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CEREDIGION
County Council

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At the start of the meeting the Chair will confirm if all or part of the meeting is being filmed.

16 September 2021

Dear Sir / Madam

I write to inform you that a MEETING of COUNCIL will be held remotely via video conferencing on Thursday, 23 September 2021 at 10.00 am for the transaction of the following business:

1. **Apologies**
2. **Disclosure of personal / prejudicial interests**
3. **Personal matters**
4. **A verbal update by the Leader of the Council in relation to COVID-19**
5. **To confirm the Minutes of the Meetings of the Council held on 17.06.2021 (Pages 5 - 12)**
6. **To consider the following motion submitted under Rule 10.1 of the Council's Rules of Procedure: (Pages 13 - 14)**

Proposer: Councillor Ifan Davies
Seconder: Councillor Ray Quant MBE

Council notes that:

The Independent Group requests that Ceredigion County Council call on Welsh Government to legislate that:

1. Any subsidy directly or indirectly obtained through any government schemes for carbon management:
 - a) is retained as carbon credit for the benefit of Wales' economy and people,
 - b) and that each County has a percentage gain of any credit generated in the said County which can be offset against the public services and goods of that said County,
 - c) and also, that any third-party sale or lease of carbon credit outside Wales cannot be activated unless Wales is carbon neutral and where there is a 10% surplus of credit.

7. **To consider the report of the Corporate Lead Officer for Democratic Services in relation to the Diversity in Democracy Declaration (Pages 15 - 50)**
8. **To consider the report of the Corporate Lead Officer for Democratic Services in relation to the Edinburgh Declaration (Pages 51 - 56)**
9. **To consider the report of the Corporate Lead Officer for Policy, Performance and Public Protection in relation to the Revised Concerns and Complaints Policy and Procedures including a report from the Corporate Resources Overview and Scrutiny Committee (Pages 57 - 100)**
10. **To consider the report of the Corporate Lead Officer for Legal and Governance in relation to the use of the Regulation of Investigatory Powers Act 2000 ('RIPA') (Pages 101 - 204)**
11. **To consider the report of the Corporate Lead Officer for Economy and Regeneration in relation to Phosphates on the River Teifi Special Area of Conservation (Pages 205 - 208)**
12. **To consider the report of the Corporate Lead Officer for Legal and Governance in relation to changes to the Council's Constitution (Pages 209 - 222)**
13. **To consider the report of the Corporate Director in relation to the Review of Chief Executive post remuneration (Pages 223 - 228)**
14. **To consider the report of the Corporate Lead Officer for Democratic Services in relation to the Nomination of a County Council representative to the Hywel Dda Community Health Council (Pages 229 - 232)**
15. **To consider the Governance and Audit Committee Annual Report 2020/21 (Pages 233 - 246)**

A Translation Service will be provided at this meeting and those present are welcome to speak in Welsh or English at the meeting.

Yours faithfully



Miss Lowri Edwards
Corporate Lead Officer: Democratic Services

To: Chairman and Members of Council

**Minutes of the Meeting of CEREDIGION COUNTY COUNCIL
held remotely via video-conference on
Thursday, 17th June, 2021**

PRESENT: Councillor Paul Hinge (Chairman), Councillors John Adams-Lewis, Ellen ap Gwynn, Bryan Davies, Ceredig Davies, Clive Davies, Euros Davies, Gareth Davies, Gethin Davies, Ifan Davies (Vice-Chair), Marc Davies, Meirion Davies, Odwyn Davies, Peter Davies, Rhodri Davies, Steve Davies, Dafydd Edwards, Endaf Edwards, Elaine Evans, Elizabeth Evans, Keith Evans, Rhodri Evans, Catherine Hughes, Matthew Woolfall Jones, Maldwyn Lewis, Gareth Lloyd, Lyndon Lloyd MBE, Dai Mason, Catrin Miles, Dan Potter, Ray Quant MBE, Rowland Rees-Evans, John Roberts, Mark Strong, Lynford Thomas, Wyn Thomas, Alun Williams and Ivor Williams

(10.00 am - 1.25 pm)

Procedure

The Chairman of the Council, Councillor Paul Hinge welcomed all to the meeting and confirmed that the meeting was being webcasted.

1 Apologies

- a) Councillors Alun Lloyd Jones apologised for his inability to attend the meeting due to being on other Council duties;
- b) Councillor Lloyd Edwards, Hag Harris and Gwyn James apologised for their inability to attend the meeting.
- c) Barry Rees apologised for his inability to attend the meeting due to being on other Council duties.

2 Disclosure of personal / prejudicial interests

- a) Councillors Bryan Davies, Ifan Davies, Marc Davies, Meirion Davies, Rhodri Evans, Catherine Hughes, Maldwyn Lewis, Dai Mason and Dan Potter declared a personal and prejudicial interest in relation to minute 6 below, and left the meeting during this item.

3 Personal matters

- a) Councillor Paul Hinge congratulated Josh Hathaway, Iestyn Thomas and Ioan Lewis of Aberystwyth Rugby Club who played for the Scarlets under 18 rugby team yesterday;
- b) Councillor Ellen ap Gwynn congratulated the Wales Football team on their performance last night, noting that Rhys Norrington-Davies from Talybont is a member of the squad;
- c) Councillor Ellen ap Gwynn extended her congratulations to Osian Jones, Ysgol Ciliau Parc, winner of the under 12 competition to create a new football chant to support the Wales football team;
- d) Councillor Ellen ap Gwynn extended her best wishes to Kay Davies, Democratic Services Officer on her retirement;
- e) Councillor Ellen ap Gwynn congratulated Councillor Alun Williams on his appointment as Mayor of Aberystwyth;
- f) Councillor Ellen ap Gwynn congratulated Councillor Catherine Hughes on her appointment as Chair of Tregaron Community Council;
- g) Councillor Ellen ap Gwynn congratulated Meinir Mathias for winning the People's Prize with the Royal Cambrian Academy;

- h) Councillor Rhodri Evans extended his congratulations to Ann Jones on being elected National Chair of the Women's Institute;
- i) Councillor Euros Davies extended his best wishes to Rose Florence who recently celebrated her 103rd birthday;
- j) Councillor Catherine Hughes congratulated the Carer's Unit on a very successful Carer's Week;
- k) Councillor Catherine Hughes congratulated Ceredigion pupils on their prizes at a very successful Eisteddfod T, held from Llangrannog recently. Congratulations were also extended to the Urdd for a successful week of competition;
- l) Councillor Lyndon Lloyd extended his best wishes to former Councillor, Mr Huw Davies, on serving Beulah Community Council for 42 years.

4 A verbal update by the Leader of the Council in relation to COVID-19

Councillor Ellen ap Gwynn gave a verbal update in relation to COVID-19 in Ceredigion.

She stated that the Delta variant is causing concern in Wales and throughout the UK and that the number of cases are rising. Nine new cases were recorded in Ceredigion during the last week, which is equivalent to 12.4 per hundred thousand. The rate for the whole of Wales is equivalent to 22.5 per hundred thousand, and it is unlikely that restrictions will be eased before July, and reminded everyone of the need to follow current regulations. It was noted however that the number of cases have not increased significantly in Ceredigion following half-term as compared to other areas.

The vaccine programme continuing effectively with 67% having received their first dose, and 40.4% taking up their second dose in Ceredigion. All those over the age of 18 have now received an invitation to go for their vaccination, and that there is an opportunity for those who may have missed their initial appointment to still go for their vaccine at walk-in sessions. The JCVI are currently looking at evidence regarding how to apply the vaccination to Secondary School age pupils, but no decision has been made yet.

She noted that Pupils have received their centre determined grades, following the assessments, and that pupils will have an opportunity to appeal these grades in the coming weeks. She congratulated pupils and thanked staff, noting that the results would be published as usual during August.

There have been increased visits to Care Homes via the pods and outdoors and it is hoped that indoor visits will be able to commence soon.

Safe Zones have been successful on the whole in what was a busy half term. Staff have listened to the public, and the Safe Zones have adapted where possible.

Funding from Wales Government has contributed towards the additional costs associated with COVID-19, which will continue until September, and we've appointed additional staff as Visitor Assistants in our towns. Business grants from Wales Government are available both from 'Business Wales' and

via Ceredigion County Council for those businesses that have been unable to re-open.

Libraries have re-opened to the public by appointment, and it's still possible to arrange click and collect.

Some of our Leisure Centres including Lampeter and Aberaeron have re-opened. Leisure Services in the Aberystwyth area are available at Penglais Sports Hall whilst maintenance work is undertaken at the Plascrug Leisure Centre. Maintenance work is also being undertaken at Lampeter Swimming Pool. It was noted that the Aberaeron Swimming pool is also open along with the Llandysul Leisure Centre

It was also noted that monthly meetings would be held to provide Members with COVID-19 updates.

- 5 To confirm the Minutes of the Meeting of the Council held on 14.05.2021**
It was **RESOLVED** to confirm as a true record the Minutes of the Council meeting held on 14th May 2021.

- 6 Update on the following motion submitted on 10 December 2020 under Rule 10.1 of the Council's Rules of Procedure**

Proposer: Cllr. Mark Strong

Seconder: Cllr. Ellen ap Gwynn

Council notes that:

Ceredigion County Council calls on the Welsh Government to:

- 1. add a new clause to the Planning Act so that it is compulsory to make a planning application before obtaining the right to convert a residential home into a holiday home or a holiday let*
- 2. adapt the policy framework to allow for maximum thresholds to be set with regard to the number of holiday homes in a given area*
- 3. make it compulsory for second-home owners to ask for planning permission before turning a second home into a holiday business or an AirBnB business.*

Councillor Mark Strong gave an outline of the circumstances which led to the Notice of Motion, confirming that the recommendation has been considered and commended by the Thriving Communities Overview and Scrutiny Committee and the Language Committee, placing particular focus on unfair competition, and the need for young people in our communities to be able to buy a home.

Councillor Ellen ap Gwynn noted that it is a pleasure to second this Motion, and thanked the staff for the full report on the situation presented to both Committees. She noted that the Language Committee were fully in support of this Motion.

Councillor Euros Davies noted that the Thriving Communities Overview and Scrutiny Committee also voted in support of the recommendations.

Councillor Dafydd Edwards proposed an improvement on the Motion, to include the insertion of 'on a community basis' at the end of the 2nd point of the motion; and to insert 'and retrospectively' at the end of the 3rd point of the motion. This was seconded by Councillor Rowland Rees-Evans. However, following discussion, both withdrew the proposal of improvement to the Motion.

The Council considered a recommendation by the Thriving Communities Overview and Scrutiny Committee that 100% increase is levied on Council Tax of holiday homes in the county.

Councillor Ellen ap Gwynn asked that Officers present a report on the implications of setting a 100% tax on such properties, and defer a full discussion on this until such a report is received. She also recommended that a fund is set up to assist local young people to purchase homes.

Councillor Ceredig Davies noted that Council had previously agreed that any additional funding received from the Council Tax premium on holiday homes would be spent in those communities, therefore any amendment to the policy would need to be considered by Council. It should not be retrospective.

Councillor Gareth Davies stated that the planning should come first.

Councillor Elizabeth Evans noted that the levy stands and a report should also consider a breakdown of private renting in Ceredigion.

Following a vote, it was **RESOLVED** to:

1. Agree the motion as stated:
2. note the recommendations made by the Thriving Communities Overview and Scrutiny Committee and the Language Committee; and
3. that Officers prepare a report for consideration by Council regarding the Thriving Communities Overview and Scrutiny Committee's recommendation that a 100% increase is levied on the council tax of holiday homes in the County.

7 Report of the Corporate Lead Officer: Finance and Procurement on the Revised Minimum Revenue Provision (MRP) Policy for 2021/22

Councillor Gareth Lloyd, Cabinet Member for Finance and Procurement Services and Public Protection Services, presented the report noting that Officers have recently undertaken a further review in relation to adopting the Asset Life Method for charging the Minimum Revenue Provision.

The information had been considered by the Governance and Audit Committee on 3rd June 2021, and the Committee agreed to support the proposed Revised Policy subject to periodic reviews. Audit Wales, who attended the Committee, also agreed to this amendment.

Following a vote, it was **RESOLVED** to approve the Revised Minimum Revenue Provision Policy for 2021/22 as set out in Appendix A of the report.

8 Report of Corporate Lead Officer, Economy and Regeneration on the Net Zero Action Plan

Councillor Alun Williams, Cabinet Member for Porth Cynnal and Chair of the Carbon Management and Climate Change Group presented the report noting that on 20 June 2019, the Council committed to making Ceredigion a net zero carbon Local Authority by 2030 and to develop a clear plan for a route towards being net zero within 12 months.

The information had been considered by Thriving Communities Overview and Scrutiny Committee on 26th May 2021, and by Cabinet on 15th June 2021. It was noted that Cabinet had approved the report subject to the removal of the reference to the Safe Zones potentially being made permanent, and the inclusion of fluvial flooding to the Corporate Risk Register. It was also noted that a representative from the Liberal Democrats Groups would be invited to attend the Carbon Management Group.

Following a vote, it was **RESOLVED** to endorse the Net Zero Action Plan and Actions set out within it.

9 Report of Corporate Lead Officer, Legal and Governance on the Strategy on Counter-Fraud, Corruption and Bribery

Councillor Ray Quant Deputy Leader of the Council and Cabinet Member for Legal and Governance, People and Organisation and Democratic Services presented the report noting that Ceredigion County Council has a duty to the public to safeguard money that should be used in the public interest, and to address the risk to fraud. To this purpose the Council has updated its strategy.

The information had been considered by the Governance and Audit Committee on 3rd June 2021, and Councillor Elizabeth Evans, Chair of the Governance and Audit Committee confirmed that they were assured that all is in place, and that the Committee endorsed the strategy for presentation to Council for final approval.

Following a vote, it was **RESOLVED** to approve the Council's updated Strategy on Counter-Fraud, Corruption and Bribery (to include Anti-Money Laundering).

10 Report of the Corporate Lead Officer: Legal and Governance on the size of Governance and Audit Committee

Councillor Ray Quant Deputy Leader of the Council and Cabinet Member for Legal and Governance, People and Organisation and Democratic Services presented the report noting that Section 116 of the 'Local Government and Elections (Wales) Act 2021 stipulates that one third of the Governance and Audit Committee must be lay Members, and that this provision will come into force on the 5th May 2022.

The information had been considered by the Governance and Audit Committee on 24th February 2021, and the Democratic Services Committee on 21st May 2021 who resolved to recommend to Council that from 6 May

2022, the future Committee compromise of 3 independent / lay members and 6 County Councillors.

Following a vote, it was **RESOLVED** that with effect from 5th May 2022, the Governance and Audit Committee shall comprise:

- 6 x County Council Members
- 3 x independent lay members

Total: 9.

11 Report of the Corporate Lead Officer: Legal and Governance on the recruitment of two independent Members and the appointment of Chair and Vice Chair to the Ethics and Standards Committee

Councillor Ray Quant Deputy Leader of the Council and Cabinet Member for Legal and Governance, People and Organisation and Democratic Services presented the report outlining the recruitment process, and asking the Council to approve the appointments.

Councillor Paul Hinge congratulating the new lay Members and the Chair and Vice-Chair.

Following a vote, it was **RESOLVED** to:

1. approve the appointment of the following independent members of the Ethics and Standards Committee:
 - Caryl Davies;
 - Alan Daviesfrom 27th September 2021 to 26th September 2027
2. to approve the following nominations:
 - a) Caroline White: Chair (20th May 2021 – 30th July 2023)
 - b) John Weston: Vice-Chair (20th May 2021 – 30th July 2023).

12 Report of the Corporate Lead Officer: Policy, Performance and Public Protection in relation to the Armed Forces Covenant

The following item was chaired by Councillor Gareth Davies.

Councillor Paul Hinge, Member Champion for the Armed Forces presented the report noting that the Council has previously signed the 'Community Covenant Partnership' in 2013. This proposal serves to ask the Council to reaffirm the Council's commitment and it will also serve to refresh the Council's commitments into more appropriate measures, and to be formally acknowledged nationally.

Following a vote, it was **RESOLVED** that Ceredigion County Council sign the Armed Forces Covenant and publicly commemorate the 10th Anniversary of the Covenant in September / October 2021.

13 Ethics and Standards Committee Annual Report 2020/21

Mr Hywel Wyn Jones, Chair of the Ethics and Standards Committee presented the report noting that they have dealt with a number of applications for dispensation from County and Community Council in order

that they could participate in discussions there they have a prejudicial interest. He also noted their work in promoting an understanding of the standards that need to be adhered to in public life.

He noted also that he is pleased that during the 10 years that he has been a member of this committee, it has not been necessary to review any references from the Ombudsman or to consider any breach of the Codes of Standards, and congratulated Councillors for this.

He thanked the Officers for their work, and congratulated Caroline White on her appointment as Chair and John Weston as Vice-chair.

Following a vote, it was **RESOLVED** to:

1. note the contents of the report, and to
2. consider the contents of the Annual Report from the Chairman of the Ethics and Standards Committee 2020/21 (Appendix A).

The Chairman thanked Mr Hywel Wyn Jones for his time on the Ethics and Standards Committee and for his period as Chairman.

Confirmed at the Meeting of the Council held on 23 September 2021

CHAIRMAN: _____

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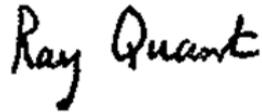
Agenda Item 6

The Independent Group requests that Ceredigion County Council calls on Welsh Government to legislate that:

1. Any subsidy directly or indirectly obtained through any government schemes for carbon management:
 - a) Is retained as carbon credit for the benefit of Wales' economy and people,
 - b) and that each County has a percentage gain of any credit generated in the said County which can be offset against the public services and goods of that said County,
 - c) and also, that any third-party sale or lease of carbon credit outside Wales cannot be activated unless Wales is carbon neutral and where there is a 10% surplus of credit.

Proposed: Cllr Ifan Davies.

Seconder: Cllr Ray Quant.



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CEREDIGION COUNTY COUNCIL

Report to: Council

Date of meeting: 23rd September 2021

Title: Diversity in Democracy Declaration

Purpose of the report: To seek endorsement of the 'Diversity in Democracy' Declaration and to agree upon the next steps

For: Decision

**Cabinet Portfolio and Councillor Ellen ap Gwynn, Leader of the Council
Cabinet Member:**

1. Background

Over recent years, the WLGA has been taking steps to advance gender equality and diversity in local democracy and ensuring that the barriers and challenges to attracting more diverse councillors are taken. The WLGA identified the barriers and challenges as broadly:

- Time commitment and meeting times;
- Political and organisational culture;
- Childcare and other caring responsibilities;
- Public criticism and online abuse;
- Remuneration and impact on employment; and
- Lack of diverse role models and incumbency.

As we now approach the Local Elections to be held in May 2022, the WLGA Council unanimously agreed that all Local Authorities should sign up to the Diversity in Democracy Declaration and to provide a clear, public commitment to improving diversity.

There are many things already in place or are being developed locally or nationally. These include:

Locally:

- A Candidate's Guide for prospective candidates in the Local Elections. This will detail the role of a Councillor, the different Committees, the nomination process etc.;
- Engagement with 16 and 17 year olds and foreign nationals to encourage them to register to vote;
- Enabling hybrid meetings to take place which will provide flexibility for those ;
- Broadcasting meetings or enabling people to join meetings remotely so that they can see the type of discussions that take place;
- A survey is undertaken in relation to the timing of Council, Cabinet and Committee meetings;
- Members have access to the Council's Counselling service;
- A communications plan is being prepared;
- A Members' Induction programme will be in place following the Elections in May.

Nationally:

- Councillors are remunerated for their respective roles (as set out by the Independent Remuneration Panel for Wales' Annual Report and reflected in the Schedule of Member Remuneration approved by Council annually);
- Councillors are encouraged to claim for contributions towards the cost of care for carrying out approved duties;
- The Local Government and Elections (Wales) Act 2021 has provision that enables two or more councillors to share the office of an executive (Cabinet Member), including the role of Leader as well as roles such as the Chairman and Vice Chair of the Council and the Chair and Vice Chair of any Committee;
- The Act also allows for family absence for maternity and adopter's absence and parental absence;
- The WLGA is preparing a Councillors' Guide;
- The WLGA is preparing Members' Role Descriptions;
- E-learning modules will be available to Councillors following the election.

2. Strategic Equality Plan, (SEP)

Ceredigion County Council has approved its Strategic Equality Plan, (SEP), for 2020-24, 'A Fair and Equal Ceredigion.'

Equality Objective 3 of the SEP is: Engagement & Participation - to ensure that we engage effectively with people who share protected characteristics. To enable people to influence decisions and to have the opportunity to participate in political and everyday life.

The following two actions are listed in the SEP Action Plan:

3.4 We will support programmes and plans to increase representation in local politics and decision making, particularly for women, disabled people or people from ethnic minorities.

3.5 We will support engagement with 16 and 17 year olds if the voting age is lowered in Wales.

3. Diversity in Democracy Declaration

The WLGA agreed the following Declaration:

This Council commits to being a Diverse Council. We agree to:

- *Provide a clear public commitment to improving diversity in democracy*
- *Demonstrate an open and welcoming culture to all, promoting the highest standards of behaviour and conduct*
- *Consider staggering council meeting times and agreeing recess periods to support councillors with other commitments; and*
- *Set out an Action Plan of activity ahead of the 2022 local elections.*

It is therefore recommended that Ceredigion County Council endorses the declaration in full as agreed by the WLGA Council.

4. Next steps

If the Council agrees to endorse the Declaration, it is proposed that the Democratic Services Committee, in conjunction with the Group Leaders with the aim of agreeing an action plan as we approach the 2022 local elections.

Has an Integrated Impact Assessment been completed? If, not, please state why

Summary:

Long term: The Diversity Declaration aims to ensure that the Council better reflects the community that it represents over the coming years.

Integration: The Council intends to work with the WLGA along with political groups.

Collaboration: Group Leaders and existing Councillors will be working with their respective political groups to encourage recruitment of candidates from underrepresented groups.

Involvement: Information will be made available on the Council website which will provide information on the role of a Councillor, what is available to them to support them in the role etc.

Prevention: Information will be made available on the Council website which will provide information on the role of a Councillor, what is available to them to support them in the role etc.

Wellbeing of Future Generations:

Recommendation(s): **For Council to:**
(i) endorse the Diversity Declaration as agreed by the WLGA Council and as set out in point 2 of the report above;
(ii) approve that the Democratic Services Committee, in conjunction with the Group Leaders agree upon and deliver on an action plan leading up to the 2022 local elections with the aim of improving diversity in democracy.

Reasons for decision: **To commit to being a Diverse Council.**

Overview and Scrutiny: N/A

Policy Framework: A Fair and Equal Ceredigion 2020-24, Ceredigion County Council Strategic Equality Plan.

Corporate Priorities: Contributes to each of the Corporate Priorities:
• Boosting the Economy

- Investing in People’s Futures
- Enabling Individual and Family Resilience
- Promoting Environmental and Community Resilience

Finance and Procurement implications: None - within service budget.

Legal Implications: None

Staffing implications: None – within service resources.

Property / asset implications: None.

Risk(s): None

Statutory Powers: N/A

Background Papers:

- Independent Remuneration Panel for Wales Annual Report 2021/22;
- Schedule of Member Remuneration 2021/22;
- Local Government and Elections (Wales) Act 2021;
- A Fair and Equal Ceredigion 2020-24, Ceredigion County Council Strategic Equality Plan.

Appendices: Appendix A – WLGA Special Council report
Appendix B – WLGA Letter to all Councils

Corporate Officer: **Lead** Lowri Edwards
Corporate Lead Officer: Democratic Services (Head of Democratic Services)

Reporting Officer: Lowri Edwards
Corporate Lead Officer: Democratic Services (Head of Democratic Services)

Date: 14th July 2021

WLGA COUNCIL SPECIAL MEETING

5th March 2021

WLGA WORKING GROUP ON DIVERSITY IN LOCAL DEMOCRACY

Purpose

1. To report on the work undertaken by the WLGA Cross Party Working Group on Diversity in Local Democracy and seek Council's endorsement of proposals to achieve a 'step change' at the 2022 local elections.

Summary

2. WLGA Council agreed in September 2018 to take steps to advance gender equality and diversity in Councils before the 2022 elections. This was in recognition of the lack of diversity in Welsh Councils. A cross party working group was set up to explore broader underrepresentation in democracy.
3. It is now widely acknowledged that equal representation is not only an issue of representational fairness but essential for the quality of policy development and decision making. Decisions will be better when they are taken by people with lived experience of an issue. The 'right person for the job' of councillor needs to be a member of the community they serve, in order to fully and consistently understand the lives and needs of that community. Councils also need to demonstrate to underrepresented communities that they are valued and included in local democracy.
4. Much work has been undertaken in the last decade in Wales to measure and improve the diversity of councils. More work is in the pipeline in preparation for the 2022 elections. There is a national communications campaign to encourage people from underrepresented groups to vote, engage with local democracy and stand for office. New mentoring programmes are being delivered with the Womens' Equality Network Wales and the Ethnic Minorities and Youth Support Team Wales. Stonewall Cymru and Disability Wales will also soon be offering mentoring programmes. The Welsh Government and Senedd Commission are working with Councils, schools and youth councils and developing resources to encourage 16 and 17 yr olds to get involved and vote. The WLGA has a new Be a Councillor website and, is part of the Pan UK civility in public life campaign and are working with Councils to continue to improve the range of support and development provided to members.

5. In previous elections councils have worked hard to encourage underrepresented groups to stand with their own outreach, mentoring schemes and information days. They have done much to improve the support provided for serving councillors and provide them with guidance, development and better working conditions. More recently we have worked together as a local government family to support members suffering abuse and harassment.
6. The Working Group found, and national and international research shows, that this comprehensive activity will not be enough to make change at the pace required. This report outlines the additional activities that could make a difference.
7. There are three main areas for action:
 - Encouraging councils to ensure all councillors receive their full entitlement to allowances and salaries, and encouraging the introduction of resettlement grants, so that all members receive fair remuneration for their work and that the role of member is not limited to those who can afford it
 - An agreement by councils to undertake new or developed work in this area and visibly commit to this by signing up to becoming Diverse Councils.
 - To discuss positions and making representation to political parties and acting locally to set quotas and/or voluntary targets for the election of councillors from underrepresented groups.

Background

8. WLGA Council first received this report at its meeting on 27th November 2020. Given the significance of the report and the issues considered and due to the congested agenda at the November Council, members agreed to defer the report to a later and dedicated meeting in early 2021.
9. At its meeting on 28th September 2018, WLGA Council committed to advance gender equality and diversity in local democracy ahead of the 2022 local elections.
10. WLGA Council agreed to establish a cross party working group to develop an action plan and to identify possible actions for consideration by WLGA Council. The Membership of the Group is at Annex A. Not all members were able to attend all meetings, however, contributed to the work via discussions with officers. The WLGA Equalities Cabinet Members Network has also fed into the work of the group.

11. The working group did not commission additional research or evidence gathering as there have been several reviews in recent years. The working group considered recommendations which have emerged from research undertaken in 2018-19 by the Women's Equalities Network, Chwarae Teg, the Senedd's Equality, Local Government and Communities Committee, the Welsh Government including the review of its Diversity in Democracy programme, the Fawcett Society, the Electoral Reform Society, and the British Council. Further research and reports, including engagement and research through the Welsh Government's developing Race Equality Action Plan and Race Alliance Wales' 'Do the Right Thing' report (January 2021)¹, have informed this report.
12. The evidence base, barriers and challenges to attracting more diverse councillors were referenced in the WLGA's submission to the Senedd's Equality, Local Government and Communities Committee Inquiry into diversity in local government in September 2018². The barriers and challenges can broadly be summarised as:
 - Time-commitment and meeting times;
 - Political and organisational culture;
 - Childcare and other caring responsibilities;
 - Public criticism and online abuse;
 - Remuneration and impact on employment; and
 - Lack of diverse role models and incumbency
13. The working group also considered the legislation proposed in the Local Government and Elections (Wales) Act 2021 and considered the views from various groups through the Diversity in Democracy roundtables of stakeholders, convened by the Minister for Housing and Local Government, where the WLGA was previously represented by Cllr Debbie Wilcox and, subsequently, by Cllr Mary Sherwood.
14. The WLGA supported and participated in regional diversity in democracy stakeholder events held by the Welsh Government in the autumn of 2019 which sought views from under-represented groups from across Wales.
15. Senior WLGA and local government members also participated in an Electoral Reform Society 'Equal Power Equal Voice' Roundtable debate in October 2020 which sought to explore some of the barriers around diversity, including quotas.

¹Race Alliance Wales 'Do The Right Thing' research report on racialised representation in public and political life (January 2021) - Full research paper (<https://bit.ly/3qpU4Rm>) Executive summary (<https://bit.ly/3bPtfCk>)

² <https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&fileid=1852&mid=665>

Progress remains slow

16. Data shows that there remains a significant lack of diversity in Welsh councils. In Wales' local authorities:

- 28% of councillors and 29% of Cabinet members are women.
- Councillors are proportionately older than the general adult population (47% of councillors were aged 60 years or older) and a higher proportion of councillors were retired (31%).
- Only about 1.8% of councillors are Black, Asian and Minority Ethnic (BAME) compared to 4.7% for the Welsh population and few hold senior positions.
- 11% of councillors stated that they had a disability, and there remain a range of challenges for disabled people participating in the democratic process.

17. There has been some small progress, however, the leadership of Welsh local government is more diverse than ever before, though we recognise it is not fully reflective of wider society; there are 6 women leaders (up from 2 in 2017) and 6 women Deputy Leaders, a quarter of leaders are below the age of 45 and 2 leaders and several senior councillors have featured in Pride Cymru's 'Pinc List' in recent years.

18. The Black Lives Matter movement and wider Welsh Government commissioned working groups on the impact of COVID-19 on BAME people has demonstrated the barriers and challenges faced by of a significant proportion of society and highlighted the need to make visible progress in policy, leadership and, in particular, political representation.

19. The Report of the Welsh Government's BAME Covid-19 Socioeconomic Subgroup, chaired by Professor Emmanuel Ogbonna observed:

"The overall theme that ran through the factors discussed in this report is the impact of longstanding racism and disadvantage and lack of BAME representation within decision making to effect better socio-economic outcomes. Although many of the issues highlighted have been identified and discussed previously, they have not been addressed in any systematic and sustained way. The coronavirus pandemic is, in some respects, revealing the consequences of such inaction on race equality."

20. The Socioeconomic Subgroup recommended that:

"Welsh Government to encourage the political engagement of BAME communities by raising awareness and understanding of Welsh and UK democratic institutions and processes, with the overall aim of encouraging the increase of political representation of BAME communities by also encouraging voter registration from BAME communities."

21. The Welsh Government is also developing a Race Equality Action Plan, which will be published for consultation in the Spring 2021. This Plan will outline a vision,

goals and actions to make Wales an anti-racist nation and will prioritise anti-racism and greater diversity in leadership and representation.

22. In advance of the Race Equality Action Plan, the actions and proposals in this report have been informed by WLGA engagement and participation in the Welsh Government's stakeholder and working groups and other race equality workstreams. Race Alliance Wales' 'Do the Right Thing' report outlines a range of cultural and institutional barriers around participation of racialised people (it uses this term as it is argued that BAME people are racialised because of their ethnicity) and outlines several recommended actions and commitments for public bodies.
23. Local authorities are also undertaking local reviews or actions in response to the issues raised through Black Lives Matter and COVID-19 work reflecting the issues. The WLGA leadership has committed to building on local authorities' work and the WLGA will respond to the Race Equality Action Plan when it is published for consultation.
24. The lack of diverse representation in local authorities is a problem that has been recognised for decades. A more diverse democracy and elected representatives who are more reflective and understanding of their communities leads to better engagement with individuals and communities, in turn leading to greater levels of confidence and trust and better decision-making informed by a wider range of perspectives and lived experiences.
25. Prominent decision-makers from under-represented groups can be influential role models, empowering and encouraging others to aspire to follow in their footsteps and to contribute to public life. Similarly, more diverse senior political leaders who are more representative of an organisation's workforce can lead to improved workforce engagement, trust in leadership and a more confident organisational culture.

Diversity in Democracy 2017

26. Local authorities, the WLGA, Welsh Government and political parties have employed a range of measures to encourage greater diversity in candidates and councillors. The WLGA supported the Welsh Government-led Diversity in Democracy programme ahead of the 2017 elections.
27. The Diversity in Democracy programme was the biggest and most well-resourced programme of its type and was supported by a range of national partners including the main political parties. The programme included an awareness and promotional campaign, production of literature and online videos for candidates, businesses and mentees, working with employers to encourage them to encourage and support staff to be councillors and the roll-out of a mentoring scheme for people from under-represented groups.

28. A range of online materials were produced to provide information to candidates and councillors, including the WLGA's Be a Councillor guide and Councillor's Guide and the Welsh Government's Diversity in Democracy materials which included specific leaflets to encourage businesses to support staff in becoming councillors.
29. The Welsh Government produced a series of online videos with councillors as part of the Diversity in Democracy programme and several councils, including Gwynedd, Monmouthshire and Powys also produced excellent videos to explain the role of councillors and to encourage candidates to stand.
30. Several councils ran 'open days' ahead of the elections and mentoring and shadowing programmes are widely regarded as being beneficial, particularly in supporting people from under-represented groups to come forward to stand.
31. A mentoring campaign was the central project within the Diversity in Democracy programme and participants received extensive support, advice, training and access to serving councillors who acted as mentors. Of the 51 mentees who participated, only 16 stood for election and only 4 were elected. However, such a 'conversion rate' suggests that, in future, mentoring and support programmes may be a more effective use of resources if they are provided to people who had already committed to standing as a candidate.

Diversity in Democracy 2022

32. The cross party WLGA working group met three times to consider evidence and develop recommendations for consideration by WLGA Council. The working group has reviewed the existing evidence, considered what activities councils and the WLGA could do to improve diversity in democracy and the role of the Welsh Government and political parties.
33. The Minister for Housing and Local Government also convened a Diversity in Democracy roundtable of stakeholders which met twice. During the autumn of 2019, the Welsh Government organised 4 regional stakeholder events with 95 people attending, including councillors and officers from town and community councils and unitary authorities and third sector including charities, support organisations for the disabled, BAME, young people and religious organisations. WLGA Officials facilitated roundtable discussions. Key messages were:
 - There was a general lack of awareness of the role and contribution made by councillors.
 - Social media abuse directed at councillors is getting worse. The abuse is predominately, but not exclusively aimed at women which has a direct effect on diversity in the role. There was increasing concern the abuse could be directed at members of the councillors' family, which was evidenced by some of the experiences of attendees.

- Training and development are fundamental, but people were not always aware of what is available.
- Time commitment was a barrier for many people, particularly people with family commitments or jobs.
- Providing help with costs to support individuals stand for election was a recurring theme, particularly for disabled people and other individuals from protected characteristics groups. Childcare costs were also seen as a barrier to campaigning.
- There was confusion about whether and what councillors are paid and on what basis. There were concerns about the determinations made and how individuals were impacted as a result of the interplay between the HMRC, the benefits system and the remuneration levels. Many attendees at the workshops felt remuneration of the councillor role does not cover the costs associated with the role particularly in town and community councils.

Action Plan 2020-22

34. A range of actions emerged from the Ministerial roundtable and the WLGA's working group which are being implemented or planned. These include the following (specific WLGA or local authority activity is included in italics):

Awareness/Value of Role

35. Councils and councillors have played a critical, central and prominent role during the COVID 19 pandemic during 2020. Councils have demonstrated that they are uniquely placed at the heart of their communities and public service delivery and councils and councillors have invariably been the first port of call for the most vulnerable or those in need of support or assurance. The crisis has demonstrated councils' ability to respond irrespective of scale and reaffirmed the importance of subsidiarity and localism, with elected members rooted in their local communities.

36. A broad-based communication campaign is in development with the Welsh Government and Senedd Commission. This will start with messages about the value of democracy and voting aimed at primarily at the newly enfranchised for the 2021 Senedd elections. This will develop to focus on the value and contribution made by councillors and encouraging participation in local democracy.

37. In parallel to the development of the national campaign Welsh Government will work with partners to identify key points/events throughout 2020 to promote positive stories about councillors' contributions and achievements.

38. *Councils and WLGA to develop a consistent and coordinated campaign demonstrating how much councillors are valued, developed and supported.*
39. *WLGA has launched a Be a Councillor website <https://www.beacouncillor.wales/> which will be further developed in 2021 with pen portraits and 'day in the life' case study videos of councillors from a cross-section of characteristics. It will also include an e learning module for people interested in standing to enable them to understand the role in more detail and "hit the ground running" should they be elected.*
40. *Coordinated activity between authorities, including information and awareness campaigns and open days, linked to key events such as Local Democracy Week, International Women's Day, Black History Month, Disability Awareness Day, LGBT History Month etc.*
41. *Targeted WLGA promotional work through Welsh political party conferences in 2021*
42. *Targeted engagement work with third sector organisations to encourage discussion and interest in volunteers translating their informal community role into an elected community role. The COVID 19 Pandemic has increased the levels of voluntary and community-based work. The WLGA will engage with individuals and groups who may now wish to continue this work by standing for office.*

Candidate/Councillor Abuse

43. *The Local Government and Elections (Wales) Act 2021 will facilitate a change in the requirement to use personal addresses on ballot papers. The Act will also place a duty on political group leaders to promote high standards of conduct. It will also require councils to publish official rather than personal addresses for councillors.*
44. *The WLGA, in partnership with their colleagues in England, Scotland and Northern Ireland, are involved in developing the Civility in Public Life campaign to promote mutual respect and promote high standards of conduct. The WLGA, working with the LGA, has produced an online Councillors guide for handling intimidation <https://www.local.gov.uk/councillors-guide-handling-intimidation> .*
45. *The WLGA is working with authorities to encourage an informal but comprehensive duty of care for members.*
46. *The WLGA is also contacting and providing advice and support to individual councillors who receive online abuse and, where appropriate, issuing supportive messages challenging online abuse via social media.*

Training and Development

47. *The WLGA, with authorities, will continue to review current and future training provision. This will include a focus on new ways of delivering support and development post COVID 19.*
48. *Work will be undertaken to identify ways in which ex councillors can use their experience and skills to enhance their CVs or continue to use their skills and experience through involvement with training / support mechanisms.*
49. *The National "curriculum" for member induction is being updated. This overview of what members would find useful to learn is agreed with councils and includes subjects considered mandatory. As well as traditional subjects like Ethics and Standards, The Well-being of Future Generations and Scrutiny skills, this will now include unconscious bias, personal safety and remote working skills.*
50. *A new online Councillors Guide will be developed for Councillors for the 2022 elections.*
51. *The suite of National e Learning modules specifically developed for members which is freely available via the NHS learning@wales website will be updated for the 2022 elections. This work is being undertaken by authorities working together with the WLGA and is particularly important as a result of the changes to working and learning practice as a result of the Pandemic.*
52. *The national Competency framework for elected members is now being developed prior to the 2022 elections to include new requirements such as the understanding of unconscious bias, civility, remote meeting attendance and ICT skills.*
53. *Councils undertake personal development review with members to personalise training support. WLGA offers guidance and training in how to conduct PDRs*
54. *The Leadership programme for elected members developed and delivered with LGA and Academi Wales is being re commissioned and refreshed. There are challenges associated with delivering the programme in the current climate which will be addressed as part of the commission.*

Mentoring

55. Welsh Government officials are working with disability and equality organisations such as the Ethnic Minorities and Youth Support Team Wales, Disability Wales and Stonewall Cymru to scope the requirement for a Wales wide mentoring scheme which includes all protected characteristics. Several mentoring schemes are already organised by a range of third sector organisations, these will be aligned and coordinated, with resources and learning shared.

56. Work will be undertaken to explore work shadowing/apprenticeships and other opportunities to expose individuals to the work of councils which taken together will form a pathway to participation.

57. The WLGA has promoted and is supporting mentoring schemes run by EYST and the Women's Equality Network Wales. Several councillors have participated as mentors in these programmes.

58. Newly elected members are offered mentors when they join the council (WLGA provides guidance and training for member mentors).

59. There are opportunities for individual councils/councillors to provide shadowing and mentoring opportunities for people interested in standing for office ahead of the 2022 local elections.

Flexibility

60. The Local Government and Elections (Wales) Act 2021 includes a range of provisions to support flexible ways of working including making provision for job sharing and strengthening the remote attendance arrangements.

61. Welsh Government Officials are now working with WLGA and LA officials to consider how the legislation and arrangements made for meetings to be held remotely could be extended to improve flexibility and access for a wider range of councillors.

62. Local authorities' rapid adoption of virtual meetings via platforms such as Teams, Webex or Zoom during COVID 19 has transformed the way councils do business. Meetings are more accessible for many members, significantly reducing travel commitments and time, allowing members to attend meetings from work and, in the main, from home. Whilst there are potential impacts on 'work-life' balance and setting boundaries between council work and home-life, this approach has provided greater flexibility for members with caring responsibilities. Virtual meetings have also encouraged a less formal and flexible approach to meetings. Councils have bid for WG funding to facilitate digital engagement through the Digital Democracy Fund.

63. The LGA have produced a tool to enable women, parents and carers to become councillors and has a range of ideas that could be adopted in councils including a way of assessing the councils support for diverse councillors. <https://www.local.gov.uk/twenty-first-century-councils>

Supporting individuals with protected characteristics

64. The Welsh Government plans to introduce an Access to Elected Office fund to assist disabled people to stand for elected office in Wales at the 2021 Senedd and 2022 local elections.

65. The Welsh Government recently consulted on this proposal and the WLGA and several authorities were supportive. The Working Group also suggested that learning from this initiative could be used to inform any future access funds such as for childcare for candidates.

Education

66. Welsh Government and Senedd Commission has developed a set of educational resources to accompany the extension of the franchise to 16- and 17-year olds in Wales which will focus on knowledge of and participation in democracy in Wales. This is freely available to schools and other education settings via an online resource Hwb
67. Work is being undertaken to identify ways in which schools in Wales can use the new curriculum to highlight and promote participation and engagement with local democracy.
68. *Councils will continue to engage with schools, including links with school councils and Youth Councils.*
69. *Councils are also using the Electoral Reform Support Grant to engage with newly enfranchised groups to help them understand the democratic process and encourage them to register and vote.*

Remuneration

70. In response to concerns raised by WLGA Leaders, the Independent Remuneration Panel is identifying the key issues in relation to taxation and benefits applying to members and will prepare a paper for Welsh Government.
71. The Minister for Housing and Local Government has raised the tax issues with the Independent Remuneration Panel for Wales to explore potential solutions.
72. The Welsh Government has committed to explore with the Independent Remuneration Panel for Wales the case for payments in respect of councillors who lose their seats at election and present options to Ministers. This is an issue that has been raised as a concern by leaders, as councillors (and in particular full-time senior councillors), are at significant personal, financial risk if they lose their seat.

Making a Step Change in 2022

73. The above proposed work programme outlines a range of awareness raising, engagement and support activities. Many similar activities were delivered during the Diversity in Democracy programme ahead of the 2017 elections.
74. However, despite some progress, improvement was marginal at the at the 2017 elections:

- the number of candidates increased by 5.6% (3,463 candidates compared to 3,279 in 2012 (including Anglesey candidates in 2013).
 - 29% of all candidates were women (up by 1% from 2012).
 - 28% of councillors elected were women (up 2% from 2012).
 - 32% of all newly elected members were women).
75. Uncontested seats at the 2017 elections remained high at 92 (7%) seats uncontested. This was fewer than in 2012, when there were 99 (8%) seats uncontested, but this continues to undermine local democracy.
76. Compared to the 2017 programme, Diversity in Democracy 2022 will include refinements and more targeted activity based on evaluations and lessons learned, along with some new, additional work such as the Civility in Public Life campaign.
- 77. The WLGA working group has shaped and is supportive of the proposed programme of activities outlined above, however it concluded that the programme on its own is unlikely to see significant improvements, particularly without clear leadership, commitment and coordinated actions from the main political parties.**
- 78. The working group has considered several more significant proposals which might have a more positive impact on diversity and the number of candidates in 2022.**
- 79. The views of Council are therefore sought on the following additional actions.**

The Role of Political Parties

80. The working group recognised that independent councillors were a key feature of Welsh local government. It also recognised that political parties provided the majority of candidates at local elections and therefore play a key role and have significant responsibility in encouraging a more diverse range of candidates.
81. The working group noted that political parties have different policies and views about the introduction of quotas, all women shortlists, selection of diverse candidates in winnable seats or other positive-action initiatives.
82. There are, however, a range of good practice initiatives that political parties could undertake to encourage and support more diverse candidates both locally and nationally:
- Review party selection criteria e.g. reducing the length of membership before members can stand for office.

- Local parties can establish fora and run events/socials/training sessions for underrepresented groups. Helping these groups understand what the role of councillor is about, that their participation is required and how to stand plus the support that will be available once in office.
- Parties could establish 'Diversity Grants' to support people from underrepresented groups (who will not benefit from the Access to elected office fund) to stand.
- Existing councillors from underrepresented groups can be put forward for public events on panels, as speakers or as chairs to raise the profile of members from underrepresented groups and enable them to be role models for their communities.
- Talent spotting and engaging with communities working with community leaders from underrepresented groups, encouraging people shadow, be mentored and stand for election.
- Promoting and signposting of information and materials, such as those available via parties or national bodies such as the WLGA.
- Establish respect protocols for behaviour within the Group reflecting that required in councils and for the Code of Conduct with sanctions for people not meeting standards or undertaking training in respect.
- Encourage political parties and local groups, including officials those with a responsibility in the selection process to undertake unconscious bias training.
- Encourage political parties to provide by-stander training for candidates and party members, to understand how to provide support to diverse candidates and challenge any abuse, such as disability hate crime or racism, that may be experienced on the doorstep (this was a proposal that emerged from the Electoral Reform Society roundtable in October 2020),

83. It is recommended that WLGA Council agrees to encourage all political parties, through the WLGA Political Groups, to commit to proactive and coordinated activities such as those listed at paragraph 80 above to improve diversity in local government democracy.

Resettlement grants or 'parachute payments'

84. Councillors are one of the only paid public roles that do not have financial protection and are not entitled to receive a 'redundancy' payment if they lose office at an election. Members of the Senedd and Members of Parliament receive a significant resettlement grant should they lose office at an election. Redundancy payments are also a protected right for public sector employees.

85. In particular, senior councillors tend to be full-time, often have to give up careers to focus on their councillor role and many have family as well as other financial commitments; the personal risk of a sudden and significant loss of a salary is inconsistent and unfair compared to other public roles. It is also a disincentive for more diverse people with careers or family responsibilities to consider taking on the most senior roles in local government.
86. The Independent Remuneration Panel has committed to consider this matter and explore whether the Welsh Government would need to introduce any legislative amendment to empower the Panel to introduce any such payments in future.
87. The 'cost of politics' and councillors' remuneration is a controversial matter and is subject to significant media and public scrutiny and political pressure. Any proposals would therefore have to carefully balance equality, fairness and costs and public acceptability.
88. WLGA leaders have previously raised the matter with the Independent Remuneration Panel previously, however the WLGA does not have a formal position on resettlement grants for senior salary holders.
- 89. It is recommended that WLGA Council adopts a formal position calling for the introduction of resettlement grants for senior salary holders.**

Councillors' allowances and expenses

90. The Independent Remuneration Panel and some WLGA Leaders have previously expressed concern that many members entitled to receive specific expenses, such as travel allowances, or reimbursements of costs of care do not make claims. Several councillors also decide to forgo parts of their salaries; the Independent Remuneration Panel recently wrote to the WLGA noting "...that it is an individual's right to decide that they can take a lesser amount than that prescribed as long as there is no pressure applied either directly or subliminally", noting concern, however, that 12% of councillors decided to forgo last year's salary increases. There are concerns that this is partly to do with austerity, public and media perception but anecdotally, it is clear that there is also local peer or political group pressure or organisational cultural norms.
91. These allowances are provided to meet councillors' legitimate costs incurred in undertaking their duties and also play a role in encouraging greater diversity; some councillors can be disproportionately affected if they are on low income or have caring responsibilities. The Independent Remuneration Panel and several leaders have expressed concerns about this practice as it

may disadvantage members who cannot afford to forgo expenses and acts as a disincentive to stand/re-stand.

92. As noted above, the 'cost of politics' and councillors' remuneration is subject to significant media and public scrutiny.

93. It is recommended that the WLGA Council agrees to encourage all councillors to claim any necessary allowances or expenses incurred.

Diverse Councils

94. The Welsh Government has committed to making Wales a Gender Equal Wales and the Cabinet to becoming a Feminist Government, which is a government that is:

- Committed to equality of outcome for all women, men and nonbinary people and actively works to drive cultural and structural change
- Pro-actively works to advance equality and remove the barriers against all women's participation in the economy, public and social life
- Puts a gender perspective at the heart of decision-making, resource and budget allocation
- Takes an intersectional approach to all of its work and ensures diversity of representation, participation and voice
- Is people-focused and collaborative, ensuring that all communities are meaningfully engaged in its work
- Is open, transparent and accountable and welcomes scrutiny through a gender lens
- Makes use of policy development and analysis tools to embed gender equality into all of its work and actively monitors progress towards equality using a robust evidence base
- Leads by example and supports other public bodies to take action to deliver equality.

95. The Black Lives Matter movement has highlighted global concerns about racism and COVID-19 pandemic has exposed the health and socio-economic impacts of inequality. Increased representation from BAME people on councils is essential to ensure that BAME people are represented and contribute their lived experiences to the decision-making process.

96. Councils' Strategic Equality Plans outline objectives which demonstrate their commitments and planned actions to promote equality and diversity, including as employers and representative bodies. Many councils will also undertake a range of activities in promoting diversity in democracy ahead of the 2022 local elections, as outlined above.
97. The Local Government and Elections (Wales) Act 2021 will introduce a new 'public participation' duty on local authorities which will include encouraging people to participate in decision-making and promoting awareness of how to become a member of the council. Further details of the aspects of the Act 2021 which contribute to diversity can be found in Annex C
98. Council meeting times are regularly highlighted as an issue for many serving councillors and, occasionally, as a disincentive for some people to stand. Councils review their meeting times at least once per term and several allow committees to have more flexibility to suit the committee members.
99. Councillors however have diverse backgrounds and varying personal, caring and professional commitments; it is therefore unlikely that council meeting times are ever going to be convenient for all members. For example, a councillor who has a young child might find it easier to meet during the day, whereas another may prefer to meet in the evening, depending on work commitments, schooling arrangements or childcare availability.
100. An option suggested at the Equality Cabinet Members Network, was that meetings of any one committee should be varied over the year between day and evening so that members were not always having to take the same time off work or arrange childcare. It was also noted that people should be advised before standing that meeting times may vary and could be changed, depending on the views of the newly elected councillors.
101. The potential permanent changes to meeting arrangements so that they can be held remotely may reduce the time required for travelling to meetings, however members with caring responsibilities may still require staggered meeting times as it is still not possible to provide care and attend a meeting simultaneously.
102. The Senedd and Parliament traditionally have recess periods, including a long Summer Recess. Approaches to the scheduling of meetings and official council business vary across authorities. Some councils have an official Summer recess, some do not schedule or scale down council meetings during school holidays. Councillors with children in school may be disadvantaged if council meetings are scheduled in the holidays, which may also prove to be a disincentive to stand.
103. The working group have suggested that Councils might, in addition to their Strategic Equality Plans commit to becoming Diverse Councils, publishing a 'Diversity Declaration' or a Council Motion outlining their

intentions to secure equal outcomes for all by working actively to drive cultural and structural change and pro-actively working to advance equality and remove the barriers to any individual's participation in the economy, public and social life. This commitment would focus on ensuring that under-represented groups are more active participants in engagement and decision making. Demonstrating a public commitment to improving diversity and an open and welcoming culture to all in advance of the 2022 elections.

104. A commitment by each local authority to becoming a Diverse Council could include

- Establishing 'Diversity Ambassadors' for each political group in the council who, working with each other and their local party associations could encourage recruitment of members from underrepresented groups.
- Encouraging and supporting Heads of Democratic Services, Elections officers/ Communications teams and /or Democratic Services Committees to undertake democratic outreach to promote the role of local councillor in, for example, schools or with underrepresented communities.

105. **A draft example of what could be included in a Diverse Council Declaration is included at Annex D. It is proposed a Draft Declaration, to be adapted and adopted locally, is developed in consultation with local authorities and partner organisations.**

106. **It is recommended that Council**

106.1 Agrees to encourage a declaration by July 2021 from councils in Wales, on becoming 'Diverse Councils'; to commit to:

- **provide a clear, public commitment to improving diversity;**
- **demonstrate an open and welcoming culture to all;**
- **consider staggering council meeting times and agreeing recess periods to support councillors with other commitments; and**
- **set out an action plan of activity ahead of the 2022 local elections.**

Diversity Targets

107. Political parties were encouraged, through the Diversity in Democracy programme, to commit to gender targets at the 2017 elections and Welsh Labour, for example, committed to fielding women in 40% of winnable seats.

108. Other initiatives, such as 50-50 by 2020 have previously adopted targets and the Welsh Government's recently published 'Diversity and inclusion strategy for public appointments'³ includes an action for:

'Welsh Government to consult and if desired set overall targets across all Boards in Wales for BAME, disabled, LGBT+ and young people and socioeconomic groups, recognising that individual Boards have varying specific requirements.'

109. Targets could be included in any 'Diversity Declaration' (if such an approach is agreed).

110. There are however mixed views on the value of targets. Targets provide a focus, demonstrate an organisation's ambition and commitment and provide a useful 'hook' for promotional and public relations purposes. However, targets need to be realistic and, as we are starting from a low base in terms of diversity of candidates and councillors, such targets may not appear ambitious enough.

111. Furthermore, whilst councils and the WLGA may seek to set targets to demonstrate ambition and commitment and can deliver a range of activities and reforms to encourage more candidates, other organisations notably political parties have the biggest influence over whether those targets can be achieved. Should councils determine local targets, they could therefore be criticized for not meeting targets which are largely not in their control.

112. At a recent meeting of WLGA Group Leaders it was suggested that whilst targets at Ward level are difficult, due to recruitment challenges, global targets for a whole authority area might be achievable.

113. **It is recommended WLGA Council provides views on the adoption of local or national diversity targets.**

Quotas or Reserved Seats

114. The Local Government Commission in 2017 concluded that "Incumbency in local councils disproportionately benefits men...[and]...the slow pace of change is significantly driven by incumbency." According to the Elections Centre, in Wales' local elections in 2017, 895 incumbents stood for election (across 71% of seats) with 693 or 77% being successfully re-elected. In summary, incumbents are more likely to be re-elected than other candidates due to their profile, reputation, or track-record and, as most councillors are older, white men, most successful incumbents are

³ https://gov.wales/sites/default/files/publications/2020-02/diversity-and-inclusion-strategy-for-public-appointments-action-plan-year1-2020-21_0.pdf

therefore older white men. The impact of incumbency has therefore led some campaigners to call for term-limits, quotas, or all-women shortlists.

115. The Welsh Government has previously controversially sought to tackle the issue of incumbency with the Golden Goodbye Scheme in 2002 and the 2015 White Paper proposal to introduce term limits for councillors, a proposal which was roundly rejected by local government.
116. According to the International Institute for Democracy and Electoral Assistance, there are four types of quota in use across the world today. Legal or voluntary candidate quotas and legal or voluntary reserved seats, reserved seats can be used for example to regulate the number of women elected. These can be introduced as a temporary measure and can be used at local and national level.
117. The WLGA has never proposed the adoption of quotas as a formal WLGA policy, although gender quotas were supported by the WLGA's former Leader, Baroness Wilcox of Newport, and the WLGA has previously outlined two 'Reserved Seats' models for discussion:
 - a. Localised and targeted All Women Reserved Seats for all by-elections during a municipal term. If such vacancies were targeted through a voluntary agreement between the main political parties to field only all women candidate lists, gender balance could improve by up to 5% during a municipal term.
 - b. A wider approach, which might require some changes to electoral law regarding the nomination process, could see a similar approach adopted for 'vacant' seats, where councillors had decided to stand down or retire at the election. If such councillors were able to commit to or notify of their intention to stand-down by an early-enough deadline, political parties could agree to voluntarily field all-women candidate lists in such 'vacancies', which could see as much as a 10-15% swing in terms of gender balance at an election. With such an immediate electoral impact, gender balance could potentially be achieved in local government over a 5-year period over the course of 2 elections.
118. Proposals such as quotas are controversial and there remain uncertainties regarding the legal basis for statutory quotas and political appetite for voluntary quotas. The Welsh Government plans to consider whether gender quotas should be introduced in Wales. The Ministerial Round-table has been informed that there may be legal limitations around the Senedd's competence which may prevent statutory quotas being introduced, even if the Welsh Government adopted quotas as a policy. Race Alliance Wales' 'Do the Right Thing' concludes that '...it is illegal to reserve all places for any particular characteristic, with exception made for women, and that quotas can legally only be made in regard to women, not other protected characteristic.'

119. More formal voluntary or statutory quotas have traditionally been recommended as a method of rapidly addressing imbalances in diversity and the effects of incumbency in perpetuating a lack of diversity. The Electoral Reform Society, Fawcett Society and British Council, call for legislation to be introduced for quotas (about 40-45%) for women candidates at elections. Others, such as the Women's Equality Network Wales, Chwarae Teg and the Expert Group on Diversity in Local Government also call for this but do not stipulate that it should be established in legislation.
120. Extensive research undertaken by the above organisations and the Senedd committee, all point to some of the causes of underrepresentation being about how candidates are selected and elected and call for direct action to level the playing field so that women initially can be better represented.
121. The issues they describe are electorate bias and processes, electorate bias and party group culture. The playing field is not level for some, due to conscious or unconscious bias, fostered by the image of incumbents and the culture of political groups and parties. The image of the *best person for the job* is often, whether consciously or not assumed to be a white middle class, middle aged man because this traditionally has been what a typical councillor looks like. The routes to and process of selection traditionally support this position.
122. Research undertaken by the Women's Equality Network Wales (Annex B indicates that –
- "Among the twenty Organization for Security and Co-operation in Europe (OSCE) countries registering the sharpest growth in the proportion of women in parliament during the last decade...half had introduced legal quotas. By contrast, among the twenty OSCE countries lagging behind in growth...none had implemented legal quotas.
 - 100 Countries world-wide now have some form of gender quotas in place and 40 also use them for intersectional groups such as BAME women."
123. The International Institute for Democracy and Electoral Assistance has outlined several 'pros and cons' of quotas:

Cons:

- Quotas are against the principle of equal opportunity for all, since women are given preference over men.
- Quotas are undemocratic, because voters should be able to decide who is elected.
- Quotas imply that politicians are elected because of their gender, not because of their qualifications and that more qualified candidates are pushed aside.

- Many women do not want to get elected just because they are women.
- Introducing quotas creates significant conflicts within the party organization.
- Quotas violate the principles of liberal democracy.

Pros:

- Quotas for women do not discriminate but compensate for actual barriers that prevent women from their fair share of the political seats.
- Quotas imply that there are several women together in a committee or assembly, thus minimizing the stress often experienced by the token women.
- Women have the right as citizens to equal representation.
- Women's experiences are needed in political life.
- Election is about representation, not educational qualifications.
- Women are just as qualified as men, but women's qualifications are downgraded and minimized in a male-dominated political system.
- It is in fact the political parties that control the nominations, not primarily the voters who decide who gets elected; therefore, quotas are not violations of voters' rights.
- Introducing quotas may cause conflicts but may be only temporary.
- Quotas can contribute to a process of democratisation by making the nomination process more transparent and formalised.

124. The main arguments for introducing quotas are not just about ensuring equality and to better reflect wider society, but because more diverse life experiences lead to better, more rounded decision-making; it would not just amplify the voice of women but also impact on the nature of debate and the decisions taken. Several organisations argue that quotas are the only way to see a step-change in diversity based on the evidence of impact where they have been introduced, but also the slow progress in changing local government diversity and diversity in UK politics generally. Quotas however remain a contested concept and have not been universally supported when previously considered in a Welsh context. There were mixed views among the working group members and several leaders expressed reservations about the introduction of quotas during the Electoral Reform Society 'Equal Power Equal Voice' Roundtable debate in October 2020.

125. The Equality Cabinet Members network also considered the risk around the language of 'quotas', particularly in terms of public perception as diverse candidates could be perceived as being tokenistic, undermining the credibility of high-caliber candidates.

126. **It is recommended that Council provides views on the introduction of statutory or voluntary quotas for Welsh local elections.**

Diversity of the WLGA

127. Representation on the WLGA Council is one area where local authorities could make a positive difference and signal their commitment to change. It is not possible to state with certainty the percentage of underrepresented groups on the Council as this should be identified by each person themselves and this exercise has not been done, however, although there are more women leaders than ever before, the Council does not have proportionate representation of women or BAME councillors.
128. Some local authorities have delegations of only two or three members to the Council and it will therefore be challenging for them to significantly change their membership, however, members may consider that there is an opportunity for authorities to proactively nominate more diverse members to the WLGA Council. The WLGA Council could also seek to appoint more diverse members as role models in Spokesperson or Deputy Spokesperson roles or involve wider councillors as Champions in the work of the WLGA.

129. Recommendations

It is recommended that WLGA Council:

- 129.1 recognises the work of the WLGA's Cross-Party Working Group on Diversity in Democracy;**
- 129.2 agrees to encourage all political parties, through the WLGA Political Groups, to commit to proactive and coordinated activities such as those listed at paragraph 80 above to improve diversity in local government democracy;**
- 129.3 adopts a formal position calling for the introduction of resettlement grants for senior salary holders;**
- 129.4 agrees to encourage all councillors to claim any necessary allowances or expenses incurred;**
- 129.5 agrees to encourage a declaration by July 2021 from councils in Wales, on becoming 'Diverse Councils'; to:**
- **provide a clear, public commitment to improving diversity;**
 - **demonstrate an open and welcoming culture to all;**
 - **Consider staggering council meeting times and agreeing recess periods to support councillors with other commitments; and**
 - **set out an action plan of activity ahead of the 2022 local elections.**
- 129.6 provides views on the adoption of local or national diversity targets; and**

129.7 provides views on the introduction of statutory or voluntary quotas for Welsh local elections.

Report cleared by:

Cllr Mary Sherwood, Joint WLGA Spokesperson for Equalities, Welfare Reform and Anti-Poverty & Co-Chair of Working Group

Cllr Susan Elsmore, Joint WLGA Spokesperson for Equalities, Welfare Reform and Anti-poverty & Co-Chair of Working Group

Author: Daniel Hurford
Head of Policy

Sarah Titcombe
Policy and Improvement Officer

E-mail: daniel.hurford@wlga.gov.uk

sarah.titcombe@wlga.gov.uk

ANNEX A

WLGA working group on Diversity in Local Democracy

Members who have fed into the working group:

- Co-Chair - Cllr Mary Sherwood (Labour), WLGA spokesperson for Equalities, Welfare Reform and Anti-Poverty, City and County of Swansea
- Co-Chair - Cllr Susan Elsmore (Labour), WLGA Spokesperson for Equalities, Welfare Reform and Anti-poverty, Cabinet Member for Social Care, Health and Well-being, Cardiff Council
- Cllr Cheryl Green (Liberal Democrat), Chair Corporate Overview Scrutiny Committee, Bridgend CBC
- Cllr Daniel De'Ath (Labour) Lord Mayor, Cardiff Council
- Cllr Lisa Mytton (Independent) Deputy Leader, Merthyr Tydfil CBC
- Cllr Sara Jones (Conservative), Cabinet Member for Social Justice and Community Development, Monmouthshire County Council
- Cllr Cefin Campbell (Plaid Cymru), Executive Board Member for Communities and Rural Affairs, Carmarthenshire County Council
- Cllr Nicola Roberts (Plaid Cymru) Chair Licensing and Planning Committee, Isle of Anglesey Council
- Cllr Dhanisha Patel (Labour) Cabinet Member for Wellbeing and Future Generations, Bridgend County Borough Council
- Cllr Ann McCaffrey (Independent), Conwy County Borough Council
- Cllr Jayne Cowan (Conservative) Cardiff Council
- Cllr Bablin Molik (Liberal Democrat) Cardiff Council
- Baroness Wilcox of Newport (Labour), Newport Council who chaired the working group initially in her capacity as WLGA Leader

Views have also been provided through discussions with members and officers in:

- Equalities Cabinet Members' Network
- Chairs of Democratic Services Network
- Heads of Democratic Services Network

Officer Support

- Daniel Hurford, Head of Policy (Improvement and Governance) WLGA
- Sarah Titcombe, Policy and Improvement Officer (Democratic Services) WLGA
- Dilwyn Jones, Communication Officer, WLGA
- Huw Evans, Head of Democratic Services, City and County of Swansea

ANNEX B

EXTRACT FROM A WOMENS EQUALITY NETWORK (WEN) WALES BRIEFING PAPER

The case for quotas to deliver equal and diverse representation

February 2020

Evidence supporting quotas

- Research shows that quotas are the **“single most effective tool for ‘fast tracking’ women’s representation in elected bodies for government.”**⁴
- Among the twenty Organization for Security and Co-operation in Europe (OSCE) countries registering the sharpest growth in the proportion of women in parliament during the last decade...**half had introduced legal quotas. By contrast, among the twenty OSCE countries lagging behind in growth...none had implemented legal quotas.**⁵
- There is international backing for gender quotas. Various international institutions, including the United Nations Committee on the Elimination of Discrimination (**CEDAW**), the Beijing Platform for Action, the EU and the Council of Europe support their use.
- **Ireland** has successfully used quotas requiring that at least 30 per cent of the candidates each party stands nationally are female (rising to 40 per cent after seven years). **The percentage of women candidates increased 90 per cent at the 2016 election** compared to the 2011 election, with a corresponding **40 per cent increase in the number of women elected—** 35 in 2016 compared with 25 in 2011.⁶
- **100 Countries** world-wide now have some form of gender quotas in place and 40 also use them for intersectional groups such as BAME women.
- A report published by the United Nations in 2012 found that **out of the 59 countries that held elections in 2011, 17 of them had quotas.** In those countries, women **gained 27% of parliamentary seats compared to 16% in those without.**⁷

⁴ Drude Dahlerup et al., Atlas of Electoral Gender Quotas, International Institute for Democracy and Electoral Assistance [IDEA], IPU and Stockholm University, 2013.

⁵ Norris, P. and Krook, M. for OSCE, Gender equality in elected office: a six-step action plan, 2011

⁶ Brennan, M. and Buckley, F. ‘The Irish legislative gender quota: the first election’, Administration, vol 65(2), May 2017

⁷ <https://www.theguardian.com/politics/2013/aug/20/quotas-women-parliament-authors-edinburgh-book-festival>

Types of Quota

Different types of gender quota have been used in different countries, depending on the electoral system and local circumstances. The Expert Panel on Electoral reform⁸ describes the three main types as:

- **Candidate quotas which introduce a 'floor'** for the proportion of male or female candidates a party stands for election. These could be applied in the form of constituency twinning for First Past The Post (FPTP) seats. They could also be applied to multimember systems such as STV or Flexible List at a constituency or a national level. Parties in Scandinavia, Spain and Austria have voluntarily adopted similar quotas, ranging from 33 per cent to 50 per cent.
- Requirements for **the ordering of candidates on any list** element of the system. Voluntary quotas of this nature have been used by parties in Wales in Assembly elections, for example zipping of regional candidate lists. (I.e. listing candidates alternately according to their gender)
- **'Reserved seats'** to which only female candidates could be elected. This type of quota is widely used in South Asia, the Arab region and sub Saharan Africa.

Examples of Incentives used:

- **Croatia** has legally binding quotas and uses incentives - for each MP representing an underrepresented gender, political parties receive an **additional 10 per cent of the amount envisaged** per individual MP;
- **Bosnia and Herzegovina**: where 10 per cent of the funding provided to political parties is distributed to parties in proportion to the number of seats held by MPs of the gender which is less represented in the legislature,
- **Two for the price of one deposits** for two candidates of different genders could be used in Wales —this would appear to us to be proportionate in the context of seeking to ensure that the gender balance in the Assembly reflects the gender balance in the communities it serves.⁹

www.wenwales.org.uk / @wenwales

⁸ A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

⁹ A Parliament that works for Wales, Report of the Expert Panel on Assembly Electoral Reform, November 2017

ANNEX C

LOCAL GOVERNMENT AND ELECTIONS (WALES) ACT 2021

The Local Government and Elections (Wales) Act 2021 includes provisions which will contribute to diversity in local government democracy. These are:

- Entitlement to Job sharing for executive members and committee chairs
- A duty on principal councils to produce a Public Participation Strategy and for it to be reviewed regularly. This will include encouraging people to participate in decision making and promoting awareness of how to become a member of the council.
- A duty on political group leaders to promote and maintain high standards of conduct by members of their group.
- Electronic broadcasting of full Council meetings initially, and other meetings to be announced later, following ongoing consultation by WG with Councils.
- The provision of multi-location attendance at council meetings including physical, hybrid and remote attendance.
- Provisions enabling the maximum period of absence for each type of family absence for members of local authorities to be specified within regulations and for adoptive leave to reflect that which is available to employees.

ANNEX D

(DRAFT) DIVERSE COUNCIL DECLARATION

The following provides a draft declaration. It is proposed that this is further developed in consultation with authorities, representative organisations and will be informed by emerging priorities from councils' own diversity and equality action plans and emerging priorities from the Welsh Government's Race Equality Action Plan.

This Council commits to being a Diverse Council. We agree to

- Provide a clear public commitment to improving diversity in democracy
- Demonstrate an open and welcoming culture to all, promoting the highest standards of behaviour and conduct
- Set out a local Diverse Council Action Plan ahead of the 2022 local elections. Including:
 - Appoint Diversity Ambassadors for each political group on the council to work with each other and local party associations to encourage recruitment of candidates from underrepresented groups.
 - Encourage and enable people from underrepresented groups to stand for office through the provision of activities such as mentoring and shadowing programmes and information and learning events for people interested in standing and official candidates.
 - Proactive engagement and involvement with local community groups and partner organisations supporting and representing under-represented groups
 - Ensure that all members and candidates complete the Welsh Government candidates' and councillors' survey distributed at election time.
 - Set ambitious targets for candidates from under-represented groups at the 2022 local elections
- Work towards the standards for member support and Development set out in the *Wales Charter for Member Support and Development*.
- Demonstrate a commitment to a duty of care for Councillors by:
 - providing access to counselling services for all councillors
 - having regard for the safety and wellbeing of councillors whenever they are performing their role as councillors.
 - taking a zero-tolerance approach to bullying and harassment by members including through social networks.
- Provide flexibility in council business by
 - regularly reviewing and staggering meeting times
 - encouraging and supporting remote attendance at meetings and
 - agreeing recess periods to support councillors with caring or work commitments.
- Ensure that all members take up the allowances and salaries to which they are entitled, particularly any reimbursement for costs of care, so that all

members receive fair remuneration for their work and that the role of member is not limited to those who can afford it.

- Ensure that councillors from under-represented groups are represented whenever possible in high profile, high influence roles.

Dyddiad /Date:
Gofynnwch am/Please ask for:
Llinell uniongyrchol/Direct line:
Eboest/Email:

15 April 2021
Daniel Hurford
029 20468615
daniel.hurford@wlga.gov.uk



To:
Group Leaders
Chairs of Councils
Chairs of Democratic Services Committees

cc WLGA Council, Chief Executives & Heads of Democratic Services

Dear colleagues,

Diversity in Democracy

As attention understandably focuses on the Senedd elections in a little over a month's time, it is important we look ahead and begin planning for the local elections in May 2022.

One of the key messages of the WLGA's Leadership Academy is that 'you need to be ordinary enough to be a councillor, but also extraordinary enough to be a councillor'.

There is no doubt that councillors have been extraordinary during the past twelve months of the coronavirus pandemic. But to be 'ordinary', councillors also need to be like the people they represent and reflect the diversity of the communities they serve. Despite previous action and campaigns, progress has been slow and we all recognise there remains a lack of diversity in our councils.

We need more women, more young people, more Black, Asian and Minority Ethnic people, more disabled and LGBTQ+ candidates standing in 2022.

The WLGA has therefore committed to making a step change in local government diversity at the 2022 local elections. The WLGA Council endorsed the enclosed Diversity in Democracy report at a special meeting earlier this month. The report is the culmination of the work of a cross-party working group and builds on the action plans and ambitions of councils and partners.

The WLGA Council debate was passionate and progressive and there was unanimous support for concerted and collective action across the family of local government and within political parties.

Dr Chris Llewelyn
Prif Weithredwr
Chief Executive

Cymdeithas Llywodraeth
Leol Cymru
Tŷ Llywodraeth Leol
Rhodfa Drake
CAERDYDD CF10 4LG
Ffôn: 029 2046 8600

Welsh Local Government
Association
Local Government
House
Drake Walk
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Tel: 029 2046 8600

wlga.cymru
wlga.wales

@WelshLGA

Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.

Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.

We welcome correspondence in Welsh and English and will respond to correspondence in the same language.

Use of either language will not lead to a delay.

The WLGA will take forward several actions nationally and we have already launched a beacouncillor.wales website. As Group Leaders, we will make representations to political parties to take action and make progress and we will also make the case to the Welsh Government and the Independent Remuneration Panel that councillors should be entitled to 'resettlement grants' (effectively redundancy payments) should they lose their seat at an election.

The Council recognised the diversity work already under way locally but called for concerted and ambitious local action. We would therefore be grateful if you could work with your political colleagues and prioritise action locally, promoting the take-up of members' allowances and progressing 'Diverse Council' declarations by the summer.

Members' allowances play a critical role in encouraging greater diversity; some councillors can be disproportionately affected if they are on low incomes or have caring responsibilities. Many councillors are dissuaded from claiming their full entitlements to allowances, such as reimbursements of costs of care or travel, due to peer or public pressure. The WLGA Council therefore unanimously agreed that we need to foster a culture where all councillors are encouraged and supported to claim any necessary allowances or expenses to which they are entitled, and we ask that you lead and encourage this culture locally.

The WLGA Council also unanimously agreed that all councils should commit to a declaration by July 2021 on becoming 'Diverse Councils' in 2022, to provide a clear, public commitment to improving diversity. The report includes an 'outline' Declaration to:

- Provide a clear, public commitment to improving diversity;
- Demonstrate an open and welcoming culture to all;
- Consider staggering council meeting times and agreeing recess periods to support councillors with other commitments; and
- Set out an action plan of activity ahead of the 2022 local elections.

Councils may however wish to undertake further action or commitments within their Declarations according to local priorities.

The WLGA Council discussed the merits of positive action and there was support for the use of voluntary quotas in local elections; this is a matter for local groups and parties but where such voluntary approaches have been adopted in the past, there has been significant progress in terms of gender balance. The WLGA Council also unanimously agreed that councils should set targets to be representative of the communities they serve at the next elections.

Councils' local diversity work will be supported by a national awareness raising, publicity and support through the WLGA and Welsh Government. WLGA officials will be meeting with Heads of Democratic Services in April to share ideas and approaches to develop local Diverse Council Declarations.

We are confident you will share the WLGA Council's commitment and look forward to working with you in promoting Diversity in Democracy and achieving our shared ambition

Croesawn ohebiaeth yn y Gymraeg a'r Saesneg a byddwn yn ymateb i ohebiaeth yn yr un iaith.

Ni fydd defnyddio'r naill iaith na'r llall yn arwain at oedi.

We welcome correspondence in Welsh and English and will respond to correspondence in the same language.

Use of either language will not lead to a delay.

to ensure our council chambers better reflect the diversity of the communities they serve following the 2022 local elections.

Yours sincerely,



Cllr Huw David
WLGA Presiding Officer



Cllr Mary Sherwood
Joint WLGA Spokesperson for Equalities & Co-Chair of Working Group



Cllr Susan Elsmore
Joint WLGA Spokesperson for Equalities & Co-Chair of Working Group



Cllr Andrew Morgan,
WLGA Leader



Cllr Hugh Evans
WLGA Independent Group Leader



Cllr Emlyn Dole
WLGA Plaid Cymru Group Leader



Cllr Peter Fox
WLGA Conservative Group Leader

CEREDIGION COUNTY COUNCIL

Report to: Council

Date of meeting: 23rd September 2021

Title: **Edinburgh Declaration: the greater inclusion of the role of local authorities and cities within the post-2020 global biodiversity framework - ensuring transformative change for nature over the coming decade.**

Purpose of the report: **To seek approval for Ceredigion County Council to sign up to the Edinburgh Declaration and to support its principles.**

For: **Decision**

**Cabinet Portfolio and Councillor Ellen ap Gwynn, Leader of the Council
Cabinet Member:**

The Leader of the Council has received a letter from Julie James MS, Minister for Climate Change (see Appendix A) inviting Local Authorities to join the Welsh Government in supporting the 'Edinburgh Declaration: the greater inclusion of the role of local authorities and cities within the post-2020 global biodiversity framework - ensuring transformative change for nature over the coming decade'.

The Edinburgh Declaration is a political statement setting out commitments to implement the post-2020 global biodiversity framework locally. It will ensure people who live in local authorities across Wales can live in harmony with nature and protect valuable local ecosystems for future generations.

Through the Edinburgh Declaration we support the call upon UN Convention on Biological Diversity (CBD) Parties to:

- Take the transformative action required to halt biodiversity loss
- Recognise the vital role of subnational and local governments
- Support a dedicated decision on a new Plan of Action for subnational governments, city and local authorities. A decision to be taken at COP15: the Conference of Parties, who signed the UN Convention on Climate Change, and are meeting in China in Autumn 2021 ; and
- Develop a multi-stakeholder platform for the implementation of the post-2020 framework.

The Minister recognises the key role of Local Authorities in taking forward local level actions for nature and is requesting all Councils to support the principles as set out in the Edinburgh Declaration. This will demonstrate the global will for a dedicated decision and renewed plan of action for subnational governments and local authorities to be adopted within the post-2020 global biodiversity framework at COP15.

Council is therefore requested to consider signing up to pledge its support for the Edinburgh Process and Declaration.

Has an Integrated Impact Assessment been completed?

If, not, please state why

Summary:

Wellbeing of Future Generations:

Long term: It will ensure people who live in local authorities across Wales can live in harmony with nature and protect valuable local ecosystems for future generations.

Integration:

Collaboration: Work with partner organisations to protect valuable local ecosystems.

Involvement: Communicating, educating and raising public awareness.

Prevention: Protection of valuable local ecosystems for future generations.

Recommendation(s): **To approve that the Council's signs up to pledge its support for the Edinburgh Process and Declaration.**

Reasons for decision: **To recognise the key role of Local Authorities in taking forward local level actions for nature and to demonstrate the global will for a dedicated decision and renewed plan of action for subnational governments and local authorities to be adopted within the post-2020 global biodiversity framework at COP15.**

Overview and Scrutiny: N/A

Policy Framework: Carbon Management Plan 2019

Corporate Priorities:

- Investing in People's Futures
- Promoting Environmental and Community Resilience

Finance and Procurement implications: None relating to the supporting the Edinburgh Declaration.

Legal Implications: N/A

Staffing implications: N/A

Property / asset implications: None relating to the supporting the Edinburgh Declaration.

Risk(s): N/A

Statutory Powers: N/A

Background Papers: [Edinburgh Declaration on post-2020 global biodiversity framework - gov.scot \(www.gov.scot\)](https://www.gov.scot/Information/About-Scotland/Edinburgh-Declaration-on-post-2020-global-biodiversity-framework)

Motion to Council 5th March 2020 – Declaration of a global climate emergency.

Appendices: Appendix A – Letter from Julie James MS, Minister for Climate Change, Welsh Government

Corporate Officer: **Lead** N/A

Reporting Officer: N/A

Date: 16th September 2021

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
 Ein cyf/Our ref

September 2021

Dear

I am writing to invite you to join me in supporting the Edinburgh Declaration: the greater inclusion of the role of local authorities and cities within the post-2020 global biodiversity framework - ensuring transformative change for nature over the coming decade.

The UN Convention on Biological Diversity (CBD) is currently developing a post-2020 framework for global biodiversity and new global targets. We are moving into the next decade with a stepped up ambition to deliver for nature, and there is increasing recognition of the role of local authorities and cities in translating global targets into local delivery.

On behalf of the CBD, the Scottish Government has been leading the “Edinburgh Process” – an online, global engagement and consultation for subnational, regional and local players – with the aim of securing greater reference to the role of subnational and Local Authorities, including cities, in the post-2020 global biodiversity framework.

Welsh Government supports the Edinburgh Process for biodiversity, and in particular the Edinburgh Declaration, a political statement setting out commitments to implement the post-2020 global biodiversity framework locally. It will ensure people who live in local authorities across Wales can live in harmony with nature and protect valuable local ecosystems for future generations.

Now, more than ever, it is essential to have a healthy and safe natural environment and Welsh Government recognises the vital role local authorities are playing in addressing the impacts of climate change and habitat loss. This framework recognises the increasingly valuable role of subnational governments and local authorities in translating global targets into local delivery.

Through the Edinburgh Declaration we support the call upon CBD Parties to:

- Take the transformative action required to halt biodiversity loss
- Recognise the vital role of subnational and local governments
- Support a dedicated decision on a new Plan of Action for subnational governments, city and local authorities. A decision to be taken at COP15: the Conference of Parties, who signed the UN Convention on Climate Change, and are meeting in China in Autumn 2021 ; and

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
 0300 0604400

Bae Caerdydd • Cardiff Bay
 Caerdydd • Cardiff
 CF99 1SN

Gohebiaeth.Julie.James@llyw.cymru
Correspondence.Julie.James@gov.Wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- Develop a multi-stakeholder platform for the implementation of the post-2020 framework.

I recognise the key role of local authorities in taking forward local level actions for nature and am writing to request your backing for the principles set out in the Edinburgh Declaration. This will demonstrate the global will for a dedicated decision and renewed plan of action for subnational governments and local authorities to be adopted within the post-2020 global biodiversity framework at COP15.

Further information about how to sign up to pledge your support for the Edinburgh Process and Edinburgh Declaration is available at [Edinburgh Declaration on post-2020 global biodiversity framework - gov.scot \(www.gov.scot\)](http://www.gov.scot/Edinburgh-Declaration-on-post-2020-global-biodiversity-framework)

I believe that it is important to encourage a greater involvement of subnational and local authorities internationally within the new framework. I would therefore very much welcome your support.

Yours sincerely

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

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CEREDIGION COUNTY COUNCIL

- Report to:** Council
- Date of meeting:** 23rd September 2021
- Title:** Revised Concerns and Complaints Policy and Procedures
- Purpose of the report:** To ensure the Council has a robust and up-to-date Concerns and Complaints Policy (corporate) which is compliant with the requirements outlined by the Complaints Standards Authority (CSA).
- For:** Decision
- Cabinet Portfolio and Cabinet Member:** Councillor Ellen ap Gwynn, Leader

BACKGROUND:

The Concerns and Complaints Policy and Procedures have been reviewed and updated for two reasons:

1. To incorporate the vast organisational and operational changes that have taken place since the last policy review in 2015, which includes the centralisation of the Complaints and FOI Service.
2. To ensure that the Council's arrangements for managing corporate concerns and complaints is compliant with the requirements stipulated by the Complaints Standards Authority (CSA), which was introduced under the Public Services Ombudsman (Wales) 2019 Act.

In line with the Model Concerns and Complaints Policy issued by the Public Services Ombudsman for Wales (PSOW) the Policy document provides complainants with information about how their concern/complaint will be managed by the Council. This includes guidance on the timescales of the two-stage policy, how members of the public can make a complaint if they are unhappy with the services provided (or not provided) by the Council and how they can refer their complaint for independent, external consideration by the PSOW or the Welsh Language Commissioner.

The Concerns and Complaints Procedures document is an internal document and provides guidance for staff with regards to the operational arrangements that must be followed upon receipt, and during the investigation, of a concern or a complaint. This includes information on the escalation of a complaint from Stage 1 (informal resolution) to Stage 2 (formal investigation) and the role played by Services and the Complaints and FOI Service in resolving and learning from complaints.

In the main, the arrangements outlined within both the Policy and Procedures documents are reflective of current working practices, particularly since the formation of the central Complaints and FOI Service in late 2016. However, due to recent changes to legislation, these documents also comply with the Council's statutory obligations to ensure an effective mechanism of governance to oversee all complaints activity within the Council – as detailed below:

- i. Bi-annual reporting to the Cabinet Committee of Elected Members (including the Council's Annual Report); as per the Public Services Ombudsman (Wales) 2019 Act.
- ii. Information on complaints performance and the Council's ability to handle complaints effectively will be reported to the Audit and Governance Committee at least twice a year; in accordance with the Local Government and Elections (Wales) Act 2021.

Whilst the Concerns and Complaints Policy and Procedures being reviewed at this time relate only to the Council's corporate services (i.e. Planning Service, Highways & Environmental Service, Finance Services etc.) separate policies exist for the management of Social Services Complaints received by the Council.

Has an Integrated Impact Assessment been completed? If not, please state why: Yes (see attached)

Summary:

Long term: N/A
Collaboration: N/A
Involvement: N/A
Prevention: N/A
Integration: N/A

Recommendation(s): To approve the revised Concerns and Complaints Policy and Procedures 2021, and its implementation and publication.

Reasons for decision: To ensure the Council has a Concerns and Complaints policy that meets the requirements of recent legislation and the demands and structure of the organisation.

Overview and Scrutiny: This report was presented to the Corporate Resources Overview and Scrutiny Committee on 7th July 2021.

Policy Framework:

- Concerns and Complaints Policy (corporate)
- Social Services Complaints Policy
- Complaints procedures for school governing bodies in Wales (Circular 011/2012)
- Freedom of Information Act 2000 (FOIA)
- Environmental Information Regulations 2004 (EIR)

Corporate Priorities: Enabling Individual and Family Resilience

Finance and Procurement implications: N/A

Legal Implications: N/A

Staffing implications: None

Property / asset implications: N/A

Risk(s): N/A

Statutory Powers:

Background Papers:

Appendices: Integrated Impact Assessment

Corporate Lead Officer: Alun Williams, Corporate Lead Officer for Policy, Performance & Public Protection

Reporting Officer: Marie-Neige Hadfield, Complaints & FOI Manager

Date: 2nd September 2021



Cyngor Sir
CEREDIGION
County Council

Concerns and Complaints Policy (Corporate)



Author and Service: Marie-Neige Hadfield, Complaints & FOI Manager

Date approved by Cabinet: 23rd September 2021

Integrated Impact Assessment (Yes/No): No

Publication date: 1st October 2021

Policy Review Date: 31st March 2024

Concerns and Complaints Policy

Statement of Principles

Effective complaints handling processes should be:

Complainant Focused

- The complainant should always be at the centre of the complaints process
- Service providers need to be flexible when responding to complainants' differing needs

Simple

- Complaints processes should be well-publicised, have easy-to-follow instructions and have no more than two stages
- Information on advocacy services and support should be available
- Complaints responses should set out clearly the next stage and the right to approach the Ombudsman

Fair and Objective

- Complainants should receive a complete and appropriate response to their concerns
- Complainants and staff complained about should be treated equally and with dignity

Timely and Effective

- Complaints should be resolved promptly, when possible investigations should be thorough, yet prompt
- Complainants should be kept informed throughout of the progress of a lengthy investigation

Accountable

- Complainants should receive an honest and clear explanation of the findings of an investigation
- Service providers should explain to complainants what changes will be made if their complaint is upheld, wherever possible

Committed to Continuous Improvement

- Information from complaints will be collated and analysed
- Data will be shared with Ceredigion County Council senior leaders and the Ombudsman to support improvement in complaint handling and in service delivery
- Decision makers will regularly review the information gathered from complaints when planning service delivery

Concerns and Complaints Policy

Ceredigion County Council is committed to dealing effectively with concerns or complaints you may have about our services. We will treat people fairly and with respect and listening to feedback from our service-users when things go wrong.

We aim to clarify any issues you may be unsure about. If possible, we will put right any mistakes we may have made. We will provide any service you are entitled to which we have failed to deliver. If we did something wrong, we will apologise and, where possible, we will try to put things right for you. We also aim to learn from our mistakes and use the information we gain from complaints to improve our services.

Welsh Language Standards

You may make your complaint to any member of Council staff in Welsh or in English, depending on your language preference. In accordance with the Council's duty to comply with the Welsh Language Standards (WLS), we will communicate with you in the language of your choice.

Complaints can also be made regarding the Council's implementation and compliance with the WLS, or the standard of service provision delivered by the Council in Welsh. Complaints of this nature will be shared with the Council's Welsh Language Officer and you will have the opportunity to refer your complaint to the Welsh Language Commissioner at any time.

When to use this policy

When you express your concerns or complain to us, we will usually respond in the way we explain below. However, sometimes you may have a statutory right of appeal e.g. against a refusal to grant you planning permission or the decision not to give your child a place in a particular school, so rather than investigate your concern, we will explain to you how you can appeal. Sometimes, you might be concerned about matters that are not covered by this policy e.g. when a legal framework applies or in the event of an insurance claim. In such cases, we will advise you about how to make your concerns known to the appropriate body.

This policy does not apply to Freedom of Information or data access issues. Please direct your requests in writing to the relevant service:

Freedom of Information
Complaints and FOI Manager
Canolfan Rheidol
Rhodfa Padarn
Aberystwyth
Ceredigion
SY23 3UE

foi@ceredigion.gov.uk

Data Protection
Information & Data Protection Officer
Canolfan Rheidol
Rhodfa Padarn
Aberystwyth
Ceredigion
SY23 3UE

data.protection@ceredigion.gov.uk

This policy does not apply to complaints made about the provision of Social Services as there is a separate, statutory policy in place for this (i.e. “Are we getting it right?”). This policy also does not relate to complaints against schools. Whilst the Council can provide advice to schools regarding their complaints handling procedures, it is the school’s Governing Body that has responsibility for ensuring complaints are managed in accordance with the school’s own complaints procedures. You can obtain more information about the school’s complaints procedures and a copy of their policy by contacting the school directly.

Asking us to provide a service?

If you are approaching us to request a service, e.g. reporting a missed bin collection, or requesting an appointment this policy does not apply. If you make a request for a service and then are not happy with our response, you will be able to make your concern known to us as we describe below.

When should you complain?

Normally we will only be able to look at your concerns if you tell us about them within **six months** of the event that you are complaining about. This is because it is better to look into your concerns while the issues are still fresh in everyone’s mind.

In exceptional circumstances we may agree to look into matters that occurred over six months ago, but you will need to explain why you could not bring your complaint to our attention earlier. We will then consider whether there is enough information available to support undertaking an investigation outside of the normal timescale. In any event, we will not consider any concerns about matters which took place more than three years ago.

If you are expressing a concern on behalf of somebody else, we will need their agreement for you to act on their behalf.

What if there is more than one body involved?

If your complaint covers more than one body (e.g. a housing association) we will usually work with them to decide who should take the lead in dealing with your concerns. You will then be given the name of the person responsible for communicating with you while we consider your complaint.

If the complaint is about a body working on our behalf (e.g. repair contractors) you may wish to raise the matter with them first as we expect organisations providing a service for the council to have their own Complaints policy. If you are dissatisfied with the response, and you want to express your concern or complaint with the Council, we will look into this ourselves and respond to you, provided the contractors have had the opportunity to respond to you directly.

How to make your complaint

You can express your concern in any of the following ways:

- Ask for a copy of our form from the person with whom you are already in contact. Tell them that you want us to deal with your complaint in accordance with this policy.
- Get in touch with our Complaints and FOI Team on 01545 574151 if you want to make your complaint over the phone.
- Use the complaints form on our [website](#).
- E-mail us at: complaints@ceredigion.gov.uk
- Write to us: Complaints & FOI Team, Canolfan Rheidol, Rhodfa Padarn Aberystwyth, SY23 3UE

We aim to have concern and complaint forms available at all of our public areas e.g. at our Council offices and community libraries.

Copies of this policy and the complaint form are available in alternative languages, audio and braille upon request.

Dealing with your complaint – STAGE 1 (Informal Resolution)

Where possible, we believe it's best to deal with things straight away. You may be able to raise it with the person you're dealing with, or their line manager, who will try to resolve the issue for you there and then and make sure any lessons are learned as a consequence.

If the member of staff or manager cannot help, they will pass your concerns to the Complaints and FOI Service for further consideration under Stage 1 of the Concerns and Complaints Policy. As outlined above, you may also contact the Complaints and FOI Team directly to raise your concerns.

At Stage 1:

- We will acknowledge your concern within **two working** days and let you know how we intend to deal with it.
- We will ask you to tell us how you would like us to communicate with you and establish whether you have any particular requirements – for example, your preferred language of choice or if you need documents in large type.
- We will deal with your concern in an open and honest way.
- We will make sure that your dealings with us in the future do not suffer because you have expressed a concern or made a complaint.
- We will formally respond to your complaint within **10 working days** informing you of our findings and what we have done to resolve matters. If we are unable to respond to you

within this timeframe, **we will escalate your complaint to Stage 2**, Formal Investigation. The Complaints and FOI Team will advise you of these arrangements.

- If you remain dissatisfied with the outcome of your complaint at Stage 1, you will be advised within the response provided that you can request escalation of your complaint to Stage 2: Formal Investigation within **20 working days** of the date of your Stage 1 response.
- You will need to explain why you believe your complaint has not been addressed properly at Stage 1.

Dealing with your complaint – STAGE 2 (Formal Investigation)

If we have been unable to resolve your complaint satisfactorily at Stage 1, if we have exceeded the timescales set out under Stage 1 or, if your concerns are complex or of a more serious nature, we will conduct a formal investigation into your complaint.

At Stage 2:

- We will formally acknowledge your concern within **five working days** and let you know how we intend to deal with it.
- We will ask you to tell us how you would like us to communicate with you and establish whether you have any particular requirements – for example, your preferred language of choice or if you need documents in large type.
- We will deal with your concern in an open and honest way.
- We will make sure that your dealings with us in the future do not suffer because you have expressed a concern or made a complaint.
- We may need to meet with you to discuss your complaint or we may suggest alternative methods to try and resolve matters (e.g. mediation or a resolution meeting).
- We will aim to formally respond to your complaint within **20 working days**, informing you of our findings and what we have done to resolve matters. If we are unable to respond to you within this timeframe, the Complaints and FOI Team will contact you to inform you of the delay, provide an update on the investigation and give you a revised response date.
- We will include information in our formal response about where you can take your complaint if you remain unhappy with the outcome or the explanations provided. This is usually the [Public Services Ombudsman for Wales](#), but may also be the [Welsh Language Commissioner](#) if your complaint relates to the Welsh Language Standards, or the [Information Commissioner's Office](#) if your complaint is about information governance.

Investigation

We will tell you who we have asked to look into your complaint. If your complaint is straightforward, we will usually ask the Corporate Manager for the Service to investigate your complaint and respond to you. If your complaint is complex or of a serious nature, we may ask a manager from another Service to investigate matters. In exceptional circumstances, we may decide to appoint an independent investigating officer.

Our Complaints and FOI Team will keep you informed about how your complaint will be addressed, who is responsible for investigating the matters you have raised and when you can expect to receive a response.

We will set out our understanding of your complaint and ask you to confirm that these details are correct. We will also ask you to tell us what outcome you are hoping for. We may also need to discuss your complaint with you in more detail. We will let you know as early as possible if this is the case.

The person investigating your complaint will aim to establish the facts. The extent of the investigation will depend on how complex and how serious the issues are and in some cases, we may draw up an investigation plan.

The investigating officer will look at relevant evidence which may include information you have provided, our case files, notes of conversations etc. The investigating officer may also conduct staff interviews and look at our policies and any legal entitlement and guidance.

Outcome

If there is a simple solution that could resolve your complaint then we may ask you if you are happy to accept this. For example, where you have asked for a service and we can see straight away that you should have had it, we will offer to provide the service rather than undertake a formal investigation into your complaint.

If we formally investigate your complaint we will let you know what we find and if necessary, we will produce a report. We will explain how and why we came to our conclusions.

If we find that we made a mistake, we will tell you what happened and why.

If we find there is a fault in our systems or the way we do things, we will tell you what it is and how we plan to change things to stop it happening again.

If we have made a mistake we will always provide a formal apology within our response.

Putting things right

If we didn't provide you with a service you should have had, we'll aim to provide it now, if that's possible. If we didn't do something well, we will aim to put it right. If you have lost out as a result on our part, we will try to put you back in the position you would have been in if we'd have done things properly.

If you were entitled to funding and we did not provide it, we will try to refund the cost.

Our formal response to your complaint will provide details of any actions we will take to put things right.

The Ombudsman

If we do not succeed in resolving your complaint, you may complain to the Public Services Ombudsman for Wales. The Ombudsman is independent of all government bodies and can look into your complaint if you believe that you personally, or the person on whose behalf you are complaining:

- Have been treated unfairly or received a bad service through some failure on the part of the service provider.

- Have been disadvantaged personally by a service failure or have been treated unfairly.

The Ombudsman normally expects you to bring your concerns to our attention first and to give us a chance to put things right. You can contact the Ombudsman by:

- Phone: 0300 790 0203
- Email: ask@ombudsman.wales
- The website: www.ombudsman.wales
- Writing to: Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae, Pencoed CF35 5LJ

Learning lessons

We take your concerns and complaints seriously and try to learn from any mistakes we've made. The Council's Leadership Group considers a summary of all complaints on a quarterly basis and is made aware of all serious complaints.

The Council's Cabinet of Elected Members also consider how we are performing in relation to complaints at least twice a year.

We share summary (anonymised) information on complaints received and complaints outcomes with the Ombudsman as part of our commitment to accountability and learning from complaints.

In line with the Local Government and Elections (Wales) Act 2021 we also report information on complaints performance and the Council's ability to handle complaints effectively at least twice a year to the Audit and Governance Committee.

Where there is a need for significant change, we will develop an action plan setting out what we will do, who will do it and when we plan to do it.

What if you need help?

Our staff will aim to help you make your concerns known to us. If you need extra assistance, we will try to put you in touch with someone who can help. You may wish to contact:

Ceredigion Independent Professional Advocacy (CIPA)

- **Website:** www.cipawales.org.uk
- **Email:** info@cipawales.org.uk
- **Phone:** 0800 206 1387

You can also use this concerns and complaints policy if you are under the age of 18. If you need help, you can speak to someone on the [Meic Helpline](#):

- **Website:** www.meiccymru.org
- **Phone:** 0808 802 3456

Or contact the [Children's Commissioner for Wales](#):

- **Website:** www.childcom.org.uk
- **Email:** post@childcomwales.org.uk
- **Phone:** 0808 801 1000

What we expect from you

In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. We do not view behaviour as unacceptable just because someone is forceful or determined.

We believe that all complainants have the right to be heard, understood and respected. However, we also consider that our staff have the same rights. We therefore expect you to be polite and courteous in your dealings with us. We will not tolerate aggressive or abusive behaviour, unreasonable demands or unreasonable persistence. We have a separate policy to manage situations when we find that someone's actions are unacceptable.

DRAFT

APPENDIX A

CONCERN / COMPLAINT FORM

Please Note: The person who experienced the problem should normally fill in this form. If you are filling this in on behalf of someone else, please fill in section B.

A: Your details

Title:	Forename(s):	Surname:
Address and postcode:		
E-mail address:		
Daytime phone number:		
Please state how you would prefer us to contact you:		

Your requirements: if our usual way of dealing with complaints makes it difficult for you to use our service, for example if English or Welsh is not your first language or you need to engage with us in a particular way, please tell us so that we can discuss how we might help you.

B: MAKING A COMPLAINT ON BEHALF OF SOMEONE ELSE

THEIR DETAILS:

Please note: We have to be satisfied that you have the authority to act on behalf of the person who has experienced the problem.

Their full name:	
Address and postcode:	
What is your relationship to them?	
Why are you making a complaint on their behalf?	

C: About your concern / complaint

(please continue your answers to the following questions on a separate sheet(s) if necessary.)

C.1 Name of the department/section/service you are complaining about:

C.2 What do you think they did wrong, or failed to do?

C.3 Describe how you personally have suffered or have been affected:

C.4 What do you think should be done to put things right?

C.5 When did you first become aware of the problem?

C.6 Have you already put your concern to the staff responsible for delivering the service? If so, please explain how and when you did so:

C.7 If it is more than 6 months since you became first aware of the problem, please give the reason why you have not complained before now:

If you have any documents to support your concern/complaint, please attach them with this form.

Signature: _____

Date: _____

When you have completed this form please send it to:

Complaints and FOI Team, Canolfan Rheidol, Rhodfa Padarn, Aberystwyth, SY23 3UE

or via e-mail to: complaints@ceredigion.gov.uk.



Cyngor Sir
CEREDIGION
County Council

Corporate Concerns and Complaints Procedure



Author and Service: Marie-Neige Hadfield, Complaints & FOI Manager
Publication date: 23rd September 2021
Review Date: 31st March 2024

Concerns and Complaints Procedure

Complaints Handling Guidelines for Staff

This document should be considered in conjunction with the Council's Concerns and Complaints Policy (2021 version) and sets out the requirements and considerations to ensure that corporate complaints are managed effectively.

The Council's (corporate) Concerns and Complaints Policy and Social Services Complaints Policy and Procedures are compliant with our obligations with regard to the Complaints Standards Authority (CSA) which was introduced as part of the Public Services Ombudsman (Wales) 2019 Act. The purpose of the CSA is to ensure that all Councils in Wales have a uniform procedure for managing and reporting all complaints activity.

1 Introduction

- 1.1 Complaints should be viewed as a positive means of promoting customer satisfaction and identifying opportunities to improve service delivery. The purpose of this procedure is to explain to staff at all levels how the Council's Concerns and Complaints Policy operates and to provide practical advice on how to deal with concerns and complaints.
- 1.2 Following its formation in 2019, the CSA developed a Model Concerns and Complaints Policy for adoption by all Local Authorities in Wales. The aim of this Policy was to create a standard, streamlined and seamless process for handling complaints made by members of the public. In addition, the CSA:
 - Supports Local Authorities to deliver effective complaints handling
 - Collects and publishes data from the quarterly reports provided by Local Authorities
 - Delivers bespoke training packages to Local Authorities
- 1.3 The Concerns and Complaints Policy will be available in all Council buildings and accessible via the Council's website and upon request from the Complaints and FOI Service – as with other related policies (i.e. Social Services Complaints Policy and Procedures; Freedom of Information Policy and the Environmental Information Policy).

2 What is a complaint?

- 2.1 A '**complaint**' is defined as:-
 - an expression of dissatisfaction or concern
 - either written or spoken or made by any other communication method
 - by one or more members of the public
 - about a public service provider's action or lack of action
 - or about the standard of service provided

- **which requires a response.**

3 When does the Complaints Policy apply?

- 3.1 Not all expressions of dissatisfaction need to be treated as complaints requiring a formal response under the Concerns and Complaints Policy. All services receive comments, queries and reports of problems as a routine part of their day-to-day business. Every effort should be made to deal with these matters immediately, either by providing information, instigating the appropriate action or explaining a decision. Service users should be informed of their right to make a complaint under the Concerns and Complaints Policy if they are unhappy with the response received from the Service.
- 3.2 The following will **not** be treated as complaints under the Policy:
- an initial request for a service (e.g. reporting a faulty street light)
 - an appeal against a '*properly made decision*' by the Council (i.e. a decision the Council is entitled to make and where the relevant laws, policies and procedures have been correctly followed)
 - representations regarding a Council policy or intended change of policy (e.g. Council Tax increases, revised frequency of refuse collections)
 - attempts to seek change to legislation or a properly made policy decision, or attempts by lobbying groups / organisations to seek to promote a cause
 - complaints for which there is a legal remedy or where legal proceedings already exist
 - complaints about a third party (e.g. noisy neighbours, parking fines issued by private car park companies)
- 3.3 The following types of complaint **should not** be considered under the Policy, as they will be subject to separate arrangements, further details of which are available from the Complaints and FOI Service:
- complaints about schools (*refer to individual school policy which will be compliant with WG Complaints Procedure for School Governing Bodies in Wales; circular 011/2012; October 2012*)
 - complaints about Social Services (*refer to Social Services Complaints Policy*)
 - complaints where there is an alternative procedure for appealing against a decision, e.g. planning appeals, housing benefit appeals or penalty charge notices (*refer to relevant policy/service for further guidance*)
 - complaints about the conduct of a Councillor (*refer to Code of Conduct for Councillors*)
 - potential claims for compensation, which should be referred to the Council's Insurance section (*to be progressed in accordance with the relevant Financial Services policy*)
 - complaints from the public or members of staff about employee conduct, employment matters or complaints about recruitment decisions; all of which should be referred to the People and Organisations Service (*to be addressed under the relevant Human Resources policies and procedures*)

4 How does the Council's Concerns and Complaints Policy work?

- 4.1 The Complaints and FOI Service can be contacted to provide advice and guidance with regards to the Concerns and Complaints Policy and, as a centralised, corporate service, will co-ordinate and facilitate the response and resolution of concerns and complaints. For further advice on these arrangements, the Complaints and FOI Service can be contacted by telephone on: 01545 574151 or via e-mail: complaints@ceredigion.gov.uk.

- 4.2 Early intervention to resolve a concern is proven to be the most effective way to deal with the issue and inspire confidence from the service-user, though this may not always be possible. The Complaints and FOI Service can provide services with additional support to prevent an issue becoming a complaint; however, responsibility for resolving the concern / complaint ultimately lies with the service responsible.
- 4.3 There are two stages to the Council's Concerns and Complaints Policy, both of which require prompt co-operation from the service(s) at the centre of the complaint. The timescales differ between stages and the Complaints and FOI Service will co-ordinate and facilitate the timely acknowledgements, responses and updates with regards to all complaints activity (i.e. issuing acknowledgement letters, formal responses etc.).
- 4.4 The diagram below provides an outline of the timescales of each stage as outlined in the Policy. Service Managers (SMs), Corporate Managers (CMs) and Corporate Lead Officers (CLOs), as indicated by the specific case, will be required to ensure investigations and responses are passed to the Complaints and FOI Service **in advance** of the prescribed timescales – as outlined in red text below.

Stage 1: Informal Resolution

Service Managers will be required to act promptly to investigate the complaint. More specific information on this stage can be found in Section 7.

In the context of early resolution, all Stage 1 complaints must be responded to within **10 working days***

Service Managers will be required to submit their response to the Complaints and FOI Service within 8 working days

**Failure to respond to a Stage 1 complaint within the prescribed timescale of 10 w/d will result in the automatic escalation of the complaint to a Formal Investigation at Stage 2. As such, the CM and CLO will be informed and the process will need to be completed within the remaining 10w/d of the (now Stage 2) complaint.*

Stage 2: Formal Investigation

CMs (and occasionally CLOs) will liaise with the Complaints and FOI Service to identify a suitable Investigating Officer to undertake the formal investigation. In some cases it may be necessary to appoint an Independent Investigating Officer. More specific information on this can stage be found in Section 8.

Stage 2 complaints should be responded to within **20 working days**. However, it is recognised that some investigations may take longer than this. If, for any reason, it will not be possible to provide a substantive response to the complainant within the prescribed timescale, the Investigating Officer must notify the Complaints and FOI Service as early as possible.

CMs/CLOs assigned to investigate a complaint at Stage 2 are required to provide their response and/or report to the Complaints and FOI Service within 18 working days. Alternatively, if it is anticipated that this will not be possible, they must notify the Complaints and FOI Service so that arrangements can be made to update the complainant.

- 4.5 The underlying principle of the management of complaints at the formal stage is to **'Investigate Once, Investigate Well'**. Emphasis must be placed on the importance of conducting a thorough investigation to address all aspects of a complaint rather than re-visiting matters and conducting multiple investigations at different levels within the Council.
- 4.6 Every formal Stage 2 response will include details on how the complainant can refer their complaint to the Public Services Ombudsman for Wales (or the Welsh Language Commissioner if the complaint relates to the failure to adhere to the Welsh Language Standards) if they remain dissatisfied.
- 4.7 Further information regarding referrals to the Ombudsman and Welsh Language Commissioner can be found below in Sections 11 and 12, respectively.

5 Who is responsible for dealing with complaints?

- 5.1 All members of staff may become involved with a complaint from time to time, particularly frontline staff who are delivering services to the public on a day-to-day basis. This procedure, alongside the Policy itself, aims to enable **all** members of staff to identify potential complaints as they arise and to empower them to resolve any issues on the spot or escalate through their management channels.
- 5.2 Resolving concerns or enquiries received directly from service-users or via the Complaints and FOI Service and/or Clic should be considered as part-and-parcel of routine service delivery. In instances whereby a concern cannot be resolved in this manner, the service-user should be informed about how they can make a complaint and/or the matter should be referred to the Complaints and FOI Service to be recorded.
- 5.3 The Council is committed to providing appropriate training for staff at all levels on corporate standards for complaints handling. More information regarding training can be obtained from the Complaints and FOI Service.

6 Receiving a complaint

- 6.1 A complaint can be made in person, by telephone, e-mail, letter or via the on-line complaint form to any member of Council staff. It is important that the complaint and any information relating to the complainant is passed immediately to the Complaints and FOI Service.
- 6.2 In accordance with the Council's statutory obligations under the Welsh Language Measure 2011, a person can make a complaint in Welsh or English – whichever is their language of preference. The complaints process will be followed, in its entirety, in accordance with this preference (i.e. issue a Welsh acknowledgment letter, response letter etc.).
- 6.3 The Council will usually only consider complaints which are made within **6 months** of the incident which triggered the complaint, unless there are very good reasons for not bringing the matter to the Council's attention earlier. In any event, the Council will not consider complaints about matters which took place more than three years ago.
- 6.3 Any member of staff who receives a complaint should notify the Complaints and FOI Service immediately.

- 6.4 If the complainant wishes to make their complaint verbally (in person or by telephone) they must be signposted to the Complaints and FOI Service. Alternatively, the staff member involved in the matter can pass any information they gather, as well as the contact information of the complainant, to the Complaints and FOI Service.
- 6.5 Upon receipt of a complaint by the Complaints and FOI Service, the complaint will be assessed and contact will be made with the relevant SM / CM / CLO in order to:
- (a) consider whether the Concerns and Complaints Policy applies,
 - (b) check whether the time for making a complaint has expired,
 - (c) agree the most appropriate Stage for the complaint to be investigated
- 6.6 The Complaints and FOI Service will then record the complaint on the complaints database in accordance with the actions agreed with the service.
- 6.7 In considering whether a complaint should be dealt with under Stage 1 or Stage 2 of the Concerns and Complaints Policy, the questions below should be taken into account. If the answer to any of these questions is 'yes', it is likely to be more appropriate for the complaint to proceed directly for investigation at Stage 2.
- (a) Has the complainant already tried to resolve the complaint with the staff responsible for delivering the service? *(e.g. is this an issue which has been considered at length at various levels of management within the service?)*
 - (b) Have there been any disagreements with the staff responsible for delivering the service? *(e.g. does the complainant question the honesty/integrity of the staff they have been dealing with?)*
 - (c) Are there any broader reasons why it would be more appropriate for a more senior officer to consider the complaint? *(e.g. if the matter relates to an issues of significant public interest or if similar issues have been raised by others within a short period of time)*
 - (d) Does the complaint raise any serious or complex issues? *(e.g. whether referral for safeguarding screening has taken place and the matter is now deemed appropriate to conclude under the Concerns and Complaints Policy)*
 - (e) Has the complainant asked for a formal investigation or expressed a wish to proceed straight to Stage 2? *(whether this is proportionate or reasonable will depend on the circumstances of the complaint and the outcome of discussions with the service).*

7 Stage 1 – Informal resolution

- 7.1 A member of staff who is responsible for responding to a Stage 1 complaint should:
- (a) Ensure that the Complaints and FOI Service is aware of the complaint and that it is recorded on the complaints database.
 - (b) The Complaints and FOI Service will seek to acknowledge the complaint and explain the arrangements under Stage 1 and advise that they will receive a response within **10 working days**.

- (c) As outlined in Section 4, if it is not possible to respond to the complaint within 10 working days, the service must inform the Complaints and FOI Service as early as possible in order for the complaint to be escalated to Stage 2 and for them to notify the complainant accordingly. **It must be noted that in these circumstances the 'clock' does not reset to provide an additional 20 working days; therefore the complaint must be responded to within the next 10 working days following the date of receipt.**
- (d) When responding to a Stage 1 complaint, complainants will be advised that they may request a formal investigation under Stage 2 if they are not satisfied with the outcome. The complainant will also be advised that they need to provide specific details to support their request for a formal investigation within 20 working days of the Stage 1 response being issued.
- (e) In rare cases, there may not be any merit in accepting the complainants request to escalate their complaint for a formal investigation under Stage 2 (i.e. if it is deemed that nothing further can be achieved by investigating matters at Stage 2 or if the rationale provided by the complainant is unreasonable or disproportionate). This will usually be discussed between the Complaints and FOI Service and the Service in receipt of the complaint so that everybody is in agreement that the complaint should be refused. Such cases will involve a formal response from the Complaints and FOI Manager explaining why the matter will not be investigated formally and the Ombudsman's contact information will be included in the letter.
- (f) In addition to resolving the complaint, emphasis must be placed on **learning lessons**. For reporting purposes, information is required from services upon the conclusion of a complaint with regards to any service improvements or lessons learned as a direct consequence of the complaint.

8 Stage 2 – Formal investigation

- 8.1 Information about how a complaint can be escalated to Stage 2 will be included in every Stage 1 response issued by the Complaints and FOI Service. However, if a member of staff receives a request for a formal investigation of their complaint, this should be forwarded to the Complaints and FOI Service immediately.
- 8.2 The Complaints and FOI Service will liaise with the CM and/or CLO of the relevant Service(s) referred to in the complaint with regards to the following actions:
 - (a) A formal acknowledgement will be issued to the complainant within **5 working days**. This letter will explain how the matter is being investigated and by whom, when they will be likely to receive a response and they will be offered the opportunity to discuss their complaint further with the Service and/or Complaints and FOI Service.
 - (b) A copy of the Concerns and Complaints Policy will be provided and, if unknown, the Complaints and FOI Service will seek to clarify the complainant's preferred method and language of communication and whether they have any particular requirements (e.g. if they require support in making their complaint or if they have a disability which requires the Council to make reasonable adjustments in order to enable them to make their complaint).
 - (c) Obtain written consent in instances where somebody is acting on behalf of the service user.

- (d) All information will be retained in the complaint file (in the event that matters are subsequently referred to the Ombudsman). Details of the complaint will also be recorded on the complaints database for monitoring and reporting purposes.
 - (e) If the complaint is 'out of time' (i.e. over 6 months since the incident which triggered the complaint) consideration should be given as to whether there are good reasons to justify acceptance of the complaint regardless of the time which has elapsed.
- 8.3 Stage 2 complaints will usually be investigated by the CM of the relevant Service and who is senior to any staff directly referred to in the complaint. Occasionally, it may be necessary for the CLO to undertake the Stage 2 investigation. It is vital however, that the investigation is conducted by a senior member of staff who has not been directly involved in the issues referred to in the complaint. In the interests of openness and transparency (in order to support staff members, attempt to resolve the complaint and preserve the integrity of the process) it may be considered more appropriate for a CM or CLO from another Service to investigate the complaint. Such instances will be discussed between the Complaints and FOI Manager, the CM/CLO of the Service at the centre of the complaint and the CM for Partnerships and Performance (who has management responsibility of the Complaints and FOI Service) and in highly contentious cases, the CLO for Policy, Performance and Public Protection.
- 8.4 It is imperative that complaints are not investigated by a member of staff where there may be a conflict of interests (i.e. a close relationship between the investigator and a member of staff involved in the complaint). Any possible situations need to be declared immediately and an alternative investigator appointed.
- 8.5 The person investigating a Stage 2 complaint may be required to do all or some of the following (depending on the nature, complexity or severity of the complaint):
- (a) Offer a discussion with the complainant and agree the matters which will be investigated.
 - (b) Confirm the complainant's desired outcomes (if this is not clear from their complaint).
 - (c) Consider whether the matter can be resolved by way of a 'quick fix' without having to undertake a full investigation e.g. by offering to provide a service which the complainant should have received.
 - (d) Maintain communication with the Complaints and FOI Service so that progress can be recorded and if required, holding letters can be issued to the complainant (if it is not possible to complete the investigation within the prescribed timescale of **20 working days**).
 - (e) Compile a formal report (template attached as Appendix 2) to accompany their response. The draft report and response, once complete, should be shared with the Complaints and FOI Service.
 - (f) The Complaints and FOI Service will quality check the documents and retain any evidence in the complaints file. In addition, they will record the outcome of the complaint and issue the formal response directly to the complainant, ensuring that all compulsory information is included therein (i.e. referral to the Ombudsman, whether the complaint(s) are upheld or not upheld etc.).

9 Recording and Reporting Complaints Activity

- 9.1 All complaints will be recorded by the Complaints and FOI Service on the complaints database. The Stage, outcome and timeliness of the complaint response will be included in this recorded information, as will any information about lessons learned.
- 9.2 The Complaints and FOI Service will provide a detailed report to the CSA and Leadership Group on a quarterly basis. Complaints activity will be reported on to Cabinet and the Council's Audit Committee twice a year (to include the Annual Report which will be presented together with the Ombudsman's Annual Report for the Council).
- 9.3 Identifying lessons to be learned and implementation of improvements as a consequence of complaints are mandatory fields on the database and this information will be summarised, or examples chosen, to be included in the reports produced. This will reinforce the importance of making positive changes to prevent future occurrences.

10 What if the complaint involves more than one Council Service or another organisation?

- 10.1 If a complaint involves more than one Council Service, the Complaints and FOI Service will liaise with the CMs and CLOs of the relevant Services to agree who will be leading on specific elements of the complaint. The Complaints and FOI Service will co-ordinate the complaint and, if necessary, undertake the investigation. If agreement cannot be reached as to who should lead on a particular aspect of a complaint, this will be resolved via escalation to the CM for Partnerships and Performance and/or the CLO for Policy, Performance and Public Protection.
- 10.2 A complaint involving another organisation (e.g. a Housing Association or the Local Health Board) will be discussed with the CM / CLO of the relevant Service(s) so they are aware of a complaint involving their Service and, if known, obtain from them the details of any external parties referred to.
- 10.3 The Complaints and FOI Service will notify the complainant in writing that their complaint involves another organisation and their consent will be required prior to sharing the complaint with any interested parties. The expectation will be that the organisation involved in the majority of the complaint should lead on the investigation. Alternatively, it may be decided that each organisation addresses its own sections of the complaint under their policies with the aim of responding directly to the complainant as opposed to issuing a single, combined response.
- 10.4 If the complaint involves an organisation who is providing a Service on our behalf (i.e. a commissioned/contracted Service) the circumstances of each individual case will need to be considered and discussed between the Complaints and FOI Service and the commissioning Service. Usually, the expectation would be for the commissioned Service to investigate the complaint under their own complaints procedures and provide a copy of their response to the Council. However, on occasion, the circumstances may require the Council to follow its own complaints procedures (in this case, the Concerns and Complaints Policy). Such instances will be discussed at length between the Complaints and FOI Service and the commissioning Service.

11 Public Services Ombudsman for Wales

- 11.1 The Ombudsman is independent of all government bodies and looks into complaints about public services in Wales, including complaints made against Local Authorities. A complainant who is not satisfied with the way in which his/her complaint has been handled by the Council can refer their complaint to the Ombudsman.
- 11.2 A complaint can be referred to the Ombudsman at any stage, but the Ombudsman will usually request that the Council has had a reasonable opportunity to investigate and respond in accordance with the relevant complaints policy in the first instance. However, the Ombudsman has discretion to accept a complaint for investigation at any time if they consider it reasonable to do so.
- 11.3 The Complaints and FOI Service will provide support and advice to Services who are involved in complaints under consideration or investigation by the Ombudsman. In addition, the Complaints and FOI Service will be able to provide resources to assist Services during the process (including the Ombudsman 'Toolkit', Factsheets and advice on previous similar cases reported on by the Ombudsman).
- 11.4 Complainants will be advised within their response at Stage 2 that they can contact the Ombudsman if they remain dissatisfied. The same also applies in instances where it is deemed that the complaints policy does not apply, and when requests for investigations at Stage 2 are refused (as per point 7.1(e) above). The Ombudsman's contact details are as follows:
- Telephone: 0300 790 0203
 - E-mail: ask@ombudsman-wales.org.uk
 - Online Form: www.ombudsman-wales.org.uk
 - Via post: Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed CF35 5LJ
- 11.5 The Complaints and FOI Service will record, monitor and report on all Ombudsman activity involving the Council as part of its quarterly reporting procedure. In addition, Ombudsman activity will be included in reports presented to the Cabinet, Audit Committee and any other relevant committees on a biannual basis. The end of year report compiled by the Complaints and FOI Service will be accompanied by the Ombudsman's Annual Letter outlining the Council's performance with regard to cases referred for Ombudsman consideration.

12 Welsh Language Complaints

- 12.1 As per 6.1 complainants have the right to express their dissatisfaction in their preferred language. Should any complaints arise regarding the provision of Council Services in the medium of Welsh, these will be reported directly to the Council's Welsh Language Officer. In addition, the Complaints and FOI Service will record the case on the complaints database – highlighting that the nature of the complaint relates to the Council's failure to adhere to its statutory obligations under the Welsh Language Standards.

12.2 Complaints regarding the Council's performance in respect of the Welsh Language Standards will be included in the Welsh Language Officer's Annual Report which is submitted to the Welsh Language Commissioner.

12.3 Complainants who remain dissatisfied following the Council's response at Stage 2 where the Council's compliance or performance with the Welsh Language Standards is under dispute, should be advised within their formal response, that they may refer their complaint to the Welsh Language Commissioner for external consideration.

12.4 The Welsh Language Commissioner's details are provided below:

- Telephone: 0345 6033 221
- E-mail: post@cyg-wlc.cymru
- Website: [Welsh Language Commissioner](#)
- Via post: Welsh Language Commissioner, Market Chambers, 5–7 St Mary Street, Cardiff CF10 1AT

13 Anonymous complaints

13.1 Complaints made anonymously may still raise issues of serious concern and the Complaints and FOI Service will advise Services whether the information provided is sufficient to warrant further investigation in the accordance with the Concerns and Complaints Policy. Whilst the formal response process would not be applicable in these circumstances, there may be merit in undertaking an investigation and retaining the documentation generated in the event that the complainant later provides their information, or if similar concerns arise.

14 Unacceptable actions by complainants

14.1 The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who complain. Access to this Service and to Council offices and employees is not normally limited. However, there are a small number of complainants who, because of the frequency of their contact with the Council, hinder consideration of their own complaints.

14.2 In most cases, complaints can be dealt with quickly and efficiently. However, the behaviour of a minority of service users can make investigating and resolving a complaint difficult. These service users can also take up a lot of officer time so there is less time to help others.

14.3 In a very small number of cases, a complainant's behaviour may become unacceptable. The Council has a duty to protect its staff from behaviour which is abusive, offensive and threatening, and in these cases, will consider the matter under the Unacceptable Actions by Service Users Policy.

14.4 Features of a persistent complainant may include:

- Continuously shouting to a member of staff, swearing, threats, and name-calling
- Obsessive, harassing, or prolific behaviour
- Making the same complaint repeatedly or with minor differences but never accepting the outcome

- Seeking an unrealistic outcome and refusing to accept that the Council cannot provide what they are asking for

14.5 When the relationship has become unworkable, the Complaints and FOI Service, together with the relevant CM and CLO will consider applying the Unacceptable Actions by Service Users Policy.

15 Compliments

15.1 It is equally important for the Council to record compliments received from members of the public in order to provide positive feedback to staff and share best practice. A compliment can be defined as an expression of praise or positive feedback regarding services provided by the Council.

15.2 Staff should forward details of all compliments received to the Complaints and FOI Service who will record the information on the central database for inclusion in the quarterly and biannual reports.

15.3 Occasionally, compliments will be received in the form of formal correspondence to the Council. In such cases, the compliment should be formally acknowledged and the service-user thanked for taking the time to provide positive feedback.

16 Freedom of Information Act 2000 Complaints

16.1 Complaints about the Council's management of requests under the Freedom of Information (FOI) Act 2000 will be addressed under the relevant policy (e.g. Freedom of Information Policy or Environmental Information Regulations Policy). This process is considered as an 'Internal Review' which will be considered and responded to by the CLO for Policy, Performance and Public Protection.

16.2 All Internal Reviews are recorded and included in all routine reports referred to above.

16.3 If an applicant remains dissatisfied with the outcome of their Internal Review, they are informed that they may refer their case to the Information Commissioner's Office (ICO) for further consideration.

Cyngor Sir Ceredigion County Council - Integrated Impact Assessment (IIA)

An integrated tool to inform effective decision making



This **Integrated Impact Assessment tool** incorporates the principles of the Well-being of Future Generations (Wales) Act 2015 and the Sustainable Development Principles, the Equality Act 2010 and the Welsh Language Measure 2011 (Welsh Language Standards requirements) and Risk Management in order to inform effective decision making and ensuring compliance with respective legislation.

1. PROPOSAL DETAILS: (Policy/Change Objective/Budget saving)

Proposal Title	Introduction of Revised Concerns and Complaints Policy and Procedures
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Service Area	Partnerships and Performance	Corporate Lead Officer	Alun Williams	Strategic Director	Barry Rees MBE
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Name of Officer completing the IIA	Marie-Neige Hadfield	E-mail	Marie-Neige.Hadfield@ceredigion.gov.uk	Phone no	01545572156
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Please give a brief description of the purpose of the proposal

Full review of the Council's Concerns and Complaints Policy and Procedures in order to ensure the arrangements for dealing with corporate complaints are consistent and compliant with statutory requirements.

Who will be directly affected by this proposal? (e.g. The general public, specific sections of the public such as youth groups, carers, road users, people using country parks, people on benefits, staff members or those who fall under the protected characteristics groups as defined by the Equality Act and for whom the authority must have due regard).

The amendments in the policy and procedures will have a positive effect on the public wishing to raise a complaint and the Council staff needing to address such complaints. Amendments to the frequency of reporting will promote the public's confidence in the Council's compliance with statutory requirements (primarily the Public Services Ombudsman (Wales) 2019 Act and Local Government and Elections (Wales) Act 2021). The Process will be more transparent as a consequence of the reporting procedures and this will enhance governance over the arrangements within the organisation.

VERSION CONTROL: The IIA should be used at the earliest stages of decision making, and then honed and refined throughout the decision making process. It is important to keep a record of this process so that we can demonstrate how we have considered and built in sustainable development, Welsh language and equality considerations wherever possible.

Author	Decision making stage	Version number	Date considered	Brief description of any amendments made following consideration
Marie-Neige Hadfield	Considered by Corporate Resources	2	7 th July 2021	The Policy and Procedures were supported by the Scrutiny Committee

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	Overview and Scrutiny Committee on 7 th July 2021			
COUNCIL STRATEGIC OBJECTIVES: Which of the Council's Strategic Objectives does the proposal address and how?				
Boosting the Economy				
Investing in People's Future				
Enabling Individual and Family Resilience		The revised Policy and Procedures will enable the general public to voice their concerns in the knowledge that these will be considered fairly and properly, in accordance with the Council's statutory and procedural obligations.		
Promoting Environmental and Community Resilience				

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NOTE: As you complete this tool you will be asked for **evidence to support your views**. These need to include your baseline position, measures and studies that have informed your thinking and the judgement you are making. It should allow you to identify whether any changes resulting from the implementation of the recommendation will have a positive or negative effect. Data sources include for example:

- *Quantitative data - data that provides numerical information, e.g. population figures, number of users/non-users*
- *Qualitative data – data that furnishes evidence of people's perception/views of the service/policy, e.g. analysis of complaints, outcomes of focus groups, surveys*
- *Local population data from the census figures (such as Ceredigion Welsh language Profile and Ceredigion Demographic Equality data)*
- *National Household survey data*
- *Service User data*
- *Feedback from consultation and engagement campaigns*
- *Recommendations from Scrutiny*
- *Comparisons with similar policies in other authorities*
- *Academic publications, research reports, consultants' reports, and reports on any consultation with e.g. trade unions or the voluntary and community sectors, 'Is Wales Fairer' document.*
- *Welsh Language skills data for Council staff*

2. SUSTAINABLE DEVELOPMENT PRINCIPLES: How has your proposal embedded and prioritised the five sustainable development principles, as outlined in the Well-being of Future Generations (Wales) Act 2015, in its development?

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Sustainable Development Principle	Does the proposal demonstrate you have met this principle? If yes, describe how. If not, explain why.	What evidence do you have to support this view?	What action (s) can you take to mitigate any negative impacts or better contribute to the principle?
Long Term Balancing short term need with long term and planning for the future.	<ul style="list-style-type: none"> N/A 		
Collaboration Working together with other partners to deliver.	<ul style="list-style-type: none"> Approval of the revised Policy and Procedures will enhance the Council's working relationships with other Local Authorities as there will be a consistent approach to complaints handling across Wales. This will also promote the Council's relationship with the Public Services Ombudsman for Wales – both by virtue of the fact the Council will be compliant with the Ombudsman's new legislation, but also because reporting arrangements will be consistent and in line with their requirements. 	The Ombudsman's Annual Letter has not yet been received for 2020-2021 (whereby the new legislation governing complaints-handling will be relevant)	Nil – the changes made will only have a positive impact on everybody concerned (i.e. the public and staff).
Involvement Involving those with an interest and seeking their views.	<ul style="list-style-type: none"> Public consultation was not necessary as the amendments made to the previous versions are consistent with changes in legislation – all of which are more positive for service users/the general public. 	None – but the fundamental arrangements for making a complaint are unchanged and the process is still easily accessible to all.	Nil – the changes made will only have a positive impact on members of the public who wish to complain about the services provided by the Council.
Prevention Putting resources into preventing problems occurring or getting worse.	<ul style="list-style-type: none"> Good complaints handling in itself should be seen as a preventative measure for avoiding past failures – these documents will strengthen the governance over learning lessons and reporting arrangements. 		Nil – the changes made will only have a positive impact on everybody concerned (i.e. the public and staff).
Integration Positively impacting on people, economy, environment and	<ul style="list-style-type: none"> N/A 		



culture and trying to benefit all three.			
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3. WELL-BEING GOALS: Does your proposal deliver any of the seven National Well-being Goals for Wales as outlined on the Well-being of Future Generations (Wales) Act 2015? Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal. We need to ensure that the steps we take to meet one of the goals aren't detrimental to meeting another.

Well-being Goal	Does the proposal contribute to this goal? Describe the positive or negative impacts.	What evidence do you have to support this view?	What action (s) can you take to mitigate any negative impacts or better contribute to the goal?
3.1. A prosperous Wales Efficient use of resources, skilled, educated people, generates wealth, provides jobs.	Effective complaints handling will have a positive impact on all aspects of the Council's business.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	N/A
3.2. A resilient Wales Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change).	Effective complaints handling will have a positive impact on all aspects of the Council's business.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	N/A
3.3. A healthier Wales People's physical and mental wellbeing is maximised and health impacts are understood.	Effective complaints handling will have a positive impact on all aspects of the Council's business.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	N/A
3.4. A Wales of cohesive communities Communities are attractive, viable, safe and well connected.	Effective complaints handling will have a positive impact on all aspects of the Council's business.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	N/A
3.5. A globally responsible Wales Taking account of impact on global well-being when considering local social, economic and environmental well-being.	Effective complaints handling will have a positive impact on all aspects of the Council's business.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	N/A

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<p>3.6. A more equal Wales People can fulfil their potential no matter what their background or circumstances.</p> <p><i>In this section you need to consider the impact on equality groups, the evidence and any action you are taking for improvement.</i> <i>You need to consider how might the proposal impact on equality protected groups in accordance with the Equality Act 2010?</i> <i>These include the protected characteristics of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or beliefs, gender, sexual orientation.</i> Please also consider the following guide:: Equality Human Rights - Assessing Impact & Equality Duty</p>	<p>Describe why it will have a positive/negative or negligible impact.</p> <p><i>Using your evidence consider the impact for each of the protected groups. You will need to consider do these groups have equal access to the service, or do they need to receive the service in a different way from other people because of their protected characteristics. It is not acceptable to state simply that a proposal will universally benefit/disadvantage everyone. You should demonstrate that you have considered all the available evidence and address any gaps or disparities revealed.</i></p>	<p>What evidence do you have to support this view?</p> <p><i>Gathering Equality data and evidence is vital for an IIA. You should consider who uses or is likely to use the service. Failure to use <u>data</u> or <u>engage</u> where change is planned can leave decisions open to legal challenge. Please link to involvement box within this template. Please also consider the general guidance.</i></p>	<p>What action (s) can you take to mitigate any negative impacts or better contribute to positive impacts?</p> <p><i>These actions can include a range of positive actions which allows the organisation to treat individuals according to their needs, even when that might mean treating some more favourably than others, in order for them to have a good outcome. You may also have actions to identify any gaps in data or an action to engage with those who will/likely to be effected by the proposal. These actions need to link to Section 4 of this template.</i></p>																
<p>Age Do you think this proposal will have a positive or a negative impact on people because of their age? (Please tick ✓)</p> <table border="1" data-bbox="69 989 786 1372"> <thead> <tr> <th></th> <th>Positive</th> <th>Negative</th> <th>None/ Negligible</th> </tr> </thead> <tbody> <tr> <td>Children and Young People up to 18</td> <td style="text-align: center;">✓</td> <td></td> <td></td> </tr> <tr> <td>People 18-50</td> <td style="text-align: center;">✓</td> <td></td> <td></td> </tr> <tr> <td>Older People 50+</td> <td style="text-align: center;">✓</td> <td></td> <td></td> </tr> </tbody> </table>		Positive	Negative	None/ Negligible	Children and Young People up to 18	✓			People 18-50	✓			Older People 50+	✓			<p>The changes made to the policy and procedures are positive ones which will only benefit the public. The arrangements in place for supporting people to make their complaint remains unchanged, but there is a greater emphasis in governance as a consequence of new legislation being introduced. This should promote and foster a more trusting relationship between the public and the Council.</p>	<p>Compliments, Complaints and FOI Reports presented to Council on an annual basis.</p>	<p>N/A</p>
	Positive	Negative	None/ Negligible																
Children and Young People up to 18	✓																		
People 18-50	✓																		
Older People 50+	✓																		
<p>Disability</p>			<p>N/A</p>																

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Do you think this proposal will have a positive or a negative impact on people because of their disability? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of individuals with disabilities, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Hearing Impairment	Positive	Negative	None/ Negligible			
	✓					
Physical Impairment	Positive	Negative	None/ Negligible			
	✓					
Visual Impairment	Positive	Negative	None/ Negligible			
	✓					
Learning Disability	Positive	Negative	None/ Negligible			
	✓					
Long Standing Illness	Positive	Negative	None/ Negligible			
	✓					
Mental Health	Positive	Negative	None/ Negligible			
	✓					
Other	Positive	Negative	None/ Negligible			
Transgender Do you think this proposal will have a positive or a negative impact on transgender people? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of transgender individuals, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Transgender	Positive	Negative	None/ Negligible			
		✓				

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Marriage or Civil Partnership Do you think this proposal will have a positive or a negative impact on marriage or Civil partnership? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of those in marriages or civil partnerships, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Marriage	Positive	Negative	None/ Negligible			
	✓					
Civil partnership	Positive	Negative	None/ Negligible			
	✓					
Pregnancy or Maternity Do you think this proposal will have a positive or a negative impact on pregnancy or maternity? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of expectant mothers, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Pregnancy	Positive	Negative	None/ Negligible			
	✓					
Maternity	Positive	Negative	None/ Negligible			
	✓					
Race Do you think this proposal will have a positive or a negative impact on race? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of people on the basis of race, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
White	Positive	Negative	None/ Negligible			
	✓					
Mixed/Multiple Ethnic Groups	Positive	Negative	None/ Negligible			
	✓					
	Positive	Negative	None/			

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Asian / Asian British	<input checked="" type="checkbox"/>		Negligible			
Black / African / Caribbean / Black British	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Other Ethnic Groups	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					

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Religion or non-beliefs Do you think this proposal will have a positive or a negative impact on people with different religions, beliefs or non-beliefs? (Please tick <input checked="" type="checkbox"/>)				Whilst the changes to the policy and procedures may not directly improve the experiences of people on the basis of their religion/non-religion, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Christian	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Buddhist	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Hindu	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Humanist	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Jewish	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Muslim	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					
Sikh	Positive	Negative	None/ Negligible			
	<input checked="" type="checkbox"/>					

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Non-belief	Positive	Negative	None/ Negligible			
	✓					
Other	Positive	Negative	None/ Negligible			

Sex Do you think this proposal will have a positive or a negative impact on men and/or women? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of people on the basis of sex, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Men	Positive	Negative	None/ Negligible			
	✓					
Women	Positive	Negative	None/ Negligible			
	✓					

Sexual Orientation Do you think this proposal will have a positive or a negative impact on people with different sexual orientation? (Please tick ✓)				Whilst the changes to the policy and procedures may not directly improve the experiences of people on the basis of their sexual orientation, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.	Compliments, Complaints and FOI Reports presented to Council on an annual basis.	
Bisexual	Positive	Negative	None/ Negligible			
	✓					
Gay Men	Positive	Negative	None/ Negligible			
	✓					
Gay Women / Lesbian	Positive	Negative	None/ Negligible			
	✓					
Heterosexual / Straight	Positive	Negative	None/ Negligible			
	✓					



Having due regards in relation to the three aims of the Equality Duty - determine whether the proposal will assist or inhibit your ability to eliminate discrimination; advance equality and foster good relations.

3.6.2. How could/does the proposal help advance/promote equality of opportunity?

You should consider whether the proposal will help you to: ● Remove or minimise disadvantage ● To meet the needs of people with certain characteristics ● Encourage increased participation of people with particular characteristics

Whilst the changes to the policy and procedures may not directly impact people in the context of the Council's equality duties, the changes are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.

3.6.3. How could/does the proposal/decision help to eliminate unlawful discrimination, harassment, or victimisation?

You should consider whether there is evidence to indicate that: ● The proposal may result in less favourable treatment for people with certain characteristics ● The proposal may give rise to indirect discrimination ● The proposal is more likely to assist or impeded you in making reasonable adjustments

The changes to the Policy and Procedures are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.

3.6.4. How could/does the proposal impact on advancing/promoting good relations and wider community cohesion?

You should consider whether the proposal with help you to: ● Tackle prejudice ● Promote understanding

The changes to the Policy and Procedures are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council.

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Having due regard of the Socio-Economic Duty of the Equality Act 2010.

Socio-Economic Disadvantage is living in less favourable social and economic circumstances than others in the same society.

As a listed public body, Ceredigion County Council is required to have due regard to the Socio-Economic Duty of the Equality Act 2010. Effectively this means carrying out a poverty impact assessment. The duty covers all people who suffer socio-economic disadvantage, including people with protected characteristics.

3.6.5 What evidence do you have about socio-economic disadvantage and inequalities of outcome in relation to the proposal?

Describe why it will have a positive/negative or negligible impact.

As above, the changes made to the Policy and Procedures will all be beneficial to the Public.

What evidence do you have to support this view?

-



What action(s) can you take to mitigate any negative impacts or better contribute to positive impacts?

-

Cyngor Sir Ceredigion County Council - Integrated Impact Assessment (IIA)

An integrated tool to inform effective decision making



3.7. A Wales of vibrant culture and thriving Welsh language Culture, heritage and Welsh Language are promoted and protected. <i>In this section you need to consider the impact, the evidence and any action you are taking for improvement. This in order to ensure that the opportunities for people who choose to live their lives and access services through the medium of Welsh are not inferior to what is afforded to those choosing to do so in English, in accordance with the requirement of the Welsh Language Measure 2011.</i>				Describe why it will have a positive/negative or negligible impact.	What evidence do you have to support this view?	What action (s) can you take to mitigate any negative impacts or better contribute to positive impacts?
Will the proposal be delivered bilingually (Welsh & English)?	Positive	Negative	None/ Negligible	Yes – there is no change to the previous arrangements in this regard.		
	✓					
Will the proposal have an effect on opportunities for persons to use the Welsh language?	Positive	Negative	None/ Negligible	The changes to the Policy and Procedures are all positive (in terms of frequency of reporting and governance) which should promote and foster a more trusting relationship between the public and the Council. There are no changes to the previous arrangements concerning the Welsh language.		
	✓					
Will the proposal increase or reduce the opportunity for persons to access services through the medium of Welsh?	Positive	Negative	None/ Negligible	No change – the same opportunities will remain.		
	✓					
How will the proposal treat the Welsh language no less favourably than the English language?	Positive	Negative	None/ Negligible	No change – the same opportunities will remain.		

Cyngor Sir Ceredigion County Council - Integrated Impact Assessment (IIA)

An integrated tool to inform effective decision making



Will it preserve promote and enhance local culture and heritage?	Positive	Negative	None/ Negligible	N/A		
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4. STRENGTHENING THE PROPOSAL: If the proposal is likely to have a negative impact on any of the above (including any of the protected characteristics), what practical changes/actions could help reduce or remove any negative impacts as identified in sections 2 and 3?

4.1 Actions.

What are you going to do?	When are you going to do it?	Who is responsible?	Progress
N/A			

4.2. If no action is to be taken to remove or mitigate negative impacts please justify why.
(Please remember that if you have identified unlawful discrimination, immediate and potential, as a result of this proposal, the proposal must be changed or revised).

The changes to the Policy and Procedures mainly relate to the governance and reporting arrangements of complaints activity within the Council. Therefore, there will be no negative impacts.

4.3. Monitoring, evaluating and reviewing.

How will you monitor the impact and effectiveness of the proposal?

N/A

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5. RISK: What is the risk associated with this proposal?

Impact Criteria	1 - Very low	2 - Low	3 - Medium	4 - High	5 - Very High
Likelihood Criteria	1 - Unlikely to occur	2 - Lower than average chance of occurrence	3 - Even chance of occurrence	4 - Higher than average chance of occurrence	5 - Expected to occur
Risk Description	Impact (severity)		Probability (deliverability)		Risk Score
1	1		1		3



Does your proposal have a potential impact on another Service area?			
This is a corporate policy – therefore there will be an impact on all services (excluding those which would fall under the Social Services complaints procedure).			

6. SIGN OFF			
Position	Name	Signature	Date
Service Manager	Marie-Neige Hadfield	<i>MNH</i>	02.09.21
Corporate Lead Officer	Alun Williams	<i>Alun Williams</i>	02.09.21
Strategic Director	Barry Rees MBE		
Portfolio Holder	Cllr. Ellen ap Gwynn		

Cyngor Sir CEREDIGION County Council

REPORT TO: Council

DATE: 23 September 2021

LOCATION: Virtual Meeting

TITLE: Revised Concerns and Complaints Policy and Procedures

PURPOSE OF REPORT: To provide feedback from the Corporate Resources Overview and Scrutiny Committee held on 7 July 2021

BACKGROUND:

At its 7 July meeting, Members of the Corporate Resources Overview and Scrutiny Committee considered the Revised Concerns and Complaints Policy and Procedures.

The Policy has been reviewed and updated for two reasons:

1. To incorporate the vast organisations and operational changes which have taken place review in 2015, which includes the centralisation of the Complaints and FOI Service; and;
2. To ensure that the Council's arrangements for managing corporate concerns and Complaints is compliant with the requirements stipulated by the Complaints Standards Authority (CSA), which was introduced under the Public Services Ombudsman (Wales) 2019 Act.

The Council's current Concerns and Complaints Policy is no longer fit for purpose due to the organisational, operational and legislative changes which have been implemented since the last Review in 2015.

During discussion, Committee Members complimented the Officer on the high standard in which the report was written and how clear and concise the information was reported to the Committee.

Following discussion, Committee Members were asked to consider the following recommendation:

RECOMMENDATION:

That Corporate Resources Overview and Scrutiny Committee recommend the draft Concerns and Complaints Policy and the accompanying Procedures to be presented to the Council meeting in for approval on 23rd September 2021.

- Members agreed to recommend that Council approve the draft Concerns and Complaints Policy and the accompanying Procedures.

The Chairman thanked the Officer for attending and presenting at the meeting and reiterated the compliments mentioned by Members above.

Councillor Ivor Williams
Chairman of the Corporate Resources Overview and Scrutiny Committee

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Cyngor Sir CEREDIGION County Council

REPORT TO: Council

DATE OF MEETING: 23 September 2021

LOCATION: Remotely via Video Conference

TITLE: Report on the Council's use of the Regulation of Investigatory Powers Act 2000 ('RIPA')

PURPOSE OF REPORT: Monitoring of the Council's use of RIPA

FOR: Information & Decision

Cabinet Portfolio and Cabinet Member: Cllr. Ray Quant MBE, Deputy Leader of the Council and Cabinet Member for Customer Contact, Legal & Governance, People & Organisation

BACKGROUND:

A Report on RIPA was last presented to Council on 5th March 2020 (see Report at: http://www.ceredigion.gov.uk/cpd/Democratic_Services_Meetings_Public/H_RIPA.pdf).

A Report on RIPA was brought to the Council's Overview & Scrutiny Co-ordinating Committee on 15th September 2021 (see Report and Draft Minutes at: <https://council.ceredigion.gov.uk/ieListMeetings.aspx?CommitteeId=143&LLL=0>).

CURRENT POSITION

The Committee resolved to recommend that Council approves:

- 1) The revised RIPA PART II Directed Surveillance, Covert Human Intelligence Sources and Communications Data Corporate Policy & Procedures Document ('RIPA Policy') (**Appendix 1**); and
- 2) The (draft) RIPA Social Media Policy (**Appendix 2**).

RECOMMENDATIONS:

That the Council resolves, in accordance with the recommendation of the Council's Overview & Scrutiny Co-ordinating Committee, to:

1. Approve the changes made to the Council's RIPA Policy (**Appendix 1**); and
2. Approve the draft RIPA Social Media Policy (**Appendix 2**).

REASON FOR RECOMMENDATIONS: The recommendations are necessary to reflect changes in statutory guidance and legislation, and regulators' requirements.

WELLBEING OF FUTURE GENERATIONS:

Has an Integrated Impact Assessment been completed? No
If, not, please state why

Summary: *This report does not represent a change in policy or strategy.*

Long term:	Planning for the long term in compliance with statutory requirements and development of long term policies for benefit of staff and the Local Authority. Consideration of accountability and well-being goals (e.g. globally responsible Wales – improvements to economic/social wellbeing, and cohesive community – safe and well-connected community) in benefits of having clear and robust RIPA Policy and RIPA Social Media Policy for Staff;
Integration:	Amendments take into account legislation changes and guidance.
Collaboration:	Liaising with training providers.
Involvement:	To ensure that access to the Council’s RIPA Policy and RIPA Social Media Policy is afforded to all Employees, and to facilitate transparency and openness within the organisation.
Prevention:	To ensure that the Council’s RIPA Policy remains updated and fit for purpose, and to approve the Council’s RIPA Social Media Policy, to ensure appropriate rules and guidance in place for Officers.

Overview and Scrutiny: Overview & Scrutiny Co-ordinating Committee 15/9/21
<https://council.ceredigion.gov.uk/ieListMeetings.aspx?CommitteeId=143&LLL=0>

Policy Framework: Democratic Arrangements

Corporate Priorities: Cross cutting theme to ensure that services are fit for purpose.

Finance and Procurement implications: None

Legal Implications: None

Staffing implications: None

Property / asset implications: None

Risk(s): None

Statutory Powers: Regulation of Investigatory Powers Act 2000 (‘RIPA’) as amended

RIPA Statutory Codes of Practice, available at:
<https://www.gov.uk/government/collections/ripa-codes>

Investigatory Powers Act 2016 ('IPA 2016')
<https://www.legislation.gov.uk/ukpga/2016/25/contents>

SI 2010 N0.521 - Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010

<http://www.legislation.gov.uk/uksi/2010/521/contents/made>

SI 2012 No.1500 (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012)

<http://www.legislation.gov.uk/uksi/2012/1500/contents/made>

- Background Papers:**
- Report to Council 5th March 2020
http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/H_RIPA.pdf)
 - Report to Overview & Scrutiny Co-ordinating Committee 20th January 2021
<https://www.ceredigion.gov.uk/your-council/councillors-committees/committees/coordinating/?year=2021&date=20%2F01%2F2021>)
 - Report to Overview & Scrutiny Co-ordinating Committee 15th September 2021:
<https://council.ceredigion.gov.uk/ieListMeetings.aspx?CommitteeId=143&LLL=0>).

Acronyms: N/A

Appendices: Appendix 1- Draft Council RIPA Policy
Appendix 2- Draft RIPA Social Media Policy

Contact Name: Elin Prysor

Designation: Corporate Lead Officer: Legal & Governance Services (& Monitoring Officer)

Date: 15 September 2021



**CYNGOR SIR CEREDIGION
CEREDIGION COUNTY COUNCIL**

**REGULATION OF INVESTIGATORY
POWERS ACT 2000 ('RIPA') PART II**

**Directed Surveillance, Covert Human Intelligence
Sources and Communications Data**

CORPORATE POLICY & PROCEDURES DOCUMENT

- **Adopted by Council 5th March 2020**
- **Revised by SRO July 2021**

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CEREDIGION COUNTY COUNCIL COVERT SURVEILLANCE - POLICY STATEMENT

Introduction

1. Ceredigion County Council ('the Council') is committed to building a fair and safe community for all by ensuring the effectiveness of laws designed to protect individuals, businesses, the environment and public resources.
2. The Council recognises that most organisations and individuals appreciate the importance of these laws and abide by them. The Council will use its best endeavours to help them meet their legal obligations without unnecessary expense and bureaucracy.
3. At the same time, the Council has a legal responsibility to ensure that those who seek to flout the law are the subject of firm but fair enforcement action. Before taking such action, the Council may need to undertake covert surveillance of individuals and/or premises to gather evidence of illegal activity.

Procedure

4. All covert surveillance shall be undertaken in accordance with the procedures set out in this document.
5. Ceredigion County Council shall ensure that covert surveillance is only undertaken where it complies fully with all applicable laws; in particular the:
 - The Human Rights Act 1998;
 - The Regulation of Investigatory Powers Act 2000 ('RIPA');
 - Protection of Freedoms Act 2012;
 - The Investigatory Powers Act 2016 ('IPA 2016'); and
 - The Data Protection Act 2018.
6. The Council shall, in addition, have due regard to all secondary legislation (including Regulations and orders), official guidance and codes of practice, particularly those issued by the Home Office, the Office of the Surveillance Commissioners ('OSC'), the Security Camera Commissioner and the Information Commissioner.
7. In particular, the following guiding principles shall form the basis of all covert surveillance activity undertaken by the Council:
 - Covert surveillance shall only be undertaken where it is absolutely necessary to achieve the desired aims;
 - Covert surveillance shall only be undertaken where it is proportionate to do so and in a manner that it is proportionate;
 - Adequate regard shall be had to the rights and freedoms of those who are not the target of the covert surveillance;
 - All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated Authorising Officers; and
 - Covert surveillance (regulated by The Regulation of Investigatory Powers Act 2000 ('RIPA')) shall only be undertaken after obtaining judicial approval.

Training and Review

8. All Council officers undertaking covert surveillance shall be appropriately trained to ensure that they understand their legal and operational obligations. Officers should be competent and confident in the RIPA roles they perform. Refresher training should be provided and undertaken as necessary, to include practical exercises and account taken of any legislative changes. Training should also include guidance on completion of application forms.
9. Regular audits shall be carried out to ensure that Officers are complying with this policy.
10. This policy should be reviewed at least once a year, to ensure it remains fit for purpose.
11. The operation of the Council's RIPA activity shall be overseen and monitored by the Council's Overview and Scrutiny Co-ordinating Committee, by receiving reports every six months.

Conclusion

12. All citizens will reap the benefits of this Policy, through effective enforcement of criminal and regulatory legislation and the protection that it provides.
13. Adherence to this Policy will minimise intrusion into citizens' lives and will avoid any legal challenge to the Council's covert surveillance activities.
14. Any questions relating to this policy should be addressed to the Corporate Lead Officer-Legal & Governance (Monitoring Officer & Senior Responsible Officer).

Date

PART 1 – INTRODUCTION TO SURVEILLANCE REGULATED BY CHAPTER 2 OF RIPA

The Regulation of Investigatory Powers Act 2000 ('RIPA') regulates covert investigations by a number of bodies, including local authorities. It was introduced to ensure that individuals' rights are protected while also ensuring that law enforcement and security agencies have the powers they need to do their job effectively.

Ceredigion County Council ('the Council') is therefore included within the legislative framework with regard to the authorisation of directed surveillance, the use of covert human intelligence sources and accessing communications data.

Some sections of RIPA have been repealed and replaced by the Investigatory Powers Act 2016 ('IPA 2016'). As well as RIPA itself, several sets of Regulations have been produced along with three Home Office Codes of Practice.

The Council has had regard to the Codes of Practice produced by the Home Office, the procedures and guidance produced by Office of Surveillance Commissioners and Codes of Practice issued by the Information Commissioners in preparing this guidance and each Department should hold copies to which staff can refer.

Objectives of this document

The objective of this document is to ensure that all covert surveillance (as defined by RIPA and associated legislation and guidance) conducted by Council Officers is carried out appropriately and on a lawful basis. This document should be read in conjunction with the Home Office Revised Code of Practice on Covert Surveillance and Property Interference 2018, Covert Human Intelligence Sources, Camera Code of Practice and the Investigatory Powers Commissioner's Office (formerly Office of Surveillance Commissioners) Procedures and Guidance. Schedule 1 (below) lists current legislation and guidance that must be read in conjunction with this document, but this list is not exhaustive.

If the procedures outlined in this Policy are not followed, any evidence acquired as a result of surveillance activities may be susceptible to a human rights challenge. It may therefore not be admissible in Court, and the Council is unlikely to take proceedings based on such evidence. The Council may also be exposed to legal action by individuals who claim that their human rights to privacy and respect for family life will have been abused. See 'Dealing with complaints from the public' below.

Scope of this document

This document explains the Council's statutory responsibility to comply with RIPA, and associated legislation. It provides guidance and sets out the Council's procedures and matters to consider in relation to the following:

- Directed surveillance – see Part 2 below;
- A Covert Human Intelligence Source ('CHIS') – see Part 3 below; and
- Acquisition of Communications Data (through NAFN's SPOC) – see Part 5 below.

Parts 1 - 3 of this Policy only apply where surveillance is covert and directed i.e. where the individual or individuals are not aware at the time of surveillance that surveillance is being carried out. The purpose of these parts are to help officers decide what type of surveillance they are undertaking, whether it is regulated by Chapter 2 of RIPA, confirm the relevant procedures and provide guidance.

Part 4 deals with the keeping of records, data handling, retention safeguards & dealing with complaints and errors.

Separate non-RIPA guidance is also set out (see Part 6 below) below for observations or surveillance which are not carried out covertly.

The Information Commissioner has issued a separate Code of practice on the use of CCTV surveillance (available at: <https://ico.org.uk/media/1542/cctv-code-of-practice.pdf>).

Ceredigion County Council's statutory responsibility

The Council has a statutory responsibility to comply with the Human Rights Act 1998, which contains the Articles and Protocols of the European Convention for the Protection of Human Rights ('ECHR') that are deemed to apply in the UK. Since the UK's withdrawal from the European Union, a review is being undertaken in relation to the Human Rights Act 1998 but it currently remains in force.

Section 6 of the Human Rights Act 1998 makes it unlawful for the Council to act in any way that is incompatible with the ECHR.

Article 8 ECHR provides that:

- Everyone has the right to respect for his private and family life, his home and his correspondence; and
- There shall be no interference by a public authority with the exercise of this right except such as is:
 - a) In accordance with the law; and
 - b) Necessary in a democratic society in the interests of public safety, prevention of disorder or crime, protection of health or morals and protection of the rights and freedoms of others.

Therefore, surveillance will breach a person's human rights unless it is authorised under RIPA. RIPA provides the legal framework for lawful interference.

Obtaining authorisation to conduct surveillance in accordance with RIPA helps to protect the Council and its officers from complaints of interference with the rights protected by Article 6 and Article 8(1) ECHR, which is now enshrined in English law through the Human Rights Act 1998. This is to ensure any interference with the private life of citizens will be '*in accordance with the law*'.

Provided activities undertaken are also '*necessary and proportionate*' (see subsequent parts in this document for further details) they will not be in contravention of Human Rights legislation.

Information is considered private information if it includes any information relating to the subject's private or family life or the private or family life of any other person. It would include any aspect of a person's private or personal relationship with others, including family and professional or business relationships. Private information may include personal data, for example, names, telephone numbers and address details.

For example, where two people hold a conversation on the street they may have a reasonable expectation of privacy over the contents of that conversation. However, a directed surveillance authorisation may be required if a public authority's records or listens to the conversation as part of a specific investigation or operation.

Therefore, '*private information*' may be acquired through authorised covert directed surveillance even where a person is in a public place and may have a reduced expectation of privacy.

Furthermore, information relating to the private life of an individual may be obtained when a number of records are analysed together, or where a number of pieces of information are obtained, covertly, for the purpose of making a record about a person or for data processing to generate further information.

The totality of the information may constitute private information even if the individual records do not. For example, enforcement officers may photograph the exterior of business premises for record purposes without the need for a RIPA authorisation. If, however, the officers wished to establish a pattern of occupancy of those premises by any person and took photographs on a number of occasions, that conduct would likely result in the obtaining of private information and thus compliance with RIPA would be required.

The role of Elected Members

The statutory Codes of Practice issued pursuant to RIPA, namely the revised Covert Surveillance and Property Interference Code Practice 2018, states that elected Members should review the Council's use of RIPA and set the Policy at least once a year.

Members should also consider internal reports on the use of RIPA on a regular basis to ensure that it is being used consistently with the Council's policy and that the policy remains fit for purpose.

The role of the Senior Responsible Officer ('SRO')

The statutory Codes of Practice issued pursuant to RIPA, namely the revised Covert Surveillance and Property Interference Code of Practice 2018 considers that councils should appoint an SRO.

Ceredigion County Council's SRO is the Corporate Lead Officer-Legal & Governance/Monitoring Officer. The SRO should be able to advise Officers on the RIPA procedure and be responsible for:

1. The integrity of the process in place within the public authority to authorise directed surveillance, the use of covert human intelligent sources and interference with property or wireless telegraphy;
2. Compliance with Chapter 2 of RIPA and with the relevant codes; and
3. Engagement with the Commissioners and inspectors when they conduct their inspections, and where necessary, overseeing the implementation of any post inspection action plans recommended or approved by a Commissioner.

In addition, the SRO will be responsible for overseeing and co-ordinating:

1. The submission of quarterly reports detailing RIPA activity, to the Overview and Scrutiny Co-ordinating Committee;
2. The annual review by the Overview and Scrutiny Co-ordinating Committee of this Policy;

3. The identification of issues in the oversight process, to enable analysis of issues, evidencing results, and ensuring subsequent feedback into the RIPA training, to ensure these matters are corporately addressed;
4. The formal oversight of the RIPA process within the Council, including identifying individual and corporate training needs, and dissemination of information; and
5. Maintaining online persona/pseudonyms Register including details of services/individuals who can use/sanction them.

The role of the Investigatory Powers Commissioner's Office ('IPCO')

The IPA 2016 provides for an Investigatory Powers Commissioner (*the Commissioner*), whose remit includes providing comprehensive oversight of the use of the powers to which this code applies, and adherence to the practices and processes described in it.

The IPCO acts as the regulatory body in respect of the Directed Surveillance, Covert Human Intelligence Source aspects of RIPA and Communications Data. This Office conducts inspections of local authorities to ensure they are compliant with RIPA insofar as authorisations for directed surveillance and use of covert human intelligence sources is concerned. The IPCO does not give legal advice, although guidance may be given, when appropriate to request originating from the Senior Responsible Officer of a public authority.

Further information about the Investigatory Powers Commissioner, their office and their work may be found at: www.ipco.org.uk.

The role of the Information Commissioners Office ('ICO')

The ICO is the UK's independent authority set up to uphold information rights in the public interest, promoting good practice, openness by public bodies, data privacy for individuals and providing advice on standards. Audits also look at the way organisations handle requests for information under the Freedom of Information Act 2000.

PART 2 – DIRECTED SURVEILLANCE

Chapter 2 of RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities to ensure that they are compatible with the ECHR, particularly Article 8 (the right to respect for private and family life).

The first issue for any local authority officer who is considering undertaking covert surveillance is what type of surveillance they are undertaking, and **whether it is something that can be authorised under RIPA**. Directed Surveillance is one of the two surveillance techniques available to the Council under Part 2 of Chapter 2 of RIPA. The second available technique is a CHIS, but the third, Intrusive Surveillance, cannot be authorised by the Council.

The Covert Surveillance and Property Interference Revised Code of Practice 2018 confirms at paragraph 2.2 and 2.3 that:

‘Surveillance, for the purpose of the 2000 Act, includes monitoring, observing or listening to persons, their movements, conversations or other activities and communications. It may be conducted with or without the assistance of a surveillance device and includes the recording of any information obtained

Surveillance is covert if, and only if, it is carried out in a manner calculated to ensure that any persons who are subject to the surveillance are unaware that it is or may be taking place.’

Meaning of ‘Directed Surveillance’

Directed Surveillance is defined in S.26 (2) of RIPA:

‘Subject to subsection (6), surveillance is directed for the purposes of this Part if it is covert but not intrusive and is undertaken –

- (a) for the purposes of a specific investigation or a specific operation;*
- (b) in such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation); and*
- (c) otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under this Part to be sought for the carrying out of the surveillance.’*

Typically, local authorities may use Directed Surveillance when investigating benefit fraud, trading standards offences or antisocial behaviour. This may involve covertly filming or following an individual or monitoring their activity in other ways.

Before undertaking any covert surveillance activity, an investigating officer must ask (and have an affirmative answer to) five questions before the activity can be classed as Directed Surveillance:

- Is the surveillance, actually ‘surveillance’ as defined by RIPA?
- Will it be done covertly?
- Is it for a specific investigation or a specific operation?
- Is it likely to result in the obtaining of private information about a person?
- Will it be done, otherwise than in an immediate response to events?

See **Flowchart 1 below** to assess when deciding if surveillance is directed.

Key Points to Note:

- A. **General observations** do not constitute Directed Surveillance. The revised Covert Surveillance and Property Interference Code of Practice 2018 (at Paragraph 3.33) states:

‘The general observation duties of many law enforcement officers and other public authorities do not require authorisation under the 2000 Act, whether covert or overt. Such general observation duties frequently form part of the legislative functions of public authorities, as opposed to the pre-planned surveillance of a specific person or group of people. General observation duties may include monitoring of publicly accessible areas of the internet in circumstances where it is not part of a specific investigation or operation’

- B. Surveillance is only directed if it is **covert**. The revised Covert Surveillance and Property Interference Code of Practice 2018 (at Paragraph 2.3) states (per 26(9)(a) RIPA):

‘Surveillance is covert if, and only if, it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place’

This requires investigating officers to consider the manner in which the surveillance is going to be undertaken. If it is done openly, without making any attempt to conceal it or a warning letter is served on the target before the surveillance is done, then it will not be covert.

- C. The definition of **‘private information’** is very wide. The revised Covert Surveillance and Property Interference Revised Code of Practice 2018 states:

‘3.3 The 2000 Act states that private information includes any information relating to a person’s private or family life. Private information should be taken generally to include any aspect of a person’s private or personal relationship with others, including family and professional or business relationships. Information which is non-private may include publicly available information such as books, newspapers, journals, TV and radio broadcasts, newswires, web sites, mapping imagery, academic articles, conference proceedings, business reports, and more. Such information may also include commercially available data where a fee may be charged, and any data which is available on request or made at a meeting to a member of the public. Non-private data will also include the attributes of inanimate objects such as the class to which a cargo ship belongs.’

3.4 Whilst a person may have a reduced expectation of privacy when in a public place, covert surveillance of that person’s activities in public may still result in the obtaining of private information. This is likely to be the case where that person has a reasonable expectation of privacy even though acting in public and where a record is being made by a public authority of that person’s activities for future consideration or analysis. Surveillance of publicly accessible areas of the internet should be treated in a similar way, recognising that there may be an expectation of privacy over information which is on the internet, particularly where accessing information on social media websites’

There is a common misconception that if investigating officers are watching someone covertly in a public place or observing activities in an office or business premises that

there is no private information likely to be obtained and so there is no Directed Surveillance. The above sections of the code make it extremely unlikely that a public authority will be able to successfully argue that surveillance will never result in private information being obtained.

- D. Where covert surveillance needs to be done in an **emergency** and there is no time to authorise the activity (i.e. an urgent response to events), the surveillance can still be done but it will not require Directed Surveillance authorisation. Nonetheless, it is important to note that it would be very unlikely that these circumstances would apply to the Council, as, if challenged, the Council would be required to demonstrate that it was an immediate response to events and not reasonably practicable for the authorisation to be sought. This course of action is not recommended and if it is considered that there is an emergency situation, advice from the SRO should be sought immediately.

The revised Covert Surveillance and Property Interference Revised Code of Practice 2018 (at Paragraph 3.32) states:

‘Covert surveillance that is likely to reveal private information about a person but is carried out by way of an immediate response to events such that it is not reasonably practicable to obtain an authorisation under the 2000 Act, would not require a directed surveillance authorisation. The 2000 Act is not intended to prevent law enforcement officers fulfilling their legislative functions. To this end section 26(2)(c) of the 2000 Act provides that surveillance is not directed surveillance when it is carried out by way of an immediate response to events or circumstances the nature of which is such that it is not reasonably practicable for an authorisation to be sought for the carrying out of the surveillance.’

The Covert Surveillance and Property Interference Revised Code of Practice 2018 gives the example of an authorisation under RIPA not being appropriate where police officers conceal themselves to observe suspicious persons that they come across in the course of a routine patrol or monitor social media accounts during a public order incident.

E. Online Covert Activity

The Council’s RIPA Social Media Policy (available at [\[enter link\]](#)) sets out what the Revised Covert Surveillance and Property Interference Code of Practice states regarding online covert activity, and its relevant advice to assist Officers in understanding when a RIPA authorisation may be required. See the Council’s RIPA Social Media Policy for the Council’s requirements and guidance regarding on-line personas.

The Covert Surveillance and Property Interference Revised Code of Practice 2018 (at Paragraph 3.10) states that:

“The growth of the internet and the extent of the information that is now available online, presents new opportunities for public authorities to view or gather information which may assist them in preventing or detecting crime or carrying out other statutory functions, as well as in understanding and engaging with the public they serve. It is important that public authorities are able to make full and lawful use of this information for their statutory purposes. Much of it can be accessed without the need for RIPA authorisations; use of the internet prior to an investigation should not normally engage privacy considerations. But if the study of an individual’s online presence becomes persistent, or where material obtained from any check is to be extracted and recorded and may engage privacy considerations, RIPA authorisations

may need to be considered. The following guidance is intended to assist public authorities in identifying when such authorisations may be appropriate”.

Paragraphs 3.11 – 3.17 of the Code also contain relevant advice and will assist Officers in understanding when a RIPA authorisation may be required:-

3.11 *“The internet may be used for intelligence gathering and/or as a surveillance tool. Where online monitoring or investigation is conducted covertly for the purpose of a specific investigation or operation and is likely to result in the obtaining of private information about a person or group, an authorisation for directed surveillance should be considered, as set out elsewhere in this code. Where a person acting on behalf of a public authority is intending to engage with others online without disclosing his or her identity, a CHIS authorisation may be needed (paragraphs 4.10 to 4.16 of the Covert Human Intelligence Sources code of practice provide detail on where a CHIS authorisation may be available for online activity).*

3.12 *In deciding whether online surveillance should be regarded as covert, consideration should be given to the likelihood of the subject(s) knowing that the surveillance is or may be taking place. Use of the internet itself may be considered as adopting a surveillance technique calculated to ensure that the subject is unaware of it, even if no further steps are taken to conceal the activity. Conversely, where a public authority has taken reasonable steps to inform the public or particular individuals that the surveillance is or may be taking place, the activity may be regarded as overt and a directed surveillance authorisation will not normally be available.*

3.13 *As set out in paragraph 3.14 below, depending on the nature of the online platform, there may be a reduced expectation of privacy where information relating to a person or group of people is made openly available within the public domain, however in some circumstances privacy implications still apply. This is because the intention when making such information available was not for it to be used for a covert purpose such as investigative activity. This is regardless of whether a user of a website or social media platform has sought to protect such information by restricting its access by activating privacy settings.*

3.14 *Where information about an individual is placed on a publicly accessible database, for example the telephone directory or Companies House, which is commonly used and known to be accessible to all, they are unlikely to have any reasonable expectation of privacy over the monitoring by public authorities of that information. Individuals who post information on social media networks and other websites whose purpose is to communicate messages to a wide audience are also less likely to hold a reasonable expectation of privacy in relation to that information.*

3.15 *Whether a public authority interferes with a person’s private life includes a consideration of the nature of the public authority’s activity in relation to that information. Simple reconnaissance of such sites (i.e. preliminary examination with a view to establishing whether the site or its contents are of interest) is unlikely to interfere with a person’s reasonably held expectation of privacy and therefore is not likely to require a directed surveillance authorisation. But where a public authority is systematically collecting and recording information about a particular person or group, a directed surveillance authorisation should be considered. These considerations apply regardless of when the information was shared online. See also paragraph 3.6.*

Example 1: A police officer undertakes a simple internet search on a name, address or telephone number to find out whether a subject of interest has an online presence. This is unlikely to need an authorisation. However, if having found an individual's social media profile or identity, it is decided to monitor it or extract information from it for retention in a record because it is relevant to an investigation or operation, authorisation should then be considered.

Example 2: A customs officer makes an initial examination of an individual's online profile to establish whether they are of relevance to an investigation. This is unlikely to need an authorisation. However, if during that visit it is intended to extract and record information to establish a profile including information such as identity, pattern of life, habits, intentions or associations, it may be advisable to have in place an authorisation even for that single visit. (As set out in the following paragraph, the purpose of the visit may be relevant as to whether an authorisation should be sought.)

Example 3: A public authority undertakes general monitoring of the internet in circumstances where it is not part of a specific, ongoing investigation or operation to identify themes, trends, possible indicators of criminality or other factors that may influence operational strategies or deployments. This activity does not require RIPA authorisation. However, when this activity leads to the discovery of previously unknown subjects of interest, once it is decided to monitor those individuals as part of an ongoing operation or investigation, authorisation should be considered.

3.16 In order to determine whether a directed surveillance authorisation should be sought for accessing information on a website as part of a covert investigation or operation, it is necessary to look at the intended purpose and scope of the online activity it is proposed to undertake. Factors that should be considered in establishing whether a directed surveillance authorisation is required include:

Whether the investigation or research is directed towards an individual or organisation;

Whether it is likely to result in obtaining private information about a person or group of people (taking account of the guidance at paragraph 3.6 above);

Whether it is likely to involve visiting internet sites to build up an intelligence picture or profile;

Whether the information obtained will be recorded and retained;

Whether the information is likely to provide an observer with a pattern of lifestyle;

Whether the information is being combined with other sources of information or intelligence, which amounts to information relating to a person's private life;

Whether the investigation or research is part of an ongoing piece of work involving repeated viewing of the subject(s);

Whether it is likely to involve identifying and recording information about third parties, such as friends and family members of the subject of interest, or information posted by third parties, that may include private information and therefore constitute collateral intrusion into the privacy of these third parties.

3.17 Internet searches carried out by a third party on behalf of a public authority, or with the use of a search tool, may still require a directed surveillance authorisation (see paragraph 4.32).

Example: Researchers within a public authority using automated monitoring tools to search for common terminology used online for illegal purposes will not normally require a directed surveillance authorisation. Similarly, general analysis of data by public authorities either directly or through a third party for predictive purposes (e.g. identifying crime hotspots or analysing trends) is not usually directed surveillance. In such cases, the focus on individuals or groups is likely to be sufficiently cursory that it would not meet the definition of surveillance. But officers should be aware of the possibility that the broad thematic research may evolve, and that authorisation may be appropriate at the point where it begins to focus on specific individuals or groups. If specific names or other identifiers of an individual or group are applied to the search or analysis, an authorisation should be considered.”

Any systematic, repeated viewing of an individual’s online presence, covertly, and which may engage privacy considerations, requires the consideration of a RIPA authorisation.

In accordance with para 4.16 of the Covert Surveillance and Property Interference Code of Practice, where a public authority intends to access a social media or other online account to which they have been given access with the consent of the owner, the Authority will still need to consider whether the account may contain information about others who have not given their consent and if so the need for a directed surveillance authorisation should be considered.

Where several agencies are working together, only one of them would need to obtain an authorisation for covert activity were that deemed to be necessary and proportionate in the circumstances.

On-line personas

Where these are permitted to be used corporately, the SRO will maintain a central register of these pseudonyms, profiles/accounts, together with details of the services or individual officers permitted to use/sanction their use.

Covert Surveillance Social Media & On-line Persona Information

Relevant Council Services are required to:

- record information/data relating to covert social media/on-line surveillance, including on-line personas (* see below)
- identify a Designated Officer
- provide this data to the Designated Officer; and
- the Designated Officer must provide the information to the SRO or the SRO’s Representative (Governance Officer) every 4 months.

*The Designated Officer will be required to maintain the following information:

- which media sites/on-line profiles have been visited
- was access to the media site(s)/on-line profile(s) restricted (provide details);
- when were the media site(s)/on-line profile(s) visited;
- by whom (Officer/User);
- on whose request;
- who authorised;
- details of the surveillance e.g. case reference, operation, investigation;

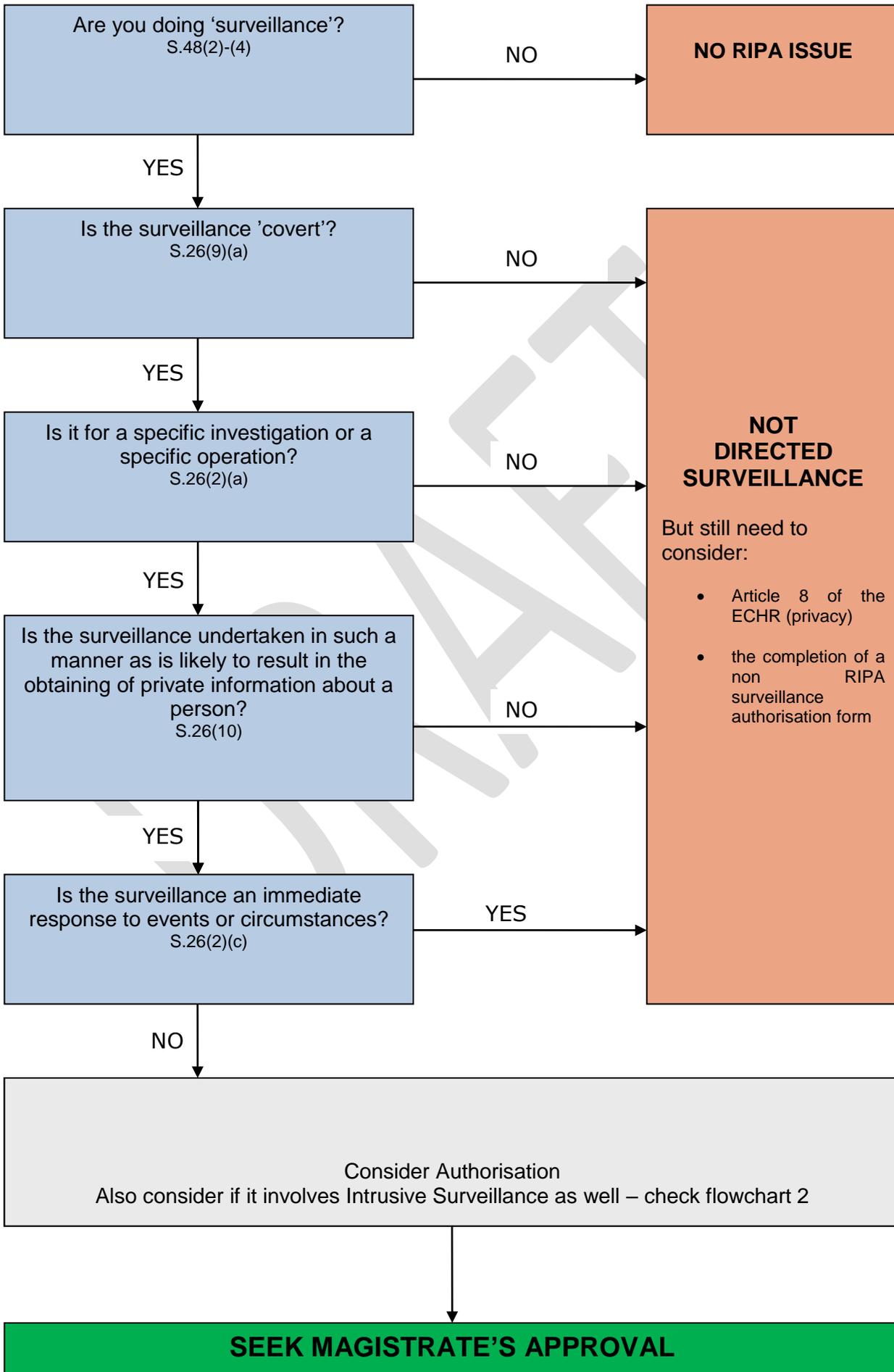
- date of request;
- date of access;
- on which profile/social media account;
- was an on-line persona/false profile/false identity used? If so, which?
- was an official corporate profile used? If so, which?
- how many viewings;
- length of viewing(s);
- for what purpose/rationale was the media site(s)/on-line profile(s) visited;
- Confirmation that the person whose identity is used has explicitly consented in writing, and their protection considered, and details of what is/is not to be done;
- Aim/desired information;
- was the subject aware;
- what data was obtained (including collateral information);
- what was done with any resultant product;
- Details of Social Media relevant to Application;
- Explanation why on-line persona required and alternative methods considered;
- Confirmation as to whether a Risk Assessment has been considered/carried out; and
- Any result, including any risk to Officer (and if not, why not).

Officers who use such sites must also adhere to the Corporate Social Media policy (2016) (available on the Council's intranet site (CeriNet).

- *'5.6 During work time employees may only access and view pages from allowed social media sites which are required in their role.*
- *Use of sites must be justifiable and approved by their line manager in advance of accessing such sites.*
- *6.3 Staff in a safeguarding environment must recognise the sensitivity inherent in their roles and before engaging in any social media activity they should consider if their actions could create any potential safeguarding concerns*
- *Ensure that your personal Facebook account does not compromise your professional position you should ensure that your privacy settings are set correctly*
- *Do not use your work contact details as part of your personal profile*
- *Do not use your personal profile in any way for official Council business.*
- *On your personal profile-Do not accept friend requests from members of the public where the primary relationship is through your work.*
- *On your personal profile-Do not accept friend requests from pupils (or their parents) or vulnerable adult service users that you work with.'*

The Council's RIPA Social Media Policy applies to all Council employees and sets out the position of the Council regarding the use of the internet, mobile web browsing and specifically social media websites, when undertaking surveillance, which could include an investigation, in accordance with RIPA. The Council's RIPA Social Media Policy should be read in conjunction with this document.

Flowchart 1 – Are you conducting ‘Directed Surveillance’?



Meaning of 'Intrusive Surveillance'

S.26 (3) RIPA states:

'Subject to subsections (4) to (6), surveillance is intrusive for the purposes of this Part if, and only if, it is covert surveillance that—
(a) is carried out in relation to anything taking place on any residential premises or in any private vehicle; and
(b) involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.'

As the name suggests, this type of surveillance is much more intrusive and so the legislation is framed in a way as to give greater protection to the citizen when it is used. Applications to carry out Intrusive Surveillance can only be made by the senior Authorising Officer of those public authorities listed in or added to S.32(6) of RIPA or by a member or official of those public authorities listed in or added to section 41(l). Local authorities **cannot authorise intrusive surveillance**.

It is still important to understand the definition of Intrusive Surveillance because sometimes over-zealous officers may overstep the mark and end up doing it. The following questions have to be asked:

- Is it Covert Surveillance as defined by RIPA?
- Is it being carried out in relation to anything taking place on any residential premises or in any private vehicle?
- Does it involve the presence of an individual on the premises or in the vehicle? and
- Is it being carried out by means of a surveillance device on the premises or in the vehicle?

See Flowchart 2 to assess if the surveillance is Intrusive.

Key Points to Note:

- A. When doing covert surveillance of premises it can only be 'intrusive' if it is carried out in relation to anything taking place on residential premises. This is defined in S.48(1) RIPA:

'residential premises' means (subject to subsection (7)(b)) so much of any premises as is for the time being occupied or used by any person, however temporarily, for residential purposes or otherwise as living accommodation (including hotel or prison accommodation that is so occupied or used);'

Covert surveillance of business premises will not be regarded as intrusive surveillance, e.g. where an officer is conducting surveillance of a unit on an industrial estate where a food business is suspected of producing counterfeit vodka, or a retail shop suspected of selling tobacco to under 18's, etc.

However, care must be taken where a business is located within a building or vehicle, which is also used as a private dwelling, e.g. a person, suspected of manufacturing counterfeit DVDs from a caravan that is also their private residence. No surveillance (which includes filming or capturing images) of persons and activities within those private living quarters is permitted as this would be considered as intrusive surveillance.

- B. Not all surveillance of vehicles is 'intrusive'; the target has to be a private vehicle as defined in S.48(1):

'private vehicle' means (subject to subsection (7)(a)) any vehicle which is used primarily for the private purposes of the person who owns it or of a person otherwise having the right to use it;'

The vehicle can be owned, borrowed, rented or leased. However (by virtue of S.48 (7) (a)) surveillance is not Intrusive where the target vehicle is a taxi or a chauffeur-driven vehicle such as a public coach service.

- C. For the surveillance to be intrusive rather than directed it has to be undertaken in such a manner as to involve the presence of an individual on the premises or inside the vehicle.

It is extremely unlikely that local authorities would allow their staff to undertake surveillance by getting inside a private vehicle covertly. However, it may be that an officer is stationed inside residential premises to covertly observe anti-social behaviour.

Whilst normally this kind of conduct is the realm of the police, care must be taken. For example, a keen investigator taking covert pictures from outside a house may decide to move to a more covert position or location to obtain clearer images.

- D. Surveillance can still be Intrusive even if the investigating officer is not on or inside the premises or vehicle but is using a surveillance device such a camera, listening device, recorder or even binoculars.

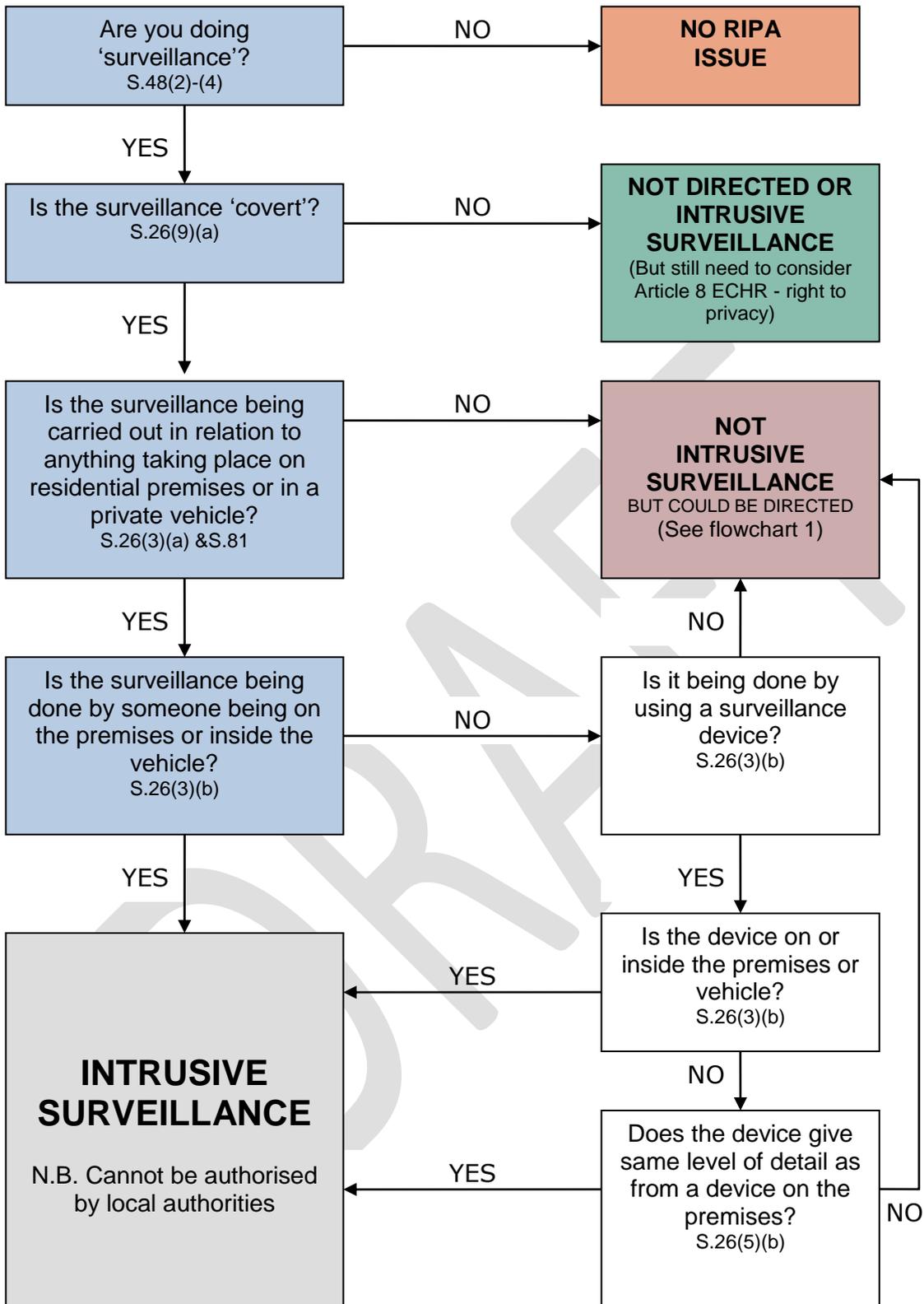
However the words of S.26 (5) should be noted:

'For the purposes of this Part surveillance which –

(a) is carried out by means of a surveillance device in relation to anything taking place on any residential premises or in any private vehicle, but

(b) is carried out without that device being present on the premises or in the vehicle, is not intrusive unless the device is such that it consistently provides information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the vehicle.

Flowchart 2 - Are you doing 'Intrusive Surveillance'?



Limitations on the use of Directed Covert Surveillance

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012 (SI no. 1500) imposes restrictions on local authorities' use of RIPA (see paragraph 4.44 of the Covert Surveillance and Property Interference Revised Code of Practice 2018).

It restricts AOs in a local authority in England or Wales from authorising the carrying out of directed surveillance unless it is necessary for the purpose of preventing or detecting a criminal offence and meets the following conditions:

- That the criminal offence to be prevented or detected is punishable by a maximum term of at least six months' imprisonment or
- Constitutes an offence under sections 146, 147 or 147A of Licensing Act 2003 (sale of alcohol to children) or section 7 of the Children and Young Persons Act 1933 (sale of tobacco to children under 18 years old).

This '*crime threshold*' does not apply to the authorisation of local authority use of CHIS or the acquisition of communications data.

The amendments to the legislation continues to allow the Council to authorise use of directed surveillance but only in more serious cases as long as the other tests are met i.e. that it is '*necessary*' and '*proportionate*' and where prior approval from a Justice of the Peace (Magistrate) has been granted.

It is therefore essential that investigating officers consider the penalty attached to the criminal offence, which they are investigating, **BEFORE** considering whether it may be possible to obtain an authorisation for directed surveillance.

If an AO is in any doubt about authorising any surveillance activity, they should seek advice from the SRO.

Enhanced authorisation levels

Directed surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material may be authorised only by AOs entitled to grant authorisations in respect of confidential or privileged information. This type of material includes:

- Material subject to legal privilege;
- Confidential personal information;
- Confidential constitution information; and
- Confidential journalistic material and journalists sources.

In the Council, the AO entitled to grant authorisations in respect of confidential or privileged information is the Chief Executive, or (in their absence) the person acting as the Chief Executive (i.e. Corporate Director).

Care must be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved.

Where such material has been acquired and retained, the Council's SRO must be informed as soon as possible, as the matter should be reported to the IPCO during their next inspection and the material should be made available to the IPCO, if requested.

Note that RIPA does not enable the Council to make any authorisations to carry out intrusive surveillance (for further details, see Part 2 below).

Urgent cases – (Para 4.42 Covert Surveillance and Property Interference Revised Code of Practice 2018)

Paragraph 4.42 of the Covert Surveillance and Property Interference Revised Code of Practice 2018 states that:

*'The Protection of Freedoms Act 2012 amended the 2000 Act to make local authority authorisations subject to judicial approval. The change means that local authorities need to obtain an order approving the grant or renewal of an authorisation from a judicial authority, before it can take effect. In England and Wales an application for such an order must be made to a Justice of the Peace (JP). If the JP is satisfied that the statutory tests have been met and that the use of the technique is necessary and proportionate, he or she will issue an order approving the grant or renewal for the use of the technique as described in the application. The amendment means that **local authorities are no longer able to orally authorise the use of RIPA techniques.** All 37 The senior responsible officer should be a person holding the office, rank or position of an authorising officer within the relevant public authority. **authorisations must be made in writing and require JP approval. The authorisation cannot commence until this has been obtained.'***

This means that Local Authorities are not able to verbally authorise the use of RIPA techniques. All authorisations must be made in writing and require judicial approval. The authorisation cannot commence until this has been obtained. The SRO should be a person holding the office, rank or position of an AO within the relevant public authority.

A case is not normally regarded as urgent unless the time that would elapse would, in the opinion of the AO be likely to endanger life or jeopardise the investigation for which the authorisation was being given.

An authorisation is not to be regarded as urgent where the need for an authorisation has been neglected or is of the AO's or applicant's own making.

PROCEDURE FOR APPLYING FOR A DIRECTED SURVEILLANCE AUTHORISATION

If a Council Officer believes that their intended actions fall under the definition of directed covert surveillance, they will need to apply for a RIPA directed surveillance authorisation.

The 3 key elements of any RIPA authorisation are **necessity, proportionality** and whether there is any risk of **collateral intrusion**.

Before the Authorising Officer authorises the RIPA application, they will need to be sure that the authorisation is **necessary** for the purpose of preventing or detecting crime, that the surveillance is proportionate to the outcome sought, and that any risk of collateral intrusion has been identified and minimised.

The surveillance activity will not be **proportionate** if it is excessive in the circumstances of the case or if the information could be reasonably obtained by other less intrusive means.

Only the Chief Executive has the power to authorise directed surveillance involving the covert filming of any Elected Member, Corporate Director or Corporate Lead Officer.

Where several Agencies are working together, only one of them would need to obtain an authorisation for covert activity.

If during the course of the operation those activities change, there will be a need to apply for a review authorisation.

Role of the Investigating Officer – Applicant

The role of the Applicant is to present the facts of the application for covert surveillance including:

- The crime to be investigated;
- Reason why it is proposed to conduct the Investigation covertly;
- What covert tactics are requested;
- Why the covert tactics requested;
- Who the covert surveillance will be focused on;
- Who else will be affected by it;
- How it is intended to conduct the covert surveillance; and
- Provide facts and evidence.

The Applicant is not required to assert that the actions to be taken are necessary and proportionate- that is the statutory responsibility of the AO.

Completing the Forms

The Council Officer will need to make an application on the relevant form, which can be downloaded from the Home Office website, <https://www.gov.uk/government/collections/ripa-forms--2>

Application forms for directed surveillance will need to contain the following information:

- The action that needs to be authorised;
- If known, the identities of the people who are going to be the subject of the directed surveillance;
- An account of the investigation;

- An explanation of the techniques that you intend to use;
- Confirmation that the action proposed is intended to prevent crime or detect crime;
- An explanation of why the directed surveillance is considered to be proportionate to the outcome it seeks to achieve;
- An explanation of the information which is hoped to be obtained;
- An assessment of the potential for collateral intrusion (i.e., what interference will there be with the privacy of persons other than the subjects of the surveillance;
- Whether any confidential information will be acquired;
- If authorisation is needed urgently, the reasons for the urgency;
- Sequential Unique Reference Number (URN) obtained from the SRO and entered on to the form; and
- The form should specify the type of 'crime' involved – application forms should be explicit. General use of word 'crime' is not sufficient. Fishing expeditions are not appropriate.

Example forms (with guidance on filling in the forms) are available from the Council's Intranet Site (CeriNet) at [\[enter web link\]](#)). **Flowchart 3** will also assist.

Officers making an application and Authorising Officers should also be aware of, and have regard to:

- **Home Office Covert Surveillance and Property Interference Revised Code of Practice 2018;**
- **OSC Procedures & Guidance Document;**
- **This RIPA Policy; and**
- **ACT NOW Toolkit.**

Note: Standard wording should not be used when completing authorisations. The explanation and information provided on the authorisation should relate to the individual facts of the case and state clearly the objectives of the surveillance.

The Role of the Authorising Officer ('AO')

Once an authorisation has been granted, the Authorising Officer will consider the duration of the authorisation, renewal of the authorisation and cancellation of the authorisation.

Note: The notices and authorisations do not take effect until a Magistrate has approved the authorisation. See below for the procedure for seeking such approval.

Directed Surveillance authorisations cease to have effect 3 months from the date of approval.

RIPA and the associated Codes require that when the Council undertakes '*covert directed surveillance*', uses a CHIS or access communications data, these activities must only be authorised by an officer with delegated powers when the relevant criteria are satisfied.

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the AOs for a local authority can be a Director, Head of Service, Service Manager or equivalent.

Services may, therefore, currently nominate officers from at least Corporate Lead Officer level, who can authorise these activities either as an AO for the purposes of directed covert surveillance or use of a CHIS.

Pursuant to the Council's corporate restructure, effective from 1st April 2018, and further to Council resolution made on the 21st June 2018, the following officers are authorised to act as AOs:

- **Corporate Lead Officer: People and Organisation;**
- **Corporate Lead Officer: Policy, Performance & Public Protection; and**
- **Corporate Lead Officer: Porth Cynnal.**

Where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people (see below), then the authorisation **must** be sought from the Chief Executive or, in their absence, the acting Chief Executive.

If there is any doubt regarding sufficiency of rank, contact the SRO (Monitoring Officer/CLO – Legal and Governance) for advice.

Care must be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved.

Where such material has been acquired and retained, the SRO must be informed as soon as possible, as the matter should be reported to the IPCO during their next inspection and the material should be made available to the IPCO, if requested.

In authorising any applications for directed surveillance, and in considering any renewals, reviews and cancellations, the Authorising Officer should also consider:

- (a) how long will the data be retained for?; and
- (b) is this compliant with the Council's Information and Records Management Policy and Corporate Retention Schedule?

(see Part 4 below).

Renewals

The Authorising Officer can renew an authorisation before it expires if it is necessary for the authorisation to continue for the purpose it was originally given.

An application for renewal must not be made more than 7 working days before the authorisation is due to expire. This is to ensure that the renewal is necessary.

Authorisations may be renewed more than once provided they continue to meet the criteria.

Applications for renewals must be made on another form which can be downloaded from the Home Office website (example forms (with guidance on how to fill in the forms) are available on the Council's Intranet Site (CeriNet) at [\[enter web link\]](#)), and see Paragraphs 5.16-21 of the Home Office Code of Practice for Directed Surveillance and Property Interference Revised Code of Practice 2018).

Note: Renewals do not take effect until a Magistrate has approved the authorisation.

Reviews

When the authorisation is granted, the AO will determine how often reviews should take place. Reviews will consider whether the authorisation is still needed i.e. whether the surveillance should continue.

Reviews do not require judicial approval and can be conducted internally (see Paragraphs 9.11-13 of the Home Office Code of Practice for Directed Surveillance and Property Interference).

The AO should consider the use of the tactics to date, along with their impact and any product, to ensure that each additional tactic is necessary, whether collateral intrusion can be justified, and whether the cumulative effect of the tactics is proportionate in light of progress.

Any amendments must be explicit, and no tactic may be used prior to it being granted by the AO.

The AO should clearly set out what activity and surveillance equipment is authorised in order that those conducting the surveillance are clear on what has been sanctioned at each stage in the authorisation process.

An audit trail of the review criteria should be kept.

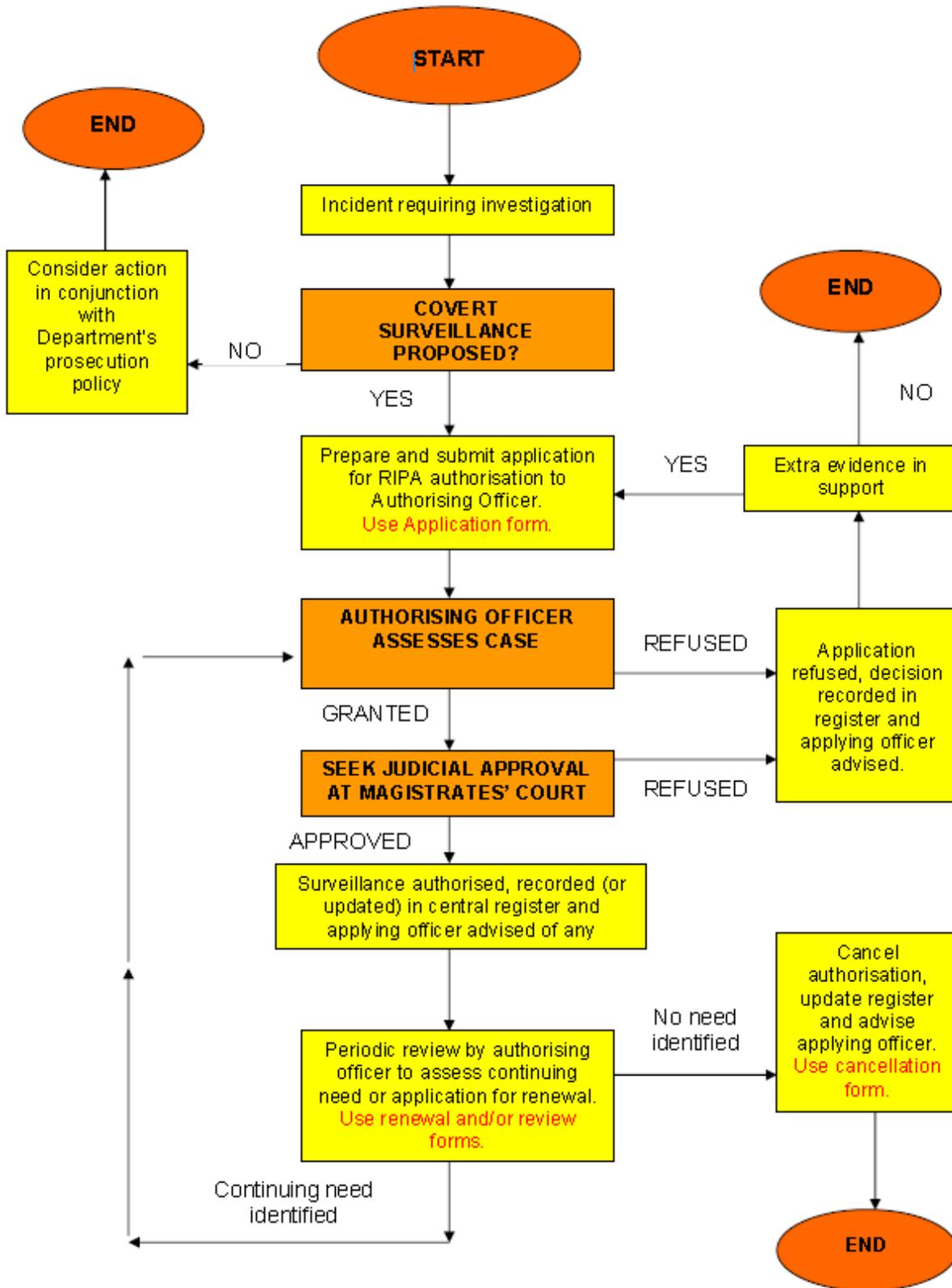
Cancellations

Authorisations will be cancelled when the AO is satisfied the criteria for authorisation is no longer met. To cancel the authorisation, the officer in charge of the investigation should complete a cancellation form (found on the Home Office website and Appendices to this document). This form should then be checked by the officer's manager, and it should then be sent to the AO. The cancellation form must contain the date of cancellation. The form will also require an explanation of reasons for cancellation, the value of the surveillance, and AO's statement (to include directions for management and storage of the product of surveillance).

See Paragraphs 5.22-27 of the Directed Surveillance and Property Interference Revised Code of Practice 2018.

Cancellations do not require judicial approval.

Flowchart 3 – Basic Lifecycle of a Directed Surveillance Authorisation (Similar lifecycle for a CHIS)



Guidance for Authorising Officers on Authorising Directed Surveillance Applications

Section 27 of RIPA provides a defence if covert surveillance is challenged:

- '(1) Conduct to which this Part applies shall be lawful for all purposes if -*
- (a) an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and*
 - (b) His conduct is in accordance with the authorisation.'*

To take advantage of this defence, the surveillance needs to be properly authorised. S.28 sets out the criteria for authorising Directed Surveillance, whilst S.29 covers CHIS.

Time Limits

The current time limit for a Directed Surveillance authorisation is 3 months.

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

An application for renewal must not be made more than 7 working days before the authorisation is due to expire. This is to ensure that the renewal is necessary but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

Authorising Officer's Considerations

S.28 (2) of RIPA states:

'A person shall not grant an authorisation for the carrying out of directed surveillance unless he believes –

- (a) that the authorisation is necessary on grounds falling within subsection (3); and*
- (b) that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.'*

See **Flowchart 4** to assess whether Directed Surveillance should be authorised.

It is the role of the AO to consider the following factors.

A. Is the surveillance necessary?

The surveillance has to be necessary on one of the grounds set out in S.28 (3). Previously local authorities could authorise Directed Surveillance where it was necessary

'for the purpose of preventing or detecting crime or of preventing disorder.'
S.28(3)(b))

The Home Office Review, which reported in January 2011, recommended that where local authorities wish to use Directed Surveillance, this should be confined to cases where the offence under investigation is a serious offence.

This recommendation was put into effect by [The Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) \(Amendment\) Order 2012, SI 2012/1500](#) which was made in June 2012 and came into force on 1st November 2012. This amends the [Regulation of Investigatory Powers \(Directed Surveillance and Covert Human Intelligence Sources\) Order 2010, SI 2010/521](#) ('the 2010 Order'), which prescribes which officers, within a public authority, have the power to grant authorisations for the carrying out of Directed Surveillance and the grounds, under Section 28(3), upon which authorisations can be granted.

The Council's AOs may **not** authorise Directed Surveillance unless it is for the purpose of preventing or detecting conduct which constitutes a criminal offence, or is a criminal offence, and it meets the conditions set out in the new Article 7A(3)(a) or (b) of the 2010 Order. Those conditions are that:

- a) The criminal offence which is sought to be prevented or detected is **punishable, whether on summary conviction or on indictment, by a maximum term of at least 6 months of imprisonment**, or
- b) Would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933. The latter are all offences involving sale of tobacco and alcohol to underage children.

Surveillance being carried out to tackle disorder (e.g. anti-social behaviour) can no longer be authorised as Directed Surveillance, unless the disorder includes criminal offences satisfying the above criteria.

No RIPA authorisation is necessary for:

- Immediate response;
- General observation activities;
- Overt CCTV/APNR systems;
- TV detector vans;
- Overt recording of noise nuisance;
- Interview with members of the public;
- Covert recordings for noise nuisance, when the recording is in decibels or constitutes non-verbal noise, or is of verbal content made at a level which does not exceed that which can be heard with the naked ear (see Covert Surveillance and Property Interference Revised Code of Practice 2018 at para 3.40); nor
- Overt and covert recording of voluntary interviews with members of the public.

The AO should clearly set out what activity and surveillance equipment is authorised in order that those conducting the surveillance are clear as to what has been sanctioned at each stage in the authorisation process. It is recognised that it is not always possible, at the outset of an investigation, to foresee how it will progress. However, this should not be a reason for Applicants to request a wide number of tactics/techniques 'just in case' they are later needed.

The AO may not authorise more than that which can be justified at the time of the authorising decision, and should demonstrate control, and a proper understanding of necessity, collateral intrusion and proportionality, relating to each tactic/technique requested. AOs must ensure that legal requirements are addressed throughout the life of an authorisation.

B. Is the surveillance proportionate to what is sought to be achieved by carrying it out?

Proportionality means ensuring that the surveillance is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether surveillance is appropriate but also the method to be adopted, the duration and the equipment to be used.

It is necessary to balance the infringement against the benefit. The merit of each case is to be considered.

It is unacceptable to consider whether an authorisation is required based on the description of the surveillance alone. The legal principles must be applied to the particular facts, and is a matter of judgment.

The conduct that it is aimed to prevent/detect must be identified and clearly described, and an explanation provided of why it is necessary to use the covert techniques requested.

The AO may not authorise more that can be justified at the time of their decision and should demonstrate control, and a proper understanding of necessity, collateral intrusion and proportionality, relating to each tactic requested.

The OSC often states in its inspection reports that officers have not properly understood the concept of proportionality or have not demonstrated compliance within the authorisation form. The Covert Surveillance and Property Interference Revised Code of Practice 2018 (Para 4.7) requires four aspects to be addressed in the authorisation form:

1. Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
2. Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
3. Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result; and
4. Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

The AO should consider the use made of tactics to date, along with their impact and any product to ensure that each additional tactic is necessary, whether collateral intrusion can be justified, and whether the cumulative effect of the tactics is proportionate.

The AO should set out in their own words why they believe the (RIPA) activity is necessary and proportionate. A bare assertion is not sufficient.

C. Can Collateral Intrusion be avoided or minimised?

The AO will need to carefully consider the likelihood of collateral intrusion occurring. This is the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation. If the risk is significant, measures should be taken, wherever practicable, to avoid or minimise any unnecessary intrusion.

Investigating Officers and AOs will need to ask themselves:

- i. What is the impact on third parties? Is it significant? Can it be justified?
- ii. If it is, what can be done to avoid or minimise it?
- iii. Have the following been considered:
 - o Changing the timing of the surveillance;
 - o Reducing the amount of surveillance;

- Changing the method of surveillance;
- The nature of the private information likely to be obtained;
- The sensitivities of the local community; and
- Surveillance operations by other public authorities?

The need to obtain the best evidence to investigate the crime will be paramount at all times.

Next Stage: Once the surveillance has been authorised the next stage is to seek Magistrate's approval (see below).

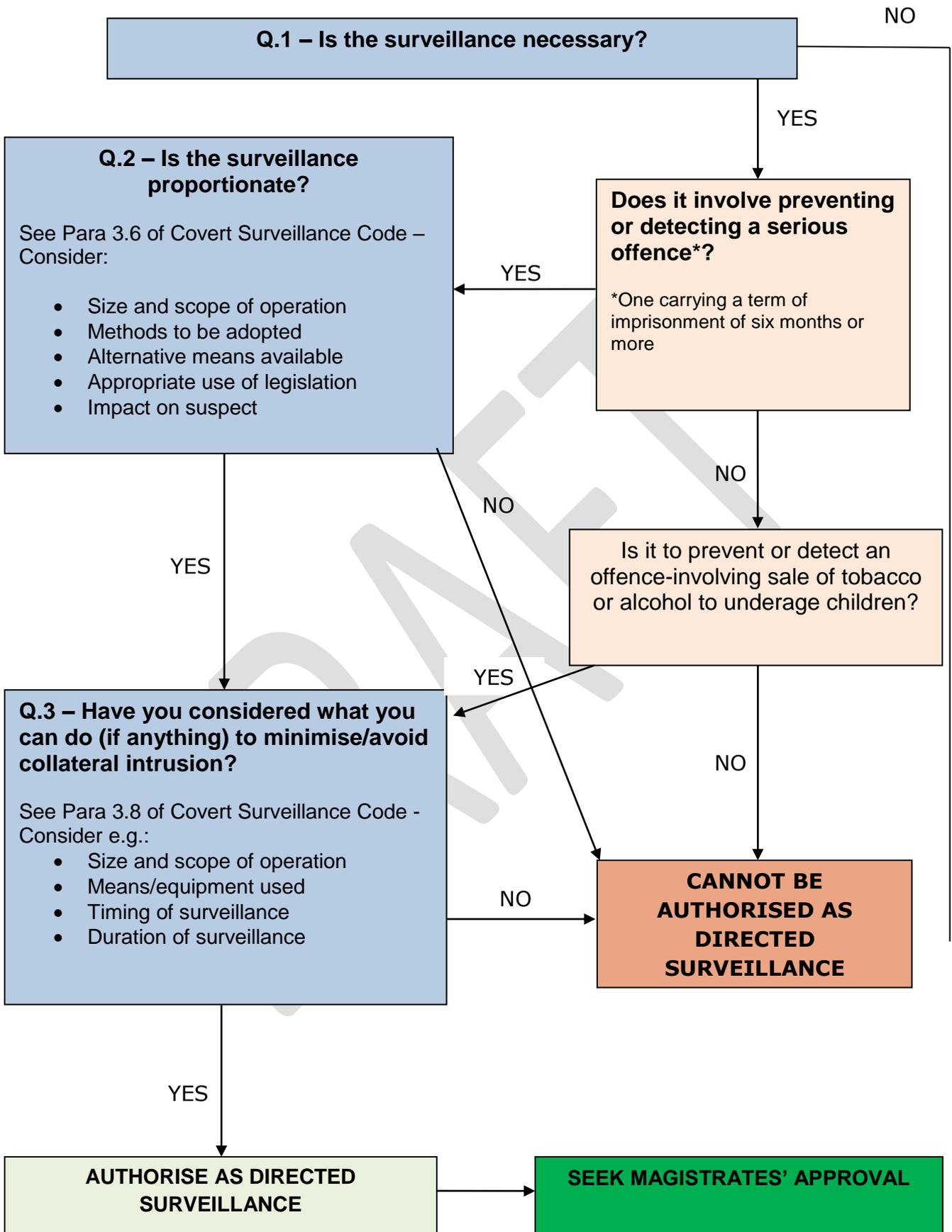
AOs must also, through their relevant Data Controller, ensure compliance with the appropriate data protection requirements under the Data Protection Act 2018 and any relevant internal arrangements produced by the Council relating to the handling and storage of material (see Paragraphs 9.1.4 to 9.2.2 of The Covert Surveillance and Property Interference Revised Code of Practice 2018 and Assurance of Data Handling and Retention Safeguards section below). Within the Council, this is the Data Protection Officer, who will report to the Council's Senior Information Risk Owner ('SIRO').

As set out above (and Part 4 below), in authorising any applications for directed surveillance, the Authorising Officer should also consider:

- (a) how long will the data be retained for?; and
- (b) is this compliant with the Council's Information and Records Management Policy and Corporate Retention Schedule?

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Flowchart 4 - Authorising Directed Surveillance



SEEKING MAGISTRATE'S APPROVAL (JUDICIAL APPROVAL) FOR DIRECTED SURVEILLANCE

Background

Chapter 2 of Part 2 of the Protection of Freedoms Act 2012 (sections 37 and 38) came into force on 1st November 2012. This changed the procedure for the authorisation of Council surveillance under RIPA and approval of a Magistrate is needed for the use of Directed Surveillance.

An approval is also required if an authorisation to use such techniques is being renewed. In each case, the role of the Magistrate is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. There is no requirement for the Magistrate to consider either cancellations or internal reviews.

Home Office Guidance

The Home Office has published guidance on the Magistrate's approval process for both local authorities and the Magistrate's Court:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/>

This guidance is non-statutory but provides advice on how local authorities can best approach these changes in law and the new arrangements that need to be put in place to implement them effectively. It is supplementary to the legislation and to the two statutory Codes of Practice made under RIPA.

See Flowchart 5 for summary of the Magistrates approval process

The Magistrate's Approval Process

1. The first stage will be to apply for an internal authorisation in the usual way. Once this has been granted, the local authority will need to contact the local Magistrates' Court to arrange a hearing.
2. The hearing constitutes legal proceedings. Therefore, local authority officers need to be formally designated to appear before the magistrate, take the oath, present evidence or provide information, as required, to support the application. The Council will need to formally designate officers for this purpose under section 223 of the Local Government Act 1972, to represent the Council within the proceedings.
3. The Home Office suggests that the Investigating Officer will be best suited to fulfil this role but the AO may also want to attend to answer any questions.
4. The local authority will provide the Magistrate with a copy of the original RIPA authorisation. This forms the basis of the application to the Magistrate and should contain all information that is relied upon. In addition, the local authority will provide the Magistrate with two copies of a partially completed judicial application/order form, which is included in the Home Office Guidance (example forms (with guidance on filling in the forms) are available from the Council's Intranet Site (CeriNet) at [enter web link])).
5. The hearing will be held in private and heard by a single Magistrate who will read and consider the RIPA authorisation and the judicial application/order form. She/he may

have questions to clarify points or require additional reassurance on particular matters. The forms and supporting papers must by themselves make the case. **It is not sufficient for the local authority to provide oral evidence where this is not reflected or supported in the papers provided.**

6. The Magistrate will consider whether they are satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition the Magistrate must be satisfied that the Authorising Officer was of appropriate designation within the local authority and that the authorisation was made in accordance with any applicable legal restrictions (e.g. meets the Serious Crime Test for Directed Surveillance)
7. The order section of the above mentioned form will be completed by the Magistrate and will be the official record of his/her decision. The Council will need to retain a copy of the form after it has been signed by the Magistrate.

Magistrate's Options

The Magistrate may decide to –

- ***Approve the grant/renewal of the authorisation***

The grant/renewal of the authorisation will then take effect and the Council may proceed to use the surveillance technique mentioned therein.

- ***Refuse to approve the grant/renewal of the authorisation on a technicality***

The RIPA authorisation will not take effect and the Council may not use the surveillance technique in that case. The Council will need to consider the reasons for the refusal. A technical error in the form may be remedied without the need to go through the internal authorisation process again. The Council can then reapply for Magistrate's approval.

- ***Refuse to approve the grant/renewal and quash the authorisation***

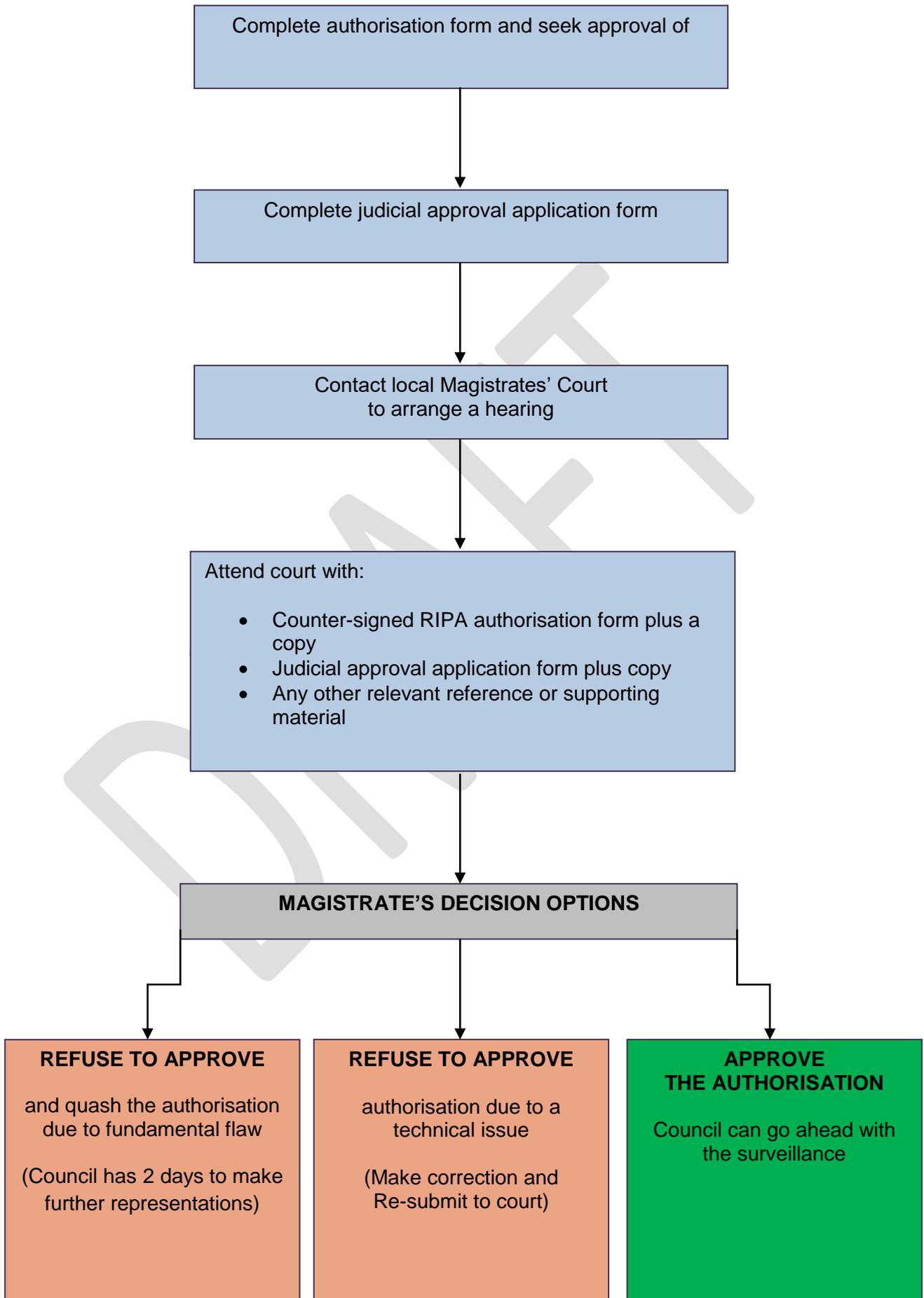
A Magistrate may refuse to approve the grant or renewal of an authorisation and decide to quash the original authorisation. This may be because they believe it is not necessary or proportionate. The RIPA authorisation will not take effect and the Council may not use the surveillance technique in that case. The Magistrate must not exercise their power to quash the authorisation unless the local authority has had at least two business days from the date of the refusal in which to prepare and make further representations to the court.

Appeals

There is no complaint route for a judicial decision unless it was made in bad faith. Any complaints should be addressed to the Magistrates' Advisory Committee. Therefore, the Council may only appeal a Magistrate's decision to refuse approval of an authorisation, on a point of law by making an application for Judicial Review in the High Court.

The Investigatory Powers Tribunal ('IPT') will continue to investigate complaints by individuals about the use of RIPA techniques by public bodies, including local authorities. If, following a complaint to them, the IPT finds fault with a RIPA authorisation, it has the power to quash the Magistrate's order, which approved the grant or renewal of the authorisation. It can also award damages if it believes that an individual's human rights have been violated by the local authority (see Investigatory Powers Tribunal Rules 2018 (SI 2018/1334), which came into force on the 31st December 2018).

Flowchart 5- The Magistrate's Approval Process



PART 3 - Covert Human intelligence Source ('CHIS')

As stated above, Chapter 2 of RIPA sets out a regulatory framework for the use of covert investigatory techniques by public authorities to ensure that they are compatible with the ECHR, particularly Article 8 (the right to respect for private and family life).

The first issue for any Council Officer who is considering undertaking covert surveillance is what type of surveillance they are undertaking, and **whether it is something that can be authorised under RIPA**. A CHIS is one of the two surveillance techniques available to the Council under Part 2 of Chapter 2 of RIPA. The second available technique is Directed Surveillance, but the third, Intrusive Surveillance, cannot be authorised by the Council.

Meaning of a 'CHIS'

A CHIS is defined in S.26(8) of RIPA:

'...a person is a covert human intelligence source if -

- (a) he establishes or maintains a personal or other relationship with a person for the covert purpose of facilitating the doing of anything falling within paragraph (b) or (c);*
- (b) he covertly uses such a relationship to obtain information or to provide access to any information to another person; or*
- (c) he covertly discloses information obtained by the use of such a relationship, or as a consequence of the existence of such a relationship.'*

To ascertain whether a person is a CHIS three questions must be asked:

1. Is the person establishing or maintaining a personal or other relationship with a person?
2. Is that relationship being used for a covert purpose? and
3. Is the covert purpose facilitating the doing of anything falling within Paragraph (b) or (c) (above)?

See Flowchart 6 to assess if the surveillance involves a CHIS.

A CHIS is somebody who is concealing or misrepresenting their true identity or purpose in order to covertly gather or provide access to information from the target. Examples of a CHIS include a private investigator pretending to live on a housing estate to gather evidence of drug dealing or an informant who gives information to Trading Standards about illegal business practices in a factory or shop.

Under Age Sales

If the Young Person is briefed to enter into a conversation, which may lead to private 'information being obtained, then authorisation may be required'. If however, the Young Person is told not to communicate, and therefore no private information is obtained, then authorisation is not required.

Key Points to Note:

A. A public volunteer is not a CHIS. The Home Office Covert Human Intelligence Sources Revised Code of Practice 2018 (at Para 2.18) states:

'In many cases involving human sources, a relationship will not have been established or maintained for a covert purpose. Many sources merely volunteer or provide information that is within their personal knowledge, without being induced, asked, or tasked by a public authority. This means that the source is not a CHIS for the purposes of the 2000 Act and no authorisation under the 2000 Act is required.'

(See Chapter 3 of the Code for further guidance on types of source activity to which authorisations under Part II RIPA may or may not apply)

Care must be taken to ensure that someone who starts as a public volunteer does not end up being a CHIS.

- B. There must be covert use of a relationship to provide access to information or to covertly disclose information. Merely giving a complainant a diary sheet to note comings and goings will not make that person a CHIS.
- C. A test purchaser, in certain circumstances may require authorisation as a CHIS.

The Covert Surveillance and Property Interference Revised Code of Practice 2018 gives the following examples, to assist with the illustration and interpretation of certain provisions, but they are not provisions of the Code and are included only for guidance:

Example 3: Local authority officers attend a car boot sale where it is suspected that counterfeit goods are being sold, but they are not carrying out surveillance of particular individuals and their intention is, through reactive policing, to identify and tackle offenders. Again this is part of the general duties of public authorities and the obtaining of private information is unlikely. A directed surveillance authorisation need not be sought.

Example 4: *Intelligence suggests that a local shopkeeper is openly selling alcohol to underage customers, without any questions being asked. A juvenile is engaged and trained by a public authority and then deployed to act as a juvenile in order to make a purchase of alcohol. In these circumstances any relationship, if established at all, is likely to be so limited in regards to the requirements of the Act that a public authority may conclude that a CHIS authorisation is unnecessary. However, if the test purchaser is wearing recording equipment and is not authorised as a CHIS, or an adult is observing, consideration should be given to granting a directed surveillance authorisation.*

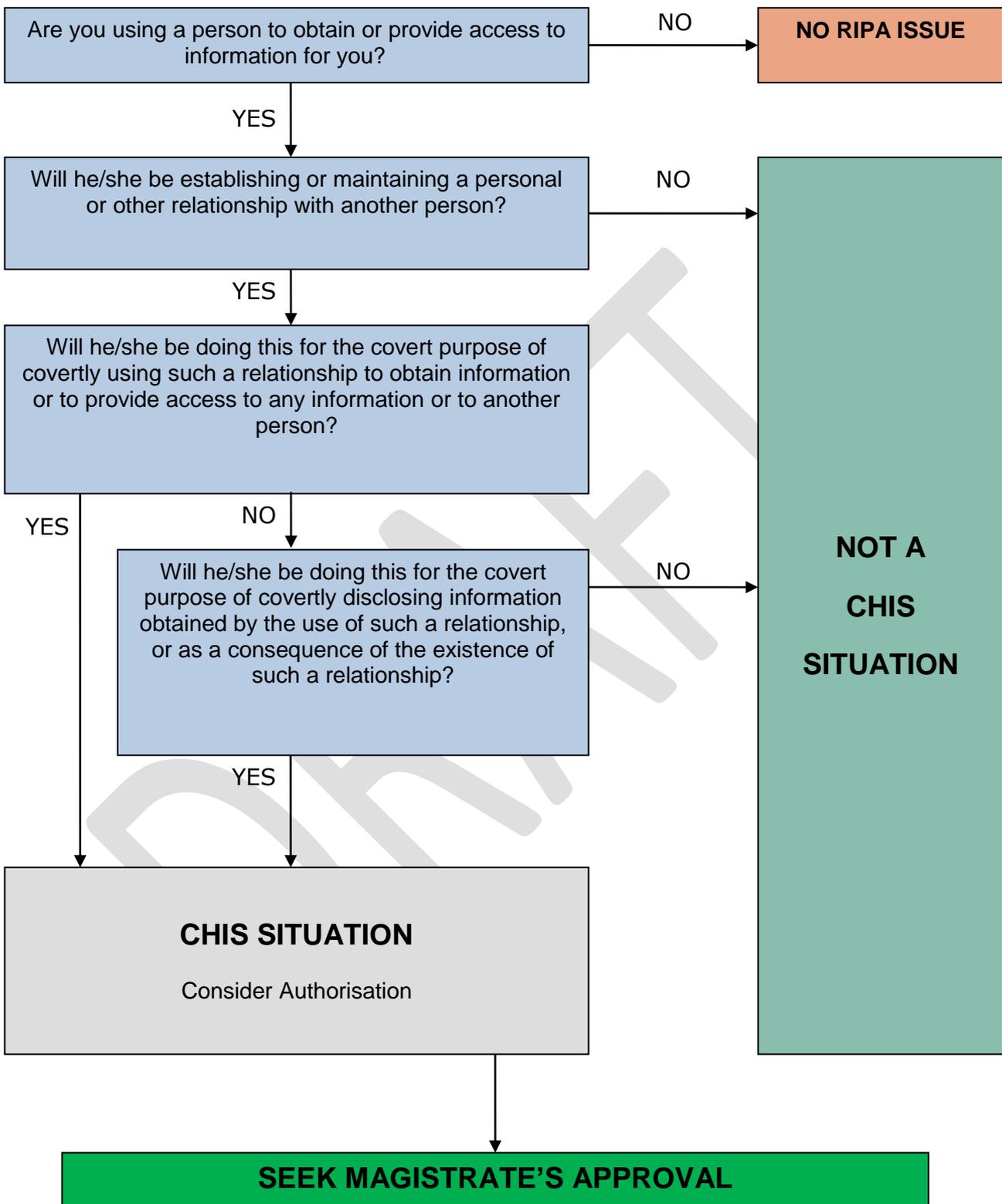
When considering underage test purchasing activities, investigating officers and Authorising Officer must also have regard to the:

- Age Restricted Products and Services: A Code of Practice for Regulatory Delivery (April 2014) (available at: <https://www.gov.uk/government/publications/code-of-practice-age-restricted-products>); and
- Pseudonyms/On-line personas
Where these are permitted to be used corporately, the SRO will maintain a Register of these pseudonyms, together with details of which Services or officers who can use them/sanction their use.

A regular check should then be made by Managers and/or the relevant Corporate Lead Officer of any such usage, including being able to review which media sites have been visited, when, for what purpose, and what has been done with any resultant product. Relevant Services are required to:

- record information/date relating to covert social media/on-line surveillance;
- identify a Designated Officer in the Service to collate the information;
- provide this information to the Designated Officer; and
- the Designated Officer is to provide the information to the SRO or SRO Representative every 4 months.

Flowchart 6 - Are you deploying a CHIS?



Procedure for obtaining authorisation for a CHIS under RIPA

Due to the statutory requirements that need to be adhered to when using a CHIS, it is unlikely that an investigation could involve the use of a CHIS without a lot of prior planning. Only in exceptional circumstances will Ceredigion County Council consider using CHIS as a surveillance method and assistance may be sought from the Police.

The Protection of Freedoms Act 2012 amended the 2000 Act to make CHIS authorisations by local authorities subject to judicial approval. These changes mean that local authorities need to obtain an order approving the grant or renewal of a CHIS authorisation from a Justice of the Peace before it can take effect.

If any Council Officer intends to use a CHIS, and requires advice and guidance, they should contact the SRO and/or the SRO's Representative **before any steps are taken**.

NB, as above, a public volunteer is not a CHIS.

Use of Juvenile CHIS

Special safeguards apply to the granting of authorisations where the CHIS would be a juvenile (under 18 years of age). Authorisations cannot be granted unless the provisions within The Regulation of Investigatory Powers (Juveniles) Order 2000 (<https://www.legislation.gov.uk/ukxi/2000/2793/contents/made>) are satisfied. Home Office Guidance on using a Juvenile CHIS is also available: <https://www.gov.uk/government/publications/covert-human-intelligence-sources-draft-code-of-practice/juvenile-accessible-version>.

Where the surveillance involves the deployment of juveniles or vulnerable people as a CHIS, then the authorisation must be sought from the Chief Executive

If any Council Officer intends to use a Juvenile CHIS, and requires advice and guidance, they should contact the SRO and/or the SRO's Representative before any steps are taken.

Online Covert Activity – RIPA Social Media Policy

See the Council's RIPA Social Media Policy, which details Paragraph 4.11 of the Covert Human Intelligence Sources Revised Code of Practice 2018 (in relation to a CHIS authorisation), and which must be read in conjunction with this Policy.

Completing the Forms

An application must be made by the Officer on the relevant form, which can be downloaded from the Home Office website, <https://www.gov.uk/government/collections/ripa-forms--2>

Application forms will need to contain the following information:

- Details about the purpose for which the CHIS will be used;
- The identity, where known, to be used by the CHIS;
- Details of what the CHIS will be asked to do;
- Details of the investigation;
- Why the use of a CHIS is considered to be proportionate;
- Explanation of the information it is hoped will be obtained;
- The potential for collateral intrusion (i.e. interference with the privacy of people who are not subjects in the investigation);

- Likelihood of acquiring any confidential information; and
- Sequential Unique Reference Number (URN) obtained from the SRO and entered on to the form.

Officers making a CHIS application and Authorising Officers should also be aware of, and have regard to:

- The relevant Home Office Covert Human Intelligence Sources Code of Practice;
- This RIPA Policy; and the
- OSC Procedures and Guidance documents.

Example forms (with guidance on filling in the forms) are available from the Council's Intranet Site (CeriNet) at [\[enter web link\]](#)). **Flowchart 3** will also assist.

Note: As with directed surveillance application forms, standard wording should not be used when completing authorisations.

Before granting an authorisation, the Authorising Officer must be satisfied that the authorisation is necessary for the purpose of preventing and detecting crime. The Authorising Officer must also believe that using a CHIS is proportionate to the outcome sought and that there are adequate procedures in place for maintaining records of the operation. Collateral Intrusion will also need to be considered.

As set out in Part 4 below, in authorising any applications for a CHIS, the Authorising Officer should also consider:

- (a) how long will the data be retained for?; and
- (b) is this compliant with the Council's Information and Records Management Policy and Corporate Retention Schedule?

When using a CHIS, the Authorising Officer and the Officer who makes the application must have regard to section 29(5) of RIPA and also to The Regulation of Investigatory Powers (Source Records) Regulations 2000.

These provisions provide (amongst other things) the following:

- There will at all times be an officer within the Council who will have day to day responsibility for the CHIS;
- There will be another officer within the Council who will have general oversight over the use made of the CHIS;
- That records will document significant information connected with the security and welfare of the CHIS;
- That the tasks given to the CHIS and the uses made of the CHIS are recorded;
- The identity of the CHIS and the identity that is used by the CHIS; and
- That records are kept of all contacts and communications between the CHIS and the Council/ relevant officer at the Council.

The lifecycle of a CHIS authorisation

Once an authorisation has been granted, the Authorising Officer will consider the duration of the authorisation, renewal of the authorisation and cancellation of the authorisation.

Note: The notices and authorisations do not take effect until a Magistrate has approved the authorisation (this does not apply for communications data, which is dealt with by NAFN (see Part 4 below)).

CHIS authorisations cease to have effect 12 months from the date of approval. The duration of a juvenile CHIS authorisation is 1 month.

GUIDANCE FOR AUTHORISING OFFICERS AUTHORISING A CHIS: RULES AND CRITERIA

Section 27 of RIPA provides a defence if covert surveillance is challenged:

- '1) Conduct to which this Part applies shall be lawful for all purposes if -*
- a. an authorisation under this Part confers an entitlement to engage in that conduct on the person whose conduct it is; and*
 - b. his conduct is in accordance with the authorisation.'*

To take advantage of this defence, the surveillance needs to be properly authorised. S.29 sets out the criteria for authorising the use of a CHIS.

See **Flowchart 7** to assess whether to authorise a CHIS.

The Authorising Officer

RIPA and the associated Codes require that when the Council uses a CHIS, these activities must only be authorised by an officer with delegated powers when the relevant criteria are satisfied.

The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (SI 2010 N0.521) states that the AOs for a local authority can be a Director, Head of Service, Service Manager or equivalent.

Services may, therefore, currently nominate officers from at least Corporate Lead Officer level, who can authorise these activities either as an AO for the purposes of directed covert surveillance or use of a CHIS.

Pursuant to the Council's corporate restructure, effective from 1st April 2018, and further to Council resolution made on the 21st June 2018, the following Officers are authorised to act as AOs (the AOs are the same as those appointed to authorise Directed Surveillance applications):

- **Corporate Lead Officer: People and Organisation;**
- **Corporate Lead Officer: Policy, Performance & Public Protection; and**
- **Corporate Lead Officer: Porth Cynnal.**

As above, where the surveillance involves the likelihood of obtaining confidential information or the deployment of juveniles or vulnerable people, then the authorisation **must** be sought from the Chief Executive or, in their absence, the acting Chief Executive.

If there is any doubt regarding sufficiency of rank, contact the SRO or the SRO's Representative for advice.

As above, care must be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved.

Where such material has been acquired and retained, the Council's Senior Responsible Officer for RIPA must be informed as soon as possible, as the matter should be reported to the IPCO during their next inspection and the material should be made available to the IPCO, if requested.

Authorising Officer's Consideration

S.29(2) states:

'A person shall not grant an authorisation for the conduct or the use of a covert human intelligence source unless he believes -

- (a) that the authorisation is necessary on grounds falling within subsection (3);*
- (b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use; and*
- (c) arrangements exist for the source's case that satisfy—*
 - (i) the requirements of subsection (4A), in the case of a source of a relevant collaborative unit;*
 - (iii) the requirements of subsection (5), in the case of any other source; and that satisfy such other requirements as may be imposed by order made by the Secretary of State'*

Please consult flowchart 7 when deciding whether the deployment of a CHIS should be authorised.

Three matters are important to consider before authorising the deployment of a CHIS:

1. Necessity

The deployment of a CHIS has to be necessary on one of the grounds set out in S.29 (3). Local authorities can only authorise on the one ground; where it is necessary:

'for the purpose of preventing or detecting crime or of preventing disorder.'
(S.29 (3) (b))

The matter being investigated must be an identifiable criminal offence or constitute disorder.

2. Proportionality

Proportionality means ensuring that the deployment of the CHIS is the least intrusive method to obtain the required information having considered all reasonable alternatives. This requires consideration of not only whether a CHIS is appropriate but also the method to be adopted, the duration and the equipment to be used. The CHIS Code (Para 3.5) requires four aspects to be addressed in the authorisation form:

- Balancing the size and scope of the proposed activity against the gravity and extent of the perceived crime or offence;
- Explaining how and why the methods to be adopted will cause the least possible intrusion on the subject and others;
- Considering whether the activity is an appropriate use of the legislation and a reasonable way, having considered all reasonable alternatives, of obtaining the necessary result; and

- Evidencing, as far as reasonably practicable, what other methods had been considered and why they were not implemented.

It is unacceptable to consider whether an authorisation is required based on the description of the surveillance alone. The legal principles must be applied to the particular facts, and is a matter of judgment.

The conduct that it is aimed to prevent/detect must be identified and clearly described, and an explanation provided of why it is necessary to use the covert techniques requested.

3. Security and Welfare Arrangements

CHIS's are often placed in difficult and sometime dangerous situations e.g. an informant on a housing estate in contact with criminal gangs. Appropriate security and welfare arrangements must also be in place in relation to each CHIS. S.29 (5) requires there to be:

- A person who will have day-to-day responsibility for dealing with the CHIS on behalf of that authority, and for his/her security and welfare;
- A person who will have general oversight of the use made of the CHIS. This person must be different to the one above;
- A person who will maintain a record of the use made of the CHIS. This can be any of the above or a separate person; and
- Proper and secure records to be kept about the use made of the CHIS.

Risk Assessment: An authorisation for the conduct or use of a CHIS may not be granted or renewed in any case where the source is under the age of eighteen at the time of the grant or renewal, unless a risk assessment has been carried out. This must be sufficient to demonstrate that:

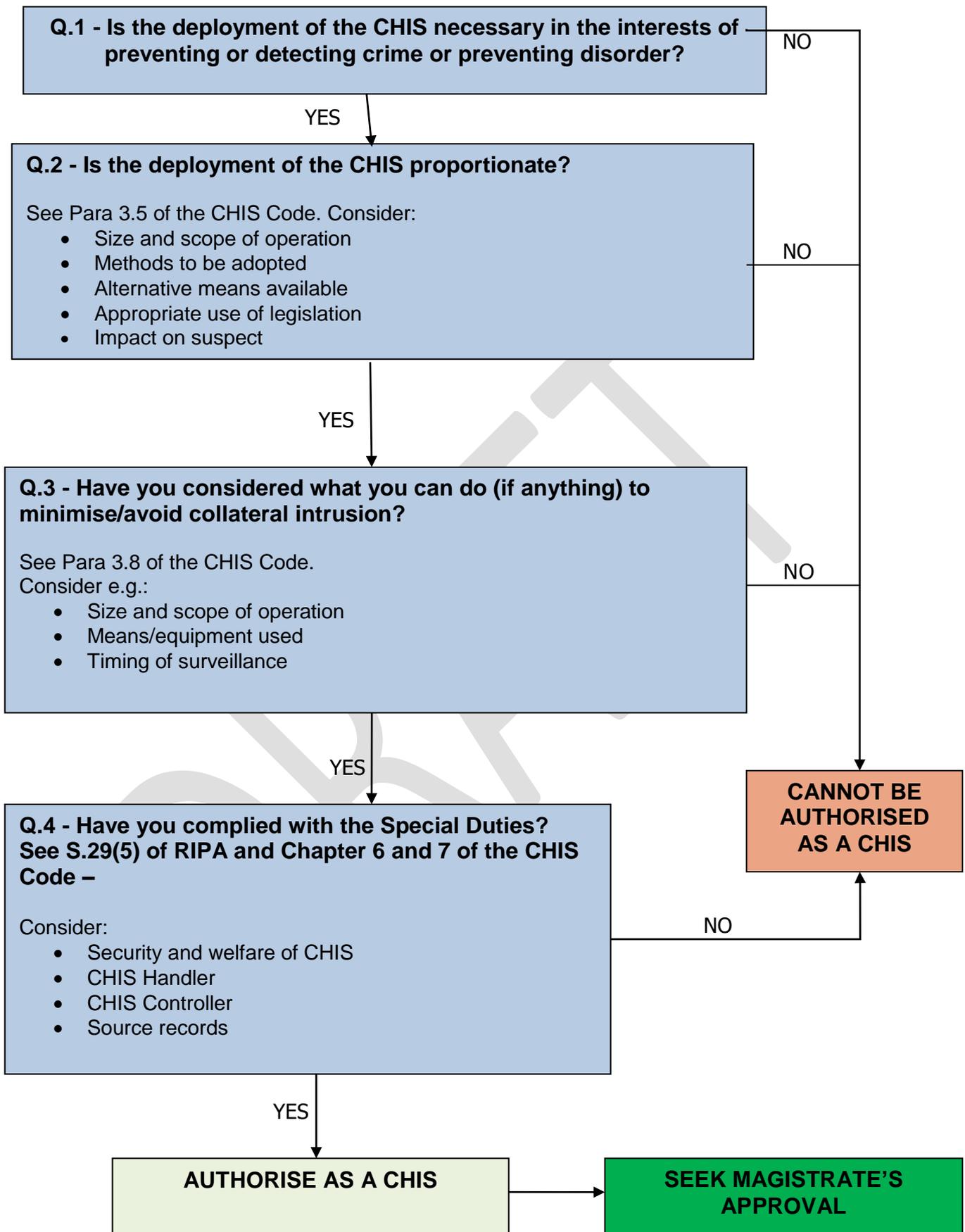
- The nature and magnitude of any risk of physical injury to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- The nature and magnitude of any risk of psychological distress to the CHIS arising in the course of, or as a result of, carrying out the conduct described in the authorisation has been identified and evaluated;
- The person granting or renewing the authorisation has considered the risk assessment and has satisfied himself that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the CHIS; and
- The person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the CHIS and a relative, guardian or person who has for the time being assumed responsibility for the CHIS's welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

As stated above, in authorising any applications for a CHIS, the Authorising Officer should also consider:

- (a) how long will the data be retained for?; and
- (b) is this compliant with the Council's Information and Records Management Policy and Corporate Retention Schedule?

Next Stage: Once the use of a CHIS has been authorised, the next stage is to seek Magistrate's approval (see below).

Flowchart 7 – Authorising a CHIS



SEEKING MAGISTRATE'S APPROVAL FOR A CHIS (JUDICIAL APPROVAL)

Background

Since the 1st of November 2012 and the introduction of Chapter 2 of Part 2 of the Protection of Freedoms Act 2012 (ss37 and 38), local authorities are required to obtain the approval of a Magistrate for the deployment of a CHIS.

An approval is also required to renew an authorisation. In each case, the role of the Magistrate is to ensure that the correct procedures have been followed and the relevant factors have been taken account of. There is no requirement for the Magistrate to consider either cancellations or internal reviews.

Home Office Guidance

The Home Office has published guidance on the Magistrate's approval process both for local authorities and the Magistrate's Court:

<http://www.homeoffice.gov.uk/publications/counter-terrorism/ripa-forms/local-authority-ripa-guidance/>

This guidance is non-statutory but provides advice on how the Council can best approach these changes in law and the new arrangements that need to be put in place to implement them effectively. It is supplementary to the legislation and to the two statutory Codes of Practice made under RIPA.

The Magistrate's Approval Process (see also Flowchart 8 below)

1. The first stage will be to apply for an internal authorisation in the usual way. Once this has been granted, the Council will need to contact the local Magistrates' Court to arrange a hearing.
2. The hearing constitutes legal proceedings. Therefore, the Council's Officers need to be formally designated to appear before the Magistrate, take the oath, present evidence or provide information, as required, to support the application. The Council will need to formally designate Officers for this purpose under section 223 of the Local Government Act 1972, to represent the Council within the proceedings.
3. The Home Office suggests that the Investigating Officer will be best suited to fulfil this role, but the AO may also want to attend to answer any questions.
4. The Council will provide the Magistrate with a copy of the original RIPA authorisation. This forms the basis of the application to the Magistrate and should contain all information that is relied upon. In addition, the Council will provide the Magistrate with two copies of a partially completed judicial application/order form, which is included in the Home Office Guidance (example forms (with guidance on filling in the forms) are available from the Council's Intranet Site (CeriNet) at [\[enter web link\]](#))).
5. The hearing will be held in private and heard by a single Magistrate who will read and consider the RIPA authorisation and the judicial application/order form. The Magistrate may have questions to clarify points or require additional reassurance on particular matters. The forms and supporting papers must by themselves make the case. **It is not sufficient for the Council to provide oral evidence where this is not reflected or supported in the papers provided.**

6. The Magistrate will consider whether they are satisfied that, at the time the authorisation was granted or renewed, there were reasonable grounds for believing that the authorisation was necessary and proportionate. They will also consider whether there continues to be reasonable grounds. In addition the Magistrate must be satisfied that the Authorising Officer was of appropriate designation within the local authority and that the authorisation was made in accordance with any applicable legal restrictions (e.g. meets the Serious Crime Test for Directed Surveillance).
7. The order section of the above-mentioned form will be completed by the Magistrate and will be the official record of their decision. The Council will need to retain a copy of the form after it has been signed by the Magistrate.

Magistrate's Options

The Magistrate may decide to –

- ***Approve the grant/renewal of the authorisation***

The grant/renewal of the authorisation will then take effect and the Council may proceed to use the surveillance technique mentioned therein.

- ***Refuse to approve the grant/renewal of the authorisation on a technicality***

The RIPA authorisation will not take effect and the Council may not use the surveillance technique in that case. The Council will need to consider the reasons for the refusal. A technical error in the form may be remedied without the need to go through the internal authorisation process again. The Council can then reapply for Magistrate's approval.

- ***Refuse to approve the grant/renewal and quash the authorisation***

A Magistrate may refuse to approve the grant or renewal of an authorisation and decide to quash the original authorisation. This may be because they believe it is not necessary or proportionate. The RIPA authorisation will not take effect and the Council may not use the surveillance technique in that case. The Magistrate must not exercise their power to quash the authorisation unless the Council has had at least two business days from the date of the refusal in which to prepare and make further representations to the Court.

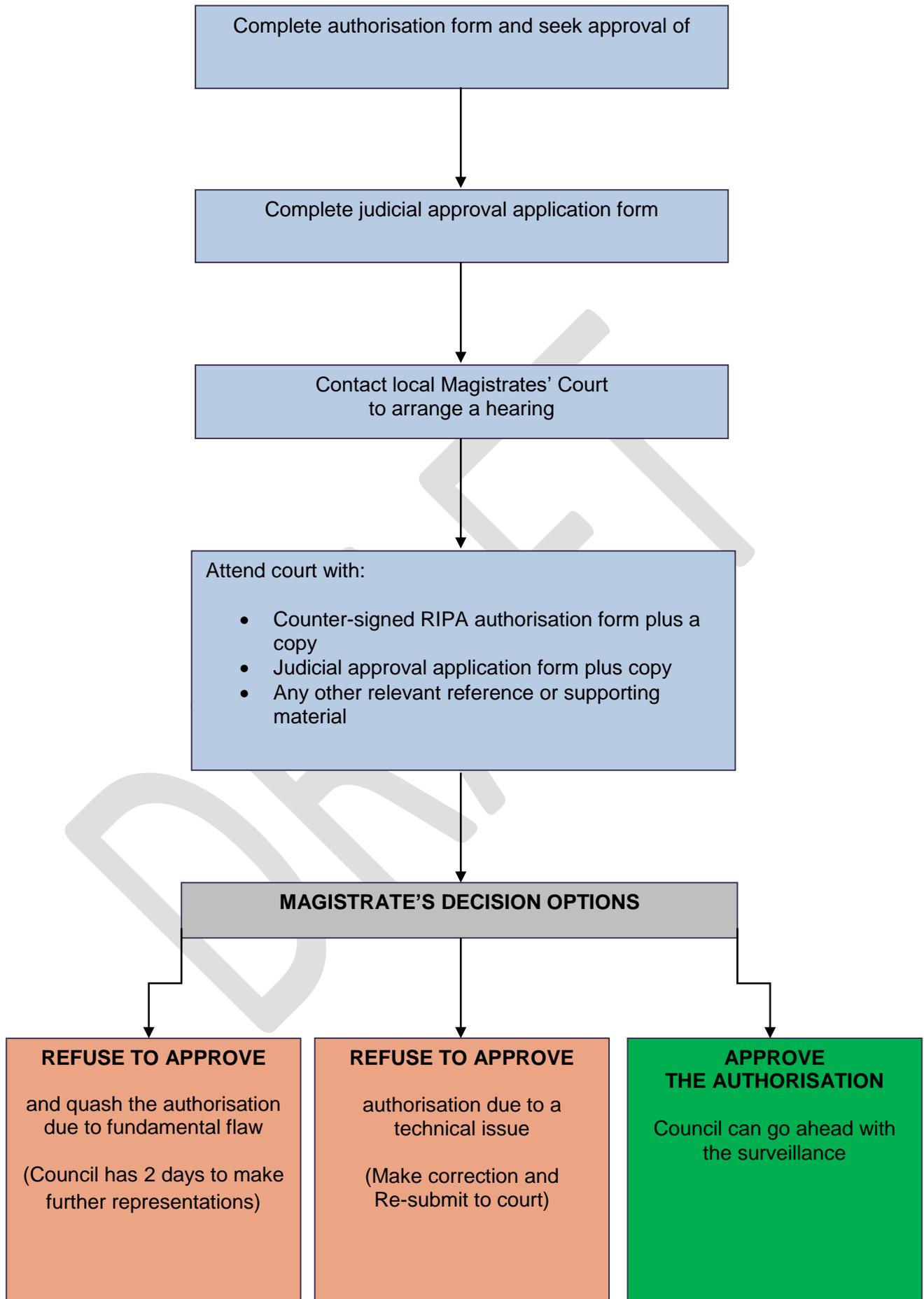
Appeals

There is no complaint route for a judicial decision unless it was made in bad faith. Any complaints should be addressed to the Magistrates' Advisory Committee.

Therefore, the Council may only appeal a Magistrate's decision to refuse approval of an authorisation, on a point of law by making an application for Judicial Review in the High Court.

The Investigatory Powers Tribunal ('IPT') will continue to investigate complaints by individuals about the use of RIPA techniques by public bodies, including local authorities. If, following a complaint to them, the IPT finds fault with a RIPA authorisation, it has the power to quash the Magistrate's order, which approved the grant or renewal of the authorisation. It can also award damages if it believes that an individual's human rights have been violated by the Council (see Investigatory Powers Tribunal Rules 2018 (SI 2018/1334), which came into force on the 31st December 2018).

Flowchart 8 - The Magistrate's Approval Process (CHIS)



Time Limits

The current time limits for an authorisation to use a CHIS is 12 months for a CHIS or 1 month if the CHIS is underage.

A renewal must be authorised prior to the expiry of the original authorisation, but it runs from the expiry date and time of that original authorisation. Authorisations may be renewed more than once if still considered necessary and proportionate and approved by a Magistrate.

An application for renewal must not be made more than 7 working days before the authorisation is due to expire. This is to ensure that the renewal is necessary but local authorities must take account of factors, which may delay the renewal process (e.g. intervening weekends or the availability of the relevant local authority authorising officer and a Magistrate to consider the application).

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PART 4 RECORDS, DATA HANDLING, RETENTION SAFEGUARDS, ERRORS AND COMPLAINTS

THE CENTRAL REGISTER OF AUTHORISATIONS

A central register record of the following information relating to all authorisations will be held centrally by the SRO, with the Officer retaining a copy, and will be kept for at least 3 years from the ending of each authorisation, and in any event in compliance with the Council's Information and Records Management Policy (2019):

<https://cerinet.ceredigion.gov.uk/media/2725/information-and-records-management-policy-v20.pdf>

Documentation of any instruction to cease surveillance must be retained. A record should be kept detailing the product obtained from the surveillance and whether objectives were achieved. Although the central register will be monitored by the SRO, it is ultimately the AO's responsibility to ensure renewals and cancellations are up to date.

Authorisations will be made available to the IPCO. It will be the responsibility of the SRO or nominated representative to ensure that the register is maintained and overseen.

The records should contain the following information:

- Original authorisation (not copies);
- The type of authorisation – e.g. Directed Surveillance or CHIS;
- The date the authorisation was given;
- The name and rank/grade of the authorising officer;
- The unique (sequential) reference number ('URN') of the investigation or operation;
- The title of the investigation or operation, including a brief description and names of subjects, if known;
- Whether the urgency provisions were used, and if so why;
- The date of any reviews;
- If the authorisation has been renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer;
- Whether the investigation or operation resulted in obtaining confidential information;
- Whether the authorisation was granted by an individual directly involved in the investigation;
- The date the authorisation was cancelled;
- Instruction to cease surveillance;
- Record of product obtained from the surveillance;
- Record of whether objectives achieved;
- Authorisations by Magistrates' Courts include date of Court hearing;
- Name of determining Magistrate, the time and date of the decision;
- Where any application is refused, the grounds for refusal as given by the issuing authority or Judicial Commissioner;
- Record of whether, following a refusal of any application by a Judicial Commissioner, there is an appeal to the Investigatory Powers Commissioner; and
- Where there is such an appeal and the Investigatory Powers Commissioner also refuses the issuing of an application, the grounds for refusal given.

The Covert Surveillance and Property Interference Revised Code of Practice 2018 at Paragraph 8.2 also confirms that the following documentation should also be centrally retrievable for at least three years from the ending of each authorisation:

- A copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the AO;
- A record of the period over which the surveillance has taken place;
- The frequency of reviews prescribed by the AO;
- A record of the result of each review of the authorisation;
- A copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested;
- The date and time when any instruction to cease surveillance was given;
- The date and time when any other instruction was given by the AO; and
- (For local authorities) A copy of the order approving or otherwise the grant or renewal of an authorisation from a Justice of the Peace ('JP').

All Investigating Officers should keep the authorisation within their own service and submit a copy to the SRO.

ASSURANCE OF DATA HANDLING AND RETENTION SAFEGUARDS

The procedures and safeguards to be applied in relation to the handling of any material obtained through Directed Surveillance under the 2000 Act is dealt with in detail in the Covert Surveillance and Property Interference Revised Code of Practice 2018 and Covert Human Intelligence Sources Code of Practice, which should be followed.

Application forms for RIPA Authorisations have been amended to include reference to retention periods, and confirmation that these periods are compliant with the Council's Information and Records Management Policy and Corporate Retention Schedule (example forms (with guidance on filling in the forms) are available from the Council's Intranet Site (CeriNet) at [[enter web link](#)])).

Authorisations must be kept for at least 3 years from the ending of each authorisation, and ideally up to five years. All data obtained under the IPA 2016 and RIPA must be clearly labelled and stored on a data pathway with a known retention policy.

The data pathway retention, review and disposal process must be in compliance with:

1. The Council's Information and Records Management Policy (2019):
<https://cerinet.ceredigion.gov.uk/media/2725/information-and-records-management-policy>;
2. The Council's Corporate Retention Schedule (**to follow**);
3. The Covert Surveillance and Property Interference Revised Code of Practice 2018, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf

which states at Paragraph 8.5 - Retention of records:

Records must be available for inspection by the Investigatory Powers Commissioner and retained to allow the Investigatory Powers Tribunal ('IPT'), established under Part IV of the 2000 Act, to carry out its functions. The IPT will consider complaints made up to one year after the conduct to which the complaint relates and, where it is equitable to do so, may consider complaints made more than one year after the conduct to which the complaint relates (see section 67(5) of the Act), particularly where continuing conduct is alleged. Although records are only required to be retained for at least three years, it is therefore desirable, if possible, to retain records for up to five years.

See also Paragraphs 8.6-8.7 below regarding errors.

4. Retention practices must comply with relevant legal frameworks including:
 - RIPA;
 - The IPA 2016;
 - The Data Protection Act 2018; and
 - Article 8(2) of the European Convention on Human Rights.

In authorising any applications relating to Directed Surveillance or a CHIS, AOs should also consider:

- (a) how long will the data be retained for?; and
- (b) is this compliant with the Council's Information and Records Management Policy and Corporate Retention Schedule?

AOs must also ensure that they fully understand any data pathways used for RIPA or IPA 2016 data.

Example: Directed surveillance data may be simultaneously stored on several data pathways, as follows:

- Pathway 1: CCTV video product is transferred onto a CD and kept in a secure cabinet;
- Pathway 2: a copy of the video is sent via email and stored on a common storage drive;
- Pathway 3: a copy of the video is received via email and saved in an Outlook folder by a legal officer; and
- Pathway 4: a copy of the video is received via email and stored in a password protected evidential casework folder by a legal officer.

Safeguarding processes must also comply with the Covert Surveillance and Property Interference Revised Code of Practice 2018 (available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf), which states at paragraph 9.3 that Public authorities '*should ensure that their actions when handling information obtained by means of covert surveillance or property interference comply with relevant legal frameworks and this code, so that any interference with privacy is justified in accordance with Article 8(2) of the European Convention on Human Rights. Compliance with these legal frameworks, including data protection requirements, will ensure that the handling of private information so obtained continues to be lawful, justified and strictly controlled, and is subject to robust and effective safeguards.*'

The Council must be compliant with data safeguards to establish a high level of confidence that all data obtained is retained lawfully, and to embed and encourage best practice for compliance, and also ensure that the handling of private information so obtained continues to be lawful, justified and strictly controlled, and is subject to robust and effective safeguards. Data must not be retained for longer than necessary or appropriate.

It is the responsibility of each service to securely retain all authorisations within their service and once an investigation is closed, the duplicate records held by the service should be disposed of in an appropriate manner i.e. treated as confidential waste and shredded–

AOs, through their relevant Data Controller, must ensure compliance with the appropriate data protection requirements under the Data Protection Act 1998 and any relevant internal arrangements produced by the Council relating to the handling and storage of material.

Any breaches of data protection requirements should also be reported to the Information Commissioner.

These safeguards will be subject to periodic review to ensure that they remain up-to-date and effective.

The Covert Surveillance and Property Interference Revised Code of Practice 2018 states:

- (at Paragraph 9.5) Safeguards (including privileged or confidential information):
Dissemination, copying and retention of material must be limited to the minimum necessary for authorised purposes. For the purposes of the code, something is necessary for the authorised purposes if the material:
 - *is, or is likely to become, necessary for any of the statutory purposes set out in the 2000, 1997 or 1994 Act in relation to covert surveillance or property interference;*
 - *is necessary for facilitating the carrying out of the functions of public authorities under those Acts;*
 - *is necessary for facilitating the carrying out of any functions of the Commissioner or the Investigatory Powers Tribunal;*
 - *is necessary for the purposes of legal proceedings; or*
 - *is necessary for the performance of the functions of any person by or under any enactment.*

Paragraphs 9.14 to 9.22 of the Covert Surveillance and Property Interference Revised Code of Practice 2018 provide guidance as to the safeguards, which govern the dissemination, copying, storage and destruction of private information obtained through covert surveillance or property interference.

The Council must ensure that there are internal arrangements in force for securing that the requirements of the safeguards referred to in the Covert Surveillance and Property Interference Revised Code of Practice 2018 are satisfied in relation to private information obtained.

Training on Data Handling and Retention Safeguards can be arranged for any Authorising Officers or Officers who may handle such data – please contact the SRO if you would like to undertake any such Training.

Dissemination of information

The number of persons to whom any of the information is disclosed, and the extent of disclosure, should be limited to the minimum necessary for the authorised purpose(s). This obligation applies equally to disclosure to additional persons within the Council, or another public authority, and to disclosure outside the Council, or other public authority. Similarly, only the material that is needed by the recipient must be disclosed e.g. if a summary of the material will suffice, no more than that summary should be disclosed.

This obligation to limit the number of persons to whom any of the information is disclosed, including the extent of the disclosure, to the minimum necessary for the authorised purpose(s) also applies to anyone to whom the material is subsequently disclosed. In some cases, this will be achieved by requiring the latter to obtain permission from the original authority before disclosing the material further. In others, explicit safeguards should be applied to any secondary recipients.

As confirmed in the Interception of Communications Data section above, regarding material obtained under a warrant or authorisation is disclosed to the authorities of a country or

territory outside the UK, the Council must ensure that the material is only handed over to the authorities if it appears to them that any requirements relating to minimising the extent to which material is disclosed, copied, distributed and retained will be observed to the extent that the authorising officer, Judicial Commissioner or Secretary of State considers appropriate.

Where material obtained under a warrant or authorisation is disclosed to the authorities of a country or territory outside the UK, the Council must ensure that the material is only handed over to the authorities if it appears to them that any requirements relating to minimising the extent to which material is disclosed, copied, distributed and retained will be observed to the extent that the authorising officer, Judicial Commissioner or Secretary of State considers appropriate.

Copying

Material obtained through covert surveillance or property interference may only be copied to the extent necessary for the authorised purposes. Copies include not only direct copies of the whole of the material, but also extracts and summaries which identify themselves as the product of covert surveillance or property interference, and any record which refers to the covert surveillance or property interference and the identities of the persons to whom the material relates.

Storage

Material obtained through covert surveillance or property interference, and all copies, extracts and summaries of it, must be handled and stored securely, so as to minimise the risk of loss or theft. It must be held so as to be inaccessible to persons without the required level of security clearance (where applicable). This requirement to store such material securely applies to all those who are responsible for the handling of the material.

The Council must apply the following protective security measures:

- Physical security to protect any premises where the information may be stored or accessed;
- IT security to minimise the risk of unauthorised access to IT systems; and
- An appropriate security clearance regime for staff, which is designed to provide assurance that those who have access to this material are reliable and trustworthy.

Deletion & Destruction

Information obtained through covert surveillance or property interference, and all copies, extracts and summaries, which contain such material, should be scheduled for deletion or destruction and securely destroyed as soon as they are no longer needed for the authorised purpose(s). The duplicate records held by the service should be disposed of in an appropriate manner i.e. treated as confidential waste and shredded.

If such information is retained, it should be reviewed at appropriate intervals to confirm that the justification for its retention is still valid.

Confidential and Legally Privileged Material

There are also very specific and detailed requirements in relation to particularly sensitive material, much of which is subject to enhanced authorisation regimes, this type of material includes:

- Material subject to legal privilege;
- Confidential personal information;
- Confidential constituent information; and
- Confidential journalistic material and journalists sources.

Surveillance likely or intended to result in the acquisition of knowledge of confidential or privileged material may be authorised only by AOs entitled to grant authorisations in respect of confidential or privileged information and care must be taken where, through the use of surveillance, it would be possible to acquire knowledge of discussions between a minister of religion and an individual relating to the latter's spiritual welfare, or where matters of medical or journalistic confidentiality may be involved.

Where such material has been acquired and retained, the Council's Senior Responsible Officer for RIPA must be informed as soon as possible, as the matter should be reported to the IPCO during their next inspection and the material should be made available to the IPCO, if requested.

Marking

Consideration should be given to appropriate marking of material, such as, for example, a marking of 'CONFIDENTIAL' or 'NOT TO BE DISTRIBUTED WITHOUT WRITTEN PERMISSION' on confidential or sensitive material.

Errors

Careful preparation and checking of authorisations and appropriate technical systems will reduce the scope for making errors.

The SRO will undertake an annual review of errors together with a written record.

See Paragraphs 8.6-8.18 Covert Surveillance & Property Interference Revised Code of Practice 2018:

8.6 This section provides information regarding errors. Proper application of the surveillance provisions provided for in Part II of the 2000 Act and the property interference provision provided for in the 1994 and 1997 Acts, should reduce the scope for making errors. Public authorities will be expected to have thorough procedures in place to comply with these provisions, including for example the careful preparation and checking of warrants and authorisations, reducing the scope for making errors.

8.7 Wherever possible, any technical systems should incorporate functionality to minimise errors.

8.8 An error must be reported if it is a 'relevant error'. Under section 231(9) of the Investigatory Powers Act 2016, a relevant error for the purpose of activity covered by this code is any error by a public authority in complying with any requirements that are imposed on it by any enactment which are subject to review by a Judicial Commissioner. This would include compliance by public authorities with Part II of the 2000 Act or the property interference provisions of the 1994 and 1997 Acts. Examples of relevant errors occurring would include circumstances where:

- Surveillance or property interference activity has taken place without lawful authorization; or
- There has been a failure to adhere to the safeguards set out in the relevant statutory provisions and Chapter 9 of the Code.

8.9 Errors can have very significant consequences on an affected individual's rights and, in accordance with section 235(6) of the Investigatory Powers Act 2016, all

relevant errors made by public authorities must be reported to the Investigatory Powers Commissioner by the public authority that is aware of the error.

8.10 When a relevant error has occurred, the public authority that made the error must notify the Investigatory Powers Commissioner as soon as reasonably practicable, and no later than **ten working** days (or as agreed with the Commissioner) after it has been established by appropriate internal governance processes that a relevant error has occurred. Such internal governance processes are subject to review by the Investigatory Powers Commissioner. Where the full facts of the error cannot be ascertained within that time, an initial notification must be sent with an estimated timescale for the error being reported in full and an explanation of the steps being undertaken to establish the full facts of the error.

8.11 From the point at which the public authority identifies that a relevant error may have occurred, they must take steps to confirm the fact of an error as quickly as it is reasonably practicable to do so. Where it is subsequently confirmed that an error has occurred and that error is notified to the Commissioner, the public authority must also inform the Commissioner of when it was initially identified that an error may have taken place.

8.12 A full report must be sent to the Investigatory Powers Commissioner as soon as reasonably practicable in relation to any relevant error, including details of the error and, where it has not been possible to provide the full report within ten working days (or as agreed with the Commissioner) of establishing the fact of the error, the reasons this is the case. The report should include information on the cause of the error; the amount of surveillance or property interference conducted and material obtained or disclosed; any unintended collateral intrusion; any analysis or action taken; whether any material has been retained or destroyed; and a summary of the steps taken to prevent recurrence.

8.13 The Investigatory Powers Commissioner may issue guidance as necessary, including guidance on the format of error reports. Public authorities must have regard to any guidance on errors issued by the Investigatory Powers Commissioners.

8.14 In addition to the above, errors may arise where a warrant or authorisation has been obtained as a result of the public authority having been provided with information which later proved to be incorrect due to an error on the part of the person providing the information, but on which the public authority relied in good faith. Whilst these actions do not constitute a relevant error on the part of the authority which acted on the information, such occurrences should be brought to the attention of the Investigatory Powers Commissioner. Where reporting such circumstances to the Investigatory Powers Commissioner, the processes outlined at Paragraph 8.10 apply as they apply to the reporting of a relevant error.

Examples of common mistakes in RIPA Forms

- Using out of date Home Office forms;
- Not quoting URN;
- Copying wording from old authorisations;
- Failing to give detailed explanations of what the surveillance will involve;
- Failing to sufficiently consider and/or explain the proportionality factors;
- Failing to sufficiently consider and/or explain Collateral Intrusion;
- Failing to sufficiently consider likelihood of obtaining confidential information;
- Failing to send (original) completed forms to the SRO; or

- Failure to request only the tactics known to be available and intended to be used.

Examples of Authorising Officers' Mistakes

- Repetitive narrative and rubber stamping without proper consideration of all the facts set out in the authorisation form;
- Failure to clearly set out what activity and surveillance equipment is authorised;
- Not knowing the capability of the surveillance equipment which is being authorised; E.g. cameras that record continuously, thermal image/infrared capability, cameras activated by motion);
- Failing to demonstrate that less intrusive methods have been adequately considered and why they have been discounted in favour of the tactic selected;
- Failing when cancelling authorisations, to give directions for management and storage of the product of the surveillance;
- No robust and quality assurance procedures;
- Failure to evidence proportionality – that other means have been considered, and that the relevant criteria has been considered; or
- The need for authorisation has to be judged at the time of the authorisation, not with the benefit of hindsight.

Serious Errors

8.15 Section 231 of the 2016 Act states that the IPC must inform a person of any relevant error relating to that person if the Commissioner considers that the error is a serious error and that it is in the public interest for the person concerned to be informed of the error. The Commissioner may not decide that an error is a serious error unless he or she considers that the error has caused significant prejudice or harm to the person concerned. The fact that there has been a breach of a person's Convention rights (within the meaning of the Human Rights Act 1998) is not sufficient by itself for an error to be a serious error.

8.16 In deciding whether it is in the public interest for the person concerned to be informed of the error, the Commissioner must in particular consider:

- national security;
- the prevention or detection of serious crime;
- the economic well-being of the United Kingdom; or
- the continued discharge of the functions of any of the intelligence services.

8.17 Before making their decision, the Commissioner must ask the public authority which has made the error to make submissions on the matters concerned. Public authorities must take all such steps as notified to them by the Investigatory Powers Commissioner to help identify the subject of a serious error.

8.18 When informing a person of a serious error, the Commissioner must inform the person of any rights that the person may have to apply to the Investigatory Powers Tribunal, and provide such details of the error as the Commissioner considers to be necessary for the exercise of those rights.

Further guidance can be found in:

- Para 7.1 – 7.20 of the Covert Human Intelligence Sources Revised Code of Practice 2018 and
- Para 8.6 – 8.18 of the Covert Surveillance and Property Interference Revised Code of Practice 2018.

COMPLAINTS

Any individual who is dissatisfied about the way the Council has or is carrying out surveillance may make a complaint. The decision as to which procedure should be used lies with the individual concerned.

If a person wishes to complain using the Council's procedures, then the complainant should be made aware of the Council's Corporate Complaints Procedure (see <https://www.ceredigion.gov.uk/your-council/comments-compliments-and-complaints/corporate-complaints/> and <https://www.ceredigion.gov.uk/media/1179/complaints-policy-bookletenglish.pdf>) The complaint will be dealt with in accordance with that procedure.

If a person wishes to complain directly to an independent body or had used the Council's internal procedures and is still dissatisfied, then he/she may complain to the Investigatory Powers Tribunal ('IPT').

The IPT has jurisdiction to investigate and determine complaints against public authority use of investigatory powers. To find out more information about the IPT or make a complaint, then full details of how to do so are available on the IPT website: www.ipt-uk.com.

Complaints can be made in writing to:

The Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

* See Part 5 below for complaints regarding Communications Data

Part 5 - Communications Data

The RIPA (Communications Data) Order 2010 (SI 2010 no. 480) came into force on the 6th of April 2010 and confirms the powers contained within Chapter 2 of RIPA provided to Local Authorities by the equivalent 2003 Order.

Chapter 2, in brief, allows a Public Authority, such as the Council, to acquire information defined as 'communications data'. This includes subscriber data and service data but not 'traffic data' as defined by RIPA.

It is the Investigatory Powers Act 2016 ('IPA 2016') that regulates access to Communications data (<https://www.legislation.gov.uk/ukpga/2016/25/>). See also the Communications Data Code of Practice 2018:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf.

Meaning of 'Communications Data'

Communications data is '*information held by communication service providers (e.g. telecom, internet and postal companies) relating to the communication made by their customers*'. This includes information relating to the use of a communications service but does not include the contents of the communication itself.

A simple example of a successful application for communications data could include, for example, applying for details confirming an email's date and time, but not its content.

The Communications Data Code of Practice 2018 states (at paragraph 2.18) that the term 'communications data' includes the 'who', 'when', 'where', and 'how' of a communication but not the content i.e. what was said or written (the content of a communication is defined in section 261(6) of the IPA 2016 as any element of the communication, or any data attached to or logically associated with the communication, which reveals anything of what might reasonably be considered to be the meaning (if any) of that communication).

The Communications Data Code of Practice 2018 states, in relation to Communications Data, that:

- 2.19 *'It includes the way in which, and by what method, a person or thing communicates with another person or thing. It excludes anything within a communication including text, audio and video that reveals the meaning, other than inferred meaning, of the communication.'*
- 2.20 *It can include the address to which a letter is sent, the time and duration of a communication, the telephone number or email address of the originator and recipient, and the location of the device from which the communication was made. It covers electronic communications including internet access, internet telephony, instant messaging and the use of applications. It also includes postal services.*
- 2.21 *Communications data is generated, held or obtained in the provision, delivery and maintenance of communications services – i.e. postal services or telecommunications services.*
- 2.22 *Communications data in relation to telecommunications operators' services and systems includes data held or obtainable by a telecommunications operator or postal operator or which is available directly from a telecommunication system and comprises four elements.*

Data about an entity to which a telecommunications service is provided and relates to the provision of the service

- 2.23 *This data includes information about any person or entity to whom a service is provided, whether a subscriber or guest user and whether or not they have ever used that service. For example, this may include information about the person associated with an email address even if that email address has not been used since its creation.*
- 2.24 *An entity (see below for further details) can also include devices so this data would cover information about the devices owned by a customer as well as the services provided by the telecommunications operator to which the owner of the devices subscribes. This data may include names and addresses of subscribers.*
- 2.25 *Importantly this data is limited to data held or obtained by the telecommunications operator in relation to the provision of a telecommunications service – it does not include data which may be held about a customer by a telecommunications operator more generally which is not related to the provision of a telecommunications service.*
- 2.26 *For example, for a social networking provider data such as the status of the account, contact details for the customer and the date a person registered with the service would all be communications data as they relate to the use of the service. However, other data held by the provider about a customer which does not relate to the provision of the telecommunications service, including personal information such as political or religious interests included in profile information, is not within scope of the definition of communications data.*

Data comprised in, included as part of, attached to or logically associated with a communication for the purposes of a telecommunication system that facilitates the transmission of that communication

- 2.27 *This data includes any information that is necessary to get a communication from its source to its destination, such as the dialled telephone number or Internet Protocol (IP) address. It includes data which:*
- *identifies the sender or recipient of a communication or their location;*
 - *identifies or selects the apparatus used to transmit the communication;*
 - *comprises signals which activate the apparatus used (or which is to be used) to transmit the communication; and*
 - *identifies data as being part of a communication.*
- 2.28 *This element of the communications data definition also includes data held, or capable of being obtained, by the telecommunications operator which is logically associated with a communication for the purposes of the telecommunication system by which the communication is being, or may be, transmitted. In practice this will often mean any data which is used to route or transmit a communication which the telecommunications operator holds or could obtain, for example from the network.*

Communications Data Code of Practice

- 2.29 *This might include, for example data about domain name system ('DNS') requests which allow communications to be routed across the network. It also*

includes data that facilitates the transmission of future communications (regardless of whether those communications are, in fact, transmitted).

2.30 *Only information falling within this section of the definition of communications data can be obtained directly from a telecommunication system by a public authority.*

Data which relates to the use of a service or system

2.31 *This element includes other information held by a telecommunications operator about the use of the service such as information that the provider holds for billing purposes.*

Data which is about the architecture of a telecommunication system.

2.32 *The definition of communications data additionally includes data held by a telecommunications operator about the architecture of the telecommunication system (sometimes referred to as 'reference data'). This may include the location of cell masts or Wi-Fi hotspots. This information itself does not contain any information relating to specific persons and its acquisition in its own right does not interfere with the privacy of any customers. However, this data is often necessary for the public authority to interpret the data received in relation to specific communications or users of a service.*

2.33 *Part 3 of the Act does not apply to any conduct by a public authority to obtain publicly or commercially available communications data. A communications data authorisation under Part 3 is not mandatory to obtain reference data, such as mobile phone mast locations, from a telecommunications operator as there is no intrusion into an individual's rights. However, some reference data, such as details of Wi-Fi hotspots, may be commercially sensitive and an authorisation can be sought by a public authority seeking to obtain this data from a telecommunications operator where the telecommunications operator requires it.*

Entity and Events Data

2.34 *All communications data held by a telecommunications operator or obtainable from a telecommunication system falls into two categories:*

- *entity data – this data is about entities or links between them and describes or identifies the entity but does not include information about individual events. Entities could be individuals, groups and objects (such as mobile phones or other communications devices);*
- *events data – events data identifies or describes events in relation to a telecommunication system which consist of one or more entities engaging in an activity at a specific point, or points, in time.*

2.35 *The authorisation levels required to access communications data reflect the fact that the set of events data as a whole contains the more intrusive communications data, including information on who has been in communication with whom, a person's location when their mobile device connects to the network and internet connection records. The rank of the designated senior officer that can authorise acquisition of data reflects the differing levels of intrusiveness of the data. For example, in certain circumstances, the police can authorise access to entity data at Inspector level but events data is authorised at Superintendent level.*

Additionally entity data can be obtained in a wider range of crime types than events data.

2.36 There are some circumstances where a telecommunications operator will need to process events data in order to respond to a request for entity data. In such circumstances the level of authorisation required is for the type of data that is to be disclosed, rather than the type of data that is processed e.g. where a public authority wants to know the identity of a person using an IP address at a specific time and date this will be an application for entity data.

2.37 Where a public authority provides events data to a telecommunications operator as part of a request for entity data then the telecommunications operator may disclose that events data in the response to the entity data authorisation. Taking the example above, the telecommunications operator could include the time and date of the communication as part of the response without the need for it to be authorised as an event. This is because the public authority, by providing the events data to the telecommunications operator, has demonstrated they are already aware of the event and only intend to determine the entity involved in that event. By disclosing the events data the telecommunications operator would only be providing the public authority with information they already knew. Such disclosure is likely to occur where the telecommunications operator discloses the full record from their systems.

Entity data

2.38 Entity data covers information about a person or thing, and about links between a telecommunications service, part of a telecommunication system and a person or thing, that identify or describe the person or thing. This means that individual communication devices such as phones, tablets and computers are entities. The links between a person and their phone are therefore entity data but the fact of or information about communications between devices on a network at a specific time and for a specified duration would be events data.

2.39 Examples of entity data include:

- ‘subscriber checks’ such as “who is the subscriber of phone number 01234 567 890?”, “who is the account holder of e-mail account example@example.co.uk?” or “who is entitled to post to web space www.example.co.uk?”;*
- subscribers’ or account holders’ account information, including names and addresses for installation, and billing including payment method(s), details of payments;*
- information about the connection, disconnection and reconnection of services to which the subscriber or account holder is allocated or has subscribed (or may have subscribed) including conference calling, call messaging, call waiting and call barring telecommunications services;*
- information about apparatus or devices used by, or made available to, the subscriber or account holder, including the manufacturer, model, serial numbers and apparatus codes (This includes PUK (Personal Unlocking Key) codes for mobile phones. These are initially set by the handset manufacturer and are required to be disclosed in circumstances where a locked handset has been lawfully seized as evidence in criminal investigations or proceedings); and*
- information about selection of preferential numbers or discount calls.*

2.40 Entity data can change over time. So, for example if a person moves house the address held by a telecommunications operator will change. The fact of that is an attribute of the entity (the person) and not a communication event.

2.41 Some telecommunications operators may choose to retain user passwords as clear text for business purposes (In many cases a telecommunications operator will actually retain a password hash rather than the password itself. When a user enters the password to use a service it is encrypted and the hash generated is checked against the hash already held by a telecommunications operator meaning the operator never needs to retain the actual password). In this context passwords would constitute entity data. Any information, such as a password, giving access to the content of any stored communications or access to the use of a communications service may only be sought under Part 3 of the Act from a telecommunications operator in the following circumstances:

- where such information is necessary in the interests of national security; or
- for preventing death, injury or damage to health.
-

2.42 A communications data authorisation cannot authorise a public authority to use a password obtained through that or another communications data authorisation. If a public authority wishes to use a password obtained through a communications data authorisation to access the content of stored communications or any communications service it must, in accordance with section 6

2.43 of the Act, ensure that it has appropriate lawful authority.

Events

2.44 Events data covers information about time-bound events taking place across a telecommunication system at a time interval. Communications data is limited to communication events describing the transmission of information between two or more entities over a telecommunications service. This will include information which identifies, or appears to identify, any person, apparatus ('Apparatus' is defined in section 263 of the Act to include 'any equipment, machinery or device (whether physical or logical) and any wire or cable') or location to or from which a communication is transmitted. It does not include non-communication events such as a change in address or telephone number for a customer.

2.45 Examples of events data include, but are not limited to:

- information tracing the origin or destination of a communication that is, or has been, in transmission (including incoming call records);
- information identifying the location of apparatus when a communication is, has been or may be made or received (such as the location of a mobile phone);
- information identifying the sender or recipient (including copy recipients) of a communication from data comprised in or attached to the communication;
- routing information identifying apparatus through which a communication is or has been transmitted (for example, file transfer logs and e-mail headers – to the extent that content of a communication, such as the subject line of an e-mail, is not disclosed);
- itemised telephone call records (numbers called) (Itemised bills can include an indication of the cost for receiving communications, for example calls

and messages received by a mobile telephone that has been 'roaming' on another network);

- *itemised internet connection records;*
- *itemised timing and duration of service usage (calls and/or connections);*
- *information about amounts of data downloaded and/or uploaded;*
- *information about the use made of services which the user is allocated or has subscribed to (or may have subscribed to) including conference calling, call messaging, call waiting and call barring telecommunications services.'*

Interception of Communications Data

The recording of telephone calls between two parties when neither party is aware of the recording cannot be undertaken by a local authority.

There may be situations where either the caller or receiver consents to the recording of the telephone conversation and, in such circumstances a warrant is not required. This type of surveillance will require authorisation, either as directed covert surveillance, or, if it is a CHIS making or receiving the telephone conversation (usually an officer working 'undercover'), as a CHIS authorisation.

Where as part of an already authorised directed covert surveillance or CHIS a telephone conversation is to be recorded by the officer or the CHIS then no special or additional authorisation is required.

The recording of telephone conversations for purposes not connected with investigatory powers does not fall within the RIPA legislative framework.

The IPA 2016 sets out general duties in relation to privacy in relation to:

- unlawful interception of communications data and
- unlawful obtaining of communications data.

The Act also abolishes and restricts various general powers to obtain communications data and restricts the circumstances in which equipment interference, and certain requests about the interception of communications, can take place. The Act sets out prohibitions against unlawful interception.

Note that under section 11 IPA 2016, it is an offence for a person in a public authority knowingly or recklessly to obtain communications data from a telecommunications operator or postal operator without lawful authority. An offence is not committed if the person obtaining the data can show that they acted in the reasonable belief that they had lawful authority.

It is not an offence to obtain communications data where this data is publicly or commercially available by a Telecommunications Operator/Postal Operator. In such circumstances the operator's consent provides the lawful authority. However, public authorities should not require, or invite, any operator to disclose communications data by relying on this exemption.

The IPA 2016 does not allow local authorities to intercept communications data. Officers of the Council are only permitted to obtain Communications Data through NAFN's SPOC (see below).

Communications Data authorisations cease to have effect 1 month from the date of approval. An authorised renewal can extend the authorisation for up to an additional month.

Failure to secure proper approval and to comply with the Council's Policy could lead to evidence being excluded by Courts, complaints against the Council, or the commission of criminal offences. The Council is subject to audit and inspection by the Investigatory Powers Commissioner's Office and it is important that we demonstrate compliance with IPA 2016.

Obtaining Communications Data through NAFN's SPOC

It is imperative that the acquisition of Communications Data is properly authorised.

Acquisition of communications data under the IPA 2016 involves four roles:

- (a) Applicant;
- (b) Approved Rank Officer ('ARO')
- (c) Single point of contact ('SPOC');
- (d) Senior Responsible Officer in a Public Authority ('SRO')

Authorising requests for Communications Data is done through the Council's membership of National Antifraud Network ('NAFN'), who act as an accredited SPOC with Telecoms Operators, Postal Operators and Internet Service Providers.

Officers authorised to seek the acquisition of any form of Communications Data (the Applicant) must apply for acquisition via NAFN's central SPOC portal. An Approved Rank Officer must also be aware of the application and NAFN facilitates the approval of the request by the Office for Communications Data Authorisations ('OCDA').

Since the IPA 2016 came into force, it has become the main legislation governing how public authorities including law enforcement agencies, intelligence agencies and local authorities use the investigatory powers available. These powers provide for the lawful acquisition of communications data including the details of who, where, when, how and with whom regarding a communication but not the contents (i.e. what is said).

To use the NAFN secured website, applicants have to individually register on the NAFN website at www.nafn.gov.uk. Once registered, the applicant completes the online application form and it is then submitted electronically to one of the SPOCs at NAFN, who will advise the AO of any need for changes. The relevant forms can also be downloaded from the Home Office website, and a copy can be obtained from the SRO or SRO Representative.

The application to acquire communications data must (per paragraphs 5.4-5.5 of the Communications Data Code of Practice 2018):

- describe the communications data required, specifying, where relevant, any historic or future date(s) and, where appropriate, time period(s);
- specify the purpose for which the data is required, by reference to a statutory purpose under the Act;
- include a unique reference number;
- include the name and the office, rank or position held by the person making the application;

- describe whether the communications data relates to a victim, a witness, a complainant, a suspect, next of kin, vulnerable person or other person relevant to the investigation or operation;
- include the operation name (if applicable) to which the application relates;
- identify and explain the time scale within which the data is required;
- explain why the acquisition of that data is considered necessary and proportionate to what is sought to be achieved by acquiring it (see Communications Data Code of Practice 2018 section on necessity and proportionality, beginning at paragraph 3.3. This also applies to the next two bullets on collateral intrusion and unintended consequences);
- present the case for the authorisation in a fair and balanced way. In particular, all reasonable efforts should be made to take account of information which supports or weakens the case for the authorisation;
- consider and, where appropriate, describe any meaningful collateral intrusion – the extent to which the rights of any individual not under investigation may be infringed and why that intrusion is justified in the circumstances;
- consider and, where appropriate, describe any possible unintended consequences of the application; and
- where data is being sought from a telecommunications operator or postal operator, specify whether the telecommunications operator or postal operator may inform the subject(s) of the fact that an application has been made for their data.
- The application should record subsequently whether it was authorised by an authorising individual and when that decision was made. Applications should be retained by the public authority and be accessible to the SPoC.

The NAFN officer appointed as SPOC, amongst other things, carries out a quality control role and advises on various matters to assist the investigating officer and the Approved Rank Officer in the Council for Communications Data Authorisations, who are required to be the same level of seniority (see 4.11 of the Communications Data Code of Practice 2018) to the Senior Responsible Officer for Communications Data.

The NAFN SPOC advises on whether the application meets the statutory requirements, whether the information being sought can be easily obtained by the Telecoms Operators, Postal operators or Internet Service Providers and whether the application would be cost effective. NAFN's SPOC will also be the contact officer for all liaisons with the Telecoms Operators, Postal Operators or Internet Service Providers.

The following officers currently undertake the role of '**Approved Rank Officers**' to confirm to NAFN that they are aware of the application made on behalf of the Council:

1. Corporate Lead Officer: Policy, Performance & Public Protection;

Alternative substitutes (if Approved Rank Officer 1 above unavailable);

- Corporate Lead Officer: People and Organisation; and
- Corporate Lead Officer: Porth Cynnal.

The Approved Rank Officer will receive notification, when the applicant completes the application, of the submission. Once they have confirmed they are aware of the application, the NAFN SPOC will receive the application and carry out appropriate checks on the application. If any fundamental changes are made to the application, the Approved Rank Officer will be required to confirm their awareness of the amended application. The Approved Rank Officer shall send a copy of the email to the SRO for Communications Data (see below).

Authorising Agency: Office for Communications Data Authorisations ('OCDA')

The IPA 2016 introduced the OCDA, the independent body responsible for the authorisation and assessment of all Data Communications applications under the IPA 2016. The OCDA carries out the following functions:

- Independent assessment of all Data Communications applications.
- Authorisation of any appropriate applications.
- Ensuring accountability of Authorities in the process and safeguarding standards.

Consequently, the acquisition of communications data by local authority Officers no longer requiring judicial approval. The application will be submitted by NAFN to the OCDA who will then assess the application. The NAFN SPOC then uses the authorisation process to obtain the required communications data from the Telecoms Operators/Postal Operators database and that data is posted on the website so that it can only be accessed by the applicant. If NAFN do not have direct access to the database of the relevant Telecoms Operators/Postal Operators their SPOC will send a notice to the Telecoms Operators/Postal Operators in the usual way.

Where the OCDA **authorises** the request, this decision is communicated to NAFN's SPOC (NAFN) and actions are taken to request the data from the relevant telecommunications providers and other agencies holding such communications data to provide the necessary data.

Where the OCDA requires the application to be **revised**, it will be returned via NAFN's SPOC and the Applicant will have 14 calendar days to revise the application and resubmit. Failure to revise the application within the 14 days will result in the application being automatically rejected.

Where the OCDA rejects the application, the Applicant can:

1. Cease to proceed with the application;
2. Re-submit the application with revised justification and/or a revised course of conduct to request the data; or
3. Re-submit the un-amended application and request a review of the decision by the OCDA.

In the case of seeking a review, or affectively appealing against the original determination **the Authority has 7 calendar days to seek the review**. Any appeal must be made by the Council's SRO. The OCDA will provide guidance on this process.

Using the NAFN portal has significant advantages and there is no other means of obtaining communications data, since the Code of Practice requires the Council to use the NAFN SPOC Service.

Both historical and future information may be sought from a provider, subject to limitations.

The Council's Senior Responsible Officer ('SRO') for Communications Data

The Council's **SRO for Communications Data** is the Monitoring Officer/Corporate Lead Officer – Legal & Governance

Any questions regarding Communications Data can be addressed to the SRO for Communications Data, or alternatively care of the **SRO Representative for Communications Data**, who is the Governance Officer.

The Communications Data Code of Practice 2018 (available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822817/Communications_Data_Code_of_Practice.pdf) confirms at paragraph 4.10 that the Council should have a SRO for Communications Data. The SRO for Communications Data must be of a senior rank, which is at least the same rank as the designated senior officer (for NAFN's purposes, this would be a Council Director, Head of Service, Service Manager or a rank equivalent). Paragraph 4.10 of the Communications Data Code of Practice 2018 also states that the SRO for Communications Data is responsible for:

- (a) the integrity of the process in place within the public authority to acquire communications data;
- (b) engagement with Authorising Officers in the Office for Communications Data Authorisations (where relevant);
- (c) compliance with Part 3 of the IPA 2016 and with the Communications Data Code of Practice 2018, including responsibility for novel or contentious cases (see paragraph 8.45 of the Communications Data Code of Practice 2018);
- (d) oversight of the reporting of errors to the Investigatory Powers Commissioner ('IPC') and the identification of both the cause(s) of errors and the implementation of processes to minimise repetition of errors;
- (e) ensuring the overall quality of applications submitted to Office for Communications Data Authorisations ('OCDA') by the public authority;
- (f) engagement with the IPC's inspectors when they conduct their inspections; and
- (g) where necessary, oversight of the implementation of post-inspection action plans approved by the IPC.

Records kept must be held centrally by the NAFN SPOC and be available for inspection by the Investigatory Powers Commissioner's Office upon request and retained to allow the Investigatory Powers Tribunal ('IPT'), to carry out its functions. The retention of documents service will be provided by NAFN, who shall also provide copies periodically, and as requested, to the SRO for Communications Data (see also paragraphs 24.1 – 24.9 of the Communications Data Code of Practice 2018).

For further information regarding Communications Data acquisition and disclosure, retention and general matters see the Communications Data Code of Practice 2018: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/757850/Communications_Data_Code_of_Practice.pdf.

Communications Data Errors

Where any error occurs, in the giving of a notice or authorisation or as a consequence of any authorised conduct or any conduct undertaken to comply with a notice, a record should

be kept. An error can only occur after the notice has been served on the Telecoms Operators/Postal Operators, so if it is discovered before this point it does not officially count as an error.

See paragraphs 24.17 – 24.37 of the Communications Data Code of Practice 2018.

There are 2 types of errors namely '**Reportable Errors**' and '**Recordable Errors**':

- **Reportable Errors** are ones where communications data is acquired wrongly and in this case a report must be made to the Investigatory Powers Commissioner as soon as reasonably practical and no later than 5 working days (or as agreed with the Commissioner) after it has been established by the appropriate internal governance processes that a relevant error has occurred, as this type of occurrence could have significant consequences for the individual whose details were wrongly disclosed.
- **Recordable Errors** are ones where an error has occurred but has been identified before the communications data has been acquired. The Council must keep a record of these occurrences, but a report does not have to be made to the Commissioner.

Reportable Errors could include:

- A notice being made for a purpose, or for a type of data, which the public authority cannot seek;
- Human error, such as incorrect transposition of information;
- Disclosure of the wrong information by a CSP when complying with a notice; or
- Disclosure or acquisition of data in excess of that required.

Recordable Errors could include:

- A notice which is impossible for a Communications Service Provider to comply with;
- Failure to review information already held, e.g. seeking data already acquired or obtained for the same investigation, or data for which the requirement to obtain it is known to be no longer valid;
- Notices being sent out to the wrong CSP; or
- Notices being sent out to CSPs that were not produced by the Approved Rank Officer who authorised the application.

Where a telephone number has been sent to another Telecommunications Operator or Postal Operator, then this does not constitute an error. Where excess data is disclosed, if the material is not relevant to the investigation it should be destroyed once the report has been made to the Commissioner.

If having reviewed the excess material it is intended to make use of it, the Applicant must make an addendum to the original application to set out the reasons for needing to use this excess data. The SRO for Communications Data will then decide whether it is necessary and proportionate for the excess data to be used in the investigation (see paragraphs 24.38 – 24.42 of the Communications Data Code of Practice 2018).

Any reportable error must be reported to the SRO and to the Commissioner within 5 working days. NAFN reports errors on behalf of the Council and the SRO will be made aware of these for the Council's records and any internal action required. If the report relates to an error made by a Telecoms Operators/Postal Operators, it must still be reported, but NAFN shall inform the Telecoms Operators/Postal Operators to enable them to investigate the cause.

The records kept for recordable errors must include details of the error, explain how the error occurred and provide an indication of the steps that will take place to prevent a reoccurrence. These records must be available for inspection by the Investigatory Powers Commissioner inspectors and must be regularly reviewed by the SRO.

Serious Errors

Regarding a 'Serious Error', which 'caused significant prejudice or harm to the person concerned', this must be reported to the Council's SRO the IPC. The IPC may inform the affected individual subject of the data disclosure, who may make a complaint to the IPT. The IPC must be satisfied that the error is a) a serious error AND b) it is in the public interest for the individual concerned to be informed of the error.

Before deciding if the error is serious or not the IPC will accept submissions from the Council as to whether disclosure is in the public interest e.g. it may not be in the public interest to disclose if to do so would be prejudicial to the 'prevention and detection of crime'.

See paragraphs 25.1 – 25.9 of the Communications Data Code of Practice 2018 for more information on the role of the Investigatory Powers Commissioner and 25.10 – 25.17 for more information regarding the role of the Information Commissioner.

See also paragraphs 25.18 – 25.21 of the Communications Data Code of Practice 2018 for further information regarding Enforcement of integrity, destruction and security standards.

Authorising the Acquisition of Communications Data

Section 81 of the IPA 2016 provides a defence if acquisition and disclosure of communications data is challenged:

81. Lawfulness of conduct authorised by this Part

(1) Conduct is lawful for all purposes if—

- (a) it is conduct in which any person is authorised to engage by an authorisation or required to undertake by virtue of a notice given in pursuance of an authorisation, and*
- (b) the conduct is in accordance with, or in pursuance of, the authorisation or notice.*

Therefore, to take advantage of this defence, the surveillance needs to be properly authorised.

The Test of Necessity and Proportionality

The acquisition of communications data should only be authorised if the Approved Rank Officer is satisfied that:

1. The action is NECESSARY on the following grounds:

- For the prevention or detection of crime or the prevention of disorder and,

2. The surveillance is PROPORTIONATE - The Human Rights Act defines a measure or action as proportionate if it:

- Impairs as little as possible the rights and freedoms (of the individual concerned and of innocent third parties); and
- Is carefully designed to meet the objectives in question is not arbitrary, unfair or based on irrational considerations.

Detecting crime includes establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed, the gathering of evidence for use in any legal proceedings and the apprehension of the person (or persons) by whom any crime was committed.

An application may contain several requests for various types of data relating to a specific investigation or operation. Consideration should therefore be given as to how this may affect the efficiency of the public authority's processes and the impact of managing disclosure issues before, during and after a criminal trial.

For further guidance, please see the relevant Home Office guidance available from the Home Office website: <https://www.gov.uk/government/collections/ripa-codes>

Time Limits

The application should specify the shortest period for the data that is necessary in order to achieve the objective for which the data is sought.

All notices and authorisations requesting communications data from the service provider will only be valid for 1 month from the date of granted authorisation/notice given (by the OCDA through NAFN's SPOC). A renewal for a period of up to 1 month can be made and a renewed authorisation or notice takes effect upon the expiry of the authorisation or notice it is renewing.

Where the Approved Rank Officer agrees to the renewal, the Approved Rank Officer must have considered the reasons why it is necessary and proportionate to continue, and record the date of the renewal.

Where an authorisation should be cancelled (e.g. no longer necessary or proportionate), NAFN's SPOC must be notified immediately. The SPOC shall cancel the authorised action and take steps to notify the postal or telecommunications service provider without delay.

The Approved Rank Officer

The Approved Rank Officer is the person who is a manager at service level or above within the Council, and their role is to have an awareness of the application made by the Applicant, and confirm this to NAFN's SPOC. They do not authorise or approve the application.

If the Approved Rank Officer having read the application considers the Applicant has met all the requirements for necessity and proportionality then he/she should simply record that fact. A simple note by the Approved Rank Officer should be recorded.

If the Approved Rank Officer does not consider the case for obtaining the data has been met the application should be rejected and referred back to the SPOC and the Applicant.

Similarly, if a Magistrate rejects an application, the application should be rejected and referred back to the SPOC.

If the application is rejected either by the SPOC or the Approved Rank Officer, the SPOC will retain the form and inform the applicant in writing of the reasons for its rejection. The NAFN's SPOC will do so via the website.

If the Approved Rank Officer is recording their considerations within the NAFN database and is attributable to the Approved Rank Officer, a signature is not required.

The Central Register of Authorisations – Communications Data

In respect of communications data, NAFN's SPOC will retain copies of the original of all applications, authorisations, copies of notices and withdrawals of authorisations and cancellation of notices, cross-referenced against each associated document.

Applications, authorisations, copies of notices, and records of the withdrawal and cancellation of authorisations, must be retained in written or electronic form for a minimum of 3 years. A record of the date and, when appropriate, the time each notice or authorisation is granted, renewed or cancelled (see paragraphs 24.1-24.9 of the Communications Data Code of Practice for full details of the level of information that should be retained).

Nothing in this Policy has an affect on similar duties under the Criminal Procedure and Investigations Act 1996, which requires material obtained in the course of an investigation and that may be relevant to the investigation to be recorded, retained and revealed to the prosecutor.

When the NAFN system is being used, the retention of documents service will be provided by NAFN, who shall also provide copies periodically, and as requested, to the SRO for Communications Data, and deal with any requests from inspectors from the ICO.

Nonetheless, the Council's Central Record should also contain a record of:

- Number of applications rejected by Approved Rank Officer;
- Number of notices requiring disclosure of communications data within the meaning of each subsection of Section 21(4);
- Number of authorisations for acquiring of communications data within the meaning of each subsection of Section 21(4); and
- Number of times an urgent notice is given orally.

NAFN are able to provide on request, statistical information about the numbers of notices or authorisations that they have issued on behalf of the Council during a particular time period including any errors that have occurred. The Council's SRO for Communications Data will request such information from NAFN on a quarterly basis.

COMPLAINTS

As set out in paragraph 26.2 of the Communications Data Code of Practice 2018, the Information Commissioner is responsible for the oversight of the security, integrity and destruction of data retained in accordance with the Act. Failure to comply with the provisions of the Communications Data Code of Practice 2018 in these areas may also engage concerns about compliance with data protection and related legislation. Any concerns about compliance with data protection and related legislation should be passed to the Information Commissioner's Office (ICO):

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
www.ico.org.uk

As set out in paragraph 26.3 of the Communications Data Code of Practice 2018, the Investigatory Powers Tribunal (IPT) has jurisdiction to consider and determine complaints regarding public authority use of investigatory powers, including those covered by this code, as well as conduct by or on behalf of any of the intelligence services and is the only appropriate tribunal for human rights claims against the intelligence agencies. Any complaints about the use of powers as described in this code should be directed to the IPT.

Any individual who is dissatisfied about the way the Council has or is carrying out surveillance may make a complaint. The decision as to which procedure should be used lies with the individual concerned.

If a person wishes to complain using the Council's procedures, then the complainant should be made aware of the Council's Corporate Complaints Procedure (see <https://www.ceredigion.gov.uk/your-council/comments-compliments-and-complaints/corporate-complaints/> and <https://www.ceredigion.gov.uk/media/1179/complaints-policy-bookletenglish.pdf>) The complaint will be dealt with in accordance with that procedure.

If a person wishes to complain directly to an independent body or had used the Council's internal procedures and is still dissatisfied, then he/she may complain to the Investigatory Powers Tribunal ('IPT').

The IPT has jurisdiction to investigate and determine complaints against public authority use of investigatory powers. To find out more information about the IPT or make a complaint, then full details of how to do so are available on the IPT website: www.ipt-uk.com.

Complaints can be made in writing to:

The Investigatory Powers Tribunal
PO Box 33220
London
SW1H 9ZQ

* See Part 4 above for complaints regarding Directed Surveillance or a CHIS.

PART 6 - Non-RIPA Surveillance

Meaning of 'non-RIPA Surveillance'

From time to time, the Council may wish to undertake covert surveillance, which is not regulated by RIPA. This is fine, as RIPA is permissive legislation. The procedures and guidance below sets out the processes required for NON-RIPA authorisation. The process is intended to reflect that of a RIPA authorisation, save for the judicial approval requirement. More information is contained below outlining the procedures to be followed in respect of Non-RIPA Surveillance, including the completion of an application form.

It is important to have a procedure in place for non-RIPA Surveillance, as mechanisms for activity, which cannot be protected is encouraged. In those circumstances, statutory definitions are met but not under the RIPA grounds. The human rights aspects must still be considered and an authorisation provides a useful audit of decisions and actions.

Investigating officers are required to obtain a Unique Reference Number ('URN') from the SRO prior to submission to an Authorising Officer for non-RIPA Surveillance.

Authorisation under RIPA affords the Council a defence under S.27 of RIPA i.e. the activity is lawful for all purposes, provided an authorisation is in place, and the conduct of the Officers is in accordance with the legislation. However, failure to obtain an authorisation does not make covert surveillance unlawful.

RIPA is a shield not a sword and Section 80 of RIPA contains a general saving for lawful conduct:

'Nothing in any of the provisions of this Act by virtue of which conduct of any description is or may be authorised by any warrant, authorisation or notice, or by virtue of which information may be obtained in any manner, shall be construed –

- (a) as making it unlawful to engage in any conduct of that description which is not otherwise unlawful under this Act and would not be unlawful apart from this Act;*
- (b) as otherwise requiring—*
 - (i) the issue, grant or giving of such a warrant, authorisation or notice, or*
 - (ii) the taking of any step for or towards obtaining the authority of such a warrant, authorisation or notice, before any such conduct of that description is engaged in; or*
- (c) as prejudicing any power to obtain information by any means not involving conduct that may be authorised under this Act.'*

This point was explained more fully by the Investigatory Powers Tribunal in the case of C v The Police (Case No: IPT/03/32/H 14th November 2006):

'Although RIPA provides a framework for obtaining internal authorisations of directed surveillance (and other forms of surveillance), there is no general prohibition in RIPA against conducting directed surveillance without RIPA authorisation. RIPA does not require prior authorisation to be obtained by a public authority in order to carry out surveillance. Lack of authorisation under RIPA does not necessarily mean that the carrying out of directed surveillance is unlawful.'

Why carry out non-RIPA Surveillance?

The Council may wish to do such 'non-RIPA Surveillance' for one of two reasons:

I. Crimes Not Carrying Six Months of Imprisonment

As stated above, the Council's AOs may not authorise Directed Surveillance under RIPA unless it is for the purpose of preventing or detecting a criminal offence, and it meets the condition set out in New Article 7A (3)(a) or (b) of the 2010 Order. Those conditions are that the criminal offence sought to be prevented or detected is punishable, whether on summary conviction or on indictment, by a term of **at least 6 months of imprisonment**, or would constitute an offence under sections 146, 147 or 147A of the Licensing Act 2003 or section 7 of the Children and Young Persons Act 1933 (offences involving sale of tobacco and alcohol to underage children).

However, just because a crime does not meet the six-month test does not mean covert surveillance cannot be undertaken.

This point was made by the Chief Surveillance Commissioner in his [annual report](#) (2010/2011):

'The higher threshold in the proposed legislation will reduce the number of cases in which local authorities have the protection of RIPA when conducting covert surveillance; it will not prevent the use of those tactics in cases where the threshold is not reached but where it may be necessary and proportionate to obtain evidence covertly and there will be no RIPA audit trail. Part I of RIPA makes unauthorised interception unlawful. In contrast, Part II makes authorised surveillance lawful but does not make unauthorised surveillance unlawful.'

II. Employee Surveillance

Most employee surveillance will not be able to be authorised under RIPA.

See the previous decision by the Investigatory Powers Tribunal: C v The Police and the Secretary of State for the Home Department (14th November 2006, No. IPT/03/32/H)

C, a former police sergeant, retired in 2001 having made a claim for a back injury he sustained after tripping on a carpet in a police station. He was awarded damages and an enhanced pension due to the injuries.

In 2002, the police instructed a firm of private detectives to observe C to see if he was doing anything that was inconsistent with his claimed injuries. Video footage showed him mowing the lawn. C sued the police claiming they had carried out directed surveillance without an authorisation. The Tribunal first had to decide if it had jurisdiction to hear the claim. The case turned on the interpretation of the first limb of the definition of directed surveillance i.e. was the surveillance 'for the purposes of a specific investigation or a specific operation?'

The Tribunal ruled that this was not the type of surveillance that RIPA was meant to regulate. It made the distinction between the ordinary functions and the core functions of a public authority:

'The specific core functions and the regulatory powers which go with them are identifiable as distinct from the ordinary functions of public authorities shared by all authorities, such as the employment of staff and the making of contracts. There is no real reason why the performance of the ordinary functions of a public authority should fall within the RIPA regime, which is concerned with the regulation of certain investigatory powers, not with the regulation of employees or of suppliers and service providers.'

The Tribunal also stated that it would not be right to apply RIPA to such surveillance for a number of reasons:

- 1) RIPA does not cover all public authorities, and there was no sense in police employee surveillance being conducted on a different legal footing than, for example, the Treasury, which does not have the same surveillance rights under RIPA.
- 2) The Tribunal has very restrictive rules about evidence, openness and rights of appeal. The effect of these would lead to unfairness for employees of RIPA authorities when challenging their employers' surveillance as compared to those who were employed by non-RIPA authorities.

This case suggests that, even where employee surveillance is being carried out on one of the grounds in section 28(3), the key question is:

Is it for a core function linked to one of the authority's regulatory functions? Within a local authority context, this would include, amongst others, Trading Standards, Environmental Health and Licensing. If it is not being done for one of these purposes, it will not be directed surveillance.

Online covert activity-Internet and Social Networking Sites ('SNS')

See the Council's RIPA Social Media Policy for guidance regarding on-line covert activity regarding the Internet and SNS, which must be read in conjunction with this Policy.

See ***Flowchart 9 – Authorising Non-RIPA Surveillance***

Human Rights Legislation Compliance

Covert surveillance done without a RIPA authorisation will not have the protection of RIPA (i.e. the defence in S.27 of RIPA). However, it will still be able to be undertaken as long as it is done in accordance with the ECHR, which is directly enforceable against public authorities pursuant to the Human Rights Act 1998, as stated above.

Article 8 of the ECHR states:

'Everyone has the right to respect for his private and family life his home and his correspondence.

There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the rights and freedoms of others.'

To satisfy Article 8 ECHR, the covert surveillance must be **both necessary and proportionate**. In deciding whether it is, the same factors need to be considered as when authorising surveillance regulated by RIPA.

Data Protection Legislation Compliance

The Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699) ('the Telecommunications Regulations') permit the Council without further authorisation to lawfully intercept its employees email or telephone communications, and also to monitor their internet access for purposes of prevention or detection of crime, or the detection of unauthorised use of these systems. Regard should be

had to the Council's Internal Information Security Policy (available on the Council's Intranet Site (Cerinet)).

Further advice on these regulations should be sought from the Council's Data Protection Officer and regard should be had to the Council's internal Information Security Policy, and also the 'ICO Quick Guide to the Employment Practice Code' (see https://ico.org.uk/media/for-organisations/documents/1128/quick_guide_to_the_employment_practices_code.pdf).

When doing covert surveillance of employees not regulated by RIPA, the Data Protection Act 1998 ('DPA') will apply, as personal information about living individuals will be being processed e.g. their movements, photographs etc.

The Information Commissioner has published a Data Protection Employment Practices Code of Practice (available at www.ico.gov.uk). This type of surveillance is outside the remit of this document.

In both the above cases, it is important to have a proper audit trail through written records.

Data Protection Employment Practices Code of Practice

The Information Commissioner has published a **Data Protection Employment Practices Code of Practice** (available at: https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf (the 'DPEP Code') Part 3 of the DPEP Code covers all types of employee surveillance from video monitoring and vehicle tracking to email and internet surveillance. It gives guidance on how to do employee surveillance in a way that complies with the DPA. Whilst the code is not law, it can be taken into account by the Information Commissioner and the courts in deciding whether the DPA has been complied with.

The DPEP Code states that employee monitoring should take place for a clear justified purpose and employees should be aware that it is taking place.

With regard to covert surveillance, it states that it will be rare for such monitoring to be justified. It should therefore only be used in exceptional circumstances e.g. prevention or detection of crime or serious malpractice.

One of the other main recommendations of the DPEP Code is that senior management should normally authorise any covert monitoring of employees. They should satisfy themselves that there are grounds for suspecting criminal activity or equivalent malpractice. They should carry out an impact assessment and consider whether the surveillance is necessary and proportionate to what is sought to be achieved.

The DPEP Code sets out other rules that local authorities (and others) need to consider when doing covert surveillance of employees:

- Prior to the investigation, clear rules must be set up limiting the disclosure and access to information obtained;
- The number of people involved in a covert monitoring exercise should be limited;
- The surveillance must be strictly targeted at obtaining evidence within a set time frame and it should not continue after the investigation is complete;
- If using audio or video equipment, this should not normally be used in places such as toilets or private offices;

- Information obtained through covert monitoring should only be used for the prevention or detection of criminal activity or serious malpractice; and
- Other information collected in the course of monitoring should be disregarded and, where feasible, deleted unless it reveals information that no employer could reasonably be expected to ignore.

In both the above Non-RIPA cases, it is important to have a proper audit trail through written records. In his annual report (2011/2012), the Chief Surveillance Commissioner (at paragraph 5.22) emphasised this:

'I occasionally encourage the use of similar authorisation mechanisms for activity which cannot be protected by the Acts (for example where covert techniques are used to identify a missing person when no crime is suspected). In these circumstances statutory definitions are met but none of the grounds specified in RIPA section 28(3) or RIP(S)A section 6(3), yet the human rights of the subject of surveillance must be considered. The authorisation process provides a useful audit of decisions and actions.'

Authorising Officers for non-RIPA Surveillance

The Authorising Officers for non-RIPA Surveillance are the same Authorising Officers as authorise RIPA Surveillance i.e.:

- **Corporate Lead Officer: People and Organisation;**
- **Corporate Lead Officer: Policy, Performance & Public Protection; and**
- **Corporate Lead Officer: Porth Cynnal.**

Similar mechanisms for activity which cannot be protected by RIPA legislation is encouraged. In those circumstances, statutory definitions are met, but not under the grounds specified in RIPA. The human rights aspects must still be considered. An authorisation process provides a useful audit of decisions and actions. The process reflects that of directed surveillance, save for the Judicial Approval requirement.

A URN should be sought from the Senior Responsible Officer prior to submission to Authorising Officers, with the original form sent to the SRO for entry in the Central Register upon completion of authorisation process, and a copy retained by the Service.

Non-RIPA Surveillance Authorisation Form

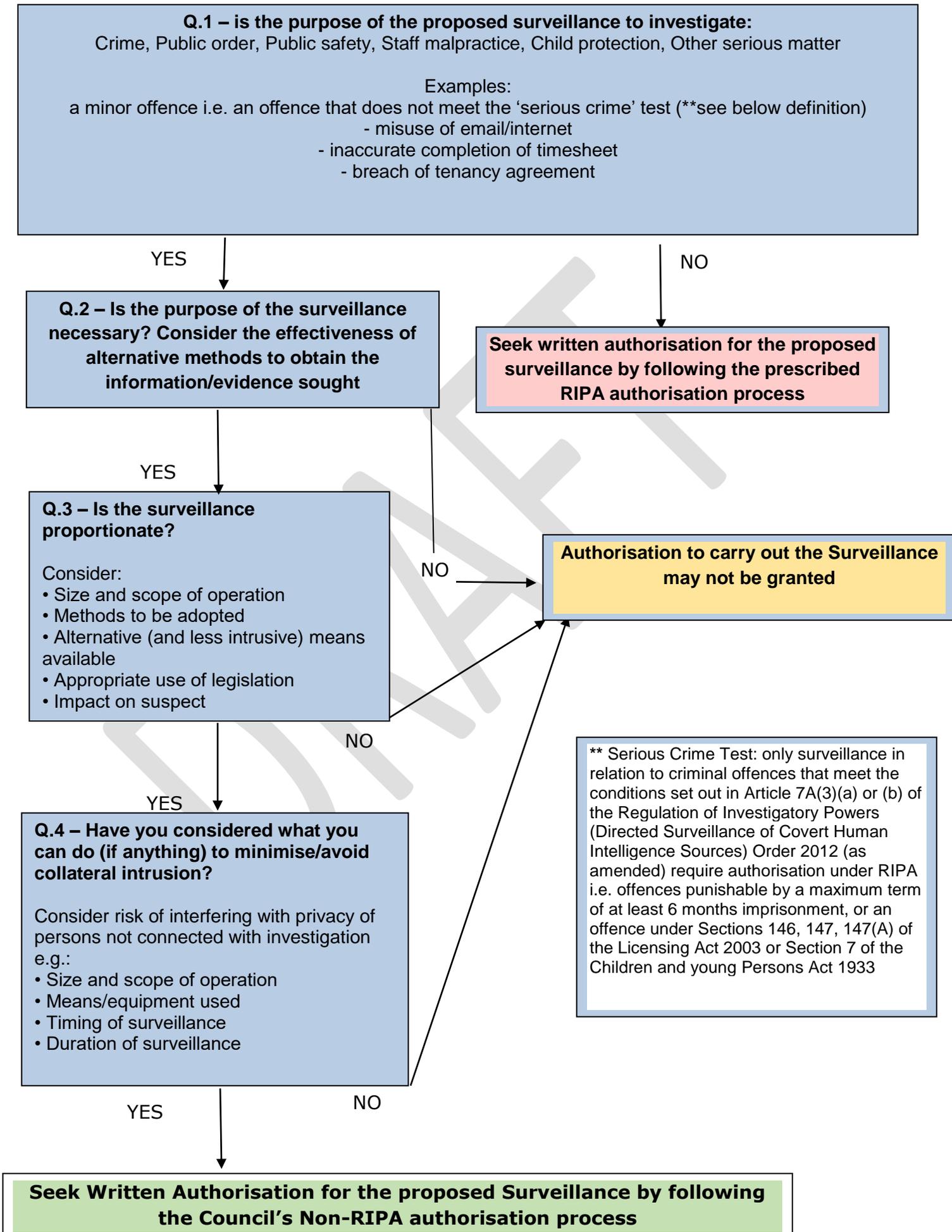
A Non-RIPA authorisation form must be completed, as above, and an example form with guidance is available on the Council's intranet site (CeriNet) at [\[enter link\]](#).

Lifecycle of a Non-RIPA surveillance authorisation

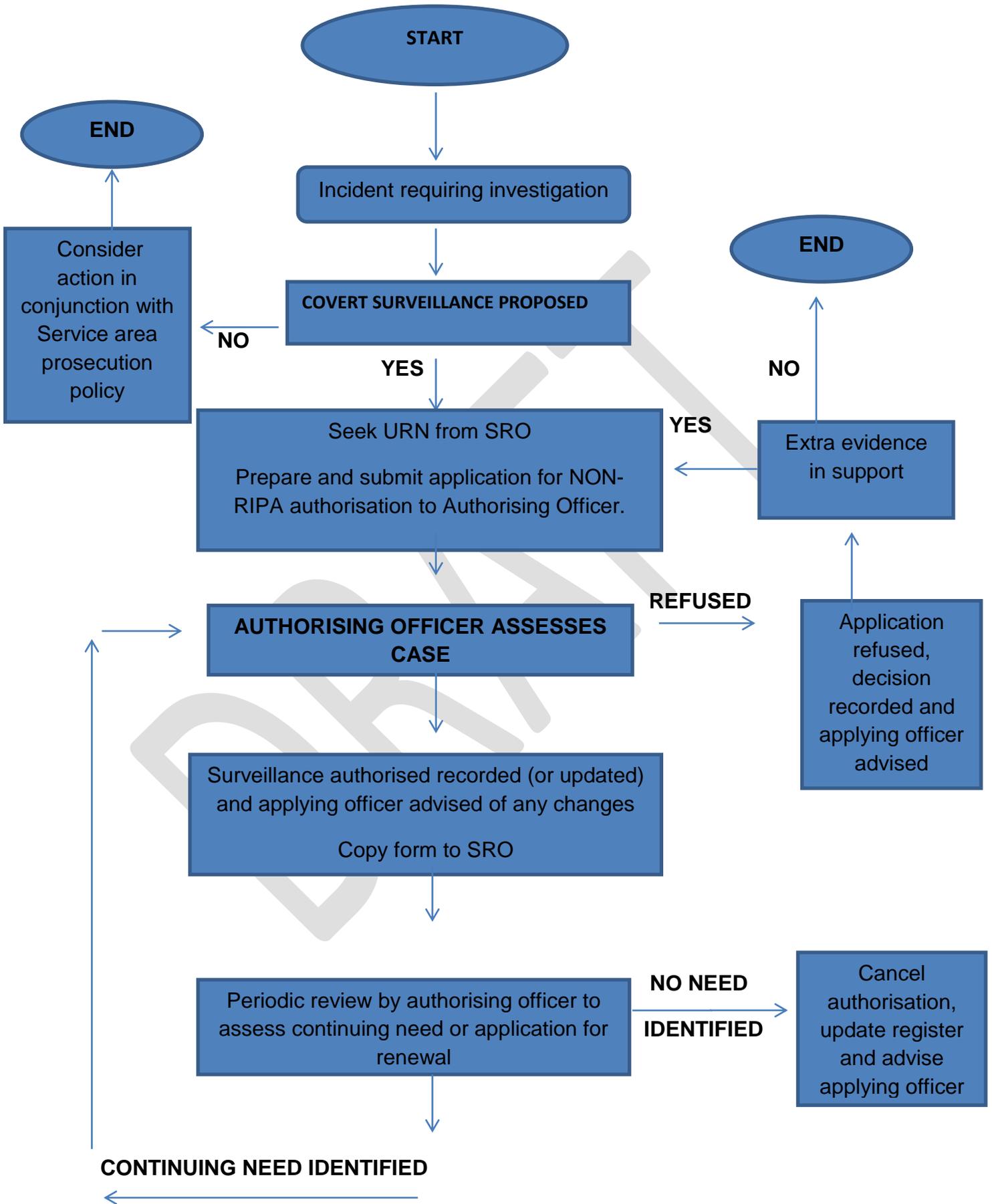
A Flowchart showing the basic lifecycle of a Non-RIPA surveillance authorisation is shown below. This is identical to the lifecycle for Directed RIPA Surveillance, except that judicial approval is not required.

Non-RIPA activity will be reported to the Overview & Coordinating Scrutiny Committee.

Flowchart 9- Authorising Non-RIPA Surveillance



Flowchart 10 – Non RIPA Surveillance - Basic Lifecycle of a Directed Surveillance Authorisation



Schedule 1 – Relevant Legislation, Codes of Practice, Policies & Guidance

The Ceredigion County Council RIPA Corporate Policy and Procedures Document should be read in conjunction with all current and relevant legislation, guidance and codes of practice, including (but not limited to) the following:

- The Regulation of Investigatory Powers Act 2000
<http://www.legislation.gov.uk/ukpga/2000/23/contents>
- RIPA Explanatory Notes
<http://www.legislation.gov.uk/ukpga/2000/23/notes/contents>
- RIPA Statutory Codes of Practice:
 - Covert Surveillance and Property Interference Revised Code of Practice 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf
 - Covert Human Intelligence Sources Revised Code of Practice
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code.pdf
 - Bulk Acquisition of Communications Data Code of Practice:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715477/Bulk_Communications_Data_Code_of_Practice.pdf
 - Communications Data Code of Practice 2018:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822817/Communications_Data_Code_of_Practice.pdf
 - Investigation of Protected Electronic Information Revised Code of Practice
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742064/RIPA_Part_III_Code_of_Practice.pdf
 - Equipment interference Code of Practice 2018
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715479/Equipment_Interference_Code_of_Practice.pdf
- Investigatory Powers Act 2016 ('IPA 2016')
<https://www.legislation.gov.uk/ukpga/2016/25/contents>
- SI 2010 N0.521 - Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010
<http://www.legislation.gov.uk/uksi/2010/521/contents/made>
- SI 2012 No.1500 (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012)
<http://www.legislation.gov.uk/uksi/2012/1500/contents/made>
- Guidance issued by the Investigatory Powers Commissioner's Office ('IPCO') (formerly the Office of Surveillance Commissioner ('OSC')) (available at: <https://www.ipco.org.uk/>) including OSC Procedures and Guidance Document: <https://ipco-wpmedia-prod-s3.s3.eu-west-2.amazonaws.com/OSC-PROCEDURES-AND-GUIDANCE.pdf>
- Information Commissioner's Office Data Protection Employment Practices Code
https://ico.org.uk/media/for-organisations/documents/1064/the_employment_practices_code.pdf
- Home Office Surveillance Camera Code of Practice (2013)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282774/SurveillanceCameraCodePractice.pdf

- The Council's Social Media Policy:
<https://ceri.ceredigion.gov.uk/portal/employee-handbook/policies-procedures/social-media-policy/>
- The Council's Information Security Policy;
<https://www.ceredigion.gov.uk/your-council/strategies-plans-policies/information-security-policy/>
- The Council's Code of Conduct for Local Government Employees*
- The Council's Data Protection and GDPR Policy**
- The Council's Email Policy*
- The Council's Information and Records Management Policy (available at <https://www.ceredigion.gov.uk/your-council/strategies-plans-policies/information-and-records-management-policy/>)**
- The Council's Policy and Guidelines for Safeguarding Children & Adults at Risk*
- The Council's Social Media Editorial and Administration Policy*
- The Council's Whistleblowing Policy*

*: available on the Council's intranet site (CeriNet)

** : available on the Council's website and CeriNet



**CYNGOR SIR CEREDIGION
CEREDIGION COUNTY COUNCIL**

**Social Media Policy
for the purposes of the REGULATION OF
INVESTIGATORY POWERS ACT 2000 ('RIPA')**

22/07/21

Overview and Co-ordinating Committee: 15/9/2021

This Social Media Policy for the purposes of the REGULATION OF INVESTIGATORY POWERS ACT 2000 ('RIPA') ('RIPA Social Media Policy') applies to all Ceredigion County Council ('the Council') employees ('Officers'), including agents of the Council.

It and sets out the position of the Council) regarding the use of the internet, including mobile web browsing, and, in particular, social media websites, when undertaking investigations under and in accordance with RIPA.

Scope

1. The Council recognises the benefits and opportunities that multimedia, such as the internet, provide to access and share information, including a wide range of on-line facilities.
2. This RIPA Social Media Policy should be read in conjunction with the relevant legislation, codes of practice, policies and guidance listed at Schedule 1 below.

Surveillance and Council Social Media

3. Covert surveillance
Social Media platforms, such as:
On-line accounts, pages, noticeboards, profiles or other Social Media (such as Council Facebook pages/profiles, Twitter feeds or LinkedIn profiles/pages) owned or controlled by the Council, or private accounts of Officers must not be used for any covert surveillance or investigation without prior consideration being given as to whether a RIPA authorisation is required.
4. Overt surveillance
Overt use of Social Media (whether inside or outside the scope of RIPA), does not require a RIPA authorisation.
5. These requirements are in place because of the need to:
 - protect the reputation of the Council;
 - to avoid potential consequences of the misuse of Council Social Media; and
 - to ensure compliance with RIPA legislation and guidance.
6. This Policy does not replace the Council's [Corporate Social Media Policy \(2016\)](#), which all Officers using social media sites must also adhere to.
7. This Policy applies when Officers undertake covert surveillance on-line/on Social Media (whether the covert surveillance is RIPA Surveillance or non-RIPA Surveillance (see the Council's Regulation of Investigatory Powers Act 2000 ('RIPA') PART II Directed Surveillance, Covert Human Intelligence Sources and Communications Data Corporate Policy & Procedures Document ('RIPA Policy'))).
8. Whilst the use of Social Media to investigate is not automatically considered covert surveillance or activity, its use when conducting investigations/surveillance can mean that it crosses over into the realms of covert and/or targeted surveillance, and become '*misuse*', even if inadvertently done.
9. It is crucial that the provisions of RIPA, as it relates to covert and directed surveillance, are followed at all times when using Social Media in investigations.

10. Advice should be taken from the Corporate Lead Officer-Legal & Governance (Monitoring Officer & Senior Responsible Officer for RIPA) and/or CLO-People & Organisation, should any social media surveillance when using Social Media involve investigating the activities of an Employee of the Council.
11. See the Council's RIPA Policy for an explanation as to what constitutes 'Surveillance' and 'Private Information', and which details how there could be an expectation of privacy on-line, and in particular, for information on social media, despite privacy settings.

What is 'Social Media'?

12. This RIPA Social Media Policy will apply to all forms of Social Media/Networking Sites, which are internet based and often includes the construction of a public or semi-public profile. Additional characteristics could include (but are not limited to):
 - 12.1 The ability to show/share a list of other users with whom the user share a connection (e.g. referred to as 'friends' or 'followers');
 - 12.2 The ability to view and browse the profile's list of connections and that of other users;
 - 12.3 Hosting capabilities allowing users to post media content viewable by other users; and
 - 12.4 Community based online social pages, such as discussions forums or chatrooms.
13. Social Media examples include, but are not limited to (as Social Media is a constantly changing area) those listed below:
 - 13.1 Personal blogs;
 - 13.2 Posts or comments on any other blogs;
 - 13.3 Online forums;
 - 13.4 Online noticeboards;
 - 13.5 Facebook (social networking);
 - 13.6 Twitter (microblog);
 - 13.7 YouTube (video sharing);
 - 13.8 Flickr (image sharing);
 - 13.9 Tumblr (blogging/social networking);
 - 13.10 LinkedIn (professional network);
 - 13.11 Reddit (forums); and
 - 13.12 Instagram (image sharing).

Covert surveillance on Social Media & On-line Personas

15. See the Council's RIPA Policy for an explanation of 'covert surveillance'.
16. The fact that on-line investigation is now routine and easy to access does not reduce the need for authorisation. Investigating and Authorised Officers must understand how the Social Media being used works, since the services provided are not all the same.
17. Officers intending to use covert Council or personal accounts (such as Facebook), to access private postings of individual members of the public/service users, must consider obtaining a RIPA authorisation but note that there is currently no mechanism for a Council Service to operate covert accounts on Facebook within Facebook's

terms and conditions, so any evidence obtained outside of the Site's terms and conditions may breach these terms.

18. Officers must be aware that:

18.1 unauthorised access to computer material (entering a computer system without permission i.e. hacking);

18.2 unauthorised access to computer materials with intent to commit a further crime (entering a computer system to steal data or destroy a device or network (e.g. planting a virus));

18.3 unauthorised modification of data (modifying or deleting data, including the introduction of malware or spyware onto a computer (electronic vandalism and theft of information)); and

18.4 Making, supplying or obtaining anything that can be used in computer misuse offences

is a breach of the Computer Misuse Act 1990, which is a criminal offence leading to fines and imprisonment. Examples of breaches could include using a social media site outside of that site's terms and conditions.

19. The Council's RIPA Policy and the Revised Covert Surveillance and Property Interference Code of Practice 2018 at Paragraphs 3.10, and 3.11-3.17 gives further information on when a RIPA authorisation may be needed for online covert activity, and Paragraph 4.16 gives guidance on where previous consent was given.

20. Where on-line personas are permitted to be used corporately, the SRO will maintain a central register of these pseudonyms, profiles/accounts, together with details of the services or individual officers permitted to use/sanction their use.

21. Monitoring will be undertaken by the SRO every 4 months of any usage relating to covert-surveillance on social media and on-line personas, and a list maintained of data/information retained, when that surveillance is likely to obtain a person's private information (whether the covert surveillance is RIPA surveillance or non-RIPA surveillance). This information will be provided by a Designated Officer in the relevant Service.

22. The Designated Officer will provide the information/data to the SRO on a 4 monthly basis. The SRO will also record details of which Services or Officers can use covert-surveillance on social media and on-line personas, and also which officers can sanction their use.

23. If an Officer wishes to set up an on-line persona for a covert purpose, when private information is likely to be obtained (to include a false identity or false profile) this must only be done with the authorisation the relevant Corporate Lead Officer.

24. Using photographs of other persons without their permission to support the on-line persona, infringes other laws.

25. AOs must also inform the SRO of an Officer's request to set up an on-line persona, providing details of the Officer's authorisation to access the account.

Privacy settings

26. A reasonable expectation of privacy can exist for material published online, if access controls are applied or in private communication format, such as instant messages. Where privacy settings are available but not applied, the data may be considered open source and, although an authorisation is not usually required, it must be considered. **Repeat viewing of 'open source' sites may constitute directed surveillance on a case-by-case basis, and the type of the social media is relevant.**

Example 1

'Facebook' -if the data is communicated only to 'Friends', it may reasonably be regarded as private information, with an expectation of privacy, as the information is only communicated to an exclusive group.

Example 2

'Twitter'-this may be regarded as communication to the world at large, although where search criteria are entered, it may become directed surveillance.

27. If any member of the public can access the information (e.g. where there is no veto mechanism), it is not private information. Open source information does not usually require authorisation. However, if a profile is built up of an individual's lifestyle, it may become Directed Surveillance.

28. If it is considered necessary and proportionate for the Council to covertly access sites, which are subject to privacy settings, this can only be done through an appropriate authorisation.

29. Where an Officer intends to engage with others online without disclosing their identity, a CHIS authorisation may be needed (i.e. the activity is more than mere reading of the site's content) e.g. an Officer covertly sends a 'friend' request on Facebook.

30. If a relationship is established or maintained (i.e. the activity is more than a mere reading of the site's content) a CHIS authorisation is necessary:

'CHIS authorisation is only required for the use of an internet trading organisation such as eBay when a covert relationship is likely to be formed. The use of disguised purchaser details in a simple, overt, electronic purchase does not require a CHIS authorisation, because no relationship is usually established at that stage.'

(Office of the Surveillance Commissioners 'OSC' Procedures and Guidance 2016 (at 239)).

31. The Officer should consider the purpose of looking at, or attempting to look at, the Social Media information (see the Council's RIPA Policy and revised Covert Surveillance and Property Interference Code of Practice at 3.33).

32. Officers must not adopt the identity (i.e. false profiles/false identity) of a person known/likely to be known to the subject of interest or users of the site without authorisation, and without the consent of the person whose identity is used, and without considering the protection of that person. The consent must be explicit (i.e. the person from whom consent is sought must agree (preferably in writing) what is and is not to be done).

Surveillance Procedures

33. There are three available surveillance procedures that Officers must consider before undertaking surveillance involving SNS/Social Media (see the Council's RIPA Policy for further information, RIPA and the Investigatory Powers Act 2016). They are:
- The use of '**Directed Surveillance**';
 - The use of **CHIS**; and
 - Powers to acquire or obtain '**Communications Data**'.
34. Key issues Officers need to consider include:
- 34.1 What expectation of privacy a user may reasonably have when posting on the Internet;
- 34.2 How covert or overt the Officer looking at information on the internet is being; and
- 34.3 Whether or not a RIPA or CHIS authorisation should be obtained.

Example Scenarios

35. **Scenario 1 – Viewing publically available postings/websites where the person viewing does not have to register a profile, answer a question, or enter any significant correspondence in order to view e.g. a typical trader's website.**
- There should be a low expectation of privacy and no RIPA authorisation would normally be required to view or record these pages.
 - Nonetheless, repeated visits over time (perceived monitoring) may require a RIPA authorisation. Private information can remain private, even if posted on such a website and the ECHR has construed that the way a business is run *can* be private information. If an Officer intends to monitor in this way, they may acquire private information and this should be done in a systematic way, with results recorded (including whether the Officer happens to access private information). The fact that, on previous visits, a lack of private information is found, could evidence that any subsequent acquisition was incidental and a RIPA authorisation is not required.
 - If a test purchase is required, a fictitious name and address may be used without triggering the need for a CHIS (or Directed Surveillance) authorisation, provided no '*relationship*' is formed. Consideration is needed of the likelihood of acquisition of private information, or how far a '*relationship*' is formed.
36. **Scenario 2 – Viewing postings on social media, such as a social network where the viewer has had to register a profile but there is no other restriction on access e.g. Facebook where there is no need to be accepted as a '*friend*' to view e.g. a Trader has a Facebook '*shop window*' advertising their business/wares.**
- The person running the site/posting information may reasonably expect viewers to work within the terms and conditions of the website.
 - Viewing should usually, consequently, be done in an overt way i.e. via an account profile using the Officer's correct name, and email address (which should be a Ceredigion.gov.uk email address) or an appropriate Officer set and sanctioned profile. If so, a recording of the visit being made could be presented evidentially.

- If the post/web page does not include private information, a viewing would not engage privacy issues and therefore a RIPA authorisation is not needed. However a mixture of private and business material could be viewable, and, as above, the ECHR construes the way a business is run as being private information. Repeat visits over time so that monitoring could be perceived, may require an authorisation.
 - A 'Covert' account at this level should only be used in the context of a RIPA authorisation.
37. **Scenario 3 – Viewing postings on social networks which require a 'friend' or similar status to view.**

- Viewings are very likely to include private information, so repeated viewings will constitute 'surveillance' under RIPA, and so require a RIPA authorisation, which could be whether or not a 'covert' or 'overt' account is used (although likely best obtained through a CHIS authorisation, using a covert profile and appropriate risk assessments).
- An 'overt' account which gains 'friend' or similar status **may still require a RIPA authorisation**, since it may be that such a status could be granted by default on the part of the person posting/web-page owner.
- The Officer must ensure that their access is being authorised by the relevant Authorising Officer.
- E.g. under Facebook's terms and conditions, only people who know the person who maintains a profile should send to that profile a 'friend' request. If accepted, that person may mistakenly believe the person requesting is an acquaintance of theirs e.g. they do not recall or know by another name. These persons still have a justifiable expectation of privacy. Since requesting access may not comply with a narrow interpretation of Facebook's terms and conditions, a clearly identifiable **Council Service Sanctioned profile** would then deal with that expectation of privacy, rather than a more neutral Officer based social media profile, such as a Facebook profile with their name, Officer status and details of their employment by the Council, where these details may not be appreciated by the person accepting the 'friend' request.
- An appropriate Officer set and sanctioned profile must be authorised by the SRO in order to obtain intelligence and provide advice.

Recording Information, Data Handling and Retention Safeguards

38. All data obtained should be appropriately recorded on the relevant form and the Central Register updated. A copy of the submitted form must be retained by the Officer and the original document(s) submitted to the SRO (for updating the Central Register). Part 4 of the Council's RIPA Policy sets out the procedures regarding assurance of data handling and retention safeguards.
39. Particular care must be taken regarding sensitive information obtained through on-line personas. Any information retained must be retained in line with the Data Protection Act 2018, the Freedom of Information Act 2000, and any other legal requirements, including those of confidentiality, and the Council's policies and procedures. Advice can be sought from the Data Protection Officer.

Schedule 1- Relevant Legislation, Codes of Practice, Policies & Guidance

1. This RIPA Social Media Policy should be read in conjunction with all current and relevant legislation, guidance and codes of practice, including (but not limited to) the following:

1.1 The Council's RIPA Policy;

<https://ceri.ceredigion.gov.uk/net/wp-content/uploads/2018/05/1.1-S-RIPA-procedure-policy-English-amended-05.10.2017.pdf>

1.2 Regulation of Investigatory Powers Act 2000 ('RIPA');

<https://www.legislation.gov.uk/ukpga/2000/23/contents>

1.3 RIPA Explanatory Notes;

<http://www.legislation.gov.uk/ukpga/2000/23/notes/contents>

1.4 Documents and guidance issued by the Investigatory Powers Commissioner's Officer ('IPCO') (formerly the Office of Surveillance Commissioner ('OSC')) (available at:

<https://www.ipco.org.uk/>) including OSC Procedures and Guidance Document: <https://ipco-wpmedia-prod-s3.s3.eu-west-2.amazonaws.com/OSC-PROCEDURES-AND-GUIDANCE.pdf>

1.5 RIPA Statutory Codes of Practice:

1.5.1 Covert Surveillance and Property Interference Revised Code of Practice 2018;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742041/201800802_CSPI_code.pdf

1.5.2 Covert Human Intelligence Sources Revised Code of Practice;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742042/20180802_CHIS_code.pdf

1.5.3 Bulk Acquisition of Communications Data Code of Practice:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715477/Bulk Communications Data Code of Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/715477/Bulk_Communications_Data_Code_of_Practice.pdf)

1.5.4 Equipment Interference Code of Practice;

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/496069/53693_CoP_Equipment_Interference_Accessible.pdf

1.5.5 Communications Data Code of Practice 2018:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822817/Communications Data Code of Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/822817/Communications_Data_Code_of_Practice.pdf)

1.5.6 Investigation of Protected Electronic Information Revised Code of Practice;

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742064/RIPA Part III Code of Practice.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/742064/RIPA_Part_III_Code_of_Practice.pdf)

1.6 Home Office Surveillance Camera Code of Practice (2013)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/282774/SurveillanceCameraCodePractice.pdf

1.7 Investigatory Powers Act 2016 ('IPA');

<https://www.legislation.gov.uk/ukpga/2016/25/contents>

1.8 SI 2010 N0.521 - Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010; and

<http://www.legislation.gov.uk/uksi/2010/521/contents/made>

- 1.9 SI 2012 No.1500 (The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012).
<http://www.legislation.gov.uk/uksi/2012/1500/contents/made>
- 1.10 The Council's Social Media Policy:
<https://ceri.ceredigion.gov.uk/portal/employee-handbook/policies-procedures/social-media-policy/>
- 1.11 The Council's Information Security Policy; <https://www.ceredigion.gov.uk/your-council/strategies-plans-policies/information-security-policy/>
- 1.12 The Council's Code of Conduct for Local Government Employees*
- 1.13 The Council's Data Protection and GDPR Policy**
- 1.14 The Council's Email Policy*
- 1.15 The Council's Information and Records Management Policy (available at <https://www.ceredigion.gov.uk/your-council/strategies-plans-policies/information-and-records-management-policy/>)**
- 1.16 The Council's Policy and Guidelines for Safeguarding Children & Adults at Risk*
- 1.17 The Council's Social Media Editorial and Administration Policy*
- 1.18 The Council's Whistleblowing Policy*

*: available on the Council's intranet site (CeriNet)

** : available on the Council's website and CeriNet



Investigatory Powers
Commissioner's Office

PO Box 29105, London
SW1V 1ZU

By Email

April 2020

Dear Sir/Madam,

Assurance of data handling and retention safeguards

In light of the recent and serious compliance failings by part of the UK intelligence community, I have asked the IPCO inspectorate to carry out a full review of the ways in which data is handled by the public authorities we oversee. This work, which was initiated in late 2019, has comprised initial discussions with a range of authorities in relation to their data holdings. This includes any data obtained under the Investigatory Powers Act (IPA) 2016 and the Regulation of Investigatory Powers Act (RIPA) 2000 and which is therefore the subject of oversight by my office. This programme is intended to promote compliance with these acts and the Codes of Practice, and with other legal obligations including the Data Protection Act (DPA) 2018. You will be aware that the current restrictions have meant that our working model has changed and that any contact with our inspectors will be conducted remotely for the foreseeable future. Nonetheless, my inspectors will contact you to discuss data assurance alongside our usual inspections.

The objectives of the Data Assurance programme are:

- To inspect and investigate compliance with data safeguards to establish a high level of confidence that all data obtained under the powers overseen by IPCO is retained lawfully.
- To embed and encourage best practice for compliance at each authority we oversee.
- To assist the authorities we oversee to understand and investigate the compliance challenges arising from the use of bespoke, off-the-shelf and shared data handling programmes and technical storage environments.

My inspectors have identified that many organisations are retaining data for longer than is necessary or appropriate for a number of reasons. Firstly, in many cases authorities have not fully implemented data retention and disposal policies, secondly, many authorities operate with a culture of comprehensive retention to prevent operational data loss, and finally, systems used to transfer and securely store data may not promote or enable appropriate disposal processes.

For example, consider that an authority seeks and is granted a directed surveillance authorisation. Under that authorisation, surveillance is conducted for a period of time and provides information to meet the objectives of the investigation. As part of the investigation, one officer emails the results of the surveillance to a colleague and their manager, both of whom save a copy on their desktop and in Outlook for future reference. The officer also emails the product to a legal colleague so that the product may be used as evidence during criminal proceedings, it is therefore disclosed to a court and retained in a password-protected file for further use in the event of an appeal. At this point, no decision is taken as to how long that data should be retained, and the copies on both Outlook and the desktops are retained.



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Although this example demonstrates legitimate use of the data for investigative and evidential use of the data, this approach is unlikely to be compliant with the code of practice for surveillance. The data pathway described includes retention on a personal desktop and in Outlook as well as a password-protected evidential copy. In this example, no retention, review or disposal process is in place for either pathway. In cases such as this, my inspectorate have found that data is being retained longer than is necessary, and at times indefinitely. I urge you to review your obligations under IPA and RIPA and to revisit the safeguards in the Codes of Practice¹ to ensure that appropriate policies and processes are in place within your authority.

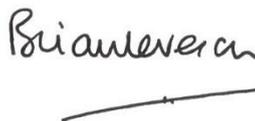
Starting in 2020, IPCO inspections will include data assurance and will require the following to be made available to my inspectors: safeguarding policies; retention and disposal schedules; access to any systems used to store data obtained under IPA and RIPA. Through each inspection, my office will ask you to demonstrate the adequacy of your policies, including physical security of data, adequacy of staff training, steps to minimise copying of data and processes to ensure all relevant data and copies are deleted at the appropriate time.

This work is a central part of IPCO's role to assist public authorities to use these powers lawfully, in the public interest. I anticipate that this programme will allow my office to establish a good level of confidence in the safeguarding practices of the authorities I oversee. I recommend that you take the following actions, which will assist you in demonstrating compliance and adherence to your obligations to safeguard any data you have obtained or may obtain:

- 1) Review the safeguarding obligations in the relevant Code of Practice for any powers used by your authority.
- 2) Ensure that internal safeguard policies for retaining, reviewing and disposing of any relevant data are accurate and up-to-date.
- 3) Ensure that the authorising officer for your authority has a full understanding of any data pathways² used for RIPA or IPA data.
- 4) Ensure that all data obtained under IPA and RIPA is clearly labelled and stored on a data pathway with a known retention policy.
- 5) Review the wording of safeguards in any applications to obtain data under IPA and RIPA and ensure that they accurately reflect the retention and disposal processes at your authority³.
- 6) Review whether data obtained under previous authorisations is being retained for longer than is necessary and, if appropriate, consider disposing of retained data.

If you have any questions about this programme or the recommendations we have made, please do not hesitate to contact IPCO at Info@IPCO.org.uk. Although we are not conducting inspections in person, my inspectors are available to answer any questions you have, and will be conducting inspections remotely, on a rolling basis, throughout the year.

Yours sincerely



The Rt. Hon. Sir Brian Leveson
The Investigatory Powers Commissioner

¹ Communications Data Code of Practice Chapter 13, CHIS Code of Practice Chapter 8 and Property Interference and Surveillance Code of Practice Chapter 9 set out safeguarding requirements.

² For example, directed surveillance data may be simultaneously stored on several data pathways: Pathway one – CCTV video product is transferred onto a CD and kept in a secure cabinet; Pathway two – a copy of the video is sent via email and stored on a common storage drive; Pathway three – a copy of the video is received via email and saved in an Outlook folder by a legal officer; Pathway four – a copy of the video is received via email and stored in a password protected evidential casework folder by a legal officer.

³ For example, if all data will be retained for a set number of years this should be stated in your application, or the application should refer to the internal safeguards policy document.

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CEREDIGION COUNTY COUNCIL

Report to: Council

Date of meeting: 23rd September 2021

Title: Phosphates on the River Teifi Special Area of Conservation

Purpose of the report: To update Cabinet in relation to Phosphates within the River Teifi Special Area of Conservation (SAC), and to seek Delegated Powers to determine Planning Applications that would adversely affect the integrity of the SAC

For: Decision

Cabinet Portfolio and Cabinet Member: Cllr Rhodri Evans, Economy and Regeneration

The following report was presented and approved by Cabinet on 13th July 2021.

The Council is committed to development only taking place if it is sustainable development that includes relevant environmental protections.

The quality of the natural environment in our area is of a particularly high standard. The Teifi River is a Special Area of Conservation. Within this area various locations are of national and international significance for wildlife. Thus the Teifi River is designated as a Special Area of Conservation (SAC) under the Conservation of Habitats & Species Regulations 2017, as amended (“The Habitat Regulations”).

The Local Planning Authority (LPA) recently received a letter from Natural Resources Wales (NRW) about the high levels of phosphates in the Teifi. The same letter has also been sent to the other Local Planning Authorities in Wales in relation to the Teifi as well as other SAC water bodies.

In light of a court Judgement (known as “The Dutch Case”), NRW have advised Ceredigion County Council that, in light of the unfavourable condition of the Teifi SAC, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should undertake a Habitats Regulations Assessment (HRA).

Ceredigion County Council is a ‘competent authority’ under the Habitats Regulations, and thus means the council is legally required to assess the potential impacts of projects and plans, on internationally important sites which include the Teifi SAC. In its role as competent authority, the council must carry out a ‘Habitat Regulations Assessment’ on any relevant planning application that falls within the boundary and catchment areas. Where there is a ‘Likely Significant Effect’, the council must carry out an ‘Appropriate Assessment’ in order to determine, with scientific certainty, that there would be no ‘Adverse Effect on Integrity’ on the designated site from the plan or project, either alone or in combination with other plans and projects.

The council takes this into account when considering whether planning permission can be granted. If it cannot be proven that there would not be an adverse effect on integrity, then planning permission cannot be granted without further stringent consideration under the Habitats Regulations. NRW is a statutory consultee on appropriate assessments and provides advice to competent authorities in relation to sites designated such as SACs. Local Planning Authorities must have regard to the advice given by NRW when making planning decisions (for both individual developments and local development plans (LDP)).

The types of development impacted by this requirement include (but are not limited to):

- New residential units - including tourist accommodation, gypsy & traveller sites /pitches, student accommodation, care homes etc.
- Commercial developments - new commercial floor space including extensions to existing, change of use from one business to another where there is an increase in employees and/or to a use that would impact on wastewater.
- Agricultural Development - additional barns, slurry stores etc.
- Prior Notifications of agricultural development where, as a result of the development, the amount or concentrations of wastewater discharge is increased.
- Anaerobic Digesters
- Tourism attractions
- Permitted development to an existing property (e.g. extensions) that increases the volume of foul drainage (e.g. as a result of increased occupancy).

Further advice from NRW (02/05/21) suggests that Private Sewage Treatment plants discharging domestic wastewater to ground built to the relevant British Standard should be designed so that;

- The drainage field is located more than 40m from any surface water feature such as a river, stream, ditch or drain, **and**
- The drainage field is located more than 50m from the SAC boundary, **and**
- The maximum daily discharge rate is less than 2 cubic metres
- Also, to ensure that there is no significant in combination effect, the discharge to ground should be at least 200m from any other discharge to ground. The density of discharges to ground should also not be greater than 1 for every 4 hectares (or 25 per km²)

The other issue that has been raised, and the LPA are awaiting clarification is the necessity to de-sludge private sewage treatment plants (STW), waste carriers are legally obliged to discharge the sludge at Welsh Water sewage treatment works, however there are no STW's within Ceredigion that have the necessary phosphate stripping facilities, apart from Llanddewi Brefi which provisionally only has remaining capacity for up to 5 units, therefore discharge to Welsh Water STW's contributes to the damaging effects of phosphates in the river Teifi SAC.

Current situation (25/05/21)

The LPA currently have 45 applications that cannot be determined due to the above issue, of the 45 applications they consist of 47 dwellings, and 22 other uses, consequently the applications need to be refused, however the CLO Economy and Regeneration does not currently have delegated powers to refuse, and furthermore Local Members cannot request that applications are presented to DCC for determination, as there is insufficient information to support a proposal and a resolution to approve would result in an illegal decision.

Has an Integrated Impact Assessment been completed? If, not, please state why Not Required

Wellbeing of Future Generations:

Summary:
Long term:
Collaboration:
Involvement:
Prevention:
Integration:

Recommendation(s):

Cabinet recommends that Council approves the granting of delegated powers to the CLO Economy and Regeneration in consultation with the cabinet member to determine planning applications that do not comply with the phosphates directive (pursuant to the Conservation of Habitats and Species Regulations 2017), and have been received after the 1st June 2021. All applications that fall under this category and were received prior to the 1st of June 2021 would be held in abeyance until a time when there is clear guidance for determination of applications.

Reasons for decision: To allow for Planning Applications to be determined efficiently

Overview and Scrutiny: n/a
Policy Framework:

Corporate Priorities: n/a

Finance and Procurement implications: none

Legal Implications:

Staffing implications: none

Property / asset implications: none

Risk(s):

Statutory Powers:

Background Papers:

Appendices: none

Corporate Lead Officer: Russell Hughes Pickering, CLO Economy and Regeneration

Reporting Officer: Alan Davies, Corporate Manager Planning Services

Date: 01/09/21

Cyngor Sir CEREDIGION County Council

REPORT TO:	Council
DATE OF MEETING:	23 September 2021
LOCATION:	Remotely via Video Conference
TITLE:	Report on changes to the Council's Constitution
PURPOSE OF REPORT:	To make changes to the Council's Constitution, and ensure appropriate delegations are in place
FOR:	Decision & Information
Cabinet Portfolio and Cabinet Member:	Cllr. Ray Quant MBE, Deputy Leader of the Council and Cabinet Member for Customer Contact, Legal & Governance, People & Organisation

BACKGROUND:

The Constitution is published on the Council's website, and is a live document. The Monitoring Officer is authorised to make minor amendments to the Constitution, and update as necessary. The current published version of the Council's Constitution is available at: <https://www.ceredigion.gov.uk/your-council/about-the-council/the-councils-constitution/>

The Council approved changes to the Constitution on 16th October 2020 and it was confirmed in a Report to Council of 18th March 2021 that, further to the Council's Cross-Party Constitution Working Group ('the Working Group') Meeting held on 15th February 2021, the changes approved in the Council Meeting of 16th October 2021 have been made. See Report at: <https://council.ceredigion.gov.uk/ieListMeetings.aspx?CommitteId=144&LLL=0>

In its meeting of 18th March 2021, the Council also approved further amendments to the Constitution. These changes have been made and are in the current published version of the Constitution (see above). See Meeting Minutes at: <https://www.ceredigion.gov.uk/media/8975/cofnodion-ddrafft-18032021-saesneg-final.pdf>.

Proposals

Working Group Meetings were held on 19th April 2021, 30th June 2021 and 10th August 2021, in which the Working Group agreed to recommend the following Constitution changes to Council, and which were proposed to the Working Group following discussions with relevant Officers:

- 1. Changes relating to the Ethics & Standards Committee & Governance and Audit Committee**

- Amendments of the Constitution to reflect the requirements of the Local Government and Elections (Wales) Act 2021 ('the 2021 Act') affecting the Ethics & Standards Committee and Governance and Audit Committee, including:

(a) Changes for inserting into the Constitution from 5 May 2022 (new proposed wording at Article 9 Part 2 Articles– see **Appendix 2**).

Members are requested to note one correction at 9.2.2.1.1 relating to the Governance and Audit Committee's membership from '*at least a one-third membership*' to '*a one-third membership*'.

Members are requested to note that since the previous Working Group Meeting, it has been noted that '*lay members*' should instead be referenced as '*lay persons*', and that '*Vice Chair*' should instead be referenced as '*Deputy Chair*', per the specific 2021 Act wording. These are considered a minor amendment made by the Monitoring Officer, and so Appendix 2 and Appendix 5 (see (d) below) to this Report also reflect these updated amendments, which shall be confirmed at the next Working Group Meeting.

(b) Changes to Part 2 of the Constitution (see **Appendix 3**) including:

- Adding further detail to the Governance and Audit Committee section (See Article 9.2); and
- Updated Committee name to '*Governance and Audit Committee*' from '*Audit Committee*'.

(c) Changes to the Governance and Audit Committee's terms of reference under Part 3 of the Constitution (see **Appendix 4**) to reference its new duties and change of name.

(d) Changes to the Governance and Audit Committee's terms of reference under Part 3 of the Constitution for including from 5 May 2022 (see **Appendix 5**), when these new duties come into force.

(e) Minor changes in parts 4B and 4F of the Constitution to update reference to the Committee's new name, per the 2021 Act (see **Appendices 11 and 7**).

The aforementioned proposed changes to the Constitution regarding the terms of reference, name, new duties and roles of the Committee, membership of the Committee and Voting procedure were also presented to the Governance and Audit Committee in their 3rd June 2021 Meeting, for noting.

See Report and Meeting Minutes at:

<https://council.ceredigion.gov.uk/ieListMeetings.aspx?CommitteeId=147&LLL=0>

2. Constitution Fee

- An amendment to clause 15.3.2 (see **Appendix 3**) to reflect that copies of the Constitution may be provided for a charge representing no more than the cost of providing the Copy (per 2021 Act requirements).

This requirement is in force from May 2022 but, with Council's approval, reference to the Council Constitution Guide fee shall be updated once approved by Council, as recommended by the Working Group.

3. Constitution Guide/Part 1

- Amendments, as set out in this Report, to Part 1 of the Constitution (see **Appendix 1**), have also been approved by the Working Group to be recommended to Council for inclusion in a Constitution Guide in due course:

S.45 of the 2021 Act requires publication of a Constitution Guide from 5 May 2022. A proposed Guide shall be presented to Council for approval in due course (guidance is awaited from Welsh Government), and current Part 1 shall form the basis of this Guide.

4. Anti-Slavery Statement/Policy

- Reference to the Council's Anti-Slavery Statement/Policy for insertion in Part 1 of the Constitution (see **Appendix 1**) and in Part 2 Articles (see **Appendix 2**).

5. Channel and CONTEST

Regarding Channel:

- Explanation of Channel, Channel Chair/Deputy and Channel Panel in the Constitution (in a Glossary in Part 1) (see **Appendix 1**);
- Draft wording in Part 7 (Consultative and Advisory Fora) (see **Appendix 8**);
- Amendments to the Delegations to the Corporate Lead Officer ('CLO') – Policy, Performance & Public Protection in Part 3.5 G (see **Appendix 9**) and CLO – Porth Cynnal in Part 3.5 J (see **Appendix 10**).

Regarding CONTEST:

- Explanation of CONTEST in Part 1 (see **Appendix 1**);
- Reference to CONTEST in Part 3.5 G (Delegations to CLO - Policy, Performance and Public Protection) (see **Appendix 9**); and
- Reference to CONTEST in Part 7 (Consultative and advisory Fora) in the Community Safety Partnership paragraph, Section 3 Part 7 (see **Appendix 8**).

6. Amendments to Delegations to CLO - Policy, Performance & Public Protection

a) Wild animals and travelling circuses

Insertion in Part 3.5G Delegations to CLO Policy, Performance & Public Protection (see **Appendix 9**), further to the Trading Standards & Licensing Manager's Report to the Healthier Communities Scrutiny Committee of 8th March 2021 (see Report at:

<https://www.ceredigion.gov.uk/your-council/councillors->

[committees/committees/scrutiny-healthier-communities/?year=2021&date=08%2F03%2F2021](https://www.ceredigion.gov.uk/your-council/councillors-committees/committees/scrutiny-healthier-communities/?year=2021&date=08%2F03%2F2021) and Report to Council of 18 March 2021 (see above)).

b) Smoking Regulations

- Amendments to wording at Part 3.5G Delegations to CLO Policy, Performance & Public Protection (see **Appendix 9**), further to the Environmental Health Manager's Report to the Healthier Communities Scrutiny Committee of 8th March 2021 (see Report at <https://www.ceredigion.gov.uk/your-council/councillors-committees/committees/scrutiny-healthier-communities/?year=2021&date=08%2F03%2F2021>) and Report to Council of 18th March 2021 (see above).

Note that, the Public Health (Wales) Act 2017 (relevant legislation) is already included currently in the delegation, so reference to subsequent legislation is proposed, which would include the Smoke-free Premises and Vehicles Regulations (Wales) 2020.

c) Dangerous Trees

- Amendments to Part 3.5G Delegations to CLO - Policy, Performance & Public Protection to include reference to 'dangerous trees' (see **Appendix 9**).

This reference is proposed for clarity and confirmation that delegations relating to Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, a provision to confirm the Council's powers to deal with dangerous trees, are provided to the CLO – Policy, Performance & Public Protection.

d) Litter

- Amendments to Part 3.5G Delegations to CLO Policy, Performance & Public Protection to include reference to '*litter*', in relation to enforcement powers, for clarity (see **Appendix 9**).

7. Removal of Education of Regional Working ('ERW')

- As the Council is no longer a member of ERW, removal of reference to ERW is removed throughout the Constitution (see various Appendixes attached to Report).

8. Notices on Motion

- Amendments regarding Notices of Motion (see **Appendix 6**).

A Report of the CLO – Legal and Governance/Monitoring Officer was presented to the Democratic Services Committee at its 21st May 2021 Meeting: see Report at <https://council.ceredigion.gov.uk/ieListMeetings.aspx?Committeeld=144&LLL=0>. As confirmed in the Report, proposed amendments to the Constitution regarding Notices of Motion were presented to the Council’s Cross-Party Constitution Working Group at its 19th April 2021 Meeting

The Constitution Working Group had agreed that these changes had been approved and that they should be presented to the Democratic Services Committee for consideration prior to being presented to Council for approval.

The Democratic Services Committee resolved to recommend to Council to approve the proposed amendments regarding Notice of Motion

9. Call-in Procedure

- Amendments regarding the Call-In Procedure (see Extract at **Appendix 12**).

The aforementioned Report to the Democratic Services Committee also detailed proposed changes to the Cabinet Procedure Rules. Proposed amendments to the Constitution regarding the Call-In procedure were presented to the Council’s Cross-Party Constitution Working Group, who had agreed that these documents had previously been approved and should be presented to the Democratic Services Committee for consideration prior to being presented to Council for approval.

The Democratic Services Committee resolved to recommend to Council to approve the proposed amendments regarding the Call-in Procedure.

10. Voting

- Amendments to clarify the Voting Procedure (see **Appendixes 3, 6, 13 and 14**).

In the aforementioned Report to the Democratic Services Committee, it was also confirmed that the Voting Provisions of the Council Procedure need to also be set out in the Constitution for Cabinet and Committees of the Council. It was recommended to the Democratic Services Committee that the Constitution is amended to regularise the arrangements, so as to set out clearly within the Constitution that Cabinet and the Committees follow the same procedure as set out within the Council Procedure Rules, as regards Voting within meetings for:

- simple majority; and
- Chair’s casting vote.

The Working Group had also agreed to recommend to Council inserting the wording set out in **Appendix 13** (Cabinet), **Appendix 14** (Overview and Scrutiny Committees) and **Appendix 3** (see above) (for Ethics & Standards Committee and Governance and Audit Committee) attached.

The Democratic Services Committee resolved to recommend that Council approve the proposed amendments to regularise Cabinet and the Committees procedural arrangements to reflect the Council Procedure Rules as regards voting majority and Chairperson's casting vote within meetings.

An additional amendment of changing the word 'room' to 'meeting' was also proposed to the Working Group for Council, Cabinet and all Committees, as well as the change of 'question was put' to 'recommendation or proposal was presented', both of which the Working Group resolved to recommend to Council (see **Appendix 6**).

11. Regulatory Committees

- Development of Article 8 in Part 2 ('Regulatory Committees'). Further work shall be carried out in on this section of the Constitution. See proposed changes agreed to date by the Working Group to recommend to Council at **Appendix 3**, which include:
 - New sections for the Development Control Committee (8.2) and Licensing Committee (8.3);
 - Moving from Article 15 to Article 8 (at 8.2.1) the Development Control Committee's quorum requirements; and
 - For both the Development Control Committee and Licensing Committee, as above, reference to the voting requirements (simple majority and chairperson's casting vote).

12. Socio-Economic Duty

- Reference to the Council's Socio-Economic Duty (see new reference at Article 12.2.8 in **Appendix 3** and Engagement and Equalities Officer's Report to Overview & Scrutiny Co-ordinating Committee of 14th January 2021 at: http://www.ceredigion.gov.uk/cpd/Democratic_Services_Meetings_Public/Coord%20agenda%20pack%20200121%20FINAL%20English%20v2.pdf and Report to Cabinet of 16th March 2021 at: [http://www.ceredigion.gov.uk/cpd/Democratic_Services_Meetings_Public/Socio%20Economic%20Duty%20\(Cymraeg\).pdf](http://www.ceredigion.gov.uk/cpd/Democratic_Services_Meetings_Public/Socio%20Economic%20Duty%20(Cymraeg).pdf)).

13. Delegations to CLO: Economy & Regeneration –

- Draft wording for inserting into Part 3.5H (Delegations to the CLO Economy & Regeneration) (see **Appendix 15**).

A Report on Phosphates on the River Teifi Special Area of Conservation was presented to Cabinet on 13th July 2021 by the Corporate Manager: Planning Services (see Report and draft Meeting Minutes at: <https://council.ceredigion.gov.uk/ieListDocuments.aspx?CId=148&MId=170&Ver=4&LLL=0>). It is further understood that a Report is being presented to Council at its 23rd September 2021 Meeting requesting that Council approves the granting of delegated powers to the CLO - Economy and Regeneration to determine planning applications

where phosphates (pursuant to the Conservation of Habits & Species Regulations (2017)) are an issue (in consultation with the Cabinet Member) (see Reports being presented to Council at:

<https://council.ceredigion.gov.uk/ieListDocuments.aspx?CId=149&MId=161&Ver=4&LLL=0>).

The Group agreed to recommend the wording to Council subject to Cabinet's recommendation and Council's approval of granting of the delegated powers). The wording was presented again to the Working Group at its 10th August 2021 Meeting (following Cabinet's decision) and the Working Group agreed to recommend this wording to Council, if Council decides to grant the delegated powers to the CLO Economy & Regeneration.

14. Housing

- Amendments per the Recommendations in Report presented to Council in its meeting of 20th December 2020, by the Corporate Manager Housing Services, highlighting the introduction and delegations for the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 and Renting Homes (Fees etc.)(Wales) Act 2019 (see **Appendices 10 and 15** attached, and see Report at: http://www.ceredigion.gov.uk/cpd/Democratic_Services_Meetings_Public/C%20-%20Effeithlonrwydd%20ynni.pdf).

15. Head of Democratic Services

- Amendments to wording at Article 11.3.12 of Part 2 Articles (see **Appendix 2** – to be amended from May 2022) remove the restriction on a Local Authority's Monitoring Officer being the Head of Democratic Services, per the 2021 Act changes.

Section 161 of the Local Government and Elections (Wales) Act 2021 (available at: <https://www.legislation.gov.uk/asc/2021/1/section/161>) amends Section 8 of the Local Government (Wales) Measure 2011 (available at: <https://www.legislation.gov.uk/mwa/2011/4/section/8>) to end the restriction from May 2022.

16. Porth Cymorth Cynnar

- The amendment of '*Porth Ceredigion, Early Intervention, Wellbeing Hubs and Culture Services Portfolio*' to '*Porth Cymorth Cynnar Portfolio*' and Services from '*Services: Porth Ceredigion, Early Intervention, Wellbeing Hubs and Culture*' to '*Services: Porth Cymorth Cynnar*' throughout the Constitution.

17. Amendments to delegations to CLO Customer Contact

- Amendments at Part 3.5M Delegations to CLO – Customer Contact, to confirm the CLO's responsibility for Cyber resilience, including cyber security, and clarification relating to the Code of Connection (see **Appendix 16**).

18. Head of Paid Service/Chief Executive

- In accordance with Section 55 of the 2021 Act (in force from 20th March 2021), the replacement of the word ‘salary’ with ‘remuneration’ in relation to the Chief Executive (see draft wording at Extract of Part 3.5 L Delegations to CLO Finance & Procurement at **Appendix 17** and draft wording at Extract of Part 5 L Code of Conduct for Local Government Employees at **Appendix 18**).

The Working Group also approved the amendment of the title from ‘Head of Paid Service’ to ‘Chief Executive’ in the Constitution from 5 May 2022, as required by S.54 of the 2021 Act.

19. Consultation: decision making and performance

S.90 of the 2021 Act (in force from 1st April 2021) places a duty on the Council to, from time to time, and at least once in each financial year, consult the following about the extent to which the council is meeting the performance requirements—

- (a) local people,
- (b) other persons carrying on a business in the Council’s area,
- (c) the staff of the Council, and
- (d) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)) by the Council.

In light of S.90, proposed wording was put to the Working Group for inserting in Part 1 of the Constitution (see **Appendix 1**). The Working Group agreed to propose this wording to Council for insertion in Part 1 (and, when finalised the Constitution Guide, in due course).

20. Minor Changes

Any minor changes made by the CLO Legal and Governance/Monitoring Officer are confirmed to the Working Group, are contained in the Appendices to this Report and include:

- Stylistic/formatting changes;
- Change to ‘Audit Wales’ from ‘Audit Commission’;
- Updating to ‘Corporate Equalities Working Group from ‘Corporate Equalities Panel’;
- Updating the name of the Governance and Audit Committee;
- Removal of ERW (as above);
- Correction to: Accounts and Audit Wales Regulations 2014

RECOMMENDATIONS:

That the Council resolves to:

1. Note the contents of the Report;
2. Approve the changes to the Constitution, as recommended by the Council’s Cross-Party Constitution Working Group and as listed in Proposals 1-20 of this Report; and
3. Authorise the CLO Legal & Governance/Monitoring Officer to update the Council’s Constitution to reflect the above changes.

REASON FOR RECOMMENDATIONS: Ensuring that the Constitution is fit for purpose, that the correct references to Officers are in the Constitution and that appropriate delegations and responsibilities are in place.

Has an Integrated Impact Assessment been completed? No

If, not, please state why

Summary: *This report does not represent a change in policy or strategy.*

WELLBEING OF FUTURE GENERATIONS:

Long term: To ensure that the Constitution remains updated and fit for purpose for the long term benefit of the Council and citizens of Ceredigion.

Integration: N/A

Collaboration: N/A

Involvement: N/A

Prevention: To ensure that the Constitution remains updated and fit for purpose.

Recommendation(s): That Council resolves to:

1. Note the contents of the Report
2. Approve the changes to the Constitution, as recommended by the Council's Cross-Party Constitution Working Group and as listed in Proposals 1-20 of this Report; and
3. Authorise the CLO Legal & Governance/Monitoring Officer to update the Council's Constitution.

Reasons for decision:

Overview and Scrutiny: n/a

Policy Framework: Democratic Arrangements

Corporate Priorities: Cross cutting theme to ensure that services are fit for purpose.

Finance and Procurement implications: None

Legal Implications: None

Staffing implications: None

Property / asset implications: None

Risk(s):	None
Statutory Powers:	<p>Local Government and Elections (Wales) Act 2021: https://www.legislation.gov.uk/asc/2021/1/enacted</p> <p>Mid-Wales Corporate Joint Committee Regulations 2021: https://www.legislation.gov.uk/wsi/2021/342/made</p> <p>Corporate Joint Committees (General) (Wales) Regulations 2021: https://www.legislation.gov.uk/wsi/2021/327/made</p> <p>CJC (Amendment to Schedule 6 of Welsh Language (Wales) Measure 2011 Regs 2021: https://www.legislation.gov.uk/wsi/2021/341/contents/made e</p> <p>PSOW (Wales) Act 2019 (Amendment of Schedule 3) Regulations 2021: https://www.legislation.gov.uk/wsi/2021/345/contents/made e</p> <p>Equality Act 2010 (Public Authorities subject to the Public Sector Equality Duty) (Wales) Order 2021: https://www.legislation.gov.uk/wsi/2021/347/made</p> <p>Public Audit (Wales) Act 2004 (Amendment (Local Government Bodies in Wales) Order 2021: https://www.legislation.gov.uk/wsi/2021/349/contents/made e</p> <p>Minister for Housing and Local Government, Welsh Government, 23 February 2021 Written Statement: Laying Statutory Instruments to establish Corporate Joint Committees: https://gov.wales/written-statement-laying-statutory-instruments-establish-corporate-joint-committees</p> <p>CJC (Transport Functions) (Wales) Regs 2021</p>
Background Papers:	<p>Report to Council – 18th March 2021 and Meeting Minutes available at: https://council.ceredigion.gov.uk/ieListMeetings.aspx?Committeed=144&LLL=0</p> <p>Report to Governance and Audit Committee 3rd June 2021 and Meeting Minutes available at: https://council.ceredigion.gov.uk/ieListMeetings.aspx?Committeed=147&LLL=0</p>

(Wild Animals and Travelling Circuses) Report to Healthier Communities Committee 8th March 2021:
<https://www.ceredigion.gov.uk/your-council/councillors-committees/committees/scrutiny-healthier-communities/?year=2021&date=08%2F03%2F2021>

(Smoking Regulations) Report to Healthier Communities Scrutiny Committee 8th March 2021

<https://www.ceredigion.gov.uk/your-council/councillors-committees/committees/scrutiny-healthier-communities/?year=2021&date=08%2F03%2F2021>

(Notices on Motion/Call-In Procedure/Voting) Report to Democratic Services Committee 21st May 2021 Meeting:
<https://council.ceredigion.gov.uk/ieListMeetings.aspx?CommitteedId=144&LLL=0>.

(Socio-Economic Duty) Report to Overview & Scrutiny Co-ordinating Committee 14th January 2021:
http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/Coord%20agenda%20pack%20200121%20FINAL%20English%20v2.pdf and Report to Cabinet 16th March 2021:
[http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/Socio%20Economic%20Duty%20\(Cymraeg\).pdf](http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/Socio%20Economic%20Duty%20(Cymraeg).pdf)

(Phosphates) Report to Cabinet 13th July 2021 and Meeting Minutes:
<https://council.ceredigion.gov.uk/ieListDocuments.aspx?CId=148&MId=170&Ver=4&LLL=0>
Report to Council 23rd September 2021:
<https://council.ceredigion.gov.uk/ieListDocuments.aspx?CId=149&MId=161&Ver=4&LLL=0>

(Housing/Energy Efficiency) Report to Council 20th December 2020:
http://www.ceredigion.gov.uk/cpdl/Democratic_Services_Meetings_Public/C%20-%20Effeithlonrwydd%20ynni.pdf

Appendices:

Appendix 1 Draft Part 1 Constitution

Appendix 2 Extract of Draft Part 2 Articles for May 2022 insertion

Appendix 3 Draft Part 2 Articles

Appendix 4 Draft Part 3

Appendix 5 Extract of Draft Part 3 for May 2022 insertion

Appendix 6 Part 4 Document B Access to Information
Procedure Rules

Appendix 7 Extract of Draft Part 4F Financial Regulations
and Accompanying Financial Procedures

Appendix 8 Draft Part 7 Consultative and Advisory For a

Appendix 9 Draft Part 3.5G Delegations to CLO Policy,
Performance & Public Protection

Appendix 10 Draft Part 3.5J Delegations to CLO Porth
Cynnal and CLO Porth Gofal Targeted Intervention

Appendix 11 Draft Extract Part 4 Document B Access to
Information Procedure Rules

Appendix 12 Extract of Draft Call In Procedure – Part 4
Document E Overview and Scrutiny Procedure Rules

Appendix 13 Draft Cabinet Procedure Rules

Appendix 14 Extract of Draft Voting - Part 4 Document E
Overview and Scrutiny Procedure Rules

Appendix 15 Draft Part 3.5H Delegations to CLO
Economy & Regeneration

Appendix 16 Draft Part 3.5M Delegations to CLO
Customer Contact

Appendix 17 Draft Extract Part 3.5 L Delegations to CLO
Finance & Procurement

Appendix 18 Draft Extract Part 5 L Code of Conduct for
Local Government Employees

Corporate Lead Officer: Elin Prysor-Corporate Lead Officer: Legal & Governance
Services (& Monitoring Officer)

Reporting Officer: Elin Prysor

Date: 11 August 2021

Appendix 1

PART 1
SUMMARY AND EXPLANATION

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1. THE COUNCIL'S CONSTITUTION

The **Ceredigion County Council** has agreed a Constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 15 Articles (Part 2) which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

2. WHAT'S IN THE CONSTITUTION

Part 2: The Articles

Article 1 (Part 2) of the Constitution commits the Council to make effective arrangements to carry out its duties and responsibilities. Articles 2 –15 explain the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and Scrutiny of decisions (Article 6).
- Cabinet (Article 7).
- Regulatory Committees (Article 8).
- The Ethics and Standards Committee (Article 9).
- Joint arrangements (Article 10).
- Officers (Article 11).
- Decision-making (Article 12).
- Finance, contracts and legal matters (Article 13).
- Review and revision of the Constitution (Article 14).
- Suspension, interpretation and publication of the Constitution (Article 15).

Part 3: Responsibility for Council Functions

Part 3 is concerned with responsibility for the various Council Functions i.e. who does what. This section includes 4 detailed tables, which set out:

- (Part 3.1) The Responsibility for Council Functions – Table 1;

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- (Part 3.2) - The Responsibility for Local Choice Functions - Table 2;
- (Part 3.3) The Committees of the Council - Table 3; and
- (Part 3.4) The Responsibility for Cabinet Functions - Table 4

At Part 3.5 the Scheme of Delegation to Officers is set out (Delegations A-N – to be widely interpreted) The scheme delegates certain functions of the Council and Cabinet to officers and sets out the conditions for any decisions made by use of the delegations, with General Conditions for Delegation to Officers set out in Delegation A, to be read in conjunction with Part 3.1.

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Part 4: Rules of Procedure

Part 4 of the Constitution details rules surrounding the Council's various procedures, which relate to Council proceedings, its structure and decision making. These are needed for clarity, transparency, adherence to legislation and to ensure the smooth running of the Council, and include:

- (Document A) – Council Procedure Rules;
- (Document B) – Access to Information Procedure Rules;
- (Document C) – Budget and Policy Framework Procedure Rules;
- (Document D) – Cabinet Procedure Rules;
- (Document E) Overview and Scrutiny Procedure Rules;
- (Document F) Financial Regulations and Accompanying Financial Procedures;
- (Document G) Contract Procedure Rules;
- (Document H) Officer Employment Procedure Rules;
- (Document I) Members of the Public addressing the Development Control Committee – Operational procedures

Part 5: Codes and Protocols

Part 5 includes the Council's codes of conduct, which together create an ethical framework with standards of conduct that are expected to be adhered to. Part 5 also sets out the Council's Protocols, which are a system/procedure of rules to be followed in certain situations. The various Codes and Protocols in this section include:

- (Document J) Code of Conduct for Members;
- (Document K) Protocol on Member/Officer Relations;
- (Document L) Code of Conduct for Local Government Employees;
- (Document M) Overview and Scrutiny Protocol;

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- [\(Document M2\) Protocol for Access by Cabinet Members to Overview and Scrutiny Committees;](#)
- [\(Document N\) Overview and Scrutiny Public Engagement Protocol;](#)
- [\(Document O\) Petitions Protocol; and](#)
- [\(Document P\) Social Services Protocol.](#)

[Part 6: Management Structure](#)

[Part 6 \(Management Structure\) is a single document, the Council's Organisational Chart. It is a handy visual aid showing the Council's Chief Executive, Corporate Directors, Corporate Lead Officers, including their Statutory Roles and main areas of responsibility.](#)

[Part 7: Consultative and Advisory Fora](#)

[Part 7 details the consultative and advisory fora \(statutory and non-statutory\) established, the Internal Policy Development/Monitoring Groups, the Partnerships within Ceredigion County, Regional Partnerships/Fora/Consortia/Joint Committees and Member Champions.](#)

3. HOW THE COUNCIL OPERATES

The Council is composed of 42 Councillors elected every five years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

Councillors have to agree to follow the Code of Conduct for Members to ensure high standards in the way they undertake their duties. The Ethics and Standards Committee trains and advises them on the Code of Conduct.

All Councillors meet together as the Council. Meetings of the Council are open to the public. Here, Councillors decide the Council's overall policies and set the budget each year. The Council is responsible for electing the Leader, notes the appointment of Cabinet Members by the Leader and appoints Members to Committees.

The Council's Code of Good Governance is available on the Council's web-site.

4. HOW DECISIONS ARE MADE

Cabinet is the part of the Council which is responsible for taking most of the day-to-day executive decisions. The Cabinet comprises the Leader of the Council and at least six, but no more than nine other Councillors whom he/she appoints.

The business to be considered by Cabinet, Overview and Scrutiny Committees and the Council as a whole is published in the forward work programme. Meetings of the Cabinet, Overview and Scrutiny Committees, the Council and other Committees are open for the public to attend except where exempt or confidential matters are being discussed, as defined by the law.

Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

The Council also has a call-in procedure, whereby a decision made by Cabinet, an individual member of Cabinet or a Committee of the Cabinet or under joint arrangements, may be referred by Members to the relevant Overview and Scrutiny Committee in certain circumstances (see the Call-In Procedure in Part 4 Document E of the Constitution).

In making decisions and setting policies and strategies, the Council will take into account the principles and objectives of the **Well-being & Future Generations Act 2015**, and in particular:

the five ways of working:

long term, prevention, collaboration, integration and involvement.

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The Council will also take into account the seven well-being goals:

Prosperous, Globally responsible, Resilient, Healthier, a more equal Wales, a Wales of cohesive communities and a Wales of vibrant culture and a thriving Welsh language.

When making decisions of a strategic nature about how to exercise its functions, the Council will have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage, as set out in the Equality Act 2010.

When making decisions, the Council will also have due regard to its Anti-Slavery Policy and Anti-Slavery Annual Statement, which is signed by the Council's Anti-Slavery and Ethical Employment Champion, approved by the Council and published on the Council's website (www.ceredigion.gov.uk). The Anti-Slavery Policy covers the 12 commitments of the Welsh Government's Code of Practice on Ethical Employment in Supply Chains and refers to safeguarding processes and responsibilities of the Council under the Modern Slavery Act 2015.

The Monitoring Officer has the authority to make changes to the Constitution that are needed to ensure it complies with legislation (the law) and minor matters.

The Council also has an established Cross-Party Constitution Working Group, which meets regularly to discuss changes to the Constitution and makes proposals to Council regarding these changes. The Monitoring Officer will confirm any minor changes made to the Constitution to the Cross-Party Constitution Working Group (see also Article 14 – Review and Revision of the Constitution and Part 7).

Certain decisions, which form parts of the Constitution, such as the Responsibility of Cabinet Functions (i.e. which members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet function) are approved by the Leader and subsequently recorded in the Constitution without need for reference to a Council Meeting for approval.

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5. OVERVIEW AND SCRUTINY

There is one Co-ordinating Committee and four Overview and Scrutiny Committees therefore five in total which support the work of Cabinet and the Council as a whole. They look into matters of local significance. They have a remit to scrutinise the budget, policies and service delivery that can lead to reports and recommendations to the Cabinet and the Council. Overview and Scrutiny Committees also monitor the decisions of Cabinet. They can 'call-in' a decision which has been made by Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that Cabinet reconsider the decision. They may also be consulted by Cabinet or the Council on forthcoming decisions and the development of policy. They must also exercise their powers and responsibilities in relation to the Public Service Board pursuant to the Well-being of Future Generations (Wales) Act 2015

6. REGULATORY AND OTHER COMMITTEES

There are two 'Regulatory Committees' comprising of:

- the Development Control Committee which determines planning applications and notes information regarding planning decisions and
- the Licensing Committee which determines licensing, taxi and sex establishment applications, renewals, and reviews

There is also:

- a [Governance and Audit Committee](#) which provides corporate focus on the issues arising from governance risk management, internal control and reporting. The Terms of Reference are set out at Part 3.3 Table 3and
- the Ethics and Standards Committee which deals with Code of Conduct and standards and dispensations issues for the County Council and Town and Community Councils.

7. THE COUNCIL'S STAFF

The Council has officers working for the Paid Service to give advice, implement decisions and manage the day-to-day delivery of its services. The Paid Service, is led by the [Head of Paid Service](#) (Chief Executive [\(formerly known as the Head of Paid Service\)](#))

Some officers have a specific (statutory) duty to ensure that the Council acts within the law and uses its resources wisely.

A protocol on member/officer relations governs the relationships between officers and Members of the Council.

8. CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3 (Part 2). Some of these are legal rights, whilst others depend on the Council's own processes. There are various local advice agencies and local legal practices who can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a parent of a school pupil or as a Council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- 8.1 vote at local elections if they are registered;
- 8.2 contact their local Councillor about any matters of concern to them;
- 8.3 obtain access to the published Constitution in accordance with Article 15 paragraph 15.3.2;
- 8.4 attend meetings of the Cabinet, the Council and its Committees except where exempt or, confidential matters are being discussed;
- 8.5 petition to request a referendum on a mayoral form of Cabinet;
- 8.6 find out, what business is to be considered by the Cabinet, the Council and its Committees and Overview and Scrutiny Committees;
- 8.7 see reports and background papers considered by the Cabinet, the Council and its Committees and the record of any decisions made by the Cabinet, the Council and its Committees except where they contain exempt information with copies being obtainable by members of the public at a reasonable cost;
- 8.8 complain to the Council about the Council's handling of any matter through the Corporate Complaints Procedure which is available at all Council offices and on request
- 8.9 complain to the Ombudsman if they think they have suffered injustice because the Council has not followed its procedures properly. However, they are encouraged only to do this after using the Council's own complaints process;
- 8.10 complain to the Ombudsman if they have evidence which they think shows that a Councillor or Co-opted Member of the Council has not followed the Members' Code of Conduct; and
- 8.11 inspect the Council's accounts and make their views known to the external auditor.

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The Council also consults (from time to time and at least once in each financial year) the following about the extent to which it is meeting its performance requirements:

- Local people;
- Other persons carrying on a business in Ceredigion;
- Council Staff; and
- Every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52)) by the Council.

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Council's Proper Officer at Neuadd Cyngor Ceredigion, Penmorfa, Aberaeron, SA46 0PA.

A Statement of the rights of members of the public to inspect agendas and reports is available from the Council's Proper Officer.

9. Glossary of Service Terms

A glossary of helpful terms used within the Constitution is included below:

<u>Term in Constitution</u>	<u>Meaning</u>
<u>CONTEST</u>	<p><u>The UK's unifying Strategy for Countering Terrorism with four 'P' work strands:</u></p> <ol style="list-style-type: none"> <u>1. Prevent: to stop people becoming terrorists/supporting terrorism;</u> <u>2. Pursue: to stop terrorist attacks;</u> <u>3. Protect: to strengthen protection against a terrorist attack; and</u> <u>4. Prepare: to mitigate the impact of a terrorist attack.</u>
<u>Ceredigion CONTEST Board</u>	<p><u>A multi-agency CONTEST Board, which considers local requirements and implications relating to the 4 Ps, but specifically focusses on local response to the Prevent requirement. The</u></p>

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	<u>CONTEST Board also receives reports from the Channel Panel.</u>
<u>Channel</u>	<u>A local authority statutory function under Section 36 of the Counter-Terrorism and Security Act 2015 ('CTSA') to provide support for people vulnerable to being drawn into terrorism.</u>
<u>Channel Panel</u>	<u>A local strategic multi-agency partnership board overseeing Channel activity. The Channel Panel reports to the Ceredigion CONTEST Board (see above) and Regional Safeguarding Board (CYSUR).</u>
<u>Porth Cymorth Cynnar</u>	<u>The Council's Wellbeing and Learning Service, formerly known as Lifelong Learning, which provides support and intervention services, behaviour, youth and early help services. The Service also provides support in lifelong learning & skills, leisure & wellbeing.</u>
<u>Porth Cynnal Specialist Through Age Services</u>	<u>The Council Service, which formerly encompassed Children's Services and Adult Services. The Service now provides care and support services for complex and ongoing needs.</u>
<u>Porth Gofal Targeted Intervention</u>	<u>The Council Service, formerly known as Porth Ceredigion and, prior to this, Adult Services. The Service provides triage, targeted interventions, housing and direct services.</u>

**EXTRACT OF
PART 2
ARTICLES OF THE CONSTITUTION**

Proposed amendments for inserting in Constitution on 5 May 2022,
to comply with amendments required by Local Government and
Elections (Wales) Act 2021 that come into force from 5 May 2022

ARTICLE 9 – THE ETHICS AND STANDARDS COMMITTEE AND GOVERNANCE AND AUDIT COMMITTEE

9.1 ETHICS AND STANDARDS COMMITTEE

....

9.1.1 ROLE AND FUNCTION OF ETHICS AND STANDARDS COMMITTEE

The Ethics and Standards Committee has the following roles and functions:

.....

9.1.7.10 Monitoring compliance by leaders of political groups on the Council with their duties under S.52A(1) Local Government Act 2000.

9.1.7.11 Advising, training or arranging to train leaders of political groups on the Council about matters relating to their duties under S.52A(1) Local Government Act 2000.

9.1.7.12 At the end of each financial year, make an annual report to the Council in respect of that year per 56B Chapter 1 Part 3 Local Government Act 2000.

9.1.2 GOVERNANCE AND AUDIT COMMITTEE

...

9.2.1.8 To review and assess the Council's draft annual Self-Assessment, Panel Performance Assessment and draft response to any Auditor General Report; and

9.2.1.9 To adhere to accountability arrangements, including reporting on the arrangements and performance of the Governance and Audit Committee, and publish an annual report on the Committee's work.

9.2.2 COMPOSITION OF GOVERNANCE AND AUDIT COMMITTEE

9.2.2.1 Membership of Governance and Audit Committee

The Governance and Audit Committee membership is composed of:

9.2.2.1.1 A one-third membership total of 'lay persons'. For the purpose of the membership of the Governance and Audit Committee, a lay person is defined as a person who is not a member or officer of any local authority, who has not at any time in the period of twelve months ending with the date of that person's appointment been a member or an officer of any local authority, and who is not the spouse or civil partner of any member or officer of any local authority, as defined in the Local Government and Elections (Wales) Act 2021 and the Local Government (Wales) Measure 2011 (as amended) and any associated legislation; and

9.2.2.1.2 The remaining membership is composed of County Councillors;

9.2.2.2 Chairing the Governance and Audit Committee

The Governance and Audit Committee chooses its Chair and Deputy Chair and:

9.2.2.2.1 The Chair of the Governance and Audit Committee shall be a lay person.

9.2.2.2.2 The Deputy Chair of the Governance and Audit Committee shall not be a member of the Council's executive or an assistant to its executive.

9.2.2.2.3 Meetings of the Governance and Audit Committee shall be chaired by its Chair or, in the absence of the Chair, by its Deputy Chair. If both the said Chair and Deputy Chair are absent, the Governance and Audit Committee may appoint a member of the Committee who is not a member of the Council's executive, or an assistant to its executive, to chair the meeting.

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ARTICLE 10 – JOINT ARRANGEMENTS

10.1 ARRANGEMENTS TO PROMOTE WELL BEING

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

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

10.2 JOINT ARRANGEMENTS

- 10.2.1 The Council may establish joint arrangements with one or more local authorities and/or Health Boards and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of Joint Committees, or Regional Health Partnership Boards with these local authorities and/or Health Boards.
- 10.2.2 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, or Regional Health Partnership Boards with these other local authorities and/or Health Boards.
- 10.2.3 Except as set out below, the Cabinet may only appoint Cabinet members to a Joint Committee and those members need not reflect the political composition of the local Council as a whole.
- 10.2.4 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 the Council by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.

10.2.5 Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution (and Section 4 of Part 7 of this Constitution in relation to the Mid Wales Corporate Joint Committee).

ARTICLE 11- OFFICERS....

11.3.12 Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant. The Head of Democratic Services may not be ~~the Monitoring Officer or~~ the Chief Finance Officer.

ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

....

Chairperson	Chairperson The person elected as the Chair of a Committee or appointed as the Chair of a sub-committee or in his or her absence the Vice Chair/ <u>Deputy Chair</u> , of such committee or subcommittee where one has been elected or appointed or the person presiding at the meeting of a committee or sub-committee
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PART 2

ARTICLES OF THE CONSTITUTION

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Updated ~~January~~ ~~June~~ 2021

ARTICLE 1 – THE CONSTITUTION

1.1 POWERS OF THE COUNCIL

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.2 THE CONSTITUTION

This Constitution, and all its appendices, is the Constitution of the Ceredigion County Council.

1.3 PURPOSE OF THE CONSTITUTION

The purpose of the Constitution is to:

- 1.3.1 enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- 1.3.2 provide a framework for good governance;
- 1.3.3 support the active involvement of citizens in the process of local authority decision-making;
- 1.3.4 help Councillors represent their constituents more effectively;
- 1.3.5 enable decisions to be taken efficiently and effectively;
- 1.3.6 create a powerful and effective means of holding decision-makers to public account;
- 1.3.7 ensure that no one will review or scrutinise a decision in which they were directly involved;
- 1.3.8 ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 1.3.9 provide a means of improving the delivery of services to the community.

1.4 INTERPRETATION AND REVIEW OF THE CONSTITUTION

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 14.

ARTICLE 2– MEMBERS OF THE COUNCIL

2.1 COMPOSITION AND ELIGIBILITY

2.1.1 Composition.

The Council will comprise 42 members, otherwise called Councillors who are elected by the voters of each electoral division in accordance with a scheme drawn up by the Boundary Commission in Wales and approved by the National Assembly.

2.1.2 Eligibility

Only registered voters of the County Council or those living or working in the area will be eligible to hold the office of Councillor (in accordance with the provisions of the Local Government Act 1972).

2.2 ELECTION AND TERMS OF COUNCILLORS

The ordinary election of Councillors will normally be held on the first Thursday in May once every five years. The terms of office of Councillors will start on the fourth day after being elected and will end on the fourth day after the date of the next ordinary election.

2.3 ROLES AND FUNCTIONS OF ALL COUNCILLORS

2.3.1 Key roles. All Councillors will:

- 2.3.1.1 collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- 2.3.1.2 represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- 2.3.1.3 deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- 2.3.1.4 balance different interests identified within the electoral division and represent the electoral division as a whole;
- 2.3.1.5 contribute to the continual improvement of Council services;
- 2.3.1.6 be involved in decision-making;
- 2.3.1.7 be available to represent the Council on other bodies; and
- 2.3.1.8 maintain the highest standards of conduct and ethics.

2.3.2 Rights and duties

- 2.3.2.1 Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and this Constitution.
- 2.3.2.2 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.
- 2.3.2.3 For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.
- 2.3.2.4 Councillors are entitled to serve on School Governing Bodies.

2.4 CONDUCT

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

In the event that consideration is to be given to the grant of an indemnity to an individual member, who is subject to misconduct proceedings under the Local Government Act 2000, the Council has resolved to introduce a cap of £20,000 on the level of indemnity granted to members.

2.5 SALARIES

Councillors will be entitled to receive salaries in accordance with the Schedule of Member Remuneration which is available on the Council website <http://www.ceredigion.gov.uk/English/Your-Council/Councillors-Committees/Members-Allowances/Pages/default.aspx>

The Schedule is produced annually, in exercise of powers conferred by the Local Government (Wales) Measure 2011, as amended by the Local Government Democracy Wales Act 2013. Account is also taken of the Independent Review Panel Regulations, and relevant determinations.

ARTICLE 3 – CITIZENS AND THE COUNCIL

3.1 CITIZENS RIGHTS

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

- 3.1.1 **Voting and petitions.** Citizens on the electoral roll for the area have the right to sign a petition to request a referendum for an elected mayoral form of Cabinet and the right to vote in any such referendum.

- 3.1.2 **Information.** Citizens have the right to:
 - 3.1.2.1 attend meetings of the Council, the Cabinet and Committees except where exempt or confidential information is likely to be disclosed, and the meeting is therefore held in private;
 - 3.1.2.2 find out from the forward work programme what decisions will be taken by the Cabinet or Council and which issues the Overview and Scrutiny Committees will be considering, and when these matters will be discussed;
 - 3.1.2.3 see reports and background papers, and any records of decisions made by the Council, the Cabinet and Committees unless exempted from discussion for any legal reason; and
 - 3.1.2.4 inspect the Council's accounts and make their views known to the external auditor.

- 3.1.3 **Complaints.** Citizens have the right to complain:
 - 3.1.3.1 to the Council itself under its Corporate Complaints Procedure;
 - 3.1.3.2 to the Ombudsman about any injustice they have suffered as a result of maladministration, but they are encouraged to use the Council's own Corporate Complaints Procedure first;
 - 3.1.3.3 to the Ombudsman where they believe a Member or Co-opted Member of the Council has breached the Member's Code of Conduct.
 - 3.1.3.4 To the Social Services Complaints Officer where appropriate.

3.1.4 Welsh Language

Under the Council's Welsh Standards, citizens have the right to receive Council services of the same standard in Welsh and English.

3.1.5 The Rights of the Child

3.1.5.1 The Council has adopted the United Nations Convention on The Rights Of The Child ("the UNCRC") when exercising its functions. This means that the Council will consider how any decision it will make relates to the rights and obligations in the UNCRC.

3.1.5.2 All children will be supported and encouraged to learn Welsh and use the language and customs of their families, whether these are shared by the majority of people in the country or not.

3.2 CITIZENS' RESPONSIBILITIES

Citizens must not be violent, abusive or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

ARTICLE 4 – THE FULL COUNCIL

4.1 THE FOLLOWING PLANS AND STRATEGIES ARE:

4.1.1 Required by the Local Authority Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended) to be adopted by the Council, namely:

- Ceredigion Local Well- being Plan*
- Local Transport Plan (Regional Transport Plan)
- Local Development Plan
- Welsh Language Standards
- Youth Justice Plan
- Housing Strategy
- Rights of Way Improvement Plan

4.1.2 The Monitoring Officer in accordance with the Forward Work Programme will recommend from time to time the plans and strategies which should be adopted by the Council.

Statutory policies and policies relating to Council functions will be adopted by Council. Other policies will be approved by Cabinet.

Strategies will be adopted by Council. Policies and Strategies can be found on the Ceredigion County Council Website.

4.2 PARTNERSHIP STRATEGIES AND PLANS

The Ceredigion Local Well-being Plan marked with an asterisk in 4.1.1 above is prepared by the Public Service Board of which the Council is a statutory partner.

4.3 BUDGET

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Council will adopt the Treasury Management Policy Statement, the Capital Programme and the Revenue Budget.

4.4 FUNCTIONS OF THE FULL COUNCIL

Only the Council will exercise the following functions:

- 4.4.1 adopting and making major changes to the Constitution with changes to reflect legislative structural and minor matters to be effected by the Monitoring Officer;
- 4.4.2 approving or adopting the policy framework and the budget, and setting the Council Tax;
- 4.4.3 subject to the Urgency Procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- 4.4.4 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them;
- 4.4.5 appointing the Leader;
- 4.4.6 noting the appointment of Cabinet Members by the Leader;
- 4.4.7 appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council;
- 4.4.8 adopting a Schedule of Member Remuneration under Article 2.5;
- 4.4.9 adopting or revising a Code of Conduct for Members of the Council;
- 4.4.10 all the non-Cabinet functions set out in Table 1 in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than a Committee, namely:
 - 4.4.10.1 making, amending, revoking, re-enacting or adopting bylaws;
 - 4.4.10.2 promoting or opposing the making of local legislation or personal bills;
 - 4.4.10.3 the approval of the Council's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be);
 - 4.4.10.4 making standing orders and standing orders as to contracts;
 - 4.4.10.5 the consideration of adverse reports from the Public Services Ombudsman for Wales with recommended compensation over the level of £1,000 or from the Children's Commissioner, the Care and Social Services' Inspectorate the Older People's Commissioner for Wales,

- the Welsh Language Commissioner or ~~the~~ Audit Commission Wales;
- 4.4.10.6 functions relating to sea fisheries;
 - 4.4.10.7 changing the name of the County;
 - 4.4.10.8 changing the name of a community;
 - 4.4.10.9 conferring the title of honorary alderman or to admit to be an honorary freeman;
 - 4.4.10.10 petition for a charter to confer County borough status;
 - 4.4.10.11 appointing an electoral registration officer;
 - 4.4.10.12 the dissolution of Community Councils;
 - 4.4.10.13 making of orders to group Community Councils and for dissolving groups and separating Community Councils from groups;
 - 4.4.10.14 appointing a returning officer for local government elections;
 - 4.4.10.15 submitting 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;
 - 4.4.10.16 functions relating to local government pensions and the firemen's pension scheme.
 - 4.4.10.17 Consideration of Cabinet decisions called in, following recommendation by the relevant Scrutiny Committee, limited to circumstances the Call-In procedures (part 6).
- 4.4.11 appointing the Head of Paid Service (Chief Executive), Corporate Directors and Corporate Lead Officers-;
 - 4.4.12 Appointing statutory officers, including Section 151 Officer, Monitoring Officer, Director of Social Services and Chief Education Officer;
 - 4.4.13 Determining the level, and any change in the level, of the remuneration of Chief Officers;
 - 4.4.14 all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than Cabinet;
 - 4.4.15 all other matters which, by law, must be reserved to Council.

4.5 COUNCIL MEETINGS

There are four types of Council meeting:

- 4.5.1 the First Annual Meeting
- 4.5.2 the Annual meeting;
- 4.5.3 Ordinary meetings;
- 4.5.4 Special meetings.

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.6 RESPONSIBILITY FOR FUNCTIONS

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Plans and strategies which the Council has adopted as a matter of local choice can be found on the Council's website at www.ceredigion.gov.uk and CeriNet Home Page.

ARTICLE 5 – CHAIRING THE COUNCIL

5.1 ROLE AND FUNCTION OF THE CHAIRPERSON OF THE COUNCIL

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

The Chairperson will be elected by the Council annually at the annual meeting.

The Chairperson will have the following responsibilities:

- 5.1.1 to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
- 5.1.2 to preside over 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;
- 5.1.3 to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and Committee chairmen to account;
- 5.1.4 to promote public involvement in the Council's activities;
- 5.1.5 to be the conscience of the Council; and
- 5.1.6 to attend such civic and ceremonial functions as the Council and he/she determines appropriate.

5.2 CHAIRPERSONSHIP OF COMMITTEES

The Chairperson and Vice-Chairperson of the Council shall not serve concurrently as Chairperson or Vice-Chairperson of any Committee of the Council.

Chairpersons and Vice-Chairpersons of Committees shall serve for a term of two municipal years and may hold one Chairperson and one Vice-Chairperson post concurrently and may not seek re-election for the succeeding term in relation to the relevant committee/s of which they hold Chairpersonship.

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEES

6.1 TERMS OF REFERENCE

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by Section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Co-ordinating Committee (10 Members)	Transformation of services, collaboration, partnership working. Ceredigion Public Service Board, Ceredigion Local Well-being Plan, Corporate Strategy & Well-being Objectives Safeguarding, communication, equalities and crime and disorder matters
Corporate Resources (17 Members)	Corporate Services (to include human resources, customer services, ICT, treasury management and legal services), Inclusion/Equal Opportunities, Civil Contingencies, Business Continuity, Estates Management and Civil Registration.
Healthier Communities (17 Members)	Social Services, Integrated Care Services, Housing services, Leisure and Recreation Facilities, Environmental Health, Public Protection and Licencing.
Learning Communities (17 Members)	Lifelong Learning, Children and Young People, Schools, Training, Youth Services and Cultural Services.
Thriving Communities (17 Members)	Economic Development, Regeneration, Tourism, Marketing, Stronger Communities, European Grant Aid, Business Support, Capital Programme, Transport and Highways Infrastructure, Town and Country Planning and Sustainability, Coast and Countryside and Waste and other Municipal Services

6.2 GENERAL ROLE

Within their scope and terms of reference, Overview and Scrutiny Committees will:

- 6.2.1 review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- 6.2.2 make reports and/or recommendations to the full Council and/or the Cabinet and/or any joint committee in connection with the discharge of any functions;
- 6.2.3 consider any matter affecting the area or its inhabitants; and
- 6.2.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.
- 6.2.5 The role of the Overview and Scrutiny Co-ordinating Committees be extended :
 - (a) To review or scrutinise decisions made, or other actions taken by the Public Services Board ("the P.S.B"), in the exercise of its functions;
 - (b) To review and scrutinise the PSB's governance arrangements;
 - (c) To make reports or recommendations to the PSB with respect to the PSB's functions or governance arrangements;
 - (d) To consider such matters relating to the PSB as the Welsh ministers may refer to it and to report to the Welsh ministers accordingly;
 - (e) To carry out such other functions in relation to the PSB as are imposed on it by the Well-being of Future Generations (Wales) Act 2015.
 - (f) To report/make recommendations to the appropriate fora (including Cabinet, the PSB and relevant sub-groups).

6.3 SPECIFIC FUNCTIONS

6.3.1 **Policy development and review.** Overview and Scrutiny Committees may:

- 6.3.1.1 assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- 6.3.1.2 conduct research, community and other consultation in the analysis of policy issues and possible options;

- 6.3.1.3 consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - 6.3.1.4 question members of the Cabinet and/or Committees and chief officers about their views on issues and proposals affecting the area or any matter under consideration; and
 - 6.3.1.5 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.
- 6.3.2 **Scrutiny.** Overview and Scrutiny Committees are expected to:
- 6.3.2.1 review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;
 - 6.3.2.2 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - 6.3.2.3 question members of the Cabinet and/or Committees and appropriate officers about their decisions and performance, whether generally in comparison with business plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - 6.3.2.4 make recommendations to the Cabinet and/or appropriate Committee and by way of, and in accordance with good practice to inform Council decision making arising from the outcome of the e scrutiny process;
 - 6.3.2.5 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;
 - 6.3.2.6 question and gather evidence from any person (with their consent).
- 6.3.3 **Finance.** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.
- 6.3.4 **Annual report.** Overview and Scrutiny Committees must report annually to full Council on the work undertaken by each of the Committees and make recommendations for future work programmes and amended working methods if appropriate.
- 6.3.5 **Work Programme.** Overview and Scrutiny Committees must exercise overall responsibility for the work programme.

6.4 PROCEEDINGS OF OVERVIEW AND SCRUTINY COMMITTEES

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution. The Leader of the Council and Cabinet Members are to attend meetings of the appropriate Overview and Scrutiny Committees as an approved duty under Section 174 Local Government Act 1972 as they are automatically required to attend a meeting of an overview or scrutiny committee by the relevant Chairperson.

Full details of the Overview and Scrutiny Protocol can be found in Part 5.

6.5. PUBLIC ENGAGEMENT PROTOCOL

The Council has endorsed the Overview and Scrutiny Public Engagement Protocol, full details of which can be found in Part 5.

ARTICLE 7 – CABINET

7.1 ROLE

Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

7.2 FORM AND COMPOSITION

The Cabinet will consist of the Leader together with at least 6, but not more than 9, Councillors appointed to a Cabinet by the Leader, the appointments to be reported to Council at its next meeting for information purposes.

7.3 LEADER

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- 7.3.1 he/she resigns from the office; or
- 7.3.2 he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- 7.3.3 he/she is no longer a Councillor; or
- 7.3.4 he/she is removed from office by resolution of the Council passed by at least 75% of members present at the meeting; or
- 7.3.5 he/she is removed from office by resolution of the Council in the event of a change in political control of the Council.

7.4 OTHER CABINET MEMBERS

Other Cabinet members shall hold office until:

- 7.4.1 they resign from office; or
- 7.4.2 they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- 7.4.3 they are no longer Councillors; or
- 7.4.4 they are removed from office by the Leader who must give written notice of any removal to the Proper Officer. The removal will take effect two working days after receipt of the notice by the Proper Officer; or

- 7.4.5 they are removed from office, either individually or collectively, by resolution of the Council in the event of a change in political control of the Council.

7.5 PROCEEDINGS OF THE CABINET

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

7.6 RESPONSIBILITY FOR FUNCTIONS

The Leader will maintain a list in Part 3 of this Constitution which will be reported to the next available Council meeting for information setting out which individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Cabinet functions.

ARTICLE 8 – REGULATORY COMMITTEES

8.1 The Council will appoint the Committee set out in the left hand column of Part 3.3 (Table 3) of this Constitution to discharge the functions described in column 3 of that table. Their terms of reference are also set out in column 2 of that Table.

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8.2 Development Control Committee

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8.2.1 Quorum

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

8.2.2 Simple Majority

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Unless this Constitution provides otherwise, any matter decided by the Committee will be decided by a simple majority of those Committee members voting and present in the meeting at the time the recommendation or proposal was made.

8.2.3 Chairperson's Casting Vote

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

8.3 Licensing Committee

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8.3.1 Simple Majority

Unless this Constitution provides otherwise, any matter decided by the Committee will be decided by a simple majority of those Committee members voting and present in the meeting at the time the recommendation or proposal was made.

8.3.2 Chairperson's Casting Vote

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

ARTICLE 9 – THE ETHICS AND STANDARDS COMMITTEE AND GOVERNANCE AND AUDIT COMMITTEE

9.1 ETHICS AND STANDARDS COMMITTEE

The Council ~~will establish an~~ has an Ethics and Standards Committee in accordance with the Standards Committee (Wales) Regulations 2001 as amended (“the Regulations”).

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9.1.1 9.2 COMPOSITION OF ETHICS AND STANDARDS COMMITTEE

9.1.1.1 Membership of Ethics and Standards Committee

~~9.2.1~~ - The Ethics and Standards Committee ~~will be~~ is composed of nine members. Its membership ~~will comprise~~ comprises:

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~~9.2.1.1~~ — Five ‘independent’ members, who are not Councillors or Officers or the spouse of a Councillor or an officer of this Council or any other relevant authority as defined by the Regulations, appointed in accordance with the procedure set out in the Regulations;

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9.1.1.1.1

~~9.2.1.2~~ — Two County Councillors ~~{(other than the Leader of the Council and any member of the Cabinet);}~~);

9.1.1.1.2

~~9.2.1.3~~ ~~9.1.1.1.3~~ Two members of Town and Community Councils wholly or mainly in the Council’s area (‘Community Committee members’).

9.2.29.1.2 Term of Office for Ethics and Standards Committee

~~9.2.2.19.1.2.1~~ 9.1.2.1 Independent members are appointed for a term of not less than four nor more than six years. They may be re-appointed for one further consecutive term not exceeding four years.

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~~9.2.2.29.1.2.2~~ 9.1.2.2 Members of the Council who are members of the Ethics and Standards Committee ~~will have~~ a term of office ~~43~~ until the next ordinary local government election following their appointment. They may be reappointed for one further consecutive term.

~~9.2.2.39.1.2.3~~ 9.1.2.3 A Community Committee member ~~will have~~ s a term of office until the next ordinary local government election following their appointment. They may be reappointed for one further consecutive term.

~~9.2.39.1.3~~ **Quorum** - A meeting of the Ethics and Standards Committee shall only ~~be~~ only quorate when:

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~~9.2.3.19.1.3.1~~ 9.2.3.19.1.3.1 at least three members are present; ~~and;~~

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~~9.2.3.29.1.3.2~~ 9.2.3.29.1.3.2 at least half the members present (including the Chairperson) are Independent Members

9.1.4 Voting - Independent Members and Community Committee members ~~will be~~ are entitled to vote at meetings

9.1.4.1 Majority

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Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Committee members voting and present in the meeting at the time the recommendation or proposal was made.

9.1.4.2 Chairperson's Casting Vote

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

~~9.2.4~~ 9.2.4 _____ ;

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~~9.1.1~~ 9.1.1

~~9.2.59.1.5~~ **Community Committee Members** - A ~~community~~ Community Committee member ~~shall not~~ does not take part in the proceedings of the Ethics and Standards Committee when any matter relating to their Community Council is being considered;

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~~9.2.69.1.6~~ **Chairing the Ethics and Standards Committee**

~~9.2.6.19.1.6.1~~ 9.2.6.19.1.6.1 An Independent Member must chair the Ethics and Standards Committee.

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~~9.2.6.29.1.6.2~~ 9.2.6.29.1.6.2 The Chairperson ~~will be~~ is elected by the members of the Ethics and Standards Committee for whichever is the shorter of the following periods:-

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~~9.2.6.2.19.1.6.2.1~~ 9.2.6.2.19.1.6.2.1 a period of not less than four nor more than six years; ~~or~~

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~~9.2.6.2.29.1.6.2.2~~ 9.2.6.2.29.1.6.2.2 until the term of office of that person as an independent member of the Ethics and Standards Committee comes to an end.

~~9.2.6.39.1.6.3~~ 9.2.6.39.1.6.3 The election of a Chairperson ~~will be~~ is the first item of business for the Ethics and Standards Committee at its first meeting

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and thereafter at the end of the period of office of the incumbent Chairperson.

~~9.2.6.49.1.6.4~~ **9.1.6.4** If the Chairperson is absent from a meeting of the Ethics and Standards Committee then the Vice-Chairperson of the Committee, if present, shall preside.

~~9.2.6.59.1.6.5~~ **9.1.6.5** If both the Chairperson and the Vice-Chairperson of the Ethics and Standards Committee are absent from a meeting of that Committee, such independent member of the Ethics and Standards Committee as the members of the Committee present shall choose shall preside.

9.1.7 ROLE AND FUNCTION OF ETHICS AND STANDARDS COMMITTEE

The Ethics and Standards Committee ~~will have~~s the following roles and functions:

~~9.3.19.1.7.1~~ **9.1.7.1** promoting and maintaining high standards of conduct by Councillors, Co-opted Members and church and parent governor representatives;

~~9.3.29.1.7.2~~ **9.1.7.2** assisting the Councillors, Co-opted Members and church and parent governor representatives to observe the Members' Code of Conduct;

~~9.3.39.1.7.3~~ **9.1.7.3** advising the Council on the adoption or revision of the Members' Code of Conduct;

~~9.3.49.1.7.4~~ **9.1.7.4** monitoring the operation of the Members' Code of Conduct;

~~9.3.59.1.7.5~~ **9.1.7.5** advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;

~~9.3.69.1.7.6~~ **9.1.7.6** granting dispensations to Councillors, Co-opted Members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct; (81(4) & (5) LGA 2000 and the Standards Committees (Grant of Dispensation)(Wales) Regulations 2001 (2001/2279)

~~9.3.79.1.7.7~~ **9.1.7.7** dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales; (section 73(1) LGA 2000 and the Local Government Investigations (Functions of Monitoring Officers and Standards Committees)(Wales) Regulations 2001))(2001 2281)

~~9.3.8~~ **9.1.7.8** the exercise of 9.3.1 to 9.3.7 above in relation to the Community Councils wholly or mainly in its area and the members of those Community Councils;(Section 56(1) LGA 2000)

9.1.7.8

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9.1.7.9 -to appoint an appeals panel of three, with a majority of independent members, one of whom would act as Chairperson, with regard to complaints made by members of the public under the Council's complaints procedure.

9.3.9

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9.49.2 GOVERNANCE AND AUDIT COMMITTEE

The Council has a Governance and Audit Committee in accordance with the Local Government (Wales) Measure 2011 (as amended), the Accounts and Audit Regulations (Wales) 2014 and the Accounts and Audit (Wales) (Amendment) Regulations 2018.

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9.2.1 ROLE AND FUNCTION OF GOVERNANCE AND AUDIT COMMITTEE

The Governance and Audit Committee has the following roles and functions, which are expanded upon in the Terms of Reference of the Governance and Audit Committee of Part 3.3 (Table 3):

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9.2.1.1 To provide an independent and high-level focus on the Council's audit, assurance and reporting arrangements;

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9.2.1.2 To independently review and advise the Council and Cabinet, and their respective Committees and Officers, on matters regarding good governance, financial oversight, risk management control, complaints procedures/handling and internal control in the delivery of the Council's services and functions;

9.2.1.3 To ensure the Council's systems of governance and internal control are effective, including arrangements for ensuring value for money, supporting standards and ethics and for managing the authority's exposure to the risks of fraud and corruption, and to ensure that the Council's internal audit services operates in accordance with agreed procedures;

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9.2.1.4 To review, scrutinise and issue reports and recommendations in relation to the Council's financial affairs;

9.2.1.5 To review, scrutinise and issues reports and recommendations on the appropriateness of the Council's risk management, internal control and corporate governance arrangements;

9.2.1.6 To oversee the Council's internal and external audit arrangements and the Council's relationship with other regulators, including supporting the effective relationships between external and internal audit, reviewing the external auditor's opinion and reports to

members, and monitoring management action in response to the issues raised by external audit;

9.2.1.7 To oversee the Council's financial reporting and review its financial statements;

9.2.1.8 To review and assess the Council's draft annual Self-Assessment and draft response to any Auditor General Report; and

9.2.1.9 To adhere to accountability arrangements, including reporting on the arrangements and performance of the Governance and Audit Committee, and publish an annual report on the Committee's work.

9.2.2 COMPOSITION OF GOVERNANCE AND AUDIT COMMITTEE

9.2.2.1 Membership of Governance and Audit Committee

The Governance and Audit Committee membership is currently composed of 6 County Councillors and 1 Lay Member;

9.2.2.2 Chairing the Governance and Audit Committee

The Governance and Audit Committee Chair and Vice-Chair are currently County Councillors of the Opposition Group.

9.2.3 Quorum

A meeting of the Governance and Audit Committee is only quorate when The Terms of Reference of the Audit Committee are set out in Part 3.3 (Table 3);

at least three members are present.

9.2.4 Voting

9.2.4.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Committee members voting and present in the meeting at the time the recommendation or proposal was made.

9.1.4.2 Chairperson's Casting Vote

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

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ARTICLE 10 – JOINT ARRANGEMENTS

10.1 ARRANGEMENTS TO PROMOTE WELL BEING

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

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

10.2 JOINT ARRANGEMENTS

- 10.2.1 The Council may establish joint arrangements with one or more local authorities and/or Health Boards and/or their Executives to exercise functions which are not Executive functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of Joint Committees, or Regional Health Partnership Boards with these local authorities and/or Health Boards.
- 10.2.2 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, or Regional Health Partnership Boards with these other local authorities and/or Health Boards.
- 10.2.3 Except as set out below, the Cabinet may only appoint Cabinet members to a Joint Committee and those members need not reflect the political composition of the local Council as a whole.
- 10.2.4 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 the Council by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- 10.2.5 Details of any joint arrangements including any delegations to Joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

10.3 ACCESS TO INFORMATION

10.3.1 The Access to Information Rules in Part 4, Document B of this Constitution apply.

10.4 DELEGATION TO AND FROM OTHER LOCAL AUTHORITIES

10.4.1 The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.

10.4.2 The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.

10.4.3 The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council meeting.

10.5 CONTRACTING OUT

The Council or Executive may arrange for the Council to contract out to another body or organisation functions which may be exercised by an officer. Contracting out to another local authority can be arranged under Section 101 of the Local Government Act 1972 and Section 2 of Part 1 Local Government Act 2000. Special statutory provisions permit joint arrangements with Health Bodies, but otherwise there may be a need for an order under Section 70 of the Deregulation and Contracting Out Act 1994, unless the contracting arrangements provide that the contractor acts as the Council's agent under usual contracting principles (and provided there is no delegation of the Authority's discretionary decision-making).

ARTICLE 11– OFFICERS

11.1 MANAGEMENT STRUCTURE

11.1.1 The Organisational Chart can be found at Part 6 of this document and also on the Council website

11.1.2 General. The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

11.1.3 Chief Officers. The full Council will engage persons for the following posts, who are designated Chief Officers and Deputy Chief Officers as defined in Paragraph 3 of Part 2 of Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006, as amended.

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
Chief Executive		<ul style="list-style-type: none"> • Acting Returning Officer for Parliamentary Elections • Counting Officer for European Elections • Counting Officer for Referenda • Electoral Registration Officer • If appointed by the Lord Chancellor, to act as Secretary to the Lord Chancellor's Advisory Committee on Magistrates for Ceredigion. • Overall corporate management and operational responsibility (including overall management responsibility for all officers); • Representing the Council on partnership and external bodies (as required by statute or the Council); and • Returning Officer for Local Government Elections including Community Councils and National Assembly for Wales Elections • Service to the whole Council, on a politically neutral basis. • The provision of professional and impartial advice to all parties in the decision-making process - the Leader and Cabinet, Overview and Scrutiny Committees, the full Council and other Committees; • To act as Joint Clerk to the Lord Lieutenancy for his<u>their</u> activities in Ceredigion. <ul style="list-style-type: none"> • To be Proper Officer for the Coroner Service. • Together with the Proper Officer responsibility for a system of record keeping for all the Council's decisions (Executive or otherwise); • Police Area Returning Officer

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
Corporate Directors		<p>Working with the Chief Executive and the wider Senior Leadership Team provide strategic leadership across Ceredigion - promoting the County as a place to live, work, invest and visit.</p> <p>Lead on the strategic health and wellbeing agenda; providing strategic direction to a partnership-led approach to the delivery of children and adults support services and safeguards those who are vulnerable, throughout Ceredigion.</p> <p>Principal Accountabilities</p> <p>1. Strategic Leadership</p> <p>Lead the strategic direction of the various functions; ensuring Ceredigion is a place that supports and values its citizens, safeguards those who are vulnerable and provides appropriate care and protection.</p> <p>affording them maximum opportunity to reach academic and skills development to contribute to the economic and social growth of the County.</p> <p>2. Thematic Performance</p> <p>Monitoring Council wide performance of services, within the role's span of control.</p> <p>Assess performance against plans to ensure the services are delivered effectively and efficiently and to the highest standards; including financial, performance, risk, people and change management.</p> <p>Lead and motivate management and staff to develop a climate of high performance and customer/community focus.</p>

	<p>Deliver performance improvements by driving modernisation and managing change, ensuring read through to corporate objectives.</p> <p>Facilitate change and transformation programmes across the Council, supporting senior managers in delivering excellent services through the provision of pragmatic and effective advice.</p> <p>3. Political Engagement</p> <p>Lead political and democratic engagement in relation to the relevant thematic areas; establishing and maintaining procedure around democratic services and scrutiny.</p> <p>Develop strong working relationships with elected members; providing high level advice and support to maintain and improve Council performance.</p> <p>4. Stakeholder Engagement</p> <p>Engage local partners from the public, private and community sectors in the delivery of Corporate priorities; forging a broad network of contacts across the public and private sector to develop Ceredigion as a place to live, work, invest and visit.</p> <p>5. Communication</p> <p>Communicate the vision and values of the organisation to a broad range of stakeholders; building support among them in order to deliver better public services.</p>
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Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Schools and Culture *Chief Education Officer	<ul style="list-style-type: none"> • School Improvement, including use of statutory notices within mainstream schools and pupil referral units. • Curriculum Support • Assessment, pupil progress and accountability measures • Leadership in schools • Post 16 provision in schools • Early years Education in non-maintained settings • Childcare provision • School Improvement Services including advisory service • Governing Body support • Welsh in Education Strategic Plan • Canolfannau Iaith • English/Welsh as an additional language • Additional Learning Needs including pre-school • Inclusion and well-being School exclusion appeals • Monitoring of elective home education • Pupil admissions • Pupil voice • Child Performance Licences • School attendance • School modernisation Programme • Infrastructure and Resources • Catering Service • Music Service • Theatre Felin Fach • Cered • Museum

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Porth Cymorth Cynnar	<ul style="list-style-type: none"> • Behaviour Services (Through Age) • HCT (Work Based Learning) • Dysgu Bro (Adult Community Learning) • Post 14 Learning and Skills • Alternative Curriculum • Leisure • Active Young people • NERS • Disability Sport • Youth Services • NEETs • Post 16 Services (Cam Nesa' Project) • Work Experience (Extended) • Workways+ • Communities for Work+ • Flying Start • Pathfinder Project • Play • Carers • Team Around the Family • Tim Teulu • Penparcau Family Centre • Families First • Youth Justice Prevention Service • Day/Evening opportunities • Porth y Gymuned • Community Connectors • Channel (Channel Chair)

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Finance & Procurement * Section 151 Officer	Core Finance (Deputy 151) <ul style="list-style-type: none"> • Medium Term Financial Planning • Statement of Accounts • Capital Programme • Financial Information Systems • Insurances • Sundry Debtors • Community Grants • Taxation • Treasury Management & Income Accounting • Care Home charging Service Finance <ul style="list-style-type: none"> • Financial Management • Accountancy • Budget setting and control • Final Accounts • Grant claims • Financial Management support to Schools • External funding Revenues & Financial Assessment <ul style="list-style-type: none"> • Council Tax Billing, Collection and Recovery • NNDR Billing, Collection and Recovery • Discretionary rates and Hardship relief • Council Tax Support • Housing Benefits • Financial Assessments • Revenues systems • Discretionary Housing Payments • Free School Meals & Pupil Access Grant Procurement and Payments <ul style="list-style-type: none"> • Ordering • Quotations and tenders • Payments • Procurement advice and control • Commissioning of service contracts • Proceeds of Crime Act 2002

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Democratic Services *Head of Democratic Services	<ul style="list-style-type: none"> • Cabinet Support • Democratic Services • Deputy Electoral Registration Officer • Deputy Acting Returning Officer for Parliamentary Elections • Deputy Returning Officer for Local Government Elections including Community Councils and National Assembly for Wales Elections • Police Area Deputy Local Returning Officer • Member Support • Scrutiny Support • Translation Services • Communication and Engagement • Electoral Services • Corporate Services Support • Welsh Language Standards

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer People & Organisation	<ul style="list-style-type: none"> • Authorised and Authorising Officer: Regulation of Investigating Powers Act 2000 • Human resources (HR) Advice and Administration • Payroll and Benefits • HR Systems • Organisational Development • Corporate Learning and Development • Corporate Health and Safety. • Staff engagement and well-being • Employee Equality

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Porth Cynnal Specialist Through Age Services * Statutory Director of Social Services *Responsible Individual	<ul style="list-style-type: none"> • Adoption • Disabled Children and Adults • Care leavers • Looked After Children • Adults Planned Care Services • Safeguarding Service Children and Adults to include Independent Reviewing Service • Children in Need of Care and Support • Substance Misuse Service • Contracts Monitoring.(Social Care) & Quality Assurance • Integration of Regional Partnerships arrangements (Social Services and Well-being Act 2014) • Authorised and Authorising Officer: Regulation of Investigatory Powers Act 2000 • Mental Well-being Services • Agency Decision Maker - Children

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Porth Gofal Targeted Intervention Services Deputy Statutory Director of Social Services	<ul style="list-style-type: none"> • Porth Gofal Intake & Triage • Integrated Community Equipment Stores • Targeted Intervention Services Adults and Children • Assessment of Care and Support needs Adults and Children • Direct Services (In-House Residential Care/Home Care/Equipment) • Domicilliary Care Co-ordination • Porth Gofal • Fostering Services • Housing • Common Housing Register • Homelessness and Housing Options • Disabled Facilities Grants • Home Energy Efficiency • Housing Standards (HMO's, Landlord Accreditation and Letting Agencies) • Emergency Out of Hours Services

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	<p>Corporate Lead Officer</p> <p>Policy, Performance & Public Protection</p> <p>*Proper Officer – Public Health Control of Disease Act 1984</p>	<ul style="list-style-type: none"> • Civil Contingency/Business Continuity and Local Resilience Forum • Strategic Partnerships, including Public Service Board and Community Safety. • Engagement and Equalities • Policy, Risk Management and Community Cohesion • Freedom of Information, Corporate Complaints, Compliments and Improvements • Business Planning and Improvement • Corporate Performance and Research • Licensing • Public Protection Services • Animal Health • Food Safety and Food Standards • Trading Standards) • Health & Safety (Regulatory) • Environmental Control • Statutory Nuisance • Dyfed Area Planning Board (Substance Misuse) • Public Health • Senior Authorising Officer for Proceeds of Crime Act 2002 • Authorised and Authorising Officer: Regulation of Investigatory Powers Act 2000 • Public Health Funerals • Private burials • Filthy and verminous premises • Drainage • Private Water Supplies • Air Quality • Refugee Re-settlement

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Highways and Environmental Services	<ul style="list-style-type: none"> • Central Wales Infrastructure Collaboration /North and Mid Wales Trunk Road Agent • Climate Change • Design Services (Highways) • Flooding and Coastal • Highways/Bridges • Operational Delivery in the areas of Highways, & Waste • Public Transport • Regional Transport Collaboration (TraCC) • Road Safety • Traffic Management • Civil parking Enforcement • Transport (to include Corporate Passenger Transport Unit) • Transport Planning (Local and Regional) • Waste • Highways Maintenance • Local Environment Services • Highways Development • Transport Services

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Economy & Regeneration	<ul style="list-style-type: none"> • Economic Development • Economic and Community Regeneration; • Funding and Grants; • Business Grants; • Food Centre Wales • Farmers Market & Markets • Planning Policy • Growing Mid Wales Partnership • Regional Engagement • Regional Planning • Tourism and marketing: • Tourist Information Centres; Wildlife, Coast and Countryside • Footpaths, bridleways and byways • Proper Officer – s78 Building Act 1984 (dangerous buildings) • Development Control (Planning) • Town & Country Planning • Conservation • Planning Enforcement & Building Control • Estates/ Development • Property Services • Asset Management • Project Management • All Buildings & Buildings Maintenance • Civil Enforcement

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Customer Contact *SIRO *Proper Officer for Civil Registration	<ul style="list-style-type: none"> • Archives & Modern Records • Corporate & Education ICT Support & Development • Customer Information Centres • Customer Contact / Community Well-being • Data Protection inc GDPR • ICT • CLIC, inc Family info support Services • DEWIS • Civil Registration • Public Access Requests • Information Management • Library Services • Reprographics Unit • Senior Information Risk Owner

Chief Officer Post	Deputy Chief Officer Post	Functions and Areas of Responsibility
	Corporate Lead Officer Legal & Governance Services *Monitoring Officer	<ul style="list-style-type: none"> • Head of Legal Services / Chief legal Officer Coroner Service • Internal Audit • External Audit & Regulators • Welsh Audit Office Relationship • Corporate Governance • Constitution • Access to Informations • Deputy Electoral Registration Officer • Ethics and Standards • Monitoring Officer • Notices of Motion • Code of conduct & PSOW Referrals/Investigations • Senior Responsible Officer: Regulation of Investigating Powers Act 2000

11.1.4 Statutory Posts.

The Council will designate the following statutory posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Corporate Lead Officer Finance & Procurement	Chief Finance Officer Section 151 Officer
Corporate Lead Officer Legal & Governance Services	Monitoring Officer
Corporate Lead Officer Democratic Services *	Head of Democratic Services
Corporate Lead Officer Schools & Culture	Chief Education Officer
Corporate Lead Officer Porth Cynnal Specialist Through Age Services	Statutory Director Of Social Services

*Designated by the Democratic Services Committee.

Such posts will have the functions described in Article 11.2–11.8 below.

11.1.5 Structure. The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.2 FUNCTIONS OF THE HEAD OF PAID SERVICES

11.2.4 Discharge of functions by the Council. The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions, organisation of officers and the appointment and proper management of officers.

11.2.5 Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

11.3 FUNCTIONS OF THE MONITORING OFFICER

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

11.3.5 Ensuring lawfulness and fairness of decision-making. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to Cabinet in relation to a Cabinet function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

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

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

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

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

11.3.10 Advising whether decisions of Cabinet are within the budget and policy framework. The Monitoring Officer will advise whether

decisions of Cabinet are in accordance with the budget and policy framework.

11.3.11 Providing advice. The Monitoring Officer will, in conjunction with the Chief Finance Officer, 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 relevant officers.

11.3.12 Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant. The Head of Democratic Services may not be the Monitoring Officer or the Chief Finance Officer.

11.4 FUNCTIONS OF THE CHIEF FINANCE OFFICER/SECTION 151 OFFICER

11.4.1 Ensuring lawfulness and financial prudence of decision-making.

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

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

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

11.4.4 Providing advice. The Chief Finance Officer will, in conjunction with the Monitoring Officer, 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. Give financial information. The Chief Finance Officer will provide financial information to the media, members of the public and the community as appropriate.

11.5 FUNCTIONS OF THE HEAD OF DEMOCRATIC SERVICES

11.5.1 to provide support and advice:

- to the Council in relation to its meetings
- to committees of the Council and the members of those committees
- to any Joint Committee which the Council is responsible for organising and the members of that Joint Committee
- in relation to the functions of the Council's Overview and Scrutiny Committees, to members of the Council, members of the Cabinet and officers
- to each member of the Council in carrying out the role of member of the Council
- to promote the role of the Council's Overview and Scrutiny Committees
- to make reports and recommendations in respect of the number and grades of staff required to discharge democratic services functions and the appointment, organisation and proper management of those staff
- any other functions prescribed by the Welsh Ministers.

11.6 FUNCTIONS OF THE CHIEF EDUCATION OFFICER

11.6.1 To undertake the statutory duties required of a Chief Education Officer as outlined in section 532 of the 1996 Education Act

11.7 FUNCTIONS OF THE STATUTORY DIRECTOR OF SOCIAL SERVICES

11.7.1 The Functions of the Statutory Director of Social Services are set out in Part 4 Document P

11.8 DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE STATUTORY OFFICERS

11.8.1 The Council will provide the Monitoring Officer, Chief Finance Officer /Section 151 Officer, statutory Director of Social Services, Chief Education Officer and Head of Democratic Services with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.9 CONDUCT

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

11.10 EMPLOYMENT

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

ARTICLE 12 – DECISION-MAKING

12.1 RESPONSIBILITY FOR DECISION-MAKING

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

12.2 PRINCIPLES OF DECISION-MAKING

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

- 12.2.1 Proportionality (i.e. any action taken must be proportionate to the aim being pursued);
- 12.2.2 due consultation and the taking of professional advice from officers;
- 12.2.3 respect for equality and human rights;
- 12.2.4 a presumption in favour of openness; and
- 12.2.5 clarity of aims and desired outcomes.
- 12.2.6 Proper recording of reasons for the decision, any personal and prejudicial interests declared as well as any dispensations to speak granted by the Council's Ethics and Standards Committee

~~12.2.7~~ ~~12.2.7~~ Taking all reasonable steps to meet the principles and goals set out in the Well-being of Future Generations (Wales) Act 2015, in carrying out its functions and/or having due regard to:

12.2.7.1 - meeting the principles and goals set out in the Well-Being of Future Generations (Wales) Act 2015, in carrying out its functions;

12.2.7.2 the desirability of reducing inequalities of outcome which result from socio-economic disadvantage (pursuant to the Equality Act 2010); and

12.2.7.3 the Council's Anti-Slavery Policy and Anti-Slavery Annual Statement (pursuant to the Modern Slavery Act 2015).

12.3 DECISIONS RESERVED TO FULL COUNCIL

Decisions relating to the functions listed in Article 4.1 will be made by the full Council and not delegated.

12.4 DECISION-MAKING BY THE FULL COUNCIL

Ceredigion County Council – Part 2 Articles of the Constitution
ARTICLE 12 – DECISION-MAKING
~~Approved by Council 21 March 2019~~ Updated June
2021

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Subject to Article 12.8 and to Part 3.5 in relation to urgent action, the Council meeting will follow the Council Procedures Rules and other relevant Procedures set out in Part 4 of this Constitution when considering any matter.

12.5 DECISION-MAKING BY THE CABINET

Subject to Article 12.8, the Cabinet will follow the Cabinet Procedures Rules and other relevant procedures set out in Part 4 of this Constitution when considering any matter.

12.6 DECISION-MAKING BY OVERVIEW AND SCRUTINY COMMITTEES

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules and other relevant procedures set out in Part 4 of this Constitution when considering any matter.

12.7 DECISION-MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL

Subject to Article 12.8, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules and other relevant procedures set out in Part 4 of this Constitution as apply to them.

12.8 DECISION-MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

The Council, a Councillor or an officer/s acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

ARTICLE 13 – FINANCE, CONTRACTS AND LEGAL MATTERS

13.1 FINANCIAL MANAGEMENT

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

13.2 CONTRACTS

Every contract made by the Council will comply with the Contract Procedure Rules set out in Part 4 of this Constitution.

13.3 LEGAL PROCEEDINGS

Corporate Lead Officer Legal & Governance Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Corporate Lead Officer Legal & Governance Services considers that such action is necessary to protect the Council's interests.

13.4 AUTHENTICATION OF DOCUMENTS

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Corporate Lead Officer Legal & Governance Services, and/or other person authorised by the Council unless any enactment otherwise authorises or requires.

All contracts shall be administered in accordance with the Contract Procedure Rules.

13.5 COMMON SEAL OF THE COUNCIL

The Common Seal of the Council will be kept in a safe place in the custody of the Corporate Lead Officer Legal & Governance 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 Corporate Lead Officer Legal & Governance Services, the Corporate Lead Officer for Democratic Services, the Monitoring Officer or the Chief Executive should be sealed. The affixing of the Common Seal will be attested by the Corporate Lead Officer Legal & Governance Services, the Corporate Lead Officer Democratic Services, the Monitoring Officer or the Chief Executive or some other person authorised by the Council.

ARTICLE 14 – REVIEW AND REVISION OF THE CONSTITUTION

14.1 DUTY TO MONITOR AND REVIEW THE CONSTITUTION

The Monitoring Officer and the Corporate Lead Officer Democratic Services will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect and to make any minor amendments to the Constitution as required.

14.2 A key role for the Monitoring Officer and the Corporate Lead Officer Democratic Services is to be aware of the strengths and weaknesses of the Constitution adopted by the Council. The Monitoring Officer will effect any minor changes and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- 14.2.1 observe meetings of different parts of the member and officer structure;
- 14.2.2 undertake an audit trail of a sample of decisions;
- 14.2.3 record and analyse issues raised with them by members, officers, the public and other relevant stakeholders;
- 14.2.4 compare practices in this Council with those in other comparable authorities, or national examples of good practice.

14.3 CHANGES TO THE CONSTITUTION

Changes to reflect legislative, structural and

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- 14.3.1 Changes (other than minor matters) to the constitution will ~~only~~ be approved by the ~~full~~ Council after consideration of the proposal by the Monitoring Officer, in consultation with the Council's Cross-Party Constitution Working Group, as necessary (see Section 2 Part 7).
- 14.3.2 Where change from a Leader and Cabinet form of Executive to a Mayoral Form of Executive or Vice Versa is proposed, the Council must take reasonable steps to consult with local electors and other interested persons in the area.

14.4 MAINTAINING THE CONSTITUTION

The Monitoring Officer and Corporate Lead Officer Democratic Services will maintain an up-to-date version of the Constitution and will ensure that it is widely available for reference and inspection by Members, staff and the public. A copy of the Council Constitution will be published on the Council's Website.

ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

15.1 SUSPENSION OF THE CONSTITUTION

This Article ensures that the articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance.

It does however provide for Rules of Procedure to be suspended provided this is to achieve an effect consistent with the purposes of the Constitution set out in Article 1.

- 15.1.1 The Articles of this Constitution may not be suspended. The Council Procedure Rules specified below may be suspended in whole or in part by the full Council to the extent permitted within those Rules and the law.
- 15.1.2 A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.
- 15.1.3 Any Council Procedure Rules save for those which are defined as mandatory in the Local Authorities (Standing Orders) Regulations 1993 may be suspended in accordance with Article 15.1.

15.2 INTERPRETATION

- 15.2.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purpose stated in Article 1.
- 15.2.2 The ruling of the Chairperson of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1 and any guidance or advice of the Monitoring Officer.
- 15.2.3 The following words, phrases and terms shall have the meanings ascribed to them unless the context requires or it is otherwise provided at law.

Word, phrase or term	Meaning
Access to Information Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Article	An Article of this Constitution
Budget and Policy Framework Procedure Rules	The rules so titled as set out in Part 4 of the Constitution
Call in	The referral of an executive decision in accordance with the Overview and Scrutiny Procedure Rules
Cabinet	The Council's Cabinet as defined in section 11 of the Local Government Act 2000
Cabinet Decision	A decision made for the purpose of discharging an Executive Function
Cabinet Members	The Leader and Deputy Leader of the Council and any Councillor appointed by the Leader of the Council pursuant to section 11 (3) (b) of the Local Government Act 2000 and notified by the Leader to the County Council
Cabinet Portfolio	An area of County Council activity allocated by the Leader of the Council to a Cabinet Member and notified by the Leader to the Council
Cabinet Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Chairperson	The person elected as the Chair of a Committee or appointed as the Chair of a sub-committee or in his or her absence the Vice Chair of such committee or sub-committee where one has been elected or appointed or the person presiding at the meeting of a committee or sub-committee
Chief Executive	The person designated as such by the Council who shall also be the "Head of Paid Service" under Section 4(1) of the Local Government and Housing Act, 1989
Chief Officer	A person designated as such by the Council
Clear Days	The number of days between the day when the document is first made available for inspection or dispatched to Councillors and the date of the meeting to which it relates but includes any intervening date when the document is available for public inspection
Committee	A committee or sub-committee of the Council

Word, phrase or term	Meaning
Committee Meeting Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Confidential information	Confidential information as defined by section 100A(3) of the Local Government Act 1972 as more particularly set out in Paragraph 10.4 of Document B in Part 4 of this Constitution (Access to Information Procedure Rules)
Constitution	This constitution, as amended
Contract Procedure Rules	The Contract Standing Orders and Procurement Rules set out in Part 4 of the Constitution
Council	Ceredigion County Council acting by any means which they may lawfully adopt
Council Meeting	The Council meeting together in accordance with Schedule 12 of the Local Government Act 1972
Council Procedure Rules	The rules set out in Part 4 of the Constitution
Councillor	A member of the Council
County	County of Ceredigion
Employee	An employee of the Council
Employment Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Executive Function	A function of the Council which is determined to be an executive function in accordance with section 13 of the Local Government Act 2000
Exempt information	Information of a nature described in Schedule 12A of the Local Government Act 1972 as amended more particularly set out in Article 10.4 of Document B in Part 4 of this Constitution (Access to Information Procedure Rules)
Financial Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Forward Plan	The agreed plan of business for Cabinet, to be published on a quarterly basis, setting out all the business to be undertaken by Cabinet for a 12 month period
Head of Paid Service	The officer of the Council designated by the Council under section 4 of the Local Government and Housing Act 1989

Ceredigion County Council – Part 2 Articles of the Constitution
ARTICLE 15 – SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION
Updated ~~February 2021~~ June 2021

Word, phrase or term	Meaning
Leader	Cabinet leader as defined in section 48 of the Local Government Act 2000
Majority Group	a political group to which belong either – (a) more than half of the members of the Council; or (b) exactly half of the number of members of the Council, including the Chair
Meeting	A meeting of the Council or a committee as the case may be
Member	Unless otherwise stated means a member of the committee or body to which the rule or requirement applies
Members Code of Conduct	The Code of Conduct adopted by the Council in accordance with section 51 of the Local Government Act 2000
Monitoring Officer	The officer of the Council designated by the Council under section 5 of the Local Government and Housing Act 1989
Number of members	In relation to the Council, the number of persons who may act at the time in question as members of the Council, and in relation to a committee, the number of persons who may act at the time in question as voting members of that body
Ombudsman	Public Service Ombudsman for Wales
Overview and Committees	Those committees of the Council appointed in accordance with Article 6
Policy Framework	The plans and strategies referred to in Article 4 paragraph 4.1 of the Constitution
Political Group	a political group as defined in the Local Government (Committees and Political Groups) Regulations 1990 as amended by the (Amendment) Regulations of 1991 and 1993
Proper Officer	For all purposes (excluding Civil Registration and where otherwise specified) the Head of Democratic Services and in absence the Monitoring Officer will be deemed to be the Proper Officer

Word, phrase or term	Meaning
Regulatory committee	Any committee with statutory recognised regulatory functions, for example, <u>Governance and Audit Committee</u> , Licensing Committee, Development Control Committee.
Schedule of Member Remuneration	The scheme referred to in Part 6 of the Constitution
Scrutiny Procedure Rules	The rules so titled set out in Part 4 of the Constitution
Statutory Officer	(For the purpose of this Constitution, the Head of Paid Service, the Monitoring Officer / Proper Officer, the Chief Finance Officer (Section 151), the Head of Democratic Services.
Corporate Director	A person designated as such by the Council
The Cabinet	The Council's Cabinet as defined in section 11 of the Local Government Act 2000
The Deputy Leader	a member selected to deputise for the Leader of the Council
The Local Councillor(s)	means the Councillor(s) for any electoral area(s) to which a Council matter under consideration relates
The 1972 Act	The Local Government Act 1972
The 1989 Act	The Local Government and Housing Act 1989
The 2000 Act	The Local Government Act 2000
Working Day	Means any day on which the main offices of the Council are open for usual business and for the avoidance of doubt the phrase 'clear working days' shall exclude the day when notice is given or documents are made available for inspection or is dispatched to Councillors as the case may be and the date of the meeting or event to which it relates
Writing	A requirement that something shall be submitted in writing will be satisfied by the submission by email to an address designated by the Proper Officer for that purpose provided that it is transmitted by the Councillor concerned from the Councillor's email address and in such circumstances will be deemed to have been signed by the Councillor concerned

Word, phrase or term	Meaning
Any reference in any Council Procedure Rule to a numbered paragraph is, unless the context otherwise requires, a reference to the paragraph of that Council Procedure Rule bearing that number.	

- 15.2.4 Reference to any statute or statutory provision includes a reference to:
 - 15.2.4.1 that statute or statutory provision as from time to time amended, extended, re-enacted or consolidated; and
 - 15.2.4.2 all statutory instruments or orders made pursuant to it.
- 15.2.5 Words denoting the singular number only shall include the plural and vice versa.
- 15.2.6 Words denoting any gender include all genders.
- 15.2.7 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Constitution.
- 15.2.8 References to a designated employee of the Council includes (except where the law prescribes that the function, action or the like must be taken by that person alone) a person duly authorised to act for or on behalf of that person provided that the employee designated for the purposes of the Constitution shall remain responsible to the Council.
- 15.2.9 References to a post or designation shall be deemed to include a reference to the employee for the time-being performing those functions where the post or designation name is altered or the functions are reallocated and where there is a reference to a generic title (e.g. Corporate Director, Corporate Lead Officer) such reference will be deemed to include other posts whatever their designation or name but being within the same tier of management or responsibility.

15.3 PUBLICATION OF CONSTITUTION

- 15.3.1 The Monitoring Officer ensure that each member of the Council will have access to an electronic or printed copy of this Constitution upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

15.3.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, and other appropriate locations and is published on the Council's website, and can be purchased by members of the local press and the public on payment of a reasonable fee, charge representing no more than the cost of providing the copy.

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PART 3

RESPONSIBILITY FOR COUNCIL FUNCTIONS

Updated ~~January 2021~~ June 2021

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS

A. Functions relating to town and country planning and development control			
Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
1. Power to determine applications for planning permission.	Sections 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990.	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
2. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990.		
3. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990.		
4. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990.		
5. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) and directions made there under.		
6. Power to determine applications for planning permission made by a local authority, alone or jointly with another person	Section 316 of the Town and Country Planning Act 1990 and the Town Country Planning General Regulations 1992 (S.I. 1992/1492).		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

A. Functions relating to town and country planning and development control

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
7. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (S.I. 1995/418).	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
8. Power to enter into planning obligation, regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990.		
9. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990.		
10. Power to serve a completion notice	Section 94(2) of the Town and Country Planning Act 1990.		
11. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992.		
12. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990.		
13. Power to require the discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990.		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

A. Functions relating to town and country planning and development control

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
14. Power to serve a planning contravention notice, breach of condition notice or stop notice.	Sections 171C, 187A and 183(1) of the Town and Country Planning Act 1990.	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
15. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990.		
16. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990.		
17. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990 (c. 10).		
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.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 (c. 25) and paragraph 6(5) of Schedule 14 to that Act.		
19. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990.		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

A. Functions relating to town and country planning and development control

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
20. Power to determine applications for listed building consent, and related powers.	Sections 16(1) and (2), 17 and 33(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9).	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
21. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, as applied by section 74(3) of that Act.		
22. Duties relating to applications for listed building consent and conservation area consent.	Section 13(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and regulations 3 to 13 of the Planning (Listed Buildings and Conservation Areas) Regulations 1990 and paragraph 127 of the Welsh Office circular 61/96: Planning and the Historic Environment: Historic Buildings and Conservation Areas.		
23. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.		
24. Power to issue a listed building enforcement notice.	Section 38 of the Planning (Listed Buildings and Conservation Areas) Act 1990.		

Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

A. Functions relating to town and country planning and development control

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
25. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Conservation Areas) Act 1990.	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
26. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Conservation Areas) Act 1990.		
27. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.		
28. Power related to mineral working.	Schedule 9 of the Town and Country Planning Act 1990.		
29. Power related to footpaths and bridleways.	Section 257 of the Town and Country Planning Act 1990.		
30. Power as to certification of appropriate alternative development.	Section 17 of the Land Compensation Act 1961 (c. 33).		
31. Duties in relation to purchase notices.	Sections 137-144 of the Town and Country Planning Act 1990.		
32. Powers related to blight notices.	Sections 149-171 of the Town and Country Planning Act 1990.		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)

1. Power to issue licences authorising the use of land as a caravan site ("site licences").	Section 3(3) of the Caravan Sites and Control of Development Act 1960 (c. 62).	Council	Corporate Lead Officer Policy, Performance and Public Protection,
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936 (c. 49).		
3. Power to license hackney carriages and private hire vehicles.	(a) as to hackney carriages, the Town Police Clauses Act 1847 (10 & 11 Vict. c. 89), as extended by section 171 of the Public Health Act 1875 (38 & 39 Vict. c. 55), and section 15 of the Transport Act 1985 (c. 67); and sections 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c. 57); (b) as to private hire vehicles, sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.		
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.		
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (c. 2).	Council	Corporate Lead Officer Policy, Performance and Public Protection,
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963.		
8. Power to license inter-track betting schemes.	Schedule 5ZA to the Betting, Gaming and Lotteries Act 1963.		
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968 (c. 65).		
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976 (c. 32).		
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976.		
12. Power to issue entertainments licences.	Section 12 of the Children and Young Persons Act 1933 (c. 12)		
13. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.		

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions

PART 3.1 (Table 1) – Responsibility for Council Functions

Approved by Council 21 March 2019 Updated January 2021

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
14. Power to license performances of hypnotism.	The Hypnotism Act 1952 (c. 46).	Council	Corporate Lead Officer Policy, Performance and Public Protection,
15. Power to register	Sections 13 to 17 of the Local		
(Cont'd) premises for acupuncture, tattooing, ear-piercing and electrolysis. Power to issue permits / permission.	(Cont'd) Government (Miscellaneous Provisions) Act 1982.		
16. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907 (c. 53).		
17. Power to license market and street trading.	Part III of and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982.	Delegated to Corporate Lead Officer Economy & Regeneration,	
18. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1) (b) (ii), 5, 6 and 11 of the Poisons Act 1972 (c. 66).	Licensing Committee	Corporate Lead Officer Policy, Performance and Public Protection,
19. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831 (c. 32); sections 2 to 16 of the Game Licences Act 1860 (c. 90), section 4 of the Customs and Inland Revenue Act 1883 (c. 10), section 27 of the Local Government Act 1894 (c. 73), and section 213 of the Local Government Act 1972 (c. 70).		

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions

PART 3.1 (Table 1) – Responsibility for Council Functions

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
20. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990 (c. 16).	Licensing Committee	Corporate Lead Officer Policy, Performance, and Public Protection,
21. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964 (c. 69).		
22. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975 (c. 52).		
23. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987 (c. 27).		
24. Duty to promote fire safety	Section 6 of the Fire and Rescue Services Act 2004 (c. 21)		
25. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 (c. 60) and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11).		
26. Power to license pet shops and other establishments	Section 1 of the Pet Animals Act 1951 (c. 35); section 1 of the Animal Boarding Establishments		

Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
(Cont'd) where animals are bred or kept for the purposes of carrying on a business.	(Cont'd) Act 1963 (c. 43); the Riding Establishments Acts 1964 and 1970 (1964 c. 70 and 1970 c. 70); section 1 of the Breeding of Dogs Act 1973 (c. 60), and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.	Licensing Committee	Corporate Lead Officer Policy, Performance and Public Protection.
27. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925 (c. 38).		
28. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981 (c. 37)		
29. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976 (c. 38).		
30. Power to enforce regulations in relation to animal by-products	Regulation 49 of the Animal By-products (Wales) Regulations 2006 (S.I 1292 (W.127))		
31. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933 (c. 12), byelaws made under that Part, and Part II of the Children and Young Persons Act 1963 (c. 37).	Corporate Lead Officer Schools and Culture; Corporate Lead Officer Legal & Governance Services	

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
32. Power to approve premises for the solemnisation of marriages and the registration of civil partnerships.	Section 46A of the Marriage Act 1949 (c. 76), section 6A of the Civil Partnership Act 2004 (c. 33) and the Marriages and Civil Partnerships (Approved Premises) Regulations 2005 (S. I. 2005/3168).	Proper Officer for Civil Registrations (Corporate Lead Officer Customer Contact)	
33. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to— 33(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 (c. 67) or 3(b) an order under section 147 of the Inclosure Act 1845 (c. 8 & 9 Vict. c. 118).	Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
34. Power to register variation of rights of common.	Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).	Development Control Committee	Corporate Lead Officer Economy & Regeneration
35. Power to issue a permit to conduct charitable collections.	Section 68 of the Charities Act 1992.	Licensing Committee	Corporate Lead Officer Policy, Performance and Public Protection.
36. Power to grant consent for the operation of a loudspeaker.	Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).		

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions

PART 3.1 (Table 1) – Responsibility for Council Functions

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule) Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
37. Power to grant a street works licence.	Section 50 of the New Roads and Street Works Act 1991 (c. 22).	Corporate Lead Officer Highways & Environmental Services,	
38. Duty to register the movement of pigs.	Regulations 21(3) and (4) of the Pigs (Records Identification and Movement) (Wales) Order 2004 (S.I 2004/996 (W.104).	Licensing Committee	Corporate Lead Officer Policy, Performance and Public Protection.
39. Power to enforce regulations in relation to the movement of pigs.	Regulation 27(1) of the Pigs (Records, Identification and Movement) (Wales) Order 2004/996 (W.104).		
40. Power to issue a licence to move cattle from a market.	Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).		
41. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922 (c. 35).		
42. Duty to enforce and execute Regulations (EC) No. 852/2004 and 853/2004 in relation to food business operators as further specified in regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.	Regulation 5 of the Food (Hygiene) (Wales) Regulations 2006.	Licensing Committee	Corporate Lead Officer Policy, Performance and Public Protection.
43. Functions in respect of establishing a Licensing Committee.	Section 6 of the Licensing Act 2003 (c. 17).		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

C. Functions relating to health and safety at work

<p>Functions under any of the “relevant statutory provisions” within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority’s capacity as an employer</p>	<p>Part I of the Health and Safety at Work etc. Act 1974 (c. 37).</p>	<p>Delegated to the Corporate Lead Officer Policy, Performance and Public Protection.</p>
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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

D. Functions relating to elections

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
1. Duty to appoint an electoral registration officer.	Section 8(2A) of the Representation of the People Act 1983 (c. 2).	Council	Save for the functions delegated to the Chief Executive
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.		
3. Power to dissolve community councils.	Section 28 of the Local Government Act 1972.		
4. Power to make orders for grouping communities.	Section 29 of the Local Government Act 1972.		
5. Power to make orders for dissolving groups and separating community councils from groups.	Section 29A of the Local Government Act 1972.		
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.		
7. Duty to provide assistance at European Parliamentary elections.	Section 6(7) and (8) of the European Parliamentary Elections Act 2002.		
8. Duty to divide constituency into polling districts.	Section 18 of the Representation of the People Act 1983.		
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

D. Functions relating to elections

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.	Council	Save for the functions delegated to the Chief Executive
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.		
12. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.		
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.		
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.		
15. Power to make temporary appointments to community councils.	Section 91 of the Local Government Act 1972.		
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	Rule 48(3) of the Local Elections (Principal Areas) Rules 1986 (S.I.1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).		
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000 (c. 2).		

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
PART 3.1 (Table 1) – Responsibility for Council Functions

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

E. Functions relating to name and status of areas and individuals

1. Power to change the name of a county or county borough.	Section 74 of the Local Government Act 1972.	Council
2. Power to change the name of a community.	Section 76 of the Local Government Act 1972.	
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.	
4. Power to petition for a charter to confer county borough status.	Section 245A of the Local Government Act 1972.	
F. Power to make, amend, revoke or re-enact byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978 (c. 300).	
G. Power to promote or oppose private Bills.	.Sections 52 and 53 Of the Local Government (Democracy) (Wales) Act 2013	

H. Functions relating to pensions etc.

1. Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972 (c. 11).	Council
2. Functions relating to pensions, allowances and gratuities.	Regulations under section 18 (3A) of the Local Government and Housing Act 1989 (c. 42).	
3. Functions under existing pension schemes as respects persons employed by the fire and rescue authorities pursuant to section 1 of the Fire and Rescue Service Act 2004	Sections 34 and 36 of the Fire and Rescue Services Act 2004.	

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
PART 3.1 (Table 1) – Responsibility for Council Functions
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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

I. Miscellaneous functions

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
1. Duty to approve authority's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).	The Accounts and Audit (Wales) Regulations 2005.	Council	
2. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966 (c. 38).	Council	
3. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999 (S.I. 1999/1892).	Development Control Committee	Corporate Lead Officer Economy & Regeneration,
4. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).	Council	
5. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972	Council	
6. Appointment and dismissal of staff	Section 112 of the Local Government Act 1972 and sections 7 and 8 of the Local Government and Housing Act 1989.	Council	Delegated to Chief Executive and all Officers nominated by the Chief Executive subject to the Officer Employment Rules

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions

PART 3.1 (Table 1) – Responsibility for Council Functions

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd			
I. Miscellaneous functions Cont'd			
Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
7. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.	Council	
8. Power to consider reports from the Public Services Ombudsman for Wales.	Section 19 of the Public Services Ombudsman (Wales) Act 2005 (c. 10).	Council	Monitoring Officer
9. Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption.	Section 13(2) of the Criminal Justice and Police Act 2001 (c. 16).	Council	
10. Powers in respect of registration of motor salvage operators.	Part 1 of the Vehicles (Crime) Act 2001 (c. 3).	Licensing Committee	Corporate Lead Officer Policy, Performance and Public Protection.
11. Power to appoint officers for particular purposes (appointment of "proper officers").	Section 270(3) of the Local Government Act 1972 (c. 42).	Council	
12. Duty to designate an officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989 (c. 42)		
13. Duty to designate an officer as the monitoring officer and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.		
14. Duty to determine affordable borrowing limit.	Section 3 of the Local Government Act 2003 (c. 22).		

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Part 3.1 (Table 1) RESPONSIBILITY FOR COUNCIL FUNCTIONS Cont'd

I. Miscellaneous functions Cont'd

Function	Provision of Act or Statutory Instrument	Delegated to	Further delegated to
15. Approval of annual investment strategy in accordance with guidance.	Section 15 of the Local Government Act 2003.	Council	
16. Duty to make arrangements for proper administration of financial affairs	Section 151 of the Local Government Act 1972 (c. 11).	Council	Section 151 Officer
17. Power to make or revoke an order designating a locality as an alcohol disorder zones	Section 16 of the Violent Crime Reduction Act 2006 (now repealed)		
18. Functions relating to Family Absence of Local Authority Members	The Family Absence for Members of Local Authorities (Wales) Regulations 2013		

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

Function	Decision-making body	Membership	Delegation of functions
1. Any function under a local Act other than a function specified or referred to in Schedule 1.	Cabinet	All Cabinet Members	None
2. The determination of an appeal against any decision made by or on behalf of the authority.	Council	All Members of the Council	Save for the functions delegated to the Appeals Panel
3. Functions in relation to the revision of decisions made in connection with claims for housing benefit or council tax benefit and for appeals against such decisions under section 68 of and Schedule 7 to the Child Support, Pensions and Social Security Act 2000	Cabinet	All Cabinet Members	
4. The making of arrangements in relation to appeals against the exclusion of pupils in maintained schools under section 52 of the Education Act 2002.	Cabinet	All Cabinet Members	Corporate Lead Officer Schools and Culture; Corporate Lead Officer Legal & Governance Services;
5. The making of arrangements pursuant to section 94(1), (1A) and (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals).			
6. The making of arrangements pursuant to section 95(2) of the School Standards and Framework Act 1998 (children to whom section 87 applies: appeals by governing bodies).			
7. The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority.	Council	All Members of the Council	

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
8. The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996.	Council	All Members of the Council	Joint Committee appointed under Paragraph 2(2) of Schedule 2 to the Police Act 1996
9. The conducting of best value reviews in accordance with the provisions of any order for the time being having effect under section 5 (best value reviews) of the Local Government Act 1999 or action under the Wales Improvement Measure as appropriate.	Cabinet	All Cabinet Members	Cabinet Members, Corporate Directors and Corporate Lead Officers
10. Any function relating to contaminated land.	Council	All Members of the Council	Corporate Lead Officer Policy, Performance and Public Protection, Corporate Lead Officer Highways and Environmental Services
11. The discharge of any function relating to the control of pollution or to the Declaration of an Air Quality Management Area	Council	All Members of the Council	Corporate Lead Officer Policy, Performance and Public Protection.
12. The service of an abatement notice in respect of a statutory nuisance.	Cabinet	All Cabinet Members	Corporate Lead Officer Policy Performance and Public Protection.
13. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Council	All Members of the Council	
14. The inspection of the authority's area to detect any statutory nuisance.	Cabinet	All Cabinet Members	Corporate Lead Officer Policy, Performance and Public Protection, Corporate Lead Officer Highways and Environmental Services
15. The investigation of any complaint as to the existence of a statutory nuisance.			

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
16. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Cabinet	All Cabinet Members	Corporate Lead Officer Policy, Performance and Public Protection, Corporate Lead Officer Highways and Environmental Services
17. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976	Cabinet	All Cabinet Members	All Corporate Directors and Corporate Lead Officers
18. Any of the following functions in respect of highways -			
(a) the making of agreements for the execution of highways works.	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services,
(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;	Cabinet	All Cabinet Members	Corporate Lead Officer Economy & Regeneration, Corporate Lead Officer Highways & Environmental Services
(ii) Section 26 – compulsory powers for creation of footpaths, bridleways or restricted byways;	Council	All Members of the Council	Corporate Lead Officer Economy & Regeneration

Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(c) The functions contained in the following provisions of Part V111 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;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(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;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(iv) Section 118ZA – application for a public path extinguishment order;			
(v) Section 118A – stopping up of footpaths, bridleways and restricted byways crossing railways;			

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(vi) Section 118B – stopping up of certain highways for purposes of crime prevention etc.;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(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.;			

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(xii) Section 119C – application by proprietor of school for special diversion order;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(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;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(ii) Sections 139 – control of builders' skips;	Cabinet		

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(iii) Section 140 – removal of builders' skips;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(iv) Section 140A(7) – builders' skips: charges for occupation of the highway;			
(v) Section 142 – licence to plant trees, shrubs etc. in a highway;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services
(vi) Section 147 – power to authorise erection of stiles etc. on footpath or bridleway;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration and Corporate Lead Officer Porth Gofal Targeted Intervention Services
(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.;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Policy Performance and Public Protection

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(ix) Section 169 – control of scaffolding on highways;	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services and Corporate Lead Officer Economy & Regeneration
(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			

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(e) exercising functions under section 35 of the Wildlife and Countryside Act 1982 (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)	Cabinet	All Cabinet Members	Corporate Lead Officer Economy & Regeneration
19. The appointment of any individual (a) to any office other than an office in which he is employed by the authority; (b) to anybody other than — (i) the authority; (ii) 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.	Council in relation to Council-related functions Cabinet in relation to Cabinet-related functions	All Members of the Council or Cabinet where appropriate	None
20. Power to make payments or provide other benefits in cases of maladministration etc.	Council	All Members of the Council	Monitoring officer in relation to payments of £1,000 or below
21. The discharge of any function by an authority acting as a harbour authority.	Cabinet	All Cabinet Members	Corporate Lead Officer Highways & Environmental Services

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
22. 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.	Cabinet	All Cabinet Members	None
23. Licensing functions in accordance with Part 2 of the Licensing Act 2003 except section 6.	Council	All Members of the Council	Licensing Committee
24a. 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;	Council	All Members of the Council	Corporate Lead Officer Policy Performance and Public Protection

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Part 3.2 (Table 2) RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS (Cont'd)			
Function	Decision-making body	Membership	Delegation of functions
(iii) Section 284 – removal of exemption; (iv) Section 304 – authorised persons; (v) Section 346 – prosecutions by licensing authority; (vi) Section 350 – exchange of information; (vii) Part 5 of Schedule 11 – registration with local authority			
24b. Functions in respect of gambling under the following provisions of the Gambling Act 2005 – (i) Section 166 – resolution not to issue casino licences; (ii) Section 349 – three-year licensing policy;	Council	All Members of the Council	
24c. Functions in respect of gambling under the following provisions of the Gambling Act 2005 – (i) Section 212 and regulations made under that section – fees;	Cabinet	All Members of Cabinet	
25a. 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 (i) Section 41 proposals to establish mainstream schools (ii) Section 43: proposals to discontinue mainstream schools (iii) Section 44: proposals to	Council	All Members of the Council	

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<p>a) establish a new community special school</p> <p>b) to discontinue such a school</p>			
<p>25b. 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</p> <p>(ii) Section 42 proposals to alter mainstream schools</p> <p>(iii) Section 44-proposals to make a regulated alteration to a community special school</p> <p>(iv) Section 45 proposals to change a school category</p>	<p>Cabinet</p>	<p>All Cabinet Members</p>	

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Part 3.3 (Table 3) COMMITTEES OF THE COUNCIL

Committee	Functions	Delegation of Functions
Development Control Committee (21 Members)	Planning and conservation. Functions relating to town and country planning and development control as specified in Part A of Table 1 above, together with functions under items 3 and 4 of Part I of Table 1.	See Table 1(Part A) above

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Committee	Functions	Delegation of Functions
Licensing Committee (15 Members)	<p>Licensing and Registration Functions as specified in Part B of Table 1 above, together with functions under item 10 of Part I of Table 1.</p> <p>Licensing Functions and Functions in respect of Gambling as specified in Table 2 above, Functions 23 & 24).</p> <p>To recommend to the Council additions and/or amendments to policy in relation to the functions of the Committee.</p> <p>To determine suspension/revocation of personal licences pursuant to s132 of the Licensing Act 2003</p> <p>To determine contentious applications for the initial granting or renewal of licences to drive a hackney carriage or a private hire vehicle.</p> <p>To determine contentious applications for the initial grant or renewal of operators licences.</p> <p>To determine contentious applications and requests for licence reviews under the Licensing Act 2003 and the Gambling Act 2005. To determine applications for permits for house to house and street collections. To suspend, vary, revoke or refuse house to house, street collections, drivers, operators and vehicle licences.</p> <p>To determine contentious applications under the Motor Salvage Operators' Registration Scheme.</p> <p>To hear representations and determine relevant applications under the Scrap Metal Dealers Act 2013 as appropriate.</p> <p>Licensing Sub Committee to determine applications for the grant of 3 or more gaming machines on alcohol licensed premises, or applications which are subject to objection</p>	<p>See Table 1 (Parts B and I) and Table 2 above.</p>

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Committee	Functions	Delegation of Functions
Ethics and Standards Committee (9 Members 2 County Councillors, 2 Town and Community Members and 5 Independent Members)	As set out in Article 9 of Part 2 to the Constitution	None

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Committee	Functions	Delegation of Functions
<p>Governance and Audit Committee</p> <p>(6 County Councillors and 1 Lay Member)</p>	<p><u>Governance and Audit Committee – Terms of Reference 2018</u></p> <p><u>Statement of Purpose</u></p> <p>1 The <u>Governance and Audit Committee</u> is a key component of the Council’s corporate governance framework. It provides an independent and high-level focus on the audit, assurance and reporting arrangements that underpin good governance and financial standards.</p> <p>2 The purpose of the <u>Governance and Audit Committee</u> is to provide independent assurance to full Council and management of the adequacy of the risk management framework and the internal control environment. It provides an independent review of the Council’s governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal audit and external audit, helping to ensure efficient and effective assurance arrangements are in place.</p> <p><u>Governance Risk and Control</u></p> <p>23 To maintain an overview of the Council’s Constitution in respect of: Contract Procedure Rules, Finance Regulations and Code of Conduct.</p> <p>34 To review the ouncil’s <u>Council’s</u> corporate governance arrangements against the governance framework, including the ethical framework and consider the local code of governance.</p> <p>45 To review the Annual Governance Statement prior to approval and consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit’s opinion on the overall adequacy and effectiveness of the Council’s framework of governance, risk management and control.</p>	None

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	<p>56 To consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.</p> <p>67 To consider the Council's framework of assurance and ensure that it adequately addresses the risks and priorities of the Council.</p> <p>78 To monitor the effective development and operation of risk management in the Council.</p> <p>89 To monitor progress in addressing risk-related issues reported to the Committee.</p> <p>910 To consider reports on the effectiveness of internal controls and the implementation of agreed actions.</p> <p>1011 To review the assessment of fraud risks and potential harm to the Council from fraud and corruption.</p> <p>112 To monitor the counter-fraud strategy, actions and resources.</p> <p>1213 To review the governance and assurance arrangements for significant partnerships or collaborations, where applicable.</p> <p>1314 To consider the Corporate Risk Register.</p> <p>15 To consider the Council's Annual Improvement Report.</p> <p>16 <u>To review and assess the performance assessment of the Council.</u></p> <p>17 <u>To consider the Council's draft annual Self-Assessment Report and make any recommendations for changes.</u></p> <p>1</p> <p><u>Internal Audit</u></p> <p>218 To approve the Internal Audit Charter.</p> <p>319 To consider proposals made in relation to the appointment of any external providers of internal audit services.</p> <p>420 To approve the risk-based Internal Audit Plan, including Internal Audit's resource requirements, the approach to using other sources of assurance and any work</p>	
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	<p>required to place reliance upon those other sources.</p> <p>621 To approve significant interim changes to the risk-based Internal Audit Plan and resource requirements.</p> <p>622 To make appropriate enquiries of both management and the Head of Internal Audit (“Chief Internal Auditor”) to determine if there are any inappropriate scope or resource limitations.</p> <p>723 To consider reports from the Head of Internal Audit on internal audit's performance during the year, including the performance of any external providers of internal audit services. These will include:</p> <ul style="list-style-type: none"> a. Updates on the work of Internal Audit including key findings, issues of concern and action in hand as a result of internal audit work. b. Regular reports on the results of the Quality Assurance and Improvement Programme. c. Reports on instances where the internal audit function does not conform to the Public Sector Internal Audit Standards and Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement. <p>824 To consider the Head of Internal Audit's annual report regarding:</p> <ul style="list-style-type: none"> a-d. The statement of the level of conformance with the Public Sector Internal Audit Standards and Local Government Application Note and the results of the Quality Assurance and Improvement Programme that support the statement - these will indicate the reliability of the conclusions of internal audit. b-e. The opinion on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control together with the summary of the work supporting the opinion - these will assist the committee in 	
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	<p>reviewing the Annual Governance Statement.</p> <p>925 To consider summaries of specific Internal Audit reports as requested.</p> <p>4026 To receive reports outlining the action taken where the head of internal audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.</p> <p>4127 To contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years.</p> <p>4228 To consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit (Wales) Regulations 2014</p> <p>4329 To support effective communication with the head of audit.</p> <p>4430 To commission work from Internal Audit</p> <p>External Audit & Regulators</p> <p>4531 To consider the external auditor's annual letter, relevant reports and the report to those charged with governance.</p> <p>4632 To consider specific reports as agreed with the external auditor.</p> <p>4733 To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p>4834 To commission work from external audit.</p> <p>4935 To advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.</p> <p>36 To consider reports from external regulators (including but not exclusive to: WAO, PSOW, GRO, CSIW, Estyn).</p> <p>2037 <u>Consider any Report received from the Auditor General, and the Council's draft response.</u></p>	
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	<p>Financial Reporting</p> <p>2138 To review the annual statement of accounts and related reports. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the Council.</p> <p>2239 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p>Accountability Arrangements</p> <p>2340 To report to those charged with governance on the Audit Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks, financial reporting arrangements, and internal and external audit functions.</p> <p>2441 To report to full Council on the Audit Committee's performance in relation to the terms of reference and the effectiveness of the Committee in meeting its purpose.</p> <p>2542 To publish an annual report on the work of the Committee.</p> <p>Performance Reporting</p> <p>43 To consider reports on compliments, complaints and Freedom of Information activity.</p> <p>44 <u>To review and assess the Council's ability to handle complaints effectively.</u></p> <p>26</p>	
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Committee	Functions	Delegation of Functions
Democratic Services Committee (6 members)	<p>To carry out the local authority's function of designating the Head of Democratic Services (HDS).</p> <p>Keep under review the provision of staff, accommodation and other resources made available to the HDS, in order to ensure that it is adequate for the responsibilities of the post.</p> <p>Make reports, at least annually, to the full council in relation to these matters.</p> <p>To consider, and make recommendations to the Council, concerning the timing of meetings.</p> <p>To oversee the training and development of Members.</p>	None
Appeals Panel (3 Members out of a pool of 7 members)	<p>To determine appeals by members of staff in accordance with the Council's policies and procedures save for those referred to in Part 4 Document H.</p>	
Short-listing Committee (7 Members)	<p>To produce a shortlist of qualified applicants for Head of Paid Service, Corporate Director and Corporate Lead Officer Posts, to include interviewing of such applicants if needs be, for recommending to Council.</p>	

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Committee	Functions	Delegation of Functions
Language Committee (7 Members)	<p>To provide direction for the promotion and facilitation of the Welsh Language in Ceredigion. The Committee may require any member or officer of the Council to attend before it to answer questions and may invite other persons to attend meetings of the Committee.</p> <p>The committee is responsible for fulfilling the following functions:</p> <ul style="list-style-type: none"> • To set strategic direction in response to the Language Standards set by the Welsh Language Commissioner, • Monitor progress with the implementation of the Welsh Language Standards • Agree an annual report on progress with the Welsh Language Standards to the Welsh Language Commissioner • Play an active role in the development of other key areas of work relating to the Welsh Language - Welsh Language in Education Strategy; 'More than Just Words' Strategic Framework, Local Development Plan • To receive progress reports on the work of Cered (Menter Iaith Ceredigion) and Theatr Felinfach • To offer recommendations to promote and increase the use of the Welsh language in all aspects of the Council's work • To review the implementation of the Ceredigion Language Strategy, paying attention to the Council's work and any partnership work or joint working • Receiving information / consultations on matters relating to the Welsh Language as required and respond as appropriate. <ul style="list-style-type: none"> • Make recommendations to Cabinet and/or Council as appropriate 	None

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Committee	Functions	Delegation of Functions
Trustee Charity Committee (10 members: 5 voting and 5 non-voting)	To act as trustee in respect of all property assets held by the Council on charitable trusts. To make decisions in relation to charitable assets in the best interests of the charity. To receive reports on charitable issues and to ensure the requirements of the Charity Commission and charity law are adhered to in so far as they relate to the charitable assets held by the Council on trust.	
Overview and Scrutiny Committees	See Article 6 above	

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Part 3.4 (Table 4) RESPONSIBILITY FOR CABINET FUNCTIONS

Cabinet functions comprise all the functions of the Council, with the exception of;

- 3.4.1 Council functions set out in Table 1 above;
- 3.4.2 Those local choice functions allocated to the Council set out in Table 2 above;
- 3.4.3 Functions that cannot be the sole responsibility of the Cabinet as set out in Article 4 of Part 2 of the Constitution;
- 3.4.4 Potential decisions that conflict with;
 - the Council's budget or borrowing plans;
 - Financial Regulations or financial standing orders;
 - the Council's overall strategy or policy framework.

and in such cases the Cabinet must pass the decision to the Council for final determination.

- 3.4.5 Article 7.1 of the Constitution provides that all of the Council's functions which are not the responsibility of any other part of the Council whether by law or under the Constitution will be carried out by Cabinet. This section sets out:
 - the role of Cabinet Members within their respective portfolios,
 - the allocation of service responsibilities to individual Cabinet Members, and
 - those Cabinet Functions which have been delegated to individual Cabinet Members.

Portfolio	Roles, Service Responsibilities and Functions
Leader of the Council	<p>Roles and responsibilities of the Leader</p> <p>a) To provide political leadership to the Council, including:</p> <ul style="list-style-type: none"> • being the principal spokesperson for the Council • providing strong, clear leadership in the development and co-ordination of policies, strategies, plans and service delivery • to recommend to Council the appointment of Member Champions <p>b) Appointing the Cabinet, including:</p> <ul style="list-style-type: none"> • choosing the number of Councillors to serve on the Cabinet and their respective portfolios • designating a Deputy Leader • determining the executive functions delegated to the Cabinet, committees of the Cabinet, individual Cabinet Members, Officers and those undertaken via joint arrangements <p>c) To provide community leadership, including;</p> <ul style="list-style-type: none"> • acting as a leader of the local community by demonstrating and promoting the Council's Vision, aims and objectives • providing leadership to local strategic partnerships in the pursuit of common aims and priorities, including the Ceredigion Public Service Board <p>d) Representing the Council on external organisations, including:</p> <ul style="list-style-type: none"> • representing the Council on the WLGA (including the Co-ordinating Committee) and LGA • representing the Council on the following local, regional and national organisations: <ul style="list-style-type: none"> - Central and South West Wales WLGA Regional Partnership Board - Joint Council for Wales <p>e) Managing and leading the work of the Cabinet, including:</p>

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	<ul style="list-style-type: none"> • chairing meetings • effectively managing the work of the Cabinet • ensuring that a Cabinet Forward Work Plan is in place <p>f) Providing portfolio leadership for the following:</p> <ul style="list-style-type: none"> • Service delivery • Community leadership • Finance and budgetary control • Employee relations • Welsh Language Standards <p>g) Working with others, including:</p> <ul style="list-style-type: none"> • participating in the collective decision-making of the Cabinet • working with Cabinet Members, Non-executive Members and Officers in order to ensure Council policies, the budgetary framework and the continuous improvement agenda is carried out effectively in order to ensure the delivery of high quality services within existing resources to local people
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All Cabinet Members	Roles and responsibilities of the Cabinet members
	A - General
	<p>a) Providing portfolio leadership, including:</p> <ul style="list-style-type: none"> • reporting to the Cabinet, Leader, Council, Overview and Scrutiny Committees in respect of services within the portfolio • giving political direction to officers working within the portfolio • formulating and developing plans, policies and strategies in respect of services within the portfolio for adoption and revision by the Council • liaising with the Chairperson of the respective Overview and Scrutiny Committee in respect of services within the portfolio • having an overview of the performance management, efficiency and effectiveness of the services within the portfolio <p>b) Working with others, including:</p> <ul style="list-style-type: none"> • Participating in the collective decision-making of the Cabinet • Working with the Leader of the Council, Cabinet Members, Non-executive Members and Officers in order to ensure Council policies, the budgetary framework and the continuous improvement agenda is carried out effectively in order to ensure the delivery of high quality services within existing resources to local people <p>c) Contributing towards community leadership, including;</p> <ul style="list-style-type: none"> • promoting the Council’s Vision, aims and objectives within the community • representing the Council on local strategic partnerships and the promotion of common aims and priorities <p>d) Representing the Council on external organisations, as appointed.</p>

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	B - Specific portfolio roles and responsibilities
Leader of the Council: Policy, Performance and Partnerships.	<p>Services: Policy, Performance and Partnerships</p> <p>Internal panels/working groups/fora: Development Group, Transformation and Efficiency Consultative Group, and Corporate Employee Forum, Housing Renovation Grants Panel, Language Committee and Equalities, Performance Management Board, Performance Management Executive Panel.</p> <p>Partnerships/ Joint Committees/Agencies: Ceredigion Public Service Board, PSB Poverty Sub Group, Mid and West Wales Partnership Board, Education through Regional Working (ERW), Mid Wales Health Collaborative, Growing Mid Wales,</p> <p>External bodies: WLGA, WLGA Rural Forum, WLGA Association Executive Board, Central and South West Wales Regional Partnership Board, Aberystwyth University Court of Governors, Member Champion for: Equalities, Diversity.</p>

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	B - Specific portfolio roles and responsibilities
Deputy Leader of the Council: Legal & Governance Services, People & Organisation and Democratic Services.	<p>Services: Legal & Governance, People & Organisation and Democratic Services</p> <p>Internal panels/working groups/fora: Transformation and Efficiency Consultative Group, Corporate Employee Forum, Performance Management Board, Performance Management Executive Panel , Business Continuity; Plan Management Group, Aberystwyth- Shrewsbury Railway Line Liaison Committee.</p> <p>Partnerships/Joint Committees/Agencies: Chairman of Dyfi Biosphere Partnership. Joint Council for Wales</p> <p>External bodies: WLGA, Joint Council for Wales, Penllyn a'r Sarnau Special Area of Conservation, Consortium Local Authorities Wales (CLAW).</p>

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	B - Specific portfolio roles and responsibilities
Schools, Lifelong Learning and Skills, Support and Intervention Portfolio.	<p>Services: Schools, Lifelong Learning and Skills, Support and Intervention Services</p> <p>Internal panels/working groups/fora: Council Tax Premium on Second Homes Task and Finish Group, Housing Grants Panel, Maximising Income and Fuel Poverty Group,</p> <p>Partnerships/Joint Committees/Agencies : Children and young people services provider forum; PSB Poverty sub group</p> <p>External bodies: Cardigan Swimming Pool Management Committee; Ceredigion Home Start, CYPP Mid and West Children and Young People’s Partnership, Ceredigion District Sports Council, Cardigan Stakeholders Group – Integrated Health Centre, Integrated Children’s Centre (ICC) Cardigan; Ceredigion Home Start</p> <p>Member Champion for: Children and Young People, Anti-poverty.</p>

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	B - Specific portfolio roles and responsibilities
Finance and Procurement Services and Public Protection Services Portfolio.	<p>Services: Finance and Procurement and Public Protection Services.</p> <p>Partnerships/Joint Committees/Agencies: Housing Renovation Grants Panel, Capital Development Group, Clearance and Exemption Working Group, Cardigan Castle and Ceredigion Development Group.</p> <p>Internal panels/working groups/fora: Local Development Plan Working Group, Council Tax Premium on Second Homes Task and Finish Group, Community Grants Panel, Capital Monitoring Group, Emergency and Business Continuity Management Group.</p> <p>External bodies: Cardigan Castle Finance and General Purposes Committee, Ceredigion Sports Council</p>

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	B - Specific portfolio roles and responsibilities
Porth Cynnal Services	<p>Services: Porth Cynnal Services.</p> <p>Internal panels/working groups/fora: Corporate Parenting Group, Carers Alliance, Cylch Caron Stakeholder Board, Cylch Caron project Board, Corporate Parenting Group</p> <p>Partnerships/Joint Committees/Agencies: None</p> <p>External bodies: Mid Wales Housing Association (Observer status).</p> <p>Member Champion for: Learning Disabilities, Carers and Safeguarding,</p>

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	B - Specific portfolio roles and responsibilities
Porth <u>Ceredigion, Early Intervention, Wellbeing Hubs and Culture Services</u> <u>Cymorth Cynnar</u> Portfolio.	<p>Services: Porth <u>Ceredigion, Early Intervention, Wellbeing Hubs and Culture</u><u>Cymorth Cynnar</u></p> <p>Internal panels/working groups/fora: Corporate Passenger and Transport Unit Reference Group, Housing Grant Panel, Ceredigion Older People’s Partnership and Maximising Income and Fuel Poverty Group; Carbon Management Group.</p> <p>Partnerships/Joint Committees/Agencies: Health, Social Care and Well-being Partnership, West Wales Regional Partnership Board and Supporting People Regional Collaborative Committee. Maximising Income and Fuel Poverty Group, Corporate Passenger and Transport Unit Reference Group; Aberystwyth- Shrewsbury Railway Line Liaison Committee (SARLC); Supporting People Regional Collaborative Committee; Parc Natur Penglais Support Group; Dyfi Biosphere Partnership.</p> <p>External bodies: Hywel Dda Community Health Council, Hywel Dda Health Board Stakeholders Group (as Chair of HSCWB Partnership Board), Ceredigion 50+ Forum, West Wales Care & Repair Board of Management, Mid Wales Housing Association (Observer status), West Wales Regional Partnership Board; Nuclear –free Local Authorities Welsh Forum.</p> <p>Member Champion for: Older People 50+, Learning Disabilities, Sustainability</p>

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	B - Specific portfolio roles and responsibilities
Highways and Environmental, Housing and Customer Contact Services	<p>Services: Highways and Environmental, Housing and Customer Contact Services.</p> <p>Internal panels/working groups/fora: Corporate Passenger and Transport Unit Reference Group, Harbour Users Consultative Committees, Traffic Management Consultative Committees, Procurement Group, Corporate Passenger Transport Unit Reference Group, Waste Strategy Group.</p> <p>Partnerships/Joint Committees/Agencies: Central Wales Waste Partnership, Central Wales Infrastructure Collaboration, Trfnidiaeth Canolbarth Cymru, North and Mid Wales Trunk Road Agency, Local Local Access Forum (observer), Cardigan Bay Coastal Group, Growing Mid Wales Partnership, Dyfi Biosphere Partnership, Pembrokeshire Waste Collaborative; West Wales Care & Repair Board of Management,</p>

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	B - Specific portfolio roles and responsibilities
Economy and Regeneration Portfolio.	<p>Services: Economy and Regeneration.</p> <p>Internal Panels/working groups/fora: Asset Management Group, , Transformation and Efficiency Consultative Group, Local Development Plan Working Group, Development Group, Strategic Housing Partnership, Aberystwyth-Shrewsbury Railway Line Liaison Committee, Carbon Management Group,</p> <p>Partnerships/ Joint Committees/Agencies: Enterprise & Innovation project group (PSB), TraCC, Cynnal y Cardi, Local Access Forum, Growing Mid-Wales Partnership, Chairman of Central Wales Infrastructure Collaboration, Dyfi Biosphere Partnership</p> <p>External bodies: Mid Wales Tourism Partnership, , South West Wales Economic Forum (Observer status), Cadwgan Trustee Board, , Mentur Aberteifi Executive Committee, , Advancing Aberystwyth ar y Blaen BID Board, Ceredigion Young Farmers Club Association, , Penllyn a'r Sarnau Special Area of Conservation, Cardigan Bay Coastal Group</p> <p>Member Champion for: Bio-diversity</p>

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Part 3.5 SCHEME OF DELEGATION TO OFFICERS

Responsibility for Council and Cabinet Functions – Onward limits on delegation

This scheme delegates certain functions of the Council and Cabinet to officers and should be interpreted widely rather than narrowly. It is divided into the following subsections:

- A – Delegation to Officers – General Conditions
- B – General Delegations to Chief Executive, Head of Paid Service Corporate Directors and Corporate Lead Officers
- C – Delegations to the Chief Executive, Head of Paid Service
- D – Delegations to the Monitoring Officer
- E – Delegations to the Head of Democratic Services
- F – Delegations to the Corporate Lead Officer Highways & Environmental Services.
- G– Delegations To the Head of Policy, Performance and Public Protection
- H- Delegations to the Corporate Lead Officer Economy & Regeneration
- I. – Delegations to the Corporate Lead Officer Porth Cymorth Cynnar
- J – Delegations in respect of Corporate Lead Officer Porth Gofal Targeted Intervention (Deputy Director of Social Services) and Corporate Lead Officer Porth Cynnal Specialist Through Age Services (Statutory Director of Social Services)
- K – Delegations to the Corporate Lead Officer Schools and Culture (Chief Education Officer)
- L– Delegations to the Corporate Lead Officer Finance & Procurement (Section 151 Officer / Chief Finance Officer)
- M – Delegations to the Corporate Lead Officer Customer Contact.
- N – Delegations to the Corporate Lead Officer People and Organisation

PROVIDED ALWAYS that the decision is:

- a) within the Council's budget or borrowing plans;
- b) within the Council's overall strategy or policy framework;
- c) Within Financial Regulations and Accompanying Financial Procedures and
- d) Not a matter specifically reserved for Full Council, a Committee of the Council, Cabinet, a Statutory Officer, the Chief Executive, or Corporate Directors or Corporate Lead Officers

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EXTRACT OF PART 3 RESPONSIBILITY FOR COUNCIL FUNCTIONS

Proposed amendments for inserting in Constitution on 5 May 2022, to comply with amendments required by Local Government and Elections (Wales) Act 2021 that come into force from 5 May 2022

Committee	Functions	Delegation of Functions
Governance and Audit Committee	Governance and Audit Committee – Terms of Reference 2018	None
(3 Lay Persons and 6 County Councillors - 1/3 Lay Person composition)	<u>Governance Risk and Control ...</u> 18. To consider the Council's Panel Performance Assessment Report and the Council's draft response.	

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Appendix 6

Document A

Council Procedure Rules



Author and service:

Date approved by Council: 19 March 2019

Publication date:

Review Date:

Ceredigion County Council Constitution - Part 4 Rules of Procedure

PART 4 DOCUMENT A Council Procedure Rules

~~Approved by Council 21 March 2019~~ Updated June
2021

1

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1. ANNUAL MEETING OF THE COUNCIL

1.1 TIMING AND BUSINESS

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place on a date in May to be agreed by the Council.

The annual meeting will:

- 1.1.1 elect a person to preside if the Chairperson of Council is not present;
- 1.1.2 elect the Chairperson of Council;
- 1.1.3 receive any disclosures of personal and prejudicial interests;
- 1.1.4 elect the Vice Chairperson of Council;
- 1.1.5 approve the minutes of the last meeting;
- 1.1.6 receive any announcements from the Chairperson and/or Head of Paid Service;
- 1.1.7 to receive an address by the Leader of the Council;
- 1.1.8 to be told by the Leader of the names of Councillors he/she has chosen to be members of the Cabinet;
- 1.1.9 appoint at least one Overview and Scrutiny Committee, an Ethics and Standards Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Cabinet functions (as set out in Part 3, Table 1 of this Constitution);
- 1.1.10 decide the size and terms of reference for those committees
- 1.1.11 decide which Committees to establish for the municipal year;
- 1.1.12 decide the allocation of seats to political groups in accordance with the political balance rules;
- 1.1.13 receive nominations of Councillors to serve on each Committee and outside body except where appointment to those bodies has been delegated by the Council or is only exercisable by the Cabinet;
- 1.1.14 appoint to those Committees and outside bodies; and
- 1.1.15 agree such parts of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 Table 3 of this Constitution);
- 1.1.16 approve a programme of ordinary meetings of the Council for the year; and
- 1.1.17 consider any business set out in the notice convening the meeting.

2. ORDINARY MEETINGS

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

- 2.1 elect a person to preside if the Chairperson and Vice Chairperson are not present (such person not being a member of the Cabinet);
- 2.2 receive any disclosures of personal and prejudicial interests from members in accordance with the members Code of Conduct;
- 2.3 confirm as a true record the minutes of the last meeting;
- 2.4 receive any announcements from the Chairperson, Head of Paid Services, Leader and/or Cabinet Members;
- 2.5 deal with any business from the last Council meeting;
- 2.6 receive reports from the Cabinet and the Council's Committees and receive questions, answers and any observations in relation to those reports;
- 2.7 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 2.8 consider motions of which notice has been given; and
- 2.9 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.
- 2.10 to elect Chairmen and Vice-Chairmen of Committees in the event of a vacancy arising mid-term
- 2.11 appoint members to fill vacancies on Committees

3. SPECIAL MEETINGS

3.1 CALLING SPECIAL MEETINGS

Those listed below may request the Proper Officer to call Council meetings in addition to ordinary meetings:

- 3.1.1 the Council by resolution;
- 3.1.2 the Chairperson of the Council;
- 3.1.3 the Leader;
- 3.1.4 the Head of Paid Services;
- 3.1.5 the Monitoring Officer; and
- 3.1.6 any five members of the Council if they have signed a requisition presented to the Chairperson of the Council.

3.2 BUSINESS

No business shall be considered at any Special Meeting save such as shall be specified in the notice convening the meeting and be accompanied by a copy of any report for the meeting.

4. TIME AND PLACE OF MEETINGS

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

5. NOTICE OF AND SUMMONS TO MEETINGS

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least three clear days before a meeting, the Proper Officer will send a summons signed by him or her by post or e-mail to every member of the Council or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

6. CHAIR OF MEETING

The person presiding at the meeting may exercise any power or duty of the Chairperson. Where these rules apply to Committee and Sub-Committee meetings, references to the Chairperson also include the Chairperson of Committees and Sub-Committees.

7. QUORUM

Save as set out in ~~paragraph 24 below~~ [Article 8.2.1 \(see Part 2 of the Constitution\)](#) in relation to the Development Control Committee, the quorum of a meeting will be one quarter of the membership for that meeting. During any meeting if the Chairperson counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Any remaining business will be considered at a time and date fixed by the Chairperson. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

8. DURATION OF ITEMS OF BUSINESS

If an item of business at the meeting has not been concluded within one hour of its commencement, the Chairperson may draw attention to that fact and may call for the vote immediately on the item under discussion. The vote will then be taken in the usual way without any further discussion.

9. QUESTIONS BY MEMBERS

9.1 ON REPORTS OF THE CABINET OR COMMITTEES

Ceredigion County Council Constitution - Part 4 Rules of Procedure
PART 4 DOCUMENT A Council Procedure Rules
[Approved by Council 21 March 2019](#)
[Updated June 2021](#)

A member of the Council may ask the Leader or the Chairperson of a Committee any question without notice upon an item of the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

9.2 QUESTIONS ON NOTICE AT FULL COUNCIL

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

- the Chairperson of the Council;
 - the Leader and/or a member of the Cabinet; or
 - the Chairperson of any Committee or Sub-Committee
- a question on any matter in relation to which the Council has powers or duties or which affects Ceredigion.

9.3 QUESTIONS ON NOTICE AT COMMITTEES AND SUB-COMMITTEES

Subject to Rule 9.4, a member of a Committee or Sub-Committee may ask the Chairperson a question on any matter in relation to which the Council has powers or duties or which affect Ceredigion and which falls within the terms of reference of that Committee or Sub-Committee.

9.4 NOTICE OF QUESTIONS

A member may only ask a question under Rule 9.2 or 9.3 if either:

- 9.4.1 they have given at least five working days notice in writing of the question to the Proper Officer; or
- 9.4.2 the question relates to an urgent matter and they have the consent of the Chairperson to whom the question is to be put and the content of the question is given to the Proper Officer by 1.00pm on the day prior to the meeting.

9.5 RESPONSE

An answer may take the form of:

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

9.6 SUPPLEMENTARY QUESTION

A member asking a question under Rule 9.2 or 9.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

10. MOTIONS ON NOTICE

10.1 NOTICE

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least 2 (proposer and seconder) members, must be delivered to the Proper Officer (which for these purposes shall be the Monitoring Officer) not later than 5.00pm 10 working days before the date of the meeting. These will be entered in a record open to public inspection. No motion moved by notice will be debated at the Annual meeting of the Council

10.2 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.

Any members of the Council may give notice of not more than one motion for consideration at any meeting of the Council.

10.3 SCOPE

Motions must be about matters for which the Council has a responsibility and which substantially affect the administrative area of Ceredigion.

10.4 Amendments to Motions

Written amendments to Notices of Motion must be received by the Proper Officer ~~no less than 1 hour~~ not later than 5pm, 2 working days before the commencement date of the Council meeting, signed by the Proposer and Secunder and will be circulated in written form to all members at the Council meeting. Verbal amendments will be allowed at the discretion of the Chairman. A motion under Rule 10 or notice of motion to amend must be formally moved and seconded at the relevant meeting. In the absence of the recorded proposer or seconder, another member may propose or second the

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motion or amendment to the motion. If the motion is not moved or is not seconded then it will be treated as withdrawn.

11 MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- 11.1 to appoint a Chairperson of the meeting at which the motion is moved;
- 11.2 in relation to the accuracy of the minutes;
- 11.3 to change the order of business in the agenda;
- 11.4 to refer something to an appropriate body or individual;
- 11.5 to appoint a Committee or member arising from an item on the summons for the meeting;
- 11.6 to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- 11.7 to withdraw a motion;
- 11.8 to amend a motion;
- 11.9 to proceed to the next business;
- 11.10 that the question be now put;
- 11.11 to adjourn a debate;
- 11.12 to adjourn a meeting;
- 11.13 to suspend a particular Council procedure rule;
- 11.14 to exclude the public and press in accordance with the Access to Information Rules;
- 11.15 to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- 11.16 to give the consent of the Council where its consent is required by this Constitution.

12 RULES OF DEBATE

12.1 NO SPEECHES UNTIL MOTION SECONDED

No speeches may be made after the mover has moved a motion and explained the purpose of it and until the motion has been seconded. The proposer of the motion shall have the right to make the first speech in relation to the motion.

12.2 RIGHT TO REQUIRE MOTION IN WRITING

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

12.3 SECONDER'S SPEECH

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

12.4 CONTENT AND LENGTH OF SPEECHES

12.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

12.4.2 No speech may exceed five minutes without the consent of the Chairperson.

12.5 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:

- 12.5.1 to speak once on an amendment moved by another member;
- 12.5.2 to move a further amendment if the motion has been amended since he/she last spoke;
- 12.5.3 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);
- 12.5.4 in exercise of a right of reply;
- 12.5.5 on a point of order; and
- 12.5.6 by way of personal explanation.

12.6 AMENDMENTS TO MOTIONS

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

- 12.6.1.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;
- 12.6.1.2 to leave out words;
- 12.6.1.3 leave out words and insert or add others;
- 12.6.1.4 to insert or add words; or
- 12.6.1.5 to substitute another proposition.

as long as the effect of 12.6.1.2 to 12.6.1.4 above is not to negate the motion

12.6.2 Any amendments to motions will be called by the Chairperson in an order determined by the Chairperson in consultation with the Monitoring Officer, to facilitate coherent debate and to, wherever possible, allow the opportunity for all amendments to be voted upon. Each amendment will be proposed and seconded and then put to the vote in the order determined by the Chairperson.

~~12.6.3 Written amendments to Notices of Motion must be received by the Proper Officer no less than 1 hour before the commencement of the Council meeting, signed by the Proposer and Secunder and will be circulated in written form to all members at the Council meeting. Verbal amendments will be allowed at the discretion of the Chairman. A motion under Rule 10 or notice of motion to amend must be formally moved and seconded at the relevant meeting. In the absence of the recorded proposer or seconder, another member may propose or second the motion or amendment to the motion. If the motion is not moved or is not seconded then it will be treated as withdrawn.~~

~~12.6.4~~12.6.3 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.

~~12.6.5 After an amendment has been carried, the Chairperson will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.~~

12.7 ALTERATION OF MOTION

- 12.7.1 A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 12.7.2 A member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder.
- 12.7.3 Only alterations which could be made as an amendment in accordance with 12.6.1 may be made.

12.8 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.

12.9 RIGHT TO REPLY

- 12.9.1 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.
- 12.9.2 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.
- 12.9.3 The mover of the amendment has no right of reply to the debate on his or her amendment.
- 12.9.4 A member may not speak after a proposition has been voted on except on a point of order relating to it.

12.10 MOTIONS WHICH MAY BE MOVED DURING DEBATE

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

- 12.10.1 to withdraw a motion;
- 12.10.2 to amend a without notice motion;
- 12.10.3 to proceed to the next business;
- 12.10.4 that the question be now put;
- 12.10.5 to adjourn a debate;

- 12.10.6 to adjourn a meeting;
- 12.10.7 to exclude the public and press in accordance with the Access to Information Rules; and
- 12.10.8 to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4.

12.11 CLOSURE MOTIONS

- 12.11.1 A member may move, without comment, the following motions at the end of a speech of another member:
 - 12.11.1.1 to proceed to the next business;
 - 12.11.1.2 that the question be now put;
 - 12.11.1.3 to adjourn a debate; or
 - 12.11.1.4 to adjourn a meeting.
- 12.11.2 If a motion to proceed to next business is seconded and the Chairperson thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- 12.11.3 If a motion that the question be now put is seconded and the Chairperson 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.
- 12.11.4 If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairperson 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.

12.12 POINT OF ORDER

A member may raise a point of order at any time. The Chairperson 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 of law and the way in which he/she considers it has been broken. The ruling of the Chairperson on the matter will be final.

12.13 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 or to make an apology to the Council. The ruling of the Chairperson on the admissibility of a personal explanation will be final.

13. PREVIOUS DECISIONS AND MOTIONS

13.1 MOTION TO RESCIND A PREVIOUS DECISION

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

13.2 MOTION SIMILAR TO ONE PREVIOUSLY REJECTED

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

14. VOTING

14.1 MAJORITY

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the ~~room-meeting~~ at the time the ~~question-recommendation or proposal~~ was ~~presented~~.

14.2 CHAIRPERSON'S CASTING VOTE

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

14.3 SHOW OF HANDS

Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Chairperson will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

14.4 BALLOTS

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

14.5 RECORDED VOTE

If the Council so decides by resolution, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot save in relation to the appointment of officers.

14.6 RIGHT TO REQUIRE INDIVIDUAL 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.

14.7 VOTING ON APPOINTMENTS OF ELECTED MEMBERS TO POSITIONS TO BE FILLED BY THE COUNCIL

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

15. MINUTES

15.1 SIGNING THE MINUTES

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

15.2 NO REQUIREMENT TO SIGN MINUTES OF PREVIOUS MEETING AT SPECIAL MEETING

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

15.3 FORM OF MINUTES

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

15.3.2 Where parts of the minutes are excluded because they refer to exempt information and the minutes available do not provide a reasonably fair and coherent record, a written summary will be provided which provides such a record without disclosing the exempt information.

16. RECORD OF ATTENDANCE

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

17. WEBCASTING OF MEETINGS

Meetings of the full Council at the Council Chamber, Neuadd Ceredigion, Penmorfa, Aberaeron will be webcast such footage to be available for viewing on the Council's website at www.ceredigion.gov.uk

18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 19 (Disturbance by Public).

19. MEMBERS' CONDUCT

19.1 SPEAKING

When a member speaks at full Council they must address the meeting through the Chairperson.

19.2 CHAIRPERSON STANDING

When the Chairperson stands during a debate, any member speaking at the time must stop. The meeting must be silent.

19.3 MEMBER NOT TO BE HEARD FURTHER

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

19.4 MEMBER TO LEAVE THE MEETING

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

19.5 GENERAL DISTURBANCE

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

20. DISTURBANCE BY PUBLIC

20.1 REMOVAL OF MEMBER OF THE PUBLIC

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

20.2 CLEARANCE OF PART OF MEETING ROOM

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

21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

21.1 SUSPENSION

All of these Council Rules of Procedure except Rule 14.6 and 15.2 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.

21.2 AMENDMENT

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

22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

Save as set out in paragraph 24 below, all of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4–22 apply to meetings of Committees and Sub-Committees.

23. OFFICER ADVICE

23.1 Any report placed for decision before Council should contain all necessary advice to enable Members to take a decision. Reports will be circulated in advance of the meeting and if a Member requires clarification on an issue related to the report, this should be sought prior to the meeting.

2.3 Further officer advice will only be available at the meeting of Council with the consent of the Chairperson, in consultation with the Chief Executive, Head of Finance or the Monitoring Officer. If there is a need for further detailed legal or financial advice to be provided, the meeting should be adjourned.

~~24. — DEVELOPMENT CONTROL COMMITTEE QUORUM~~

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

Appendix 7 Extract of:

Document F

FINANCIAL REGULATIONS AND ACCOMPANYING FINANCIAL PROCEDURES



Chief Finance Officer: Stephen Johnson
Audit Committee: 17th October 2017
Date approved by Council: 22 March 2018
Integrated Impact Assessment (Yes/No):
Publication date:
Policy Review Date:

FINANCIAL REGULATIONS AND ACCOMPANYING FINANCIAL PROCEDURES

...

Committees

Governance and Audit Committee

The Governance and Audit Committee is a key component of the Council's governance framework. Its function is to provide an independent and high level resource to support good governance and strong public financial management.

...

The Statutory Officers

The responsibilities of the following statutory officers are set out in Article 12 of the Constitution:

- (i) Head of Paid Service (Chief Executive)
- (ii) Chief Finance Officer (Chief Finance Officer)
- (iii) The Monitoring Officer (~~Group Manager~~Corporate Lead Officer - Legal and Governance Services)

...

3.6.2 Audit Requirements

The Accounts and Audit Wales Regulations ~~2015-2014~~ require every Council to undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes.

~~Audit Wales~~ The Wales Audit Office undertakes the role of the external auditors of the Council.

The Council may, from time to time, be subject to audit, inspection or investigation by external bodies that have statutory rights of access.

...

Responsibilities of the Chief Finance Officer

- To ensure that the = Internal Audit Charter provides the Section with the authority to:
 - a) Enter any Council premises or land at any reasonable times,
 - b) access all assets, records, documents, correspondence and control systems relating to any financial or other transactions of the Council.
 - c) require and receive any such information and explanation considered necessary concerning any matter under consideration/examination,
 - d) require any employee of the Council to account for cash, stores or any other Council property under his or her control, and
 - e) have access to records belonging to third parties, such as contractors or partnership agencies, according to the relevant contractual terms.
- The Chief Internal Auditor has direct access to the Head of Paid Service, the Chair of [Governance and Audit Committee](#), the Cabinet and Members.
- The Chief Internal Auditor is required and enabled to provide an annual audit opinion on assurance.
- To ensure that effective procedures are in place to investigate promptly any suspected fraud, irregularity or malpractice.

...

Appendix 8

**PART 7
CONSULTATIVE AND ADVISORY
FORA**

Contents

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Ceredigion County Council Constitution PART 8 Consultative and Advisory Fora
Section 1 Consultative and Advisory Fora
Updated January 2021

Section 1 Consultative and advisory fora [statutory and non-statutory]

A - Statutory

Standing Advisory Council on Religious Education S.A.C.R.E.

Background: Established by Council's Education Committee on 2 February 1996 in accordance with the Education Reform Act 1988 and the Education Act 1993 [paras. 88:1 and 2 of Welsh Office Circular 10/94 and Chapter 3 of the Education Act 1996 also refer].

Its main function is to advise the LEA on matters related to Collective Worship in community and other schools and to advise on the religious education given in accordance with their Agreed Syllabus. It can also support effective provision of RE and Collective Worship by way Of:

- Giving advice on methods of teaching agreed syllabus RE including choice of teaching materials
- Advising the LEA on the provision of training for teachers
- Monitoring inspection reports on RE, Collective Worship and Spiritual, Moral, Social and Cultural Development
- Considering complaints about the provision and delivery of Religious Education and Collective Worship referred to it by the LEA.

Council Representation: 5 Councillors (politically balanced and non executive)

Schools Admissions Forum

Background: The Schools Admissions Forum was established by Cabinet on 21 October 2003 [Minute C278 refers]. The Education (Admission Forum)(Wales) Regulations 2003 implement the relevant Section of the Schools Standards and Framework Act 1998 and require the Council, as LEA, to establish an admissions forum. The principal function of the Forum is to advise on issues relating to pupil admission and the effectiveness of policies and processes.

Cabinet/Council Representation: Leader of the Council, Cabinet Member for Learning Services, Children and Young People's Partnership, Chairman of the Learning Communities Overview and Scrutiny Committee,

Schools Budget Forum

Background: The Schools Budget Forum was established by Cabinet on 21 October 2003 [Minute C278 refers]. Section 43 of the Education Act 2002 requires the Council, as LEA, to establish a schools forum, with the LEA required to consult the Forum, at least annually, on prospective revisions to its scheme for financing schools and in respect of any other issues that affect maintained schools directly or indirectly through their impact on schools budgets.

Cabinet/Council Representation: Leader of the Council, Cabinet Member for Learning Services, Children and Young People's Partnership, Chairman of the Learning Communities Overview and Scrutiny Committee.

Local Access Forum

Background: The Ceredigion Local Access Forum was established by Cabinet on 26 February 2002 [Minute C750 refers] in accordance with the Countryside and Rights of Way Act 2000 [CROW Act] to provide advice to the Council, the Countryside Council for Wales and others as appropriate as to the improvement of public access to land in the area for the purposes of open-air recreation and the enjoyment of the area in ways which take account of land management, social, economic, environmental and educational interests.

Cabinet/Council Representation: Cabinet Member for Economy and Regeneration.

B – Non-statutory

School Review Panel

Background: Established by the Cabinet in accordance with the Primary School Review Policy, up-dated in January 2010, to undertake reviews for recommendation to the Cabinet.

Cabinet/Council Representation: Cabinet Member for Learning Services, Children and Young People's Partnership, Chairman of the Learning Communities Overview and Scrutiny Committee and two elected Members appointed by the Cabinet.

Education Transport Appeals Panel

Background: established to enable parents to appeal against a decision to refuse to provide transport for their children from home to school.
Council representation: 4 Councillors politically balanced and non executive

Corporate Employee Forum

Background: established by the Cabinet on 7 March 2006 as the corporate forum for consultation and negotiation with the recognised trade unions.

Cabinet Representation: Leader and Deputy Leader of the Council.

Aberaeron, Aberystwyth and New Quay Harbour Users Committees

Background: The Harbour Users Consultative Committees were established by the Council in 1996 as a forum for consulting with the users of the three harbours and now report to Cabinet following the adoption of the Leader and Cabinet executive arrangements in May 2003.

Cabinet/Council Representation: Cabinet Member for Highways and Environmental Services, and relevant Local Members.

Ceredigion Traffic Management Consultative Forum

Background: The Traffic Management Consultative Forum is a forum for consulting local stakeholders on traffic management issues and reports to Cabinet. The Forum will be convened on a biannual basis to discuss County wide matters.

Cabinet / Council Representation: Cabinet Member for Highways and Environmental Services, Chairman of the Thriving Communities Overview and Scrutiny Committee and relevant Local Members.

Ceredigion 50+ Forum

Background: The 50+ forum was established by the Cabinet and the PSB in order to represent the voice of the older people (50+) within the County and to enable them to have a voice in developing strategies and services.

Cabinet/Council Representation: Cabinet Member Porth Gofal Targeted Intervention Service

Development Control Committee - Site Inspection Panel

Background: The Site Inspection Panel was established by the Development Control Committee to undertake visits to sites which are the subject of planning applications, prior to the Committee making a decision, in order to identify features of a proposal which may be difficult to convey in a written report.

Functions:

- Fact finding exercises;
- Not part of the formal consideration of the application (therefore public rights of attendance do not apply);
- To enable officers to point out relevant features;
- To enable questions to be asked on site for clarification. However, discussion on the application will only take place at the subsequent Committee or Council as all relevant parties may not attend on site.
- The Committee is not bound by any recommendations made.

Council representation: Five members to comprise the Chairman and Vice-Chairman of the Committee, the Immediate Past Chairman of the Committee and two other members on a monthly rota basis.

Non Domestic Rates Hardship and Council Tax Discretionary Relief Appeals Panel

Background: The Non Domestic Rates Hardship and Council Tax Discretionary Relief Appeals Panel has been established to determine appeal applications by citizens against a decision to refuse Non-domestic Hardship relief or Council Tax Discretionary Relief.

Council Representation: 7 Members on a rota basis (3 per Panel meeting)

Section 2 Internal Policy Development / Monitoring Groups

Development Group

Background: Considers where future investment should be focussed in order to deliver the Council's objectives and priorities.

Cabinet/Council Representation: Leader; Deputy Leader; Cabinet Member Economy & Regeneration; Cabinet Member Finance & Procurement

Capital Monitoring Group

Background: The Capital Monitoring Group is a working group charged with monitoring the progress of the capital programme and making recommendations on any in-year revisions to Cabinet.

Council Representation: Cabinet Member Finance & Procurement.

Corporate Public Transport Unit (CPTU) Members Reference Group

Background: The Corporate Transport Unit Members reference group was established to meet the statutory requirements in relation to the provision of education and social services transport and in the preparation of policies in relation to integrated transport and traffic reduction; and to advise the Council with respect to any discretionary functions including

- To specify transport services
- To procure and monitor transport services
- The group is defined as a reference group:

Cabinet Representation: Cabinet Member for Learning Services, Children and Young People's Partnership Cabinet Member for Highways and Environmental Services, , Cabinet Member for Porth Gofal Targeted Intervention Service.

Housing Renovation Grants Panel

Background: The Housing Renovation Grants Panel was established to review the current renovation grants policy and to make recommendations to Cabinet and Council in respect of amendments/improvements to the policy.

Cabinet Representation: Deputy Leader of the Council and the Cabinet Member for Porth Gofal Targeted Intervention Service and Cabinet Member Highways and Environmental Services with Housing

Corporate Parenting Group

Background: established in order to plan and commission services for Looked After Children.

Cabinet Representation: Cabinet Member Schools & Culture Services & Porth Cymorth Cynnar.

Local Operational Group (LOG) Safeguarding

Background: Local Operational Group established as part of the Mid & West Wales Regional Safeguarding Board with a remit regarding performance and practice in relation to safeguarding (through age) in Ceredigion.

Cabinet Representation:

Ceredigion Strategic Safeguarding Board (Children & Adults)

Background: Corporate Strategic responsibility for safeguarding for children and adults.

Cabinet Representation: Cabinet Member Porth Cynnal Specialist Through Age Services & Culture; Cabinet Member Schools and Culture Services & Porth Cymorth Cynnar; Cabinet Member for Porth Gofal Targeted Intervention

Corporate Equalities ~~Panel~~ Working Group

Background: Established by the Cabinet in order to monitor, coordinate, review and develop the corporate equalities policies. Revised in 2012 in order to progress the Strategic Equality Plan.

Cabinet Representation: Leader of the Council (Chair)

Welsh Language Consultative Committee

Background: Established in order to oversee the implementation of the Welsh Language Standards

Cabinet Representation: Leader of the Council and other Members as appointed.

Emergency & Business Continuity Management Group

Background: Established to oversee and develop the Council's Business Continuity Plan.

Cabinet Representation: Leader of the Council; Cabinet Member Finance & Procurement

Cross Party Transformation and Efficiency Group

Background: Established to consider all aspects of the Councils' Transformation programme and activity centred around the long-term vision and supporting objectives of the Council.

Cabinet/Council Representation: 10 Members, politically balanced including Group Leaders and/or their representatives. Overview and Scrutiny Committee Chairs are invited to attend as non-voting observers.

Cross Party Constitution Working Group

Background: Established to consider proposed amendments to the Constitution and make appropriate recommendations to Council. Also receives confirmation of any minor amendments to the Constitution, as made by the Monitoring Officer

Council Representation: 7 Members, politically balanced, including the relevant portfolio Member as Chair.

Section 3 Partnerships within Ceredigion

Ceredigion Youth Justice and Prevention Service [YJS] Management Board (Statutory)

Background: established in accordance with the Crime and Disorder Act 1998 to implement arrangements to reduce offending by young people.
Cabinet/Council Representation: None

Ceredigion Public Services Board (PSB) (formerly Local Service Board (LSB))

Background: The Well-being of Future Generations (Wales) Act 2015 gives a legally-binding common purpose of seven Well-being goals and five ways of working designed to support and deliver a public service that meets the needs of the present without compromising the ability of future generations to meet their own needs. The Act also puts a Well-being duty on specified public bodies (that includes Ceredigion County Council) to act jointly and establish statutory Public Services Boards (PSB) for each local authority area in Wales. Each PSB must improve the economic, social, environmental and cultural Well-being of its area by contributing to the achievement of the Well-being goals.
Cabinet Representation: Leader of the Council, Chief Executive.

Community Safety Partnership ('CSP')

Background: a partnership forum within the PSB structure. Formed in 1999 following the Crime and Disorder Act 1998, membership of the Community Safety Partnership was further extended by the Police Reform Act, 2002, and the Policing & Crime Act, 2009, to include Local Health Boards, Police Authorities and Fire and Rescue Services Authorities, and Probation Service.
The Partnership has an ongoing duty to conduct a crime and disorder assessment. It also develops, implements, monitors and reviews a multi-agency plan to reduce crime and disorder.
The Partnership considers reports from various strategic boards, which also work towards reducing crime and disorder in specific areas.
Cabinet Representation: ~~None~~ Cabinet Member with responsibility for Porth Gofal Targeted Intervention, Early Intervention, Wellbeing Hubs and Culture Services Portfolio.

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Ceredigion CONTEST Board

Background: A multi-agency CONTEST Board, which considers local requirements and implications relating to the 4 Ps, but specifically focusses on local response to the Prevent requirement. The CONTEST Board reports to the Regional CONTEST Board and the Ceredigion Community Safety Partnership.
Cabinet representation: None

Ceredigion Channel Panel (Statutory)

Background: A local operational multi-agency partnership implementing Channel activities and duties. Ceredigion County Council co-ordinates and chairs the Channel Panel, receives referrals on individuals vulnerable to being drawn into terrorism, and draws up a multi-agency intervention support plan, if necessary. The Channel Panel reports to the Ceredigion CONTEST Board (see above), Regional Safeguarding Board and the local Operations Group (CYSUR).

Cabinet representation: None

Mid & West Wales Regional Safeguarding Board

Background: The regional arrangements were established to meet the requirements of the Social Services and Well-being (Wales) Act 2014 and aim to develop safeguarding practice across the region

Cabinet Representation: None

Ceredigion Youth Council

Background: Ceredigion Youth Service established the Ceredigion Youth Council in 2015 in order to ensure that young people in Ceredigion have the opportunity to voice their opinions in a public forum on various matters that have an effect on them in Ceredigion and its members include representatives from the seven Secondary Schools in the County, Ceredigion Training, Coleg Ceredigion and other various organisations/~~establishments~~~~establishments~~ (e.g Urdd Gobaith Cymru, Scouts Club and Young Farmers Clubs etc.). Minutes are presented to Cabinet.

Cabinet representation: None

Section 4 Regional Partnerships/Fora/Consortia/Joint Committees

Trafnidiaeth Canolbarth Cymru (TraCC)

Background: This Joint Committee with Powys County Council was established in order to develop, monitor and review a Regional Transport Plan following a period as a regional consortium.

Cabinet/Council Representation: Cabinet Member for Highways and Environmental Services, and Cabinet Member for Economy and Regeneration.

Central and South West Wales Regional Partnership Board

Background: Set up by Welsh Government Association for strategic collaboration working between Ceredigion, Powys and Gwynedd County Councils.

Cabinet/Council Representation: Leader and Chief Executive.

Central Wales Infrastructure Collaboration

Background: This is a Joint Committee with Powys County Council which meets as required.

Cabinet Representation: and Cabinet Member Highways and Environmental Services with Housing

~~Education through Regional Working E.R.W.~~

~~Background: Consortia established in order to progress collaboration in education by the Carmarthenshire, Powys, Ceredigion, Pembrokeshire, Neath Port Talbot and Swansea Councils and operating subject to joint committee Legal Agreement.~~

~~Cabinet/Council Representation: Leader of the Council or Cabinet member for Learning Services;~~

~~E.R.W. Scrutiny Councillors Group; Chair and Vice-Chair of Learning Overview and Scrutiny Committee~~

Supporting People - Mid and West Wales Regional Collaborative Committee

Background: This is a Multi-Sectoral Regional Collaborative Committees (RCCs) established in August 2012 to ensure the efficient and effective collaborative delivery of housing related support on a regional and local level; in accordance with National Supporting People Guidance.

Cabinet/Council Representation: Cabinet Member for Porth Gofal Targeted Intervention Service and Cabinet Member Highways and Environmental Services with Housing Cabinet Member for Finance and Procurement and Public Protection Services

Area Planning Board for Substance Misuse

Background: Dyfed Area Planning Board (APB) is a multi –Agency Partnership responsible for supporting the planning, commissioning and performance management of Substance Misuse services.
The statutory responsible authorities are Dyfed-Powys Police, Ceredigion, Carmarthenshire and Pembrokeshire Local Authorities, Hywel Dda Local Health Board, HM Prisons & Probation Service, and Mid and West Wales Fire & Rescue Service. Public Health Wales, the Youth Justice & Prevention Service, and the Dyfed-Powys Police and Crime Commissioners Office are non- statutory responsible authorities.
The APB structure comprises an Executive, underpinned by a Strategy Delivery Group, and a Performance and Finance Group.
Council Representation: Corporate Lead Officer Policy, Performance and Public Protection

Growing Mid Wales Partnership (GMW)

Background: The GMW Partnership is the regional economic partnership covering the geographical footprint of Ceredigion and Powys. The purpose is to seek development of the Mid Wales economy.
Cabinet/Council Representation: Leader of the Council; Cabinet member for Economy & Regeneration; Cabinet Member for Finance & Procurement

West Wales Care Partnership (WWCP)

Background: This Partnership was established as a result of the Social Services (Wales) Act 2014 (SSWBA) in relation to establishment and maintenance of pooled fund budget arrangements, and defined in the Partnership Arrangements (Wales) Regulations 2015. The Local Authorities involved in the partnership include Ceredigion, Pembrokeshire and Carmarthenshire. The partnership operates in accordance with inter-authority agreements, in collaboration with Hywel Dda Health Board
Council Representation: Statutory Director for Social Services.

B Member Champions

Member Champions are appointed to the following areas

Subject Area
Older People 50+
Equalities
Sustainability
Safeguarding
Biodiversity
Carers
Combating Poverty
Children and Young People
Armed Forces
Diversity
Learning Disabilities
Public Health
Mental Health
Members Development
Health & Safety
Anti-Slavery and Ethical Employment
Domestic Violence
Digital

Appendix 9

G DELEGATIONS TO THE CORPORATE LEAD OFFICER POLICY, PERFORMANCE & PUBLIC PROTECTION

The following functions are to be delegated to the Corporate Lead Officer Policy, Performance & Public Protection including Strategic Partnerships, Engagement and Equalities, Complaints, Compliments and Freedom of Information, Public Protection Services, (including Environmental Health, Animal Health, Food Safety and Trading Standards, Licensing and related activities), Corporate Performance, Research, Policy and counter-terrorism, - and to any officers authorised by the relevant Corporate Lead Officer from time to time as appropriate subject to such officers being suitably qualified for the discharge of those duties and functions. These powers can also be exercised by the Chief Executive and Corporate Directors as necessary.

Freedom of Information and Complaints

1. To make suitable and appropriate payments in settlement of complaints against the Council and in local settlement of Ombudsman complaints, such payments to be made from the appropriate budget following consultation with the appropriate Head of Service and Cabinet Member.
2. To take all appropriate action in relation to Reports by virtue of sections 16,17 and 21 of the Public Services Ombudsman (Wales) Act 2005.
3. To act as the “qualified person” for the purpose of Section 36 of the Freedom of Information Act 2000.
4. To undertake all relevant operational duties, responsibilities and functions contained in legislation or otherwise falling to Policy and Performance support to implement.

Public Protection Services

1. To take all appropriate action in respect of all functions defined under Section 270 of the Local Government Act 1972 and in respect of the following legislation (including any associated subsequent legislation):-
 - Food Safety Act 1990;
 - Health Act 2006;
 - Local Government Act 1972 - sec 25, 112, 204, 213 and 234;
 - Public Health Acts 1936 and 1961;
 - Public Health (Wales) Act 2017;
 - Public Health (Minimum Price of Alcohol) (Wales) Act 2018; and

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- Wild Animals and Circuses (Wales) Act 2020.

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2. Definitions

2.1 For the purpose of the matters dealt with in this arrangement, the Corporate Lead Officer means the Corporate Lead Officer Policy, Performance & Public Protection.

2.2 Any reference to an Act in these arrangements includes a reference any amendment thereto or re-enactment thereof or any secondary legislation under it.

3. General Delegation- Specific Powers

3.1 The Corporate Lead Officer (having consulted with the relevant Cabinet Portfolio Holder where necessary and appropriate) is authorised to take any action necessary to protect or promote the Council's interests, subject to the restrictions noted in Part A above.

3.2 Without prejudice to the generality of the above provisions, this includes exercising his/her professional judgement to take such decisions as are necessary to implement the Council's policies and to promote the management and delivery of the services which are his/her responsibility.

3.3 Any powers granted to the Corporate Lead Officer Policy, Performance & Public Protection may be discharged either in his/her absence by such officer(s) as may be authorised by him/her or in accordance with any general instructions or provisions made by him/her. In the absence of the Corporate Lead Officer Policy, Performance & Public Protection, any officer appointed by him/her to deputise on his/her behalf may also authorise the exercise of the delegated powers. Such authorisations may be granted to persons who are not officers of the Council in agreement with the relevant persons employing authority or organisation. If no such authority has been granted prior to the absence of the Corporate Lead Officer, then the Chief Executive or Corporate Director may authorise such other officer(s) or persons as she/he thinks fit to exercise the powers of the absent Corporate Lead Officer.

3.4 The Corporate Lead Officer may authorise his/her staff to exercise such powers as necessary to enter or inspect any land, buildings or properties and to provide any evidence or authority as necessary for discharging their duties in accordance with the Council's statutory powers.

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

3.6 In relation to matters reserved to the Council, the Cabinet or other Committee or Sub-Committee, if the matter is urgent, the Corporate Lead Officer will be permitted to act in between meetings, in consultation with the

relevant Cabinet Portfolio Holder or Chair/Vice Chair of the relevant regulatory committee as appropriate, on condition that any such action is consistent with the Council's general policies and that, if appropriate, a report on the action taken is presented to the next meeting of the Council, the Cabinet, Committee or Sub-Committee.

3.7 To determine the appointment of officers for specified purposes to undertake work as inspectors, proper officers, or other similar designations contained in existing or future legislation.

3.8 The Corporate Lead Officer Policy, Performance & Public Protection is authorised to act in relation to procurement and contracts within the approved budget and in accordance with the Contract Standing Orders including the power to remove contractors from the approved lists, where there has been a failure to meet Council criteria.

3.9 The Corporate Lead Officer Policy, Performance & Public Protection is authorised to act on financial matters, in accordance with the relevant Financial Regulations.

3.10 The Corporate Lead Officer Policy, Performance & Public Protection is authorised for the issuing of determinations, consents, licences or notices on behalf of the Council.

3.11 Authority to undertake work or provide services to third parties subject to resources being available, to there being no adverse impact on the provisions of Council operations, and appropriate charges being levied.

4 Proper Officer Responsibilities

The Corporate Lead Officer is designated Proper Officer for Ceredigion County Council in relation to the following matters:

4.1 Public Health (Control of Disease) Act 1984 (as amended by the Health and Social Care Act 2008) and any subordinate Regulations or legislative provisions : To act as Proper Officer on behalf of Ceredigion County Council and authorise and delegate competent persons as necessary to act on behalf of the Council.

4.2 Proceeds of Crime Act 2002:- Senior Responsible Officer

5 Specific powers and duties

5.1 To act on a day to day basis and within the scheme of delegation in the following areas

a) Licensing and Licensing Enforcement.

b) Proper maintenance of land.

c) Public Protection Services, including Environmental Health, Trading Standards, Animal Health, Food Safety and Feed Standards, Food Fraud Health and Safety Enforcement, Environmental Control and nuisance.

d) Public Health Protection, including infectious Disease Control.

e) Community Warden Services including Pest Control

5.2 To exercise all the Council's powers relating to Public Protection and regulatory activity and any which become the Council's responsibility in future.

5.3 Authorisation to appoint inspectors under the Health and Safety at Work Act etc. 1974.

5.4 The power to exercise enforcement powers in relation to Public Protection, regulatory or environmental offences arising in any one of the areas listed below (including ~~steps which~~ steps, which may be deemed necessary to prevent offences, educate and issue fixed penalty notices)

-Environmental Protection

- Public Protection

- Dog Fouling

- Litter

- Anti-social behaviour

-Removal and Disposal of Vehicles

-Refuse Disposal

-Clean Neighbourhoods

-The Control of Pollution

-Smoking in ~~enclosed~~ public places and other locations ~~or vehicles~~ where restrictions apply.

-Display of Food Hygiene Ratings

-Age and alcohol minimum pricing restricted sales

- Dangerous Trees

- Wild animals and circuses, including travelling circuses

5.5. To exercise the Council's functions relating to environmental health matters.

5.6. Authorised to Act as an Authorised and Authorising Officer for the purposes of the Regulation of Investigatory Powers Act 2000, the Monitoring Officer as Senior Responsible Officer, to be notified of any such application.

5.7. Authorised to Act as Authorising Officer for the purposes of the Protected Food Name Scheme: The Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018.

5.8 To issue licences in accordance with the Firework Regulations 2004.

5.9 To grant and renew both Hackney Carriage and Private Hire Drivers Licences, except where an applicant or existing licence holder has previous

criminal convictions recorded against them, then the Chair/ Vice Chair of the Council's Licensing Committee will be consulted to confirm whether or not the matter be referred to the Licensing Sub-Committee for determination.

- 5.10 To suspend a Hackney Carriage Vehicle and/ or Drivers Licence or Private Hire and /or Drivers Licence, where it is considered immediate action should be taken in the public interest, the Chairman/Vice Chair of the Council's Licensing Committee will be notified of such action.
- 5.11 To exercise powers in respect of the Control of Horses (Wales) Act 2014.
- 5.12 To act as Proper Officer for the management of outbreaks of notifiable infectious and communicable disease and to appoint and authorise Alternative Proper Officers to act on behalf of the authority in respect of legislative provisions relating to the prevention and control of outbreaks of disease or infection6.21. To sign issue and serve Statutory Notices under all relevant legislation listed below together with all future legislation within the remit of Policy & Performance including requisitions for information.
- 5.13 To initiate and make arrangements for the execution of works in default in the event of any non-compliance or contravention of the terms of any Statutory Notice served under delegated powers.
- 5.14 To instruct the Legal Services in relation to proceedings for non-compliance with any provision of legislation falling to Policy & Performance to enforce.
- 5.15 To undertake all relevant operational and administrative duties, responsibilities and functions contained in legislation or otherwise falling to Policy, Performance & Public Protection to implement.
- 5.16 To undertake inspections, investigations, interviews, sampling, prohibitions, seizures, detentions, recording, monitoring (the issue of fixed penalty notices), service of notices, (including suspension notices), notifications, waivers, transfers, authorisations, licensing, registrations and legal proceedings under any legislation that falls within the remit of Policy & Performance, together with any regulations made thereunder, and any amendments or additions thereto together with all future legislation within the remit of Policy, Performance & Public Protection and to exercise all other relevant powers, including powers of entry provided under such legislation.
- 5.17 To undertake all duties relating to Public Health (Coronavirus) associated legislation, as amended, including but not limited to:
 - 5.17.1 The Health Protection (Coronavirus Restrictions) (Wales) Regulations; and
 - 5.17.2 The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities) (Wales) Regulations.

5.18 To exercise the Council's powers, duties and functions relating to the Crime and Disorder Act 1998, the Counter Terrorism and Security Act 2015 and the CONTEST strategy.

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Appendix 10

J DELEGATIONS IN RESPECT OF CORPORATE LEAD OFFICER PORTH CYNNAL SPECIALIST THROUGH AGE SERVICES (STATUTORY DIRECTOR OF SOCIAL SERVICES/RESPONSIBLE INDIVIDUAL) AND CORPORATE LEAD OFFICER PORTH GOFAL TARGETED INTERVENTION (DEPUTY DIRECTOR OF SOCIAL SERVICES)

STATUTORY DIRECTOR OF SOCIAL SERVICES

- The Corporate Lead Officer Porth Cynnal Specialist Through Age Services is designated and appointed
 1. Statutory Director of Social Services in accordance with Section 6 of the Local Authority Social Services Act 1970. The role and accountabilities of the Director of Social Services is set out in the Protocol , “ Role and Accountabilities of the statutory Director of Social Services “which is (Document P) in Part 5 of this Constitution. The Protocol was formally adopted by the Council on 23/1/18
 2. Authorised to Act as an Authorised and Authorising Officer for the purposes of the Regulation of Investigatory Powers Act 2000, the Monitoring Officer as Senior Responsible Officer, to be notified of any such application.
 - 2.3. To exercise the Council’s powers, duties and functions relating to the Channel Panel under the Counter Terrorism and Security Act 2015 including designation of appropriate Officers to be Channel Chair and Deputy Channel Chair.
- The Corporate Lead Officer Porth Gofal Targeted Intervention is the designated Deputy Director of Social Services.
- The following functions are to be delegated:
 - to the Corporate Lead Officer Porth Cynnal Specialist Through Age Services,
 - Corporate Lead Officer Porth Gofal Targeted Intervention.
 - and in their absence to any officers duly authorised by the said Corporate Lead Officers from time to time as appropriate subject to such officers being suitably qualified for the discharge of those duties and functions:-

1. Social Services

Local Authority Social Services Act 1970 Schedule 1

Social Services Functions

ENACTMENT	NATURE OF FUNCTIONS	NOTES
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Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
 PART 3.5 J Delegations to the CLO Porth Gofal Targeted Intervention and CLO Porth Cynnal Specialist Through Age Services
 Updated January 2021

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Children and Young Persons Act 1933

Part III	Protection of the young in relation to criminal and summary proceedings; children appearing before court as in need of care, protection or control; committal of children to approved school or care of fit person, etc.	Still in force
Part IV	Remand homes, approved schools and children in care of fit persons	Still in force

National Assistance Act 1948

Sections 21 to 27	Provision of residential accommodation for the aged, infirm, needy, etc.	s.21, 23, 24 & 26 still in force s.22 in force but to be Repealed s.25 & 27 Repealed
Sections 29 and 30	Welfare of persons who are blind, deaf, dumb or otherwise handicapped or are suffering from mental disorder; use of voluntary organisations for administration of welfare schemes	Still in force
Sections 43 to 45	Recovery of costs of providing certain services	s.43 and 45 in force s.44 Repealed
Section 48	Temporary protection of property belonging to persons in hospital or accommodation provided under Part III of the Act, etc.	Still in force
Section 49	Defraying expenses of Local Authority officer applying for appointment as deputy for certain patients	Still in force
Section 56(3) except so far as it relates to an offence under section 47(11)	Prosecution of offences	Still in force

Disabled Persons (Employment) Act 1958

Section 3	Provision of facilities for enabling disabled persons to be employed or work under	Still in force
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Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
PART 3.5 J Delegations to the CLO Porth Gofal Targeted Intervention and CLO Porth Cynnal Specialist Through Age Services
Updated January 2021

special conditions

Mental Health Act 1959

Section 8	Welfare and accommodation of mentally disordered persons	In force but to be repealed
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Mental Health (Scotland) Act 1984

Section 10	Welfare of certain person while in hospital in Scotland	Still in force
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Health Visiting and Social Work (Training) Act 1962

Section 5(1)(b)	Research into matters relating to Local Authority welfare services	Act repealed
Section 5(1)(c)	Research into matters relating to functions of Local Authorities	Act repealed

Children and Young Persons Act 1963

Part I	Powers relating to young persons in need of care, protection or control; further provisions for protection of the young in relation to criminal proceedings	Sections dealing with Social Services functions repealed
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Health Services and Public Health Act 1968

Section 45	Promotion of welfare of old people	Still in force
Section 65	Financial and other assistance to voluntary organisations	Still in force

Social Work (Scotland) Act 1968

Sections 75(2)	Reference for consideration, etc. of and 76(4) case of child in care whose parent moves to Scotland and transfer of child	s.75 & 76 repealed
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Children and Young Persons Act 1969

The whole Act except section 9 in so far as they assign functions to a Local Authority in their capacity of a local education authority	Care and other treatment of children and young persons through court proceedings	Some sections (s.9, for example) dealing with Social Services functions still in force
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Chronically Sick and Disabled Persons Act 1970

Section 1	Obtaining information as to need for and publishing information as to existence of, certain welfare services	Still in force
Section 2	Provision of certain welfare services	Still in force
Section 18	Provision of certain information required by Secretary of State	In force but to be repealed

Local Authority Social Services Act

Section 6	Appointment of Director of Social Services in Wales	s.6 still in force
Section 7B	Provision and conduct of complaints procedure	s.7B in force but to be repealed

Adoption Act 1976

Functions continuing to be exercisable by virtue of any transitional or saving provision made by or under the Adoption and Children Act 2002	Sections dealing with Social Services functions repealed
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Children Act 1975

Part II	Application by Local Authority for revocation of custodianship order; Inquiries carried out by Local Authority in custodianship cases	Repealed
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Supplementary Benefits Act 1976

Schedule 5	Provision and maintenance of [resettlement units] for persons without a settled way of living	Repealed
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National Health Service Act 1977

Schedule 8	Care of Mothers and young children; prevention, care and after-care; home help and laundry facilities	Still in force but now contained in Schedule 15 of the National Health Service (Wales) Act
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2006		
Residential Homes Act 1980		
Sections 1 to 7	Registration of disabled or old persons' homes and residential homes for mentally disordered persons	Repealed
Mental Health Act 1983		
Parts II, III and VI	Welfare of the mentally disordered; guardianship of persons suffering from mental disorder including such persons removed to England and Wales from Scotland or Northern Ireland; exercise of functions of nearest relative of person so suffering	Still in force
Sections 66, 67, 69(1)	Exercise of functions of nearest relative in relation to applications and references to Mental Health Review Tribunals	Still in force
Section 114	Appointment of approved social workers	Still in force
Section 115	Entry and inspection	Still in force
Section 116	Welfare of certain hospital patients	Still in force
Section 117	After-care of detained patients	Still in force
Section 130	Prosecutions	Still in force
Health and Social Services and Social Security Adjudications Act 1983		
Section 17, so far as relating to services provided under the enactments mentioned in subsection (2)(a) to (c)	Charges for Local Authority welfare services	Still in force
Public Health (Control of Disease) Act 1984		

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Section 46

Burial or cremation of person under Part III of the National Assistance Act 1948, and recovery of expenses from the estate

Still in force

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Housing Act 1996 Section 213(1)(b)

Co-operation in relation to homeless persons and persons threatened with homelessness	Still in force
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Disabled Persons (Services, Consultation and Representation) Act 1986

Sections 1 to 5, 7 and 8 except in so persons far as they assign functions to a Local Authority in their capacity as a local education authority	Representation and assessment of disabled persons	Still in force
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Housing (Scotland) Act 1987

Section 38(b)	Co-operation in relation to homeless persons and persons threatened with homelessness	Still in force
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Children Act 1989

The whole Act in so far as it confers functions on a Local Authority within the meaning of that Act	Welfare reports Consent to application for residence order in respect of child in care Functions relating to special guardianship orders Family assistance orders Functions under Part III of the Act (Local Authority support for children and families) Protection of children Functions in relation to community homes, voluntary homes and voluntary organisations, private children's homes, private arrangements for fostering children, child minding and day care for young	Still in force
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children

Inspection of children's homes on behalf of Secretary of State

Research and returns of information

Functions in relation to children accommodated by Local Health Boards, Primary Care Trusts, National Health Service trusts and local education authorities or care homes, independent hospitals or schools

National Health Service and Community Care Act 1990

Section 46	Preparation of plans for community care services	Still in force
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Section 47	Assessment of needs for community care services	Still in force
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Education Act 1996

Section 322	Help for local education authority in exercising functions under Part III of the Act	Still in force
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Carers (Recognition and Services) Act 1995

Section 1	Assessment of ability of carers to provide care	Still in force
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Community Care (Direct Payments) Act 1996

	Functions in connection with the making of payments to persons in respect of their securing the provision of community care services or services under the Carers and Disabled Children Act 2000	Repealed by the Health and Social Care Act 2001 but repeal not yet in force
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Adoption (Intercountry Aspects) Act 1999

Sections 1 and 2(4)

Still in force

Functions under regulations made under section 1 giving effect to the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, concluded at the Hague on 29 May 1993 and functions under Article 9(a) to (c) of the Convention

Carers and Disabled Children Act 2000

The whole Act, in so far as it confers functions on a Local Authority within the meaning of that Act

Assessment of carers' needs
Provision of services to carers
Provision of voucher

Health and Social Care Act 2001

Part 4 in so far as it confers functions on a Local Authority in England or Wales within the meaning of that Part

Functions in relation to the provision of residential accommodation
Making of direct payments to person in respect of his securing provision of community care services or services to carers

Part 4 is in force, apart from section 56 which is in force in so far as conferring any power to make an order or regulations which is exercisable by the Secretary of State, not in force otherwise s.56 deals with regulations that may make provision for a LA to make arrangements for residential accommodation in Scotland, N. Ireland, Channel

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islands or Isle of Man

Adoption and Children Act 2002

Maintenance of Adoption Service; functions of Local Authority as adoption agency Still in force

Community Care (Delayed Discharges etc.) Act 2003

Part 1 Functions relating to hospital patients likely to need community care services to be made available in order to be discharged safely Not yet in force in Wales

Health and Social Care (Community Health and Standards) Act 2003

Section 114 Consideration of complaints In force but Schedule not yet amended to refer to it

Carers (Equal Opportunities) Act 2004

Section 3, in so far as it confers functions on a Local Authority within the meaning of that section Co-operation between authorities Still in force

Children Act 2004

Sections 13 to 16 and 31 to 34 Functions relating to Local Safeguarding Children Boards Still in force NB Sections 31 to 34 apply only to Wales

Mental Capacity Act 2005

Section 39 Instructing independent mental capacity advocate before providing accommodation for person lacking capacity Still in force

Section 39A Instructing independent mental capacity advocate when giving an urgent authorisation, or making a request for a standard authorisation, under Schedule A1 to the Act Still in force

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
PART 3.5 J Delegations to the CLO Porth Gofal Targeted Intervention and CLO Porth Cynnal Specialist Through Age Services
Updated January 2021

Section 39C	Instructing independent mental capacity advocate when no representative for relevant person under Part 10 of Schedule A1 to the Act	Still in force
Section 39D	Instructing independent mental capacity advocate when representative for relevant person under Part 10 of Schedule A1 to the Act is not being paid	Still in force
Section 49	Reports in proceedings	Still in force
Schedule A1	Any functions	Still in force

Children and Young Persons Act 2008

Part 1	Making arrangements for the discharge of relevant care functions in relation to certain children and young persons	Still in force
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2. Strategic housing functions, housing standards and Homelessness prevention

The Corporate Lead Officer Porth Gofal Targeted Intervention also has the following delegated responsibilities

- 2.1 To have lead responsibility for the administration of the Common Housing Register for the allocation of social housing by Registered Landlords operating in the County.
- 2.2 To make nominations from the Housing Register to enable individuals to have access to the Private Sector, Registered Social Landlords and Social Lettings Agencies in accordance with Part 2 Housing Act 2014.
- 2.3 To approve applications for grants and loans and for supplementary amounts in accordance with legislation applicable at the time and in accordance with Council policy and practice at the time in consultation with the Cabinet Member.
- 2.4 To sign, issue and serve Statutory Notices under all relevant legislation including requisitions for information.
- 2.5 To make arrangements for and/or carry out the execution of works in default in the event of any non-compliance with the terms of any Statutory Notice
- 2.6 To secure temporary accommodation for the Homeless under Part 2 Housing Act 2014 and any other current and relevant legislation and/or regulation. To achieve this by entering in to agreements and tenancies with Private and Registered Social landlords and Social Lettings Agencies.
- 2.7 To undertake homeless reviews as required in accordance with Part 2 Housing Act 2014.
- 2.8 To grant waivers to mortgage lenders such as Building Societies in respect of the repayment of grant conditions relating to the Local Government and Housing Act 1989 grants in order to give the lending institutions the first charge on the value of the property should its sale be enforced following repossession in consultation with the Cabinet Member.
- 2.9 To enter into nomination agreements with private landlords on behalf of the Council in respect of the letting of units/flats created by conversion with discretionary grant assistance.
- 2.10 To determine whether to demand repayment of grant on the relevant disposal or transfer of a dwelling in instances which fall within the Council's Housing Grants and Loans Policy and/or Section 45(5) of the Housing

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
PART 3.5 J Delegations to the CLO Porth Gofal Targeted Intervention and CLO Porth Cynnal Specialist Through Age Services
Updated January 2021

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Grants Construction and Regeneration Act 1996 or the Grant Recovery General Consent of 1996 in consultation with the Cabinet Member.

2.11 Administer the provisions within S157 Housing Act 1985 in respect of the restriction placed on former rural housing stock.

2.12 In relation to the Housing Act 2004:

2.132.12.1 to make Management Orders and exercise powers of entry to carry our work (Section 131 of the Housing Act 2004);

2.142.12.2 to give notice to a relevant person requiring him / her to produce any documents under (section 235 of the Housing Act 2004 power to require documents to be produced)

2.152.12.3 to exercise a power of entry (section 239 Housing Act 2004 powers of entry)

2.162.12.4 to exercise a power of entry to carry out work (paragraph 25 of Schedule 7 of the Housing Act 2004 (Empty Dwelling Management Orders “EDMO’s”), and

2.172.12.5 to issue improvement notices for the purposes of exercising a power to enter to carry out work (paragraph 3(4) of Schedule 3 Housing Act 2004)

2.182.13 To make arrangements for the execution of works in default in the event of any non-compliance or contravention of the terms of any Statutory Notices arising under 2.11 above.

2.192.14 To instruct the legal section in relation to proceedings for non-compliance with any provision of legislation falling to the Corporate Lead Officer to enforce.

2.202.15 To determine housing grant and loan applications and to determine requests for additional discretionary payments as appropriate and which are within budget, in consultation with the relevant Cabinet Member

2.16 To manage and maximise the use of Social Housing Grants and other funding streams to assist the Authority in meeting both its statutory housing obligations and enable local housing needs to be met.

~~2.21 To determine and maximise the use of the Social Housing Grant and other funding streams to enable local housing needs to be met...~~

2.17 To implement and operate a management grant subsidy scheme for Registered Social Landlords operating within Ceredigion who assist with

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Homelessness temporary accommodation placements using their own housing stock.

2.18 To exercise powers and duties, and to authorise Officers, under the provisions of;

(a) The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015; and

(b) The Renting Homes (Fees etc.) (Wales) Act 2019 (including Regulations made thereunder).

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3. Specific powers and duties

The Corporate Lead Officer Porth Gofal Targeted Intervention (and any other Officer duly authorised by them) also has the following delegated responsibilities:

3.1 To act on a day to day basis and within the scheme of delegation in the following areas

- a) Housing (including the strategic housing function, affordable housing (including assisting and advising the Local Planning Authority in relation to S.106 agreements), specialist housing, prevention of homelessness/housing options, common housing register, home safety and Licensing of Houses in Multiple Occupation (HMO's)
- b) housing standards and renewals, landlord accreditation, home energy
- c) efficiency, Disabled Facilities Grants).

3.2 To exercise the Council's functions in relation to homelessness/housing options

3.3 To exercise the Council's functions in relation to unfit housing

3.4 To exercise the Council's functions in relation to houses in multiple occupation including the determination of applications for licences, to issue notices and to take enforcement proceedings as necessary.

3.5 To exercise the Council's enforcement powers in the private housing sector.

3.6 To exercise the Council's function in delivery of a common housing register.

3.7 To exercise the Council's function in relation to the delivery of affordable housing/ grant funding.

3.8 To approve or refuse and administer housing improvement/repair grant applications, housing loan schemes and Disabled Facilities Grants.

3.9 The power to exercise enforcement action in relation to anti-social behaviour, including steps necessary to prevent offences, educate and issue fixed penalty notices and, in consultation with the relevant Cabinet Member, to apply for and make an Order under the Anti- Social Behaviour Crime and Policing Act 2014.

3.10 To undertake enforced sales of properties

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Appendix 11 – Extract of:

Document B

ACCESS TO INFORMATION PROCEDURE RULES



Author and service:

Date approved by Council: 19 March 2019

Publication date:

Review Date:

Ceredigion County Council Constitution - Part 4 Rules of Procedure
PART 4 DOCUMENT B Access to Information Procedure Rules

~~Approved by Council 21 March 2019~~ Updated June 2021

1

1. SCOPE

These rules apply to all meetings of the Council, the Cabinet, Overview and Scrutiny Committees, the Ethics and Standards Committee, the Development Control Committee, the Governance and Audit Committee, the Licensing Committee and the Shortlisting Committee and any other public meetings.

Appendix 12 Extract of:

Document E – Overview and Scrutiny Procedure Rules, Constitution)

16. CALL-IN

16.1 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 2 working days of being made. Members will be sent copies of the records of all such decisions within 2 working days, by the person responsible for publishing the decision. (See Document D)

16.2 The decision 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 5 working days after the publication of the decision, unless the decision is called-in (see below).

16.3 A call-in is the referral of a decision made, but not yet implemented, to the relevant Overview and Scrutiny Committee. Call in powers relate to (executive) Cabinet functions. Any decision made by Cabinet or a key decision made by an officer under delegated authority from Cabinet may be called-in (subject to exceptions).

A decision can be called-in when Members:

- believe it may be contrary to normal requirements of decision-making
- believe it is contrary to the Council's agreed policy framework and/or budget
- need further information from the decision-maker to explain why it was taken.

16.4 A decision is deemed to have been called in when:

- any three members of the relevant Overview and Scrutiny Committee (“the Committee”) whose terms of reference relate to the Cabinet decision (as described in Article 6 of Part 2 of the Constitution), or
- six elected members of the Council, and the Chair of the Committee, object to it, and call it in by giving a valid call-in request to the Proper Officer-(Head of Democratic Services).

Continuation...

~~16.5~~ ~~16.4~~ On receipt of a valid Call-In request ~~During that period~~, the Proper Officer shall ~~call-in a decision for scrutiny by~~ convene a meeting of the ~~relevant~~ Scrutiny Committee on such date as the Proper Officer he/she may determine, where possible after consultation with the Chair of the Committee, ~~and in any case~~ within 8 working days of the decision to call-in. The Proper Officer He/She shall then notify the decision taker of the call-in.

16.6 A called-in decision cannot be implemented until it has been considered by the Committee.

16.7 If, following receipt of a valid call-in request ~~an objection to the decision~~, the Committee, having considered the decision, ~~either~~ but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Committee meeting.

~~16.2~~ 16.8 If, having considered the decision, the Committee is still concerned about the decision, then the Committee may refer the decision either

a) back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns and giving reasons
OR

b) to Council if the decision relates to the Council's policy framework or budget

16.9 If referred back to the decision maker, the decision-making person or body shall then reconsider the decision within a further 10 working days. Having reconsidered the decision, the decision-making person or body shall either confirm the decision, amend the decision or revoke the decision. The -decision is deemed to be final and will become effective immediately

Referrals to Council

~~16.3~~ 16.10 If a decision is referred to ~~full~~ Council by the Scrutiny Committee, a Council meeting shall be convened by the Proper Officer within 15 working days of the date of the Scrutiny Committee meeting.

Continuation...

16.11 If the Council does not meet within 15 working days the decision will become effective at the expiry of the 15 days from the Committee meeting.

16.12 If Council does meet within 15 working days, ~~it shall decide whether it objects to the decision or not~~

If Council:

a) does not object to ~~a the~~ decision ~~which has been made~~, then no further action is necessary, and the decision will be effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

b) does object to the decision; ~~the~~ Council will refer the any decision to which it objects back to the decision-making person or body, together with its the Council's views and reasons on the decision.

16.13 Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider the decision within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

~~16.4~~16.14 The decision-making body or person shall, having reconsidered the decision, choose to confirm, amend or revoke the original decision. The decision will be final and effective immediately.

-Urgent decisions

16.15 The call-in procedure set out above shall not apply where the decision being taken by Cabinet is certified as urgent in accordance with the Rules of Procedure Set out in the Constitution.

~~16.5~~16.16 A decision is deemed to will be urgent if ~~any~~ delay in the implementation of the decision likely to be caused by the call-in process would seriously

Continuation...

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.

16.17 Having taken the advice of the Monitoring Officer into account, the Chairperson of the Council must, agree 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 Chairperson, the Vice-Chairperson's consent shall be required. In the absence of the Vice Chairperson, the consent of the Chairperson of the Overview and Co-ordinating Scrutiny Committee is required. In the absence of all of the above the Chief Executive (Head of Paid Service) or the Monitoring Officer's consent shall be required.

~~16.6~~16.18 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

~~16.7~~16.19 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

Appendix 13

Document D

CABINET PROCEDURE RULES



Author and service:

Date approved by Council: 21 March 2019

Publication date:

Review Date:

Ceredigion County Council Constitution - Part 4 Rules of Procedure

PART 4 DOCUMENT D Cabinet Procedure Rules

~~Approved by Council 21 March 2019~~ Updated June 2021

1

1.1 WHO MAY MAKE CABINET DECISIONS?

The Leader will decide how Cabinet functions are discharged by:

- 1.1.1 the Cabinet as a whole;
- 1.1.2 a Committee of the Cabinet;
- 1.1.3 an individual member of Cabinet;
- 1.1.4 an officer;
- 1.1.5 joint arrangements; or
- 1.1.6 another local authority.

1.2 DELEGATION BY THE LEADER

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 of this Constitution. The document presented by the Leader will contain the following information about Cabinet functions in relation to the coming year:

- i. the names, addresses and electoral divisions of the people appointed to Cabinet by the Leader;
- ii. the extent of any authority delegated to Cabinet members individually, including details of the limitation on their authority;
- iii. the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
- iv. the nature and extent of any delegation of Cabinet functions to any other authority or any joint arrangements and the names of those Cabinet members appointed to any Joint Committee for the coming year; and

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

1.3 SUB-DELEGATION OF CABINET FUNCTIONS

- 1.1.7 Where the Cabinet, a Committee of the Cabinet or an individual member of Cabinet is responsible for a Cabinet function, they may delegate further by joint arrangements or to an officer.
- 1.1.8 Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then Cabinet may delegate further to a Committee of the Cabinet or to an officer.
- 1.1.9 Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- 1.1.10 Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated those functions.

1.4 THE COUNCIL'S SCHEME OF DELEGATION AND CABINET FUNCTIONS

- 1.4.1 Subject to 1.4.2 below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- 1.4.2 With the Leader being able to decide whether to delegate Cabinet functions, he/she may amend the scheme of delegation relating to Cabinet functions at any time during the year. To do so, the Leader must give written notice to the Proper Officer and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or Cabinet as a whole. The Proper Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- 1.4.3 Where the Leader seeks to withdraw delegation from a Committee of the Cabinet, notice will be deemed to be served on that Committee when he/she has served it on its Chairperson.

1.5 CONFLICTS OF INTEREST

- 1.4.4 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- 1.4.5 If every member of Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution and in consultation with the Monitoring Officer.
- 1.4.6 If the exercise of a Cabinet function has been delegated to a Committee of the Cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Local Code of Conduct for Members in Part 5 of this Constitution and in consultation with the Monitoring Officer.

1.6 CABINET MEETINGS – WHEN AND WHERE?

The Cabinet will meet at least 10 times per year, at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices at Neuadd Cyngor Ceredigion, Penmorfa, Aberaeron, or another location to be agreed by the Leader.

1.7 PUBLIC OR PRIVATE MEETINGS OF THE CABINET?

All meetings of the Cabinet will be open to the public subject to the Access to Information Rules in Part 4 of this Constitution.

1.8 QUORUM

The quorum for a meeting of the Cabinet, or a Committee of it, shall be 3 including the Leader or Deputy Leader.

1.9 HOW ARE DECISIONS TO BE TAKEN BY THE CABINET?

- 1.9.1 Cabinet decisions which have been delegated to the Cabinet will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.
- 1.9.2 Where Cabinet decisions are delegated to a Committee of the Cabinet the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet.

1.10 VOTING

1.10.1 MAJORITY

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

1.10.2 CHAIRPERSON'S CASTING VOTE

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

2. HOW ARE THE CABINET MEETINGS CONDUCTED?

2.1 Who Presides?

The Leader will preside at any meeting of the Cabinet or its Committees at which he/she is present, or may appoint the Deputy Leader or another person to do so.

2.2 Who May Attend?

These details are set out in the Access to Information Rules in Part 4 Document B of this Constitution.

2.3 What Business?

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

- 2.1.1 consideration of the Minutes of the last meeting;
- 2.1.2 disclosures of personal interest, if any;
- 2.1.3 matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview

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and Scrutiny Procedure Rules (Document E) or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;

2.1.4 consideration of reports from Overview and Scrutiny Committees; and

2.1.5 matters set out in the agenda for the meeting, and which shall indicate decisions which are not in accordance with the Access to Information Procedure rules set out in Part 4 Document B of this Constitution.

2.4 General Disturbance

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

2.5 Disturbance by the Public

2.5.1 Removal of member of the public

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

2.5.2 Clearance of part of meeting room

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

2.6 Consultation

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

2.7 Who can put Items on the Cabinet Agenda?

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the Cabinet, a Committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

Any member of Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. If he/she receives such a request, the Proper Officer will comply.

The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee or the full Council have resolved that an item be considered by the Cabinet.

There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny Committees.

Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet meeting for consideration, and if the Leader agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered.

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

Financial Officer.

3. Publication of Decisions

- 3.1 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 2 working days of being made. Members will be sent copies of the records of all such decisions within 2 working days, by the person responsible for publishing the decision.

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(See Document E)

3.2 The decision 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 5 working days after the publication of the decision, unless any three members of the relevant Overview and Scrutiny Committee whose terms of reference relate to the Cabinet decision (as described in Article 6 of Part 2 of the Constitution) or six elected members of the Council and the chair of that Committee, object to it and call it in. (See Document E)

OVERVIEW AND SCRUTINY PROCEDURE RULES



Author and service:

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

The Council will have the Overview and Scrutiny Committees set out in Article 6 and will appoint to them as it considers appropriate from time to time. Such Committees may appoint Sub-Committees. Overview and Scrutiny Committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist. The list of current Overview and Scrutiny Committees and the Terms of Reference is included at Article 6 of this constitution.

2. WHO MAY SIT ON OVERVIEW AND SCRUTINY COMMITTEES?

All Councillors except members of Cabinet 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.

3. CO-OPTEEES

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 2 per Committee, with the exception of the Learning Communities Overview and Scrutiny Committee which will include 9 non-voting co-optees from teachers organisations and the free churches in Ceredigion.

4. EDUCATION REPRESENTATIVES

Each relevant Overview and Scrutiny Committee/Sub-Committee dealing with education matters shall include in its membership the following voting representatives:

- 1 Church in Wales representative;
- 1 Roman Catholic Church representative;
- Independent Churches representative.
- 2 parent governor representatives.

A relevant Overview and Scrutiny Committee/Sub-Committee in this paragraph is an Overview and Scrutiny Committee or Sub-Committee of a Local Education Authority, where the Committee or Sub-Committee's functions relate wholly or in part to any education functions which are the responsibility of the Authority's Cabinet. If the Overview and Scrutiny Committee/Sub-Committee deals with other matters, these representatives 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.

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5. MEETINGS OF THE OVERVIEW AND SCRUTINY COMMITTEES

There shall be at least 5 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 chair of the relevant Overview and Scrutiny Committee, by any 6 members of the Committee or by the Proper Officer if he/she considers it necessary or appropriate.

6. QUORUM

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution.

7. VOTING

7.1 MAJORITY

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Committee members voting and present in the meeting at the time the recommendation or proposal was presented.

7.2 CHAIRPERSON'S CASTING VOTE

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

78. WHO CHAIRS OVERVIEW AND SCRUTINY COMMITTEE MEETINGS?

The Chairperson will be determined in accordance with the Section 75 of the Local Government (Wales) Measure 2011.

89. WORK PROGRAMME

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

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910. AGENDA ITEMS

Any member of an Overview and Scrutiny Committee or Sub-Committee shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for, and be discussed at, a meeting of the Committee or Sub-Committee.

On receipt of such a request, the Proper Officer will ensure that it is included on the next available agenda.

Any 6 members of the Council who are not members of the Overview and Scrutiny Committee may give written notice to the Proper Officer that they wish an item to be included on the agenda of a relevant Overview and Scrutiny Committee. If the Proper Officer receives such a notification, then he/she will include the item on the first available agenda of the relevant Overview and Scrutiny Committee for consideration by the Committee.

The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate for 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 back to the Council and/or Cabinet.

4011. POLICY REVIEW AND DEVELOPMENT

~~40.411.1~~ 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 detail in the Budget and Policy Framework Procedure Rules.

~~40.211.2~~ In relation to the development of the Council's approach to other matters, not forming part of its policy and budget framework, Overview and Scrutiny Committees or Sub-Committees may make proposals to Cabinet for developments in so far as they relate to matters within their terms of reference.

~~40.311.3~~ Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

44.12. REPORTS FROM OVERVIEW AND SCRUTINY COMMITTEE

44.12.1 Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Proper Officer for consideration by Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).

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

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

42.13.1 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 available meeting of Cabinet, unless the matter which is the subject of the report is scheduled to be considered by the Cabinet within a period of 4 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 that matter. If for any reason the Cabinet does not consider the Overview and Scrutiny report within 6 weeks, then the matter will be referred to Council for review, and the Proper Officer will call a Council meeting to consider the report and make a recommendation to the Cabinet.

42.13.2 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 Proper Officer 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. Cabinet members to whom the decision-making power has been delegated will respond to the

Overview and Scrutiny Committee within 4 weeks of receiving it. A copy of his/her written response to it shall be sent to the Proper Officer and he/she will attend a future meeting to respond.

~~42~~13.3 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.

~~43~~14. RIGHTS OF OVERVIEW AND SCRUTINY COMMITTEE MEMBERS TO DOCUMENTS

~~43.4~~14.1 In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

~~43.2~~14.2 Nothing in this paragraph prevents more detailed liaison between Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

~~44~~15. MEMBERS AND OFFICERS GIVING ACCOUNT

~~44.1~~ 15.1 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. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of Cabinet, the Chief Executive and any Director or Assistant Director to attend before it to explain in relation to matters within their remit:

~~44.1.1~~15.1.1 any particular decision or series of decisions; and/or

~~44.1.2~~15.1.2 the extent to which the actions taken implement Council policy; and/or

~~44.1.3~~15.1.3 service performance.

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

~~44.2~~15.2 Where any member or officer is required to attend an Overview and Scrutiny Committee under this provision, the chair of that

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Committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving at least 10 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend 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.

~~14.3~~15.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny Committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

16. ATTENDANCE BY OTHERS

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and may invite such people to attend.

16.17. CALL-IN

~~16.1~~17.1 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 2 working days of being made. Members will be sent copies of the records of all such decisions within 2 working days, by the person responsible for publishing the decision. (See Document D)

~~16.2~~17.2 The decision 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 5 working days after the publication of the decision, unless any three members of the relevant Overview and Scrutiny Committee whose terms of reference relate to the Cabinet decision (as described in Article 6 of Part 2 of the Constitution) or six elected members of the Council and the chair of that Committee, object to it and call it in by giving a valid call-in request to the Proper Officer.(Head of Democratic Services). (See Document D)

~~16-3~~17.3 During that period, the Proper Officer shall convene a meeting of the relevant Scrutiny Committee defined in paragraph 16.1 above if so requested by any three members of the Committee or six elected members of the Council and the chair of that Committee, 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 chair of the Committee, and in any case within 8 working days of the decision to call-in.

~~16-4~~17.4 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, or refer the matter to full Council. If referred to the decision maker, the decision-making person or body shall then reconsider within a further 10 working days, amending the decision or not, before adopting a final decision.

~~16-5~~17.5 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 ten working day period, whichever is the earlier.

~~16-6~~17.6 If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision-making person or body, together with the Council's views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

~~16-7~~17.7 If the Council does not meet within 15 working days, or if it does but does not refer the decision back to the decision-making body or

person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

~~16.8~~17.8 The call-in procedure set out above shall not apply where the decision being taken by Cabinet 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 Chairperson of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairperson, the Vice-Chairperson's consent shall be required. In the absence of both, the Head of Paid Service or the Monitoring Officers 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.

~~16.9~~17.9 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

~~17~~18. THE PARTY WHIP

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

~~18~~19. PROCEDURE AT OVERVIEW AND SCRUTINY COMMITTEE MEETINGS

~~18.1~~19.1 Overview and Scrutiny Committees and Sub-Committees shall consider the following business:

~~18.1.1~~19.1.1 minutes of the last meeting;

~~18.1.2~~19.1.2 disclosures of interest (including whipping declarations);

~~18.1.3~~19.1.3 consideration of any matter referred to the Committee for a decision in relation to call in of a decision;

~~18.1.4~~19.1.4 responses of Cabinet to reports of the Overview and Scrutiny Committee; and

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~~18.1.5~~19.1.5 the business otherwise set out on the agenda for the meeting.

~~18.2~~19.2 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:

~~18.2.1~~19.2.1 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;

~~18.2.2~~19.2.2 that those assisting the Committee by giving evidence be treated with respect and courtesy; and

~~18.2.3~~19.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

19.3 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.

~~18.3~~19.4

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

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

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Appendix 15

H. DELEGATIONS TO CORPORATE LEAD OFFICER ECONOMY & REGENERATION

The following functions are to be delegated to the Corporate Lead Officer Economy & Regeneration and to any officers authorised by him/ her from time to time as appropriate subject to such officers being suitably qualified for the discharge of those duties and functions.

1. To negotiate and complete purchases and sales of land and property, granting of leases to and from the Council in accordance with the Asset Management Plan and Council's Capital Programme.
2. To negotiate and complete wayleave agreements, easements and licences.
3. To grant consents relating to the use of Council land and premises.
4. Certifying that valuations are acceptable for conveyancing, leasing and other relevant purposes in respect of any asset or interest to be disposed of, acquired or leased in accordance with the Asset Management Plan.
5. To accept and serve any notices required under the Agricultural Holdings Act 1986 (as amended) and the Agricultural Tenancies Act 1995.
6. To submit planning applications in respect of the Council's land, buildings or Engineering Works as required to assess the development potential prior to the sale of land or to carry out developments on behalf of the Council
7. In consultation with the Corporate Lead Officer, Legal & Governance Services to approve requests for the assignment of leases and the underletting and sub-letting of premises where consent for such requests cannot reasonably be withheld.
8. To take action on behalf of the Council as landowner and under the Criminal Justice and Public Order Act 1994 relating to unauthorised occupation of land and to utilise the services of process servers where appropriate.
9. With regard to the future management of farms and small-holdings the short listing of applicants for advertised farms, their letting and serving of Notices to Quit, in consultation with the appropriate Cabinet Member, and with the appropriate Local Member being kept informed.
10. To undertake rent reviews as is appropriate for those properties owned and managed by the Council.
11. To submit grant funding bids for regeneration projects and housing schemes,
12. To provide European support advisory services and monitoring support for County Council EU funded projects and to external projects

13. To determine, in consultation with the Cabinet Member for Economic and Community Development, applications for grant under the Community Grants and Business Grants schemes

14. To determine advertising and marketing programmes and expenditure to promote Ceredigion.

15. To accept articles and materials which are donations to the County Council Museum.

16. To exercise, in the absence of the Corporate Lead Officer – Porth Gofal Targeted Intervention, powers and duties, and to authorise Officers, under the provisions of:

a. the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015; and

b. The Renting Homes (Fees etc.) (Wales) Act 2019 (including Regulations made thereunder)

~~15.~~

16.17. Coast and Countryside

To authorise entry by officers consultants and contractors under:

16.1 To register Section 31 declarations under the Highways Act 1980 with regards to any legal deposits made by landowners to prevent new claims of public rights of way being made on their land under Sec 53 of the Wildlife & Countryside Act 1981 which include a map of their holding and declaration that they do not intend to dedicate any public rights of way to the public.

16.2 To make and confirm Tree Preservation Orders under the Town and Country Planning Act 1990

16.3 To determine applications for the cutting lopping or topping of any tree covered by a TPO.

16.4 To determine notifications for the removal of a hedgerow under the Hedgerow Regulations 1997.

16.5 To determine applications in respect of high hedges under the Anti-social Behaviour Act 1993 (Part 8).

16.6 To provide for the amendment of the registers maintained under the Commons Registration 1965 [Commons and Town and Village Green Registers] where;

I. any land registered under this Act ceases to be common land or a town or village green; or

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- II. any land becomes common land or a town or village green; or
- III. any rights registered under this Act are apportioned, extinguished or released, or are varied or transferred in such circumstances as may be prescribed in respect of Section 13 of the Commons Registration Act and Section 31 of the Highways Act 1980

- 16.7 To determine cases of presumed dedication under Section 31 of the Highways Act 1980.
- 16.8 To determine applications to modify the definitive map and statement under Section 53 of the Wildlife and Countryside Act 1981.
- 16.9 To make Public Path Orders Diversion Orders Extinguishment Orders and Creation orders under the relevant sections of the Town and Country Planning (Public Path Orders) Regulations 1993 Highways Act 1980 & Town & Country Planning Act 1990 and to confirm orders where no objections have been received, or where objections made are subsequently resolved²⁷. To make Definitive Map Modification Orders under various sub –section of Section 53 of the Wildlife & Countryside Act 1981 including:
- Additions under Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981
 - Deletions under Section 53 (3) (c) (iii) of the Wildlife and Countryside Act 1981
 - Alignment changes under both Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981 and Section 53 (3) (c) (iii) of the Wildlife and Countryside Act 1981
 - Status changes under Section 53 (3) (c) (ii) of the Wildlife and Countryside Act 1981
- 16.10 To upgrade or downgrade the Map and/or Statement under changes under both Section 53 (3) (c) (i) of the Wildlife and Countryside Act 1981 and Section 53 (3) (c) (iii) of the Wildlife and Countryside Act 1981²⁸. To make Roads Used Public Paths (RUPP's) Reclassification Orders under Sec 54 of the Wildlife & Countryside Act 1981 and Countryside and Right Of Way Act 2000 and confirm orders where no objections or withdrawn objections.
- 16.11 The Duties and responsibilities set out in Section 40 of the Natural Environment and Rural Communities Act 2006 relating to conserving biodiversity
- 16.12 To make Legal Event Modification Orders (LEMO'S) in relation to Public Path Orders, Definitive Map Modification Orders or RUPP reclassification orders.

16.13 The powers to make Traffic Regulation Orders of the Road Traffic Regulation Act 1984 including:

- Emergency closures
- Temporary closures
- Permanent closures

16.14 The powers to take enforcement action as appropriate.

16.15 Powers in respect of Common Land & Village Greens, including management / enforcement action as appropriate under section 9 of the Commons Registration Act 1965, protection of unclaimed Common Land.

16.16 To undertake all duties and responsibilities under the following sections of the Highways Act 1980:-

- Section 41 - Duty to maintain highways maintainable at public expense
- Section 62 – General power of improvement
- Section 66 – Power to provide and maintain barriers, rails or fences for the purpose of safeguarding persons using the highway.
- Section 76 – Power to carry out works for levelling the highway
- Section 77 – Power to change the levels of the highway Alteration of levels
- Section 82 – Power to provide install cattle grids & by-passes
- Section 83 – Power to remove of cattle grids & by-passes
- Section 91 – Power to construct a bridge to carry existing highway maintainable at public expense.
- Section 92 – Power to reconstruction a bridge maintainable at public expense.
- Section 94 – Powers of highway authorities & bridge owners to enter into agreements¹
- Section 100 – Power to undertake drainage of the highway
- Section 101 – Power to fill in roadside ditches
- Section 102 – Power to carry out works to protect highways against hazards of nature
- Section 122 – Power to make temporary diversion where highway is about to be repaired or widened
- Section 130 – Powers in respect of the duty to assert and protect the rights of the public to the use and enjoyment of any highway for which the highway authority, including any roadside waste which forms part of it.
- Section 131 – Powers to issue penalties for damaging highways
- Section 134 – Power of ploughing and cropping of Public Rights Of Way (PROW)

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- Section 135 – Power to temporary divert footpath or bridleway
- Section 137 – Power to issue penalty for wilful obstruction
- Section 143 – Power to remove obstructions from highways
- Section 145 – Powers as to gates across highways
- Section 146 – Duty to maintain stiles etc. on footpaths & bridleways
- Section 147 – Power to authorise new structures on PROW
- Section 149 – Power to remove nuisances on highways
- Section 150 – Duty to remove snow & soil from highways
- Section 154 – Power to remove dangerous trees
- Section 163 – Duty to prevent water falling on or flowing on to the highway
- Section 164 – Power to require removal of barbed wire
- Section 178 – Restriction on placing rails, beams etc. over highways
- Section 289 – Power of entry of highway authority for the purpose of survey
- Section 290 – Supplementary provisions as to power of entry for the purpose of survey
- Section 291 – Powers of entry of highway authority for purpose of maintenance
- Section 293 – Power of entry onto land for PROW works
- Section 296 – Power of council to execute works by agreement
- Section 197 – Power of highway authority to require ownership details
- Section 300 – Right to use vehicles and appliances on footpaths and bridleways for maintenance and improvements

16.17 To undertake all duties and responsibilities under the following section of the Countryside and Right Of Way Act 2000:-

16.18 Section 63 (6) – Duty of enforcement to prevent obstructions

16.19 Section 137ZA – Power to order offender to remove obstruction

16.20 To undertake the duty of signposting footpaths and bridleways under Section 27 of the Countryside Act 1968.

16.21 The power to obtain landownership details under Section 297 of the Highways Act 1981.

16.22 Duty to issue penalties and require the removal of misleading notices and signs under Section 57 of the National Parks and Access to the Countryside Act 1949

16.23 The power to order the removal of obstructions under Section 137ZA of the CROW Act 2000.

17 Town & Country Planning

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- 17.1 In respect of the town and country planning, development control, conservation and commons registration:-
- 17.2 The approval of applications for planning permission which accord with the development plan, including those subject to a planning agreement (S106), and including the approval of “reserved matters” applications following the grant of outline planning permission
- 17.3 To negotiate the terms and conditions of S106 Agreements and the variation of such Agreements where appropriate.
- 17.4 To make use of any commuted sums generated by the S106 Agreement for the use of affordable housing or community benefit as set out in the Agreement.
- 17.5 The refusal of applications for planning permission which do not accord with the development plan.
- 17.6 The approval of applications for Listed Building Consent
- 17.7 The determination of applications for Certificates of Lawful Use.
- 17.8 The determination of applications for Certificates of Alternative Development.
- 17.9 The determination of applications made under the Control of Advertisement Regulations.
- 17.10 The imposition of conditions on planning permission and other consents and approvals.
- 17.11 The determination of applications for the approval of details required by conditions attached to a planning permission other than “matters reserved”.
- 17.12 The determination of applications to develop land without compliance with a condition attached to a planning permission.
- 17.13 The determination of requests to consider variations from approved drawings as ‘non-material’ amendments, under s.96A of the Town and Country Planning Act 1990.
- 17.14 The issuing of Enforcement Notices, Listed Building Enforcement Notices, Building Preservation Notices Stop Notices and other planning notices under relevant legislation.
- 17.15 The withdrawal of all such notices where appropriate.
- 17.16 The physical removal of unauthorised advertisements in accordance with the relevant statutory provisions.

- 17.17 The determination of applications made under the prior notification provisions of the Town and Country Planning Act, General Permitted Development Order and its successors.
- 17.18 The determination of proposals for the erection of overhead lines.
- 17.19 The referral of planning matters to a Site Inspection Panel for consideration.
- 17.20 The determination of applications to remove an agricultural occupation, rural enterprise or affordable housing condition attached to a planning permission where such application is made by a bank or building society in possession.
- 17.21 The carrying out of screening and the issue of screening opinions to establish whether an Environmental Impact Assessment (EIA) is necessary in accordance with EIA Regulations.
- 17.22 To dispose of planning applications.

17.23 To negotiate on behalf of the Council at Planning Inquiries and Examinations.

17.24 To determine planning applications where phosphates (pursuant to the Conservation of Habitats & Species Regulations 2017) are an issue (in consultation with the Cabinet Member).

~~17.23~~

~~17.24~~17.25 The Corporate Lead Officer Economy & Regeneration is authorised to refuse applications for planning permission in situations where the applicant has not agreed to an extension of time to determine the application, and where

- (a) The Planning Authority requires additional information to enable the application to be appropriately determined; and/or
- (b) The Member of the Ward in which the application is sited requests the application to be reported to the Development Control Committee for consideration and determination; and/or
- (c) An application is subject to a planning obligation under Section 106 of the Town and Country Planning Act 1990.

Note 1

The power of delegation shall not be exercised when any elected Member requests in writing during the consultation period that a matter (relating to a planning application) should be considered by the Development Control Committee.

Note 2

Ceredigion County Council Constitution - Part 3 Responsibility for Council Functions
PART 3.5 H Delegations to the CLO Economy and Regeneration

~~Approved by Council 21 March 2019 Updated 16 October 2019~~ Updated June 2021

7

Where a referable objection has been received for planning applications set out above the officer will inform the relevant elected local Member that they intend to approve the application under delegated powers. Where that Member requests in writing that the application be considered by the Development Control Committee the power of delegation shall not be exercised.

Note 3

Where an officer intends to refuse a planning application the officer will inform the relevant elected local Member that they intend to refuse the application under delegated powers. Where that Member requests in writing that the application be considered by the Development Control Committee the power of delegation shall not be exercised.

Definition

A referable objection is one made within a consultation period and based on land use grounds.

18 Proper Officer Responsibilities

The Corporate Lead Officer Economy & Regeneration is designated Proper Officer for Ceredigion County Council in relation to the following matters:

- Section 78 Building Act 1984: Exercise powers to deal with dangerous buildings, etc.

19 Specific powers and duties

19.1 To act on a day to day basis and within the scheme of delegation in the following areas

- a) Development Management and Building Control (including Listed Buildings).
- b) Dangerous buildings and unsafe structures
- c).The determination of building regulations applications, serving of statutory notices, the enforcement of and implementation of measures relating to dangerous buildings and to administer statutory duties relating to Building Regulations.
- d) To manage the Council's Local Land Charges Service.

20 To negotiate and enter an agreement on behalf of the local planning authority with the sustainable drainage systems approving body as to the undertaking of enforcement under s.32 and Schedule 3 of the Flood and Water Management Act 2010 and secondary legislation made thereunder.

Appendix 16

M - DELEGATION TO THE CORPORATE LEAD OFFICER CUSTOMER CONTACT

The following functions are to be delegated to the Corporate Lead Officer Customer Contact

1. To act as the Council's Proper Officer for the Civil Registration Service including the power to approve premises for the solemnisation of marriages and the registration of civil partnerships.

2. To act as Senior Responsible Information Officer ('SIRO') with responsibility for and delegated duties regarding the following purposes of:

2.1 The Public Service Network Code of Connection Policy; and

2.2 Cyber resilience, including cyber security.

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Appendix 17 – Extract of:

L - DELEGATION TO THE CORPORATE LEAD OFFICER FINANCE & PROCUREMENT.

The Corporate Lead Officer Finance & Procurement is designated and appointed Section 151 Officer.

The following functions are to be delegated to the Corporate Lead Officer Finance & Procurement and to any officers authorised by the Corporate Lead Officer Finance & Procurement from time to time as appropriate subject to such officers being suitably qualified for the discharge of those duties and functions.

...

22. To implement nationally agreed salary, remuneration (Chief Executive) and Wales Government awards; and nationally agreed, or Council approved, travelling, subsistence and other allowances.

Appendix 18 Extract of:

Document L

CODE OF CONDUCT FOR LOCAL GOVERNMENT EMPLOYEES



Cyngor Sir
CEREDIGION
County Council

Author and service:

Date approved by Council: 21 March 2019

Publication date:

Review Date:

5. Political Neutrality

- 5.1 Employees serve the Council as a whole. They are accountable to, and owe a duty to the Council. It follows that they must serve all Members and not just those of the controlling group, and must ensure that the individual rights of all Members are respected.
- 5.2 Subject to rules laid down from time to time employees may be required to provide information or clarification to political groups. They must do so in ways consistent with the employee's political neutrality.
- 5.3 Whether or not employees are politically restricted by the law, they must follow the lawfully expressed policies of the Council and must not allow their own personal or political opinions to interfere with their work.
- 5.4 Where employees are politically restricted (by reason of the post they hold, the nature of the work they do, or the salary or remuneration (Chief Executive) they are paid), they must comply with any statutory restrictions on their political activities.

CEREDIGION COUNTY COUNCIL

Report to:	Council
Date of meeting:	23rd September 2021
Title:	Review of Chief Executive post remuneration
Purpose of the report:	To gain approval to implement a new pay range for the Chief Executive post.
For:	Decision
Cabinet Portfolio and Cabinet Member:	Cllr Ray Quant, Deputy Leader of the Council and Cabinet Member for People and Organisation

Background

On 28th November 2017, following the appointment of a new Chief Executive, Cabinet approved the phased review and restructure of the Council's workforce as well as the removal of a number of Chief Officer roles.

As a result of the phased review the following changes were achieved:

- the removal of the Deputy Chief Executive post
- 3 Strategic Director roles have been replaced with 2 Corporate Director roles
- 10 Heads of Service and 3 Acting Heads of Service roles have been replaced with 12 Corporate Lead Officer roles.

In March 2018 Council agreed Phase 1 of the restructure and confirmed the appointment of the Corporate Lead Officers into the new structure, this was implemented with effect from 1st April 2018.

In January 2019 Council agreed Phase 2 to implement the arrangements following a review and role evaluation of the senior posts to ensure that service areas and responsibilities were clearly defined and that the posts were remunerated fairly and equitably. This included the revision of the spinal column points in the pay scales of Corporate Director and Corporate Lead Officer from 5 to 4. These changes were implemented with effect from 1 April 2018 and are reflected in the Council's Pay Policy that is presented annually to Full Council.

Phase 3 - Chief Executive pay scale

The current proposal is to address the level of remuneration of the Chief Executive, re-establishing the differentials with the Chief Executive role and other Chief Officers within the Council following the restructure in 2018 as well as applying a four point range to ensure consistency with all other Chief Officer Pay ranges within the Council.

Records indicate that the ratio of Chief Executive to next level has in the past been 75%, this has been eroded over time due to the restructuring of roles as indicated above, plus the Chief Executive in the past not accepting salary uplifts. The current

remuneration structure identifies a ratio of between 92% on the first point to 88% at the top of the salary scale.

It is proposed to address this by introducing a new pay structure for the Chief Executive as indicated below:

Scale Point	Chief Executive Current 2020/21	<u>Chief Executive Proposed 2020/21</u>	Corporate Director Current 2020/21	Percentage of CE remuneration
1	£106,077	£121,618	£ 97,294.00	80%
2	£109,026	£124,449	£ 99,559.00	80%
3	£111,972	£127,278	£ 101,822.00	80%
4	£114,918	£130,108	£ 104,086.00	80%
5	£117,866			

The proposal re-establishes a ratio of 80%, and recognises the statutory responsibilities within the role. This change will also conclude the restructuring of Chief Officer Pay within the Council.

In accordance with the provision of Section 143A the Local Government (Wales) Measure 2011 (as amended further to s.39 of the 2015 Act), Ceredigion County Council is required to advise the Independent Remuneration Panel for Wales on a matter relating to its Chief Executive remuneration.

The proposals were presented to the Independent Remuneration Panel on 1st May 2021. Further information was requested by the panel regarding a comparison of other Chief Executive remuneration.

The Independent Remuneration Panel considered the proposals and additional information at its meeting of 11th June and confirmed in writing (Appendix A) on 18th June that the panel had approved the proposal.

Has an Integrated Impact Assessment been completed? If, not, please state why Not applicable – not a service change

Wellbeing of Future Generations:

Summary:

Long term: N/A

Collaboration: N/A

Involvement: N/A

Prevention: N/A

Integration: N/A

Recommendation(s): **That Council:**

a) Accepts the proposal to amend the chief officer post remuneration and range as indicated above

and as approved by the Independent Remuneration Panel

- b) Approves to implement the changes to the remuneration range for the post of Chief Executive, with effect from 1st April 2021.

Reasons for decision: To complete the phased review and restructure of the Council's Senior Management and to implement a new remuneration range for the post of Chief Executive.

Overview and Scrutiny: N/A

Policy Framework:

- Council's Constitution
- Council Pay Policy

Corporate Priorities: Supports the Council to achieve its Corporate Priorities:

- Boosting the Economy
- Investing in People's Futures
- Enabling Individual and Family Resilience
- Promoting Environmental and Community Resilience.

Finance and Procurement implications: Changes to the Chief Executive pay structure is within budget.

Legal Implications: Local Government (Wales) Measure 2011 (as amended further to s.39 of the 2015 Act)
Local Government and Elections (Wales) Act 2021, s.55

Staffing implications: Within existing structure.

Property / asset implications: N/A

Risk(s): The remuneration is not reflective of the statutory responsibilities of the role and is not competitive compared to Chief Executive roles across Wales.

Statutory Powers:

- Council's Constitution
- Council Pay Policy

Background Papers:

- Report to Cabinet 28th November 2017
- Report to Council 23rd January 2019

Appendices: Appendix A – Letter form the Independent Remuneration Panel for Wales

Reporting Officer: Caroline Lewis, Corporate Director

Date: 8th September 2021



Caroline Lewis
Corporate Director
Ceredigion County Council
Caroline.lewis@ceredigion.gov.uk

18 June 2021

Dear Caroline

Review of Chief Executive Salary Ceredigion County Council

Your submission in respect of a review to the salary of the Chief Executive was considered by the Independent Remuneration Panel for Wales at its meeting on 11 June. All members of the Panel were present and therefore the meeting was quorate.

In respect of the function of the Panel related to the salaries of Heads of Paid Service the remit and guidance from the Welsh Government allows the Panel to:

- a) Approve the proposal
- b) Express concerns about the proposal
- c) Recommend a variation to the proposal

Having examined the submission from your authority it is the decision of the Panel to approve the proposal for the salary to the Chief Executive post as submitted by the Council.

Yours sincerely

John Bader
Chair

CEREDIGION COUNTY COUNCIL

Report to: Council

Date of meeting: 23rd September 2021

Title: Nomination of a County Council representative to the Hywel Dda Community Health Council

Purpose of the report: To nominate a Member of the Council to the Hywel Dda Community Health Council

For: Decision

**Cabinet Portfolio and
Cabinet Member:** N/A

1. Background

Hywel Dda Community Health Council (CHC) is the independent watchdog of NHS services across Ceredigion, Carmarthenshire and Pembrokeshire. CHS seeks to work with the NHS and inspection and regulatory bodies, proving an important link between those who plan and deliver NHS services, those who inspect and regulate it, and those who use it.

Hywel Dda CHC is made up of 36 volunteer Members, which includes 3 Members each from Ceredigion, Carmarthenshire and Pembrokeshire County Councils. All full Members have voting rights, meeting once every three months as a full committee and also once every three months in a more informal 'workshop'.

On 21 June 2018, Council appointed the following Members to represent Ceredigion County Council on the Hywel Dda Community Health Board:

- Councillor Elizabeth Evans (Chair of Ceredigion Locality)
- Councillor Lyndon Lloyd MBE
- Councillor Alun Williams

Councillor Alun Williams has temporarily deferred his membership of this external body, declaring an interest as he is assisting with the current vaccination programme. Councillor Williams has now confirmed that he wishes to continue administering vaccinations in the future and will therefore need to permanently stand down from representing the Council on the Community Health Council.

2. Next steps

Ceredigion County Council is permitted 3 Councillor representatives on the Hywel Dda Community Health Council. Council is therefore requested to nominate one Councillor to represent the Council on the Hywel Dda Community Health Council.

(Please note that this can be any elected Member of Ceredigion County Council and is not restricted to that of Cabinet portfolio).

	Has an Integrated Impact Assessment been completed?	Not required
	If, not, please state why	
	Summary:	
Wellbeing of Future Generations:	Long term:	To ensure representation on behalf of the residents of Ceredigion on the CHC over the coming years.
	Integration:	Working with CHC to ensure the best outcomes for our residents.
	Collaboration:	CHC Members to collaborate with other Council Members to ensure that the area as a whole is represented.
	Involvement:	Information will be made available on the Council website confirming the Members nominated to represent the Council on CHC.
	Prevention:	
Recommendation(s):	For Council to nominate an Elected Member representative to the Hywel Dda Community Health Council	
Reasons for decision:	To ensure appropriate representation from Ceredigion County Council in accordance with the Hywel Dda Community Health Councils' Governance arrangements.	
Overview and Scrutiny:	N/A	
Policy Framework:	N/A	
Corporate Priorities:	Contributes to each of the Corporate Priorities: <ul style="list-style-type: none"> • Investing in People's Futures • Enabling Individual and Family Resilience • Promoting Environmental and Community Resilience 	
Finance and Procurement implications:	None - within service budget.	
Legal Implications:	None	
Staffing implications:	None – within service resources.	
Property / asset implications:	None.	
Risk(s):	None	
Statutory Powers:	N/A	
Background Papers:	<ul style="list-style-type: none"> • https://hywelddachc.nhs.wales/ 	
Appendices:	None	

Corporate Lead Officer: Lowri Edwards
Corporate Lead Officer: Democratic Services (Head of Democratic Services)

Reporting Officer: Nia Jones
Corporate Manager: Democratic Services

Date: 6th September 2021

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Cyngor Sir CEREDIGION County Council

REPORT TO:	Council
DATE OF MEETING:	23 September 2021
LOCATION:	Remotely via Video Conference
TITLE:	Governance and Audit Committee Annual Report 2020-21
PURPOSE OF REPORT:	To provide information on the work of the Governance and Audit Committee during 2020-21
FOR:	Information
Cabinet Portfolio and Cabinet Member:	Cllr. Ray Quant MBE, Deputy Leader of the Council and Cabinet Member for Customer Contact, Legal & Governance, People & Organisation

Background

The Local Government (Wales) Measure 2011 requires each County Council to establish an Audit Committee (now, and hereafter in this Report, referred to as the 'Governance and Audit Committee', per the change of name introduced by the Local Government and Elections (Wales) Act 2021). The Measure prescribes the functions of the Governance and Audit Committee.

The CIPFA Practical Guidance for Local Authorities & police (2018 edition) states that it is important that the Governance and Audit Committee is held to account on the extent to which it has fulfilled its purpose. This will include whether the Governance and Committee has:

- fulfilled its agreed terms of reference
- adopted recommended practice
- assessed its own effectiveness
- Assessed training needs
- Assessed the impact of the Governance and Committee on governance, risk and control
- within the Authority

At the Governance and Audit Committee meeting of 14th September 2017 it was agreed that the Governance and Audit Committee would publish an Annual Report providing an assessment on the effectiveness of the Governance and Audit Committee and to provide assurance that issues have been addressed and progressed.

The Governance and Audit Committee Annual Report is used to:

- a) Highlight the work carried out by the Governance and Audit Committee during the year;
- b) Show how the Governance and Audit Committee has made a difference;
- c) Set out the forward work programme for the year ahead and
- d) Provide Self-assessment and assurance.

Current Position

A Report on the draft Annual Report of the Chair of the Governance and Audit Committee 2020-2021 was presented to the Governance and Audit Committee at its 9th September 2021 Meeting. Governance and Audit Committee's views on Paragraph 5 (outcomes or impacts of the Committee's work) were requested. The Committee's recommendation was:

1. That reference is included that the Committee has been preparing during 2020-21 to address the new responsibilities of the Committee in relation to governance; in addition to a proactive role in improving the services provided by the Council where necessary
2. Subject to 1. (above), the Committee approves the draft Annual Report.

(see draft Report, Minutes of Meeting and Committee Decision at:

<https://council.ceredigion.gov.uk/ieListDocuments.aspx?CId=147&MId=207&Ver=4&LLL=0>).

The Annual Report of the Chair of the Governance and Audit Committee 2020-2021, which incorporates the Governance and Audit Committee's proposed amendments at 1. above, is attached (**Appendix 1**) and is hereby presented to Council by the Chair of the Governance and Audit Committee, and will be subsequently published on the Council website.

Has an Integrated Impact Assessment been completed? No

If, not, please state why

Summary: *This report does not represent a change in policy or strategy.*

WELLBEING OF FUTURE GENERATIONS:

Long term:

N/A

Integration:

N/A

Collaboration:

N/A

Involvement:

N/A

Prevention:

N/A

Recommendation(s): That Council is requested to note the contents of the Report.

Reasons for decision: To gain assurances that effective arrangements are in place to manage the authorities financial affairs, risk management, internal control and corporate governance arrangements and that the authorities internal and external audit arrangements are adequate.

Overview and Scrutiny: n/a

Policy Framework: Democratic Arrangements

Corporate Priorities: Cross cutting theme to ensure that services are fit for purpose

Finance and Procurement implications: None

Legal Implications: None

Staffing implications: None

Property / asset implications: None

Risk(s): None

Statutory Powers: Local Government (Wales) Measure 2011

Background Papers: None

Appendices: **Appendix 1:** Annual Report of the Chair of the Governance and Audit Committee 2020-21

Contact Name: Elin Prysor

Designation: Corporate Lead Officer: Legal & Governance (& Monitoring Officer)

Date of Report: 9/09/2021

Governance and Audit Committee



Cyngor Sir
CEREDIGION
County Council

Annual Report 2020/21

ANNUAL REPORT OF THE CHAIR OF THE GOVERNANCE AND AUDIT COMMITTEE ON THE ACTIVITY OF THE COMMITTEE FOR THE YEAR 2020/21

1. INTRODUCTION

This is the Annual Report of the Governance and Audit Committee and its objective is to provide a brief summary of the work undertaken during the year, note the work in progress and set out the forward work programme for the coming year.

In addition, the Report will provide an assessment on the effectiveness of the Governance and Audit Committee and provide assurance that issues have been addressed and progressed.

The Governance and Audit Committee ('the Committee') is a small group, currently consisting of seven Members with a politically balanced structure and currently includes one Lay Member. The Committee has been carrying out preparatory work for changes introduced by the Local Government and Elections (Wales) Act 2021, including the size, composition of the Committee, recruitment of lay persons, amending Terms of Reference and duties, (from 2022) the appointment of an independent lay Chair, and additional performance and improvement functions.

2. MEETINGS

The Committee scheduled five meetings for the year to fit in with a detailed forward work programme to cover all of the main areas of work required under its terms of reference, held during July, September and November (2020) and February and March (2021), and the meeting agendas were full of items for consideration, discussion and review.

It is pleasing to note that the work of the Committee is always well supported by the Chief Executive, Corporate Lead Officer ('CLO') Finance & Procurement, CLO Legal & Governance/Monitoring Officer, CLO-Policy, Performance & Public Protection, Head of Internal Audit, Governance Officer, as well as Audit Wales ('AW').

3. ROLE UNDERTAKEN BY THE COMMITTEE

According to CIPFA's Practical Guidance for Local Authorities' Audit Committees 2018, the purpose of the Governance and Audit Committee is:

- To act as a key component of an authority's governance framework. It's function is to provide an independent and high level resource to support good governance and strong public financial management; and
- To provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and governance processes. By overseeing internal and external audit it makes an important contribution to ensuring that effective assurance arrangements are in place.

A summary of the work undertaken by the Committee during the year to achieve this is noted below. Meetings were subject to minor disruption at the start of the year due to the Pandemic, but were re-commenced with the July meeting using a virtual platform. Nonetheless, the Committee was eager to progress its work, and did so in a timely fashion.

Internal Audit Activity

- The Committee approved the Internal Audit Annual Report 2019/20 to include the Corporate Manager-Internal Audit's ('CMIA') annual opinion of assurance on the Council's framework of governance, risk management and internal controls, which fed in to the Annual Governance Statement.
- The above report was supported by quarterly reports from CMIA to document the IA's progress throughout the year.
- The Committee also approved the Annual Internal Audit Counter Fraud Report 2019/20, which provided a summary of the internal audit counter fraud work undertaken during the year. This included internal audit's role in the National Fraud Initiative exercise, and the decision to reprioritise resources to work on the Covid-19 grants due to the additional risks presented to the Council by these payments.
- The CMIA's Internal Audit Strategy and Plan of work for 2020/21 was approved, and the first three quarterly reports documenting progress against this plan were considered.
- An update of the Internal Audit Charter was approved to take account of the service's new staffing structure, along with necessary changes adopted to working practices due to the pandemic.
- The Internal Audit Strategy for was also approved for 2021/22 during which the service plans to continue using a more reactive risk-based way of working due to the pandemic.

Local External Audit reports from AW were considered throughout the year, to include:

- Covid-19 Recovery – Interim Assurance Letter;
- AW Progress Report: AW - Audit of Ceredigion County Council's 2020-21 Improvement Plan;
- AW Ceredigion County Council Annual Audit Summary 2020;
- Financial Sustainability Report;
- Review of the arrangements for managing Capital Programme;
- AW Audit Plan 2020-21; and
- AW Covid-19 Learning Project.

National AW reports considered included:

- Financial Sustainability of Local Government as a Result of the COVID-19 Pandemic;
- Commercialisation in Local Government;
- The National Fraud Initiative in Wales 2018-20;
- Welsh Community Care Information System;
- Letter from Auditor General for Wales to CEO's Public Sector Bodies & Senior WG Stakeholders;
- Draft Management Response forms for the following were considered:

- Commercialisation in Local Government (6/10/2020);
- 'Raising our Game' Tackling Fraud in Wales (30/7/2020);
- Review of Public Service Boards (7/10/19);
- Rough Sleeping in Wales – Everyone's Problem; No One's Responsibility (23/7/2020);
- The 'Front Door' to Adult Social Care (11/9/19);
- Progress in implementing the Violence Against Women, Domestic Abuse and Sexual Violence Act (21/11/19);
- Well-being of Future Generations: An examination of the design and implementation of the Council's Integrated Services Model – Ceredigion County Council (20/12/19); and
- The National Fraud Initiative in Wales 2018-20 (13/10/20).
- The Committee also considered a Report on the AW National Report Summary and Proposals for Improvement in relation to the Effectiveness of Local Planning Authorities in Wales, which was considered at the Pre-Development meeting in June 2019 and sent to AW.
The Committee agreed to note the Report, areas for improvement, progress being made with work in 2020-21, and that an update Report on the improvements be presented to the Committee in 6 months to demonstrate the areas of improvement, together with a further possible national report from AW on planning services. The Committee also agreed that all Members of the Development Control Committee are to be updated on this work at a future pre Development Control briefing session.

Care Inspectorate Wales ('CIW')

- The Committee considered a Report of the CIW Early Help, Care and Support and Transition for Disabled Children, outlining their findings and recommendations. The Committee noted the Report for information and areas for improvement being made in 2020-21, and agreed that the action plan to address the issues in the report be presented to the Committee for consideration at a meeting early in 2021.
- The Committee considered the CIW Annual Inspection 2019-20 Report for the Council.

Estyn

- The Committee considered an Estyn Letter on the Council's work in supporting learning communities in schools and pupil referral units between March and October 2020, which had been presented to Cabinet on the 2nd of February 2021.

AW Compliance work reviewed included:

- Audit of Ceredigion County Council's assessment of 2019-20 performance – Certificate received.
- 2019/20 Improvement Plan - Certificate of Compliance.

Regulatory Framework Considerations

- The Corporate Risk Register is a regular agenda item and considered at each Meeting.

- Due to the Covid-19 Pandemic, a new proposed Corporate Risk R018 Covid-19 was presented to the Committee on 29th July 2020 Meeting. The Council's Leadership Group had considered the full Corporate Risk Register and the Committee was advised to note a change to the position as at 10th March 2020. The AGS (approved 19th March 2020) was, per CIPFA's recommendations, updated to include an outline of the Council's Covid-19 Pandemic response, and how it affected the Council's governance procedures.
- Further adjustments were made to the AGS, as suggested by AW, to clarify the Council's situation, and the Committee agreed to recommend to the Leader and Cabinet that the Record of Urgent Decisions of the Leader of the Council (for the Preparation of Covid-19 23/3/20, in accordance with Part 4 of the Council's Constitution) be reviewed as soon as possible. This was reported back to Committee.
- The Committee agreed on 29th July 2020 that all the risks would be reviewed by the next Quarter, and that the relevant Scrutiny Committee meeting invite the CLO - Economy & Regeneration to their meeting to inform Members of the work of Silver Command in relation to supporting businesses, due to the concern on the number of businesses folding during this time, together with the need:
 - o To consider resilience positive future trends facing the County in the short, medium and long term to include a safer and dynamic County;
 - o To address the impact on the local economy in relation to the increase in number shopping on-line; and
 - o For resilience-positive trends and future proofing.
- On 12th November 2020, the Committee agreed that that the relevant Scrutiny Committee consider R012 Climate Change and particular Carbon emissions on their Forward Work Programme and to note that the risk to social services was going to be significant due to postponed operations.
- An update was requested by the Committee as to whether the relevant Scrutiny Committee meeting had considered Risk R012 Climate Change. Members were informed that a Report was due to be presented to Cabinet, and would subsequently be presented to Scrutiny for consideration.
- The Governance Framework was reviewed at a Member/Officer working group on 18th December 2020, in accordance with AW recommendations and the results used to draft the AGS.
- The Governance Framework (Local Code of Corporate Governance and AGS) was considered and, on 24th February 2021, the Committee agreed to recommend to Council the approval of the Draft AGS 2020-21 and the Draft Local Code of Corporate Governance 2021-2022. The Draft AGS 2020-21 was then approved by Council on 18th March 2021.
- The AGS's Action Plan is considered as a standing agenda item.

Financial Reporting

- The Capital Monitoring, Capital Programme Outturn and Capital Expenditure Reports are standing agenda items. On 12th November 2020, the Committee agreed to note the Reports and that the Report on the Capital Programme be presented to committee on a quarterly basis, with any queries regarding the content of the Report be presented to the Officer(s) prior to the meeting in order that they could attend the meeting accordingly.

- The Committee reviewed the Council's Annual Statement of Accounts (to 31st March 2020) and Annual Return for Ceredigion Harbour Authority (to 31st March 2020), prior to their presentation to the Council for approval.
- The Committee received AW's annual Audit of Financial Statements Report (ISA260) for 2019-20 and considered issues arising from the Audit.
The Committee resolved that a letter be sent urgently to the Chief Executive expressing its concern that there continues to be issues raised and delays by Estate Service in responding to AW queries. This had been highlighted in the last four years in the ISA 260 Report, together with how it would be addressed, and the Committee agreed that a Report be received at its next (or subsequent) meeting, from the CLO - Economy & Regeneration, regarding the issues of the ISA 260 in order that the committee receive assurance that these issues had been addressed i.e. evaluations and responses to AW queries, and their proposed resolution to these issues by an action plan.

Other Work

- The Committee considered and noted the contents of a Report of the CLO – Customer Contact regarding the Data Breach, including the Information Commissioner's Office ('ICO') Assessment, and that an update Report on the ICO's recommendations would be presented to the Committee in May 2021.
- The Committee considered an Estates Valuation Report, which included steps to achieve improved valuation performance 2020-21.
The Committee agreed:
 - to note the Report and the proposed approach presented;
 - that an email would be circulated to Members monthly outlining the work to date in the service improvement plan; and
 - that this item was placed on the Forward Work Programme in order that the committee were updated annually on the work of the service on valuations
- The Committee considered the Well-being and Improvement Objectives Annual Report 2019-20. The 2020-21 Report was to be presented to the Committee prior to approval by Cabinet and Council, but this was not possible for 2020-21 due to timescales and the impact of Covid-19.
- The Committee considered the Improvement Plan Certificate 2020-21.
- The Committee considered a verbal update on the Local Government and Elections (Wales) Bill in relation to:
 - proposed changes to the Committee,
 - the Welsh Government ('WG') Consultation Regulations to establish Corporate Joint Committees (Members were requested to submit comments on this consultation by the end of November 2020 for the Monitoring Officer to collate a corporate response); and
 - draft Statutory Guidance in relation to Performance and Governance of Local Authorities in relation to Part 6 of the Local Government and Elections (Wales) Bill, issued by WG (due to end 3rd February 2021).
- The Committee received a Report highlighting aspects of the draft Local Government and Elections (Wales) Bill relevant to the Governance and Audit Committee, including the WG Consultation on regulations to establish Corporate Joint Committees, and draft statutory guidance in relation to Performance and Governance of Local Authorities in relation to Part 6 of the Bill.

- The Committee considered a Report of the CLO - Legal & Governance regarding Committee changes per the Local Government and Elections (Wales) Act 2021, and its impact on the Committee. The Committee noted the content of the Report and agreed;
 - to note the Committee's name change to the '*Governance and Audit Committee*' and to recommend to Council the preferred date when the change of name should take effect (in absence of Regulations);
 - a total of 9 Members (made up of 3 independent Lay Members and 6 County Councillors) (Option 1) was its preferred size option ;
 - to note the requirement of the Committee to choose its Chair and Vice Chair, as set out in the Report;
 - to note the requirements regarding the timing of the appointment of a lay Committee Member as the Chair, and Vice Chair of the Committee as set out in the report, to the Democratic Services Committee, and thereafter to Council; also, to seek confirmation if a Lay Member stepped down from the current committee, would it be possible to become a Member of the Governance and Audit Committee;
 - to recruit 2 to 4 candidates as Lay Members during the recruitment process;
 - to note the composition of the Shortlisting Selection Panel to be recommended to Council, together with noting that if any of the Councillors on the panel had to declare an interest, another Member of the Audit Committee would become a Member of the panel accordingly; and
 - to note the Role Description and Person Specification documents and any changes required, timeline for recruitment and future role in relation to performance and complaints-handling.
- The Committee considered a Report on the Council's Corporate Response to the WG Consultation on draft Statutory Guidance - Performance and governance of Principal Councils - Part 6 of the Local Government and Elections (Wales) Act 2021.
- The Committee considered an oral update report by the Corporate Manager – Growth and Enterprise on work carried out in relation to Asset Valuations since the previous meeting. The Committee requested an update at the September 2021 meeting following the publication of the ISA 260 in relation to the Statement of Accounts 2020/21 by AW, in order to ascertain if this issue in relation to asset valuations had been addressed accordingly.
- The Committee informally considered issues relating to Coroners service
- The Committee was invited to a Workshop to provide responses to the WG Consultation on the draft General Power of Competence (Commercial Purpose) Conditions (Wales) Regulations and proposals for Community Councils that meet criteria provided with power to trade.

AW reports not yet received by the Governance and Audit Committee include:

- 2020-2021 Financial Sustainability (draft report stage – aim to be shared June 2021);
- 2020-2021 Review of Planning Services (in progress, aim to complete early summer 2021);
- Audit of Financial Statements Report (ISA260) – November 2021 & Opinion on Financial Statements (by 30 November 2021);

- Audit of the Annual Return for Ceredigion Harbour Authority (to take place September-November 2021 following receipt of draft Annual Return June/July 2021, audit sign off by 30 November 2021); and
- Certification of number of grant claims and returns, as agreed with funding bodies (audit work October-December 2021).

All Wales Audit Committee Chairs' Network

On the 30th November 2020 the Chair and Vice-Chair attended the All Wales Audit Committee chairs' Network meeting (held remotely), whose aims is to encourage:

- The sharing of good practice;
- The identification of innovative ways to effectively discharge the formal responsibilities of the Chair's role.
- The opportunity to scope current and future national and regional matters, and potential responses to these challenges.
- A forum to give and seek advice between colleagues who are facing similar challenges.
- A mentoring or development opportunity for new Chairpersons.

Both CIPFA and AW offered their support in delivering training, which focussed on:

1. Making an impact as an Audit Committee;
2. Roles of the Lay Member;
3. Knowledge and skills;
4. AW counter-fraud work feedback;
5. The Local Government & Elections (Wales) Bill; and
6. The Audit Committee Role – the AGS and the Statement of Accounts

4. FORWARD WORK PROGRAMME

A Forward work programme has been devised, which includes the following standing agenda items:

1. AW Progress Update Reports;
2. Internal Audit Quarterly Progress Reports;
3. Regulatory Monitoring Reports;
4. Regulatory Reports for Scrutiny;
5. AGS - Action Plan Progress Reports;
6. Corporate Risk Register;
7. Capital Expenditure Report; and
8. Forward Work Programme.

Other matters: Estate Valuations-so that the Committee is updated annually.

5. OUTCOMES AND/OR IMPACTS of the Committee's work

To be proactive and improve services where necessary

AGS

It was necessary to review the 2019/20 AGS prior to including it with the Statement of Accounts in September, due to the impact of the pandemic on the Council's decision-making structure and the provision of services.

A review of the 2020/21 Governance Framework highlighted the need for:

- Members and Officers to be advised further on the need to declare interests in organisations which actually or may conflict with Council interests;
- Continued reviewing of Members holding directorships, trusteeships, or memberships of outside bodies, and committees, including feedback and added value;
- Continued updating of the Code of Conduct for Officers and Members;
- Advising Officers further on the need to declare directorships and other employment;
- Advising Members on the need to declare hospitality/gifts;
- Advising Chief Officers on the need to declare close personal relationships with other Officers or Members;
- Updating the Leadership Group on e-learning and continued monitoring of Mandatory e-learning take up of Whistleblowing module;
- Continued preparations to comply with Local Government and Elections (Wales) Act 2021 changes and taking account of legislative changes;
- Publishing of the Delegated Decisions Register;
- A review of the Complaints/Compliments Policy;
- Provision of Ethics & Fraud training;
- Continued review of the FOI Publication scheme;
- Continued review of the Community Engagement Policy;
- Monitoring feedback;
- Publication of service performance, including costs and value for money data;
- Continued work to link Local Performance measures to all level 1 business Plan Objectives;
- Continued review of the size of the Audit Committee (now Governance and Audit Committee), Lay Member recruitment; and
- Monitoring of progress of Actions/recommendations.
- Workshops-to consider consultations
- Informal meetings as required

The above matters are being monitored by the Committee as part of the AGS action plan reported to the Committee throughout the year.

Covid-19

The Committee has also monitored and reviewed the Council's work in relation to Covid-19:

- The Committee has monitored the development of the AGS, which has been revised to take into consideration the Covid-19 Pandemic. The AGS includes a dedicated section on the Covid-19 Pandemic and includes reference to:
 - Temporary delegated powers for the Council's Chief Executive and Leadership Group through the use of Urgent Decisions for decisions

- relating to the Council's COVID-19 response, in accordance with Council's Constitution.
- Records of Urgent Decisions, for urgent decisions being made by the Covid-19 Leadership Group ('Gold Command'), which are published on the Council's Website;
- Periodic reviewing of the Urgent Decisions of the Leader;
- A Covid-19 Roadmap outlining the services the Council currently provides and service plans;
- The Council forming strategies and plans to take into account risks caused by the Pandemic;
- Remote meetings between the CMIA and Governance and Audit Committee Chair during the Pandemic; and
- The Monitoring Officer reminding members and c-opted independent Members of their obligations regarding declarations of interest for enhanced Covid-19 lockdown grants for businesses.
- The Committee recommended to the Leader and Cabinet that the Record of Urgent Decisions (for the Preparation of Covid-19 23/3/20, in accordance with Part 4 of the Council's Constitution) be reviewed as soon as possible. This was reported back to Committee.
- The Committee monitors and reviews the Council's Corporate Risk register, and considered the new proposed Corporate Risk R018 Covid-19 on 29th July 2020 Meeting.

Estates Service

The Committee also made recommendations in order to assist with issues raised in the ISA260; relating to the Estate Service, such as:

- recommending that a letter be sent to the Chief Executive in relation to the Service and queries by Audit Wales, and how this would be addressed, - resolving that a report be received from the CLO Economy and Regeneration .;
- considering an Estates Valuation Report, which included steps to achieve improved valuation performance 2020-21.
- -resolving that an email would be circulated to Members monthly outlining the work to date in the service improvement plan; and
- Adding the matter to the Forward Work Programme in order that the committee is kept updated on issues.

6. SELF-ASSESSMENT & ASSURANCE

The Committee did not carry out a self-assessment.

The CIPFA Practical Guidance for Local Authorities' Audit Committees 2018 sets out guidance on the function and operation of Audit Committees in local authorities. It recognises that an Audit Committee's effectiveness should be judged by the contribution it makes to, and the beneficial impact it has on, the authority's business.

I believe this has been achieved, as the Committee has placed its focus on governance, risk and assurance during the year and has added value by

ensuring robust arrangements are in place to support improvements across the Council.

**Councillor Rowland Rees-Evans
Chairman – Governance and Audit Committee - 2020/2021**