members of the Investigating and Disciplinary Committee and that an Investigator has been appointed who, subject to availability, may be the same person who carried out the preliminary investigation.

8. Responsibilities of the Investigator

- 8.1 It will be the responsibility of the Investigator to carry out a further investigation into the allegations or other issues under investigation and to prepare a report ("Investigation Report"):-
- (i) stating in their opinion whether (and if so, the extent to which) the evidence they have obtained supports any allegation of misconduct, or incapability or supports a need for action under this Procedure for some other substantial reason; and
 - (ii) recommending what, if any, disciplinary action or range of actions appears to be appropriate for the Council, through its Investigating and Disciplinary Committee, to take against the Chief Officer having regard to all the circumstances of the case.

9. Pre-Disciplinary Hearing Procedure

- 9.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or their nominee, shall send a copy to the Chief Officer. If the Investigation Report identifies allegations of misconduct and a need for further action, the Chief Officer will be sent, in addition to the Investigation Report, written notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 9.2 The Chief Officer shall, if they so wish, request further information and documents relating to the allegations within five working days of receipt of the Investigation Report.
- 9.3 Any additional information and documentation requested would be provided by the Investigator, where relevant, within seven working days or such other time as appropriate in the circumstances.
- 9.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 9.3 above, the Head of People Management and Development or their nominee shall give the Chief Officer not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
- (i) the time and place of the Disciplinary Hearing;

- (ii) who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;
 - (iii) a copy of the Investigator's Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
 - (iv) confirmation that the Disciplinary Hearing is convened under this Procedure and could result in disciplinary action;
 - (v) confirmation that the Chief Officer may be accompanied at the Disciplinary Hearing by a trade union representative, an official employed by a trade union or a fellow work colleague ("Companion");
 - (vi) confirmation that the Chief Officer may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and copies of any such documents or statements are provided to the Chief Executive, or their nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.
- 9.5 Within two working days, the Chief Officer shall either agree the date for the Hearing or propose to the Head of People Management and Development or their nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the Chief Officer's Companion. If the Chief Officer requests a postponement, the Head of People Management and Development or their nominee and the Chief Officer (or his representative) shall agree the date for the Hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 9.6 The Head of People Management and Development or their nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the Chief Officer if the Hearing has been postponed) of the date for the Disciplinary Hearing and shall submit a report to the Investigating and Disciplinary Committee, including the Investigation Report, supporting evidence and any representations provided by the Chief Officer.
- 9.7 The Chief Officer and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the Chief Officer fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 9.8 At least five working days before the date of the Disciplinary Hearing the Chief Officer shall give to the Head of People Management and Development, or their nominee:-
- (i) Full details of any witnesses they wish to call;
 - (ii) Copies of any documents which they wish to refer to in support of their response;

- (iii) Any written statements or submissions which they wish to submit; and
- (iv) Details of the Companion they wish to bring to the Disciplinary Hearing.

9.9 The Head of People Management and Development or their nominee shall provide a copy of such documents and information to the Chief Executive and the Investigating and Disciplinary Committee as soon as reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

10. The Investigating and Disciplinary Committee Hearing

10.1 The procedure for the Disciplinary Hearing will be as follows:-

- (i) the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
- (ii) the Chief Executive, or their nominee (who may include the Investigating Officer) will present the complaint and introduce evidence in support of the complaint, including the Investigation Report, documents and witness evidence either in person or in writing as previously notified;
- (iii) the Chief Officer or his Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Chief Executive and/or their nominee, including direct questions to the witnesses;
- (iv) the Chief Officer or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
- (v) the Chief Executive, or their nominee, and the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the Chief Officer and/or their Companion, including direct questions to the witnesses;
- (vi) both sides will sum-up their presentations, commencing with the Chief Executive or their nominee.

10.2 The Chief Officer's Companion can address the hearing, put and sum up the Chief Officer's case, make representations on behalf of the Chief Officer to any views expressed at the Disciplinary Hearing and confer with the Chief Officer during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the Chief Officer's behalf. If the Chief Officer's choice of companion is unreasonable, the Chief Executive or his nominee may request that another companion be selected e.g. where the companion may have a conflict of interest or prejudice the Disciplinary Hearing.

10.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need to carry out any further investigations such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The Chief Officer will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.

- 10.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:-
- (i) taking no further action;
 - (ii) recommending informal resolution or other appropriate procedures be followed;
 - (iii) referring back to the Investigator for further investigation and a further report;
 - (iv) taking disciplinary action against the Chief Officer.
- 10.5 In the case of disciplinary action, this can include the following:-
- (i) a recorded or oral warning;
 - (ii) a written warning;
 - (iii) a final written warning;
 - (iv) a final written warning accompanied by:-
 - (A) suspension on half pay or no pay for a specified period; and/or
 - (B) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
 - (C) demotion;
 - (v) dismissal (whether summary dismissal or on notice); and
 - (vi) alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post where there are issues relating to capability or loss of trust and confidence in the Chief Officer in their current role.
- 10.6 For the avoidance of doubt, the actions set out in paragraph 10.5 (iv) above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.
- 10.7 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
- 10.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
- 10.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully

consider their decision, their decision may be deferred and issued to the Chief Officer in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.

- 10.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”)

2. Appeal Process

- 2.1 The Chief Officer shall have the right to appeal the Investigating and Disciplinary Committee’s decision, to the Appeals Committee. Any appeal must be made in writing to the Chair of Appeals Committee or their nominee as set out in the Decision Letter within ten working days of the date of the Decision Letter including the grounds of appeal (“Notice of Appeal”).
- 2.2 Within five working days thereafter the Chief Officer must inform the Chair of the Appeals Committee of the following details in relation to the Notice of Appeal and provide the following information:
- (i) whether the Chief Officer is to be accompanied at the appeal hearing by a Companion and if so by whom;
 - (ii) whether they wish to call witnesses and if so, their names and the nature of the evidence they will provide;
 - (iii) copies of any additional documents or information relevant to the appeal that was not provided at the Disciplinary Hearing;
- 2.3 Having considered the Notice of Appeal, the Appeals Committee will determine whether the appeal hearing will take the form of a full re-hearing or a review of the decision taken by the Investigating and Disciplinary Committee.
- 2.4 The Appeals Committee will consider the appeal as soon as reasonably practicable after the Notice of Appeal has been received. It will invite the following persons to be present at an appeal hearing:
- (i) the Chief Officer, who may be accompanied by a Companion; and
 - (ii) the Chair of the Investigating and Disciplinary Committee or another members of the Committee if so nominated by the Chair, to explain their reasons for their decision and to answer any questions.
- 2.5 The procedure for convening the Appeal Hearing will follow that set out above in relation to the Disciplinary Hearing.
- 2.6 The Appeals Committee shall be advised by an independent adviser who shall not usually be the same Adviser who advised the Investigating and Disciplinary Committee.
- 2.7 The Appeals Committee may take into account any additional information which has become available in relation to the allegations or other issues under investigation following the Disciplinary Hearing.

- 2.8 The Appeals Committee may decide to uphold or dismiss the original decision of the Investigating and Disciplinary Committee or impose a different sanction within the range of penalties as set out in paragraphs 10.4 and 10.5.
- 2.9 The decision reached will be final and there is no further right of appeal.
- 2.10 If it is not practicable for the Appeals Committee to provide their decision orally, at the conclusion of the appeal hearing it will be notified to the Chief Officer, in writing, within five working days of the date of the appeal hearing, or as soon thereafter as is reasonably practicable.

APPENDIX C

Investigating & Disciplinary Committee

Terms Of Reference

1. Primary Purpose

1.1 To deal with all matters of discipline relating to Statutory Officers and Chief Officers employed by the Council as Statutory Officers as defined in Procedure A and Chief Officers as defined in Procedure B. These officers are employed under Joint Negotiating Committee (JNC) terms and conditions, in accordance with the Disciplinary Procedures for Statutory Officers (attached Marked A) and the Disciplinary Procedure for Other Chief Officers (attached Marked B).

1.2 Other

To review and amend the said Disciplinary Procedures A & B from time to time having regard to any changes to the model procedures outlined in the JNC Conditions of Service for Chief Officers that may be implemented from time to time. The JNC conditions are based on the Local Authorities (Standing Orders) (Wales) Regulations 2006 and associated amendments.

2. Membership

The membership of the Committee is set out in the said Disciplinary Procedures A & B.

3. Chair

The Chair of the Committee shall be selected from the Members of the Committee by majority vote.

4. The Council at its meeting on the 8th May, 2014 agreed that the current restriction within Standards Orders which prohibits a meeting for sitting longer than four hours to be removed from the Investigating and Disciplinary Committee, subject to a requirement on the Committee to take appropriate breaks so as to ensure the comfort of those participating in the meeting.

**Approved by Council
21.3.13**

**R4 added May 2014
1.1 & 1.2 amended as approved by Council 7.10.14**

RULES ON CONSULTATION

- 1.1 The Executive Procedure Rules in Part 4 of the Constitution set out what is expected by way of consultation on any report on an Executive decision and provide that:-

“The level of consultation required will be appropriate to the nature of the matter under consideration. Officers must consult in any event with the appropriate Cabinet member, ward members and appropriate officers and either incorporate their comments into the report or (if not accepted by the author of the report) the comments must be included in the report.”

- 1.2 Officers should be aware of the need for (a) timely and (b) proper consultation with interested parties and they should then ensure that the views of those parties are either incorporated into their recommendations, or if not, highlighted in the report so that members taking a decision as the result of a report will do so in the light of all the facts and opinions.

- 1.3 These are the groups which should be consulted, and sets out the circumstances in which those consultations should take place. They are as follows:-

- (a) officers;
- (b) Cabinet member(s);
- (c) local members;
- (d) scrutiny committees;
- (e) community Councils;
- (f) community partnerships;
- (g) voluntary and community sector;
- (h) younger people and older people.

- 1.4 (a) (b) and (c) Officers, Cabinet members and local members

There should be proper consultation with the appropriate Cabinet member(s), officers and local member(s). Officers must bear in mind the need to ensure that the consultation is done in sufficient time and that any views expressed are reflected fully either in the recommendations to the report or in a paragraph setting out those (differing) views, and explaining why they cannot be accommodated.

(d) Scrutiny committees

The Council's Constitution identifies the role of scrutiny committees in being consulted before matters go to the Cabinet but the circumstances in which a report is to be referred to the scrutiny committee for comment are not clearly written. The Council on the 17 May 2005 approved:-

“That Cabinet consult scrutiny committees on all ‘key’ issues contained in the Cabinet Forward Work Programme. These could include issues

- of a strategic or controversial nature
- which are likely to have a significant effect on the delivery of Council services across the county borough or
- have a significant element of risk or financial implications.

Whilst it is not possible to provide an all encompassing definition of ‘key’ issues Cabinet members and officers are asked to consider the merits of consulting scrutiny committees as issues arise.”

- 1.5 The Cabinet Forward Work Programme will be used to help this process by identifying those matters which need to be considered in advance by a scrutiny committee. The programme, prepared by Corporate Management Team and then approved at Cabinet on a quarterly basis shows all those matters that are significant decisions to be taken by the Cabinet over the next quarter. Not all of these need to be considered in advance by a scrutiny committee. The forward work programme shows for convenience possible scrutiny dates for all the matters listed but if the programme will identify those matters where consideration by scrutiny must take place by separately identifying these. These 'marked' items will reflect the elements approved at Council in May 2005 (above).
- 1.6 There will inevitably be unexpected urgent matters where although they are 'key' it is not feasible to put them formally to a scrutiny committee in advance of being considered at Cabinet.
- 1.7 The identification of the 'marked' matters on the forward work programme is the responsibility of the Corporate Management Team, informed by the views of Cabinet members and chairs and vice-chairs of scrutiny committees who can identify forthcoming matters or reports as being essential for pre-scrutiny.
- 1.8 (e) Community Councils
- The Council has agreed a charter with community Councils about exchanging information, liaison and consultation on specific subjects, and Appendix 1 sets out the "consultation" subjects from that protocol. This list is comprehensive but is due for review, in conjunction with community Councils, in the near future.
- 1.9 (f) Community Partnerships
- In setting up each Community and Communities First Partnerships the partnership agreement, to which the Council is a signatory, sets out the role of the partnership and partnership principles, which, taken in total involve the Council in consultation with the community through the partnership, (as a separate exercise from the consultation with community Councils set out in the earlier paragraph).
- 1.10 This does not mean that everything which is to be considered by the Council or the Cabinet needs a consultation (for example operational matters would not be included) but there is a need to set out the rules in which there will be a consultation.
- 1.11 Clearly where these rules apply there is a difficulty in terms of response by the partnership because often of the short time limits in which a consultation reply is needed by the Council to progress its own reports efficiently but this will be a matter for each partnership to resolve in conjunction with their respective partnership co-ordinators.
- 1.12 The consultation would not apply to operational matters or where the Council is exercising a function under Planning, Licensing or Rights of Way. These rules recognise the practical difficulty of consulting where there is a time constraint, particularly where the bodies being consulted do not meet on a very regular basis. Consultation should take place broadly on the lines of those listed for community Councils, but concentrating on issues which would have an impact locally as opposed to strategic, county borough wide application where there are sufficient separate consultation arrangements. A list of subjects for consultation appears as Appendix 2. The Council's partnership co-ordinators will identify to Corporate

Management Team any additional report (outside the terms of Appendix 2) which should be the subject of consultation with the community partnerships.

- 1.13 Clearly partnerships will need to have arrangements in place to deal with consultation urgently (possibly via delegations to the chair and vice-chair of the partnerships). It would be appropriate for partnerships, in certain circumstances where the chair or vice is an elected member of this Council, to put in place their own arrangements for another individual to substitute for the Councillor, to ensure that the response from the partnership is seen as independent of this Council. A period of two weeks for consultation is considered sufficient.

1.14 (g) Voluntary and Community Sector

The Council has signed a compact with various statutory and voluntary and community sector organisations to support the delivery of the Caerphilly County Borough Community Strategy, and consultation is an element of that, in the same way that it is with community partnerships (above).

- 1.15 Contacts with the voluntary sector are co-ordinated through the Policy Unit working with GAVO as the recognised “umbrella” body. As part of that role staff in the Policy Unit will monitor draft reports and identify those which would be of interest to the voluntary sector (not necessarily restricted to local issues) and those staff will ensure that there is a liaison with GAVO to feed in any comments or highlight potential issues from a voluntary sector perspective. The operation of this will be kept under review.

1.16 (h) Older and younger people

The Council supports a Youth Forum and a 50+ forum to support younger and older people in engaging in discussions about the county borough. There are contact officers within the Council who liaise with and support these groups and they can act in a similar capacity to that outlined above for the voluntary sector. They can scan forthcoming reports and consult with chair and vice chair of the groups where they identify a need to seek views from younger/older people. The operation of this will be kept under review.

1.17 Planning Applications

There is an existing statutory process of consultation on planning applications and none of the above rules will apply to the development control process.

1.18 Delegated Power Decisions

The rules on consultation apply equally to decisions under delegated powers and report writers are strongly reminded of the need for proper consultation. A large majority of delegated power decisions will however be more routine or operational, and so the “strategic” consultation with scrutiny committees and with partnerships, as described above, will not apply.

1.19 The Consultation Process

Parties involved in the consultation process (report writers and consultees) must remember the nature of the consultation process, namely that the consultee is given adequate information about what is being proposed by the report writer (preferably by sending a copy of the draft report), followed by the comments of the consultee being

properly incorporated into the report or set out in the “consultations” paragraph of the report so that whoever is taking the decision is aware of the views of all interested parties. It is important to note that this is to ensure that the decision maker is aware of, and takes into account the views of all interested parties; it does not follow that the decision making body will automatically take a decision in line with those consultation replies.

- 1.20 Finally, it is important to note that consultation should be a two-way process. The actions and activities of groups referred to in categories (e) to (h) can have implications for the Council too. In the same way that the Council is proposing to consult with these groups, they need also to consider when it is appropriate for them to consult the Council, especially where significant actions and activities are being planned. This point will to be discussed with the groups as part of the overall dialogue about consultation arrangements.

Appendices:

- Appendix 1 Community Council consultation protocol
Appendix 2 Community Partnership consultation protocol

SUBJECTS FOR CONSULTATION - TOWN AND COMMUNITY COUNCILS

Chief Executive's	<ul style="list-style-type: none"> • Community Strategy • Caerphilly County Borough Council's Welsh Language Scheme • Improvement Objectives • Economic Development/Tourism
Planning	<ul style="list-style-type: none"> • The Development Plan • Applications for planning permission (via weekly list) • Applications for listed buildings consent; proposals for additions to the listed buildings list • Establishment of conservation areas; tree preservation orders • Advertisement control • Street naming
Local Recreation or other Facilities	<ul style="list-style-type: none"> • Major changes of use or closure of leisure or sports fields • Major changes of use or closure of community centres or community facilities • Major new arrangements or changes to play areas • Major new initiatives and developments in local arts provision • Opening, closure or alteration or opening times of libraries (including mobile libraries) • Community projects which relate to a specified locality or community
Education	<ul style="list-style-type: none"> • Proposals for the opening or closure of schools under local education authority control or funding
Waste Management, Waste Collection and Cleansing	<ul style="list-style-type: none"> • Major changes and new methods of the provision of domestic refuse collection and disposal including the development of new treatment and disposal facilities • Major changes and new methods of street cleansing or litter clearance • Changes to the provision and location of recycling facilities • Public convenience provision
Environmental Health, Trading Standards and Community Safety	<ul style="list-style-type: none"> • The establishment or abolition of litter control zones • Establishment of "No Cold Calling Zones" • Declaration of an Air Quality Management Area • Applications for prior approval of construction works
Highways, Access and Public Transport	<ul style="list-style-type: none"> • Major highway maintenance schemes; winter highway maintenance regimes • Major traffic management schemes, road safety schemes • Permanent highway closures or diversions (including footpaths, bridleways, cycleways and other minor highways) • Changes in parking (including off and on street provision) • Local authority supported bus services; local authority bus shelters

	<ul style="list-style-type: none">• Alterations in rail services where notified to and supported by the authority
General	<ul style="list-style-type: none">• Land disposal (sale or lease)• Other areas of council business not detailed which are key and fundamental to the majority of wards that have community/town councils

SUBJECTS FOR CONSULTATION - COMMUNITY PARTNERSHIPS

Local Recreation or other Facilities	<ul style="list-style-type: none"> • Major changes of use or closure of leisure or sports fields • Major changes of use or closure of community centres or community facilities • Major new arrangements or changes to play areas • Major new initiatives and developments in local arts provision • Opening, closure or alteration or opening times of libraries (including mobile libraries) • Community projects which relate to a specified locality or community <p>Note: Where there are closures brought about by operational or budgetary reasons the Council will inform the consultees of the proposals; the consequences of those decisions (e.g. after-use of buildings) will be the subject of consultation.</p>
Education	<ul style="list-style-type: none"> • Proposals for the opening, closure or merger of schools which are maintained by the local authority and adult education facility under local education authority control or funding
Cleansing, Health and Pollution	<ul style="list-style-type: none"> • Major changes and new methods of street cleansing or litter clearance • The establishment or abolition of litter control zones • The provision and location of recycling facilities • Establishment of noise abatement zones
Highways, Access and Public Transport	<ul style="list-style-type: none"> • Permanent highway closures or diversions (including footpaths, bridleways, cycleways and other minor highways) • Changes in parking (including off and on street) provision • Local authority supported bus services; local authority bus shelters • Alterations in rail services where notified to and supported by the authority • Local road safety schemes
General	<ul style="list-style-type: none"> • Land disposal (sale or lease) • Community safety