

THE CONSTITUTION

PEMBROKESHIRE COUNTY COUNCIL

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Cllr. David Jipson JP.

Leader of Pembrokeshire County Council

PART ONE – INTRODUCTION

SECTION 1 - INTRODUCTION TO THE CONSTITUTION

1 THE PURPOSE OF THE CONSTITUTION

Pembrokeshire County Council's Constitution sets out how the Authority operates, the various bodies which make up the Authority, how decisions are made and the procedures which are followed. Some of these processes are required by law, while others are a matter for Council to choose.

The purpose of this Constitution is to:

- 1.1 enable citizens, Councillors and Officers to understand how the Authority operates;
- 1.2 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
- 1.3 support the active involvement of citizens in the process of the Authority's decision making;
- 1.4 help Councillors to represent their constituents more effectively;
- 1.5 enable decisions to be taken efficiently and effectively;
- 1.6 create an effective means of holding decision-makers to public account;
- 1.7 ensure that decisions are taken in the public interest and that no Councillor or Officer is involved in taking a decision where there is a real possibility that he/she would be influenced in his/her actions by any personal interest or improper bias; and
- 1.8 provide a means of improving the delivery of services to the community.

2 THE STATUS OF THE CONSTITUTION

This Constitution derives from a number of different sources:

- 2.1 Statute Law – Pembrokeshire County Council was established under the Local Government (Wales) Act 1994 and its constitution and procedures must accord with the requirements of the Local Government Acts 1972 and 2000 and other relevant legislation.
- 2.2 Executive Arrangements, adopted by resolution of the Council – The Local Government Act 2000 established the Executive Leader and Cabinet system of governance which has been adopted by Pembrokeshire County Council. Under that Act, the Council has adopted "Executive Arrangements", which define the form of the Leader and Cabinet model and their relationship with the Council.

- 2.3 Resolutions of the Council and the Cabinet – within the limits set out above, the Council and the Executive have adopted rules of procedure and Standing Orders, established Committees and Sub-Committees, delegated functions to such bodies and to officers and adopted joint arrangements with other local authorities and public bodies.
- 2.4 Matters of Fact – such as the address of the Council and the number of elected Members of the Council.

The Council formally approved this Constitution on 7 July 2016, and instructed the Authority's Monitoring Officer to keep the Constitution up to date and to make periodic changes necessary to take account of resolutions of the Council and the Executive, and changes of law and fact, reporting to Council on any such changes. Further amendments have been incorporated.

Accordingly, this Constitution is an up to date statement of the structure and operating rules of the Council. It derives from the sources set out above and, in the event of any dispute as to the structure and operating rules, those sources will prevail over this Constitution.

3 SUMMARY OF THE STRUCTURE OF THE AUTHORITY

This is a short summary of the detailed rules and provisions which are set out in the Constitution.

- 3.1 The Council comprises 60 Councillors, with local elections for all seats last held in 2017 and every five years thereafter. Councillors therefore hold office for a period of five years, or until they die, resign or are disqualified. At its first meeting after the local elections and at its first meeting in each municipal year, the Council elects a Councillor to be its Presiding Member for the coming year. The Council appoints Committees to discharge many of its functions, and those Committees can appoint Sub-Committees, similarly to discharge some of the functions of the Committee.
- 3.2 The Council has resolved to adopt a Leader and Cabinet style of governance, with the election of the Leader to take place biennially at the Annual Meeting of Council. Upon appointment, the Leader appoints up to nine Councillors to join him/her in forming the Cabinet.
- 3.3 Statute sets out the functions and responsibilities of the Authority, and defines whether they are to be "non-executive functions" which are to be discharged by the Council. All other functions of the Authority are "executive functions" which are to be discharged by the Cabinet. The Council may arrange for many of its "non-executive" functions to be discharged on its behalf by a Committee or a Sub-Committee, or delegated to Officers. Similarly, the Cabinet may arrange for many of its "executive functions" to be discharged on its behalf by individual Cabinet Members or by Officers. The Cabinet, Cabinet Members and Officers when discharging executive functions are collectively known as "the Executive".
- 3.4 When the Executive discharge "executive functions", they must act in accordance with the Budget and Policy framework set by the Council, except in cases of urgency.

- 3.5 The Council also has Overview and Scrutiny Committees whose functions are to review the manner in which the Authority discharges its functions, with the ability to review any decision taken by or on behalf of Council or the Executive, and which may "call in" and require the Executive to reconsider any decision which it has taken but not yet implemented.
- 3.6 The dates of meetings of the Council, Committees and Sub-Committees, and of the Cabinet are published in advance and an agenda, setting out the items of business to be considered at the meeting and including any reports, must be published at least three Clear Working Days in advance of the meeting. All such formal meetings are held in public, except that the meeting may exclude the public and press where it considers that it is likely that confidential or exempt information will be disclosed. Minutes setting out the decisions taken by Council, Committees, Sub-Committees or the Cabinet, setting out the main considerations which have informed the decision, are published as soon as practicable after the meeting. For Council, Committees and Sub-Committees, those Minutes are drafts until approved by the next convenient meeting as a correct record.
- 3.7 All Councillors are required to comply with a Code of Conduct, which sets general rules of conduct and requires every Councillor to ensure that the Register of Members' Interests is up to date and to disclose such interests where a Councillor has a conflict of interest in any item of business at a meeting. Any person may make a complaint to the Public Services Ombudsman for Wales where he/she believes that a Councillor has failed to comply with the Code of Conduct.
- 3.8 Councillors are democratically accountable to residents of their electoral division, including those who did not vote for them, and their over-riding duty is to the whole Community.
- 3.9 Citizens may get involved with the decision-making processes of the Authority by:
- 3.9.1 getting elected as a Councillor;
 - 3.9.2 taking advantage of the opportunities to contribute to meetings of Council, Committees and Sub-Committees;
 - 3.9.3 making written representations to the Authority on any matter within the responsibility of the Authority and, in particular, responding to public consultations on planning and licensing applications;
 - 3.9.4 submitting a petition to the Authority on any matter within the responsibility of the Authority;
 - 3.9.5 attending and participating in the public sessions of Overview and Scrutiny Committees and other meetings;
 - 3.9.6 contacting their local Councillor and raising any concerns with him/her.

4 DEFINITIONS USED IN THIS CONSTITUTION

4.1 The Constitution of the Council is comprised of this document.

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

The Authority	The legal entity of Pembrokeshire County Council.
The Budget	The overall revenue and capital budget approved by Council.
The Budget Meeting	The meeting of Council at which the Council will consider the draft estimates and make the statutory calculation of Council Tax.
The Cabinet	The Leader and Cabinet Members meeting as a body.
Chairman	The person elected to preside at the meeting.
Chairman/Deputy Presiding Member	The Councillor elected to be the Chairman of Council for the municipal year to carry out the civic role in accordance with this Constitution and to act as the Deputy Presiding Member
Chief Officer	As defined by the Local Authorities (Standing Orders) (Wales) Regulations 2006.
Clear Working Day	A Clear Working Day is the period from midnight on one day to midnight on the next day, excluding weekends and public holidays.
Confidential Information	Information defined as "confidential" by Section 100A(3) of the Local Government Act 1972, being:- (a) information furnished to the Council by a Government Department upon terms (however expressed) which forbid the disclosure of the information to the public; or (b) Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.
Corporate Management Team	The senior management body for Officers. It includes those Officers designated by the Head of Paid Service from time to time as members of the Corporate Management Team.
The Council	The elected Members of Pembrokeshire County Council meeting as a body.
Councillor	A person elected to the Council to represent an area

	(called an electoral division) within Pembrokeshire.
Democratic Services Function	As defined in Section 9 of the 2011 Measure.
Departure Decision	A decision of the Executive which would be contrary to or not wholly in accordance with the Council's Budget or contrary to any part of the Policy Framework.
Deputy Chief Officer	An Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who reports directly to a Chief Officer in respect of all or most of his/her duties.
Executive	The Leader, the Cabinet, Members of the Cabinet, and Officers of the Authority when exercising an Executive Function.
Executive Decision	Any decision taken by the Executive to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member Bodies to whom the Executive has delegated the power to exercise or refrain from exercising any Executive Functions.
Executive Function	Executive Functions are defined by the Section 13 of the Local Government Act 2000 which are not reserved by statute to be discharged by the Council ("Non-Executive Functions").
Executive Group	A political group some or all of whose members comprise, or are included in, the Executive of the Authority.
Exempt Information	Information which a Member Body has determined is "exempt" from the duty to publish or disclose by virtue of Section 100I and Schedule 12A to the Local Government Act 1972 as amended.
Family Absence	Absence as described in the Family Absence for Members of Local Authorities (Wales) Regulations 2013.
Forward Work Programme	The current version of a document which lists all of the matters upon which the Council and Cabinet intend to take decisions upon and any business which the Overview and Scrutiny Committees will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters which have not been included in the Forward Work Programme being considered.
Head of Paid Service	The Officer designated by the Council under Section 4 of the Local Government and Housing Act 1989 to carry out specified functions in respect of the management of Officers and the co-ordination of the discharge of the various functions of the Authority.

Housing Land Transfer	The approval or adoption of applications (whether in draft form or not) to the Welsh Assembly for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.
Local Choice Functions	The functions of the Authority set out in Schedule 2 to the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001, as amended, in respect of which Regulation 3 provides that Council shall determine whether they are to be discharged by the Executive or by Council.
The 2011 Measure	The Local Government (Wales) Measure 2011. The Local Government (Wales) Measure 2011 sought, inter alia, to strengthen local democracy, to deal with changes to executive arrangements, and to make amendments in respect of Overview and Scrutiny, and payments to Councillors.
Member Body	<p>Any of the following:</p> <ul style="list-style-type: none"> • Council • Committees and Sub-Committees of Council established under Section 102 of the Local Government Act 1972 • Any Joint Committee or Sub-Committee of a Joint Committee to which the Authority has delegated powers • Cabinet • Committees of Cabinet • An Overview and Scrutiny Committee • Licensing Committee <ul style="list-style-type: none"> • Standards Committee (or one of its sub-committees) • Planning Committee • Governance and Audit Committee • Democratic Services Committee <p>Note - references to a Committee includes reference to any Sub-Committee of that Committee.</p>
Monitoring Officer	The Officer designated by Council under Section 5 of the Local Government and Housing Act 1989 as the Authority's Monitoring Officer to report on conduct and standards functions.
Non-Executive Functions	Any function which by virtue of Section 13 of the Local

Government Act 2000 may only be exercised by Council and not by the Executive. Section 13 provides that Non-Executive functions shall comprise functions which by statute may only be exercised by Council and any function to the extent that, by regulations under that Section, may not, in whole or in part, be discharged by the Executive. It therefore includes Local Choice Functions to the extent that Council has resolved that they shall be the responsibility of Council.

Opposition Groups

Any political groups other than the Executive Group.

Policy Framework

The policy framework means the following plans and strategies:

- Single Integrated Plan
- Children and Young People's Plan
- Best Value Performance Plan
- Community Strategy
- Crime and Disorder Reduction Strategy
- Health and Well-being Strategy
- Local Transport Plan
- Plans and Alterations which together comprise the Development Plan
- Welsh Language Scheme
- Powers to approve a Young People's Partnership Strategic Plan and a Children and Young People's Framework Partnership
- Youth Justice Plan
- Housing Strategy
- Rights of Way Improvement Plan
- Such other plans and strategies as may be determined by the Council from time to time

(Schedule 3 to the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 as amended).

Section 151 Officer

The Officer designated by Council under Section 151 of the Local Government Act 1972 to ensure the proper administration of the Authority's financial administration. The Officer will usually have other duties and a different job title.

Presiding Member

The Councillor elected to preside at meetings of the Council and act in accordance with this Constitution .

Service

Any of the services provided by the Authority.

Single Integrated Plan (SIP)

The single plan for the area that reflects the needs of the

local population. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young People's and the Health, Social Care and Wellbeing Partnership Plan.

Standing Committee

A Committee which is appointed annually, rather than being appointed as and when required to undertake a particular task.

Statutory Officer

The Head of Paid Service, Head of Democratic Services, Director of Resources / Section 151 Officer or the Monitoring Officer.

Unaffiliated Member

A Member who is not a Member of a political group.

Urgency / Urgent

Where one or more of the Statutory Officers certifies that a decision on the matter is required in order to protect the interests of the Authority, its area or inhabitants, and that it is of such urgency that the normal procedure would be inappropriate.

Virement

The mid-year transfer of budget between different headings of expenditure.

In Writing

In Writing includes hand-delivered hard copy, letter, fax and email.

5 INTERPRETATION OF THIS CONSTITUTION

We have tried to make this Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.

During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.

In all other situations, the Monitoring Officer will determine the interpretation and application of this Constitution.

6 REVISION OF THIS CONSTITUTION

6.1 The Council has instructed the Monitoring Officer to keep this Constitution under review and to bring forward proposals for amendment where he/she considers that this may assist the Authority to discharge its functions effectively. The Council has also instructed the Monitoring Officer to keep this Constitution up to date and to make periodic changes necessary to take account of resolutions of the Council and the Executive, and changes of law and fact.

6.2 The Council has instructed the Section 151 Officer to keep the Financial Regulations under review and to bring forward proposals for amendment to the Governance and Audit Committee where he/she considers that this may assist the Authority to

discharge its functions effectively.

7 SUSPENSION OF THIS CONSTITUTION

7.1 Limit to Suspension

Any of the procedure rules contained in the Constitution may be suspended by a Member Body in respect of a meeting of that Member Body to the extent permitted within this Constitution and by statute.

7.2 Procedure to Suspend

A motion to suspend any Rules in respect of all or part of the meeting of a Member Body will not be moved without notice unless at least one half of the whole number of Councillors who are members of that Member Body are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of this Constitution.

8 PUBLICATION OF THIS CONSTITUTION

8.1 The Monitoring Officer shall ensure that copies of this Constitution are available for inspection at County Hall and on the Council's website.

8.2 The Monitoring Officer will give a printed copy, if requested, or provide a link to a copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.

9 FURTHER INFORMATION

We have tried to make this Constitution as clear and accessible as possible, but we recognise that it is a large document containing a lot of detail. If you need any further help please do not hesitate to contact the Authority's Monitoring Officer, whose contact details are as follows:

Claire N Jones
Monitoring Officer
Pembrokeshire County Council
County Hall
Haverfordwest
Pembrokeshire
SA61 1TP

Tel: 01437 776564
Email: claire.jones@pembrokeshire.gov.uk

SECTION 2 – GETTING INFORMATION AND GETTING INVOLVED

1 INTRODUCTION

The Authority is required to publish extensive information about its functions and services. It chooses to publish much more information than it is required to. Increasingly, we publish such information electronically through the Authority's website, www.pembrokeshire.gov.uk. This is supported by:

- 1.1 Leaflets and other publications available at the Authority's offices, libraries and other public buildings;
- 1.2 Public Notices posted on the Authority's notice board at County Hall; and
- 1.3 Public Notices in local newspapers and newspapers published by the Authority.

In addition, the Authority holds many documents which are available for public inspection at County Hall, including planning and licensing applications and supporting documents. The Council's Customer Charter is available and can be found on the Council's website at the following link:

<https://www.pembrokeshire.gov.uk/customer-service>

On 23 May 2016, the Council adopted the following Vision Statement – “Working together to improve lives in Pembrokeshire”. Details can be found at the following link to the Council's website:

<https://www.pembrokeshire.gov.uk/customer-service/our-mission-statement>.

Finally, anyone may request information which the Authority holds. Such requests may be as a data subject in respect of personal information which a person understands that the Authority may hold in respect of him/her, or it may be a request for information under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.

2 PUBLISHED INFORMATION

The following is a summary of the main information which the Authority publishes:

- 2.1 When Meetings of the Member Bodies will take place

A programme of meetings is available via the website or by contacting the Council direct. It sets out the dates, times and places of all meetings of Member Bodies for the current municipal year, but may be subject to change from time to time as and when additional meetings may be required.

- 2.2 Forward Work Programme

The Forward Work Programme sets out significant matters in respect of which the Authority anticipates taking a decision, and by which Member Body the matter will be considered. It also sets out the issues which Overview and Scrutiny Committees will be considering. It sets out when these matters will be discussed. It is subject to

regular revision as and when additional matters are identified and is available via the website or by contacting the Council direct.

2.3 Information available in advance of any Meeting

At least three Clear Days before a meeting, the agenda for the meeting setting out all business to be transacted at that meeting, any report likely to be discussed and listing any background papers to that report, shall be available for inspection at the offices of the Authority and on the Authority's website. If an urgent item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

2.4 Information available at a Meeting

The Authority will make available to the public present at any meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save for reports in respect of any part of the meeting to which the public are excluded). The Council will take all reasonable steps to webcast its public meetings.

2.5 Information available after a Meeting

The Authority will prepare and publish a draft minute within 15 Clear Working Days and will provide a record of decisions if requested, within three Clear Working Days of each meeting. Where a draft minute would disclose Confidential or Exempt information, it will publish a summary of the item of business excluding any Confidential or Exempt information. That draft minute is not to be relied on as a correct record of the decisions taken at the meeting until it has been confirmed or approved as a correct record. The agenda, reports and the minutes of the meeting shall be available for inspection for a period of six years from the date of the meeting. Any background papers shall remain open for inspection for a period of four years.

2.6 Council's Accounts

Under the Accounts and Audit (Wales) Regulations 2005, the accounts of the Authority will be available for public inspection for twenty working days after the date appointed by the auditor. Information which is confidential or exempt will not be disclosed to members of the public.

3 INFORMATION AVAILABLE TO COUNCILLORS

3.1 Any Councillor may see any information which would be available to a member of the public.

3.2 Any Councillor may see any document which contains material relating to any business to be transacted at a meeting of the Council or a Committee or Sub-Committee of the Council of which they are a member.

3.3 Any Councillor may, subject to Paragraph 3.4 and 3.7 below, see any document which:

- 3.3.1 is in the possession, or under the control, of the Cabinet; and
- 3.3.2 contains material relating to:
 - (a) any business transacted at a meeting of the Cabinet or a Committee of the Cabinet; or .
 - (b) any decision that has been made by an individual Councillor in accordance with executive arrangements, when the meeting concludes or, where an executive decision is made by an individual Councillor, immediately after the decision has been made.
- 3.4 In relation to any document requested by a Councillor under Paragraph 3.3 above, the Head of Legal and Democratic Services shall withhold any such document which discloses Confidential Information and may withhold any such document where it discloses Exempt Information of a description for the time being falling within any paragraphs of Schedule 12A to the Local Government Act 1972.
- 3.5 In addition, a Councillor may request to see any information which he/she needs to know in order to fulfil his/her role as a Councillor of the Council (otherwise known as “need to know”). Such request should be made to the Head of Legal and Democratic Services setting out the Councillor’s reasons for needing to have access to that information.
- 3.6 Where a Councillor receives Confidential or Exempt Information, he/she must not disclose that information to anyone other than:
 - 3.6.1 an Officer or another Councillor of the Authority, for the purposes of the work of the Authority;
 - 3.6.2 under a legal requirement or order of the Court.
- 3.7 No Councillor shall be entitled to see any information relating to a matter in which he/she has a prejudicial interest, unless that information is also available to the general public.

4 INFORMATION AVAILABLE TO OFFICERS

- 4.1 The Monitoring Officer, the Head of Democratic Services, the Section 151 Officer and the Head of Paid Service may see any papers or records held by or on behalf of any part of the Authority.
- 4.2 Other Officers may see any information held by the Council provided:
 - 4.2.1 they need to see the information to do their job;
 - 4.2.2 that information is processed lawfully in accordance with the Data Protection Act 2018; and
 - 4.2.3 they do not have a personal interest in the matter to which the information relates, unless the Authority has specifically authorised them to continue to

participate despite that personal interest; and that a formal record of that authorisation be recorded and be made available to Members if requested.

5 GETTING INVOLVED

5.1 Getting Involved - Members of the Public

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

5.1.1 Seeking election to the Council

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

5.1.2 Voting for Councillors

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

5.1.3 Suggesting Items of Business for Meetings

A member of the public can seek to get a matter included in an agenda by:

- (a) asking the Chair of any Member Body to add an item to the agenda; and/or
- (b) attending a meeting of the body and suggesting that it looks at an issue when it is considering the Forward Work Programme or items of future business relating to the functions of the Member Body.

5.1.4 Taking Part in Certain Meetings

- (a) Members of the public can come to and speak at certain meetings which the Council has resolved should include participation by members of the public. This includes the Planning Committee and the Licensing Sub-Committee in certain circumstances.
- (b) At every ordinary Council meeting, time is set aside for the public to ask questions of Councillors.

5.1.5 Views of the Public

- (a) Members of the public are welcome to make suggestions as to issues which Overview and Scrutiny Committees should review and report upon, and to submit their views in writing on such suggested issues.
- (b) Each Overview and Scrutiny Committee publishes a Forward Work Programme comprising a list of matters which it proposes to review in the coming year, and when each matter will be considered. Members of the public are welcome to submit their views in writing on any such matter, and those submissions will be included in the

Committee's reports for all members of the Committee to see and take into account.

5.1.6 When are Meetings Open to the Public?

The presumption is that all meetings of Member Bodies will be open to the public. The public must be excluded from meetings whenever it is likely that Confidential Information will be disclosed. The public may be excluded from meetings where it is likely that Exempt Information will be disclosed. The Council will take all reasonable steps to webcast its public meetings.

5.1.7 Making Comments/Complaints

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

- (i) contacting their local Councillor;
- (ii) contacting the Member of the Cabinet responsible for the service;
- (iii) contacting the Officer responsible for delivering a service or their manager;
- (iv) using the Authority's complaints procedure;
- (v) contacting the Public Services Ombudsman for Wales (PSOW) at 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0300 790 0203 or via the website www.ombudsman-wales.org.uk. The PSOW can investigate complaints relating to maladministration by the Authority or misconduct by a Councillor.

(b) Comments or complaints can be made about an Officer or Member in respect of:

(i) Officers

Contacting the Officer or the Officer's Manager or the Head of Paid Service.

(ii) Members

If the complaint is against a Member then the complaint should be referred to the PSOW in the first instance (contact details above), with a copy of the complaint to the Monitoring Officer.

5.2 Getting Involved – Members of the Council

All Members of the Council have the same rights as members of the public. In addition to these rights, Members can participate as follows:

- 5.2.1 Participating in the debate at Council and at any Committee or Sub-Committee to which they are appointed.
- 5.2.2 Attending meetings of Cabinet and of Committees and Sub-Committees of which they are not a member.

Councillors can attend any public meetings of Cabinet and of any Committee of Cabinet, and of any Committees and Sub-Committees of Council of which they are not a member. They may be invited to speak at the discretion of the person presiding. A Member whose Notice of Motion is referred to Cabinet or a Committee for consideration shall have the right to speak to that Motion but may not vote at the meeting of the Cabinet or Committee at which it is considered. In the event that a Notice of Motion referred to Cabinet or to a Committee has been submitted by more than one Member, one of those Members only, nominated by the others for that purpose, shall have the right to speak to that Motion at the Cabinet or Committee meeting at which it is considered.

- 5.2.3 When reports from Overview and Scrutiny Committees or their Chairmen are on the agenda for a Cabinet meeting, the respective Chairman or Vice-Chairman in their absence will be permitted to attend the meeting to present the report and to respond to any questions or queries Cabinet Members may require clarification on.
- 5.2.4 Suggest items of business for the Agenda of any Member Body or for its Forward Work Programme.
- 5.2.5 Submit a Notice of Motion to Council, in accordance with the relevant procedure rule.
- 5.2.6 Put questions at Council, in accordance with the relevant procedure rule.
- 5.2.7 Any Member of an Overview and Scrutiny Committee may refer a matter to that Committee by requesting the Committee Chairman to include it in the agenda to be considered by the Committee at the next convenient meeting of the Committee and on refusal of such request the Member may appeal to the Head of Paid Services and Head of Legal and Democratic Services whose joint decision on the inclusion or otherwise of the matter shall be final.
- 5.2.8 The Democratic Services Committee may make a report and recommendation to Council in respect of the adequacy of provision by the Authority of staff, accommodation and other resources to discharge Democratic Services Functions.
- 5.2.9 An Overview and Scrutiny Committee may make a report and recommendation to Council or to the Cabinet.
- 5.2.10 An Overview and Scrutiny Committee may request the Cabinet or any Cabinet Member or Officer who has taken an Executive Decision which has not yet been implemented to reconsider that decision, taking account of the views of the Committee.

5.2.11 Members of the Cabinet may attend, speak and vote at any meeting of the Cabinet or of any Cabinet Committee of which they are a member.

5.2.12 Members of Cabinet may discharge such functions as have been delegated to them by the Leader or by Cabinet.

5.2.13 Comments and Complaints

Dialogue is encouraged:

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

(i) speaking or writing to the relevant Officer;

(ii) speaking or writing to the Leader or the appropriate Member of the Cabinet;

(iii) speaking or writing to the Chair of the appropriate Overview and Scrutiny Committee.

(b) No Member of Council shall have any claim however to enter any land, building or offices occupied by the Council to which members of the public do not have access or to which Members of the Council do not have regular and agreed access, unless specifically authorised by the Council.

PART TWO – GOVERNANCE ARRANGEMENTS

SECTION 3 – THE COUNCIL

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1 MEMBERS OF THE COUNCIL

1.1 Purpose, Composition, Election and Terms of Office

1.1.1 Purpose and Composition.

- (a) The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework. It is responsible for functions which are not the responsibility of Cabinet by virtue of regulations. It will carry out some functions itself however others will be delegated to Committees or Officers.
- (b) All Members of the Council shall be Members of Full Council. The Council comprises 60 Members who will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Democracy and Boundary Commission for Wales and approved by the Welsh Ministers.

1.1.2 Date of Elections

The last election of Councillors was held on the first Thursday in May in 2017 and future elections will take place every five years thereafter, dates to be determined by order of the Welsh Ministers.

1.1.3 Terms of Office

- (a) The terms of office of Councillors will start on the fourth day after being elected or when he/she signs his/her declaration of acceptance of office (if later) and will finish on the fourth day after the date of the next regular election.
- (b) A Councillor may resign from office at any time by giving notice of resignation in writing to the Head of Legal and Democratic Services of the Authority.
- (c) A Councillor will automatically cease to be a Councillor if he/she fails throughout a period of six consecutive months from the date of his/her last attendance to attend any meeting of the Authority, including any meeting of Council or a Committee or Sub-Committee of Council (or Cabinet, or a Committee of Cabinet or discharge a delegated authority in the case of a Cabinet Member), unless the failure was due to some reason approved by Council before the expiry of that period or it is due to Family Absence.
- (d) A Councillor shall be disqualified from being a Councillor if certain statutory conditions apply.

1.2 Roles and Functions of all Councillors

1.2.1 Key roles

All Councillors will:

- (a) participate in Council collectively to determine the Budget and strategic plans and policies of the Authority and to take such decisions as are reserved to or referred to Council;
- (b) play a full role in community leadership;
- (c) represent effectively the interests of the County as a whole, their electoral division and of individual constituents;
- (d) respond to constituents' enquiries and representations fairly and impartially;
- (e) participate in the governance of the Council; and
- (f) maintain the highest standards of conduct and ethics.

1.2.2 Rights and Duties

- (a) Councillors will have such rights of access to documents and information in the possession of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (b) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

1.2.3 Conduct

Councillors will, at all times, observe the Members' Code of Conduct and the Protocol on Member/Employee Relations set out in this Constitution.

1.2.4 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme which is available at this link:

<https://www.pembrokeshire.gov.uk/councillors-and-committees/members-schedule-of-remuneration>

2 FUNCTIONS OF THE COUNCIL

- 2.1 Section 13(2) of the Local Government Act 2000 provides that all functions of the Authority are to be those of Cabinet unless they are reserved to the Council by statute or in accordance with regulations made under the 2000 Act. The Constitution sets out in detail the division of functions between Cabinet and Council.

- 2.2 Council may exercise all functions itself and may make arrangements for the discharge of any of those functions (which do not have to be discharged by Council) by a Committee or Sub-Committee of Council, by a Joint Committee or by another local authority, by an Officer, or by a Councillor who is not a member of the Executive (but only within the ward or electoral area for which he/she has been elected).
- 2.3 Only the Council will exercise the following functions:
- 2.3.1 appointing the Presiding Member of Council;
 - 2.3.2 appointing the Chairman/Deputy Presiding Member of Council;
 - 2.3.3 appointing the Vice-Chairman of Council;
 - 2.3.4 adopting and changing the Constitution, except in so far as delegated to the Monitoring Officer;
 - 2.3.5 approving, adopting and amending the Policy Framework and Single Integrated Plan;
 - 2.3.6 approving the Budget;
 - 2.3.7 authorising and approving any application to the Welsh Assembly in respect of any Housing Land Transfer;
 - 2.3.8 making decisions about any matter which is referred to it by the Cabinet, where the Cabinet proposes to take a decision which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget, subject to the urgency procedure contained in this Constitution;
 - 2.3.9 electing and removing the Leader;
 - 2.3.10 determining the number, sizes and terms of reference of Committees of Council and appointing Unaffiliated Members to unallocated seats;
 - 2.3.11 adopting a Members' Allowances Scheme;
 - 2.3.12 changing the name of the area;
 - 2.3.13 conferring the title of Honorary Alderman or conferring the honour of Freedom of the County;
 - 2.3.14 making, amending, revoking, re-enacting or adopting byelaws and promoting or opposing the making of local legislation or personal Bills;
 - 2.3.15 appointing Chairmen and Vice-Chairmen of certain Standing Committees other than Overview and Scrutiny Committees;
 - 2.3.16 determining the allocations of Chairs of Overview and Scrutiny Committees between the Executive Group and the Opposition Groups;
 - 2.3.17 appointing and dismissing the Head of the Paid Service;

- 2.3.18 determining the level, and any change in the level, of the remuneration to be paid to the Head of Paid Service and to a Chief Officer;
- 2.3.19 considering the terms and conditions attached to any creation, re-designation or redundancy of any Chief Officer post where the overall value of such terms and conditions shall exceed £100,000;
- 2.3.20 arranging for the discharge of a Non-Executive Function by a Joint Committee or by another local authority;
- 2.3.21 all other matters which, by law, must be reserved to Council, for example, appointing the Chairman of the Democratic Services Committee and agreeing the Pay Policy Statement;
- 2.3.22 all Local Choice Functions set out in this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- 2.3.23 appointing representatives to outside bodies unless the appointment has been delegated by the Council.

3 PRESIDING MEMBER AND COUNCIL CHAIRMAN/DEPUTY PRESIDING MEMBER

- 3.1 Election and Term of Office of the Presiding Member and Chairman/Deputy Presiding Member
 - 3.1.1 The Council shall elect a Presiding Member for the forthcoming Municipal Year at its Annual Meeting, the first such election to take place in 2020.
 - 3.1.2 The Chairman of Council shall be the Deputy Presiding Member of Council for the forthcoming Municipal Year.
 - 3.1.3 Nominations for election as Presiding Member of Council shall be submitted at the Annual Meeting of Council without the requirement for any prior notification. If more than one nomination is submitted, voting thereon shall be by secret ballot. No nominations shall be accepted unless the Member nominated has given consent.
 - 3.1.4 The Presiding Member shall cease to hold that office if he/she resigns, ceases to be a Councillor, is suspended or disqualified, or is removed at any stage by a vote of Council.
 - 3.1.5 Where a vacancy arises in the post of Presiding Member, Council shall elect a Presiding Member for the balance of the term of office.
 - 3.1.6 All non-Executive Members are eligible to stand for the position of Presiding Member regardless of whether they hold the chairmanship of any other Committee.
 - 3.1.7 The position of Presiding Member shall not be eligible for remuneration.

3.1.8 The Presiding Member shall be eligible for re-election to that office.

3.2 Role and Function of the Presiding Member

3.2.1 The Presiding Member, and in his/her absence the Chairman/Deputy Presiding Member, will have the following roles and functions:

- (a) to uphold and promote the purposes of the Constitution and to interpret the Constitution when chairing meetings of the Council;
- (b) to chair meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
- (c) to determine whether an urgent item of business may be added to the agenda for a forthcoming meeting of Council;
- (d) to ensure that the Council meeting is a forum for the debate of matters of relevance to the local community;
- (e) to determine applications from a Member on Family Absence for permission to attend particular meetings or attend particular descriptions of meetings or perform particular duties or perform duties of a particular description and to advise the Leaders of each political group of the Authority before granting such permission.

3.3 Election and Term of Office - Chairman/Deputy Presiding Member and Vice-Chairman

3.3.1 The Council shall elect the outgoing Vice-Chairman of Council to the office of Chairman/Deputy Presiding Member for the forthcoming Municipal Year at its Annual Meeting.

3.3.2 The Vice-Chairman of Council shall be a Councillor elected for the forthcoming Municipal Year by Council at its Annual Meeting.

3.3.3 Nominations for election as Vice-Chairman of Council shall be made, in writing, to the Chief Executive and shall be delivered at the office of the Chief Executive at least ten Clear Working Days before the Annual Meeting. The names of Members so nominated shall be sent out in the summons for the Annual Meeting. If more than one nomination is submitted, voting thereon shall be by secret ballot. No nominations shall be accepted unless the Member nominated has given written consent.

3.3.4 The Chairman/Deputy Presiding Member and the Vice-Chairman shall cease to hold that office if he/she resigns, ceases to be a Councillor, is suspended or disqualified, or is removed at any stage by a vote of Council.

3.3.5 Where a vacancy arises in the post of Chairman/Deputy Presiding Member or of Vice-Chairman, Council shall elect a Chairman or Vice-Chairman for the balance of the term of office.

- 3.3.6 Unless he/she ceases to hold the office by virtue of Paragraph 3.3.4 above, the Chairman/Deputy Presiding Member and the Vice-Chairman of the Council shall hold office for a period of one year until immediately after the election of Chairman/Deputy Presiding Member at the next Annual Meeting of the Council and notwithstanding the normal retirement of Councillors four days after the regular local elections, the Chairman/Deputy Presiding Member shall continue in office as Chairman/Deputy Presiding Member until the election of his/her successor.
- 3.3.7 The Chairman/Deputy Presiding Member and Vice-Chairman of Council shall not, on completion of their respective year of office, be eligible for re-election to that office for a period of five years.
- 3.3.8 The Chairman/Deputy Presiding Member shall not, during his/her year of office, be elected (or remain) Chairman of any Committee or be a Member of the Cabinet.

3.4 Role and Function of Chairman/Deputy Presiding Member

The Chairman/Deputy Presiding Member, and in his/her absence the Vice-Chairman, will have the following roles and functions:

- (a) to represent the Authority at civic and ceremonial functions.
- (b) to act as principal spokesman and principal ambassador in representing the Council.
- (c) to undertake a programme of duties to include attending, hosting and speaking at a wide range of functions.

4 COUNCIL MEETINGS

4.1 Types of Council Meeting

There are three types of Council meeting:

- 4.1.1 the Annual Meeting;
- 4.1.2 Ordinary Meetings;
- 4.1.3 Extraordinary Meetings;

and they will each be conducted in accordance with the Procedure Rules set out below.

Council shall identify one Ordinary Meeting a year as the Budget Meeting, which must be held on or before 11 March in any Municipal Year.

4.2 The Annual Meeting of Council

4.2.1 In a year when there is an ordinary election of Councillors, the Annual Meeting will take place no less than 14 days and no more than 21 days from the date of retirement of the outgoing Councillors. In any other year, the Annual Meeting will take place in April or May provided that no meeting shall be held on a Sunday or Public Holiday.

4.2.2 The Annual Meeting will:

- (a) elect the Presiding Member for the forthcoming Municipal Year;
- (b) elect the Chairman/Deputy Presiding Member for the forthcoming Municipal Year;
- (c) elect the Vice-Chairman of Council for the forthcoming Municipal Year;
- (d) elect a person to preside if the Presiding Member or Chairman/Deputy Presiding Member are not present;
- (e) receive any apologies for absence from Councillors;
- (f) receive any declarations of interest from any Councillors in any matters to be transacted at the meeting;
- (g) receive any announcements from the Presiding Member;
- (h) receive any announcements from the Chairman/Deputy Presiding Member;
- (i) elect the Leader (biennially);
- (j) be informed by the Leader of the number of Members to be appointed to the Cabinet;
- (k) receive from the Leader the scheme of delegations, if any (to be set out in this Constitution);
- (l) decide which Committees and Sub-Committees to establish and the size and terms of reference of those Committees for the Municipal Year;
- (m) decide the allocation of seats to political groups in accordance with political balance rules and decide upon allocation of seats to Unaffiliated Members;
- (n) approve a programme of ordinary meetings of the Council for the year;
- (o) appoint Chairmen and Vice-Chairmen of certain Standing Committees other than the Overview and Scrutiny Committees; and
- (p) consider any other business specified in the summons to the meeting.

4.3 Ordinary Meetings of Council

4.3.1 Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting.

4.3.2 Ordinary meetings will consider the business in the following order, unless varied by the Presiding Member:

- (a) elect a person to preside if the Presiding Member and Chairman/Deputy Presiding Member are not present;
- (b) receive any apologies for absence from Councillors;
- (c) receive any declarations of interest from Councillors in any matter to be considered at the meeting;
- (d) receive any announcements from the Presiding Member, Chairman/Deputy Presiding Member and/or Leader and receive any determinations by the Presiding Member;
- (e) approve as a correct record the Minutes of the last meeting;
- (f) receive any questions from members of the public and give any answers to those questions, pursuant to Paragraph 4.9, below;
- (g) deal with any business outstanding from the last Council meeting;
- (h) receive and consider any reports from Statutory Officers;
- (i) receive and consider any reports from the Leader and Cabinet;
- (j) receive and consider any reports and recommendations from Committees;
- (k) receive and answer any questions submitted by Councillors, in accordance with Paragraph 4.10, below;
- (l) consider any notices of motions submitted by Councillors, in the order in which notices have been received; and
- (m) consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Overview and Scrutiny Committees.

4.4 Extraordinary Meetings of Council

4.4.1 Calling Extraordinary Meetings

- (a) The Presiding Member, the Head of Paid Service, the Monitoring Officer and the Director of Resources in pursuance of their statutory responsibilities, may call an Extraordinary Meeting of the Council; or
- (b) Where the Presiding Member receives a requisition signed by no fewer than five Members of the Council, requesting an Extraordinary Meeting of Council and specifying the business to be transacted at that meeting, and the Presiding Member has refused to call a meeting or has failed to make a decision within five Clear Working Days of the presentation of the requisition, at least five of the requisitioning Members may on the expiration of those five Clear Working Days write to the Head of Legal and Democratic Services in accordance with paragraph (c) below.
- (c) The relevant Members in 4.4.1(b) shall signify, in writing, to the Head of Legal and Democratic Services that they wish to call an Extraordinary Meeting and shall confirm the nature of the business to be transacted. The Head of Legal and Democratic Services shall thereupon ensure that the notices and summonses required by paragraph 4(2) of Schedule 12 to the 1972 Act are published and sent within the following five Clear Working Days to convene a meeting of the Council within 10 Clear Working Days of such publication.
- (d) Notwithstanding 4.4.1.(c) above, the Head of Legal and Democratic Services may, with the consent of the Presiding Member and a majority of the requisitioning Members, not call an Extraordinary Meeting of Council but add or include the matter of business proposed for the Extraordinary Meeting in the agenda for an Ordinary Meeting.

4.4.2 Business to be transacted at an Extraordinary Meeting of Council

- (a) No Extraordinary Meeting shall be called unless it is proposed to transact at the meeting business which, in accordance with relevant legislation and this Constitution, may be transacted at that meeting.
- (b) No business shall be transacted at any Extraordinary Meeting except such as shall be specified in the Notice convening the meeting.

4.5 Time, Place and Duration of Meetings

4.5.1 The time and place of meetings will be determined by the Presiding Member in consultation with the Head of Legal and Democratic Services. The timing and length of any recess during the meeting shall be a matter for the Presiding Member's discretion.

4.5.2 No meeting shall be held on a Sunday or Public Holiday.

4.6 Notice of and Summons to Council Meetings

At least three Clear Working Days before a meeting the Head of Legal and Democratic Services shall cause a Notice of the time and place of the meeting to be published at the place of the meeting and a summons shall be sent to every Member of the Council by e-mail unless a Member requests otherwise. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4.7 Election of Leader

4.7.1 The Leader shall be elected biennially at the Annual Meeting of Council.

4.7.2 Nominations for Leader shall be made, in writing, to the Chief Executive and shall be delivered at the office of the Chief Executive at least ten Clear Working Days before the meeting. The names of the Members so nominated shall be set out in the summons for the meeting.

4.7.3 If more than one nomination is submitted, voting thereon shall be by secret ballot.

4.7.4 No nominations shall be accepted unless the Member nominated has given written consent.

4.8 Quorum

4.8.1 The quorum of a meeting of Council shall be quarter of the voting Members.

4.8.2 During any meeting, if the Presiding Member counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date to be fixed by the Presiding Member in consultation with the Head of Legal and Democratic Services. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting.

4.9 Questions from Members of the Public at Ordinary Meetings

4.9.1 A question may only be asked by a member of the public if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services, such notice must contain the full name and address of the person submitting the question, and must be received by the Head of Legal and Democratic Services at least ten Clear Working Days before the date of the meeting at which it is to be put.

4.9.2 The Presiding Member in consultation with the Head of Legal and Democratic Services may reject a question and not include it in the agenda for the next Ordinary Meeting of Council, if he/she considers that the question:

- (a) does not relate to a matter for which the Council has a responsibility or which does not affect Pembrokeshire; or

- (b) is defamatory or vexatious; or
- (c) discloses Confidential or Exempt information, or the response would be likely to disclose such information; or
- (d) is substantially the same as a question which has been submitted in the past six months; or
- (e) is being asked by a member of the public who:
 - (i) is not a local government elector for Pembrokeshire (or is not over the age of 16 but would otherwise qualify as an elector for Pembrokeshire); or
 - (ii) is not and has not been for the whole of the preceding 12 months, an occupier, owner or tenant of any land or other premises in Pembrokeshire; or
 - (iii) is not employed or had his/her principal or only place of work during the whole of the preceding 12 months in Pembrokeshire; or
 - (iv) is not and has not during the whole of the preceding 12 months resided in Pembrokeshire; -

in which case he/she will return the question to the person who submitted it together with his/her reasons for rejecting it.

The decision of the Presiding Member in consultation with the Head of Legal and Democratic Services shall be final.

4.9.3 Questions will be put orally by the Presiding Member on behalf of the relevant member of the public in the order in which they have been received and, at any one meeting, no person may submit more than two questions. The Presiding Member may group together similar questions if he/she considers that it is appropriate to do so.

4.9.4 Each question and answer should be disposed of within no more than three minutes.

4.9.5 The Presiding Member shall invite the Leader, the appropriate Cabinet Member or the Chairman of an appropriate Committee to reply to the question. The person replying shall either provide a substantive oral answer to the question or undertake that a written answer will be given within ten Clear Working Days of the date of the meeting.

4.9.6 A maximum of 30 minutes will be allowed for all questions to be put and answered on behalf of members of the public. Where a question is not reached during the meeting, the Presiding Member will, immediately following the meeting, allocate each question to the Leader, the appropriate Cabinet Member or the Chairman of an appropriate Committee, and that person shall send a written reply to the person, who submitted the question within ten Clear Working Days of the date of the meeting, the reply then

forming part of the minutes.

4.9.7 Copies of all written answers will be sent to all Members by email unless a Member requests otherwise.

4.9.8 Members of the public must attend personally and identify themselves to the Head of Legal and Democratic Services prior to the commencement of the meeting and if they do not do so then the question will not be put at the meeting. [Under the current lockdown restrictions, a member of the public will be required to send scanned documentation to verify he/she meets the criteria for submitting a question.]

4.10 Questions from Members of Council at Ordinary Meetings

4.10.1 Any Member may submit a question by sending it in writing or by e-mail to the Head of Legal and Democratic Services, such notice must be received by the Head of Legal and Democratic Services at least ten Clear Working Days before the date of the meeting at which it is to be put.

4.10.2 The Presiding Member in consultation with the Head of Legal and Democratic Services may reject a question and not include it in the agenda for the next Ordinary Meeting of Council, if he/she considers that the question:

- (a) does not relate to a matter for which the Council has a responsibility or which does not affect Pembrokeshire; or
- (b) is defamatory or vexatious; or
- (c) discloses Confidential or Exempt information; or
- (d) is substantially the same as a question which has been submitted in the past six months and the Rules in 4.14 will then apply;

in which case he/she will return the question to the Member who submitted it together with his/her reasons for rejecting it.

The decision of the Presiding Member in consultation with the Head of Legal and Democratic Services shall be final.

4.10.3 Questions will be put in the order in which they have been received and, at any one meeting, no Member may submit more than three questions. The Presiding Member may change the order of questions or group together similar questions if he/she considers that it is appropriate to do so.

4.10.4 Each Member asking a question may speak for a maximum of three minutes to ask his/her question.

4.10.5 The Presiding Member shall either reply to the question or invite the Leader, the appropriate Cabinet Member or the Chairman of an appropriate Committee to reply to the question. The person replying shall provide a substantive oral answer to the question.

4.10.6 The Member asking a question may ask one supplementary question or nominate another Member to ask one supplementary question of the Member who replied to the initial question. Further supplementary questions from other Members shall be permitted only at the discretion of the Presiding Member. All supplementary questions must arise directly out of the original question or reply and a maximum of three minutes will be allowed for each supplementary question to be put and answered. The person replying shall either provide a substantive oral answer to the question or undertake that a written answer will be given within 10 Clear Working Days of the date of the meeting.

4.11 Notices of Motion

4.11.1 Notice

- (a) Except for motions which can be moved without notice under Rule 4.12, written notice of every motion signed by the Member(s) giving the notice, must be received by the Head of Legal and Democratic Services 10 Clear Working Days before the date of the meeting. All such notices of motion received will be entered in a book open to public inspection. No motion moved by notice will be debated at the Annual Meeting of the Council. Members of the Council may give notice of not more than three motions each for consideration at any meeting of the Council.
- (b) All notices of motion must incorporate the verifiable signature(s) of the relevant Member(s) submitting it, save that, if submitted by email, a hard copy of the notice incorporating the verifiable signature(s) of the relevant Member(s) submitting the notice must be received by the Head of Legal and Democratic Services (or his/her authorised representative) prior to the commencement of the Council Meeting. Failure to provide such hard copy of the notice prior to the commencement of the Council meeting will result in that notice being deemed invalid for consideration at that meeting of the Council, despite the fact that it is listed as an item on the Agenda for that meeting.
- (c) The Presiding Member in consultation with the Head of Legal and Democratic Services will include every notice of motion received in the agenda for the next Ordinary Meeting of Council, unless he/she considers that the notice of motion:
 - (i) does not relate to a matter for which the Authority has a responsibility or which affects Pembrokeshire; or
 - (ii) is defamatory or vexatious; or
 - (iii) discloses Confidential or Exempt information; or
 - (iv) is substantially the same as a notice of motion which has been debated at a meeting of the Council in the past six months;

in which case he/she will return the notice of motion to the Member who submitted it together with his/her reasons for rejecting it.

The decision of the Presiding Member in consultation with the Head of Legal and Democratic Services shall be final.

4.11.2 Motion set out in Agenda

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

4.11.3 Motion not moved

If a motion set out in the summons is not moved either by a Member who gave notice thereof or by some other Member on his/her behalf when that item of business is reached at the meeting, it shall, unless postponed by consent of the Council, be treated as withdrawn.

4.11.4 Automatic Reference to Committee/Cabinet

(a) A motion whose terms call for a decision of an executive nature shall, upon being moved and seconded, stand referred without discussion to Cabinet. Cabinet will make a final decision on the matter before the next ordinary meeting of Council. Any decision of Cabinet may be subject to executive call-in provisions.

(b) A motion whose terms call for a decision of a constitutional nature shall, upon being moved and seconded, stand referred without discussion to the Constitutional Review Committee. The Constitutional Review Committee will consider the proposal and make a recommendation to Council. Council will make the final determination of the motion at its next ordinary meeting following that at which the motion was originally tabled.

(c) A motion whose terms call for a decision which is neither of an executive nor constitutional nature shall, upon being moved and seconded, stand referred without discussion to the committee whose remit the proposal most closely aligns with. The receiving committee will consider the proposal and make a recommendation to Council. Council will make the final determination of the motion at its next ordinary meeting following that at which the motion was originally tabled.

(d) In the case of a motion whose terms call for a decision of both an executive and a non-executive nature, only those matters of an executive nature will be referred to Cabinet, in accordance with (a). A decision on remaining matters not of an executive nature, will be referred in accordance with (b) or (c), as applicable.

(e) With the agreement of the promoter of the motion, Cabinet may resolve to delay its final decision on a motion which was referred under (a), provided that the delay accords with (g).

(f) With the agreement of the promoter of the motion, the committee receiving a referral under (b) or (c) may resolve, only by a two-thirds

majority, to defer its consideration of the referred matter to a sub-committee, working group, or subsequent meeting, provided that any associated delay accords with (g).

(g) In any case, a final determination on any motion must be made by Cabinet or Council, as applicable, no later than the date of the second ordinary Council meeting following the Council meeting at which the motion was originally tabled.

(h) The [Chairman/Presiding Member] may, if he/she considers it essential and conducive to the despatch of business, allow the notice of motion to be dealt with at the Council meeting at which it is originally tabled. In such a case, notice of this determination, along with a copy of the supporting submission, must be circulated to all Councillors at least one clear day before the meeting. Notice must also be given at the start of the meeting, during the [Chairman's/Presiding Member's] Announcements.

4.11.5 Written Supporting Submissions

- (a) Any Member submitting such notice of motion shall provide the Head of Legal and Democratic Services with a written submission in support of the proposal 10 Clear Working Days after the date of the meeting at which it was first put.
- (b) If no such submission is received within that specified period, the notice of motion shall be deemed as being withdrawn.
- (c) The Member's written submission shall be circulated with the Agenda to any Council or Committee meeting considering the notice of motion.

4.11.6 Right of the motion's originator to speak first

The member in whose name a motion has been submitted will be given the first opportunity to speak to that motion at any meeting at which he or she has a right to speak. For a motion submitted in the name of multiple signatories, the right to speak first shall be granted to one of those members nominated from among, and by, those members for that purpose.

4.12 Motions which may be moved without notice

The following motions may be moved without notice:

- 4.12.1 to elect a Presiding Member of the meeting at which the motion is moved in the absence of the Presiding Member or the Chairman/Deputy Presiding Member;
- 4.12.2 to correct the accuracy of the draft minutes of the previous meeting;
- 4.12.3 to change the order of business in the agenda;
- 4.12.4 to refer a matter to an appropriate body or individual;
- 4.12.5 to receive reports or adopt recommendations of Cabinet in relation to

Council business, Committees or Officers; and to consider any motion directly arising from the business on the Agenda to be transacted;

- 4.12.6 to withdraw a motion;
- 4.12.7 to amend a motion;
- 4.12.8 to proceed to the next business;
- 4.12.9 that the question be now put;
- 4.12.10 to adjourn a debate;
- 4.12.11 to adjourn a meeting;
- 4.12.12 to suspend a particular Council procedure rule, subject to Rule 4.21.1;
- 4.12.13 to exclude the public and press from all or part of the meeting;
- 4.12.14 to not hear further a Member named under Paragraph 4.19.3 or to exclude them from the meeting under Rule 4.19.4;
- 4.12.15 to give the consent of the Council where its consent is required by this Constitution; and
- 4.12.16 to determine the voting mechanism in relation to 4.15.6 hereof.

4.13 Rules of Debate at Meetings of Council

4.13.1 Moving and seconding motions

No motion will be considered unless and until the mover has moved a proposal and has explained the purpose of it and the motion has been seconded.

4.13.2 Right to require motion in writing

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

4.13.3 Secunder's speech

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

4.13.4 Content and length of speeches

- (a) Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- (b) No speech may exceed five minutes for the mover of the motion and three minutes in all other cases without the consent of the Presiding

Member.

4.13.5 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; and
- (g) to ask a question during the debate.

4.13.6 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, Committee 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 the amendment 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 Presiding Member will read out the amended motion before accepting any further amendments, or

if there are none, put it to the vote.

- (f) A further amendment shall not be moved
 - (i) unless the proposer gives notice of the terms of a further amendment before any amendment is put to the vote; and
 - (ii) until the Council shall have disposed of every amendment previously moved.
- (g) If the further amendment is lost, the original motion or the amendment which has been carried (and which becomes the substantive motion) still stands.

4.13.7 Alteration of motion

- (a) A Member may alter a motion of which he/she has given notice with the consent of the meeting.
- (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.

4.13.8 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.

4.13.9 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/her amendment.

4.13.10 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 or alter a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Rules; and
- (h) to not hear further a Member named under Rule 4.19.3 or to exclude them from the meeting under Rule 4.19.4.

4.13.11 Closure motions

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

4.13.12 Point of order

A Member may raise a point of order at any time. The Presiding Member will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of 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 Presiding Member on the matter will be final.

4.13.13 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 Presiding Member on the admissibility of a personal explanation will be final.

4.13.14 Motions affecting persons employed by the Council

If any issue arises at a meeting of the Council as to the appointment, promotion, dismissal, salary, superannuation or conditions of service, or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council has decided on the exercise of the power of exclusion of the public under the terms of Paragraph 12 of Part 4 of Schedule 12A to the Local Government Act 1972 as amended.

4.14 Previous Decisions and Motions

4.14.1 Except following submission of a report by an Officer of the Council, the Cabinet or a Committee, any motion to rescind, change or reconsider a decision made at a meeting of Council within the past six months cannot be moved except upon a notice of motion in writing signed by at least a quarter of the voting Members.

4.14.2 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 except upon a notice of motion signed by at least a quarter of the voting Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.15 Voting

4.15.1 Majority

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

4.15.2 Presiding Member's casting vote

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

4.15.3 Show of hands

Unless a recorded vote is demanded under Rule 14.15.4, the Presiding Member will take the vote by show of hands or if there is no dissent, by the affirmation of the meeting. The Council may, however, by resolution adopt such other method of voting as they may consider expedient on any

particular matter.

4.15.4 Recorded vote

On the requisition of any Member of the Council made before the vote is taken and supported by ten other Members who signify their support by either rising in their places or otherwise indicating to the Presiding Member, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the Minutes.

4.15.5 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.

4.15.6 Voting on appointments

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

4.16 Minutes

4.16.1 Signing the Minutes

The Presiding Member will, at the next convenient meeting, move that the Minutes of any previous meetings be signed as a correct record. Only issues of accuracy can be raised. If so approved as a correct record, the Presiding Member will then sign the Minutes of the proceedings.

4.16.2 No requirement to sign Minutes of previous meeting at Extraordinary Meeting

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

4.16.3 Publication of Draft Minutes of Meetings

Draft Minutes of meetings will be published on the Council's website within 15 Clear Working Days following the date of a Council meeting and shall be accompanied by wording indicating that they are subject to approval as a correct record at the next meeting of Council.

4.17 Record of Attendance

4.17.1 All Members present during the whole or part of a meeting must sign their

names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

- 4.17.2 Members should formally declare if they are leaving the meeting permanently before it ends.

4.18 Exclusion of the Public and Press

4.18.1 Members of the public and press shall be excluded from any part of the meeting at which it is likely that Confidential Information will be disclosed and Council may resolve to exclude the public where it is likely that Exempt Information will be disclosed and Council is of the view that the public interest in maintaining the privacy of the exempt information outweighs any public interest in disclosure. Members of the public and press may also be excluded in accordance with Rule 4.20.1 (Disturbance by the Public).

4.18.2 Following a resolution to exclude the public and press from any part of a public meeting, if the discussion to be held in private session is one which every councillor is entitled to attend as an observer, proceedings must adjourn until at least five minutes after all councillors have been circulated, by email, the means of observing the private session.

4.19 Members' Conduct

4.19.1 Speaking in Meetings

When a Member is called to speak he/she may stand or otherwise address the meeting through the Presiding Member. 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.

4.19.2 Presiding Member standing

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

4.19.3 Member not to be heard further

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

4.19.4 Member to leave the meeting

If the Member named continues his misconduct after a motion under the previous rule has been carried, the Presiding Member may:

- (a) either move, "that the Member named do leave the meeting" (in which case the motion shall be put and determined without seconding or discussion); or

(b) adjourn the meeting of the Council for such period as he/she in his/her discretion shall consider expedient.

4.19.5 General disturbance

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

4.20 Disturbance by the Public

4.20.1 Removal of member of the public

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

4.20.2 Clearance of part of meeting room

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

4.21 Suspension and Amendment of Council Procedure Rules

4.21.1 Suspension

All of these Council Rules of Procedure except Rules 4.11.2, 4.15.5 and 4.16.2, may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting.

4.21.2 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 suitable Ordinary Meeting of the Council, in order for the Monitoring Officer to prepare a report in respect of that motion.

4.22 Filming and use of Social Media during Meetings

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

5 BUDGET

5.1 The Draft Budget will be considered by Cabinet at its initial Budget Meeting and copies will be provided to every Councillor. Following Cabinet consideration, a statement will be issued by the Director of Resources confirming whether he/she considers that the Draft Budget, if approved, would be "robust" for the purpose of Section 25 of the Local Government Act 2003.

5.2 The Draft Budget shall be automatically referred to the Overview and Scrutiny Committees for consideration prior to the Budget Meeting of Cabinet and

subsequent Budget Meeting of Council.

- 5.3 No amendment to the Draft Budget that affects Council Tax shall be considered at Council unless the text of such proposed amendment has been provided in writing to the Director of Resources and to the Head of Legal and Democratic Services no less than ten Clear Working Days in advance of the Budget Meeting of Council, to enable the Director of Resources to determine whether the Budget, amended in accordance with that proposed amendment, would be "robust".
- 5.4 Where Council considers the Draft Budget, it may
- 5.4.1 approve the Draft Budget; or
 - 5.4.2 approve an amended Draft Budget; or
 - 5.4.3 subject to the duty to adopt a Budget no later than 11 March in any Municipal Year, instruct the Cabinet to submit a revised Draft Budget.
- 5.5 Once a Budget is in place, it will be the responsibility of Cabinet to implement it.

6 THE POLICY FRAMEWORK

- 6.1 Council may resolve that any proposed plan, policy or strategy shall be part of the Policy Framework.
- 6.2 Council may instruct Cabinet:
- 6.2.1 to formulate, prepare and submit to Council for approval a draft of any plan, policy or strategy which is, or will once adopted, form part of the Policy Framework; and
 - 6.2.2 to formulate, prepare and submit to Council amendments to, or amended versions of, any plan, policy or strategy which is part of the Policy Framework.
- 6.3 Where Cabinet submits to Council any draft revised plan, policy or strategy, Council may:
- 6.3.1 approve that draft revised plan, policy or strategy;
 - 6.3.2 amend and adopt that draft revised plan, policy or strategy; or
 - 6.3.3 instruct the Cabinet to re-consider the draft revised plan, policy or strategy and prepare and submit revised proposals to Council.
- 6.4 Once a Policy Framework is in place, it will be the responsibility of Cabinet to implement it.

7 DEPARTURE DECISIONS

Where the Cabinet refers a proposed decision to Council as a Departure Decision, Council shall determine the matter itself and shall not refer it to any Committee, Sub-Committee or Officer for determination.

8 COMMON SEAL OF THE COUNCIL

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services or some other person authorised by him/her should be sealed. The affixing of the Common Seal will be attested by the Head of Legal and Democratic Services or some other person authorised by him/her.

9 FAMILY ABSENCE OF MEMBERS

- 9.1 In accordance with Part 2 of the Local Government (Wales) Measure, 2011, where a Councillor is absent on Family Absence, he/she may apply to the Presiding Member for permission to attend particular meetings or attend particular descriptions of meetings, to perform particular duties or to perform duties of a particular description.
- 9.2 Where the Presiding Member refuses such a request, the Member concerned may appeal to the Member Family Absence Complaints Panel by notice in writing to the Head of Legal and Democratic Services.

SECTION 4 – THE CABINET

1 INTRODUCTION AND CABINET FUNCTIONS

- 1.1. The Cabinet is appointed by the Leader to carry out all of the Authority's functions which are not the responsibility of any other part of the Authority whether by Law or under this Constitution.
- 1.2. Cabinet shall be responsible for formulating, preparing and submitting to Council for approval or amendment any draft plan, policy or strategy which is, or will once adopted, form part of the Policy Framework.

2 FORM AND COMPOSITION OF THE CABINET

- 2.1 The Cabinet will consist of:

- 2.1.1 the Leader; and

- 2.1.2 such other Councillors as the Leader shall appoint as Members of the Cabinet being at least two but not more than nine other Councillors.

- 2.2 Cabinet Members (other than the Leader and Deputy Leader)

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

- 2.2.1 he/she resigns from that office; or

- 2.2.2 he/she is removed from that office by the Leader by sending notice in writing to the Head of Paid Service and to the Member of the Cabinet concerned; or

- 2.2.3 he/she ceases to be a Councillor; or

- 2.2.4 he/she is suspended or disqualified from acting as a Councillor or as a Member of the Cabinet.

The Leader may at any time appoint a Cabinet Member to fill any vacancies by sending notice in writing to the Head of the Paid Service and to the Councillor so appointed.

3 DISCHARGE OF CABINET FUNCTIONS

- 3.1 The Leader may exercise Executive Functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

- 3.1.1 a Committee of the Cabinet (comprising Cabinet Members only);
- 3.1.2 an individual Cabinet Member;
- 3.1.3 a Joint Committee;
- 3.1.4 an Officer.

3.2 Operation of Delegations

Following the Annual Meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation in this Constitution. This will contain the following information about Executive Functions in relation to the coming year:

- 3.2.1 the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- 3.2.2 the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 3.2.3 the nature and extent of any delegation of Executive Functions or any joint arrangements; and
- 3.2.4 the nature and extent of any delegations to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

The Scheme of Delegation is appended in Appendix A to this Section of the Constitution.

3.3 Amendment to Delegations

- 3.3.1 The Leader may amend the scheme of delegations relating to Executive Functions at any time. In doing so the Leader will give written notice to the Head of Legal and Democratic Services and to the person, body or Committee concerned.
- 3.3.2 The notice referred to in 3.3.1 must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegations from any person, body or Committee.

4 CABINET MEETINGS

4.1 Time and Place of Meetings

Meetings of the Cabinet shall be held at such time and place as may be determined by the Leader subject to appropriate facilities being available.

4.2 Notice of and Summons to Cabinet Meetings

At least three Clear Working Days before a meeting the Head of Legal and Democratic Services shall cause a Notice of the time and place of the meeting to be published at the place of the meeting and a summons shall be sent electronically, unless a Member requests otherwise, to every Member of the Cabinet. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4.3 Business to be transacted at Cabinet Meetings

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

- (a) To receive any apologies for absence;
- (b) To receive any declarations of interest in any matter to be discussed at the meeting;
- (c) To receive the decisions of the last meeting, for information only;
- (d) Any matters referred to the Executive (whether by the Council, a Committee or by an Overview and Scrutiny Committee) for consideration by the Cabinet;-
- (e) To consider any reports from Officers;
- (f) To consider any matters set out in the agenda for the meeting.

4.3.2 The order of business may be varied at the discretion of the person presiding.

4.4 Consultation

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and with the relevant Overview and Scrutiny Committee 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.

4.5 Who can put items on the Cabinet Agenda?

4.5.1 The Leader will decide upon the schedule for meetings of the Cabinet.

4.5.2 The Leader may put any matter on the agenda of any Cabinet meeting whether or not it is an Executive Function or the relevant powers in respect of that matter have been delegated to the Cabinet, a Committee of it or any Member or Officer in respect of that matter.

4.5.3 Any Member of the Cabinet may require the Head of Legal and Democratic

Services to place an item on the agenda of the next available meeting of the Cabinet for consideration.

4.5.4 The Head of Paid Service, the Head of Legal and Democratic Services, the Monitoring Officer and/or the Director of Resources may include an item for consideration on the agenda of a meeting of the Cabinet and may require that such a meeting be convened in pursuance of their statutory duties.

4.5.5 In other circumstances, where any two of the Head of Paid Service, Head of Legal and Democratic Services, Director of Resources and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting 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.

4.6 Chairing Cabinet Meetings

All Cabinet Meetings shall be chaired by the Leader or, by the Deputy Leader, or where neither the Leader nor the Deputy Leader is present or able to participate in all or part of the meeting, by a Cabinet Member elected for that purpose at the meeting.

4.7 Quorum

The quorum of a meeting of Cabinet shall be half of the Cabinet Members.

5 BUDGET

5.1 The Cabinet shall be responsible for the preparation of and submission to Council for their consideration, of :

5.1.1 The draft Budget; and

5.1.2 If so requested by Council, revisions to the Budget or a substitute Draft Budget.

5.2 Where practicable, Cabinet shall approve such estimates at least 12 Clear Working Days before the date of the Council Budget Meeting.

6 THE POLICY FRAMEWORK

6.1 The Policy Framework comprises those plans, policies and strategies listed in Schedule 3 to the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, as amended.

6.2 Process for Developing the Framework

The process by which the Policy Framework shall be developed is:

- 6.2.1 The Cabinet will publicise a timetable for making proposals to the Council for the adoption of any plan, policy, strategy or budget that forms part of the Budget and Policy Framework, and its arrangements for consultation on such draft proposals. The consultation period shall not be less than four weeks unless the Leader and Presiding Member in consultation with the Head of Paid Services, Head of Legal and Democratic Services and Director of Resources shall determine a different length of consultation period if necessary.
- 6.2.2 At the end of that period, the Cabinet shall draw up firm proposals having regard to any responses, including those from Overview and Scrutiny Committees, and submit those proposals to the Council for approval or adoption.
- 6.2.3 Council may adopt such proposals, with or without amendment, or may remit such proposals to the Cabinet with instructions to reconsider and to submit revised proposals.

7 DISCHARGE OF FUNCTIONS WITHIN THE BUDGET AND THE POLICY FRAMEWORK – DEPARTURE DECISIONS

- 7.1 The Cabinet shall, subject as below, discharge its functions in accordance with the Council's approved Budget and the Policy Framework.
- 7.2 The Cabinet shall not take any proposed decision which is contrary to the approved Budget and the Policy Framework except in the circumstances set out in Paragraph 7.3.
- 7.3 Paragraph 7.2 above shall not apply (i.e. the Cabinet may take the proposed decision) where:
 - 7.3.1 the circumstances which render necessary the making of the determination may reasonably be regarded as urgent; and
 - 7.3.2 the Cabinet has obtained from any two out of the Chairman of the relevant Overview and Scrutiny Committee, the Presiding Member of the Authority, and the Chairman/Deputy Presiding Member of the Authority, a statement in writing that the determination needs to be made as a matter of urgency.
- 7.4 In Paragraph 7.3.2 “relevant Overview and Scrutiny Committee” means an Overview and Scrutiny Committee of the Authority whose terms of reference include the power to review or scrutinise decisions or other action taken in the discharge of the function to which the determination relates and in the event of a dispute as to the identity of the most relevant Committee, the matter will be determined by the Head of Legal and Democratic Services.
- 7.5 The person or body taking an urgent decision in the circumstances set out in paragraph 7.4 must, as soon as reasonably practicable after the making of the determination, submit to Council a report which shall include particulars of the determination, the reasons for it and the reason why the decision was treated as a matter of urgency.

PEMBROKESHIRE COUNTY COUNCIL

INDIVIDUAL CABINET MEMBER DELEGATIONS

1. PROCEDURE

Individual Cabinet Members making decisions in connection with the discharge of the executive functions allocated to them in this scheme of delegation:-

- 1.1 Shall do so on the basis of the merits and facts of the case and in the public interest;
- 1.2 Shall have regard to professional advice provided by Council Officers and in particular by the Head of Paid Service, Section 151 Officer, the Head of Legal and Democratic Services and the Monitoring Officer who must be consulted as appropriate when there are potential staffing implications or there is any doubt about the financial prudence or legality of any proposed action or failure to act;
- 1.3 Shall act within the approved Budget and Policy Framework and comply with all other existing policies and procedures of the Council.
- 1.4 Shall comply with the Council's Financial Regulations and Standing Orders Relating to Contracts in Part 4 of the Council's Constitution.
- 1.5 The Leader may in his absolute discretion require any Individual Cabinet Member to cease to discharge all or any of the functions allocated to him/her and may discharge the functions himself or refer the matter to full Cabinet for decision.
- 1.6 The Head of Paid Service, Section 151 Officer, the Head of Legal and Democratic Services, the Monitoring Officer and any Statutory Officer may require any Individual Cabinet Member to cease to discharge all or any of the functions allocated to him/her pending the submission of a report by that Officer to the next meeting of the Cabinet.
- 1.7 The Cabinet Member or Leader may decline to make a delegated decision in relation to the matters listed in Paragraph 2 and may instead refer the matter for decision by the Cabinet where a matter they, in conjunction with the relevant Chief Officer, consider to be particularly contentious or is likely to have a very significant impact on individual service users or the community as a whole.
- 1.8 In an emergency, where the decision is urgent and any delay would seriously prejudice the Council's or the public's interests, the Chief Executive and each Director, together with his/her authorised officers, shall have delegated power to make that decision within his/her functional portfolio. The relevant officer shall make all reasonable efforts to contact the Leader and/or relevant Cabinet Member to inform him/her of the emergency and/or the emergency decision as soon as reasonably practicable.

- 1.9 The relevant Officer shall first prepare a Report using the prescribed form at Paragraph 4 and send it to the Individual Cabinet Member, the Leader, the Committee Services Manager and the relevant Overview and Scrutiny Committee Chairman. Reports will be published on the Council's website under the heading "Individual Cabinet Member Reports for Decision".
- 1.10 Before making a decision in accordance with this Scheme of Delegation, the relevant Cabinet Member shall:-
- 1.10.1 Wait 3 working days excluding the day on which it was sent by the relevant officer in accordance with Paragraph 1.8 before making any decision, the only exception to this stand-still period being where the decision is urgent and any delay would seriously prejudice the Council's or the public's interests; and
- 1.10.2 Take into consideration the advice of all relevant Council Officers and the views of the relevant Ward Member(s) and other Cabinet Members where appropriate as well as the views of other Council Members if expressed in relation to the proposed decision.
- 1.10.3 Duly consider the Report before making any decision and then return the duly signed prescribed form to the Committee Services Manager with a copy to the relevant Officer who prepared the Report
- 1.11 The Committee Services Manager shall then supply a copy of the signed form to the Chairperson of the relevant Overview and Scrutiny Committee and the Record of Decision in Paragraph 5 will also be published on the website and sent to all Members of the Council.
- 1.12 The decision may be implemented on the expiry of three working days following publication of the prescribed form.
- 1.13 Cabinet Member decisions will be subject to Call-In arrangements in accordance with Section 7, Part 2 of this Constitution and any recommendations of the relevant Overview and Scrutiny Committee will be considered and the final decision will be made by the full Cabinet.
- 1.14 If the Cabinet Member making the decision has a personal and prejudicial interest, then the matter will be automatically referred to the Leader. Similarly, if the Leader is making the decision and the Leader has a personal and prejudicial interest the matter will automatically be referred to the full Cabinet.

2. SPECIFIC FUNCTIONS DELEGATED TO INDIVIDUAL CABINET MEMBERS WITHIN THEIR RESPECTIVE PORTFOLIOS

- 2.1 Authorise the award of contracts for the supply of goods and services or the undertaking of works with total estimated values as follows:-
- 2.1.1 Goods and services: between £300,000 and £2 million.
- 2.1.2 Light Touch Services: between £500,000 and the relevant EU threshold from time to time.

- 2.1.3 Works: between £500,000 and the relevant EU threshold from time to time
- 2.1.4 Concession contracts: between £500,000 and the relevant EU threshold from time to time.

- 2.2 Authorise acquisition or disposal of land or premises, in consultation with the Leader, the value of which exceeds £150,000 but does not exceed £1million.
- 2.3 Agree virements between budget heads where the total virement to or from any given budget head exceeds £50,000 but does not exceed £1million.
- 2.4 Authorise schemes within the agreed capital programme or for which capital provision is available within a delegated budget if deemed affordable by the Section 151 Officer, subject also to paragraph 2.1 above.
- 2.5 Authorise bids for external funds exceeding £100,000 but not exceeding £2million subject to financial regulations and any matching funding being identified at the time of bidding.
- 2.6 Determination of increases in fees and charges in excess of inflation, as long as such charges are within the Cabinet's overall charging policy to ensure consistency, do not conflict with, or compromise any other existing or proposed policy or portfolio initiative, are within approved budgets, lawful and financially sound and do not include any profit element.

3. GENERAL FUNCTIONS DELEGATED TO INDIVIDUAL CABINET MEMBERS WITHIN THEIR RESPECTIVE PORTFOLIOS

- 3.1 Propose budgets and policy developments to the Cabinet.
- 3.2 Develop statutory plans with relevant directors for approval by the Cabinet.
- 3.3 Consult other cabinet members or the whole Cabinet on matters that may affect other portfolios or have a significant impact on the Council as a whole.
- 3.4 Respond to matters raised by scrutiny bodies and attend hearings or meetings of scrutiny bodies when required.-
- 3.5 Develop implementation plans and programmes with relevant directors for approval by the Cabinet.
- 3.6 Periodically report on performance to the Council and/or scrutiny bodies.
- 3.7 Consider proposals from the Corporate Management Team or directors that represent a change to Cabinet policy or a significant change in service delivery.
- 3.8 Act as sponsor for officer reports to Cabinet excluding statutory reports by statutory officers.
- 3.9 Develop, in conjunction with directors, partnership proposals with external organisations.

- 3.10 Unless delegated to Officers, make formal responses and representations to external organisations and also authorise responses to consultation documents from government departments, the Welsh Local Government Association and other local authorities affecting the portfolio area.

SECTION 5 – THE LEADER

1 ELECTION

- 1.1 The Leader will be elected biennially by full Council in accordance with this Constitution.
- 1.2 Where the post of Leader becomes vacant between such Annual Meetings, the Leader will be elected at the meeting of the Council at which the post falls vacant or the next meeting of the Council.

2 TERM OF OFFICE

- 2.1 The Leader will be elected biennially and his/her term of office will end upon the election of his/her successor (if any) at the Annual Meeting of Council. Where the Leader is elected mid-term, the term of office shall be for the balance of the previous Leader's term of office.
- 2.2 Notwithstanding the termination of office of all Councillors four days after the ordinary local elections, the Leader shall remain in office as Leader until the election of his/her successor at the next Annual Meeting of Council subject to 3.3.

3 RESIGNATION, REMOVAL, DISQUALIFICATION AND SUSPENSION

- 3.1 The Leader may resign from the position of Leader by writing to the Chief Executive.
- 3.2 The Leader can be removed from office by resolution of Council following submission of a notice of motion. Any notice of motion of no confidence in the Leader must be delivered to the Head of Paid Service at least 15 Clear Working Days before a meeting of Council at which it is to be put. The Head of Paid Service must then notify Members of such notice of motion at least 12 Clear Working Days before the meeting, nominations for election to the post of Leader must then be delivered to the Head of Paid Service at least seven Clear Working Days before the meeting. The names of the Member or Members so nominated shall be set out in the summons for the meeting. If no nominations are received by the Head of Paid Service in accordance with the procedure, the notice of motion will not be included in the summons for the meeting.
- 3.3 The Leader shall cease to be Leader if he/she ceases to be a Councillor by reason of non-re-election, resignation or disqualification or otherwise, or is suspended from acting as a Councillor or as Leader.

4 FUNCTIONS OF THE LEADER

- 4.1 Appointing the Cabinet

The Leader is automatically a Member of the Cabinet and appoints and dismisses Councillors to be the other Members of the Cabinet within the numbers determined by Council, currently a minimum of two, and a maximum of nine other Councillors.

4.2 Role of the Leader

The Leader will chair meetings of the Cabinet and determine the areas of responsibility (Portfolios) of each Cabinet Member and allocate Portfolios to each Cabinet Member.

4.3 The Executive Scheme of Delegations

4.3.1 The Leader will prepare and approve a scheme of Executive delegated powers, setting out which Executive Functions are to be discharged by himself/herself, by Cabinet, by any Committee of Cabinet, by individual Cabinet Members within their Portfolios or by Officers. (See Appendix A on page 49 of this Constitution.)

4.3.2 The Leader shall send a copy of the scheme of Executive delegated powers to the Head of the Paid Service, who will report it to the next convenient meeting of Council for information.

4.3.3 The Leader will keep the scheme of Executive delegated powers under review and may change it at any time by notice in writing to the Head of the Paid Service, who shall report any significant change to the next convenient meeting of Council for information.

4.4 Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting three Clear Working Days before it takes place, the Leader can call meetings of the Cabinet at such times as he/she chooses. The Head of Paid Service, the Section 151 Officer and the Monitoring Officer can also, should the need arise, call meetings of the Cabinet.

4.5 Chairing Cabinet Meetings

The Leader shall chair Cabinet meetings. In the Leader's absence, the Deputy Leader will chair Cabinet meetings. If the Deputy Leader is not available or able to act, the Cabinet will appoint a Member of the Cabinet to Chair the meeting.

5 DEPUTY LEADER

5.1 Appointment

The Leader may designate one of the Members of the Cabinet as Deputy Leader by giving notice in writing to that effect to the Head of the Paid Service, signed by the Leader and the proposed Deputy Leader.

5.2 Term of Office

The Deputy Leader shall remain in office until:

5.2.1 he/she resigns from that office; or

5.2.2 he/she is removed from that office by the Leader by sending notice in

writing to the Head of the Paid Service and to the Member of the Cabinet concerned; or

5.2.3 he/she ceases to be a Councillor; or

5.2.4 he/she is suspended or disqualified from acting as a Councillor or from acting as a Member of the Cabinet.

5.2.5 The Deputy Leader shall cease to be Deputy Leader upon suffering any injury or disability which will, or is likely to, prevent him/her from undertaking the role of Deputy Leader for a period of three months or more.

He/she will however remain in office notwithstanding a vacancy in the office of Leader.

5.3 Duties of the Deputy Leader

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

6 DECISION-MAKING BY THE LEADER AND THE DEPUTY LEADER

In accordance with Paragraph 7 of Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001:

6.1 As soon as is reasonably practicable after the Leader or Deputy Leader has made any executive decision, he/she shall instruct the Head of Legal and Democratic Services to produce a written statement of that executive decision which includes the information specified in paragraph 6.4.

6.2 Subject to paragraph 6.3 any executive decision made by an individual Member shall not be implemented until a written statement has been produced in accordance with paragraph 6.1.

6.3 Where the date by which an executive decision must be implemented makes compliance with paragraph 6.2 impracticable, the decision shall only be implemented where the decision-maker has obtained agreement from any two out of the Chairman of the relevant Overview and Scrutiny Committee, the Presiding Member of the Authority and the Chairman/Deputy Presiding Member of the Authority, that the making of the decision is urgent and cannot reasonably be deferred and in the event of a dispute as to the identity of the relevant Committee, the matter will be determined by the Head of Legal and Democratic Services.

6.4 The statement referred to in paragraph 6.1 must include:

6.4.1 a record of the decision including the date it was made;

6.4.2 a record of the reasons for the decision;

6.4.3 a record of any interest declared by any Cabinet Member who would have been the decision-maker except for the declaration of such an interest;

- 6.4.4 in respect of any declared interest, a note of any dispensation granted by the Authority's Standards Committee;
- 6.4.5 details of any consultation undertaken in accordance with the Authority's Constitution and where such consultation has not taken place, the reasons why that is the case; and
- 6.4.6 a record of any reasons for urgency which led to the implementation of the decision before the preparation of the statement;

and the statement must be reported to the next Cabinet Meeting.

**SECTION 6 – COMMITTEES AND SUB-COMMITTEES OF COUNCIL
(other than Standards Committee and Overview and Scrutiny Committees)**

1 ESTABLISHMENT OF COMMITTEES

The Council has established particular Committees and may establish such other Committees as it considers to be expedient for the effective discharge of its functions. All Committees other than the Standards Committee are subject to the requirements for proportionality under the Local Government and Housing Act 1989 which broadly require that their composition be proportional to the numerical strengths of each party group on the Council.

1.1 The Governance and Audit Committee

Section 81 of the 2011 Measure requires the Council to appoint a Governance and Audit Committee. Council has determined that this Committee shall comprise six Councillors plus one co-opted voting Lay Member. No more than one Member of the Committee can be a Member of the Executive who must not be the Leader and who must not chair the Committee. The Chair of the Governance and Audit Committee is appointed by it and can be a Lay Member.

1.2 The Democratic Services Committee

Section 11 of the Local Government (Wales) Measure 2011 requires the Council to appoint a Democratic Services Committee. Council has determined that the Committee shall comprise seven Members of whom only one shall be a Member of the Executive who must not be the Leader and who must not chair the Committee.

1.3 The Planning Committee

Council has determined that this Committee shall comprise of 15 Members.

1.4 The Licensing Committee

Section 6 of the Licensing Act 2003 requires the Council to establish a Licensing Committee, comprising at least ten and not more than 15 Members of Council. Council has determined that the Licensing Committee shall comprise 13 Members. It is subject to the requirement for proportionality under the Local Government and Housing Act 1989. Section 7 of the Licensing Act 2003 provides that all the functions of the Authority as Licensing Authority are to be referred to and discharged by the Licensing Committee, other than the approval of the Statement of Licensing Policy.

1.5 The Constitutional Review Committee

Council has determined that this Committee shall comprise 13 Members.

1.6 The Senior Staff Committee

Council has determined that this Committee shall comprise seven Members.

1.7 The Urgency Committee

Council has determined that this Committee shall comprise seven Members.

1.8 The Member Family Absence Complaints Panel

The Family Absence for Members of Local Authorities (Wales) Regulations 2013 requires the Council to establish a Panel to determine complaints under these Regulations. The Panel must comprise three members, and Council has determined that it shall include the Chairman of the Democratic Services Committee.

1.9 The Planning Delegation Panel

Council has determined that the Panel shall comprise seven Members, its composition to reflect the political balance of the Council, but not included in the overall calculation of appointments and will not include the post of Member of Cabinet with responsibility for Planning matters or the Chairman and Members of the Planning Committee.

1.10 The Disciplinary Investigation Committee

Council has determined that this Committee shall comprise 15 Members.

2 APPOINTMENT OF MEMBERS OF COMMITTEES

2.1 Council notes the appointment of Councillors to all seats on Committees which are to be filled by Councillors. Each Committee makes the appointment of Councillors to any seats on its Sub-Committees which are to be filled by Councillors. In practice, Committees make such appointments to their Sub-Committees at their first Ordinary Meeting following the Annual Meeting of Council. Where a vacancy arises mid-year, an appointment will be made to fill that vacancy at the next convenient meeting of Council (or Committees for Sub-Committees).

2.2 The Head of Legal and Democratic Services will notify the leader of each political group of the number of seats allocated to that group on each Committee and Sub-Committee.

2.3 Each group leader will then nominate Members for appointment to each of the seats allocated to his/her political group and Council (or a Committee for a Sub-Committee) is required to make appointments to those seats in accordance with such nominations. Council appoint Councillors who are not members of any political group to the seats which are to be filled by Councillors which are not allocated to a political group.

3 TERM OF OFFICE

Save as set out below, Councillors shall be appointed to Committees for the term of the current Municipal Year or, where appointed mid-year, for the balance of the current Municipal Year.

4 APPOINTMENT OF CHAIRMEN

- 4.1 The Chairmen and Vice Chairmen of the Planning, Licensing and Democratic Services Committees, shall be appointed by Council.
- 4.2 In the absence from all or part of a meeting of the Chairman and Vice-Chairman, the Committee shall elect a member of the Committee to preside as Chairman in their absence.

5 FUNCTIONS OF COMMITTEES

- 5.1 Council may delegate the discharge of any of its functions to a Committee or a Sub-Committee, except where, as set out above, that function is reserved by statute to Council itself.
- 5.2 Each Committee may establish such Sub-Committees, Working Groups and Task and Finish Groups as it considers expedient for the effective discharge of its responsibilities and may determine the number, sizes and terms of reference of Sub-Committees of the Committee and appoint Members, including co-opted Members, of Sub-Committees.
- 5.3 Each Committee may:
 - 5.3.1 discharge those functions itself; or
 - 5.3.2 refer to Council a matter which is within a function delegated to it by Council;
 - 5.3.3 refer a matter to an Overview and Scrutiny Committee or to the Executive by way of consultation; or
 - 5.3.4 make arrangements for the discharge of a function by a Sub-Committee or by an Officer.

6 TIME AND PLACE OF MEETINGS

- 6.1 The time and place of meetings will be determined by the Chairman or the Vice-Chairman of the appropriate Committee in consultation with the Head of Legal and Democratic Services.
- 6.2 No meeting shall be held on a Sunday or Public Holiday.

7 NOTICE OF AND SUMMONS TO MEETINGS

At least three Clear Working Days before a meeting the Head of Legal and Democratic Services shall cause a Notice of the time and place of the meeting to be published at the place of the meeting and a summons shall be sent by e-mail unless a Member requests otherwise. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8 BUSINESS TO BE TRANSACTED AT COMMITTEE MEETINGS

The business to be transacted at meetings of Committees shall be as follows:

- 8.1 election of Chairman, if the Chairman and Vice Chairman are absent or unable to act;
- 8.2 apologies for absence;
- 8.3 to receive any announcements from the Chairman;
- 8.4 declarations of Interest by Members in any item of business;
- 8.5 to receive and, if appropriate, approve as a correct record the Minutes of the last meeting of the Committee;
- 8.6 deal with any business outstanding from the last Committee meeting;
- 8.7 receive and consider any reports from Officers;
- 8.8 receive and consider any reports from the Leader and Cabinet;
- 8.9 receive and consider any reports and recommendations from Sub-Committees of the Committee;
- 8.10 receive and consider any reports, referrals and recommendations from Council and from other Committees; and
- 8.11 consider any other business specified in the summons to the meeting.

9 QUORUM

Quorum of Committees shall be half the voting membership. 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 to be fixed by the Chairman in consultation with the Head of Legal and Democratic Services. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

10 MEMBER ATTENDING MEETINGS WITH CHAIRMAN'S CONSENT

- 10.1 A Member of the Council wishing to attend and speak at a meeting of any Committee of which he is not a Member must obtain the prior consent of the relevant Chairman (unless the Member already qualifies to attend and speak at a Licensing or Planning Committee meeting under the relevant arrangements) and the Chairman's consent shall only be given if the matter(s) identified relate(s) to circumstances directly affecting the Member's own Electoral Division.
- 10.2 Attendance by a Member with the Chairman's consent under this rule shall be regarded as an approved duty.

11 RIGHT OF ADDRESS IN RESPECT OF NOTICES OF MOTION REFERRED FROM COUNCIL

A Member whose notice of motion is referred to a Committee for consideration shall have the right to speak to that motion at the meeting of the Committee at which it is considered. In the event that a notice of motion referred to a Committee has been submitted by more than one Member, one of those Members only, nominated by the others for that purpose, shall have the right to speak to that motion at the Committee meeting at which it is considered.

12 APPLICATION TO SUB-COMMITTEES

These Rules shall apply to Sub-Committees as they do to Committees.

13 RULES OF PROCEDURE

Rules 4.13 (at the discretion of the Chairman) and 4.14 to 4.22 (but not 4.19.1) of the Council Procedure Rules will apply to Committees and Sub-Committees of the Council save that Rule 4.15.4 will apply if the majority of the Members present at the relevant Committee or Sub-Committee support a recorded vote.

SECTION 7 – OVERVIEW AND SCRUTINY

1 INTRODUCTION

- 1.1 Overview and Scrutiny Committees are constituted in accordance with Section 21 of the Local Government Act 2000.
- 1.2 Overview and Scrutiny functions are an essential component of local democracy. Overview and Scrutiny Committees should be powerful Committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.
- 1.3 Overview and Scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Overview and Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

2 WHAT WILL BE THE NUMBER AND ARRANGEMENTS FOR OVERVIEW AND SCRUTINY COMMITTEES?

The Council will have the Overview and Scrutiny Committees set out as follows and will appoint to them as it considers appropriate from time to time. Such Committees may appoint Sub-Committees and task and finish groups. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist. The list and terms of reference of current Overview and Scrutiny Committees is included in the Annex to this Section.

3 SPECIFIC FUNCTIONS

3.1 Policy Development and Review

Overview and Scrutiny Committees may:

- 3.1.1 assist the Council and the Cabinet in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- 3.1.2 conduct research, community and other consultation in the analysis of policy issues and possible options;
- 3.1.3 question Members of the Cabinet and/or Committees and Officers from the Council about their views on issues and proposals affecting the area;

3.1.4 liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and

3.1.5 consider the impact of policies to assess if they have made a difference.

3.2 Scrutiny

Overview and Scrutiny Committees may:

3.2.1 review and scrutinise the decisions by and performance of the Cabinet and/or Committees and Officers in relation to individual decisions;

3.2.2 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

3.3.9 question Members of the Cabinet and/or Committees and Chief Officers from the Council about the decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

3.3.10 make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;

3.3.11 review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and

3.3.12 question and gather evidence from any person (with their consent).

3.3 Annual Report

The Overview and Scrutiny Committees must report annually to the Council on their workings with recommendations for their Forward Work Programme and amended working methods if appropriate.

3.4 Work Programme

Exercise overall responsibility for its Forward Work Programme.

3.5 Appeals Procedures

Overview and Scrutiny Committees will not scrutinise individual decisions made by or on behalf the Authority where there is an external or internal procedure which has not yet been exhausted.

4 WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?

All Councillors except Members of Cabinet and Deputy Members of Cabinet, if any, may be Members of an Overview and Scrutiny Committee; however, no Member may be involved in scrutinising a decision in which he/she has been directly involved.

5 CO-OPTEEES

5.1 Each Overview and Scrutiny Committee or Sub-Committee shall be entitled to recommend to Council the appointment of non-voting co-optees subject to a maximum of two per Committee, with the exception of the relevant Committee or Sub-Committee which scrutinises Education matters which will include four statutory co-opted voting representatives as follows:

- 1 Church in Wales
- 1 Roman Catholic Church
- 2 parent governors

and also with the exception of the relevant body which scrutinises crime and disorder matters which will include four co-opted non-voting representatives as follows:

- Dyfed Powys Police Service
- Mid and West Fire and Rescue Service
- Probation Service
- Local Health Board

5.2 If the relevant Committee or Sub-Committee which scrutinises Education matters deals with other matters, the representatives in 5.1 above shall not vote on those other matters and may only attend as Co-opted Members of the Committee for discussion of those other matters if invited to do so.

6 MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES

There shall be at least five ordinary meetings of each Overview and Scrutiny Committee in each year. In addition, special Meetings may be called from time to time as and when appropriate. An Overview and Scrutiny Committee meeting may be called by the Chairman, or in their absence the Vice Chairman of the relevant Overview and Scrutiny Committee or by the Head of Legal and Democratic Services if he/she considers it necessary or appropriate.

7 QUORUM

The Quorum for an Overview and Scrutiny Committee shall be half of its voting members.

8 WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

- 8.1 The Chairman will be determined in accordance with the Sections 66 – 75 of the 2011 Measure.
- 8.2 The Vice-Chairman shall be appointed by each Overview and Scrutiny Committee for the forthcoming municipal year following the Council's Annual Meeting.
- 8.3 In the absence from all or part of a meeting of the Chairman appointed in accordance with the 2011 Measure, the meeting shall be chaired by the Vice-Chairman and in the absence of the Vice-Chairman, the Committee shall elect a member of the Committee to preside as Chairman.

9 ROLE OF THE CHAIRMAN OF AN OVERVIEW AND SCRUTINY COMMITTEE

- 9.1 The role of the Chairman of an Overview and Scrutiny Committee will be essential in implementing the new method of working. The Chairman will liaise with the Cabinet and supervise the Forward Work Programme and identify cross-cutting themes arising from the various Overview and Scrutiny Committees.
- 9.2 The Chairman will:
 - 9.2.1 be accountable for delivering the new ways of working for scrutiny;
 - 9.2.2 will ensure regular meetings to monitor the Forward Work Programme; and
 - 9.2.3 will liaise with Cabinet on issues affecting the Forward Work Programme.

10 THE FORWARD WORK PROGRAMME

Overview and Scrutiny Committees/Sub-Committees will be responsible for setting their own Forward Work Programme relevant to the terms of reference of the Committee, following consultation and agreement between the Chairman of all the Overview and Scrutiny Committees to ensure that such Committees are not reviewing the same issues contemporaneously.

11 AGENDA ITEMS

- 11.1 Any Member of an Overview and Scrutiny Committee or Sub-Committee may refer a matter to that Committee by requesting the Committee Chairman to include it in the agenda to be considered by the Committee at the next convenient meeting of the Committee provided that the notice has been received by the Head of Legal and Democratic Services at least ten Clear Working Days before the date of the meeting and on refusal of such request the Member may appeal to the Head of Paid Service and Head of Legal and Democratic Services whose joint decision on the inclusion or otherwise of the matter shall be final.

- 11.2 On receipt of such a request, if relevant to the Terms of Reference, the Chairman will ensure that it is included on the next available agenda.
- 11.3 The Overview and Scrutiny Committees shall respond, as soon as their Forward Work Programme permits, to requests from the Council and if it considers it appropriate, from Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations through the Chairman back to the Council and/or Cabinet.

12 POLICY REVIEW AND DEVELOPMENT

- 12.1 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 the Council and Cabinet Procedure Rules.
- 12.2 In relation to the development of the Council's approach to other matters, not forming part of its Budget and Policy Framework, Overview and Scrutiny Committees or Sub-Committees may make proposals to Cabinet for developments in so far as they relate to matters within their terms of reference.
- 12.3 Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisors 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.

13 REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE

- 13.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Head of Legal and Democratic Services for consideration by Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 13.2 A report of an Overview and Scrutiny Committee shall be submitted to the next meeting of the Council or the Cabinet as appropriate provided that the report has been received by the Head of Legal and Democratic Services at least 10 Clear Working Days prior to the meeting.

14 MAKING SURE THAT OVERVIEW AND SCRUTINY REPORTS ARE CONSIDERED BY THE CABINET

- 14.1 Once an Overview and Scrutiny report on any matter which is the responsibility of the Cabinet has been completed, it shall be included on the agenda of the next meeting of Cabinet subject to 13.2 above, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet in any event within a period of four

weeks from the date the report was adopted by the Overview and Scrutiny Committee. In such cases, the report of the Overview and Scrutiny Committee shall be considered by the Cabinet when it considers the Cabinet report on that matter.

- 14.2 Where an Overview and Scrutiny Committee prepares a report for consideration by Cabinet in relation to a matter where the Leader or Council has delegated decision-making power to another individual Member of Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Head of Legal and Democratic Services and the Leader. If the Member with delegated decision-making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision-making power and responding to the report in writing to the Overview and Scrutiny Committee.
- 14.3 Cabinet Members to whom the decision-making power has been delegated will respond to the Overview and Scrutiny Committee within four weeks of receiving it. A copy of his/her written response to it shall be sent to the Head of Legal and Democratic Services and he/she will attend a future meeting to respond.
- 14.4 Overview and Scrutiny Committees will have access to Cabinet's Forward Work Programme for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will be able to respond in the course of Cabinet's consultation process.

15 RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

- 15.1 Members of Overview and Scrutiny Committees are entitled to receive certain additional information as set out in this Constitution.
- 15.2 Nothing in this paragraph prevents more detailed dialogue between Cabinet and Overview and Scrutiny Committees as appropriate, depending on the particular matter under consideration.

16 MEMBERS AND OFFICERS GIVING ACCOUNT

- 16.1 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 which fall within its Terms of Reference. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of Cabinet, the Chief Executive and any Director or Head of Service to attend before it to explain, in relation to matters within their remit:

16.1.1 any particular decision or series of decisions; and/or

16.1.2 the extent to which the actions taken implement Council policy; and/or

16.1.3 service performance;

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

- 16.2 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 Head of Legal and Democratic Services. The Head of Legal and Democratic Services shall inform the Member or Officer in writing giving at least 10 Clear Working Days' notice of the meeting at which he/she is required to attend in order 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.
- 16.3 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Chairman of the relevant Overview and Scrutiny Committee shall, in consultation with the Member or Officer, arrange an alternative date for attendance.

17 ATTENDANCE BY OTHERS

An Overview and Scrutiny Committee or its Chairman may resolve to invite people other than those referred to in paragraph 16 above to address it, to 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 may invite such people to attend.

18 CALL-IN

- 18.1 When a decision is made by the Cabinet, an individual Member of Cabinet or a Committee of the Cabinet or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within two Clear Working Days of being made. Members will be sent copies by e-mail of the records of all such decisions at the same time as publication, by the person responsible for publishing the decision.
- 18.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three Clear Working Days after the publication of the decision, unless any four Members of the relevant Overview and Scrutiny Committee whose terms of reference relate to the Cabinet decision or any six elected Members of the Council or the Chairman of that Committee, object to it and call it in, provided the request specifies the reasons for the call-in.

The reasons shall include:

- 18.2.1 the respect in which any decision is believed to be outside the Budget/Policy Framework; and/or

18.2.2 any other stated reasons.

- 18.3 During that period, the Head of Legal and Democratic Services shall call in a decision for scrutiny by the relevant Committee if so requested as per 18.2 above and shall then notify the decision-taker of the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chairman of the Committee, and in any case within 10 Clear Working Days of the decision to call in.
- 18.4 If the call-in request is from any four Members of an Overview and Scrutiny Committee or any six Members of the Council or the Chairman of an Overview and Scrutiny Committee which is not deemed the most relevant committee by the Head of Legal and Democratic Services or of more than one Overview and Scrutiny Committee, the Head of Legal and Democratic Services shall make a further determination as to the most relevant and appropriate Committee following consultation with the Overview and Scrutiny Committee Chairmen concerned.
- 18.5 If, having considered the decision, the Committee is still concerned about it, then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, which shall not then become subject to a further call-in procedure. If referred to the decision maker, the decision-making person or body shall then reconsider within a further 10 Clear Working Days, amending the decision or not, before adopting a final decision.
- 18.6 If, following an objection to the decision, the Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny Committee meeting, or the expiry of that further 10 Clear Working Days, whichever is the earlier.
- 18.7 The call-in procedure set out above shall not apply where the decision being taken by Cabinet or Individual Cabinet Member 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. The Presiding Member must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Presiding Member, the Chairman/Deputy Presiding Member's consent shall be required. In the absence of both, the Head of Paid Service or the Monitoring Officer'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.

19 A PARTY WHIP

A Member of an Overview and Scrutiny Committee must not vote on a question at a meeting of the Committee if, before the meeting the Member has been given a party whip relating to the question. The Member must also declare the existence of the whip and the nature of it before the commencement of discussions on the matter and the declaration shall be recorded in the Minutes of the meeting. Party whip issues

will be considered in accordance with Section 78 of the Local Government (Wales) Measure 2011.

20 PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

20.1 Overview and Scrutiny Committees and Sub-Committees shall consider the following business:

20.1.1 Announcements from the Chairman;

20.1.2 declarations of interest (including whipping declarations);

20.1.3 Minutes of the last meeting;

20.1.4 consideration of any matter referred to the Committee for a decision in relation to the call-in of a decision;

20.1.5 responses of Cabinet to reports of the Overview and Scrutiny Committee; and

20.1.6 the business otherwise set out on the agenda for the meeting.

20.2 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:

20.2.1 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;

20.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and

20.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

20.3 Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to Cabinet and/or Council as appropriate, and shall make its report and findings public.

21 MATTERS WITHIN THE REMIT OF MORE THAN ONE OVERVIEW AND SCRUTINY COMMITTEE

21.1 Where a matter for consideration by an Overview and Scrutiny Committee 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 respective Chairmen or in default of agreement by the Head of Legal and Democratic

Services.

- 21.2 Except in the case of a call-in to which clause 18.4 will apply, where a matter clearly applies to the Terms of Reference of more than one Overview and Scrutiny Committee, the Chairman may agree that a combined meeting of Committees may take place, comprising of as many or as few Committees as necessary, according to the relevance and nature of the matter being considered.
- 21.3 The combined meeting may appoint a Chairperson to preside over the meeting and then for voting purposes, separate votes will be taken for each constituent Overview and Scrutiny Committee, under the Chairmanship of each Committee.

NAME	SERVICES OVERVIEW AND SCRUTINY COMMITTEE
PURPOSE	The Services Overview and Scrutiny Committee will review and scrutinise public facing services delivered by the Council with the exception of those within the remit of the Schools and Learning and Social Care Overview and Scrutiny Committees.
ROLE & FUNCTION	<p>To scrutinise the quality and performance of all services delivered by the Council, through the development of a risk-based approach utilising relevant management information such as:</p> <ul style="list-style-type: none"> • service improvement plans • financial information • performance measures • business risk • self-assessment • customer feedback / surveys • external inspection / regulatory reports
REMIT & SCOPE	<p>Council services, and divisions within, as below:</p> <ul style="list-style-type: none"> • Infrastructure • Environment and Civil Contingencies • Housing • Building Maintenance • Planning • Property • Public Protection • Economic Development and Regeneration • Cultural Services • Leisure Services • Revenues and Benefits
PROCEDURE	The Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Section 7 of the Council's Constitution.
MEMBERSHIP	There will be 13 Members on the Committee.
FREQUENCY OF MEETINGS	The Services Overview and Scrutiny Committee will meet at least five times per municipal year.

NAME	POLICY AND PRE-DECISION OVERVIEW AND SCRUTINY COMMITTEE
PURPOSE	The Policy and Pre-decision Overview and Scrutiny Committee will review and scrutinise policies, plans and strategies prior to decision by Cabinet.
ROLE & FUNCTION	<p>To undertake pre-decision scrutiny of policies, plans and strategies in order to contribute to the quality and robustness of Cabinet decision-making.</p> <p>To provide assurance that Cabinet decision-making is compliant with the Well-being of Future Generations (Wales) Act 2015, having taken account of the 'sustainable development' principle and five ways of working (long-term, preventative, involving, collaborative and integrated), and other statutory requirements as appropriate (e.g. Equality Act 2010).</p> <p>To ensure non-executive Member involvement in the Council's budget policy and planning framework through a standing Finance Panel.</p>
REMIT & SCOPE	<ul style="list-style-type: none"> • Cabinet forward work programme • Proposals for services changes, transformation and / or efficiencies • Integrated Impact Assessments • Strategies and plans, as appropriate • Development of and planning for annual budget and Council Tax proposals through the Finance Panel
PROCEDURE	The Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Section 7 of the Council's Constitution.
MEMBERSHIP	There will be 13 Members on the Committee.
FREQUENCY OF MEETINGS	The Policy and Pre-decision Overview and Scrutiny Committee will meet at least five times per municipal year.

NAME	CORPORATE OVERVIEW AND SCRUTINY COMMITTEE
PURPOSE	The Corporate Overview and Scrutiny Committee will review and scrutinise corporate functions and support services.
ROLE & FUNCTION	<p>To have oversight of the overall strategic direction, policies, plans and priorities of the Cabinet and Council (post-decision) and to monitor the implementation of such as appropriate.</p> <p>To refer areas of specific concern arising from its scrutiny to the Services Overview and Scrutiny Committee as appropriate.</p> <p>To have oversight of the Public Services Board (PSB) and Community Safety Partnership (CSP) through a standing Partnerships Panel.</p> <p>To scrutinise corporate support services through the development of a risk-based approach utilising relevant management information such as:</p> <ul style="list-style-type: none"> • service improvement plans • financial information • performance measures • business risk • self-assessment • customer feedback / surveys • external inspection / regulatory reports
REMIT & SCOPE	<p>Corporate functions:</p> <ul style="list-style-type: none"> • Office of the Leader • Cabinet Member annual reports • Chief Executive • Budget monitoring (half yearly) • Corporate performance monitoring (quarterly) • Corporate Improvement Plan and Review • Compliance with Well-being of Future Generations Act • WAO corporate reports • Welsh Language • Risk Management • Corporate Safeguarding • Whistleblowing • Transformation programme management • City Deal programme management <p>Corporate services:</p> <ul style="list-style-type: none"> • Financial Services • Information Technology • Audit, Risk and Information Services • Customer Services • Human Resources • Legal and Committee Services

	<ul style="list-style-type: none"> • Procurement • Corporate Policy • Partnership + Scrutiny Support • Corporate communications, Press, PR + Marketing • Electoral Services
PROCEDURE	The Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Section 7 of the Council's Constitution.
MEMBERSHIP	There will be 13 Members on the Committee.
FREQUENCY OF MEETINGS	The Corporate Overview and Scrutiny Committee will meet at least five times per municipal year.

NAME	SCHOOLS & LEARNING OVERVIEW AND SCRUTINY COMMITTEE
PURPOSE	The Schools and Learning Overview and Scrutiny Committee will review and scrutinise services delivered to improve outcomes for children, young people and adult learners.
ROLE & FUNCTION	To support the raising of educational standards and outcomes for learners.
REMIT & SCOPE	<ul style="list-style-type: none"> • Educational outcomes at all stages, particularly at Key Stage 4 • School performance, including support provided to schools • School categorisation • School support through regional working (i.e. ERW) • Individual schools (via a Schools Scrutiny Panel) • Inclusion services • Youth support and other community based services (including Adult Learning) • Post-16 learning, skills and training • MOU with Pembrokeshire College • Music Service • Sports Development • Children’s voice and participation • Financial arrangements relating to schools and learning • Safeguarding in Education
PROCEDURE	The Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Section 7 of the Council’s Constitution.
MEMBERSHIP	There will be 13 Members on the Committee plus four statutory co-optees.
FREQUENCY OF MEETINGS	The Schools and Learning Overview and Scrutiny Committee will meet at least five times per municipal year.

NAME	SOCIAL CARE OVERVIEW AND SCRUTINY COMMITTEE
PURPOSE	The Social Care Overview and Scrutiny Committee will review and scrutinise services relating to the care, support and well-being needs of children and adults.
ROLE & FUNCTION	<p>To scrutinise the quality and performance of all Social Care related services delivered by the Council, through the development of a risk-based approach utilising relevant management information such as:</p> <ul style="list-style-type: none"> • service improvement plans • financial information • performance measures • business risk • self-assessment • customer feedback / surveys • external inspection / regulatory reports
REMIT & SCOPE	<ul style="list-style-type: none"> • Adult Care • Children's Services • Strategic Joint Commissioning • Carers • Integrated services and well-being • Domiciliary care • Work with third sector • Compliance with the Social Services and Well-being Act • West Wales Care Partnership • Regional Safeguarding • Regional Fostering • Regional Adoption
PROCEDURE	The Committee will conduct its proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Section 7 of the Council's Constitution.
MEMBERSHIP	There will be 13 Members on the Committee
FREQUENCY OF MEETINGS	The Social Care Overview and Scrutiny Committee will meet at least and times per municipal year.

SECTION 8 – THE STANDARDS COMMITTEE

1 STANDARDS COMMITTEE

Section 54 of the Local Government Act 2000 requires the Council to establish a Standards Committee.

2 COMPOSITION

2.1 The Standards Committees (Wales) Regulations 2001 require that the Standards Committee must comprise not less than five and not more than nine members, made up of Councillors, Independent Members and Community Council Members. Where the total size of the Committee is an even number, the Independent Members must make up at least half of the membership. Where the total size is an odd number, a majority of members of the Committee must be Independent Members.

2.2 Council has resolved that the Standards Committee shall be nine members, to comprise:

2.2.1 Five 'Independent' Members, who are neither a Councillor nor an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant authority as defined by the Act, appointed in accordance with the procedure set out in the Regulations.

2.2.2 Two County Councillors of whom not more than one is a member of the Executive.

2.2.3 Two members of a Community Council in the Council's area.

All Members of the Committee are voting Members.

2.3 Term of Office

2.3.1 'Independent' Members are appointed for a period of not less than four years or more than six years and may be reappointed for one further consecutive term not exceeding four years.

2.3.2 Members of the Council who are members of the Standards Committee will normally have a term of office of no more than four years or the period until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term.

2.3.3 The Community Council Member of the Standards Committee will normally have a term of office of no more than four years or the period until the next ordinary Local Government Election following their appointment, whichever is the shorter, and may be reappointed for one further consecutive term not exceeding four years (provided that they

remain an elected Community Councillor throughout the period). Before making such a reappointment, the County Council shall consult Community Councils which are situated within its area and Community Council Associations established for and operating within that area.

3 QUORUM

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

- 3.1 at least three members are present; and
- 3.2 at least half the Members present (including the Chairman) are independent members.

4 COMMUNITY COUNCIL MEMBERS

A Community Council Member shall not take part in the proceedings of any part of the Standards Committee meeting when any matter relating to their Community Council is being considered.

5. CHAIRING THE COMMITTEE

- 5.1 An Independent Member must chair the Standards Committee
- 5.2 The Chairman will be elected by the Members of the Standards Committee for whichever is the shorter of the following periods:
 - 5.2.1 a period of not less than four nor more than six years, or
 - 5.2.2 until the term of office of that person as an Independent Member of the Standards Committee comes to an end.
- 5.3 The election of a Chairman will be the first item of business for the Standards Committee at its first meeting and thereafter at the end of the period of office of the incumbent Chairman.
- 5.4 If the Chairman is absent from a meeting of the Standards Committee then the Vice-Chairman of the Committee, if present, shall preside and if both are absent from a meeting, such Independent Member of the Standards Committee as the Committee shall decide upon shall preside.

6 FUNCTIONS

- 6.1 Section 53 of the Local Government Act 2000 defines the functions of the Standards Committee. The Standards Committee will exercise the following functions:

- 6.1.1 To promote and maintain high standards of conduct by Members and Co-opted Members of the County Council and Members of all Community Councils in Pembrokeshire.
- 6.1.2 To assist Members and Co-opted Members of the County Council and Members of all Community Councils in Pembrokeshire in observing their respective adopted Codes of Conduct.
- 6.1.3 To advise the County Council and Community Councils in Pembrokeshire on the adoption or revision of a Code of Conduct.
- 6.1.4 To monitor the operation of adopted Codes of Conduct.
- 6.1.5 To advise, train or make arrangements to train Members and Co-opted Members of the County Council and Members of Community Councils in Pembrokeshire on matters relating to adopted Codes of Conduct.
- 6.1.6 To consider and make a determination on reports from the Public Services Ombudsman for Wales (or the Monitoring Officer if delegated to her/him by the Ombudsman), relating to allegations of breaches of Codes of Conduct by Members of the County Council or Members of Community Councils in Pembrokeshire.
- 6.1.7 To consider and decide upon applications for dispensations from requirements relating to interests set out in the Members' Code of Conduct from Members and Co-opted Members of the County Council and Members of Community Councils in Pembrokeshire.

6.2 Standards Hearings

- 6.2.1 The Standards Committee may conduct a Standards Hearing or may establish a Sub-Committee to conduct the Hearing
- 6.2.2 The Standards Committee shall conduct a Standards Hearing where the Public Services Ombudsman for Wales or the Monitoring Officer refer an allegation to the Committee after an investigation which has established that there is evidence that a Member of the Council or of a Community Council within Pembrokeshire has failed to comply with the Council's or, in the case of a Community Councillor, the Community Council's Code of Conduct.
- 6.2.3 The Committee Procedure Rules shall apply to Standards Hearings, but the Standards Committee have adopted specific procedures in relation to Hearings.

SECTION 9 – JOINT ARRANGEMENTS

1 INTRODUCTION

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

2 ARRANGEMENTS TO PROMOTE WELLBEING

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

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

3 JOINT ARRANGEMENTS

- 3.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a Joint Committee with these or other local authorities.
- 3.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of Joint Committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such Joint Committees and those Members need not reflect the political composition of the Council as a whole.
- 3.3 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.

4. DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES

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

- 4.2 The Cabinet can delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.
- 4.3 The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

5. CONTRACTING OUT

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

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

SECTION 10 – OFFICERS

1 INTRODUCTION

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

2 STATUTORY OFFICERS

The Council is required in law to designate Officers to the following four "statutory officer" posts.

2.1 Head of the Paid Service (Section 4 of the Local Government and Housing Act 1989)

- 2.1.1 The Authority must designate one of its Officers as Head of Paid Service.
- 2.1.2 The Head of Paid Service is under a duty to report to Full Council where he/she considers it to be appropriate in respect of the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions, the organisation of the Authority's staff and the appointment and proper management of the Authority's staff.
- 2.1.3 The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Director of Resources if a qualified accountant.
- 2.1.4 The Council has designated the Chief Executive to discharge this function,

2.2 Monitoring Officer (Section 5 of the Local Government and Housing Act 1989 as amended)

- 2.2.1 The 1989 Act provides that the Monitoring Officer is under a duty to report to the Full Council, or in respect of an Executive Function, to the Cabinet with copies to all Councillors if he/she considers that any proposal, decision or omission has given rise to, is likely to give rise to or would give rise to unlawfulness or if the Public Services Ombudsman for Wales has investigated a complaint and come to the conclusion that the matter amounted to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 2.2.2 Council has conferred the following functions on the Monitoring Officer:
- (a) Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public. If in the reasonable opinion of the Monitoring Officer, a change is a minor variation, a factual change, a statutory or regulatory change, or is required to be made to put into effect any decision of the Council or its Committees or Cabinet, he/she may put such change into effect. Any such change made by the Monitoring Officer shall come into force with immediate effect.

(b) Supporting the Standards Committee

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

(c) Receiving Reports

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

(d) Conducting Investigations

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

(e) Interpreting the Constitution

Except in the course of a meeting, when the Presiding Member shall be responsible for interpreting this Constitution, the Monitoring Officer shall determine any question as to the interpretation of this Constitution.

(f) Advising whether decisions of the Executive are within the Budget and Policy Framework

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

(g) Providing Advice

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

2.2.3 Restrictions on Posts

The Monitoring Officer cannot be the Director of Resources, the Head of Paid Service or the Head of Democratic Services.

2.3 Director of Resources

2.3.1 Section 151 of the Local Government Act 1972 requires the Authority to appoint an Officer to be responsible for the proper administration of the Authority's financial affairs.

2.3.2 Sections 114 and 114A of the Local Government Act 1988 then place a duty on this Officer, after consulting with the Head of Paid Service and the Monitoring Officer, to report to the Full Council or to the Cabinet with copies to all Councillors in relation to an Executive Function, and the Council's external auditor if he/she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

2.3.3 Section 25 of the Local Government Act 2003 places a duty on this Officer to report to the Council on the robustness of the Council's budget estimates and the adequacy of the Council's proposed reserves.

2.3.4 Section 27 of the Local Government Act 2003 places a duty on this Officer to report to Council if he/she is of the opinion that a controlled reserve is likely to be inadequate.

2.3.5 The Council has then conferred the following functions on this Officer:

(a) Administration of Financial Affairs

The Director of Resources will have responsibility for administration of the financial affairs of the Council.

(b) Contributing to Corporate Management

The Director of Resources will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(c) Providing Advice

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

(d) Give Financial Information

The Director of Resources will provide financial information to the media, members of the public and the community.

(e) Advising whether Decisions of the Cabinet are within the Budget and

Policy Framework

The Director of Resources will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

2.3.6 Restrictions on Posts

The Director of Resources cannot be the Monitoring Officer or the Head of Democratic Services.

2.4 Head of Democratic Services

Section 9 of the 2011 Measure provides that the functions of the Head of Democratic Services shall be as follows:

- 2.4.1 to provide support and advice to the Authority in relation to its meetings, subject to paragraph 2.4.9(b);
- 2.4.2 to provide support and advice to committees of the Authority (other than the committees mentioned in paragraph 2.4.9(b)) and the Members of those committees, subject to paragraph 2.4.9(b);
- 2.4.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the Members of that Committee, subject to paragraph 2.4.9(b);
- 2.4.4 to promote the role of the Authority's Overview and Scrutiny Committees;
- 2.4.5 to provide support and advice to:
 - (a) the Authority's Overview and Scrutiny Committees and the Members of those Committees; and
 - (b) the Authority's Democratic Services Committee and the Members of that Committee;
- 2.4.6 to provide support and advice in relation to the functions of the Authority's Overview and Scrutiny Committees to each of the following:
 - (a) Members of the Authority;
 - (b) Members of the Executive; and
 - (c) Officers of the Authority;
- 2.4.7 to provide support and advice to each Member of the Authority in carrying out the role of Member of the Authority, subject to paragraph 2.4.9 (c);
- 2.4.8 to make reports and recommendations in respect of any of the following:
 - (a) the number and grades of staff required to discharge Democratic

Services functions;

- (b) the appointment of staff to discharge Democratic Services functions;
- (c) the organisation and proper management of staff discharging Democratic Services functions; and
- (d) such other functions as may be prescribed by law.

2.4.9 Restrictions on Posts

- (a) The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Director of Resources.
- (b) The function of providing advice about whether or how the Authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Overview and Scrutiny Committees and Democratic Services Committee.
- (c) Advice to a Member does not include advice in connection with their role as an Executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of an Overview and Scrutiny Committee or Democratic Services Committee).
- (d) The Council has designated the Head of Legal and Democratic Services to discharge this function.

2.5 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Director of Resources and Head of Democratic Services

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

3 CONDUCT OF OFFICERS

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

4 APPOINTMENT, DISCIPLINE AND DISMISSAL

The recruitment, selection and dismissal of Officers will comply with the following Officer Employment Rules:

4.1 Recruitment, Selection and Appointment

4.1.1 Declarations

The Council has a Recruitment and Selection Policy which ensures that open, fair and ethical arrangements are in place for the appointment of employees. The Council's standard application forms require applicants to disclose whether or not they are related to a Councillor or senior Officer of the Council. Applicants are also required to sign a declaration that they have not canvassed, either directly or indirectly, any Member or Officer of the Council, in connection with their application.

4.1.2 Participation in the Appointments Process

All appointments will fall into one of two categories. The position of the vacant post within the organisation will determine its category and the identity of those individuals with the authority and responsibility for the recruitment process.

(a) Category A: Officers covered by the Joint Negotiating Committees for Chief Executives and Chief Officers; i.e., Chief Executive/Head of Paid Service, Directors of County Services and percentage-related Chief Officers.

- (i) The Senior Staff Committee will be required to consider and approve the creation, re-designation or redundancy of any Chief Officer post prior to implementation or advertisement and to consider terms and conditions thereof where the overall value will not exceed £100,000.
- (ii) The Council will be required to consider and approve the terms and conditions attached to any creation, re-designation or redundancy of any Chief Officer post where the overall value shall exceed £100,000.
- (iii) Appointment of the Chief Executive/Head of Paid Service shall be the prerogative of the Council. The recruitment and selection process will be devolved to the Senior Staff Committee who will make recommendation(s) to Council.
- (iv) With regards to other vacancies, the Chief Executive will be responsible for the preliminary shortlist stage, the Senior Staff Committee having delegated power to appoint.

(b) Category B: Other Posts.

Appointments in this category shall be the responsibility of the Chief Executive/Head of Paid Service delegated as appropriate to Directors and other Senior Managers. Appointments will normally be undertaken by a line manager, with advice and involvement from the Human Resources Division, as appropriate.

4.1.3 Appointment of Chief Officers

- (a) Subject to Paragraphs 4.1.2 (a)(i) and (ii) and sub-paragraph (b) below, where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006, as amended; and the remuneration which it proposes to pay to the Chief Officer is £100,000 or more per annum, it must first take the following steps:
- (i) To draw up a statement specifying the duties of the Officer concerned and any qualifications or qualities to be sought in the person to be appointed;
 - (ii) To make arrangements for the post to be publicly advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (iii) To make arrangements for a copy of the statement mentioned above to be sent to any person on request.
- (b) Where sub-paragraphs (a) above applies, the Council is not required to take the step set out in sub-paragraph (a)(ii) above, if it proposes to appoint the Chief Officer for a period of no longer than 12 months.
- (c) Where a post has been advertised as provided in sub-paragraph (a)(ii) above, either:
- (i) all qualified applicants for the post will be interviewed; or
 - (ii) a shortlist of such qualified applicants will be selected and those included on the shortlist will be interviewed.
- (As is confirmed above, the recruitment and selection process for the appointment of the Chief Executive/Head of Paid Service is devolved to the Senior Staff Committee who will make recommendation(s) to Council. In relation to vacancies for other Chief Officers (within the meaning of the Regulations), the Chief Executive will be responsible for the preliminary shortlist stage.)
- (d) Where no qualified person has applied, or if it is decided to re-advertise the appointment, further arrangements for advertisement may be made in accordance with Paragraph (a)(ii) above.

4.2 Disciplinary Action/Dismissal

4.2.1 A local Disciplinary Procedure is in place that applies to all employees of Pembrokeshire County Council, except:

- (a) In regard to Directors, procedures are as laid down in the appropriate National Conditions of Service.

- (b) School-based Personnel - A Disciplinary Procedure – “Managing Staff in Schools” is used and it covers all employees employed solely at educational establishments and who are under the responsibility of the Governing Body.
- (c) Casual Employees - Employment can be terminated immediately or by the giving of appropriate notice, as required.
- (d) Trainees - A ‘Disciplinary Procedure for Trainees’ document is used.
- (e) Head of Paid Service, Monitoring Officer, Director of Resources and Head of Democratic Services.

4.2.2 Statutory Officers

- (a) No disciplinary action in respect of the Head of Paid Service, Monitoring Officer, Director of Resources and Head of Democratic Services or a relevant former Officer may be taken by the Authority, other than in accordance with a recommendation in a Report made by a designated independent person under Regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006, as amended.
- (b) Suspension of the Officer may be required for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect.
- (c) If it appears to the Authority that an allegation of misconduct which may lead to disciplinary action has been made against the Head of Paid Service; the Monitoring Officer, the Director of Resources, the Head of Democratic Services or a relevant former Officer in respect of a matter relating to his/her conduct in such post, ("the Relevant Officer") the Authority must appoint a Committee ("a Disciplinary Investigation Committee") to consider the alleged misconduct.
- (d) The Disciplinary Investigation Committee must consist of a minimum of three Members of the Authority and be politically balanced in accordance with Section 15 of the Local Government and Housing Act 1989; and must within one month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
- (e) For the purpose of considering the allegation of misconduct, the Disciplinary Investigation Committee may make such enquiries of the Relevant Officer or any other person it considers appropriate, request that they provide it with such information, explanation or documents as it considers necessary within a specified time limit;

and receive written or oral representations from them.

- (f) Where it appears to the Disciplinary Investigation Committee that an allegation of misconduct by the Relevant Officer should be further investigated, it must appoint a person ("the Designated Independent Person").
- (g) The Designated Independent Person who is appointed must be such person as may be agreed between the Authority and the Relevant Officer within one month of the date on which the requirement to appoint the Designated Independent Person arose, or if there is no such agreement, must be such person as is nominated for the purpose by the Welsh Ministers.
- (h) The Designated Independent Person:
 - (i) may direct that the Authority terminates any suspension of the Relevant Officer;
 - (ii) may direct that any such suspension is to continue after the expiry of the period of two months referred to in paragraph 4.2.2 (b) above;
 - (iii) may direct that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
 - (iv) may direct that no steps by way of Disciplinary Action or further Disciplinary Action against the Relevant Officer, other than steps taken in the presence, or with the agreement, of the Designated Independent Person, are to be taken before a report is made under sub-paragraph (vii) below;
 - (v) may inspect any documents relating to the conduct of the Relevant Officer which are in the possession of the Authority, or which the Authority has power to authorise the Designated Independent Person to inspect;
 - (vi) may require any Member or member of staff of the Authority to answer questions concerning the conduct of the Relevant Officer;
 - (vii) must make a report to the Authority:
 - (a) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the Relevant Officer; and
 - (b) recommending any disciplinary action which appears appropriate for the Authority to take against the Relevant Officer; and
 - (viii) must no later than the time at which the report is made under

sub-paragraph (vii) above, send a copy of the report to the Relevant Officer.

- (i) Subject to paragraph (j) below, the Relevant Officer and the Authority must, after consulting the Designated Independent Person, attempt to agree a timetable within which the Designated Independent Person is to undertake the investigation.
- (j) Where there is no agreement under paragraph (i) above, the Designated Independent Person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- (k) The Authority must consider the report prepared under paragraph (h) (vii) above within one month of receipt of that report.
- (l) The Authority must pay reasonable remuneration to a Designated Independent Person appointed by the Disciplinary Investigation Committee and any costs incurred by, or in connection with, the discharge of functions under this procedure.

"Disciplinary Action", means any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Authority, be recorded on the member of staff's personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Authority has undertaken to renew such a contract.

4.3 Procedure Rule Relating to Certain Categories of Staff

- 4.3.1 Subject to Paragraphs 4.3.2 and 4.3.5 below, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the Council must be discharged, on behalf of the Council, by the Officer designated under Section 4(1) of the Local Government and Housing Act 1989, as the Head of Paid Service or by an Officer nominated by the Head of Paid Service.
- 4.3.2 Paragraph 4.3.1 above does not apply to the appointment or dismissal of, or disciplinary action against:
 - (a) the Officer designated as the Head of Paid Service;
 - (b) a Statutory Chief Officer within the meaning of Section 2(6) of the 1989 Act (Statutory Chief Officers);
 - (c) a non-statutory Chief Officer within the meaning of Section 2(7) of the 1989 Act;
 - (d) any other person employed under the terms and conditions for

employment of the Joint Negotiating Committee for Chief Officers in Local Government;

- (e) a person appointed in pursuance of Section 9 of the 1989 Act (assistants for political groups);
- (f) a person to whom regulations apply with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the Local Education Authority;
- (g) the Officer designated as the Monitoring Officer; or
- (h) the Officer designated as the Head of Democratic Services.

4.3.3 Paragraph 4.3.1 above does not apply to the dismissal of, or disciplinary action against, an Officer in relation to whom disciplinary action is proposed:

- (a) who was, but at the time of the proposed disciplinary action no longer is, an Officer referred to in sub-paragraphs (a) to (h) of Paragraph 4.3.2 above; and
- (b) 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 sub-paragraphs (a) to (h) of Paragraph 4.3.2 above.

4.3.4 Where a Committee, Sub-Committee or Officer is discharging, on behalf of the Council, the function of the appointment or dismissal of an Officer designated as the Head of Paid Service, the Council must approve that appointment before an offer of appointment is made or, as the case may be, must approve that dismissal before notice of dismissal is given.

4.3.5 Where a Committee or a Sub-Committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any Officer referred to in Paragraph 4.3.2 above:

- (a) At least one Member of the Cabinet must be a Member of that Committee or Sub-Committee; and
- (b) Not more than half of the Members of that Committee or Sub-Committee are to be Members of the Cabinet.

4.3.6 Nothing in sub-paragraph 4.3.5 (a) above, prevents a person from serving as a Member of any Committee or Sub-Committee established by the Council to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as a member of staff of the Council; or
- (b) a member of staff of the Council against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

- 4.3.7 The Council must determine the level, and any change in the level, of the remuneration to be paid to a Chief Officer as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006, as amended.

Elected Members will not be involved in a Disciplinary Action/dismissal of any Officer, other than a Chief Officer, except where such involvement is necessary for any investigation or enquiry into alleged misconduct as may be laid down in conditions of service and statutory guidance. The right of appeal stages in respect of dismissal, redundancy, discipline, capability, etc., will be secured by the principle of providing such appeal to a level of management not previously involved in the case.

PART 3 - RESPONSIBILITY FOR FUNCTIONS

SECTION 1 – INTRODUCTION

One of the primary purposes of the Constitution is to make it clear where responsibility for functions lies and in respect of decisions to be made, to identify which person or body (Full Council, Cabinet, Committee or Officer) makes those decisions which result in actions either being taken or not taken.

Section 13 of the Local Government Act 2000 provides that all of the functions of a Local Authority shall be functions of the Executive, subject to any provision made by the Act, by subsequent legislation or by regulations made under the Act.

Decision Making Bodies/Individuals

(a) **Full Council**

The Full Council will exercise the functions reserved by law to the Full Council as set out in Section 3 of this part of the Constitution, subject to any delegation of those functions to Committees and Officers as set out in Section 3.

(b) **The Cabinet**

The Cabinet will exercise all functions which are otherwise not the responsibility of the Council and will also have responsibility for exercising the local choice functions set out in Section 2 of this part of the Constitution, subject to any delegation of those functions to Officers as set out in Section 2. Initially, the Cabinet will reserve to itself the functions set out in Section 4 of this part of the Constitution. Remaining functions are delegated to Officers in accordance with the provisions in Section 5 of this part of the Constitution. Further delegation of its functions may be made by the Cabinet, from time to time, to either Officers or Individual Members of the Cabinet.

(c) **Committees**

Committees will exercise the functions set out in Section 3 of this part of the Constitution, subject to any delegation of those functions to Officers as set out in Section 3. Committees may make further delegation of their functions to Officers.

(d) **Officers**

Officers will exercise the delegated functions referred to in Sections 2, 3 and 5 of this part of the Constitution.

Statutory and Proper Officer Designations

The Local Government Act 1972, together with other legislation, makes provision for certain officers to hold specific statutory appointments which carry specific responsibilities.

The 1972 Act also makes provision for certain officers to be designated as "Proper Officers" to carry out particular functions.

The Statutory and Proper Officer designations are set out in Section 6 of this part of the Constitution.

SECTION 2 - LOCAL CHOICE FUNCTIONS

The following local choice functions shall be the responsibility of the Cabinet:

1. Any function under a local Act other than a function specified or referred to in Schedule 1 of the Local Authorities (Executive Arrangements) (Functions and Responsibilities)(Wales) Regulations 2007 as amended.
2. The determination of an appeal against any decision made by or on behalf of the Authority.
3. The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002.
4. The making of arrangements pursuant to Section 94(1), (1A) and (4) of the School Standards and Framework Act 1998 (Admission Appeals).
5. The making of arrangements pursuant to Section 95(2) of, the School Standards and Framework Act 1998 (Children to whom Section 87 applies: Appeals by Governing Bodies).
6. Making arrangements under Section 20 (Questions on police matters at Council Meetings) of the Police Act 1996 enabling questions to be put on discharge of the functions of a police authority.
7. Making appointments under Schedule 6 (Police and Crime Panels) of the Police Reform and Social Responsibility Act 2011.
8. Any function relating to contaminated land.
9. Discharge of any function relating to the control of pollution or the management of air quality.
10. Service of an abatement notice in respect of a statutory nuisance.
11. Passing a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.
12. Inspection of the authority's area to detect any statutory nuisance.
13. Investigation of any complaint as to the existence of a statutory nuisance.
14. Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.
15. Obtaining particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
16. Any of the following functions in respect of highways –

- (a) the making of agreements for the execution of highways works;
- (b) the functions contained in the following provisions of Part III of the Highways Act 1980 (creation of highways) –
 - (i) section 25 – creation of footpath, bridleway or restricted byway by agreement;
 - (ii) section 26 – compulsory powers for creation of footpaths, bridleways or restricted byways.
- (c) the functions contained in the following provisions of Part VIII of the Highways Act 1980 (stopping up and diversion of highways etc) –
 - (i) section 116 – power of magistrates’ court to authorise stopping up or diversion of highway;
 - (ii) section 117 – application for order under section 116 on behalf of another person;
 - (iii) section 118 – stopping up of footpaths, bridleways and restricted byways;
 - (iv) section 118ZA – application for a public path extinguishment order;
 - (v) section 118A – stopping up of footpaths, bridleways and restricted byways crossing railways;
 - (vi) section 118B – stopping up of certain highways for purposes of crime prevention etc.;
 - (vii) section 118C – application by proprietor of school for special extinguishment order;
 - (viii) section 119 – diversion of footpaths, bridleways and restricted byways;
 - (ix) section 119ZA – application for a public path diversion order;
 - (x) section 119A – diversion of footpaths, bridleways and restricted byways crossing railways;
 - (xi) section 119B – diversion of certain highways for purposes of crime prevention etc;
 - (xii) section 119C – application by proprietor of school for special diversion order;
 - (xiii) section 119D – diversion of certain highways for protection of sites of special scientific interest;

- (xiv) section 120 – exercise of powers of making public path extinguishment and diversion orders;
 - (xv) section 121B – register of applications.
- (d) the functions contained in the following provisions of Part IX of the Highways Act 1980 (lawful and unlawful interference with highways and streets) –
- (i) section 130 – protection of public rights;
 - (ii) section 139 – control of builders' skips;
 - (iii) section 140 – removal of builders' skips;
 - (iv) section 140A – builders' skips: charges for occupation of the highway;
 - (v) section 142 – licence to plant trees, shrubs etc in a highway;
 - (vi) section 147 – power to authorise erection of stiles etc on footpath or bridleway;
 - (vii) section 147ZA – agreements relating to improvements for benefit of persons with mobility problems;
 - (viii) section 149 – removal of things so deposited on highways as to be a nuisance etc;
 - (ix) section 169 – control of scaffolding on highways;
 - (x) section 171 – control of deposit of building materials and making of excavations in streets;
 - (xi) section 171A and regulations made under that section – works under s169 or s171; charge for occupation of the highway;
 - (xii) section 172 – hoardings to be set up during building etc.;
 - (xiii) section 173 – hoardings to be securely erected;
 - (xiv) section 178 – restriction on placing of rails, beams etc over highways;
 - (xv) section 179 – control of construction of cellars etc under street;
 - (xvi) section 180 – control of openings into cellars etc under streets, and pavement lights and ventilators.
- (e) exercising functions under section 34 of the Wildlife and Countryside Act 1981 (limestone pavement orders); and

- (f) exercising functions under section 53 of the Wildlife and Countryside Act 1981 (duty to keep definitive map and statement under continuous review).

17. The appointment of any individual:

- (a) to any office other than an office in which he is employed by the authority;
- (b) to any body other than:
 - (i) the authority;
 - (ii) National Park Authority, Police and Crime Panel and Fire and Rescue Service
 - (iii) a joint committee of two or more authorities; or
- (c) to any committee or sub-committee of such a body;

and the revocation of any such appointment.

18. Power to make payments or provide other benefits in cases of maladministration etc.

19. Discharge of any function by an authority acting as a Harbour Authority.

20. Functions in relation to the revision of decisions made in connection with claims for Housing Benefit or Council Tax Benefit and for appeals against such decisions under Section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000.

21. Functions in respect of the calculation of Council Tax base in accordance with any of the following –

- (a) The determination of an item for T in Section 33(1) and 44(1) of the Local Government Finance Act 1992;
- (b) The determination of an amount for item TP in Sections 34(3), 45(3), 48(3) and 48(4) of the Local Government Finance Act 1992;
- (c) The determination of an amount required for determining an amount for the item mentioned in paragraph (a) or (b) above.

22. Section 349, Gambling Act 2005 - Three year Licensing Policy.

23. Section 212, Gambling Act 2005 and Regulations made under that Section - Fees.

24. Three-Year Licensing Policy Statement under the requirements of the Licensing Act 2003.

The following local choice functions shall be the responsibility of the Council:

- 1. Establishing a Licensing Committee under Section 6 of the Licensing Act 2003.
- 2. Appointment of individuals to the National Park Authority, Police and Crime Panel and Fire and Rescue Service.

DELEGATION TO OFFICERS

1. Functions 3, 4 and 5 above are delegated to the Head of Legal and Democratic Services.
2. Functions 9, 10, 11, 13, 14, 15, 17(b) (i), (ii), (c) (iii) - (xv), (d) (i), (vi), (vii), (e), (f) and 20 above are delegated to the Director of Community Services.
3. Functions 17 (a), (c) (i), (ii), (vi), (xi), (xii), (d) (i) - (v), (viii) - (xvi) are delegated to the Director of Community Services.
4. Functions 8 and 16 above are delegated to all Directors.
5. Function 19 above is delegated to all Directors up to a payment limit in respect of payments, determined by the Executive. [Current limit is £5000]
6. Function 21 is delegated to the Director of Resources.
7. Function 18 above as it relates to the appointment of Public Analysts and Agricultural Analysts is delegated to the Chief Executive consistent with the existing delegations for the appointment of external Proper Officers.

DELEGATION TO LEADER OF COUNCIL

1. Function 18 above is delegated to the Leader of Council to determine appointments to Outside Bodies and School Governing Bodies.
2. Function 18 above as it relates to the determination of appointments to Joint Committees of two or more Authorities which are exercising Executive functions is delegated to the Leader of Council

SECTION 3 - RESPONSIBILITY FOR COUNCIL FUNCTIONS

The following functions shall be undertaken by the Full Council (in addition to the functions set out in Part 2 of this Constitution):-

1. Power to dissolve Community Councils.
2. Power to make orders for grouping communities.
3. Power to make orders for dissolving groups and separating Community Councils from groups.
4. Duty to appoint Returning Officer for local government elections.
5. Power to change the name of a county.
6. Power to change the name of a community.
7. Power to confer title of Honorary Alderman or to admit to be an Honorary Freeman.
8. Power to petition for a charter to confer county borough status.
9. Power to promote or oppose local or personal Bills.
10. Functions relating to local government pensions etc.
11. Functions relating to sea fisheries.
12. Power to make Standing Orders.
13. Appointment and dismissal of staff.
14. Power to make Standing Orders as to contracts.
15. Power to consider adverse reports from the Public Services Ombudsman for Wales.
16. Power to make, amend, revoke or re-enact byelaws.
17. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.
18. Duty to appoint an Electoral Registration Officer.
19. Power to assign officers in relation to requisitions of the Electoral Registration Officer.
20. Duty to provide assistance at European Parliamentary Elections.
21. Duty to divide constituency into polling districts.
22. Power to divide electoral divisions into polling districts at local government elections.

23. Powers in respect of holding of elections.
24. Power to pay expenses properly incurred by electoral registration officers.
25. Power to fill vacancies in the event of insufficient nominations.
26. Duty to declare vacancy in office in certain cases.
27. Duty to give public notice of a casual vacancy.
28. Power to make temporary appointments to Community Councils.
29. Power to determine fees and conditions for supply of copies of, or extracts, from elections documents.
30. Power to submit proposals to the Secretary of State for an Order under Section 10 (Pilot Schemes for Local Elections in England and Wales) of the Representation of the People Act 2000.
31. Functions relating to pensions, allowances and gratuities.
32. Functions under existing pension schemes as respects persons employed by the Fire and Rescue Authorities pursuant to Section 1 of the Fire and Rescue Services Act 2004.
33. Powers in respect of registration of motor salvage operators.
34. Power to appoint officers for particular purposes (appointment of "Proper Officers").
35. Duty to designate an officer as the Head of the Authority's Paid Service, and to provide staff, etc.
36. Duty to designate an officer as the Monitoring Officer and to provide staff etc.
37. Duty to determine affordable borrowing limit.
38. Approval of annual investment strategy in accordance with guidance.
39. Duty to make arrangements for proper administration of financial affairs.
40. The functions of determining –
 - (a) the amount of any allowance payable under -
 - (i) subsection (5) of Section 22 of the Local Government Act 1972 (Chairman's expenses);
 - (ii) subsection (4) of Section 24 of the 1972 Act (Vice-Chairman's expenses);
 - (iv) subsection (4) of Section 173 of the 1972 Act (financial loss allowance);

- (iv) section 175 of the 1972 Act (allowances for attending conferences and meetings);
 - (b) the rates at which payments are to be made under Section 174 of the 1972 Act (travelling and subsistence allowances)
 - (c) The amount of any allowance payable pursuant to a scheme under Section 18 of the Local Government and Housing Act 1989 or regulations made under Section 100 of the Local Government Act 2000, or the rates at which payments by way of any such allowance are to be made;
41. (a) The function of determining whether a charge should be made for any approval, consent, licence, permit or registration the issue of which is not the responsibility of an executive of the Authority; and
- (b) Where a charge is made for any such approval, consent, licence, permit or registration, the amount of the charge.
42. Subject to any provision of regulations under Section 20 (joint exercise of functions) of the Local Government Act 2000, the function of making arrangements for the discharge of functions by a committee or officer under Section 101(5) of the Local Government Act 1972.
43. Making appointments under Section 102 of the Local Government Act 1972 (appointment of committees).
44. Unless otherwise provided by the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, a function of a local authority which, by virtue of any enactment (passed or made before the making of the Regulations) may be discharged only by an Authority.
45. Making any scheme authorised or required by Regulations under Section 18 of the Local Government and Housing Act 1989 (schemes for basic, attendance and special responsibility allowances for local authority members), or of amending, revoking or replacing any such scheme.
46. Authorisation of the making of an application -
- (a) under subsection (5) of Section 135 of the Leasehold Reform, Housing and Urban Development Act 1993 (programmes for disposals); or
 - (b) under Section 32 (power to dispose of land held for the purposes of Part II or Section 43 (consent required for certain disposals not within section 32) of the Housing Act 1985.
47. To determine the salary policy in relation to Officers covered by the Joint Negotiating Committees for Chief Executives and Chief Officers.
48. Power to promote or oppose private Bills placed before the National Assembly for Wales.

49. Functions relating to family absence of Local Authority Members.
50. Determination of the level, and any change in the level, of the remuneration to be paid to a Chief Officer.
51. Functions in respect of approval by a Local Authority under Section 51 or a determination by a Local Authority under Section 53 of the School Standards and Organisation (Wales) Act 2013.
52. To appoint independent members to the Standards Committee.
53. To appoint a lay person to the Governance and Audit Committee.
54. To appoint a community council representative to the Standards Committee.
55. Functions under the Anti-Social Behaviour, Crime and Policing Act 2014 in respect of Sections 43, 47 and 53 (Community Protection Notice); Sections 59, 63 and 68 (Public Spaces Protection Order) and Sections 76 and 85 (Closure Power).

DELEGATION TO OFFICERS

1. Functions 10, 13, 19-32 and 34 set out above are delegated to the Chief Executive. Function 13 shall not be exercised by the Chief Executive in respect of the appointment of Officers appointed under Conditions of Service determined by the Joint Negotiating Committees for Chief Executives and Chief Officers.
2. Functions 33 and 55 are delegated to the Director of Community Services.
3. Function 39 is delegated to the Director of Resources.
4. Council has granted delegated authority to the Director of Community Services to make such minor modifications/corrections as may be required during publication of the Pembrokeshire County Council Deposit Local Development Plan and the replacement Local Development Plan that do not alter substantially the content or direction of the Plan
5. Council has granted delegated authority to the Director of Community Services to agree with the Welsh Assembly Government minor revisions to the Pembrokeshire County Council Deposit Local Development Plan Delivery Agreement Timetable and the replacement Local Development Plan, should these be required.

The following functions of the Council shall be delegated to the Committees named below:

A. STANDING REGULATORY COMMITTEES

A1. PLANNING COMMITTEE

The Committee will consist of fifteen Members, allocated in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989.

No business may be transacted at a Planning Committee unless at least half of the total number of members are present; and no member may be appointed as a substitute to act as a member of the committee in the absence of the member appointed. [Note: Emergency Covid Regulations have permitted substitutions during the pandemic.]

The Committee will exercise the following functions:

1. Power to determine applications for planning permissions.
2. Power to determine applications to develop land without compliance with conditions previously attached.
3. Power to grant planning permission for development already carried out.
4. Power to decline to determine applications for planning permission.
5. Duties relating to the making of determinations of planning applications.
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person.
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.
8. Power to enter into planning obligation regulating development or use of land.
9. Power to issue a certificate of existing or proposed lawful use or development.
10. Power to serve a completion notice.
11. Power to grant consent for the display of advertisements.
12. Power to authorise entry onto land.
13. Power to require the discontinuance of a use of land.
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.
15. Power to issue an enforcement notice.

16. Power to apply for an injunction restraining a breach of planning control.
17. Power to determine applications for hazardous substances consent and related powers.
18. Duty to determine conditions to which old mining permissions, relevant planning permissions, relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.
19. Power to require proper maintenance of land.
20. Power to determine applications for listed building consent and related powers.
21. Power to determine applications for conservation area consent.
22. Duties relating to applications for listed building consent and conservation area consent.
23. Power to serve a building preservation notice and related powers.
24. Power to issue a listed building enforcement notice.
25. Power to acquire a listed building in need of repair and to serve a repairs notice.
26. Power to apply for an injunction in relation to a listed building.
27. Power to execute urgent works.
28. Power related to mineral working.
29. Power related to footpaths and bridleways.
30. Power as to certification of appropriate alternative development.
31. Duties in relation to purchase notices.
32. Powers related to blight notices.
33. Powers to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:
 - (a) an exchange of lands effected by an order under section 19(3) of paragraph 6(4) of Schedule 3 to the Acquisition of Land Act 1981; or
 - (b) an order under section 147 of the Inclosure Act 1845.
34. Power to register variation of rights of common.
35. Power to grant a street works licence.
36. Powers relating to the preservation of trees.

37. Powers relating to the protection of important hedgerows.

DELEGATION TO OFFICERS

1. Functions 1, 2, 3, 6, 17, 18, 28 and 29 above are delegated to the Director of Community Services subject to the following matters which are reserved by the Committee:
 - (a) Applications for residential development over 1 hectare (outline) or 30 dwellings (full).
 - (b) Class A1 and A2 shops and offices over 500 m² floorspace.
 - (c) Class B1 offices and light industry over 1000 m² floorspace.
 - (d) Class B2 general industry over 1000 m² floorspace.
 - (e) Class B8 wholesale, warehouses and storage over 2000 m² floorspace.
 - (f) Class C1 and C2 residential uses and Class D1 and D2 other institutions over 500 m² floorspace.
 - (g) All tourist, leisure or recreational developments over 500 m² floorspace or 0.5ha in area.
 - (h) All applications for mineral extraction or waste handling or disposal over 0.5 hectare surface area.
 - (i) All agricultural buildings over 1000 m² floorspace, or with a site area over 1ha.
 - (j) Wind turbines over 30m in overall height (to blade tip).
 - (k) Solar array parks over 5 hectares in area.
 - (l) All applications involving environmental impact assessment.
 - (m) Applications made by or on behalf of Members, Officers of the Corporate Management Team and Heads of Service or Officers of the Planning Service, or close family members of any of the foregoing (including where the accompanying certificate identifies such ownership).
 - (n) Applications for development contrary to the Development Plan but which are being recommended for approval.
2. Functions 4, 5, 7-16, 19-27, 30-32, 34-37 above are delegated to the Director of Community Services.
3. Function 33 above is delegated to the Head of Legal and Democratic Services.

A2. LICENSING COMMITTEE

The Committee will consist of thirteen Members, allocated in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989. The Committee will sit as a Full Committee and may appoint Sub-Committees consisting of three Members, as specified in Sections 6, 9 and 10 of the Licensing Act 2003, for functions under that Act and under the Gambling Act 2005 as set out in Functions 41 and 42 below. The Committee and Sub-Committees will also deal with Functions 1 - 40 below.

1. Power to issue licences authorising the use of land as a caravan site ("site licences").
2. Power to license the use of moveable dwellings and camping sites.
3. Power to license hackney carriages and private hire vehicles.
4. Power to license drivers of hackney carriages and private hire vehicles.
5. Power to license operators of hackney carriages and private hire vehicles.
6. Power to register pools promoters.
7. Power to grant track betting licences.
8. Power to license inter-track betting schemes.
9. Power to grant permits in respect of premises with amusement machines.
10. Power to register societies wishing to promote lotteries.
11. Power to grant permits in respect of premises where amusements with prizes are provided.
12. Power to issue entertainments licences.
13. Power to license sex shops and sex cinemas.
14. Power to license performance of hypnotism.
15. Power to license premises for acupuncture, tattooing, ear-piercing and electrolysis.
16. Power to license pleasure boats and pleasure vessels.
17. Power to license market and street trading.
18. Duty to keep list of persons entitled to sell non-medicinal poisons.
19. Power to license dealers in game and the killing and selling of game.
20. Power to register and license premises for the preparation of food.

21. Power to license scrap yards and determine applications under the Scrap Metal Dealers Act 2013.
22. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.
23. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.
24. Duty to promote fire safety.
25. Power to license premises for the breeding of dogs.
26. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.
27. Power to register animal trainers and exhibitors.
28. Power to license zoos.
29. Power to license dangerous wild animals.
30. Power to enforce Regulations in relation to animal by-products.
31. Power to license the employment of children.
32. Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.
33. Power to issue a permit to conduct charitable collections.
34. Power to grant consent for the operation of a loudspeaker.
35. Duty to register the movement of pigs.
36. Power to enforce Regulations in relation to the movement of pigs.
37. Power to issue a licence to move cattle from a market.
38. Power to sanction use of parts of buildings for storage of celluloid.
39. Duty to enforce and execute Regulations (EC) No. 852/2004 and 853/2004 in relation to food business operators as further specified in Regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.
40. Functions under any of the “relevant statutory provisions” within the meaning of Part 1 (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer.
41. Licensing functions under Part 2 of the Licensing Act 2003 except Section 6.

42. Functions in respect of gambling under the following provisions of the Gambling Act 2005 -

- (i) Section 29 – licensing authority information;
- (ii) Section 30 – other exchange of information;
- (iii) Section 166 – resolution not to issue casino licenses
- (iv) Section 284 – removal of exemption;
- (v) Section 304 – authorised persons;
- (vi) Section 346 – prosecutions by licensing authority;
- (vii) Section 350 – exchange of information;
- (viii) Part 5 of schedule 11 – registration with local authority.

DELEGATION TO LICENSING SUB-COMMITTEES

Licensing Committee has been authorised by Council to determine the allocation of responsibilities between the Committee and any Licensing Sub-Committees which are established by the Committee, including any changes the Committee may deem necessary in granting delegations to officers.

The Licensing Committee has consequently determined that, other than the overall supervisory function and role which must be reserved to the Licensing Committee in terms of receiving reports on policy/procedure from Officers, Responsible Authorities and consultees, of considering and adopting licence conditions and of procedures for hearings and of reviewing the Licensing Policy Statements under the Licensing Act 2003 and the Gambling Act 2005, the discharge of its Licensing Functions shall be delegated to a structure of Licensing Sub-Committees comprising any three Members of the parent Licensing Committee.

It has determined the granting of delegations to officers as set out in Appendix A and Appendix B.

DELEGATION TO OFFICERS

1. Functions 3-5, 9-15, 17 and 41 above are delegated to the Director of Community Services provided no objections have been received to the application. In cases where objections to the application have been received, the function is reserved by the Committee as requiring to be dealt with by a Licensing Sub-Committee.
 2. Functions 1, 2, 6-8, 16, 18-30, 33-40 and 42(i), (ii), (v) - (viii) above are delegated to the Director of Community Services.
 3. Function 32 above is delegated to the Head of Culture, Leisure and Registration Services.
 4. Function 31 above is delegated to the Director for Children and Schools.
-

APPENDIX A**Delegation of Functions – Licensing Act 2003**

Matter to be dealt with	Sub-Committee	Director of Community Services
Application for personal licence	If a police objection made	If no objection made
Application for a personal licence with unspent convictions	All cases	
Application for premises licence	If a relevant representation made	If no relevant representation made
Application for club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence	If a relevant representation made	If no relevant representation made
Application to vary club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection made	All other cases
Application for interim authorities	If a police objection made	All other cases
Application to review premises licence	All cases	
Application to review club premises certificate	All cases	
Decision on whether a representation by a person who is not a responsible authority is frivolous or vexatious		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Application for minor variations		All cases
Imposing conditions on temporary event notices	All cases	
Issuing counter notices for late temporary event notices		All cases
Suspension of premises licences and club premises certificates for non-payment of annual fee		All cases

- (a) The Director of Community Services be authorised to act in relation to any matters within the functions of the Licensing Act 2003, with the exception of those reserved to the Licensing Committee or Sub-Committees.
- (b) The Director of Community Services be authorised to institute, defend, appeal or settle legal proceedings under the Licensing Act 2003.

APPENDIX B

Delegation of Functions – Gambling Act 2005

Matter to be dealt with	Sub-Committee	Officers
Application for Premises Licence	If a representation is made	If no representation is made
Application for a Variation of Licence	If a representation is made	If no representation is made
Application for a Transfer of a Licence	If a representation is made	If no representation is made
Application for Provisional Statement	If a representation is made	If no representation is made
Review of a Premises Licence	X	
Application for club gaming/club machine permits	If a representation is made	If no representation is made
Cancellation of Club Gaming/Club Machine Permits		X
Applications for other permits		X
Cancellation of licensed Premises Gaming Machine permits		X
Consideration of Temporary Use Notice		X
Decision to give a counter notice to a Temporary Use Notice	X	
Application for reviews	X	
Determination of vexatious or irrelevant criteria for review applications		X

B. OTHER COMMITTEES

B1. URGENCY COMMITTEE

This Committee will consist of seven Members allocated in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989 and will exercise the following function:

To deal with urgent business in relation to Council functions where a decision cannot wait for the next available meeting of the Council or any of its Committees exercising plenary powers.

B2. CONSTITUTIONAL REVIEW COMMITTEE

This Committee will consist of thirteen Members and comprise no more than five members of the Executive, the Chairmen of the five Overview and Scrutiny Committees and three Members from the minority groups/Members who are not affiliated to any groups, or such other combination to reflect the prevailing political balance, providing that the number of Executive Members shall not exceed the number of Chairmen of Overview and Scrutiny Committees, and will exercise the following function:

1. To monitor and review the Council's Constitution.

A Member whose Notice of Motion is referred to the Constitutional Review Committee for consideration shall have the right to speak to that motion at the meeting of the Committee at which it is considered. In the event that a Notice of Motion referred to the Committee has been submitted by more than one Member, one of those Members only, nominated by the others for that purpose, shall have the right to speak to that motion at the Constitutional Review Committee meeting at which it is considered.

B3. STANDARDS COMMITTEE

Membership and Functions

As set out in Part 2, Section 8 of this Constitution.

B4. SENIOR STAFF COMMITTEE

This Committee will consist of seven Members allocated in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989 and will exercise the following functions:

1. To determine terms and conditions of service for officers covered by the Joint Negotiating Committees for Chief Executives and Chief Officers, other than determination of the level of and the making of any changes to the level of remuneration to be paid to a Chief Officer, as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006 as amended.
2. To undertake the functions relating to the appointment of officers covered by the Joint Negotiating Committees as set out in the Officer Employment Procedure Rules in Part 4 of this Constitution.

DELEGATION TO OFFICERS

1. Function 1 as it relates to the determination of relocation allowances for officers covered by the Joint Negotiating Committee for Chief Officers is delegated to the Chief Executive.

B5. GOVERNANCE AND AUDIT COMMITTEE

This Committee will consist of seven members and comprise six Members of the Council and one Lay Member. The six Members of the Council will be allocated in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989. No more than one member of the Committee can be a member of the Executive. The Leader of the Council cannot be a Member of the Committee. The Chairman of the Committee will be appointed by the Committee and cannot be a member of a political group, some or all of whose members comprise, or are included in, the Executive of the Council. The Committee must meet once in every calendar year and must also meet if the Council resolves that it should meet or at least one third of the members of the Committee requisition a meeting by one or more notices in writing given to the Chairman of the Committee. The Committee will exercise the following functions:

1. Review and scrutinise the Authority's financial affairs.
2. Make reports and recommendations in relation to the Authority's financial affairs.
3. Review and assess the risk management, internal controls, performance assessment and corporate governance arrangements of the Authority.
4. Make reports and recommendations to the Council or to the relevant Overview and Scrutiny Committee on the adequacy and effectiveness of the arrangements referred to in 3. above.
5. Review and assess the Authority's ability to handle complaints effectively.
6. Make reports and recommendations in relation to the Authority's ability to handle complaints effectively.
7. Oversee the Authority's internal and external audit arrangements.
- 8.
9. Review the financial statements prepared by the Authority.
10. Approve policies and strategies in relation to Counter Fraud, Business Risk Management, Anti-Money Laundering, and Debt Recovery. Approve amendments to Financial Regulations, Contract Procedure Rules and Complaints Handling.

B6. DEMOCRATIC SERVICES COMMITTEE

This Committee will consist of seven members allocated in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989. No more than one member of the committee can be a member of the Council's Executive. The Leader of the

Council cannot be a member of the Committee. The Chairman of the Committee cannot be a member of the Executive, or a member of a political group, some or all of whose members comprise, or are included in, the Executive of the Council. The Committee must meet once in every calendar year and must also meet if the Council resolves that it should meet or at least one third of the members of the Committee requisition a meeting by one or more notices in writing given to the Chairman of the Committee. The Committee will exercise the following functions:

1. To designate the Head of Democratic Services.
2. To review the adequacy of provision by the Authority of staff, accommodation and other resources to discharge democratic services functions.
3. To make reports and recommendations to the authority in relation to such provision.
4. The Committee may also, at the request of the Council, review any matter relevant to:
 - (i) the support and advice available to Members of the Council.
 - (ii) the terms and conditions of office of Members of the Council.

Following any such review, the Committee must make reports and recommendations to the Council.

B7. PLANNING DELEGATION PANEL

This Panel will consist of seven Members (its composition to reflect the political balance of the Council, but not included in the overall calculation of appointments) and will not include the post of Member of Cabinet with responsibility for Planning matters or the Chairman and Members of the Planning Committee; and will determine formal requests from Members that a planning application delegated to Planning Officers should be withdrawn from the scheme of delegation and be determined by the Planning Committee. The Panel will meet on an ad hoc basis when required but at least four of the Panel Members must be present to make a decision on a referral request, and reasons for the decision must be given.

The request must be submitted in writing within 28 days from the date that the Member is notified of the application, which will be in an electronic format to the Members' Pembrokeshire County Council e-mail accounts.

The criteria for submitting a request for a referral are that the application is giving rise to expressions of public concerns:

1. that the development affects more than immediate neighbours or it affects other electoral divisions [Available to all Members];

and/or
2. that the decision on a proposed development's impact within the local community is finely balanced between competing interests or is complex and sensitive and would benefit from a public examination of the merits [Available to the Local Member only];

and/or

3. that issues are raised which highlight conflicting planning policy issues [Available to the Local Member only].

Where a request for referral made under criterion 3 is acceded to, the Panel is required to provide a view on the interpretation of the policies in the context of the application.

If a Local Member is prevented from seeking a referral because of a conflict of interests or a period of prolonged absence, then the Leader of the relevant political group will designate a deputy for the Local Member. Where Members are not affiliated to a political group, each such Member must at the start of the Council year designate a deputy, and the designated deputy will exercise the discretion in his/her own right.

In the event that the Director of Community Services decides to exercise his discretion to refer an application to the Planning Committee, it shall not be necessary to convene a meeting of the Planning Delegation Panel to consider the same application; and that the reasons for such referral be provided in the report submitted to the Planning Committee.

NOTE: In establishing the Planning Delegation Panel, Council determined that :

- Meetings of the Panel shall be open to the public and press.

However, being a Panel, the rule requiring a minimum period of three clear days public notice of meetings shall not apply.
- That the request by a Member for referral be submitted in writing to the Head of Planning (and copied to the Head of Legal and Democratic Services).
- The Head of Planning may provide comments to the Panel on the request for referral.

B8. MEMBER FAMILY ABSENCE COMPLAINTS PANEL

This Panel shall consist of three Members of the Authority (comprising the Chairman of the Democratic Services Committee and two other Members but shall not include the Presiding Member) appointed by Council and shall determine a complaint made under paragraph 4 of the Family Absence for Members of Local Authorities (Wales) Regulations 2013 relating to an application for permission to: (i) attend particular meeting; (ii) attend particular descriptions of meetings; (iii) perform particular duties or (iv) perform duties of a particular description. The Panel may:

- (a) Confirm the decision of the Presiding Member or
- (b) Substitute its own decision as to the Member attending any meeting or performing any duty.

The decision of the Panel is final.

SECTION 4 – FUNCTIONS RESERVED BY THE CABINET

1. Exercise of all local choice functions listed in Section 2 of this Part of the Constitution except those functions delegated to officers and those functions exercised by the Council.
2. Provision of guidance to the Council on its functions listed in Section 3 of this Part of the Constitution except those functions delegated to officers.
3. Formulation and submission of proposals to the Council in relation to the adoption and revision of the policy framework and adoption of the Budget:
 - Children and Young People’s Plan;
 - Best Value Performance Plan;
 - Community Strategy;
 - Crime and Disorder Reduction Strategy;
 - Health and Well-being Strategy;
 - Local Transport Plan;
 - Plans and alterations which together comprise the Development Plan;
 - Welsh Language Scheme;
 - Powers to approve a Young People’s Partnership Strategic Plan and a Children’s and Young People’s Framework Partnership;
 - Youth Justice Plan;
 - Housing Strategy;
 - Rights of Way Improvement Plan.
4. Determination of external customer service standards.
5. Determination of proposals to discontinue or add to points of service delivery.
6. After the completion of acquisition or disposal of land and/or premises over £100,000, a report thereon shall be made to the Cabinet by way of a schedule submitted twice per year.
7. Authorisation of compulsory purchase of land and/or buildings.
8. Payment of grants/financial assistance over a financial threshold as determined by the Cabinet from time to time.
9. Determination of increases in fees and charges in excess of inflation.
10. Determination of LMS Schemes for Schools.
11. Determination of Asset Management arrangements.
12. Oversight of partnership and joint arrangements.

13. Formulation of the Council's response to various consultations from other bodies and organisations where the Council's position is not already established.
14. Determination of traffic orders and works to highways where there has been an objection from statutory consultees or local members.
15. Power to create footpaths and bridleways where there has been an objection from a statutory consultee or local Member.
16. Power to stop-up footpaths and bridleways where there has been an objection from a statutory consultee or local Member.
17. Power to divert footpaths and bridleways where there has been an objection from a statutory consultee or local Member.
18. To authorise the award of contracts for the supply of goods or services or the undertaking of works with total estimated values above those listed in the scheme [see page 49].
19. To authorise acquisition or disposal of land or premises with a value of more than £1 million.
20. To agree virements between budget heads where the total virement to or from any given budget head exceeds £1 million.
21. To authorise bids for external funds greater than £2 million subject to the Financial Regulations and any match funding being identified at the time of bidding.

NOTE:

1. In relation to Function 8 above, the current limit determined by Cabinet is £5,000 for small business grants and £2,000 in all other cases.
2. Functions 14 – 17 above are delegated to the Director of Community Services.
3. The Cabinet has granted delegated authority to the Director of Social Services and Housing to implement the requirements of the Housing Act 2004 in relation to the Right to Buy, and to exercise the elements of discretion in cases of genuine hardship.
4. The Cabinet has granted delegated authority to the Director of Social Services and Housing and the Head of Legal and Democratic Services to agree terms for the lifting of restrictive covenants on former Council dwellings.

SECTION 5 – DELEGATION TO OFFICERS

Section 101 of the Local Government Act 1972 provides that a local authority may arrange for the discharge of any of their functions by an officer.

5.1 Specific Delegation to Officers

The Full Council also has authority to delegate any of its functions to an Officer subject to any constraints upon such delegation contained in this Constitution or applied by law and to any additional constraints which the Full Council may impose.

The Cabinet and each Committee shall have authority to delegate to an Officer full power to exercise and perform on behalf of the Cabinet or Committee as appropriate, any powers and duties delegated to the Cabinet or Committee under this Constitution but subject always to any constraints upon such delegation contained in this Constitution or applied by law and to any additional constraints which the Cabinet or Committee may impose.

5.2 General Delegation to Directors

Each Director is authorised to act on behalf of the Council in relation to any matters within functional portfolios for which each Director is responsible except those specifically reserved by the Council, any of its Committees, the Cabinet or an individual Cabinet Member, subject also to the following overriding provisions:

- (a) Any action by a Director taken under delegated powers shall be in accordance with:
 - (i) the budget and policy framework.
 - (ii) the Constitution.
- (b) Where the exercise of a delegated power affects or is likely to affect more than one functional portfolio, consultation shall take place between those Directors whose portfolios are or are likely to be affected.

5.3 General Delegations – Legal and Procedural

The Head of Legal and Democratic Services is authorised:-

- (a) To authorise commencement of legal proceedings and to institute, defend or settle legal proceedings (either in the name of the Council or an individual officer of the Council), at common law or under any enactment, statutory instrument, order or byelaw conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal in respect of any such proceedings. For the avoidance of doubt, this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter-notices and notices to quit;
- (b) To authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972.

5.4 Any powers conferred upon a Director may be exercised by an authorised officer in his absence or at any other time in accordance with any general directions made by a Director.

5.5 Where functions have been delegated specifically to officers and subsequently changes in functional portfolios of Directors are implemented, the relevant delegations are automatically transferred to reflect the changes.

5.6 The Chief Executive is authorised to undertake any functions specifically or generally delegated to Directors and any other Officers in addition to any specific delegations and functions assigned to him contained in this Constitution.

SECTION 6 – STATUTORY AND PROPER OFFICER DESIGNATION

Appointment of Statutory and Proper Officers

Introduction

- 6.1 The Local Government Act 1972 together with other legislation requires local authorities to make specific statutory appointments which carry specific responsibilities. The current designations are identified in Appendix A.
- 6.2 The Local Government Act 1972 also makes provision for certain officers to be designated by their employing Authority as the “Proper Officer” to carry out particular functions under various Acts of Parliament. The current designations are identified in Appendix B.

Appendix A

Statutory Officers

Legislation requires local authorities to designate specific officers for particular responsibilities. These are detailed below:

Statutory Requirements

Allocated To

Section 4 Local Government and Housing Act 1989

Head of Paid Service

Chief Executive

Representation of the People Act 1983

Returning Officer

Chief Executive

Section 5 Local Government and Housing Act 1989

Monitoring Officer

Monitoring Officer

Section 151 Local Government Act 1972

Chief Financial Officer

Director of Resources

Section 532 Education Act 1996

Chief Education Officer

Director for Education

Section 6 Local Authority Social Services Act 1970 and the Social Services and Well-being Act (Wales) 2014

Director of Social Services and Housing

Director of Social Services and Housing

Section 27(1)(a) Children Act 2004

Lead Director for Children and Young
People`s Services

Director for Education

Section 8 Local Government (Wales)

Measure 2011

Head of Democratic Services

Head of Legal and Democratic
Services

Proper Officer Responsibilities

1. Chief Executive

The Chief Executive is appointed the Proper Officer in relation to:

- (a) Any reference in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Clerk of a Council or the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.
- (b) Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an Order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.
- (c) In addition to any specific responsibilities under which the Chief Executive is designated proper officer, the Chief Executive is also designated as Proper Officer in respect of all Proper Officer designations made to Directors or other officers.

2. Director of Resources

The Director of Resources is appointed the Proper Officer in relation to the following:

- (a) Any reference in any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Treasurer or a Treasurer of a Borough, which by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.
- (b) Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of an Order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.

3. Proper Officer Designations in respect of specific Statutory Provisions are as follows:

Local Government Act 1972

<u>Section of Act</u>	<u>Proper Officer's Functions</u>	<u>Officer Appointed</u>
83(1)-(3)	Witness and receipt of Declaration of Acceptance of Office	Chief Executive or Head of Legal and Democratic Services
84	Receipt of Declaration of Resignation of Office	Chief Executive
88(2)	Convening of Meeting of Council to fill casual vacancy in the office of Chairman / Presiding Member	Chief Executive
89(1)(b)	Receipt of Notice of Casual Vacancy from two Local Government Electors	Chief Executive
100(B)(2)	Circulation of Reports and Agendas	Head of Legal and Democratic Services
100(B)(7)	Supply of papers to the Press	Head of Legal and Democratic Services
100(C)(2)	Summaries of Minutes	Head of Legal and Democratic Services
115(2)	Receipt of money due from officers	Director of Resources
146(1)(a) and (b)	Declarations and Certificates with regard to securities	Director of Resources
191	Functions with respect to Ordnance Survey	Director of Community Services
225(1)	Deposit of documents	Head of Legal and Democratic Services
229(5)	Certification of photo-copies	Head of Legal and Democratic Services
234	Authentication of documents	All Directors for their own areas of operation
236(9) and (10)	Service of byelaws on other	Head of Legal and

	authorities	Democratic Services
238	Certification of byelaws	Head of Legal and Democratic Services
248(2)	Keeping roll of Freemen	Head of Legal and Democratic Services
Schedule 12, Paragraph 4 (2)(b)	Signature of Summonses to Council Meetings	Chief Executive
Schedule 12, Paragraph 4(3)	Receipt of Notices regarding addresses to which summonses to Meetings are to be sent	Head of Legal and Democratic Services

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

Section 10	Additional rights of access to Documents for Members of local authorities	Chief Executive
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Public Services Ombudsman (Wales) Act 2005

17(3)	Publication of Public Services Ombudsman's Report	Monitoring Officer
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Local Government (Miscellaneous Provisions) Act 1976

41	Evidence of Resolutions and Minutes of proceedings	Head of Legal and Democratic Services
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Building Act 1984

78	Exercise of powers to deal with Dangerous buildings etc.	Director of Community Services; Darren Thomas; Richard Laurence, Christopher Pratt; Andrew James; Tony Jones
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Registration Service Act 1953 and Registration of Births, Deaths and Marriages Regulations 1968 to 1994

Section 9(1) 13 and 20 of the Act	Various Powers	Head of Leisure and Cultural Services
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All relevant Provisions of the Regulations	Various Powers	Head of Leisure and Cultural Services
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Rent Act 1977

Schedule 15 Part IV	Certificate of a Local Housing Authority as to the provision of suitable alternative accommodation	Director of Social Services and Housing
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Rent (Agriculture) Act 1976

Schedule 4	Issue of a Certificate of the Housing Authority in relation to the provision of alternative accommodation	Director of Social Services and Housing
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National Assistance Act 1948 as amended by

National Assistance (Amendment) Act 1951

Section 47	Removal to suitable premises of persons in need of care and attention	Director of Social Services and Housing and Chief Housing Officer
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Exercise of statutory communicable disease control functions

- Public Health (Control of Disease) Act 1984 (as amended);
- Health Protection (Notification)(Wales) Regulations 2010;
- Health Protection (Local Authority Powers)(Wales) Regulations 2010;
- Health Protection (Part 2A Orders)(Wales) Regulations 2010;
- Public Health (Ships) Regulations 1979 (as amended);
- Public Health (Aircraft) Regulations 1979 (as amended);
- International Health Regulations 2005; and,
- any other legislation related to the control of communicable diseases.

Appointments as an 'authorised officer' for port health purposes, and as a proper officer, to exercise statutory communicable disease control functions in respect of the various provisions listed above:

Mr Siôn Lingard and Dr Christopher Johnson

Appointment by Pembrokeshire County Council as a medical officer for port health purposes, and as a proper officer, to exercise statutory communicable disease control functions in respect of the various provisions listed above:

Dr Graham Brown, Dr Gwen Lowe, Dr Rhianwen Stiff, Dr Brendan Mason, Dr Christopher Williams, Dr Giri Shankar and Dr Behrooz Behbod

Appointment by Pembrokeshire County Council of certain Council officers as proper officers for the specific purpose of:

- i) securing entry to premises in accordance with Section 61 of the Public Health (Control of Disease) Act 1984, as amended; and,
- ii) the supplementary provisions set out under Section 62 of that Act.

Jeff Beynon, Sam Hancock, Jessica Edwards, Carys Mathias, Bethan Zefara, Peter Cole, Emma Hayes, Julie Turner, Jane Lonergan, Helen Bridger, Julie Layton, Toni Harries, Gemma Tawn, Shelley Lewis, Chris Richards, Glenda Thomas, Carwyn Thomas, David Evans, Gary Tawn.

Food Safety Act 1990 and Agriculture Act 1970

Public Analyst Scientific Services Limited (PASS), Woodthorne, Valiant Way, Wolverhampton appointed as Public and Agricultural Analysts.

PART FOUR – RULES, CODES AND PROTOCOLS

SECTION 1 - FINANCIAL PROCEDURE RULES

1.0 Introduction

1.1 What are Financial Regulations?

1.1.1 The Chief Finance Officer is responsible for:

- (a) preparing detailed Financial Regulations which provide the framework for the proper administration of the Council's financial affairs;
- (b) issuing advice and guidance to underpin the Financial Regulations which Members, Officers and others acting on behalf of the Council are required to follow.

1.1.2 The regulations identify the financial responsibilities of the Full Council, the Cabinet and Officers.

1.1.3 To avoid the need for regular amendment due to changes in post titles, generic terms are included for Officers as follows:

- The term "Directors" refers to the Council's Chief Executive and the Directors.
- The term "Cabinet" refers to the Cabinet and Leader of the Council.
- The term "Chief Finance Officer" is the Council's Statutory Section 151 Officer and refers to the Director of Resources (Deputy Section 151 Officer is the Head of Finance & Business Services).
- The term "Head of Internal Audit" refers to the Governance, Assurance and Information Manager.

1.2 Why are they important?

1.2.1 To conduct its business effectively, the Council needs to ensure that sound financial management arrangements are in place and that they are strictly adhered to in practice. Part of this process is the establishment of Financial Regulations which set out the financial responsibilities of the Council.

1.2.2 Good, sound financial management is a key element of the Council's Corporate Governance framework, which helps to ensure that the Council is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.

1.2.3 Good financial management secures value for money, controls spending, ensures probity of transactions and allows decisions to be informed by accurate accounting information, substantiating the effective use of public money.

1.2.4 Financial Regulations should not be seen in isolation, but rather as part of the overall regulatory framework of the Council as set out in the Constitution.

1.3 Who do Financial Regulations apply to?

1.3.1 Financial Regulations apply to every Member and Officer of the Council and anyone acting on its behalf. Members and Officers have a general responsibility for taking reasonable action to provide for the security and use of the resources and assets under their control, and for ensuring that the use of such resources and assets is legal, is consistent with Council policies and priorities, is properly authorised and achieves value for money.

1.3.2 Separate financial procedures have been incorporated into the Council's Financial Regulations for Schools and relate to those matters where decisions have been delegated to school governing bodies.

1.3.3 These Financial Regulations will apply in relation to any partnership for which the Council is the accountable body, unless the Council expressly agrees otherwise.

1.3.4 Failure to observe Financial Regulations may result in action under the Council's disciplinary procedures.

1.4 Who is responsible for ensuring that they are applied?

1.4.1 Directors, Heads of Service and Individual Cabinet Members are ultimately responsible to the Council for ensuring that Financial Regulations are applied and observed by staff and contractors providing services on the Council's behalf, and for reporting to the Chief Finance Officer any known or suspected breaches.

1.5 Suspension of Financial Regulations

1.5.1 Where any Director considers that complying with Financial Regulations in a particular situation might conflict with the achievement of value for money or the best interests of the Council, he/she will raise the issue with the Chief Finance Officer who will, if he considers necessary and appropriate, seek formal approval from the Cabinet for a specific exception to the regulations.

2.0 Financial Management – General Roles and Responsibilities

2.1 The Role of Members

The Council has a duty towards its Council Tax payers with regard to financial decisions and their consequences. Full Council is responsible for approving the Budget and Policy Framework within which the Cabinet operates having regard to the Chief Finance Officer's comments in his Local Government Act 2003 section 25 report on the robustness of estimates and the adequacy of reserves. The budget setting process includes Full Council approval of Prudential Indicators as required by the CIPFA Prudential Code for Capital Finance in Local Authorities. Full Council is also responsible for approving and monitoring compliance with the overall framework of accountability and control.

The following have specific financial roles and responsibilities as set out in Parts 2 and 3 of the

Constitution:

- The Council
- The Cabinet
- Overview and Scrutiny Committees
- Governance and Audit Committee

2.2 The Role of the Chief Finance Officer

2.2.1 The role of the Chief Finance Officer is set out in Part 2, Section 10 of the Constitution.

2.2.2 The Chief Finance Officer is accountable to the Chief Executive and the Council and has statutory duties that provide overall responsibility for the financial administration and stewardship of the Council. This statutory responsibility cannot be overridden. These statutory duties arise from:

- (a) Section 151 of the Local Government Act 1972;
- (b) The Local Government Finance Act 1988;
- (c) The Local Government and Housing Act 1989 / Housing (Wales) Act 2014;
- (d) Local Government Act 2003;
- (e) The Accounts and Audit (Wales) Regulations 2014 (as amended).

2.2.3 The Chief Finance Officer is the Council's professional adviser on financial matters and is responsible for:

- (a) the proper administration of the Council's financial affairs;
- (b) maintaining a continuous review of the Financial Regulations and submitting any additions or changes as necessary to the Governance and Audit Committee for approval;
- (c) annually reviewing, updating and monitoring compliance with the Financial Control Procedures;
- (d) advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- (e) providing financial information and advice to the Corporate Management Team, the Cabinet and the Council on all aspects of its activity including the presentation of appropriate financial options as necessary;

- (f) providing training for Members and Officers on Financial Regulations and Financial Control Procedures;
- (g) determining accounting policies and ensuring that they are applied consistently;
- (h) determining accounting procedures and records of the Council;
- (i) preparing and monitoring the revenue budget, capital programme and Medium Term Financial Plan;
- (j) ensuring the provision of an effective Internal Audit Function;
- (k) ensuring the provision of an effective Treasury Management Function;
- (l) advising on risk management;
- (m) ensuring the Council complies with the CIPFA Prudential Code for Capital Finance in Local Authorities;
- (n) ensuring that Council spending plans and council tax calculations, identified in the Medium Term Financial Plan, are based upon robust estimates;
- (o) ensuring that the level of Council reserves is adequate to meet the known financial risks facing the Council over the medium term;
- (p) ensuring that the annual Statement of Accounts is prepared in accordance with the latest Code of Practice on Local Authority Accounting in the UK and the Service Reporting Code of Practice (SeRCOP) to ensure consistent financial reporting below the Statement of Accounts level;
- (q) ensuring that financial information is available to enable accurate and timely monitoring and reporting of comparisons of national and local financial performance indicators;
- (r) ensuring that proper professional practices, standards and ethics are adhered to;
- (s) acting as head of profession in relation to the standards, performance and development of finance staff including the training and professional development of all staff employed in posts designated as requiring a qualified accountant, accounting technician, or auditor, wherever located;
- (t) the appointment of all finance staff and will be consulted on any proposal to create or delete a post requiring such a qualification for appointment;
- (u) The Chief Finance Officer will, at his discretion, report to the Cabinet and/or the Governance and Audit Committee any breach or material case of non-compliance with these Financial Regulations. Where appropriate the Chief Executive or Chief

Finance Officer may consult with the Head of Human Resources regarding any disciplinary action necessitated by the breach or non-compliance.

2.2.4 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to Full Council and to the External Auditors if the Council or one of its Officers:

- (a) has made, or is about to make a decision which involves incurring expenditure which is unlawful;
- (b) has taken or is about to take, unlawful action which has resulted or would result in a loss or deficiency to the Council;
- (c) is about to make an unlawful entry in the Council's accounts.

For clarity, Cipfa also use the term "unbalanced budget" under Section 114.

2.2.5 Section 114 of the Local Government Finance Act 1988 also requires:

- (a) the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he or she be unable to perform the duties under section 114 personally;
- (b) the Council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources, including legal advice where necessary, to carry out the duties under section 114, as determined by the Chief Finance Officer.

2.2.6 The Chief Finance Officer:

- (a) is required to approve all financial procedures, records, systems and accounts throughout the Council which are necessary to ensure that the tasks defined in these procedures are properly carried out. The Council will also ensure that the Chief Finance Officer is consulted and given the opportunity to advise upon all financial management arrangements to ensure provision of detailed advice and guidance on financial systems and procedures necessary to ensure a satisfactory standard of accuracy, reliability, probity and regularity;
- (b) will be given access to any information as is necessary to comply with his statutory duties and with the requirements and instructions of the Council;
- (c) will be entitled to attend and report on financial matters directly to the Council, the Cabinet, and any Committees or working groups the Council may establish and to the Corporate Management Team;
- (d) will be sent prior notice of all meetings of the Cabinet and all reports for Individual Cabinet Members under the Individual Cabinet Member delegation procedure, the Council, all Committees/Sub-Committees/working groups together with full agendas and reports and will have authority to attend all meetings and take part in the discussion if he so desires.

2.3 The Role of Directors

- 2.3.1 Directors are each accountable to the Council for the financial management and administration of those services and activities allocated to them in accordance with Council policy.
- 2.3.2 Directors are responsible for:
- (a) ensuring that adequate and effective systems of internal control are operated to ensure the accuracy, legitimacy and proper processing of transactions and the management of activities, having regard to advice and guidance from the Chief Finance Officer;
 - (b) ensuring that Cabinet Members are advised of the financial implications of all proposals and that the financial implications have been agreed by the Chief Finance Officer;
 - (c) consulting with the Chief Finance Officer in seeking approval regarding any matters which may affect the Council's finances materially, before any commitments are incurred;
 - (d) consulting with each other on any issue with corporate financial implications before submitting policy options or recommendations to Members.

4.0 Financial Planning

3.1 Strategic Planning

- 3.1.1 The Full Council is responsible for approving the Council's Budget and Policy Framework (Part 2, Section 3 of the Constitution).
- 3.1.2 The preparation of the Medium Term Financial Plan is part of the Budget and Policy Framework of the Council and aims to ensure that the Council's spending plans are prudent, affordable, sustainable and reflect Council priorities.
- 3.1.3 In terms of strategic financial planning, the key documents for consideration are:
- (a) the Programme for the Administration;
 - (b) the Council's Corporate Plan (including Well-being Objectives);
 - (c) the Council's Transformation Programme;
 - (d) the Budget Strategy;
 - (e) the Capital Strategy;
 - (f) the Treasury Management Strategy and Investment Strategy;
 - (g) the Strategic Asset Management Plan;
 - (h) the Business Risk Management Strategy and Corporate Risk Register;
 - (i) the Workforce Development Plan;

(j) the Council's Performance Management Framework.

3.1.4 The Full Council is responsible for approving procedures for agreeing variations to approved budgets, plans and strategies forming the Budget and Policy Framework and for determining the circumstances in which a decision will be deemed to be contrary to or not wholly in accordance with the Budget and Policy Framework.

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

3.1.6 Directors are responsible for the preparation and monitoring of service improvement plans within their Directorates in accordance with the corporate performance management framework. Service improvement plans should align with the Programme for the Administration and the Council's Corporate Plan (including Well-being Objectives) and be consistent with and based upon the budget allocated by the Council to the service.

3.2 Budget Preparation

3.2.1 The Cabinet, in consultation with the Chief Finance Officer is responsible for approving the Budget Strategy.

3.2.2 The Budget Strategy will take account of:

- (a) the Programme for the Administration and the Council's Corporate Plan (including Well-being Objectives);
- (b) workforce inflation, non-workforce inflation, demographic and legislative pressures;
- (c) funding from Welsh Government (Aggregate External Finance and specific grant) and other sources;
- (d) council tax increases;
- (e) the level of reserves and the general fund working balance;
- (f) the affordability and sustainability of service provision;
- (g) the affordability, sustainability and prudence of capital investment plans;
- (h) legal requirements and other relevant government requirements and guidelines;
- (i) value for money;
- (j) other internal policy documents;
- (k) cross-cutting issues (where relevant).

3.2.3 The Chief Finance Officer is responsible for:

- (a) developing and maintaining a budget and resource allocation process that ensures consideration of the Policy Framework;
- (b) ensuring that a detailed revenue budget and a strategic plan up to a four year period (Medium Term Financial Plan) are prepared on an annual basis, for consideration by the Cabinet before submission to Full Council for approval;
- (c) ensuring that a detailed capital programme and an indicative capital programme for a further two year period is prepared on an annual basis, for consideration by the Cabinet before submission to the Full Council for approval.

3.2.4 It is the responsibility of the Chief Finance Officer to advise the Cabinet and/or the Full Council on prudent levels of working balances and reserves for the Council.

3.2.5 Directors are responsible for ensuring that the Policy Framework and service improvement plans within their Directorate are deliverable within the approved budget allocation.

3.3 Budget Approval

3.3.1 The Budget approval process is set out in Part 2 Section 3 of the Constitution.

3.3.2 Provision of an item in the approved Budget (revenue and capital) confers authority on the Cabinet/Directors to incur such expenditure during the financial year to which the budget relates.

3.3.3 Authorisation of capital schemes will be in accordance with decisions of Cabinet or under the Individual Cabinet Member Delegations – “Authorise schemes within the agreed capital programme or for which capital provision is available within a delegated budget if deemed affordable by the Section 151 Officer, subject to paragraph 5.2.2 below”.

3.4 Budget Transfers/Virements

3.4.1 Budget transfers/virements will be in accordance with the Individual Cabinet Member Delegations:

- (a) Up to £50,000 – Directors approval required;
- (b) Exceeding £50,000 to £1,000,000 – Individual Cabinet Members approval required;
- (c) Exceeding £1,000,000 – Cabinet approval required.

3.4.2 Authorisation of the Chief Finance Officer is required to release funds from reserves in accordance with the Strategy for Holding and Utilising Reserves.

3.4.3 A capital budget cannot be transferred to a revenue budget.

3.5 Budget Monitoring and the Control of Income and Expenditure

3.5.1 The Chief Finance Officer (and Head of Human Resources in regard to payroll, pensions and personal taxation) is responsible for:

- (a) developing an effective framework of budget management and control;
- (b) providing appropriate financial information to enable budgets to be monitored effectively;
- (c) reporting to Directors, the Cabinet (and other Committees as appropriate) on the overall Council budget monitoring position on at least a half-yearly basis;
- (d) all payments to employees, Members and creditors;
- (e) maintaining the Council's tax records;
- (f) advising Directors on all taxation issues that affect the Council;
- (g) ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts;
- (h) approving arrangements for the collection of income due to the Council;
- (i) approving banking, borrowing and other credit requirements, e.g. leasing;
- (j) approving the write off of bad debts;

3.5.2 Contracts for the supply of goods and services or the undertaking of works will be in accordance with the Contract Procedure Rules and Individual Cabinet Member Delegations.

3.5.3 Separate financial procedures for schools have been incorporated into the Council's Financial Regulations for Schools and relate to those matters where decisions have been delegated to school governing bodies.

3.5.4 It is the responsibility of Directors to:

- (a) control income and expenditure within their Directorate and service areas and only incur expenditure for which there is budgetary provision;
- (b) monitor performance in conjunction with the budget taking account of financial information provided by the Chief Finance Officer;
- (c) report on budget variances (expenditure and income) within their own areas to the Chief Finance Officer;
- (d) take any corrective action necessary to avoid exceeding their budget allocation and alert the Chief Finance Officer accordingly.

3.6 Reporting at Year End (Statement of Accounts)

3.6.1 The Chief Finance Officer is responsible for:

- (a) providing the Cabinet with an annual budget outturn statement;
- (b) publishing an annual timetable for the closure, audit and approval of the accounts;
- (c) ensuring that the Council's annual Statement of Accounts is prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC), the Accounts and Audit (Wales) Regulations 2014 (as amended) and any other relevant guidelines.
- (d) submitting the draft Statement of Accounts to the External Auditor for audit, the Governance and Audit Committee for review and Council for approval, in accordance with the timetable.

3.6.2 It is the responsibility of Directors to ensure that arrangements are put in place each year to deliver the Council's timetable.

3.7 Use of Reserves

3.7.1 The Chief Finance Officer is responsible for advising the Cabinet and/or the Full Council on levels of reserves for the Council. The advice will be based upon an annual risk assessment of the prudent levels of reserves the Council should maintain.

3.7.2 The Chief Finance Officer will manage the reserves in accordance with the Strategy for Holding and Utilising Reserves.

4.0 Business Risk Management and Control of Resources

4.1 Business Risk Management

4.1.1 It is essential that robust, integrated systems are developed and maintained for identifying, evaluating, managing and reviewing all significant strategic and operational business risks to the achievement of the Council's Well-being objectives. This should include the proactive participation of all those associated with planning and delivering services.

4.1.2 The Corporate Risk Management Group is responsible for reviewing strategic risks and reporting progress on their management to the Corporate Management Team, the Governance and Audit Committee and the Cabinet.

4.1.3 The Cabinet are responsible for formally approving the Council's Corporate Risk Register on an annual basis.

4.1.4 The Governance and Audit Committee is responsible for approving the Council's Business Risk Management Strategy and for reviewing the effectiveness of the Council's business risk management arrangements.

- 4.1.5 The Chief Finance Officer is the Council's nominated Business Risk Management Champion, supported by the Members Business Risk Management Champion.
- 4.1.6 The Chief Finance Officer/Head of Internal Audit are responsible for preparing the Council's Business Risk Management Strategy and for promoting and embedding it throughout the Council and for advising the Cabinet on risk mitigation for significant risks where appropriate.
- 4.1.7 It is the responsibility of Directors to ensure there are regular reviews of business risks within their areas of responsibility having regard to advice from the Chief Finance Officer/Head of Internal Audit and other specialist Officers (e.g. Legal and Health & Safety).
- 4.1.8 It is the responsibility of Directors and Heads of Service to ensure compliance with the Business Risk Management Strategy and Guidelines.

4.2 Internal Control

- 4.2.1 Internal control refers to the systems of control devised by management to help ensure the Council's Well-being objectives are achieved in a manner that promotes economic, efficient and effective use of resources and that the Council's assets and interests are safeguarded.
- 4.2.2 Effective internal control systems ensure that the Council secures probity and legitimacy of transactions, and prevents and detects fraud, misuse of assets and funds, and irregularity.
- 4.2.3 The Head of Internal Audit is responsible for advising on effective systems of internal control. Effective systems of internal control should ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice. They should also ensure that public funds are properly safeguarded and used economically, efficiently and in accordance with the statutory and other authorities that govern their use.
- 4.2.4 It is the responsibility of Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, value for money, effective use of resources and achieving their financial performance targets.
- 4.2.5 The Council is required to provide a Statement on Internal Control (Annual Governance Statement) in accordance with the Accounts and Audit (Wales) Regulations 2014 (as amended). As part of this statement, the Chief Executive and the Leader of the Council are required to comment on the effectiveness of the entire internal control environment within the Council as a key indicator of good governance.
- 4.2.6 Directors and Statutory Officers are required to give annual assurance that sound governance arrangements exist within their Directorates. Financial Control Procedures have been established to bring to the attention of those with responsibility for budgetary

control the issues they need to consider to ensure the required governance arrangements are in place.

4.3 Insurance

4.3.1 Insurance provision is a way of managing risk.

4.3.2 The Chief Finance Officer is responsible for:

- (a) effecting insurance cover falling within the Policy Framework approved by the Council and dealing with all claims in consultation with other Directors where necessary;
- (b) operating an internal insurance account(s) for risks not covered by external insurance policies and is authorised to charge the various Council Service budgets with the cost of contributions to this account;
- (c) reviewing, at least annually, all insurances in consultation with Directors where necessary.

4.3.3 It is the responsibility of Directors to:

- (a) advise the Chief Finance Officer of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required;
- (b) notify the Chief Finance Officer in writing and without delay of any loss, liability or damage or any event likely to lead to a claim, and will provide such information and explanations required by the Chief Finance Officer or the Council's insurers;
- (c) consult with the Head of Legal and Democratic Services on the terms of any indemnity which they are requested to give on behalf of the Council;
- (d) ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim;
- (e) keep suitable records and ensure inspections of any asset are carried out within any period prescribed by legislation or insurers.

4.3.4 Any monies due from the insurers will be paid to the Chief Finance Officer.

4.4 Internal Audit and External Audit

4.4.1 The requirement for an internal audit function for local authorities is implied by section 151 of the Local Government Act 1972, which requires that authorities "make arrangements for the proper administration of their financial affairs". Reliance on Internal Audit is fundamental to this responsibility. The Accounts and Audit (Wales) Regulations 2014 require that a "relevant body shall maintain an adequate and effective

system of internal audit of their accounting records and control systems and review its effectiveness on an annual basis”.

- 4.4.2 The Chief Finance Officer is responsible for:
- (a) ensuring that the Council has appropriate arrangements in place to maintain an adequate and effective internal audit function;
 - (b) maintaining a continuous internal audit and, so far as he/she may deem reasonable, arrange for the examination and audit of accounting, financial and other operations of the Council.
- 4.4.3 The strategy and terms of reference for Internal Audit are detailed in the Council’s Internal Audit Charter which is reviewed and approved by the Governance and Audit Committee.
- 4.4.4 The internal audit function is governed by the Public Sector Internal Audit Standards and the Head of Internal Audit is required to report annually on conformance.
- 4.4.5 The Head of Internal Audit is required to provide an Annual Assurance Statement on the effectiveness of the Council’s internal control, governance, risk management and financial management arrangements, in accordance with the Public Sector Internal Audit Standards. This is a key element of the evidence required to support the Annual Governance Statement.
- 4.4.6 The Chief Finance Officer or his internal audit staff will have authority to:
- (a) Enter at all reasonable times any Council premises or land;
 - (b) Have access to all records, information systems, documents and correspondence relating to any financial or other transactions of the Council;
 - (c) Require and receive such information and explanations as are necessary concerning any matter under examination within a reasonable period (normally not more than 28 days);
 - (d) Require any employee of the Council to produce cash, stores or any other Council property under his control.

This authority should be extended to the Council’s partnerships at the discretion of the Chief Finance Officer.

- 4.4.7 The Auditor General for Wales is responsible for appointing external auditors to each Local Authority. The basic duties of the external auditor are governed by the Public Audit (Wales) Act 2004. They are also required to follow the Code of Audit Practice. Their duties include reviewing the work of Internal Audit in order to place reliance on it.
- 4.4.8 The Council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HMRC, who have statutory rights of access.
- 4.4.9 The Chief Finance Officer or relevant Director are responsible for reporting to the Governance and Audit Committee and the Cabinet, where appropriate, the findings of these audits, inspections or investigations and taking relevant action to implement recommendations and action required.

4.5 Preventing Fraud and Corruption

- 4.5.1 The Council has a zero tolerance approach to fraud, corruption and bribery in the administration of its responsibilities.
- 4.5.2 The Chief Finance Officer/Head of Internal Audit are responsible for the development, maintenance and review of a Counter Fraud, Corruption and Bribery Policy Statement & Strategy.
- 4.5.3 It is the responsibility of Directors to promote the Counter Fraud, Corruption and Bribery Policy Statement & Strategy within their Directorates and to ensure that all suspected frauds or irregularities are reported to the Chief Finance Officer and/or the Head of Internal Audit immediately they become aware.
- 4.5.4 The Chief Finance Officer/Head of Internal Audit will take whatever steps are considered necessary to investigate and report on the matter in line with the Counter Fraud, Corruption and Bribery Policy Statement & Strategy. Any referral to the Police to be undertaken by the Chief Finance Officer/Head of Internal Audit in consultation with the Chief Executive. Directors are responsible for taking any appropriate action to prevent further loss and to secure records and documentation against removal or alteration.

4.6 Use of, Recording and Disposal of Assets

- 4.6.1 The Director of Community Services is responsible for:
- (a) preparing the Strategic Asset Management Plan and for promoting and embedding it throughout the Council;
 - (b) maintaining a continuous review of the Strategic Asset Management Plan and submitting any additions or changes as necessary to the Cabinet for approval.
- 4.6.2 The Strategic Asset Management Group is responsible for reviewing delivery of the Strategic Asset Management Plan and reporting on specific matters arising to the Cabinet.
- 4.6.3 Council assets include land, premises, furniture, vehicles, plant and equipment, computer systems, stocks and stores, money and investments, data and information.
- 4.6.4 Directors are responsible for ensuring that adequate and effective arrangements are in place for the recording, safeguarding, care and custody of all assets within their Directorates and ensuring that assets are acquired and disposed of in accordance with the Contract Procedure Rules or any procedures issued by the Chief Finance Officer.
- 4.6.5 The acquisition or disposal of land or premises, in consultation with the Leader, will be in accordance with the Individual Cabinet Member Delegations:
- (a) Up to £150,000 – Directors approval required;
 - (b) Exceeding £150,000 to £1,000,000 – Individual Cabinet Members approval required;

(c) Exceeding £1,000,000 – Cabinet approval required.

- 4.6.6 The Director of Community Services is responsible for ensuring that the sale of income producing property is contingent upon a premium being achieved on the sale value, appropriate overage clauses being put in place and the capital receipt being earmarked for the future purchase of income producing property.
- 4.6.7 The Director of Community Services/Director of Resources are responsible for ensuring that effective due diligence is undertaken prior to the purchase of any investment property to ensure any future risks to the Council are identified and mitigated, and financial returns are maximised.
- 4.6.8 All long-term Council assets with a value exceeding £10,000 or over must be recorded on the Fixed Asset Register maintained by the Director of Community Services/Chief Finance Officer.
- 4.6.9 Directors must supply information immediately to the Director of Community Services/Chief Finance Officer in respect of all acquisitions, disposals and changes of use of assets and confirm annually that the Fixed Asset Register reflects a true record of the assets under their control.
- 4.6.10 The Director of Community Services will take appropriate action to ensure that land, premises and other relevant assets of the Council are valued appropriately and in accordance with accounting requirements laid down in the Code of Practice on Local Authority Accounting in the UK (CIPFA/LASAAC) as agreed with the Chief Finance Officer and that the values are promptly recorded in the Fixed Asset Register.
- 4.6.11 In addition to the above, the Director of Community Services will maintain a terrier of all properties (including land and premises) owned, leased and licenced by and to the Council. The terrier should include full details regarding acquisition, location, purpose held and other aspects of ownership. Directors must ensure that the Director of Community Services is advised accordingly where they exercise control and where land and premises become surplus to requirements.
- 4.6.12 The Director of Community Services will ensure the reconciliation of information held in the Fixed Asset Register and the terrier of properties.
- 4.6.13 The Director of Community Services will have custody of all title deeds under secure arrangements.
- 4.6.14 Directors will ensure that land or premises for which they are responsible are properly used for the purpose for which they are held and that there is an adequate programme for annual inspection. Where security is deemed defective, the Director of Community Services will be consulted. All lettings should be subject to an appropriate agreement, which addresses amongst other things responsibility and indemnification of the Council.
- 4.6.15 Where the Council holds or retains articles, equipment or other property on behalf of a 'client' (for example in residential homes, goods seized by Trading Standards or Bailiffs)

these items must be properly recorded as to the identity of the item and its owner and held as securely as is reasonably possible. Its disposal/return will likewise be recorded, with the signature of the client or their representative where applicable. The Council should not normally hold or retain items on behalf of others where it does not have a duty or formal approval from the relevant Director to do so. In all cases, insurance and liability arrangements must be determined at the outset.

4.6.16 Other than where a Council policy would allow, Directors are responsible for ensuring that no Authority assets are subject to personal use by an employee or other. Where there are exceptional circumstances, any use must be properly authorised by the Director and recorded. Specific guidance for IT equipment is included in the IT Security and Email/Internet Policy.

4.6.17 Keys to doors, safes and similar receptacles are to be carried by the person responsible. Any loss of such keys must be reported to the Director of Community Services immediately and where necessary the Chief Finance Officer.

4.7 Treasury Management

4.7.1 The Council is required to take account of statutory backed guidance, including The Code of Practice on Treasury Management in the Public Services (Treasury Code) and guidance notes published by the Chartered Institute of Public Finance and Accountancy (CIPFA), and the Prudential Code (CIPFA) when putting in place policies and procedures for dealing with Treasury Management.

4.7.2 The Chief Finance Officer is responsible for preparing on an annual basis for consideration by the Cabinet before submission to Full Council for approval:

(a) a Treasury Management Strategy including the Treasury Management Policy Statement, Treasury Management Resolutions, the Policy of Borrowing in Advance of Need, the Minimum Revenue Provision Policy, the Treasury Limits, the Prudential Indicators and Borrowing Requirements;

(b) an Investment Strategy.

4.7.3 The Chief Finance Officer is responsible for the execution and administration of all treasury management decisions, including decisions on borrowing, investment and financing, in accordance with the Council's Treasury Management Strategy and Investment Strategy.

4.7.4 The Council has delegated responsibility for the implementation and monitoring of its Treasury Management and Investment activities to the Cabinet, who will receive at least one monitoring report from the Chief Finance Officer during the year and an annual outturn report.

4.7.5 The Council has delegated responsibility for reviewing, analysing and monitoring delivery of the Treasury Management Strategy, the Investment Strategy and related policies and practices to the Treasury Management and Capital Panel, which includes the Cabinet Member for Finance and other Members as appropriate. The Chief Finance

Officer is responsible for making reports to the Cabinet on behalf of the Treasury Management and Capital Panel.

- 4.7.6 The Chief Finance Officer is responsible for procuring the services of external treasury management or investment advisors.
- 4.7.7 All money in the hands of the Council will be aggregated for the purposes of treasury management and will be under the control of the Chief Finance Officer, who will maintain appropriate records of all treasury management and investment transactions.
- 4.7.8 All borrowing or investment are to be effected in the name of the Council.
- 4.7.9 The Director of Resources/Head of Legal & Democratic Services are responsible for ensuring that the effective due diligence below is undertaken on any applications for loans from third parties, prior to consideration for approval by the Cabinet:
 - (a) Financial – Robust business case in place which is financially viable and would enable a loan to be repaid by the loanee, the Council has the necessary funds in place to grant the loan, commercial rate of interest to be determined and loan to be treated as non-treasury investment;
 - (b) Customer – “Know your Customer” checks to verify identity and status of all associated parties, eligibility, and assessment of potential fraud and money-laundering risks;
 - (c) Legal – Statutory powers for granting the loan identified, compliance with State Aid requirements and formal loan agreement drafted (signed after approval);
 - (d) Security – Adequate security is in place, e.g. charge on property, to safeguard the loan in the event of default;
 - (e) Full Cost Recovery – All costs incurred by the Council (financial, legal and property etc.) in considering, granting and managing the loan will be recovered.

4.8 Banking

- 4.8.1 The Chief Finance Officer is responsible for all arrangements concerning banking services, including the opening, closing and operation of the Council’s bank accounts.
- 4.8.2 The Chief Finance Officer is responsible for the reconciliation of the Council’s bank accounts with the Council’s financial accounts.
- 4.8.3 Directors are responsible for ensuring that all banking arrangements determined by the Chief Finance Officer are observed and to advise him of any changes in their Directorates that may require a change in these arrangements.
- 4.8.4 All bank accounts of the Council must bear its full official title (not initials) and not solely in the name of an individual.

- 4.8.5 The Chief Finance Officer is responsible for determining those officers authorised to sign individual cheques or approve transaction instructions on the Council's bank accounts.
- 4.8.6 Except where other specific arrangements have been approved by the Chief Finance Officer, all cheques will be ordered only on the authority of the Chief Finance Officer who will make proper arrangements for their safe custody.
- 4.8.7 Bank accounts maintained by Schools under the Education Reform Act 1988 will comply with the Council's Financial Regulations for Schools.

4.9 Income Collection

- 4.9.1 The Chief Finance Officer is responsible for approving all methods of income collection, records and systems.
- 4.9.2 Directors are responsible for:
- (a) ensuring that all income due to the Council is promptly recorded in a form approved by the Chief Finance Officer and all accounts for income due to the Council are rendered by arrangements approved by the Chief Finance Officer;
 - (b) ensuring the timely billing/invoicing of all income due to the Council;
 - (c) consulting with the Chief Finance Officer on the proposed amendment, cessation or introduction of an income stream (other than a prescribed legal fee);
 - (d) ensuring all income is held securely and within insurance limits;
 - (e) ensuring compliance with income and banking arrangements specified by the Chief Finance Officer;
 - (f) ensuring fees and charges are based on full cost recovery and reviewed at least annually, in consultation with the Chief Finance Officer;
 - (g) the approval of fees and charges in accordance with the Individual Cabinet Member Delegations – "Determination of increases in fees and charges in excess of inflation, as long as such charges are within the Cabinet's overall charging policy to ensure consistency, do not conflict with, or compromise any other existing or proposed policy or portfolio initiative, are within approved budget lawful and financially sound and do not include any profit element";
 - (h) ensuring that all financial stationery is appropriately controlled and accounted for;
 - (i) the separation of duties between officers calculating and recording income owed to the Council and the collection of those sums;

- (j) avoiding the uneconomic use of the sundry debtors system, sums less than £50 should be collected in advance or at the time of receipt of the service;
- (k) ensuring that personal cheques are not cashed out of money held on behalf of the Council nor should any officer borrow money from cash income collection.

4.9.3 Where cash tills/electronic registry systems are operating, all income should be registered immediately. Proper security as regards keys or passwords should be applied. Till/system readings should be taken at the appropriate times and closedown/end of day procedures should be documented and applied. Regular unannounced cash ups by management will take place and be recorded.

4.9.4 All income received by an officer on behalf of the Council will be recorded in a manner directed by the Chief Finance Officer (including on-line returns) and will without delay or as prescribed be paid to the Chief Finance Officer or as he may direct to the Council's bank or other body entitled thereto. For main collection points, depending on sums collected or other instruction daily banking/deposits would be expected. In all other cases, unless otherwise agreed, a minimum of weekly bankings/deposits would be expected. Additionally:

- (a) all cheques, postal orders and negotiable instruments (e.g. credit notes) should be made payable to Pembrokeshire County Council;
- (b) cheques not crossed "A/c Payee or similar" payable to a third party and endorsed are not to be accepted except with the authorisation of the Chief Finance Officer;
- (c) where cash or postal orders have been received, these must be promptly acknowledged by the receiving officer, by way of receipt or other acknowledgement to the payer approved by the Chief Finance Officer;
- (d) No deduction will be made from income received;
- (e) Each officer who banks money will complete a paying-in slip quoting a reference for identification purposes;
- (f) Arrangements should be made in accounting records to identify surpluses (which should be banked) and deficiencies. Where these are regular or serious the Chief Finance Officer/Head of Internal Audit should be notified immediately and appropriate action taken;
- (g) Transfer of official money between officers will be evidenced by the signature of both officers.

4.9.5 Incoming mail should be delivered to a secure, theft proof environment and appropriate procedures adopted for opening, recording, transferring and processing items received.

4.10 Anti-Money Laundering

4.10.1 The Chief Finance Officer is the Council's Money Laundering Reporting Officer and is responsible for the development, maintenance and review of the Anti-Money Laundering Policy.

4.10.2 The Governance and Audit Committee are responsible for approving the Council's Anti-Money Laundering Policy.

4.10.3 The Chief Finance Officer is responsible for the implementation and administration of the Council's Anti-Money Laundering Policy.

4.11 External Funding

4.11.1 Directors are responsible for ensuring that any bids/applications for external funding are made in consultation with the Chief Finance Officer and in accordance with the Individual Cabinet Member Delegations:

- (a) Up to £100,000 – Directors approval required;
- (b) Exceeding £100,000 to £2,000,000 – Individual Cabinet Members approval required subject to financial regulations and any match funding being identified at the time of bidding;
- (c) Exceeding £2,000,000 – Cabinet approval required.

4.11.2 The Chief Finance Officer will be responsible for authorising all applications for, and acceptance of, external funding.

4.11.3 Directors must ensure that any project to be funded by external funding does not commence until approval has been obtained and the source of external funding confirmed.

4.11.4 Directors must ensure that full consideration has been given to the lifetime financial commitment of the grant and adequate provision is made to ensure compliance with the terms and conditions to indemnify the Council against future costs, e.g. redundancies, and clawback of grant.

4.11.5 The Chief Finance Officer is responsible for ensuring that all funding notified by external bodies is received and properly recorded in the Council's accounts. Directors are responsible for providing all necessary information to enable this to be achieved.

4.12 Debt Collection

4.12.1 The Chief Finance Officer is responsible for maintaining records of debt and the maintenance and review of a Corporate Debt Recovery Policy.

4.12.2 The Cabinet is responsible for approving the Corporate Debt Recovery Policy.

4.12.3 Directors are responsible for:

- (a) ensuring effective systems are in place to allow sums due to the Council to be easily identified;

- (b) ensuring debtor accounts are raised accurately and promptly and that adequate records are maintained to support the raising of the debt and any recovery action taken;
- (c) assisting in the collection of debt by providing any further information necessary to pursue the debt, as requested by the Chief Finance Officer or the Head of Legal and Democratic Services;

4.12.4 The Chief Finance Officer is responsible for:

- (a) determining the level of bad debt provision;
- (b) approving the write-off of bad debts.

4.13 Voluntary Funds and Trust Funds

4.13.1 The Chief Executive and Chief Finance Officer are responsible for approving the Council's involvement in any voluntary or trust fund. Directors are responsible for approving any employee's involvement in a voluntary or trust fund.

4.13.2 Directors are responsible for ensuring that funds are managed and administered in accordance with any statutory or specific requirement for each fund, and to equivalent standards as those applicable to the Council generally.

4.14 Purchase Cards

4.14.1 The Chief Finance Officer/Head of Procurement will issue guidelines regarding the application process and their controlled use.

4.14.2 Card holders are personally responsible for the security of purchase cards and for ensuring compliance with the guidelines.

4.15 Advance Accounts

4.15.1 The Chief Finance Officer will provide such cash floats and imprest accounts to Directors as he considers appropriate.

4.15.2 Directors are responsible for having procedures in place for the effective management of the cash floats and imprest accounts.

4.15.3 All cash floats and imprest accounts to be certified as correct by the Director at the end of each financial year, as part of the year end closedown procedures.

4.16 Employees

4.16.1 The Head of Human Resources, in consultation with the Chief Finance Officer, is responsible for the provision of all HR and payroll/pension related policies and procedures;

4.16.2 The Chief Finance Officer/Head of Human Resources are responsible for paying employees securely, accurately and on time;

4.16.3 Directors are responsible for managing their employee resource by:

- (a) ensuring compliance with all Human Resources and payroll/pension policies and procedures;
- (b) effective workforce development and planning, including ensuring that staffing levels can be funded from the approved budget provision;
- (c) monitoring employee costs through monthly budget reports;
- (d) effective vacancy management.

4.16.4 The Chief Finance Officer/Head of Human Resources will only authorise payments outside of the normal payroll runs (Pay Advances) where they are satisfied there are exceptional circumstances that warrant such action and that no duplication of payment will occur.

4.16.5 Directors are responsible for maintaining absence records (annual leave and sickness etc.) and for supplying the Chief Finance Officer/Head of Human Resources with all information necessary for this purpose on the prescribed forms or by other arrangement agreed with them:

- (a) Such information will include full details of new appointments, resignations and dismissals, attendance records, sickness certificates, overtime claims, bonuses and other particulars affecting the processing and payment of salaries and wages;
- (b) Such information should be supplied complete and promptly in order to meet payroll deadlines;
- (c) All time records or other pay documents will be certified (in manuscript or electronically) by or on behalf of Directors. The names of officers authorised to sign such records will be sent to the Chief Finance Officer/Head of Human Resources, together with specimen signatures and will be amended on the occasion of any change. Any proposed alternative arrangements, for example the use of electronic facilitation, will be approved by the Chief Finance Officer/Head of Human Resources and incorporate adequate security and controls.
- (d) Where the Chief Finance Officer/Head of Internal Audit carries out periodic certification exercises to obtain assurance from employing Directorates of the accuracy of payroll/pension records, Directors must ensure their Directorates respond fully and promptly.

4.16.6 Employees are required to comply with the Officers Code of Conduct, including the declaration of any outside employment, personal interests and offers/receipt of gifts and hospitality.

4.16.7 Directors are responsible for notifying the Chief Finance Officer of any declarations which could have financial implications for the Council, e.g. related party transaction inclusion in the Statement of Accounts.

5.0 Financial Systems and Procedures

5.1 General

5.1.1 Sound systems and procedures are essential to an effective framework of accountability and control.

5.1.2 The Chief Finance Officer is responsible for:

- (a) the operation of the Council's accounting and financial management systems;
- (b) the form of accounts and any supporting financial records;
- (c) advising Directors on the establishment and operation of trading accounts and business units;
- (d) approving any changes to existing financial systems or the establishment of new systems.

5.1.3 It is the responsibility of Directors to:

- (a) ensure the proper operation of financial processes in their own Directorates and agree with the Chief Finance Officer any changes to these processes to meet their own specific needs;
- (b) ensure that their employees receive relevant and appropriate financial management training that has been approved by the Chief Finance Officer;
- (c) ensure that employees are aware of their responsibilities under the Data Protection Act and Freedom of Information Act.

5.2 Contracts and Purchasing

5.2.1 All contracts and purchases, including ordering and committing expenditure, will be subject to the requirements of the Council's Contract Procedure Rules.

5.2.2 All contracts for the supply of goods and services or the undertaking of works will be in accordance with the Individual Cabinet Member Delegations:

Goods and Services

- (a) Up to £300,000 – Directors approval required;
- (b) Exceeding £300,000 to £2,000,000 – Individual Cabinet Members approval required;

(c) Exceeding £2,000,000 – Cabinet approval required.

Light Touch Services

(a) Up to £500,000 – Directors approval required;

(b) Exceeding £500,000 to relevant EU threshold from time to time – Individual Cabinet Members approval required;

(c) Exceeding relevant EU threshold – Cabinet approval required.

Works

(a) Up to £500,000 – Directors approval required;

(b) Exceeding £500,000 to relevant EU threshold from time to time – Individual Cabinet Members approval required;

(c) Exceeding relevant EU threshold – Cabinet approval required.

Concession Contracts

(a) Up to £500,000 – Directors approval required;

(b) Exceeding £500,000 to relevant EU threshold from time to time – Individual Cabinet Members approval required;

(c) Exceeding relevant EU threshold – Cabinet approval required.

5.2.3 The Head of Procurement is responsible for:

(a) preparing the Contract Procedure Rules and for promoting and embedding them throughout the Council;

(b) maintaining a continuous review of the Contract Procedure Rules and submitting any additions or changes as necessary to the Governance and Audit Committee for approval.

5.2.4 No alternative procurement arrangements will be implemented without the approval of the Chief Finance Officer/Head of Procurement.

5.2.5 No credit arrangements (e.g. leasing agreements or other annual or deferred payment schemes) are to be made without the approval of the Chief Finance Officer or under arrangements already approved by the Chief Finance Officer. Directors must ensure that appropriate records are maintained in respect of all lease agreements with related obligations and that any property/equipment that is subject to lease agreements is identifiable.

5.2.6 Under no circumstances should any purchasing arrangement of the Authority be used to obtain goods or services for private or personal use.

5.2.7 The Chief Finance Officer is responsible for ensuring efficient and effective arrangements for all payments.

5.2.8 The following requirements should be adhered to in relation to the payment of accounts:

- (a) The normal method of payment from the Council will be by BACS or cheque or other instrument (including direct debit, EFT's, CHAPS, purchase card and standing orders) drawn on the Council's bank account by the Chief Finance Officer;
- (b) Directors issuing an order in whatever form are responsible for examining, verifying and certifying the related invoice or transaction log;
- (c) At least two officers should be involved in the verification process, which should be evidenced. The budget provision under which the expenditure was incurred will be indicated by completion of the expenditure code together with the appropriate VAT treatment by the Director concerned;
- (d) Certified accounts will be passed for payment to the Chief Finance Officer to comply with the suppliers/contractors payment terms, and with due account taken of the Late Payments of Commercial Debts (Interest) Act 1998;
- (e) Directors are responsible for notifying the Chief Finance Officer, in accordance with the annual timetable for closure, of all outstanding expenditure relating to the previous financial year and when such payments are made he will be notified accordingly.

5.2.9 Directors are responsible for ensuring:

- (a) that before entering into purchasing commitments, the estimated cost is covered by financial provision in the budget to which it relates;
- (b) that the Contract Procedure Rules and any payment procedures are adhered to in their Directorates;
- (c) that appropriate records are maintained and registers completed to substantiate and record decisions made under delegated powers;
- (d) that all employees within their Directorate are aware of any guidance issued by the Chief Finance Officer and for ensuring that effective internal controls are established to ensure compliance;
- (e) the care and custody of stocks and stores in their Directorate and for the provision of control systems commensurate with risks faced and values;

- (f) up to date inventories of furniture, fittings, equipment, office machinery, vehicles, movable plant and machinery, rolling stock and similar property within their Directorate;
- (g) that property is appropriately security marked and formal procedures are established to record equipment removed from the premises;
- (h) that physical checks are undertaken and evidenced at least annually, with discrepancies fully investigated.

5.3 Officers and Members Allowances

5.3.1 The Chief Finance Officer/Head of Human Resources are responsible for operating secure and reliable systems to process Officers and Members Allowances.

5.3.2 Officers travel and subsistence allowances will be paid by the Chief Finance Officer/Head of Human Resources in accordance with the Travel and Subsistence Policy.

5.3.3 Members basic, special responsibility and travel and subsistence allowances will be paid by the Chief Finance Officer/Head of Human Resources in accordance with the Council's Members Allowances Scheme.

5.3.4 It is the responsibility of Officers and Members to claim for travel and subsistence by:

- (a) submitting claims in the prescribed form determined by the Chief Finance Officer;
- (b) submitting claims within three months of the date on which the duty was carried out (any Officer claims outside this period will require the approval of the Director);
- (c) certifying their claim as an accurate record, for payment to be made;
- (d) submitting VAT receipts with claims wherever possible.

5.4 Taxation

5.4.1 The Chief Finance Officer (and Head of Human Resources in relation to personal taxation) is responsible for:

- (a) ensuring that appropriate advice and guidance is available for Directors on all taxation issues that affect the Council, having regard to guidance issued by appropriate bodies and relevant/applicable legislation;
- (b) for maintaining the Council's tax records, making all payments, receiving tax credits, submitting statutory tax returns by their due date and complying with HMRC regulations.

5.4.2 Directors are responsible for:

- (a) Obtaining advice from the Chief Finance Officer (and Head of Human Resources in relation to personal taxation) on all taxation issues that affect their Directorate;
- (b) compliance with any guidance issued by the Chief Finance Officer (and Head of Human Resources in relation to personal taxation).

5.5 Housing Revenue Account

5.5.1 The Chief Finance Officer is responsible for:

- (a) making arrangements for the preparation of annual Housing Revenue Account budgets (revenue and capital) as part of the Council's budget setting process;
- (b) making recommendations, as appropriate, to the Cabinet and/or Full Council to enable the Council to fulfil its statutory duties in relation to the Housing Revenue Account (housing rent determinations, welsh housing quality standards, major repairs allowance and 30 year business plan);
- (c) preparing annual accounts for the Housing Revenue Account to be incorporated into the Council's Statement of Accounts.

6.0 Partnerships

- 6.1 Full Council and/or the Cabinet, as appropriate, are responsible for approving the Council's involvement in formal partnerships with other local, public, private, voluntary and community sector organisations. They will also be responsible for approving any delegations of power, e.g. regional working Joint Committees.
- 6.2 Full Council and/or the Cabinet, as appropriate, are responsible for the nomination of Members to represent the Council on partnerships and external bodies.
- 6.3 The Chief Executive is responsible for the nomination of Directors, or senior managers, to represent the Council on partnerships and external bodies.
- 6.4 The Director, or senior manager, representing the Council on a partnership or external body will be responsible for consulting with the Chief Finance Officer on the accounting and audit arrangements to be adopted, and consulting with statutory officers on the governance and risk management arrangements to be adopted.
- 6.5 The Monitoring Officer (or designated Monitoring Officer of a partnership or external body) is responsible for promoting and maintaining the same high standards of Member conduct in partnerships and external bodies that apply to the Council.

CONTRACT PROCEDURE RULES

Part 1

Introduction

The Local Government Act 1972 requires the Council to have standing orders for how it enters into contracts. These Contract Procedure Rules are the standing orders required by the 1972 Act. They form part of the Council's Constitution and are, in effect, the instructions of the Council to officers and members for entering into contracts on behalf of the Council.

The purpose of these Contract Procedure Rules is to set clear rules for the purchase of works, goods and services for the Council and to ensure a system of openness, integrity and accountability, in which the probity and transparency of the Council's procurement process will be beyond reproach or challenge. Accordingly, these Contract Procedure Rules must be followed for **all** contracts for:

- the supply of goods to the Council;
- the supply of services to the Council; and
- the carrying out of works for the Council.

The Council is also subject to the EU law with regard to public procurement, which requires all contract procedures, of whatever value, to be open, fair and transparent. These Contract Procedure Rules provide a basis for true and fair competition in contracts, by providing clear and auditable procedures, which, if followed, will give confidence that the Council has a procurement regime that is fully accountable and compliant with EU law.

Following the Contract Procedure Rules will also help to ensure that the Council obtains value for money when it buys works, goods or services.

These Contract Procedure Rules are to protect the interests of the Council, its officers and members and the communities of Pembrokeshire.

For the avoidance of doubt, the Director of Social Services will in all cases retain authority to tender or award contracts which relate to the social service functions contained in Schedule 2 of the Social Services and Well-being (Wales) Act 2014.

The Council recognises that the procurement of health and social care services involves a range of unique considerations, which are different and/or additional to those that apply to the procurement of other goods, services and works. Contracts for such services must be procured in accordance with Public Procurement Legislation to the extent it applies.

Part 1 Definitions

Advertised	<p>(a) the Council advertises an opportunity if it does anything to put the opportunity in the public domain or bring the opportunity to the attention of economic operators generally or to any class or description of economic operators which is potentially open ended, with a view to receiving responses from economic operators who wish to be considered for the award of the contract; and</p> <p>(b) accordingly, the Council does not advertise an opportunity where it makes the opportunity available only to a number of particular economic operators who have been selected for that purpose (whether ad hoc or by virtue of their membership of some closed category such as a Framework Agreement), regardless of how it draws the opportunity to the attention of those economic operators</p>
Award a contract	means to accept an offer by a supplier;
Cabinet	means the Leader of the Council and the other members of the Council's Executive, who are all portfolio holders;
Chief Finance Officer	means the officer designated under section 151 of the Local Government Act 1972. The Director of Resources is the Chief Finance Officer;
Concession Contract	<p>means a either a works or services contract for pecuniary interest concluded in writing by means of which one or more contracting authorities entrust the execution of works or the provision and the management of services (other than the execution of works) to one or more economic operators, the consideration for which consists either solely in the right to exploit the works or the services that are the subject of the contract or in that right together with payment; and that meets the requirements of 3(4) of the Concession Contracts Regulations 2016 (CCR 2016).</p> <p>Regulation 3(4) of the CCR 2016 further defines the necessary characteristics of the arrangement for the purposes of the regime, which are :</p> <ul style="list-style-type: none">(a) the award of the contract must transfer to the contractor the operating risk in exploiting the works or services encompassing demand or supply risk or both; and(b) the part of the risk transferred to the concessionaire involves real exposure to the vagaries of the market, such that any potential estimated loss incurred by the concessionaire is not merely nominal or negligible.

Contract or contract	means the bargain or agreement between the Council and a supplier for the supply of works, goods or services including Concession Contracts;
contract document	means the document setting out the terms and conditions of the contract. A purchase order is a contract document. Although at law a verbal agreement may be a contract, contracts for the Council must always be supported by appropriate written contract documents;
Contractor	see Supplier ;
National Procurement Website	means a web-based portal provided by or on behalf of the Welsh Government for the publication of information about contracts awarded (https://www.sell2wales.gov.uk)
corporate contract	means a contract for the supply of works, goods or services to the Council as a whole rather than for an individual service area e.g. stationery. Corporate contracts are generally procured and managed by the Procurement Service.
Councils Code of Conduct	means the Council's employee code of conduct which sets out the standards of behaviour that the Council expects of its employees as amended from time to time
Council's Financial Regulations	means the Council's financial regulations which contain all financial accountabilities in relation to the running of the Council, including the Council budget and Council policy framework
Dynamic Purching System or DPS	means the system referred to in regulation 34 of the Public Contracts Regulations 2015. A DPS is a procedure available for contracts for works, services and goods commonly available on the market. As a procurement tool, it has some aspects that are similar to an electronic framework agreement, but where new suppliers can join at any time.
E-Procurement System	means Bravo Solutions or successor system approved by the Procurement Service.
EU Regulations	means the Public Contracts Regulations 2015 (as amended) or the Concession Contracts Regulations 2016 (as applicable) as amended from time to time;
EU Threshold	means the value in pounds sterling above which the EU Regulations apply to a proposed public contract
Framework Agreement	means an agreement between one or more contracting authorities and one or more suppliers which fixes the terms and conditions under which the supplier will enter into one or more specific contracts with an authority during the term of the framework agreement, which should be no more than 4 years;

Full Regime	means the rules and procedures under Public Contracts Regulations 2015 other than those for the Light Touch Regime
Goods	see Supplies contract
Light Touch Regime	means the rules and procedures for the Light Touch Regime Services set out in Chapter 3 of the Public Contracts Regulations 2015 (as amended)
Light Touch Regime Services	Means those services listed in Annex 1 of the CPRs
Members of staff	means individuals who carry out the day to day work of the Council, either on a permanent or a temporary basis, and includes officers, interim post-holders and agency staff but not consultants or suppliers;
Monitoring Officer	means the officer designated under section 5 of the Local Government and Housing Act 1989 to monitor the Council's compliance with the law and rules of administration.
Officer	means an individual who holds a post on the Council's establishment;
OJEU	means the Official Journal of the European Union;
Public procurement legislation	includes the Public Contracts Regulations 2006, Public Contracts Regulations 2015 (as amended), Concession Contracts Regulations 2016, the Treaty on the Functioning of the European Union (TFEU), EU Directives relating to public contracts, UK legislation affecting public sector contracts and any amendment, re-enactment or replacement of any of them;
Purchase order	means the Council's official order form for the purchase of Works, Goods or Services;
Quotation	means an offer by a Supplier to undertake a contract of £5,000 or more but less than £25,000 in value;
Service director	means a Director.
Services contract	means a contract for the provision of services to the Council;
SME	means an enterprise falling within the category of micro, small and medium-sized enterprises

Community Benefit	<p>means activities, approaches and services that help to deliver measurable benefits to local communities' safety, health, prosperity and quality of life, particularly:</p> <ul style="list-style-type: none"> • Sustainability – environmental impact • Local economy • Support of corporate objectives • Beneficial impact on local communities – including furthering equalities and community cohesion.
Supplier	means a supplier of works, goods or services to the Council;
Supplies contract	means a contract for the sale or hire of goods to the Council and includes, where appropriate, installation of goods;
Tender	means an offer by a supplier to undertake a contract of £25,000 or more in value;
TUPE Regulations	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any amendment, re-enactment or replacement of them.
Voluntary transparency notice	means a notice published in OJEU by Procurement on the request of the service director, which contains the name and contact details of the Council; a description of the object of the contract; a justification of the decision of the Council to award the contract without advertising it in OJEU; the name and contact details of the supplier to be awarded the contract and any other information the Procurement Service considers it useful to include;
Works contract	means a contract for the construction, repair or maintenance of a physical asset e.g. a building or a road;
Writing	Includes information transmitted by electronic means where the context requires it

Part 2

All contracts, whatever their value

1. APPLICATION AND SCOPE

These Contract Procedure Rules

Apply to:

1.1 **All** contracts for the supply of works, goods or services **to** the Council, regardless of value including Concession Contracts.

1.2 Contracts for the engagement of consultants to provide services to the Council that are part of a discrete project e.g. carrying out research, giving advice or managing a project or not part of the day to day work of the Council.

Do not apply to:

1.3 Contracts for the purchase or sale of any interest in land (including leasehold interests).

1.4 Contracts for the appointment of individual members of staff, including members of staff sourced through employment agencies under a corporate contract.

1.5 Grant agreements, either where the Council is giving or receiving a grant (Where the Council carries out a procurement using grant monies received the CPRs will apply unless other provisions are to apply as a requirement of the grant funder).

1.6 Contracts for the supply of works, goods or services to schools procuring for themselves **with their own budgets**. Schools are, however, subject to the EU Regulations and Financial Regulations for Schools.

1.7 Supply of works, goods and services **by** the Council.

1.8 If a contract is being procured in collaboration with other local authorities, the Contract Procedure Rules of the lead authority shall apply. Assurance should be sought that the lead authority is in compliance with its own contract procedure rules. Where EU Regulations apply the Council is jointly responsible with the other local authorities for compliance with EU legislation

1.9 CPR's do not apply to collaboration agreements between contracting Authorities.

2. COMPLIANCE

2.1 Every contract entered into on behalf of the Council must comply with

- these Contract Procedure Rules;
- the Council's Financial Regulations; and
- all relevant UK and EU legislation.

2.2 Each service director is responsible for ensuring that his/her department complies with these Contract Procedure Rules

2.3 All members of staff and consultants engaged in any capacity to manage or supervise the procurement of any works, goods or services for the Council **must** comply with these Contract Procedure Rules and failure to comply with these Rules

may result in disciplinary action and legal proceedings against members of staff and consultants concerned.

2.4 Work must not begin under a contract until the contract document has been signed by both parties (or, if the only contract document is a purchase order, until the purchase order has been issued).

2.5 If a service director wishes to nominate a particular sub-contractor to a main contractor, the procedures in these Contract Procedure Rules must be followed to select the sub-contractor as well as the main contractor.

3. CONFLICTS OF INTEREST

3.1 All members of staff must avoid any conflict between their own interests and the interests of the Council. This is a requirement of the Council's Code of Conduct, which all employees of the Council have signed and agreed to be bound by and includes:

- not accepting gifts or hospitality from organisations or suppliers that the Council has dealings with;
- not working for organisations or suppliers that the Council has dealings with;
- notifying the Chief Executive and relevant service director if an officer has links with (e.g. a family member or close friend works for) an organisation or supplier who is tendering or quoting for a contract with the Council or already has a contract with the Council.

3.2 If an elected member of the Council or a member of staff has an interest, financial or otherwise, in a contract or proposed contract, he/she must declare it in writing to the service director as soon as he/she becomes aware of the interest. An elected member or member of staff who has an interest in a contract must not take part in the procurement or management of that contract.

4. PREVENTION OF CORRUPT ACTIVITY

4.1 A contract may be terminated immediately, and any losses to the Council arising from the termination recovered from the Supplier, if the Supplier, or anyone acting on his behalf (with or without the Supplier's knowledge):

- offers or promises or gives a financial or other advantage to any elected member of the Council, any member of staff or any consultant in connection with the contract; or
- requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the contract is performed improperly.

A declaration to this effect must be included in all invitations to tender or quote.

4.2 Any elected member of the Council, member of staff or consultant who becomes aware or has reason to believe that a supplier or potential supplier has committed one of the corrupt acts referred to in CPR 4.1, must report that to the Monitoring Officer and/or the Governance, Risk and Assurance Manager Investigation immediately.

4.3 The attention of officers is drawn to the Council's Code of Conduct and Disciplinary Rules and Procedures. **Non-compliance with these Contract Procedure Rules constitutes grounds for disciplinary action and may be considered gross**

misconduct.

5. DUTIES OF SERVICE DIRECTORS

5.1 To ensure that all contracts within his/her department comply with Contract Procedure Rules, Financial Regulations and all applicable public procurement legislation.

To plan the procurement of and manage contracts within his/her department to ensure that contracts

- deliver value for money;
- are operated effectively, efficiently and economically; and
- are operated within the terms of the contracts themselves, so that the Council is not at risk of being in breach of contract.

5.2 To ensure all contracts are added to the Council's overall Contracts Register. Contracts for less than £25,000 need not be recorded in the register.

5.3 To keep adequate records to show compliance with Contract Procedure Rules, Financial Regulations and all relevant legislation in his/her department.

6. VALUATION OF CONTRACTS

6.1 The service director responsible for each contract must determine an estimated value for the contract before any offers are sought.

6.2 The value of a contract is the **total** amount that the Council expects to pay for the contract, including any contract extension period. This may be a lump sum e.g. £250,000 or a periodic payment e.g. £50,000 per year for a 5 year contract = £250,000. If the contract is for an indefinite term, the value is the amount the Council expects to pay or receive over four years.

The value of a Concession Contract shall be the total turnover of the concessionaire generated over the duration of the contract, net of value added tax, as estimated by the contracting authority, in consideration for the works and services which are the object of the Concession Contract and for the supplies incidental to such works and services.

6.3 The service director must not try to avoid compliance with these Contract Procedure Rules or the EU Regulations by splitting a procurement for the same or similar works, goods or services into smaller, separate contracts except where permitted by the EU Regulations to divide contracts into lots. If it will achieve better value for money, contracts for the same or similar works, goods or services must where reasonably practicable be aggregated into a single procurement of greater value with lots where possible.

7. USE OF CORPORATE CONTRACTS AND COLLABORATION

7.1 If there is an existing corporate contract for the supply of any works, goods or services, the service director must buy through that contract, rather than awarding a separate contract for his/her own department. A list of current corporate contracts can be

found on the intranet or from the Procurement Service.

7.2 Where ever possible and practicable procurements should be done in collaboration with other public authorities and/or other service areas within the Council.

8. FRAMEWORK AGREEMENTS AND DYNAMIC PURCHASING SYSTEMS

8.1 The Procurement Service must be consulted before commencing a tender or joining or buying from a Framework Agreement or a Dynamic Purchasing System set up by an organisation or public authority other than the Council where the expenditure will be more than the EU Threshold except for Works contracts where the value is over £1m.

8.2 The Procurement Service must be consulted before setting up a Framework Agreement or a Dynamic Purchasing System.

8.3 Cabinet authority has been delegated to the Head of Procurement to join consortia, buying groups, Dynamic Purchasing Systems, or Framework Agreements set up by another body, and who must be consulted before joining or buying from those consortia, buying groups, Dynamic Purchasing Systems or Framework Agreements.

8.4 A decision at the appropriate level will still be required to award a contract procured through consortia, buying groups, Dynamic Purchasing Systems, Approved Lists or Framework Agreements (see CPR 31.2, 31.3 and 31.4). This applies both to Dynamic Purchasing Systems, or Framework Agreements set up by the Council alone or set up by another public authority.

8.5 To select a supplier for a specific contract under a single or multi-supplier Framework Agreement or to conduct a Framework Agreement mini competition or award a contract under a Dynamic Purchasing System the service director, in consultation with the Procurement Service, must follow the procedure set out in that Framework Agreement or Dynamic Purchasing System.

8.6 Successful and unsuccessful suppliers who participated in a Framework Agreement mini-competition or, a Dynamic Purchasing System contract award procedure must be notified of the decision to award the specific contract. The notification letter must be sent via the eProcurement system.

8.7 All Framework Agreements, Dynamic Purchasing System agreements, and specific contracts must be executed in accordance with CPR 38.

8.8 A Framework Agreement must not be longer than 4 years unless specifically agreed with Procurement.

8.9 For all procurements, the requirements on advertising, notices and reports in the table headed Advertising, Notices and Reports for procurements must be complied with.

8A ELECTRONIC TENDERS AND E-PROCUREMENT

8A.1 Tenders may only be invited via the eProcurement System. Any member of staff or consultant acting for the Council who receives a tender by email must delete it without opening it.

8A.2 Any tender documents which need to be signed by the bidders must be signed by hand by an authorised representative of the tenderer. Such documents must be submitted as part of the tender in electronic form.

8B CONTRACT TERMS

8B.1 **All contracts**, whatever their value, must include:

- a clear and comprehensive description of the works, goods or services to be supplied (the specification);
- the price to be paid or income or share to be received by the Council under Concession Contracts;
- appropriate and adequate levels of insurance cover
- the time or times within which the contract is to be performed;
- a provision allowing the Council to use information gained from the contract for preventing and detecting fraud;
- a provision requiring the supplier to comply with requests under the Freedom of Information Act 2000 for information relating to the contract; and
- a right for the Council to terminate the contract immediately in the event of corrupt activity and for the Council to recover its losses arising from the termination.

8B.2 The service director must:

- Require the Supplier to maintain appropriate and adequate levels of insurance cover, in consultation with the Council's Insurance Manager, for employer's liability, public liability, products liability, all risks/contract works and professional indemnity insurance. Unless otherwise agreed by the Insurance Manager, the minimum levels of cover shall be
 - £5 million for employer's liability insurance
 - £5m for public liability and products liability insurance
 - £2 million for professional indemnity insurance.
 All policies must contain an indemnity of principals clause.
- Ensure that the supplier holds the required insurance cover at the start of the contract, renews the policies as necessary during the contract period and, following each renewal, provides details verified by his insurer or broker of his insurance for the Council's records.

8C PAYMENTS UNDER THE CONTRACT

8C.1 As a general rule, **all** contracts, whatever their value, must provide for payment by the Council **after** supply of the works, goods or services. Periodic or stage payments under a contract are acceptable, may incentivise performance by the Supplier and in the case of most Works contracts are required by law. Exceptionally, and only with the consent of the Director of Resources, a contract may provide for payment in advance of contract performance.

Part 3 – BELOW QUOTATION LEVEL

Contracts below £5,000

9. COMPETITION

9.1 The service director need not obtain competitive quotations for contracts of less than £5,000 in value, but must be able to demonstrate that the Council is receiving value for money. Where appropriate, relevant consultation must be carried out.

10. PURCHASE ORDERS & TERMS AND CONDITIONS OF CONTRACT

10.1 All contracts must be in writing and a purchase order must be issued for every contract, unless payment by purchase card.

10.2 Refer to CPR 8.B.

11. AUTHORITY TO ENTER INTO A CONTRACT – below Quotation level

11.1 Service directors have delegated authority to enter into contracts below the Quotation level, provided that a budget has been allocated for that expenditure.

12. SIGNATURE OF THE CONTRACT – below Quotation level

12.1 Contracts below the Quotation level must be signed for and on behalf of the Council by the service director responsible for the contract or an officer authorised by him/her.

Part 4 – QUOTATION LEVEL

Contracts from £5,000 to £24,999

COMPETITION

13.1 The service director must obtain a minimum of three competitive quotations for contracts over £5,000 but less than £25,000 in value and must maintain an audit trail of the procurement. Where appropriate, relevant consultation must be carried out.

14. PURCHASE ORDERS & TERMS AND CONDITIONS OF CONTRACT

14.1 All contracts must be in writing and a purchase order must be issued for every contract.

14.2 Refer to CPR 8.B.

15. AUTHORITY TO ENTER INTO A CONTRACT – within Quotation level

15.1 Service directors have delegated authority to enter into contracts within the Quotation level, provided that a budget has been allocated for that expenditure.

16. SIGNATURE OF THE CONTRACT – within Quotation level

16.1 Contracts within the Quotation level must be signed for and on behalf of the Council by the service director responsible for the contract or an officer authorised by him/her.

Part 5 - TENDERS
Contracts from £25,000 to the EU Threshold

17. COMPETITION

17.1 Competitive tenders must be sought for contracts £25,000 or more in value.

18. PRELIMINARY STEPS – Tenders

18.1 An initial Sustainable Risk Assessment (SRA) must be carried out with the Procurement Service and, if required, a full SRA undertaken. This does not apply to mini competitions under a Framework or DPS.

18.2 Where appropriate, relevant consultation must be carried out.

19. PURCHASE ORDER

19.1 All contracts must be in writing and a purchase order must be issued for every contract.

20. SPECIFICATION – Tenders

20.1 A clear and comprehensive specification of the Council's requirements must be prepared with regard to the works, goods or services to be supplied.

20.2 The specification should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the service director to see whether the Council's requirements are being met by the supplier.

20.3 Consultants who assist in the preparation of a specification must not be invited to tender for the contract where it is likely to distort competition.

21. TERMS AND CONDITIONS OF CONTRACT – Tenders

21.1 Refer to CPR 8.B.

22. AUTHORITY TO INVITE AND EVALUATE TENDERS – Tenders

22.1 Subject to CPR 22.2, the decision to invite and evaluate tenders for a contract and the decision to delegate the award of the contract can be contained in one report to the portfolio holder.

22.2 Service directors have delegated authority to invite and evaluate tenders and award the following contracts:

- Goods & Services up to EU Threshold
- Light Touch Services, Works and Concession Contracts up to £499,999

Provided that a budget has been allocated for that expenditure. The decision to invite and evaluate tenders and the decision to award a contract must be recorded on two separate Officer's Decision forms. However, where the call-off is from a single supplier

Framework Agreement then it is only necessary to have a decision to award the contract provided that the Framework Agreement has been set up by the Council or approved for use under CPR 8.3.

22.3 A portfolio holder may authorise the invitation and evaluation of tenders and/or the award of the following contracts:

- Goods and Services between £300,000 and £2 million
- Light Touch Services, Works and Concession Contracts between £500,000 and the relevant EU Threshold.

Provided such contracts are within the scope of his/her portfolio and a budget has been allocated for that expenditure.

23. THE TENDER PROCEDURE - Tenders

23.1 The following tender procedures must be followed when letting contracts from £25,000 to the relevant EU Threshold in value.

23.2a For all Services and Supplies (except Light Touch Regime Services) contracts between £25,000 and the EU Threshold for Services and Supplies an open procedure must be followed and the opportunity must be placed in the National Procurement Website.

23.2b For Works contracts, Light Touch Regime Services contracts or Concession Contracts between £25,000 and the relevant EU Threshold a two stage procedure with a PQQ may be used. The service director may select a shortlist of at least **five** suppliers to be invited to tender.

23.3 A PQQ must not be issued for contracts below the EU Threshold for Services and Supplies (except Light Touch Regime Services), however one may be used to obtain information or evidence which the Council requires for the purpose of assessing whether tenderers meet requirements or minimum standards of suitability, capability, legal status or financial standing only provided that each such question is relevant to the subject-matter of the procurement and proportionate.

23.4 To ensure genuine competition, the minimum number of Suppliers invited to tender is five or, if there is an in-house bidder, six. If there are fewer than five suitable expressions of interest in being invited to tender, then the minimum number of Suppliers to be invited to tender may be reduced as appropriate subject to ensuring value for money.

23.5 The invitation to tender must be issued by the Procurement Service.

23.6 The instructions to tenderers must state

- the latest date and time for receipt by the Council of tenders.
- tenders must be returned to the Council via the eProcurement System tenders that arrive at the Council after the latest date and time specified, **whatever the circumstances**, will be retained unopened until after the tenders properly received have been opened and recorded, and will be opened and considered by the Council only if the Head of Procurement certifies that they are satisfied that the tender has not gained any advantage over other tenders by the delay.;

- any contract will be terminated immediately, and any losses to the Council arising from the termination recovered from the Supplier, if the Supplier, or anyone acting on his behalf (with or without the Supplier's knowledge) :
 - (1) offers or promises or gives a financial or other advantage to any elected member of the Council, any member of staff or any consultant in connection with the contract; or
 - (2) requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the contract is performed improperly.
- Such other terms as the Procurement Service may require.

23.7 Appropriate time must be allowed for submission of tenders. The minimum is fourteen days from the date of the invitation to tender.

23.8 Amendments to invitation to tender documents, made after the invitations have been sent out, must be clearly headed "**ITT Amendment**" and sent to all Suppliers who have been invited to tender. One or more amendments must be numbered consecutively. Amendments must be sent out in sufficient time to allow suppliers to adjust their tenders before close of tenders. If necessary, the tender period must be extended to allow for this.

23.9 Until the contract has been awarded, the information obtained at the opening of tenders is confidential to those involved in the opening process and those directly involved in evaluation of the tenders. Confidentiality must be maintained and any breach reported to the Council's Monitoring Officer.

23.10. A tender that does not comply with the instructions to tenderers or is conditional must be treated as non-compliant and rejected. **Non-compliant tenders must not be evaluated unless Procurement advises otherwise.**

23.11 Negotiations with suppliers who have tendered for a contract are not permitted by EU law and are therefore unlawful, for contract values below the EU Threshold. After tenders have been opened, **and before the tenders have been scored**, the service director may require one or more tenders to be clarified by the tenderer. Clarification questions and answers must be fully documented and the relevant clarifications incorporated in the contract document. Clarifications must not make any substantive changes to the tender. Tenders must not be scored until clarifications have been completed.

23.12 A Supplier's tender is their offer to the Council, which the Council may accept as it stands subject to CPR 32.8. If a tenderer attempts to alter his Tender after the last date for receipt of tenders, he must be given the opportunity to stand by or withdraw his original Tender. Correction of an obvious arithmetical error may be accepted.

24. EVALUATION OF TENDERS

24.1 Tenders should normally be evaluated on the basis of 'most economically advantageous' to the Council. Exceptionally, and only with the permission of the Head of Procurement, tenders may be evaluated on the basis of price only. The basis of evaluation must be stated in the invitation to tender. If the basis of evaluation is 'most economically advantageous', the criteria for evaluation must be set out in the invitation to tender, in descending order of priority, with the weightings to be given to them.

24.2 If the basis of evaluation is price only, only the lowest Tender (if payment is to be made **by** the Council) provided that the quality element in the value for money ratio is confirmed or the highest Tender (if payment is to be made **to** the Council) provided that the quality element in the value for money ratio is confirmed may be accepted.

24.3 If the basis of evaluation is 'most economically advantageous', the service director must arrange for an appropriate evaluation panel to consider the tenders and evaluate them against the criteria and weightings stated in the invitation to tender. The evaluation panel may (subject to appropriate conflict of interest checks and confidentiality agreements) include service users and/or external consultants but must not include elected members of the Council.

24.4 All valid tenders received must be evaluated.

24.5 Tenders must be accepted in accordance with the outcome of the evaluation or not at all.

24.6 If no suitable tenders are received, Procurement must be consulted as to how the works, supplies or service concerned may be procured.

24.7 A Tender that exceeds the budget allocated must not be accepted. If a tender exceeds the budget allocated, the service director must obtain an additional allocation of funds in accordance with Financial Regulations **before** the tender may be accepted.

24.8 If all valid tenders are too high to be accepted and there is no further allocation of additional funds, the service director may delete part of the specification and ask all suppliers invited to tender to re-price their tenders, by submitting a fresh form of tender. In such cases, the service director must set out the deletion in a bill of reductions or other document, to be incorporated into the contract document.

24.09 If the contract will result in the application of the TUPE Regulations, the service director must ensure that the successful tenderer has dealt with all employee matters, including pay, conditions of employment and pension rights and benefits, in his Tender and will give all appropriate indemnities in the contract. The Council will give appropriate indemnities in respect of employee matters **only** if employees are transferring from Council employment to the successful tenderer and in no other circumstances.

24.10 The service director is responsible for producing a full tender report, which should:

- confirm that the tender procedure has complied with these Contract Procedure Rules;
- list the tenders invited and received;
- list the evaluation criteria and weightings; and
- show the scoring of tenders on evaluation.

The tender report must be sent to the decision-maker before the decision to award the contract is made.

25. AWARD OF THE CONTRACT – Tenders

25.1 Refer to CPR 22.

25.2 As soon as practicable after the decision to award the contract has been made, the procurement service must write to inform the successful and unsuccessful tenderers of that decision.

25.3 The service director shall ensure that within a reasonable time of the award of the contract, the award is published in the National Procurement Website

25.4 Information may be withheld from publication where its release:

- (a) would impede law enforcement or would otherwise be contrary to the public interest,
- (b) would prejudice the legitimate commercial interests of a particular economic operator, whether public or private, or
- (c) might prejudice fair competition between economic operators.

26. SIGNATURE OF CONTRACT – Tenders

26.1 The Supplier **must not** be allowed to begin work on the contract until the contract documents have been signed or sealed as appropriate by both parties.

26.2 Contracts below the relevant EU Threshold, which are not required to be sealed must be signed for and on behalf of the Council by the service director responsible for the contract or an officer authorised by him/her.

Part 6 – EU TENDERS

Contracts over the EU Threshold

27. COMPETITION

27.1 Competitive tenders must be sought for contracts over the EU Threshold.

28. SELECTING THE PROCUREMENT ROUTE – EU Tenders

28.1 A commercial strategy must be agreed with Procurement **before** seeking authority to invite tenders. This must be completed well in advance of beginning the tender process and must be in the format approved by the Procurement Service.

28.2 **At the same time** as submitting the procurement request to engage Procurement in developing a commercial strategy, the service director must give full instructions to the Legal Services to draft or approve terms and conditions of contract in accordance with CPR 30.

28.3 An initial Sustainable Risk Assessment (SRA) must be carried out with the Procurement Service and, if required, a full SRA undertaken.

28.4 Where appropriate, the service director must carry out relevant consultation.

29. SPECIFICATION – EU Tenders

29.1 An appropriate specification must be prepared, which sets out a clear and comprehensive description of the Council's requirements with regard to the works, goods or services to be supplied.

29.2 All works, goods and services must be specified by reference to European standards, or national standards if no European standards are set. Named products or manufacturers **must not** be specified.

Advisory note: Named products can be specified if the words "or equivalent" are added after the named product, but it is better to describe the features that required in the product.

29.3 The specification should incorporate measurable and, so far as is possible, objective quality and performance criteria to enable the service director to see whether the Council's requirements are being met by the Supplier.

29.4 All necessary professional and technical advice and assistance must be obtained in preparing the specification, to ensure a comprehensive document that expresses the Council's requirements and protects its interests. Consultants who assist in the preparation of a specification must not be invited to tender for the contract. The people who prepare the specification should, as a rule, be part of the panel that evaluates tenders.

30. TERMS AND CONDITIONS OF CONTRACT

30.1 For contracts over the EU Threshold for Services and Supplies and for contracts over the value of £1m for Works and Concession Contracts, full instructions must

be given at the earliest opportunity and in any event not later than submitting the procurement request to Legal Services to draft the terms and conditions of contract or to approve standard terms and conditions of contract e.g. NEC.

30.2 The OJEU contract notice or other advertisement inviting tenders must not be published until all the procurement documents are available electronically with unrestricted and full direct access via the eProcurement System.

31. AUTHORITY AND DELEGATION TO INVITE AND EVALUATE TENDERS AND AWARD CONTRACTS

31.1 Subject to CPR 31.2, the decision to invite and evaluate tenders for a contract and the decision to delegate the award of the contract can be contained in one report to either the portfolio holder or Cabinet as appropriate.

31.2 A portfolio holder may authorise the invitation and evaluation of tenders and/or the award of the following contracts:

- Goods and Services between £300,000 and £2 million provided that such contracts are within the scope of his/her portfolio and a budget has been allocated for that expenditure. Portfolio holders may delegate authority to service directors to award contracts for goods and services between £300,000 and £2million.

31.3 Only Cabinet may authorise the invitation and evaluation of tenders and/or the award of the following contracts:

- Goods and Services above £2 million
- Light Touch Services, Works and Concession Contracts above the relevant EU Threshold.

Cabinet may delegate authority to a portfolio holder or service director to award a contract above the values , provided that a budget has been allocated for that expenditure. The decision will be recorded in Cabinet minutes.

31.4 The OJEU contract notice or other advertisement inviting tenders must not be published until the service director, portfolio holder or Cabinet (as appropriate) has made the decision to invite and evaluate tenders and the decision has been recorded in writing on the appropriate decision form.

32. THE TENDER PROCEDURE – EU Tenders

32.1 The service director, in consultation with the Procurement Service, must follow the tender procedures set out in the EU Regulations when letting contracts over the relevant EU Threshold.

32.2 The service director in consultation with Procurement Services must establish whether a contract falls under the Full Regime or the Light Touch Regime.

- When the contract falls under the Full Regime, the service director must use an open or restricted procedure unless Procurement Services agree the use of another procedure.
- Where the contract falls within the Concession Contracts Regulations 2016 or the Light Touch Regime then the service director in consultation with Legal Services may determine the tender procedures that are to be applied.

32.3 The OJEU contract notice or other advertisement inviting tenders must not be published until all the procurement documents are available electronically with unrestricted

and full direct access via the eProcurement System.

32.4 To ensure the best response to an advertisement, the service director may alert appropriate suppliers in advance to the appearance of the advertisement.

32.5 The contract opportunity must be advertised in OJEU and published in the National Procurement Website for the Light Touch Regime, the Full Regime and Concession Contracts. OJEU contract notices must be placed by the Procurement Service only. Service directors or consultants must not place OJEU contract notices themselves.

32.6 If the Council is following the restricted procedure a sufficient number of Suppliers must be invited to tender to ensure genuine competition. The minimum number is five . If there are fewer than five expressions of interest in being invited to tender or fewer than five satisfactory PQQs, then the minimum number of Suppliers to be invited to tender may be reduced, with the approval of the Procurement Service.

32.7 As soon as possible after the selection of the shortlist of Suppliers to be invited to tender, any Suppliers not selected should be informed in writing of the reasons why they were not selected. If a Supplier who was not selected asks for further information on why he was unsuccessful, the service director must promptly make arrangements for the de-briefing.

32.8A Service directors shall ensure that the progress of all procurement procedures are documented.

32.8B Service directors shall ensure that they keep sufficient documentation to justify decisions taken in all stages of the procurement procedure, such as documentation on:

- (a) communications with bidders and internal deliberations,
- (b) preparation of the procurement documents,
- (c) dialogue or negotiation if any,
- (d) selection and award of the contract.

32.8C Service directors shall ensure that the documentation shall be kept for a period of at least six years after the contract end date.

32.9 The invitation to tender must be issued by the Procurement Service.

32.10 The instructions to tenderers must state

- the latest date and time for receipt by the Council of tenders.
- tenders must be returned via the eProcurement System tenders that arrive at the Council after the latest date and time specified, **whatever the circumstances**, will be retained unopened until after the tenders properly received have been opened and recorded, and will be opened and considered by the Council only if the Head of Procurement certifies that they are satisfied that the tender has not gained any advantage over other tenders by the delay;
- Any tender that does not comply with the instructions to tenderers or is conditional must be treated as non-compliant and rejected. **Non-compliant tenders must not be evaluated unless Procurement advises otherwise** and
- any contract will be terminated immediately, and any losses to the Council arising from the termination recovered from the supplier, if the supplier, or anyone acting on his behalf (with or without the supplier's knowledge) :

(1) offers or promises or gives a financial or other advantage to any elected member of the Council, any member of staff or any consultant in connection with the contract; or

(2) requests, agrees to receive or accepts a financial or other advantage so that some action in relation to the contract is performed improperly.

- Such other terms as the Procurement Service may require.

32.11 The service director must allow sufficient time for submission of tenders. The time allowed must comply with that the relevant EU Regulations. legislation.

32.12 Amendments by the service director to invitation to tender documents, made after the invitations have been sent out, must be clearly headed "**ITT Amendment**" and sent to all suppliers who have been invited to tender. If there is more than one amendment, they must be numbered consecutively. Amendments must be sent out in sufficient time to allow suppliers to adjust their tenders and in any event no later than five clear working days before close of tenders. If necessary, the tender period must be extended to allow for this.

32.13 Until the contract has been awarded, the information obtained at the opening of tenders is confidential to those involved in the opening process and those directly involved in evaluation of the tenders. Confidentiality must be maintained and any breach reported to the Council's Monitoring Officer.

32.14 Tenders must be opened via the Council's eProcurement system by the Procurement Service member of staff authorised to be the verifier for that tender.

33. CLARIFICATION OF TENDERS – EU Tenders

33.1 Negotiations with suppliers who have tendered for a contract are not permitted by EU law and are therefore unlawful except in accordance with the Concession Contracts Regulations 2016 and the negotiated procedure or the competitive procedure with negotiation under the Public Contracts Regulations 2015 (as amended). After tenders have been opened, **and before the tenders have been scored**, the service director **must** discuss with Procurement whether they require one or more tenders to be clarified by the tenderer.

33.2 Clarifications must be designed to ensure that the Council has fully understood the tender submitted. Clarifications must not make any substantive changes to the tender.

33.3 Clarification questions and answers must be fully documented in a form approved by Procurement Services and the relevant clarifications incorporated in the contract document.

33.4 Tenders must not be evaluated and scored until clarifications have been completed.

34. EVALUATION OF TENDERS – EU Tenders

34.1 Tenders should normally be evaluated on the basis of which is the most economically advantageous to the Council. Exceptionally, and only with the permission of the Procurement Service, tenders may be evaluated on the basis of price only provided that the quality element in the value for money ratio is confirmed. The basis of evaluation must be stated in the contract notice published in OJEU and in any other advertisement. The basis of evaluation must also be stated in the invitation to tender. If the basis of

evaluation is 'most economically advantageous', the criteria for evaluation must be set out in the invitation to tender, in descending order of priority, with the weightings to be given to them and the method of scoring.

Advisory note: Criteria for evaluation may include quality, price, technical merit, aesthetic and functional characteristics, environmental characteristics, running costs, cost effectiveness, after sales services, technical assistance, delivery date, delivery period, and period of completion.

34.2 If the basis of evaluation is price only provided that the quality element in the value for money ratio is confirmed, only the lowest tender (if payment is to be made **by** the Council) or the highest tender (if payment is to be made **to** the Council) may be accepted.

34.3 If the basis of evaluation is 'most economically advantageous', the service director must arrange for an appropriate evaluation panel to consider the tenders and evaluate them against the criteria and weightings stated in the invitation to tender. The evaluation panel may include service users and/or external consultants (subject to appropriate conflict of interest checks and confidentiality agreements) but may not include elected members of the Council. The evaluation panel should, as a rule, comprise those people who have had significant input into drawing up the specification.

34.4 All valid tenders received must be evaluated.

34.5 Tenders must be accepted in accordance with the outcome of the evaluation or not at all.

34.6 If no suitable tenders or abnormally low tenders are received, the service director must consult Procurement Services as to how the works, supplies or service concerned may be procured.

34.7 A tender that exceeds the budget allocated must not be accepted. If a tender exceeds the budget allocated, the service director must obtain an additional allocation of funds in accordance with Financial Regulations **before** the tender may be accepted.

34.8 If all valid tenders are too high to be accepted and there is no further allocation of additional funds, the service director may delete part of the specification and ask all suppliers invited to tender to re-price their tenders, by submitting a fresh form of tender. In such cases, the service director must set out the deletion in a bill of reductions or other document, to be incorporated into the contract document.

34.9 If the contract will result in the application of the TUPE Regulations, the service director must ensure that the successful tenderer has dealt with all employee matters, including pay, conditions of employment and pension rights and benefits, in his tender and will give all appropriate indemnities in the contract. The Council will give appropriate indemnities in respect of employee matters **only** if employees are transferring from Council employment to the successful tenderer and in no other circumstances.

35. AMENDMENTS AND ALTERATIONS TO TENDERS – EU Tenders

35.1 Subject to Regulations 34.8 and 34.9 a Supplier's tender is his offer to the Council, which the Council may accept as it stands. Once he has submitted his Tender and it has been clarified if necessary, a tenderer is not permitted to make any alteration to the amount of the tender or any of his tender proposals.

35.2 If a tenderer attempts to alter his offer after the last date for receipt of tenders, he must be given the opportunity to stand by or withdraw his original offer. Correction of

an obvious arithmetical error in a fixed price Tender, may be accepted.

35.3 A Tender that is qualified or expressed to be conditional upon the Council's acceptance of alterations to the specification or the terms and conditions of contract must be treated as non-compliant and rejected. **Non-compliant tenders must not be evaluated.** This does not prevent the Council inviting variant bids. If variant bids are invited, tenderers must be required to submit a mandatory reference bid based on the specification and terms and conditions included in the invitation to tender, so that all bids may be compared fairly.

35.4 Before a Tender has been accepted, a service director may ask all tenderers to hold their tenders open for a longer period. Tenders should in any event remain open for acceptance for a period of ninety days from the latest date for receipt of tenders, or such other period as the service director considers appropriate, and the form of tender must make this clear.

36. AWARD OF THE CONTRACT – EU Tenders

36.1 Refer to CPR 31 in respect of authority to award a contract.

36.2 A full, confidential tender report must be produced in a format approved by the Procurement Service, (the report is not required for call off contracts from a Framework Agreement, or Dynamic Purchasing Systems unless specifically requested by the Procurement Service).

36.3 The tender report must be sent to Procurement and the decision-maker before the decision to award the contract is made. The tender report must be marked “NOT FOR PUBLICATION”.

36.4 The recommendation to the decision-maker to award the contract must include the name of the successful tenderer, the length of the contract and any options for extension and the price or estimated price of the contract.

36.5 As soon as possible after the decision to award the contract has been made and taking call-in procedures into account, the procurement service must write to inform the successful tenderer of that decision. This letter must be via the Council's eProcurement system.

36.6 At the same time as the notification in CPR 36.5, the procurement service must write to each **unsuccessful tenderer**, informing them of:

- the name of the successful tenderer;
- the reasons for the decision to award, including the characteristics and relative advantages of the successful tender;
- the award criteria, any sub-criteria, the weightings applied to them and the scoring methodology;
- the score obtained by the successful tenderer in the evaluation;
- the score obtained by the unsuccessful tenderer being notified (but no others);
- the date the decision to award was made;
- the effect of the standstill period and the date before which the Council will not enter into the contract; and
- the date the letter is being sent.

The notification letter to the unsuccessful tenderers must be sent via the Council's eProcurement system.

36.7. At the same time as the notification in CPR 36.5, the Procurement Service must write to **each candidate who was invited to tender but who did not submit a tender**, informing him of:

- the name of the successful tenderer;
- the reasons for the decision to award, including the characteristics of the successful tender;
- the award criteria, any sub-criteria, the weightings applied to them and the scoring methodology;
- the score obtained by the successful tenderer in the evaluation;
- the date the decision to award was made;
- the effect of the standstill period and the date before which the Council will not enter into the contract; and
- the date the letter is being sent.

The notification letter to the suppliers who were invited but who did not submit a tender must be sent via the Council's eProcurement system.

36.8 The notifications in CPR 36.6 and CPR 36.7 must be approved by the Procurement Service before being issued.

36.9 If an unsuccessful tenderer asks for further information on why he was unsuccessful, the service director must promptly arrange for the de-briefing.

36.10 The contract document must not be signed or sealed (as appropriate) before the expiry of ten days (the standstill period) following the date the notification of the decision to award the contract was sent. 'a standstill period may not apply under a mini competition for call-off unless specifically stated in the Framework Agreement or Dynamic Purchasing System'

36.11 A voluntary transparency notice (other than for an extension or modification as defined in CPRs 40 and 41) may be published in OJEU only with the prior permission of the Head of Legal & Committee Services. If a voluntary transparency notice is published, the contract document must not be signed or sealed (as appropriate) before the expiry of ten days (the standstill period) after the date on which the notice was published in OJEU.

36.12 The service director must, in consultation with the Procurement Service, arrange for publication of a contract award notice in OJEU, within 30 days of the award of the contract or the conclusion of a Framework Agreement or a Dynamic Purchasing System (There is no requirement to publish an OJEU notice for a call off contract from a Framework Agreement).

36.13 The service director shall ensure that within a reasonable time of the award of the contract, the award is published in the National Procurement Website with at least the following information:

- (a) the name of the contractor;
- (b) the date on which the contract was entered into;
- (c) the value of the contract;
- (d) whether the contractor is a SME.

36.14 Information may be withheld from publication where its release:

(a) would impede law enforcement or would otherwise be contrary to the public interest,
(b) would prejudice the legitimate commercial interests of a particular economic operator, whether public or private, or

(c) might prejudice fair competition between economic operators.

37. BONDS AND PARENT COMPANY GUARANTEES

37.1 For every contract of £5m or more in value, the service director must decide, taking appropriate advice, whether the circumstances justify the Council requiring the supplier to provide a parent company guarantee. If the supplier does not have a parent company or the parent company is not approved under CPR 37.2, the supplier may in those circumstances be required to provide a bond. If a bond is required, the amount of the bond must be not less than ten per cent of the total contract value or the whole of the annual contract value, unless otherwise agreed by the Chief Finance Officer.

37.2 The parent company or the surety for a bond must be approved by the Chief Finance Officer.

37.3 A specimen of the parent company guarantee and bond must be included in the invitation to tender documentation.

38. SIGNATURE OF THE CONTRACT – EU Tenders

38.1 All contracts, bonds, guarantees, agreements or transactions in respect of which there is no consideration must be executed as a deed under seal in accordance with these Contract Procedure Rules.

;

However this will not apply to contracts for insurance where the contract is brought into effect by the issue of a schedule of insurance and policy documents to the Council by the insurer.

Legal Services may direct that other contracts must be executed as deeds.

38.2 All contracts executed as deeds must have the Council's Common Seal impressed on them and witnessed by an officer of the Council authorised by the Head of Legal and Committee Services

38.3 All contracts which are not within the scope of CPR 38.1 must be signed for and on behalf of the Council by one officers of the Council.

Part 7

For contracts that have commenced

39. CONTRACT MANAGEMENT

39.1 A contract **must not** start until the contract documents have been signed or sealed and dated. Service directors must allow time for this in the contract programme.

39.2 Within ten days of the date of the contract, if the contract is worth £25,000 or more, the service director must add the details of the contract onto the Council's contracts register and record the following:

- the works, goods or services to be supplied;
- the name of the supplier,
- the contract value;
- the commencement and completion dates;
- any extension options
- The current status of the contract

These details must be maintained and updated.

39.3 The service director shall be the contract manager for the contracts for which he/she is responsible up to the EU Threshold, but he/she may authorise another officer to have day-to-day responsibility for managing the contract. For contracts over the EU Threshold, the service director must appoint a contract manager with appropriate skills and experience.

39.4 The contract manager is responsible for:

- managing the contract and ensuring that it is carried out in accordance with its terms and conditions;
- monitoring the supplier's performance and carrying out mid-contract reviews to determine ongoing value for money;
- making the Supplier aware that they are expected to comply with the Council's equal opportunities, counter-fraud and corruption, welsh language standards, whistle-blowing and anti-money laundering policies;
- ensuring that the Supplier maintains the insurance policies required by the contract;
- agreeing any minor changes to the contract (but not changes to prices) before they are carried out;
- keeping a record of all valuations, payments, claims, monitoring, changes and certificates under the contract;
- deducting liquidated damages, if appropriate;
- Liaise with the Procurement Service to update the status of their contract on the Council's Contracts Register;

- in consultation with Legal Services and the appropriate finance manager, consenting to sub-contracts, assignments to new suppliers and novations to new suppliers; and
- managing the transition between the ending of one contract and the beginning of another

Advisory note: It is recommended that decisions authorising changes to a contract or sub-contracts, assignments or novations are recorded on an officer decision form.

39.5 The service director **must** consult Legal Services for consideration of the Council's legal position:

- before any contract is to be terminated or suspended;
- in the event of a claim for payment not clearly within the terms and conditions of contract;
- before making any deduction from payments due to a Supplier or withholding payment from a Supplier;
- subject to Regulations 40 and 41, before making any extension to a contract or variation of the scope of a contract.

39.6 If the final expenditure under a contract exceeds the budgeted sum by 10% or more, the service director, in consultation with the Chief Finance Officer, must prepare and submit a report to the appropriate portfolio holder and to the chairman of Overview and Scrutiny Committee.

39.7 To ensure value for money and competition, contracts for an indefinite or rolling term must be terminated at the end of ten years in any event and a new contract procured.

40. EXTENSIONS TO CONTRACTS

40.1 An extension to a contract is an additional period at the end of the contract, during which the works or the services to be carried out are a repetition of the works or services under the original contract. 40.2 Unless a contract specifically includes an option to extend its term, or the extension falls within the parameters of a modification under CPR 41, that contract may not be extended. The contract will cease to exist at the end of its term.

40.3 If a contract specifically includes an option to extend its term **and**:

- the OJEU notice or other advertisements for the contract stated that an extension contract may be awarded; and
- the estimated value of the contract in the OJEU notice or other advertisements took account of the potential extended contract; and
- the extension represents good value for money for the Council,

then the service director may make a decision to award the extension

Once the extension has expired, that contract will cease to exist.

40.4 40.5 All extensions must be evidenced in writing in accordance with the contract in consultation with the Procurement Service.

41. MODIFICATION OR VARIATION OF CONTRACTS DURING THEIR TERM

41.1 Provided that a budget has been allocated for the expenditure, value for money can be demonstrated and authority has been obtained from the appropriate decision maker, contracts and Framework Agreements may be modified or varied without a new procurement procedure in accordance with the following provisions:

41.1.1 for contracts and Framework Agreements within the scope of the EU Regulations, in accordance with the terms of the relevant EU Regulations; and

41.1.2 for contracts and Framework Agreements falling outside of the scope of the EU Regulations, in the following cases:

41.1.2.1 where the change in value is relatively small - under 10% of the contract value for services & supplies or under 15% of the contract value for works and does not alter the overall nature of the contract (NB the contract value to be used is the updated value if the contract contains an indexation clause. Where several successive modifications are made the change value shall be cumulative); or

41.1.2.2 where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses, which may include price revision clauses or options, provided that such clauses:

- (i) state the scope and nature of possible modifications or options as well as the conditions under which they may be used, and
- (ii) do not provide for modifications or options that would alter the overall nature of the contract or the Framework Agreement; or

41.1.2.3 where additional works, services or supplies are necessary from the existing contractor (and the contract does not provide a mechanism for this) and a change in contractor cannot be made for economic or technical reasons such as interchangeability or interoperability with existing equipment, services or installations procured under the initial procurement; and where changing the contractor would cause significant inconvenience or duplication of costs, provided that the price increase does not exceed 50%; or

41.1.2.4 where there is a need for a modification (and the contract does not provide a mechanism) due to unforeseen circumstances, the change does not alter the overall nature of contract and the price increase is not greater than 50%; or

41.1.2.5 where a new contractor replaces the one to which the Council had initially awarded the contract as a consequence of an unequivocal review clause or option or following a corporate restructuring, insolvency or merger, and the new contractor still meets the original selection criteria. This exemption is only available where there is no other substantial modification to the contract; or

41.1.2.6 otherwise where the modification is not substantial and is only made following consultation with Legal Services.

41.2 All modifications must be evidenced in writing in accordance with the contract in consultation with Legal Services.

Part 8

Exceptions to Contract Procedure Rules

42.1 An exception to Contract Procedure Rules is a permission to let a contract without complying with one or more of the Contract Procedure Rules. An exception to Contract Procedure Rules may be granted subject to conditions. **Authority to award a contract will be required in addition to the exception to Contract Procedure Rules.**

42.2 Only the Director of Resources, or his authorised deputy, in consultation with the Procurement Service, are delegated by Cabinet to grant an exception to these Contract Procedure Rules. Applications for exceptions must follow the process set out by the Procurement Service, be made in writing and signed by the service director, and must include the exception that is requested and the justification for the exception. Exceptions to Contract Procedure Rules will **never** be given retrospectively. 42.3 The Procurement Service will keep a register of all exceptions to Contract Procedure Rules.

42.4 An application for an exception to Contract Procedure Rules, to allow a contract to be let without genuine competition will not be granted without a cogent reason. A lack of time caused by inadequate forward planning is not a cogent reason and will not permit an exception to Contract Procedure Rules. If an application to let a contract without genuine competition is granted, the service director responsible for the contract must demonstrate that the price obtained is not in excess of the market price and that the contract represents best value for money.

42.5 An exception to Contract Procedure Rules is not required in the following circumstances:

- placing an order under an existing corporate contract or Framework Agreement;
- as part of a partnering contract that contemplates a series of contracts with a single supplier, provided the entire series has been duly authorised as appropriate for its value;
- legislation requires the Council to let a contract differently from these Contract Procedure Rules;
- placing an order under an arrangement, of which the Council is an affiliate, which has gone through an EU compliant competitive process; or
- following completion of a quotation procedure, some or all of the quotations exceed £25,000, provided the accepted quotation does not exceed £30,000.

For below threshold procurements, the Director of Social Services may determine that seeking competitive quotes or carrying out a competitive tender process is not required. Such a decision may be appropriate for the following reasons:

- The particular requirements of the service are complex or of a specialised nature meaning that the choice of service provider is limited;
- It has become urgent to provide the service because of an emergency, crisis or as a result of unforeseen circumstances not attributable to the Council; or
- Where, in accordance with section 57 Social Services and Well-being (Wales) Act 2014, a person expresses a preference for particular care home accommodation, the Council must provide or arrange for the provision of the preferred accommodation.

In these limited cases there is deemed permission to let a contract without complying with one of more of the Contract Procedure Rules.”

LIGHT TOUCH REGIME SERVICES

Schedule 3 Services (PCR 2015)
(Light Touch Regime for contracts exceeding EU threshold)

Overarching Description	Areas included
Health, social and related services	<ul style="list-style-type: none"> * Supply services of domestic help personnel * Supply services of nursing personnel * Supply services of medical personnel * Private households with employed persons * Manpower services for households, Agency staff services for households, Clerical staff services for households, Temporary staff for households, Home-help services and Domestic services Social Care Nursing Care
Administrative social, educational, healthcare and cultural services	<ul style="list-style-type: none"> * Administration, defence and social security services * Education and training services * Exhibition, fair and congress organisation services * Seminar organisation services * Event services * Cultural event organisation services * Festival organisation services * Party organisation services * Fashion shows organisation services * Fair and exhibition organisation services
Compulsory social security services	
Benefit services	
Other community, social and personal services including services furnished by trade unions, political organisations, youth associations and other membership organisation services	
Religious services	
Hotel and restaurant services	<ul style="list-style-type: none"> * Catering services for private households * Meals-on-wheels services * Meal delivery services * Catering services * Catering services for transport enterprises * Catering services for other enterprises or institutions * School catering services * Canteen services * Canteen and other restricted-clientele cafeteria services

	<ul style="list-style-type: none"> * Canteen management services * School meal services
Legal services (to extent not excluded by reg: 10(1)(d))	
Other administrative services and government services	
Provision of services to the community	
Provision of related services, public security and rescue services to the extent not excluded by regulation 10(1)(h)	
Investigation and security services	<ul style="list-style-type: none"> * Investigation and security services * Security services * Alarm-monitoring services * Guard services * Surveillance services * Tracing system services * Absconder-tracing services * Patrol services * Identification badge release services * Investigation services and detective agency services * Graphology services * Waste analysis services
International services	<ul style="list-style-type: none"> * Services provided by extra-territorial organisations and bodies * Services specific to international organisations and bodies
Postal services	<ul style="list-style-type: none"> * Postal and telecommunications services * Post and courier services * Postal services * Postal services related to newspapers and periodicals * Postal services related to letters * Postal services related to parcels * Post office counter services * Mailbox rental * Post-restante services * Internal office mail and messenger services
Miscellaneous services	<ul style="list-style-type: none"> * Tyre-remoulding services * Blacksmith services

**SECTION 3 - CODE OF CONDUCT
FOR MEMBERS OF PEMBROKESHIRE COUNTY COUNCIL
Adopted 12 May 2016**

**PART 1
INTERPRETATION**

1.(1) In this code —

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

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

(b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or subcommittee;

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

(a) of the relevant authority,

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

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

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

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

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

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

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

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

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

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

(a) a county council,

(b) a county borough council,

(c) a community council,

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

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

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

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

(2) In relation to a community council—

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

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

PART 2 GENERAL PROVISIONS

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

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

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

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

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

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

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

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

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

4. You must —

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

(b) show respect and consideration for others;

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

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

5. You must not —

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

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

6.(1) You must —

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

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

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

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

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

7. You must not —

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

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

(i) imprudently;

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

(iii) unlawfully;

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

(v) improperly for political purposes; or

(vi) improperly for private purposes.

8. You must —

(a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any

relevant advice provided by your authority's officers, in particular by —

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

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

9. You must —

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

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

PART 3 INTERESTS

Personal Interests

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

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

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

- (i) any employment or business carried on by you;
- (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
- (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
- (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
- (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
- (vi) any land in which you have a beneficial interest and which is in the area of your authority;
- (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified

in sub-paragraph (iv) above;

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

(ix) any —

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

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

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

(dd) trade union or professional association; or

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

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

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

[Note: subparagraph (b) is omitted.]

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

(i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;

(ii) any employment or business carried on by persons as described in 10(2)(c)(i);

(iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;

(iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or

(v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of—

(aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or

(bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

Disclosure of Personal Interests

11.(1) Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.

(2) Where you have a personal interest in any business of your authority and you make —

(a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or

(b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

(3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.

(4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer from time to time but, as a minimum containing —

(a) details of the personal interest;

(b) details of the business to which the personal interest relates; and

(c) your signature.

(5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.

(6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.

(7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

12.(1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of your authority you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.

(2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to —

(i) another relevant authority of which you are also a member;

(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

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

(iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;

(v) your role as a member of a Local Health Board where you have not been appointed or

nominated by your authority;

(b) relates to —

(i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;

(ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;

(iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;

(iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;

(c) your role as a community councillor in relation to a grant, loan or other form of financial assistance made by your community council to community or voluntary organisations up to a maximum of £500.

(3) The exemptions in sub-paragraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Overview and Scrutiny Committees

13. You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

(a) that business relates to a decision made (whether implemented or not) or action taken by your authority's executive, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and

(b) at the time the decision was made or action was taken, you were a member of the executive, board, committee, sub-committee, joint committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

14.(1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —

(a) withdraw from the room, chamber or place where a meeting considering the business is being held—

(i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or

(ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

(b) not exercise executive or board functions in relation to that business;

(c) not seek to influence a decision about that business;

(d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and

(e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.

(2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

(2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations.

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

(a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or

(b) you have the benefit of a dispensation provided that you —

(i) state at the meeting that you are relying on the dispensation; and

(ii) before or immediately after the close of the meeting give written notification to your authority containing —

(aa) details of the prejudicial interest;

(bb) details of the business to which the prejudicial interest relates;

(cc) details of, and the date on which, the dispensation was granted; and

(dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

PART 4

THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

15.(1) Subject to sub-paragraph (4), you must, within 28 days of—

(a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or

(b) your election or appointment to office (if that is later),

register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

Sensitive information

16.(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Registration of Gifts and Hospitality

17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, or in relation to a community council, to your authority's proper officer of the existence and nature of that gift, hospitality, material benefit or advantage.

SECTION 4 - CODE OF CONDUCT

LOCAL GOVERNMENT EMPLOYEES

General Principles

1. The public is entitled to expect the highest standards of conduct from all qualifying employees of relevant authorities. The role of such employees is to serve their employing authority in providing advice, implementing its policies, and delivering services to the local community. In performing their duties, they must act with integrity, honesty, impartiality and objectivity.

Accountability

2. Qualifying employees of relevant authorities work for their employing authority and serve the whole of that authority. They are accountable to, and owe a duty to that authority. They must act in accordance with the principles set out in this Code, recognising the duty of all public sector employees to discharge public functions reasonably and according to the law.

Political Neutrality

3. Qualifying employees of relevant authorities, whether or not politically restricted, must follow every lawfully expressed policy of the authority and must not allow their own personal or political opinions to interfere with their work. Where qualifying employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary they are paid), they must comply with any statutory restrictions on their political activities.

Relations with members, the public and other employees

4. Mutual respect between qualifying employees and members is essential to good local government, and working relationships should be kept on a professional basis.

5. Qualifying employees of relevant authorities should deal with the public, members and other employees sympathetically, efficiently, and without bias.

Equality

6. Qualifying employees of relevant authorities must comply with policies relating to equality issues, as agreed by the authority, in addition to the requirements of the law.

Stewardship

7. Qualifying employees of relevant authorities must ensure that they use public funds entrusted to them in a responsible and lawful manner, and must not utilise property, vehicles or other facilities of the authority for personal use unless authorised to do so.

Personal Interests

8. Whilst qualifying employees' private lives are their own concern, they must not allow their private interests to conflict with their public duty. They must not misuse their official position or information acquired in the course of their employment to further their private interests, or the interests of others. In particular, they must comply with:

(1) any rules of their relevant authority on the registration and declaration by employees of financial and non - financial interests,

(2) any rules of their relevant authority on the declaration by employees of hospitality or gifts offered to or received by them, from any person or organisation doing or seeking to do business, or otherwise benefiting or seeking to benefit from a relationship with the authority. Qualifying employees must not accept benefits from a third party unless authorised to do so by their relevant authority.

Whistleblowing

9. In the event that a qualifying employee becomes aware of activities which that employee believes to be illegal, improper, unethical or otherwise inconsistent with this Code, the employee should report the matter, acting in accordance with the employee's rights under the Public Interest Disclosure Act 1998, and with the relevant authority's confidential reporting procedure, or any other procedure designed for this purpose.

Treatment of Information

10. Openness in the dissemination of information and decision making should be the norm in relevant authorities. However, certain information may be confidential or sensitive and therefore not appropriate for a wide audience. Where confidentiality is necessary to protect the privacy or other rights of individuals or bodies, information should not be released to anyone other than a member, relevant authority employee or other person who is entitled to receive it, or needs to have access to it for the proper discharge of their functions. Nothing in this Code can be taken as overriding existing statutory or common law obligations to keep certain information confidential, or to divulge certain information.

Appointment of Staff

11. Qualifying employees of relevant authorities involved in the recruitment and appointment of staff must ensure that appointments are made on the basis of merit. In order to avoid any possible accusation of bias, such employees must not be involved in any appointment, or any other decisions relating to discipline, promotion or pay and conditions for any other employee, or prospective employee, to whom they are related, or with whom they have a close personal relationship outside work.

Investigations by Monitoring Officers

12. Where a monitoring officer is undertaking an investigation in accordance with regulations made under section 73(1) of the Local Government Act 2000 a qualifying employee must comply with any requirement made by that monitoring officer in connection with such an investigation.

SECTION 5 - PROTOCOL ON MEMBER/EMPLOYEE RELATIONS

1. Introduction

- 1.1 The relationship between members and employees is an essential ingredient that goes into the successful working of the organisation. Our relationship within the Council is characterised by mutual respect, appropriate informality and trust. Members and employees feel free to speak to one another openly and honestly and nothing in the Protocol is intended to change this relationship. Rather, the purpose of this Protocol is to help members and employees to continue to perform effectively by giving further guidance on their respective roles and expectations and on their relationship with each other. The Protocol also gives guidance on what to do on the rare occasions when things go wrong. Responsibility for the operation of this Protocol lies with the Head of Human Resources.
- 1.2 The Protocol must be read and operated in the context of any relevant legislation and national and local Codes of Conduct and any procedure for confidential reporting.

2. Roles of Members and Employees

- 2.1 The respective roles of members and employees can be summarised as follows:

Members and employees are servants of the public and they are indispensable to one another but their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. The role of employees is to give advice to members and the Council, and to carry out the Council's work under the direction and control of the Chief Executive, and his/her managers.

Mutual respect between Councillors and employees is essential to good local government.

2.2 Members

Members have three main areas of responsibility: determining the policy of the Council and giving it political leadership; representing the Council externally; and acting as advocates on behalf of their constituents. It is not the role of members to involve themselves in the day to day management of Council services and employees.

2.3 Members of the Cabinet, Chairmen, Vice-Chairmen and Deputy Chairmen

Members of the Cabinet, Chairmen and Vice-Chairmen / Deputy Chairmen of Committees etc have additional responsibilities. Because of those responsibilities, their relationships with employees may be different from, and more complex than, those of members without those responsibilities, and this is recognised in the expectations they are entitled to have.

2.4 Elected Members

As individual members of the Council, all members have the same rights and obligations in their relationship with employees and should be treated equally. This principle is particularly important in the context of overview and scrutiny. However, where a political group forms an administration, either alone or in partnership with another group or groups, it is recognised that the relationship between employees, particularly those at a senior level in the organisation, and the administration will differ from that with opposition groups.

2.5 Employees

The role of employees is to give advice and information to members and to implement the policies determined by the Council.

Certain employees, e.g., Chief Executive/Head of Paid Service, Returning Officer, Monitoring Officer, Chief Financial Officer (Section 151 Officer) and the Statutory Chief Officers have statutory responsibilities that they must be allowed to discharge.

3. **Expectations**

Members can expect from employees:

- A commitment to the Council as a whole, and not to any political group
- A working partnership
- An understanding of and support for respective roles, workloads and pressures.
- Assistance with enquiries and complaints.
- Professional advice, not influenced by political views or preference, which does not compromise the political neutrality of employees.
- Awareness of, and sensitivity to, the political environment.
- Respect, dignity, courtesy and integrity.
- Appropriate training and development in order to carry out their role effectively.
- That employees will not use their relationship with members to advance their personal interests or to influence decisions improperly, nor to raise personal issues outside any agreed procedures.
- That employees will comply with the relevant Code of Conduct.

Employees can expect from members:

- A working partnership.
- An understanding of, and support for, respective roles, workloads and pressures.
- Political Leadership and direction.
- Respect, dignity, courtesy and integrity.
- Not to be subject to harassment/bullying or to be put under undue pressure.
- That they should have regard to the seniority of employees in the seeking of information, advice or actions.
- That members will not use their position or relationship with employees to advance their personal interests or those of others or to influence decisions improperly.
- That members will comply with the relevant Code of Conduct.

4. When things go wrong

Procedure for employees

- 4.1 From time to time the relationship between members and employees may break down or become strained but an employee may wish to raise a concern regarding a member's conduct. Whilst it will always be preferable to resolve matters informally, through conciliation by an appropriate senior manager or member, employees will have recourse to the Dignity at Work policy or to the Council's Monitoring Officer, as appropriate to the circumstances. In the event of a complaint being upheld, the matter will be referred to the Chief Executive, who will inform the Leader of the Council and, when appropriate, a Group Leader. The course of action to be taken will be decided following consultation with the Chairman (or Vice-Chairman) of the Standards Committee, if appropriate.

Procedure for members

- 4.2 In the event that a member is dissatisfied with the conduct of an employee, the matter should be raised with the appropriate Head of Service. Where the employee concerned is a Head of Service or Director, the matter should be raised with the Director or with the Chief Executive, as appropriate. Where the employee concerned is the Chief Executive, the matter should be raised with the Leader of Council.

SECTION 6 - LOCAL RESOLUTION PROCESS

MEMBER ON MEMBER COMPLAINTS RELATING TO EQUALITY AND RESPECT

Protocol on Expected Standards of Behaviour for Members in their dealing with other Members

Preamble

Pembrokeshire County Council Members have adopted this Protocol which is supplemental to the Member/Employee Relations Protocol and should be read in conjunction with the Code of Conduct requirements, and the Constitution. In particular, it identifies the low level complaints that the Welsh Government and the Public Services Ombudsman for Wales (PSOW) has stated should be dealt with locally and informally by the Council.

This Protocol recognises that the freedom of expression enjoyed by Members (Art 10) is not absolute and the exercise of the freedom incurs responsibilities and may be subject to restrictions, notably the protection of the reputation, and other rights, of other Members and the prevention of unauthorised disclosure of information. In this regard the Members have considered the proposed Protocol and accept that their freedom to express their political opinions is not disproportionately impinged by agreeing to the Standards of Behaviour.

The Local Resolution Process will be utilised for low level complaints by a Member before a complaint is referred to the PSOW. The PSOW has confirmed that where a Local Resolution Process has been adopted by a council, he will not accept a complaint for consideration of an investigation until the Local Resolution Process relating to a low level complaint has been concluded.

The Local Resolution Process is an informal process and no indemnity will be granted to any Member for representation at the Local Resolution Panel.

By adopting the Local Resolution Process, Members, and in particular group leaders, are agreeing to fully support this process and to comply with any recommendations of the Local Resolution Panel when adjudicating upon Member on Member complaints.

Standards of Behaviour

1. Members must:
 - a) Show personal respect to each other: when disagreeing with another Member's views, opinions or councillor actions, a Member must not engage in abusive, insulting or improper personal comments about the Member or their family but, having regard to the Code of Conduct's requirement that decisions are made on the merits of the circumstances, should focus on the arguments put forward by other Members or the effectiveness of their actions. It is accepted that feelings can run high in debate but should the standard of behaviour have been breached, the culpable Member should apologise to the meeting, or to the relevant Member, at the meeting when the breach is brought to their attention whereupon the matter will be considered closed.

- b) Not publish malicious or false allegations/information or insulting personal comments about a Member. If personal comments are made electronically to the world at large they require a greater degree of control by the author, as once made it is usually impossible for the comments to be withdrawn. The truth, is only a defence if it is the whole truth and puts matters in context.
- c) Not release confidential information to the press or members of the public: there is no defence of public interest in the Code and there are avenues that provide transparency in decision-making that would not disclose confidential/personal information which may cause harm to an individual or a company/organisation. The Council is a regulatory body but also has powers to enhance the prospects of the community which may be harmed by unauthorised disclosure.

2. Members as Local Representative:

- (i) Should seek to work with Members of adjoining electoral divisions for the benefit of the locality.
- (ii) If they become involved in matters specifically/only related to another electoral division or representing a constituent in another electoral division, should:
 - (a) Explain to the members of the public that they are not the Local Member for that electoral division and identify who is.
 - (b) If the Member continues to act in the matter, inform the Local Member of their involvement (but not disclose any confidential information without authorisation) and if possible seek to work with the Local Member, if the objective is shared.

LOCAL RESOLUTION PROCEDURE

1. When a Member complains that another has breached the Protocol's Standard of Behaviour the Monitoring Officer will advise the complainant whether the scope and nature of the complaint falls within the Local Resolution Process. If the complaint is within the adopted Process then the Monitoring Officer will provide the Member bringing the complaint with contact details of a Mediator. The Council may utilise experienced Council staff or contract with an outside body or person to provide a mediation service.
2. The Monitoring Officer will notify the Member who is the subject of the complaint of his/her intention to seek mediation of the dispute. Both Members will supply the Mediator with dates of availability, but with the intent that the mediation meeting will take place within 6 weeks from the notification of the complaint being made to the Monitoring Officer.
3. The mediation meeting(s) will follow Chatham House Rules, i.e. be confidential. It is hoped that this process will encourage the Members to attain consensus on resolving the complaint. Whatever is agreed will be confirmed by them to the Mediator but will not be further published unless agreed by both the Members.
4. If the mediation stage does not resolve the complaint, then the complaining Member may request that the matter to be referred to the Local Resolution Panel within 6 weeks

of the last mediation meeting. The Mediator will be asked to confirm whether resolution was attained but nothing further.

5. The Local Resolution Panel will comprise at least three members of the Standards Committee of whom the majority will be non-elected Members (including the Community Representative in this term). The press and public will be excluded from the Local Resolution Panel's proceedings. The Local Resolution Panel will adopt such procedures as they deem necessary to adjudicate upon a resolution. They will be supported by the Monitoring Officer.
 6. Both the complaining Member and the Member who is the subject of the complaint will be entitled to appear and/or produce written or oral information relevant to the facts of the matter complained of. Either Member may be accompanied by a friend but shall not be entitled to legal representation (unless the lawyer is also an elected member of the Council acting as a "McKenzie Friend"). The Members will not be eligible to utilise the Council's indemnity for Members for appearances before the Local Resolution Panel.
 7. The Local Resolution Panel will consider the information and will determine the facts. They will make such recommendation as would redress the low level complaint, either there is:
 - (a) no basis for the complaint
 - (b) a basis for the complaint but no further action is necessary, or
 - (c) a basis for the complaint and an apology should be provided to the complainant Member in an appropriate manner and/or such other action that will be recommended to Council and is within the powers of the Council .
 8. The determination of the Local Resolution Panel will be respected and honoured by both Members; however, in the event that the Local Resolution Panel determine that there is no basis for the complaint, the complainant Member may refer the matter to the PSOW if they identify a flaw in the procedure followed, or that the determination is patently perverse.
 9. The Local Resolution Panel may also make recommendations to the Standards Committee/Democratic Services Committee/ Constitutional Review Committee regarding training or changes to any procedures which may have contributed to the complaint arising.
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