

MID WALES CORPORATE JOINT COMMITTEE

4th July 2022

REPORT OF THE MONITORING OFFICER

Report Title: Adoption of a Constitution for the Mid Wales Corporate Joint Committee

Purpose of Report: To adopt a Constitution for the Mid Wales Corporate Joint Committee

Decision Sought:

It is recommended that Members:

1. Adopt the Constitution for the Mid Wales Corporate Joint Committee as set out in Appendix 1 of the report.
2. Delegate the power to the Monitoring Officer to make minor editorial changes if required) to the Constitution for its publication on the CJC website.
3. To require the Constitution approved under recommendation 1 to be translated into Welsh and published on the CJC website as soon as is reasonably practicable.
4. That the implementation of the creation of the Economic Well-Being – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee be delayed to a future meeting of the CJC to enable HM Treasury to put in place an Order to allow the four Welsh Corporate Joint Committees to be admitted into the Section 33 VAT refund scheme and for Corporation Tax issues to be clarified.

Report Author: Clive Pinney

Finance Officer: Stephen Johnson (Section 151 Officer)

Legal Officer : Clive Pinney (Monitoring Officer)

Background:

1. The Local Government and Elections (Wales) Act 2021 (“the LGE Act”) created the framework for a consistent mechanism for regional collaboration between local authorities through Corporate Joint Committees (CJCs). The LGE Act provides for the establishment of a Mid Wales CJCs through Regulations and at its inaugural meeting on 25th January 2022, the CJC was established, approved a budget for 2022/23 and approved Standing Orders which were to be replaced by a formal Constitution in due course.
2. The purpose of this report is for the CJC to consider for approval a draft Constitution drafted by the Monitoring Officer in consultation with the Monitoring Officers of Ceredigion CC and the Brecon Beacons National Park Authority.
3. To consider a recommendation that the implementation of the creation of the Economic Well-Being – Regional Economic Development (Mid Wales Growth Deal)

Sub-Committee be delayed to a future meeting of the CJC to enable HM Treasury to put in place an Order to allow the four Welsh Corporate Joint Committees to be

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admitted into the Section 33 VAT refund scheme and for Corporation Tax issues to be clarified.

The Draft Constitution

4. The draft Constitution is based on a revised New Model Constitution for Welsh Local Authorities provided by Browne Jacobson Solicitors in December 2021 at the cost of WLGA which has been amended as appropriate to make it suitable for the Mid Wales CJC.
5. The Constitution (if approved and adopted by the CJC) will be constantly monitored and reviewed by Officers and amendments to the Constitution will be brought back to the CJC for consideration and/ or approval as and when required.
6. In essence, the Constitution sets out the overarching structure of the CJC and its various sub-committees so that key decisions can be made.
7. The purpose of the Constitution is to:
 - provide a framework for good governance.
 - enable decisions to be taken efficiently and effectively;
 - create a powerful and effective means of holding decision-makers to public account;
 - ensure that no one will review or scrutinise a decision in which they were directly involved;
 - ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
 - provide a means of improving the delivery of service to the community.
8. Attached at **Appendix 1** is the proposed constitution of the CJC for members to consider and adopt and includes sections dealing with the following:

Section	Title
01	Introduction
02	Purpose Definition Interpretation

03	Getting Information and Getting Involved
04	CJC Procedure Rules
05	Sub-Committees

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06	Officers
07	Scheme of Delegation
08	Access to Information Procedure Rules
09	Code of Conduct
10	Budget, Finance and Procurement
11	Contracts and Legal Matters
12	Contracts Procedure Rules
13	Indemnities for Members and Officers

9. The Draft Constitution has not yet been translated into Welsh, but once approved and adopted it will be translated as soon as is reasonably practicable and published on the CJC's website.
10. Delayed implementation of the creation of the Economic Well-Being – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee.

10.1 They should be made aware that all CJC's in Wales and the Welsh Government are concerned that at present all CJC's are currently unable to recover the VAT incurred on nonbusiness activities, as do all other Local Authorities. WG and Councils have been lobbying HM Treasury to bring CJC's into the same position as other public bodies and HM Treasury have recently announced that they will make an Order to allow the four Welsh Corporate Joint Committees to be admitted into the Section 33 VAT refund scheme. However, the Order is unlikely to be in place before the Autumn and the Treasury has made it clear that there can be no retrospective application of the Order before the date the Order has been made. There are also issues which need to be clarified in relation to Corporation Tax.

10.2 In light of the VAT disadvantage to the Councils and the CJC if the Economic WellBeing – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee were to subsume the role of the Growing Mid Wales Board, it is recommended that the implementation of the creation of the Economic Well-Being – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee be delayed to a future meeting of the CJC to enable H M Treasury to put in place an Order to allow the four Welsh Corporate Joint Committees to be admitted into the Section 33 VAT refund scheme and for Corporation Tax Issues to be clarified.

Financial Impacts:

11. The financial impacts of adopting this Constitution and associated documents will be incorporated into the annual budget for the MWCJC.

Integrated Impact Assessment:

12. The CJC is subject to the Equality Act (Public Sector Equality Duty and the socioeconomic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.

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Advance equality of opportunity between people who share a protected characteristic and those who do not.

Foster good relations between people who share a protected characteristic and those who do not.

Deliver better outcomes for those people who experience socioeconomic disadvantage

Consider opportunities for people to use the Welsh language Treat the Welsh language no less favorably than English.

Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

13. The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals.
14. There is no requirement for an Integrated Impact Assessment for this report as the setting up of the CJC is underpinned by legislation and that this report is to establish governance arrangements in accordance with legislation. This will be kept under review with any future reports considering whether impacts require consideration.

Workforce Impacts:

15. There are no workforce impacts associated with this report.

Legal Impacts:

16. Part 5 of the LGE Act provides for the establishment, through regulations, of CJsCs and compliance will be had with this and other legislative obligations in the establishment of CJsCs. In particular, the Mid Wales Corporate Joint Committee Regulations came into force on 1st April 2021 and set out an initial framework for example, that the CJC should be established and the timeframes for the discharging of specific functions. However, a series of further Regulations are being drafted and consulted on by Welsh Government. The Welsh Government has concluded its consultation on the Corporate Joint Committees (General) (No.2) (Wales) Regulations 2021. The Welsh Government is also currently consulting on draft statutory guidance. A third stage of Regulations will put in place further legislation for the operation of the CJsCs and its functions, which

Welsh Government are currently being consulted on. A fourth stage will put in place any remaining provisions that a CJC might need.

Risk Management Impacts:

17. Failure to constitute the CJC means the CJC will be unable to take any decisions, including setting a budget for the 2022/2023 financial year and accordingly would be in breach of the legal requirements imposed under the Local Government and Elections (Wales) Act 2021 (exposing each constituent council and national park authority to challenge) along with the reputational risks that such non-compliance will bring.

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Consultation:

18. There is no requirement for consultation in respect of this report.

Reasons for Proposed Decision:

19. To ensure appropriate governance arrangements are in place for the CJC to make decisions and compliance is had to the legislative requirements that are applicable to the CJC.

Implementation of Decision:

20. This decision is proposed for immediate implementation.

Appendices:

21. Appendix 1 - Draft Constitution for the Mid Wales CJC

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Section 1 – Introduction

Purpose and Content of the Constitution

- 1.1 The Constitution describes the various bodies that make up the CJC, its functions, Membership and procedural rules.
- 1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public on how you can get information about the CJC.
- 1.3 The procedural rules that apply to the different CJC bodies are contained in the sections relating to those bodies, e.g. CJC (Section 4), and Sub-Committees (Section 5).
- 1.4 Section 9 has the Code of Conduct which Members have agreed to comply with. They set the standards of behaviour.
- 1.5 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it. In Section 2.3 there is a glossary of the terms used in the Constitution

How the CJC Operates

- 1.6 The CJC comprises of the Leaders of Powys and Ceredigion County Councils and the Leaders of each authority are elected by the membership of Powys and Ceredigion County Councils with the addition of an additional from the Brecon Beacons National Park Authority in relation to strategic development planning.
- 1.7 All Members of the CJC have agreed to follow the Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 1.8 All members of the CJC meet together regularly as a CJC. Meetings of the CJC are normally open to the public except where confidential matters are being discussed. The CJC is responsible for Strategic Development Planning, Regional Transport Planning and Economic Well-Being, and will set a budget for each of those areas on an annual basis.

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

Monitoring Officer
County Hall
Llandrindod Wells
Powys
Tel: 01597 826100

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Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution

Purpose of the Constitution

2.1 The purpose of the Constitution is to:

- (a) enable the CJC to provide clear leadership to the community in partnership with citizens, businesses and other organisations, including its constituent councils, national park authorities and public bodies;
- (b) support the active involvement of citizens in the process of local authority decision-making;
- (c) provide a framework for good governance;
- (d) help members represent their constituents more effectively;
- (e) enable decisions to be taken efficiently and effectively;
- (f) create a powerful and effective means of holding decisionmakers to public account;
- (g) ensure that no one will review or scrutinise a decision in which they were directly involved;
- (h) ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- (i) provide a means of improving the delivery of service to the community.

Definitions in the Constitution

2.2 The Constitution of the CJC is this document.

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

Word or Phrase	Meaning
“Annual Meeting”	The Annual Meeting will take place in July each year.
“Brecon Beacons Member”	The person appointed by the Brecon Beacons National Park Authority as its representative on the CJC.
“Budget”	the overall revenue and capital budget approved by CJC (Section 4);
“Chief Executive”	Will be the Chief Executive of either Powys County Council or Ceredigion County Council and will rotate on an annual basis.
“Clear Days”	The number of days that the notice and summons of a meeting have to be published in advance of a meeting. The clear days do not include (a) the day the document is published and / or received; and (b) the day of the meeting; and (c) weekends and bank holidays. ¹

¹ Schedule 12, Part 1, Regulation 4(2) – Local Government Act 1972.

Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution

"Confidential Information"	has the meaning set out in the Corporate Joint Committees (General) (No 2)(Wales) Regulations 2021 – See Section 8
"Constituent Councils"	This means Ceredigion County Council and Powys County Council

Word or Phrase	Meaning
"Co-Opted Member"	A person appointed by the CJC to serve on one of its SubCommittees.
"Corporate Joint Committee"	<p>The corporate body, established by The Corporate Joint Committee (General) (Wales) Regulations 2022, comprising of Powys County Council and Ceredigion County Council (together with a representative from the Brecon Beacons National Park Authority for function (c) below), for the following functions:</p> <p>(a) Economic well-being – Regional Economic Development (section 76 of the Local Government and Elections (Wales) Act 2021)</p> <p>(b) Regional Transportation Policies (section 108(1)(a) and (2A)(a) of Part 2 of the Transport Act 2000 and PART 2 of the Transport Act 2000)</p> <p>(c) Strategic Land Use Planning (Part 6 of the Planning and Compulsory Purchase Act 2004)</p>
"Council Member"	The Leader of either Powys County Council or Ceredigion County Council.
"Establishing Regulations"	The Mid Wales Corporate Joint Committee Regulations 2021
"Exempt Information"	Has the meaning set out in the Corporate Joint Committees (General) (No 2)(Wales) Regulations 2021 – See Section 8
"Forward Work Programme"	the Forward Work Programme is a document which lists all of the decisions that the CJC intend to take and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;
"Independent (Lay) Member"	<p>a member of the Standards and Governance and Audit Committees who is not:</p> <p>(a) a member of the CJC;</p> <p>(b) an officer; or</p> <p>(c) the spouse of a CJC member or an officer, or any other officer of either authority.</p>

Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution

“the Measure”	means the Local Government (Wales) Measure 2011.
“Member”	either the Leader of Powys County Council or Ceredigion County Council or a representative of the Brecon Beacons National Park Authority, or an Independent or Co-Opted Member chosen by the CJC to serve on one of its SubCommittees;
“Sub-Committees”	The Sub-Committees are:

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Word or Phrase	Meaning
	<p>Strategic Development Planning Sub-Committee; Regional Transport Planning Sub-Committee; Economic Well-Being - Regional Economic Development (Mid Wales Growth Deal) Sub-Committee; Governance and Audit Sub-Committee; Standards Sub-Committee Overview and Scrutiny Sub-Committee. Note - references to Committee also includes Sub-Committee;</p>
“Monitoring Officer”	The Monitoring Officer will be an officer of either Powys County Council or Ceredigion County Council as appointed by the CJC, being an Officer who must be appointed by law to carry out certain functions. ;
"Officers"	Means the Chief executive, the Monitoring Officer or Section 151 Officer
“Petition Scheme”	<p>a scheme prepared and published pursuant to section 42 of the Local Government and Elections (Wales) Act 2021 (and reviewed from time to time) for the purpose of setting out:</p> <p>how a petition may be submitted to the CJC; how and when the CJC will acknowledge receipt of a petition; the steps the CJC will take in response to a petition received by it; the circumstances (in any) in which the CJC may take no further action in response to a petition; and how any by when the CJC will make available its response to a petition to the person who submitted the petition and to the public.</p>
"Proper Officer"	The Monitoring Officer

Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution

“Public Interest”	Means the test set out in Section 8.
“Section 151 Officer”	The Section 151 Officer will be an officer of either Powys County Council or Ceredigion County Council as appointed by the CJC, being an Officer who must be appointed by law to carry out certain functions.
"Strategic Development Plan Function"	The function set out in the Strategic Land Use Planning (Part 6 of the Planning and Compulsory Purchase Act 2004)

Interpretation of the Constitution

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

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2.5 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules and for the purposes of the meeting the Chair’s ruling is final.

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

2.7 Unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender.

The headings are inserted for convenience only and shall not affect the interpretation of the Constitution.

Duty to Monitor and Review the Constitution

2.8 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

2.9 The Monitoring Officer will make arrangements for any proposed changes to the Constitution to be considered by the CJC as to any amendments that may be necessary.

2.10 The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section 10 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. S/he shall make arrangements for any proposed changes to be considered by the Governance and Audit Committee which will in turn make recommendations to the CJC as to any amendments that may be necessary.

Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution

Protocol for Monitoring and Review of Constitution by Monitoring Officer

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

- 2.11.1 observe meetings of different parts of the Member and Officer structure;
- 2.11.2 undertake an audit trail of a sample of decisions;
- 2.11.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 2.11.4 compare practices in this CJC with those in comparable CJsCs, or national examples of best practice.

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Changes to the Constitution

Approval

2.12 Subject to Rules 2.7 and 2.8 below, changes to the Constitution will only be approved by the CJC in accordance with the procedures set out in Rule 2.4.2 above.

Minor Changes

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

- 2.13.1 a minor variation; or
- 2.13.2 required to be made to remove any inconsistency, ambiguity or typographical correction;

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

Legislative Change

2.14 Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so

Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution

provides. Such changes shall be reported to the next CJC meeting for information.

Suspension of the Constitution

2.15 The provisions of this Constitution cannot be suspended save that the Rules of procedure set out in Section 4 may be suspended provided that A motion to suspend any rule is moved without notice upon at least one half of the CJC is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section. Any suspension will apply solely to the matter or matters being discussed at that meeting.

Publication

2.16 The Monitoring Officer will ensure that copies of this Constitution are available on the CJC 's website, and copies can be made available on request in audio format, in Welsh, and in Braille.

2.17 The Monitoring Officer will provide a link to a copy of this Constitution in an electronic format to each Member of the CJC and thereafter ensure that an up to date version is available for inspection and published on the CJC 's website.

2.18 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with Rule 2.6.

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Section 3 – Getting Information and Getting Involved

Information Available to Members of the Public

When Meetings of the Member Bodies Will Take Place

3.1 A programme of meetings is available via the CJC website.

Forward Work Programme

3.2 The CJC and Sub-Committees will publish Forward Work Programmes, which set out the decisions and / or issues to be discussed by the CJC and what issues the Sub-Committees will be considering and when these matters will be discussed.

Information Available Prior to a Meeting

3.3 3 clear days before a meeting, the agenda and any non-confidential report to be discussed shall be available for inspection on the CJC website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any non-confidential report will be made available to the public as soon as it is available and sent to Members.

3.4 Confidential reports and all background papers to such report will **NOT** be available for public inspection or placed on the website.

3.5 Information which is confidential or exempt (as defined in Section 8) will not be disclosed to members of the public.

Information Available After a Meeting

3.6 For a period of six years the agenda, non-confidential reports and the minutes of the meeting shall be available for inspection and / or on the website. The non-confidential background papers will not be published on the website but shall remain open for inspection for a period of four years.

CJC's Accounts

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

Information Given in Confidence.

3.8 A Member will not make public information which is confidential or exempt or should reasonably be regarded as such (as defined in Section 8 without the consent of a person authorised to give such consent or unless required by law to do so;

3.9 A Member must not prevent any person from gaining information to which that person is entitled by law ² but prior to providing that information the Member must first check the alleged lawful entitlement with the Monitoring Officer.

² See Paragraph 5(b) of Part 2 of The Local Authorities (Model Code of Conduct) (Wales) Order 2008

Section 3 – Getting Information and Getting Involved

Information Not Available to Members of the CJC

3.10 A Member may not see any information or document where to do so would be in breach of any legislative provision such as the Data Protection Act 1998, any person's rights in respect of confidentiality, or commercial interests, any provision of this Constitution or any Government policy, rule or procedure.

3.11 No Member is entitled to see any information relating to a matter in which he or she has a prejudicial interest.

Members of the Scrutiny Sub-Committee.

3.12 A Member of the Overview and Scrutiny Sub-Committee may also see any document within the remit of the Committee which contains material relating to:

3.12.1 any business transacted by or at a meeting of the CJC;

3.12.2 any document which is in the possession or control of the CJC, its Sub-Committees and / or individual CJC Members, and which contains material relating to 3.13.1 above.

3.13 A Member of the Scrutiny Sub-Committee is not entitled to:

3.13.1 any document in draft form;

3.13.2 any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Scrutiny Sub-Committee's Forward Work Programme;

3.13.3 any part of a document if to do so would be in breach of any legislative provision such as the Data Protection Act 1998, any person's rights in respect of confidentiality, or commercial interests, any provision of this Constitution or Government policy, rule or procedure.

Information Available to Officers

3.14 The Monitoring Officer, the Section 151 Officer and the Chief Executive may see any papers or records held by any part of the CJC or its Officers.

Getting Involved

3.15 The CJC must encourage local people to participate in the making of decisions by the CJC. See the CJC's public participation strategy for more information.

Citizens' Involvement

3.16 Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Procedure Rules:

3.17 Citizens have the right to:

Section 3 – Getting Information and Getting Involved

obtain a copy of the Constitution from the CJs website, or on payment of a reasonable fee if a hard copy is required;

attend meetings of the CJC and its Sub-Committees except where personal or confidential matters are being discussed;

attend meetings and ask questions direct to the CJC and its Sub-Committees. The Overview and Scrutiny Committee must take into

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account any views brought to their attention under these arrangements pursuant to Section 62 of The Measure;

petition a CJC in accordance with the Petition's Scheme; find out, from the forward work programme, what business is to be considered by the CJC;

see reports and background papers considered by the CJC and any of its Sub-Committees and the record of any decisions made by the CJC or its Sub-Committees, except where they contain personal or confidential information;

make comments, compliments and complaints to the CJC about any matters that are the responsibility of the CJC. A complaint is one where someone feels that the CJC has failed to do something or done something badly or if they feel they have been unfairly treated by the

CJC; complain to the Ombudsman if they think they have suffered injustice because the CJC has not followed its procedures properly. However, they are encouraged only to do this after using the CJC's own complaints process;

complain to the Ombudsman if they have evidence which they think shows that a member or co-opted member of the CJC has not followed the Members' Code of Conduct; and

inspect the CJC's accounts and make their views known to the external auditor.

seek to get a matter included in an agenda by asking the Chair of the CJC or a Sub-Committee to add an item to the agenda

Citizens' Responsibilities

3.18 Citizens must not be violent, abusive or threatening to members or officers (which shall include inappropriate use of social media) and must not wilfully harm things owned by the CJC or its officers

3.19 Citizens should note that in the event that they are violent, abusive or threatening steps maybe taken in line with the CJC's policies in respect of unreasonable behaviour policies.

Complaints Against a Member

3.20 A complaint against a Member should be referred to the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website www.ombudsmanwales.org.uk.

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Section 4 – CJC Procedure Rules

GENERAL

- 4.1 The Mid Wales Corporate Joint Committee (the “**CJC**”) is a corporate body established by the Mid Wales Corporate Joint Committee Regulations 2021.
- 4.2 The members of the CJC are the executive leaders of the Constituent Councils:
- 4.2.1 Ceredigion County Council
 - 4.2.2 Powys County Council
 (“the **Council Members**”) and
 - 4.2.3 the Brecon Beacons Member (subject to Rule 4.7 below) and
 - 4.2.4 any Co-opted Member (together, the “**CJC**”).
- 4.3 The Brecon Beacons Member will be appointed by the Brecon Beacons National Park Authority (the “**National Park**”) and must be one of the following officeholders:
- 4.3.1 The Chair of the National Park;
 - 4.3.2 The Deputy Chair of the National Park ; or
 - 4.3.3 The chairperson of a committee with responsibility for planning matters as may be established by the National Park.
- 4.4 Where a Council Member is not able to act as a member for any period, the Constituent Council of which that Council Member is a member must appoint another member of its executive to act on behalf of the Council Member for that period. Where the Brecon Beacons Member is not able to act as a member for any period, the National Park must appoint one of the other office-holders listed above at paragraph 1.2 to act on behalf of the Brecon Beacons Member for that period.
- 4.5 Provisions in the regulations establishing and regulating the CJC (the “**Establishing Regulations**”) in relation to the suspension of Council Members and/or the Brecon Beacons Member will apply.
- 4.6 Each Council Member will act as a member of the CJC in relation to all of the CJC’s functions.
- 4.7 The Brecon Beacons Member will act as a member of the CJC in relation to the Strategic Development Plan Function and any function that is ancillary or incidental to that function.
- 4.8 Where a Council Member or the Brecon Beacons Member is unable to act for any period the Council or the National Park of which they are member must appoint, in the case of a Council a member of the executive or in the case of the National Park a relevant office holder to act on his or her behalf for that period.
- 4.9 The CJC may by written agreement co-opt one or more individuals as members of the CJC (“**Co-opted Members**” and each a “**Co-opted Member**”). Provisions in the Establishing Regulations will apply in relation to such Co-opted Members who will act in accordance with their appointment.

Section 4 – CJC Procedure Rules

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4.10 Council Members, the Brecon Beacon Member and any Co-opted Member of the CJC (together the “**Members**” and each a “**Member**”) shall have a duty to comply with the Members Code of Conduct (see Section 9).

DELEGATION

4.11 Subject to Rule 4.13 below, the CJC may arrange for the discharge of its function by

- 4.11.1 A sub-committee;
- 4.11.2 A member of staff;
- 4.11.3 Any other corporate joint committee;
- 4.11.3 Any county or county borough council in Wales.

4.12 Subject always to Rule 4.13 below, the CJC delegates operational decisions on the discharge of its functions and anything that is required to facilitate or is conducive or incidental to the discharge of its functions as set out in the Scheme of Delegation in Section 7.

RESTRICTIONS ON DELEGATION

4.13 The CJC may not delegate any of the following to any other person or subcommittee:

- 4.13.1 Its function in relation to developing policies under the relevant provisions of the Transport Act 2000 (“Transport Policy Function”);
- 4.13.2 Its function in relation to preparing a Strategic Development Plan under the relevant provisions of the Planning and Compulsory Purchase Act 2004 (the “Strategic Development Plan Function”);
- 4.13.3 The decision to agree the CJC budgets and contributions of the Constituent Councils and the National Park;
- 4.13.4 The decision to establish CJC sub-committees; and

MEETINGS AND PROCEEDINGS

CHAIRING MEETINGS

4.14 At the Annual General Meeting CJC meeting the appointment of a chairperson and vice-chairperson is to be the first business transacted.

4.15 The chair and vice-chairperson will rotate annually at each annual general CJC Meeting.

Section 4 – CJC Procedure Rules

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- 4.16 The chairperson and vice-chairperson must each be a Council Member and must be appointed, or confirmed by the Council Members.
- 4.17 A person appointed as chairperson or vice chairperson may at any time resign that office by notice in writing given to the other Member.
- 4.18 Arrangements in the Establishing Regulations for dealing with a vacancy in the post of chairperson or vice chairperson will apply.

ANNUAL GENERAL MEETINGS AND OTHER MEETINGS

- 4.19 The CJC must hold an annual general meeting in each financial year on a date determined by the CJC.
- 4.20 The CJC may hold other meetings on dates agreed by the CJC. An extraordinary CJC meeting may be called at any time by any person entitled to vote on a matter to be decided at that meeting.

QUORUM

- 4.21 Both Council Members must be present at all meetings and the Brecon Beacons Member must be present at:-

- 4.21.1 meetings where the Strategic Development Plan is to be discussed; and
- 4.21.2 for decisions to change voting procedures in relation to the Strategic Development Plan.

VOTING

- 4.22 Each person entitled to vote has one vote.
- 4.23 The number of Co-opted Members entitled to vote may not exceed the number of Council Members entitled to vote.
- 4.24 Other than the matters listed in Rules 4.25 and 4.26 below, any vote is to be decided by unanimity and if a vote is tied the matter is not carried.
- 4.25 The funding of budget decisions shall be determined by the unanimous agreement of the Members entitled to vote. If the Members cannot reach agreement, the proportions are to be determined by the Welsh Government.
- 4.26 Any change to voting arrangements requires unanimous agreement of all Members entitled to vote on the matter.
- 4.27 Where the matter relates to the Strategic Development Plan Function and a vote is tied, the chairperson has the casting vote.
- 4.28 The CJC may adopt an alternative voting procedure for any decision other than the decisions on the budget and the decision to change the voting procedure itself.

LOCATION OF MEETINGS

- 4.29 A CJC meeting may be held

- 4.29.1 at a location determined by the CJC;
- 4.29.2 by remote means; or
- 4.29.3 partly by remote means and partly at a location determined by the CJC.

Section 4 – CJC Procedure Rules

4.30 CJC meetings must be open to the public unless the public are excluded under Rule 4.56 and 4.57 below;

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

4.30.2 The public may by resolution be excluded from meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that exempt information would be disclosed. (“confidential information” and “exempt information” have the meanings set out in the Corporate Joint Committees (General) (No 2)(Wales) Regulations 2021)

NOTICE OF MEETINGS AND SUMMONS TO ATTEND

4.31 A CJC must give public notice of a CJC meeting

4.31.1 at least three clear days before the meeting, or

4.31.2 if the meeting is convened at shorter notice, at the time the meeting is convened.

4.32 The notice must be published electronically.

4.33 The Proper Officer must no later than three clear days before the CJC meeting or, if the meeting is convened at shorter notice, at the time the meeting is convened, send a summons to attend the meeting to every member of the CJC either by post or electronically.

4.34 A summons must specify the business to be transacted at the meeting and no business may be transacted at a CJC meeting other than the business specified in the summons except in the case of;

4.34.1 business required by the Establishing Regulations, any other enactment in Section 4 ; or

4.34.2 business added to the agenda for a CJC meeting in accordance with Rules after the summons has been sent; or

4.34.3 the business brought before a CJC meeting as a matter of urgency in accordance with Rule 8.9.

4.35 Where an extra ordinary meeting is called by one of the Members of the CJC, the notice must specify the business proposed and be signed by the Member(s) calling the meeting or signify the approval of those Members by electronic means.

Extraordinary Meetings

Section 4 – CJC Procedure Rules

Calling Extraordinary Meetings

4.36 The Chief Executive may call extraordinary CJC meetings in addition to ordinary meetings. Those listed below may request the Chief Executive to call additional CJC meetings:

4.36.1 the Chair of the CJC; 4.36.2
The Chief Executive;

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4.36.3 The Monitoring Officer or the Section 151 Officer;

Remote Attendance

4.37 Pursuant to Section 47 of the Local Government and Elections (Wales) Act 2021, Members may attend meetings by remote means.

4.38 For the purposes of Rule 4.37 above “remote means” has the following meaning namely a meeting held by means of any equipment or other facility which enables persons who are not in the same place to speak to and be heard by each other (whether or not the equipment or facility enables those persons to see or be seen by each other)

Motions without Notice

4.39 The following motions may be moved without notice:

- 4.39.1 to appoint a Chair of the meeting at which the motion is moved;
- 4.39.2 in relation to the accuracy of the minutes;
- 4.39.3 to change the order of business in the agenda;
- 4.39.4 to refer something to an appropriate sub-committee, or individual for consideration or reconsideration;
- 4.39.5 to appoint a sub-committee or Member to perform a function or duty arising from an item on the summons for the meeting;
- 4.39.6 to receive reports of sub-committees or Officers
- 4.39.7 a closure motion under Rule 4.40
- 4.39.8 to suspend a particular CJC Procedure Rule:
- 4.39.9 to exclude the public and press in accordance with the Access to Information Procedure Rules;

Rules of Debate

Closure Motions

- 4.40.1 to ask that the question be now put;
- 4.40.2 to proceed to the next business 4.40.3
- to adjourn a debate; or
- 4.40.4 to adjourn a meeting.

Section 4 – CJC Procedure Rules

Point of Order

4.41 A point of order is a request from a Member to the Monitoring Officer to advise on an alleged irregularity in the procedure of the meeting. A point of order may only relate to an alleged breach of these CJC Rules of Procedure or the law. The Member must indicate the rule or law and the way in which s/he considers it has been broken.

Personal Explanation

4.42 A Member may make a personal explanation at any time. A personal explanation may only relate to one of the following:

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4.42.1 some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood;

4.42.2 to reply to an allegation of misconduct made against the Member giving the explanation; or

4.42.3 to make an apology to the CJC.

4.43 Points of personal explanation will only be recorded in the minutes if the Monitoring Officer considered that such an inclusion would provide greater clarity to the minutes.

Declarations of Interest

4.44 A Member may at any time declare a personal interest under the Members' Code of Conduct and when a Member makes a declaration s/he shall be heard immediately and shall be allowed to make the declaration without interruption.

4.45 Members must in all matters consider whether they have a personal interest (within the meaning within the Members' Code of Conduct) in a matter to be discussed at a meeting, and whether that Code of Conduct requires them to disclose that interest and if they conclude that it does, must disclose the existence and nature of the interest at the commencement of the discussion or when the interest becomes apparent and decide whether they should withdraw from consideration of the matter as required by the Code.

4.46 A Member who is under the Members' Code of Conduct required to disclose the existence and nature of such an interest must complete the requisite form provided for that purpose at meetings.

ACCESS TO AGENDA AND CONNECTED REPORTS

4.47 Copies of the agenda for a CJC meeting and copies of any report for the meeting must be published by the CJC

4.47.1 electronically, and

4.47.2 at least three clear days before the meeting, or, if the meeting is convened at shorter notice, then at the time it is convened.

Section 4 – CJC Procedure Rules

4.48 An item of business may not be considered at a CJC meeting unless either

4.48.1 copy of the agenda including the item (or a copy of the item) is published electronically at least three clear days before the meeting, or, if the meeting is convened at shorter notice, at the time it is convened, or

4.48.2 by reason of special circumstances, which must be specified in the minutes, the chair of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency.

4.49 A summons to each meeting must be sent to all Members by a person authorised by the CJC (the “**Proper Officer**”) in accordance with the Establishing Regulations.

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MINUTES

4.50 The names of the Members present at a CJC meeting must be recorded.

4.51 Minutes of the proceedings of a CJC meeting must be drawn up and recorded. The minutes must be approved by the person chairing the CJC meeting or the person chairing the next suitable such meeting by signing the minutes, or by electronically signifying approval.

Signing the Minutes

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

No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

4.53 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting³, then the next following meeting will be treated as a suitable meeting for the purposes of signing of minutes⁴.

Form of Minutes

4.54 Save as provided below the form of the minutes will be a matter for the Chief Executive:

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

³ a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972

⁴ paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972

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Section 4 – CJC Procedure Rules

Exclusion of Public

4.56 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 8 of this Constitution or Rules 4.58 and 4.59 (Disturbance by the Public).

4.57 Where members of the public have been excluded pursuant to Rule 4.56, Members may nevertheless remain in the meeting (with the exception of confidential meetings of the Standards Committee) unless they have a personal and prejudicial interest.

General Disturbance

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

Disturbance by Public

Removal of Member of the Public

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

Filming, Audio Recording and Use of Social Media During Meetings

4.60 Filming, audio recording and use of social media is permitted during meetings except (a) where children and / or vulnerable adults are participating in the debate by way of a presentation, or (b) where meetings or parts of meetings which are held in confidential session pursuant to Section 8, or (c) where a meeting is being webcast.

Suspension of the CJC's Procedure Rules

4.61 The CJC's Rules of Procedure may be suspended in accordance with Rule 2.15.

INSPECTION AND PUBLICATION OF MINUTES AND OTHER DOCUMENTS AFTER MEETINGS

4.62 After a CJC meeting the CJC must

4.62.1 publish:

- (a) the minutes, or a copy of the minutes of the meeting;
- (b) a copy of the agenda of the meeting
- (c) a copy of any reports for any item which was open to the public; and
- (d) a summary of the proceedings (or any part of the proceedings) where it is necessary for a fair and coherent record, as a consequence of exempt material being excluded from the minutes and the reports above.

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(e)

4.62.2 ensure that those documents remain accessible electronically to members of the public until the expiration of the period of six years beginning with the date of the meeting.

LANGAUGE AND TRANSLATION

4.63 All meetings of the CJC and its Sub-Committees will be conducted bilingually and all participants may speak through the medium of Welsh and/or English. Simultaneous translation will be provided by Ceredigion County Council.

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SECTION 5 – SUB-COMMITTEES

General.

5.1 Subject to Rule 5.5 below, the CJC may arrange for the discharge of its function by:

- 5.1.1 A sub-committee;
- 5.1.2 A member of staff;
- 5.1.3 Any other corporate joint committee;
- 5.1.4 Any county or county borough council in Wales.

Membership

5.2 A sub-committee appointed by the CJC may include, or be wholly comprised of, persons who are not members of the CJC.

5.3 The functions of a sub-committee, the number of members of a sub-committee and the term of office of each member must be fixed by the CJC and the subcommittee may only exercise those functions as are delegated to it by the CJC.

Delegation

5.4 Subject always to Rule 5.5 below, the CJC delegates operational decisions on the discharge of its functions and anything that is required to facilitate or is conducive or incidental to the discharge of its functions as set out in the Section 7.

5.5 The CJC may not delegate any of the following to any other person or subcommittee:

- 5.5.1 Its function in relation to developing policies under the relevant provisions of the Transport Act 2000 (“Transport Policy Function”);
- 5.5.2 Its function in relation to preparing a Strategic Development Plan under the relevant provisions of the Planning and Compulsory Purchase Act 2004 (the “Strategic Development Plan Function”);
- 5.5.3 The decision to agree the CJC budgets and contributions of the Constituent Councils and the National Park;
- 5.5.4 The decision to establish CJC sub-committees; and
- 5.5.5 Other specific decisions and responsibilities set out in the Establishing Regulations.

Rules Applying to All Sub-Committees.

5.6 The following Rules apply to all Sub-Committees:

- Rule 4.29 to 4.30 (Location of Meetings)
- Rules 4.31 to 4.35 (Notice of Meetings and Summons to attend),
- Rules 4.37 to 4.38 (Remote Attendance)
- Rule 4.40 (Closure Motions)
- Rule 4.41 (Point of Order)
- Rule 4.42 to 4.43 (Personal Explanation)
- Rule 4.44 to 4.46 (Declarations of Interest)
- Rules 4.47 to 4.49 (Access to Agenda and Connected Reports),
- Rules 4.50 to 4.52 and 4.54 to 4.55 (Minutes),
- Rule 4.60 (Filming, Audio Recording and use of Social Media during Meetings)

SECTION 5 – SUB-COMMITTEES

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- Rules 4.62 (Inspection and Publication Of Minutes and Other Documents After Meetings), and
Rules 4.63 (Language and Translation) apply to a meeting of a sub- committee of the CJC as they apply to a meeting of the CJC.
Rule 8.7 (Right for Public to Attend Meetings)

Quorum

5.7 At least one quarter of the members of a Sub-Committee must be present at all meetings and the Brecon Beacons National Park Member must be present at:

- 5.7.1 meetings where the Strategic Development Plan is to be discussed; and
5.7.2 for decisions to change voting procedures in relation to the Strategic Development Plan.

Voting

- 5.8 Each person entitled to vote has one vote.
5.9 Any vote is to be decided by majority decision.
5.10 Where a vote is tied, the chairperson has the casting vote.

Economic Well Being – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee

5.11 The CJC may appoint a sub-committee (known as the Economic Well Being – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee) to:

- 5.11.1 make recommendations to the CJC in relation to promoting and improving the economic well-being of the area (the “Economic Well-being – Regional Economic Development Function”);
5.11.2 make recommendations to the CJC in relation to the Growth Deal/Growth vision;
5.11.3 oversee and review investments and projects in relation to the Growth Deal/Growth vision
5.11.4 exercise such other functions as the CJC may specify.

5.12 The Terms of Reference of the Economic Well Being – Regional Economic Development (Mid Wales Growth Deal) Sub-Committee are set out in Appendix A and those terms of reference may be amended by the CJC from time to time.

Regional Transport Planning Sub-Committee.

5.13 The CJC shall appoint a Sub-Committee (known as the Regional Transport Planning Sub-Committee) to exercise the development of transport policies under sections 108(1)(a) and (2A)(a) of Part 2 of the Transport Act 2000.

5.14 The Terms Of Reference Of The Regional Transport Planning Sub-Committee are set out in Appendix B and those terms of reference may be amended by the CJC from time to time.

SECTION 5 – SUB-COMMITTEES

Strategic Development Planning Sub-Committee

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- 5.15 The CJC shall appoint a Sub-Committee (known as the Strategic Development Planning Sub-Committee) to exercise the strategic planning functions or any functions of the CJC which are ancillary or incidental to those functions.
- 5.16 The Terms of Reference of the Strategic Development Planning Sub-Committee are set out in Appendix C and those terms of reference may be amended by the CJC from time to time.

Governance and Audit Sub-Committee

- 5.17 The CJC must establish a sub-committee (known as the Governance and Audit Sub-Committee) to:
- 5.17.1 review and scrutinise the CJC's financial affairs;
 - 5.17.2 make reports and recommendations in relation to the CJC's financial affairs;
 - 5.17.3 review and assess the risk management, internal control and corporate governance arrangements of the CJC;
 - 5.17.4 make reports and recommendations to the CJC on the adequacy and effectiveness of those arrangements;
 - 5.17.5 oversee the CJC's internal and external audit arrangements;
 - 5.17.6 review any financial statements prepared by the CJC; 5.17.7 exercise such other functions as the CJC may specify.
- 5.18 The Terms of Reference of the Governance and Audit Sub-Committee are set out in Appendix D and those terms of reference may be amended by the CJC from time to time.

Overview and Scrutiny Sub-Committee.

- 5.19 The CJC will appoint an Overview and Scrutiny Sub-Committee in accordance with the terms of reference adopted by the CJC
- 5.20 The Terms of Reference of the Overview and Scrutiny Sub-Committee are set out in Appendix E and those terms of reference may be amended by the CJC from time to time.

Standards Sub-Committee

- 5.21 The CJC will appoint a Standards Sub-Committee in accordance with the terms of reference adopted by the CJC
- 5.22 The Terms of Reference of the Standards Sub-Committee are set out in Appendix F and those terms of reference may be amended by the CJC from time to time.

SECTION 5 – SUB-COMMITTEES

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Appendix A

Economic Well-Being - Regional Economic Development (Mid Wales Growth Deal) Sub-Committee – Terms of Reference

A1. Introduction

- A1.1 The Constituent Councils established a joint committee to oversee and co-ordinate the discharge of the Councils' obligations in relation to the Mid Wales Growth Deal (the “**Growing Mid Wales Board**”).
- A1.2 The CJC has appointed the Growing Mid Wales Board to sit under the CJC as the sub-committee responsible for making the necessary recommendations to the CJC in relation to promoting and improving the economic well-being of the area and as well as developing recommendations for the implementation and overall delivery of the Mid Wales Growth Deal on behalf of the Constituent Councils (the “**Economic Well-Being – Regional Economic Development Sub-Committee**”).

A2. Composition of the Economic Well-Being – Regional Economic Development Sub-Committee

- A2.1 The composition and functions of the Economic Well-Being- Regional Economic Development Sub-Committee shall be continued to be governed by an Inter Authority Agreement (IAA3) between the Constituent Councils dated 2nd March 022.
- A2.2 The Chair of the Sub-Committee shall be elected from Members of the Constituent Authorities and rotated between Authorities on an annual basis.

A3. Economic Well-Being – Regional Economic Development Sub-Committee Recommendations

- A3.1 The Economic Well-Being – Regional Economic Development Sub-Committee will make recommendations to the CJC in relation to the Economic Well-being – Regional Economic Development Function and the Mid Wales Growth Deal. The CJC will then be asked to consider the recommendations for approval. If the recommendations are not approved by the CJC, they may be referred back to the Economic Well-Being – Regional Economic Development Sub-Committee for reconsideration and re-submission to the CJC.

SECTION 5 – SUB-COMMITTEES

A4. Meetings

- A4.1 The Economic Well-Being – Regional Economic Development Sub-Committee shall meet on at least a quarterly basis, or at such frequency as the Economic Well-Being – Regional Economic Development Sub-Committee shall determine from time to time in order to fulfil its role.
- A4.2 The CJC may invite such number of appropriate third parties to observe the Economic Well-Being- Regional Economic Development Sub-Committee Meetings as it sees fit from time to time. Such third parties may include individuals or representatives of such organisations and private sector companies as the CJC shall determine from time to time.
- A4.3 Any third parties invited to a Economic Well-Being – Regional Economic Development Sub-Committee Meeting shall be entitled to take such part in the meeting as determined by the CJC. Any third party in attendance at an Economic Well-Being- Regional Economic Development Sub-Committee Meeting may be

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- required by the Chairperson not to attend some or any part of a Economic Well-Being – Regional Economic Development Sub-Committee Meeting
- A4.4 A Economic Well-Being – Regional Economic Development Sub-Committee Meeting may be held in accordance with Rules 4.29 to 4.30 (Location) and 4.37 to 4.38 (Remote Meetings).
- A4.5 Meetings will be held in public and arrangements for the publication of and access to documents will be the same as for meetings of the CJC as set out in Section 4 of the Constitution.

A5. Proceedings of Meetings

- A5.1 Rule 5.6 of the Constitution will apply to the meetings of the Economic Well-Being – Regional Economic Development Sub-Committee.
- A5.2 Members of the Economic Well-Being – Regional Economic Development Sub-Committee shall be subject to the Code of Conduct for Members.
- A5.3 Meetings may be rearranged, cancelled or additional meetings scheduled with the agreement of the Chair.
- A5.4 Each meeting will be recorded through the production of notes which will be made available to the public online after the meeting with the exception of any exempt or confidential information. Notes of meetings will usually be brief, containing a summary of discussions, action points and recommendations.
- A5.5 The Economic Well-Being – Regional Economic Development Sub-Committee is a decision making body, and the Chair should aim to facilitate consensual agreement on matters under consideration. Where a consensus cannot be reached, the Chair shall present the split views of the committee to the CJC. A5.6 The Members' Code of conduct in Section 9 will apply.

A6. Quorum

- A6.1 The quorum necessary for a Economic Well-Being – Regional Economic Development Sub-Committee Meeting shall be at least two elected members from the Constituent Councils or the appropriate deputies appointed.

SECTION 5 – SUB-COMMITTEES

A7. Voting

A7.1 At meetings of the Economic Well-Being – Regional Economic Development SubCommittee each elected member or appropriate deputy appointed in attendance shall have one vote each. Decisions at meetings of the Economic Well-Being – Regional Economic Development Sub-Committee will be taken by a majority vote of a quorate meeting.

A8. Minutes

A8.1 Minutes of the proceedings of a Economic Well-Being – Regional Economic Development Sub-Committee meeting must be drawn up and recorded. The minutes must be approved by the person chairing the meeting or the person chairing the next suitable such meeting by signing the minutes, or by electronically signifying approval.

SECTION 5 – SUB-COMMITTEES

Appendix

B

Regional Transport Planning Sub-Committee – Terms of Reference

B1. Introduction

- B1.1 The Welsh Government has now brought forward The Corporate Joint Committees (**Transport Functions**) (Consequential Modifications and Transitional Provisions) (Wales) Regulations 2022 (the Transport Functions Regulations 2022)
- B1.2 The Transport Functions Regulations 2022 changes the responsibility of functions under Section 108 of the Transport Act 2000 moves the responsibility for delivering a transport plan from the local authorities to the Corporate Joint Committee and revokes the Regional Transport Planning (Wales) Order 2014.
- B1.3 The Constituent Councils established a joint committee to oversee and co-ordinate the discharge of the Councils obligations in relation to Regional Transport Planning known as TraCC.
- B1.4 The CJC will appoint the TraCC Board as its Regional Transport Planning SubCommittee to advise the CJC on its Regional Transport Planning function . The sub-committee will be responsible for making the necessary recommendations to the CJC in relation to the delivery of a Regional Transport Plan for the Constituent Councils. The functions of TraCC exceed the functions of the CJC as set out in the Transport Functions Regulations 2022 and the Constituent Authorities agree that the Regional Transport Planning Sub-Committee will continue to have decision making powers in respect of all functions of TraCC other than the delivery of a Regional Transport Plan.

B2. Composition of the Regional Transport Planning

- B2.1 The composition and functions of the Regional Transport Planning Sub- Committee shall be will consist of 6 members, 3 from each of the Constituent Authorities (including the 2 members from each Constituent authority on the Trafnidiaeth Canolbarth Cymru (“TraCC”) Management Board).
- B2.2 The Chair of the Sub-Committee shall be elected from Members of the Constituent Authorities and rotated between Authorities on an annual basis.

B3. Regional Transport Planning Sub Committee Recommendations

- B3.1 The Regional Transport Planning Sub-Committee will make recommendations to the CJC in relation to the development of Regional Transport Planning. The CJC will then be asked to consider the recommendations. If the recommendations are not approved by the CJC, they may be referred to the Regional Transport Planning Sub-Committee for reconsideration and re-submission to the CJC.

SECTION 5 – SUB-COMMITTEES

B4. Meetings

- B4.1 The Regional Transport Planning Sub-Committee shall meet on at least a quarterly basis, or at such frequency as the Sub-Committee shall determine from time to time in order to fulfil its role.
- B4.2 The Regional Transport Planning Sub-Committee may invite such number of appropriate third parties to observe Regional Transport Planning Sub-Committee Meetings as it sees fit from time to time. Such third parties may include individuals or representatives of such organisations and private sector companies as the Regional Transport Planning Sub-Committee shall determine from time to time.

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- B4.3 Any third parties invited to a Regional Transport Planning Sub-Committee Meeting shall be entitled to take part in such meeting but shall not be able to vote in respect of any decisions to be taken. Any third party in attendance at a Regional Transport Planning Meeting may be required by the Chairperson not to attend some or any part of a Regional Transport Planning Meeting
- B4.4 A Regional Transport Planning Sub-Committee Meeting may be held in accordance with Rules 4.29 to 4.30 (Location) and 4.37 to 4.38 (Remote Meetings).
- B4.5 Meetings will be held in public and arrangements for the publication of and access to documents will be the same as for meetings of the CJC as set out in Section 4.

B5. Quorum

- B5.1 The quorum necessary for the Regional Transport Planning Sub-Committee Meeting shall be at least two elected members from the Constituent Councils or the appropriate deputies appointed.

B6. Voting

- B6.1 At meetings of the Regional Transport Planning Sub-Committee each elected member or appropriate deputy appointed in attendance shall have one vote each. Decisions at meetings of the Regional Transport Planning Sub-Committee will be taken by a majority vote of a quorate meeting.

B7. Minutes

- B7.1 Minutes of the proceedings of a Regional Transport Planning Sub-Committee meeting must be drawn up and recorded. The minutes must be approved by the person chairing the Sub-Committee meeting or the person chairing the next suitable such meeting by signing the minutes, or by electronically signifying approval.

B8. Proceedings of Meetings

- B8.1 Rule 5.6 above will apply to the meetings of the Regional Transport Planning Sub-Committee.
- B8.2 Members of the Regional Transport Planning Sub-Committee shall be subject to the Code of Conduct for Members.

SECTION 5 – SUB-COMMITTEES

Appendix

- B8.3 Meetings may be rearranged, cancelled or additional meetings scheduled with the agreement of the Chair.
- B8.4 Each meeting will be recorded through the production of notes which will be made available to the public online after the meeting with the exception of any exempt or confidential information. Notes of meetings will usually be brief, containing a summary of discussions, action points and recommendations.
- B8.5 The Regional Transport Planning Sub-Committee is not a decision making body for delivery of a Regional Transport Plan and the Chair should aim to facilitate consensual agreement on matters under consideration. Where a consensus cannot be reached, the Chair shall present the split views of the committee to the CJC.
- B8.6 The Regional Transport Planning Sub-Committee continues to have decision making powers in respect of all functions of TraCC, other than the delivery of a Regional Transport Plan.
- B8.7 The Members' Code of Conduct in Section 9 will apply.

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C

Strategic Development Planning Sub-Committee – Terms of Reference

C1. Introduction

- C1.1 The Mid Wales CJC has the function of preparing a Strategic Development Plan (SDP) (and accordingly Part 6 of the Planning and Compulsory Purchase Act 2004 applies to the Mid Wales CJC)
- C1.2 The production of an SDP is a statutory duty and will require substantive resource to be committed over a period to be defined in accordance with clearly defined deliverables itemised in a 'Delivery Agreement' agreed by the CJC and Welsh Government.
- C1.3 Brecon Beacons National Park Authority (BBNPA) are a member of the CJC but are entitled to vote in relation to Strategic Development Planning purposes only.
- C1.4 The CJC will appoint the Strategic Development Planning Sub-Committee to make the necessary recommendations to the CJC in relation to the preparation, adoption and implementation of a Mid Wales Strategic Development Plan for the Constituent Councils and BBNPA.
- C1.5 The SDP will be the first ever regional scale Development Plan for the Mid Wales area, under which Local Development Plans (LDPs) and/or 'LDP lites' will still need to be produced at Local Planning Authority level. Once the SDP is in place, planning decisions in future will be made having regard to the SDP, as well as adopted LDPs/LDP lites and Future Wales, the National Plan 2040.

SECTION 5 – SUB-COMMITTEES

C1.6 The SDP will focus on those issues, topics or places that are considered key to delivering wider than local issues and responding to the key driver of change for the region. It will cover strategic planning and place-making issues such as major centres for economic growth, major housing allocations (including new settlements if appropriate) and areas for protection.

C2. Composition of the Strategic Development Planning Sub-Committee

C2.1 The Strategic Development Planning Sub Committee will consist of 8 members, 3 from each of the Constituent Authorities and 2 from BBNPA.

C2.2 The Chair of the Sub-Committee shall be elected annually from Members of the Constituent Authorities.

C3. Strategic Development Planning Sub Committee Recommendations

C3.1 The Strategic Development Planning Sub-Committee will make recommendations to the CJC in relation to the preparation and development of the Strategic Development Plan, as well as its future implementation, monitoring and review. The CJC will then be asked to consider the recommendations. If the recommendations are not approved by the CJC the CJC may refer matters back to the Strategic Development Planning Sub-Committee for reconsideration and resubmission to the CJC.

C4. Meetings

C4.1 The Strategic Development Planning Sub-Committee shall meet on at least a quarterly basis, or at such frequency as the Sub-Committee shall determine from time to time in order to fulfil its role.

C4.2 The Strategic Development Planning Sub-Committee may invite appropriate third parties to attend and observe Strategic Development Planning Sub-Committee

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Meetings as it sees fit from time to time. Such third parties may include individuals or representatives of such organisations and private sector companies as the Strategic Development Planning Sub-Committee shall determine from time to time.

C4.3 Any third parties invited to attend and observe Strategic Development Planning Sub-Committee Meetings shall be entitled to take part in such meeting but shall not be able to vote in respect of any decisions to be taken. Any third party in attendance at a Strategic Development Planning Sub-Committee Meeting may be required by the Chairperson not to attend some or any part of any meeting.

C4.4 A Strategic Development Planning Sub-Committee Meeting may be held in accordance with Rules 4.29 to 4.30 (Location) and 4.37 to 4.38 (Remote Meetings).

C4.5 Meetings will be held in public and arrangements for the publication of and access to documents will be the same as for meetings of the CJC as set out in Section 4.

C5. Quorum

C5.1 The quorum necessary for the Strategic Development Planning Sub-Committee Meeting shall be at least a member from each of the Constituent Councils and BBNPA

SECTION 5 – SUB-COMMITTEES

Appendix

C6. Voting

C6.1 At meetings of the Strategic Development Planning Sub-Committee each member appointed in attendance shall have one vote.. Decisions at meetings of the Strategic Planning Sub-Committee will be taken by a majority vote of a quorate meeting.

C7. Minutes

C7.1 Minutes of the proceedings of a Strategic Development Planning Sub-Committee meeting must be drawn up and recorded. The minutes must be considered and approved at the following meeting of the Sub-Committee.

C8. Proceedings of Meetings

C8.1 Rule 5.6 above will apply to the meetings of the Strategic Development Planning Sub-Committee

C8.2 Members of the Strategic Development Planning Sub-Committee shall be subject to the Code of Conduct for Members.

C8.3 Meetings may be rearranged, cancelled or additional meetings scheduled with the agreement of the Chair.

C8.4 Each meeting will be recorded through the production of notes which will be made available to the public online after the meeting with the exception of any exempt or confidential information. Notes of meetings will usually be brief, containing a summary of discussions, action points and recommendations.

C8.5 The Strategic Development Planning Sub-Committee is not a decision making body, and the Chair should aim to facilitate consensual agreement on matters under consideration. Where a consensus cannot be reached, the Chair shall present the split views of the committee to the CJC.

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D

Governance and Audit Sub-Committee - Terms of Reference

D1. Membership

D1.1 The Membership of the Governance and Audit Sub-Committee will be as follows:

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- D1.1.1 One Lay Member from the Governance and Audit Sub-Committee of each of the Constituent Councils;
- D1.1.2 Two Councillors from the Governance and Audit Sub-Committee of each of the Constituent Councils;
- D1.1.3 Where the Governance and Audit Sub-Committee is considering Strategic Development Plan matters the Sub-Committee will include a Lay Member from the Brecon Beacons National Park Authority's Audit and Scrutiny Committee.
- D1.1.4 One third of the Governance and Audit Sub-Committee must consist of Lay Members and two thirds of the Governance and Audit Sub-Committee must consist of Members of the Constituent Authorities. Any act of the Sub-Committee will be invalid if these membership requirements are breached.
- D1.1.5 The Chair and Vice-Chair of the Governance and Audit Sub-Committee will be appointed by the Sub-Committee at the first meeting following the CJC's Annual Meeting and the Chair must be a Lay Member and rotated between Authorities on an annual basis.
- D1.1.6 The Chair and / or Vice-Chair of the Governance and Audit Sub-Committee may be removed from office by a motion to remove which is put on the agenda.

D2. Scope.

To approve CJC's statement of accounts, income and expenditure and balance sheet or record of receipts and payments (as the case may be).

Ensure the risk management strategy guides the programme of internal and external work, to address the controls and risk related issues identified

Oversee the production of the annual governance statement, recommend its adoption to the CJC and ensure appropriate action is taken to address the issues raised

To consider and approve the annual audit opinion on internal control and the level of assurance given to the corporate governance arrangements

Approve the annual audit plan, ensuring there is sufficient and appropriate coverage, with a strong emphasis on risk management and resources are available to implement the plan.

Receive and review internal audit reports and ensure officers respond promptly to the findings. Where necessary recommendations to other committees and portfolio holders will be made, to ensure action plans are implemented

Consider and approve the annual letter, regulatory plan and specific reports as agreed.

Where necessary ensure action is taken by officers to address those issues raised, and if necessary recommendations to other committees and portfolio holders will be made to address findings and deliver clear conclusions

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Comment on the scope and depth of the external audit work, to ensure it gives value for money

Assess and approve the annual statement of accounts, external audit opinion and management representation in relation to annual audit findings

Promote effective relationships between external and internal audit, inspection agencies and other relevant bodies to ensure the value of audit and inspection is enhanced and actively promoted

regularly monitor treasury management reports

Local Government Measure 2011 (Section 81) as amended by the Local Government and Elections (Wales) Act 2021 (Section 115) and The Mid Wales Corporate Joint Committee Regulations 2021.

review and scrutinise the CJC's financial affairs

make reports and recommendations in relation to the CJC's financial affairs

review and assess the risk management, internal control, performance assessment and corporate governance arrangements of the CJC

make reports and recommendations to the CJC on the adequacy and effectiveness of those arrangements

review and assess the CJC's ability to handle complaints effectively

make reports and recommendations in relation to the CJC's ability to handle complaints effectively

oversee the CJC's internal and external audit arrangements, and review the financial statements prepared by the CJC

Local Government and Elections (Wales) Act 2021 (Section 91 - 95)

Duty to review the CJC's draft performance self assessment report and may make recommendations for changes to the conclusions or to anything included in the draft

Duty to review the CJC's draft response of the panel performance assessment and may make recommendations for changes to the statements made

Duty to consider the report of the Auditor General following a special inspection

Duty to review the CJC's draft response to the report of the Auditor General and may make recommendations for changes to the statement made

- D3. The Sub-Committee can make reports and / or recommendations to the CJC, in connection with the discharge of any function of the CJC;

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D4 Work Programme

D4.1 The Chair in consultation with the Sub-Committee will determine its own work programme

D5. Meetings of the Governance and Audit Sub-Committee

D5.1 The Governance and Audit Sub-Committee must meet at least once annually.

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- D5.2 The Governance and Audit Sub-Committee must also meet if at least one third of the members of the Governance and Audit Sub-Committee requisition a meeting by one or more notices in writing to the chair.
- D5.3 For the purposes of attendances of members or Officers of the CJC or officers of the Constituent Councils at the Governance and Audit Sub-Committee only, in accordance with Section 83(6) of The Measure, a person is not obliged to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.

D6. Proceedings of Meetings

- D6.1 Rule 5.6 will apply to the meetings of the Governance and Audit SubCommittee.
- D6.2 Members of the Governance and Audit Sub-Committee shall be subject to the Code of Conduct for Members.
- D6.3 Meetings may be rearranged, cancelled or additional meetings scheduled with the agreement of the Chair.
- D6.4 Each meeting will be recorded through the production of notes which will be made available to the public online after the meeting with the exception of any exempt or confidential information. Notes of meetings will usually be brief, containing a summary of discussions, action points and recommendations.
- D6.5 The Governance and Audit Sub-Committee is not a decision making body, and the Chair should aim to facilitate consensual agreement on matters under consideration.
- D6.6 The Members' Code of Conduct in Section 9 will apply.

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Appendix

E Overview and Scrutiny Sub-Committee - Terms of Reference

TERMS OF REFERENCE OF THE CJC OVERVIEW & SCRUTINY SUBCOMMITTEE (“OSSC”)

E1. Membership

E1.1 Subject to 1.3 below, the Overview & Scrutiny Sub-Committee shall comprise of 10 members

Function and any function that is ancillary or incidental to that function the Overview & Scrutiny Sub-Committee shall comprise of 11 members in total, 5 each from the relevant Overview and Scrutiny Committees of the Constituent Councils, ensuring political balance together with 1 representative of the Brecon Beacons National Park Authority.

E1.4 Two nominated substitutes will be allowed for the representatives listed above from Constituent Councils and one substitute representative will be allowed from the Brecon Beacons National Park Authority provided that the substitutes are not involved in and have not attended meetings of the CJC or another SubCommittee of the CJC.

E1.5 A Constituent Council may send a substitute from the relevant scrutiny committee of their own Council of the same political group if they are unable to attend, but this may not be a member of the Constituent Council's executive. A substitute will be able to vote.

E2. Purpose

E2.1 The purpose of the Overview & Scrutiny Sub-Committee shall be:

E2.1.1 Performing the overview and scrutiny function for the CJC on behalf of the Constituent Councils and the Brecon Beacons National Park Authority where appropriate, to:

- (a) review and or scrutinise decisions made, or other action taken, in connection with the discharge of any of the CJC’s functions;
- (b) make reports or recommendations to the CJC or its executive officers with respect to the discharge of any of those functions;
- (c) exercise such other functions as the CJC may determine.

E2.1.2 To develop a Forward Work Programme annually, reflecting the functions under clause 2.1.1 above.

E2.1.3 To seek reassurance and consider if the CJC is developing according to guidance from WG

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E3. Chair

- E3.1 The Chair and Vice-Chair of the OSSC shall be elected by the OSSC.
- E3.2 The Chair and Vice-Chair of the OSSC shall be elected by the OSSC at its first meeting and then at each calendar year.
- E3.3 The position of Chair and Vice-Chair will rotate between the Constituent Councils on an annual basis.
- E3.4 Election of Chair – The OSSC will elect a Chair from the nominated membership of the committee. Substitute Members will not be eligible for election as the Chair.
- E3.5 Election of Vice-Chair – The OSSC will elect a Vice Chair from the nominated membership of the committee. Substitute Members will not be eligible for election as Vice-Chair.

E4. Voting

- E4.1 Each member of the OSSC shall have one vote. Decisions of the OSSC shall be made by simple majority vote.
- E4.2 In the event of equality of votes the Chair of the OSCC shall have a casting vote.

E5. Conflicts of Interest

- E5.1 Members of the OSCC must declare any interest either before or during the meetings of the OSCC (and withdraw from that meeting if necessary) in accordance with the Code of Conduct or as required by law.

E6. Proceedings of Meetings

- E6.1 Rule 5.6 above will apply to the meetings of the OSCC.
- E6.2 Members of the OSSC shall be subject to the Code of Conduct for Members.
- E6.3 Meetings may be rearranged, cancelled or additional meetings scheduled with the agreement of the Chair.
- E6.4 Each meeting will be recorded through the production of notes which will be made available to the public online after the meeting with the exception of any exempt or confidential information. Notes of meetings will usually be brief, containing a summary of discussions, action points and recommendations.
- E6.5 The OSSC is not a decision making body, and the Chair should aim to facilitate consensual agreement on matters under consideration. Where a consensus cannot be reached, the Chair shall present the split views of the committee to the CJC.
- E6.6 The Members' Code of Conduct in Section 9 will apply.

E7 Quorum

- E7.1 The quorum for meetings shall be no less than 4 Members, which must include at least 2 Members from each of the Constituent Councils, but where the OSSC is considering the Strategic Development Plan Function and any function that is ancillary or incidental to that function, the quorum must include a representative of the Brecon Beacons National Park Authority.

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E8. Frequency

E8.1 The OSSC shall meet quarterly, having regard of the CJC's meetings. Additional meetings may be convened by the Chair on at least 7 clear days' notice.

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E9. Sub-Groups

E9.1 The OSSC by agreement may create Task and Finish Groups.

E10. Review

E10.1 The Terms of reference of the OSSC shall be reviewed annually.

E11. Call-In

E11.1 When a decision is made by the CJC a summary of the decision shall be circulated by the Monitoring Officer (normally within 2 days of the decision being made and where possible by electronic means) to all members of the CJC and members of the Overview and Scrutiny Sub Committee.

E11.2 That notice containing the decision summary 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 Clear days (the Call-in Period”) after the publication of the decision, unless the Overview and Scrutiny Sub-Committee, or the requisite number of members thereof (referred to in paragraph 12.3 below) objects to it in writing and calls it in.

E11.3 During the Call-in Period the Monitoring Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested in the specified format (“the Call-In Request”⁵) by 3 members of a Scrutiny Committee PROVIDED THAT the Monitoring Officer and / or the Chief Finance Officer are satisfied that the following conditions are met:

E11.3.1 the decision or action was contrary to the policy framework or budget, or fell outside the functions of the CJC; or

E11.3.2 the CJC had not followed agreed procedures or failed to consult (where required) before reaching its decision; or

E11.3.3 the CJC had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the CJC's actions, or other guidance adopted by the CJC.

E11.4 Where the Monitoring Officer and / or the Chief Finance Officer are satisfied that one or more of the conditions set out in Rule 12.3 above have been met, they shall produce a written report setting out the reasons for coming to this

⁵ See Appendix 1 to this Section.

SECTION 5 – SUB-COMMITTEES

conclusion and the Monitoring Officer will then arrange for a “Call-In Notice”⁶ to be issued in accordance with Rule 12.5 below.

E11.5 A Call-In Notice must contain the following:

E11.5.1 details of the condition set out in rule 12.3 above being relied upon;
E11.5.2 the reasons why it is believed one or more of the conditions are satisfied.

E11.6 The Monitoring Officer shall call a meeting of that Scrutiny Committee on such a date as s/he may determine, where possible after consultation with the chair or vice chair of that the Overview and Scrutiny Committee, and usually within 10 clear days of the receipt of the Call-In Request (the “Scrutiny Period”) (only in exceptional circumstances will the chair of the Overview and Scrutiny Committee consider extending this time limit and the period of extension cannot in any circumstances exceed a further 5 clear days).

E11.7 If, having considered the decision, the Overview Scrutiny Committee remains concerned about the decision, then the Committee may refer it back to the CJC for reconsideration, setting out in writing the nature of its concerns. If the decision is referred back to the CJC, the CJC shall then reconsider the decision within 10 clear days of the date of the reference. The CJC shall choose whether to amend the decision or not before reaching a final decision and implementing it. The final decision cannot be the subject of a further call-in.

E11.8 If a Scrutiny Committee does not meet within the Scrutiny Period the decision shall take effect and be implemented on the next day following the expiry of the Scrutiny Period (as extended pursuant to Rule 7.35.6 as the case may be).

E11.9 If following an objection to the decision, a Scrutiny Committee does not refer the matter back to the CJC, the decision shall take effect on the date of the Scrutiny Committee meeting.

E11.10 In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

E11.10.1 the Overview and Scrutiny Committee may only call-in a total of five decisions per year;

E11.10.2 once a Member (the chair of the Scrutiny Committee excepted) has signed a Call-in Request s/he may not do so again until the period of six months has expired.

⁶ See Appendix 2 to this Section.

SECTION 5 – SUB-COMMITTEES

E11.10.3 only decisions involving expenditure or reduction in service over the threshold value for tenders set out in Section 17 of this Constitution may be called-in.

E11.10.4 the decision being called-in, or broadly the same decision, has not been called in during the last 6 months.

E11.11 the Monitoring Officer and / or the Chief Finance Officer may veto any request for call-in if it falls outside the remit of this scheme.

E11.12 Save in exceptional circumstances all members of a Scrutiny Committee requesting a matter be called in must attend the meeting at which the matter is being considered.

E11.13 For the avoidance of doubt a Call-In remains valid even if one or more of the members who have signed the Call-in Request do not attend the Scrutiny Meeting at which the Call-in is debated.

E12. Exceptions to call-in

E12.1 The call-in procedure set out in clause 12 above shall not apply where the decision being taken is urgent. A decision will be urgent if:

E12.1.1 any delay likely to be caused by the call-in process would seriously prejudice the Council's or other public interests; and

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E12.1.2 Subject to clause 13.3 below the Chief Executive and / or the Monitoring Officer and / or the Chief Finance Officer certifies in writing the reasons why any delay caused by a call-in process could seriously prejudice the Council, or the public interest; and

E12.1.3 the chair of the Overview and Scrutiny Committee agrees in writing to the decision being treated as a matter of urgency. In the absence of the Overview and Scrutiny chair then the vice chair may agree to the decision being treated as a matter of urgency; and

E12.1.4 the record of the decision, and notice by which it is made public, shall state that the decision is an urgent one, and that the urgency of the matter has been approved by the Chief Executive and / or the Monitoring Officer and / or the Chief Finance Officer and by the chair or vice chair of the Overview Scrutiny Committee.

E12.2 Decisions taken as a matter of urgency can be implemented forthwith but must be reported at the next available meeting of the Overview and Scrutiny Committee, together with the reasons for urgency, such report to the scrutiny committee must contain the written certification as required in clause E12.1.2 above.

E13. The Party Whip

E13.1 Section 78(1) of the Local Government (Wales) Measure 2011 provides that a Member of a Overview and Scrutiny Sub Committee must not vote on a question at a

SECTION 5 – SUB-COMMITTEES

meeting of that Committee if before the meeting the Member has been given a party whip relating to the question (known as prohibited party whip). E13.2 The statutory definition of a party whip is reproduced at paragraph 14.6.

E13.3 Any vote is given in breach of the rule declared in paragraph 14.1 must be disregarded.

E13.4 It is for the person chairing the meeting of the Overview and Scrutiny Sub Committee to determine whether a member of the Committee has been given a prohibited party whip in relation to the meeting.

E13.5 At each meeting of a Overview and Scrutiny Sub Committee each Member must declare any prohibited party whip which the Member has been given in relation to the meeting and the minutes of the meeting shall record all such declarations. E13.6 The definition of party whip in Section 81(10) of the Local Government (Wales) Measure 2011 is: “party whip means an instruction (however expressed) which:-

- (a) is given on behalf of a political group on a Constituent Authority;
- (b) is given to a person (P) who is:- (i) a member of the political group, and (ii) a member of a Overview and Scrutiny Sub Committee of the CJC;
- (c) is an instruction as to how P should vote on a question falling to be decided by the committee; and
- (d) if not complied with by P, would be likely to make P liable to disciplinary action by the political group which gives the instruction;

“political group” means a group of members of a Constituent Authority that is a political group for the purposes of Part 1 of the Local Government and Housing Act 1989.”

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Appendix F

Standards Sub-Committee - Terms of Reference

Composition

F1. Membership of the Standards Committee.

F1.1 The Standards Committee is composed of 7 members. Its Membership includes:

‘Independent’ (Lay) Members from the Standards Committee of each Constituent Council.

F1.1.1

The following persons are not eligible to serve as Independent (Lay) Members of the Standards Committee:

SECTION 5 – SUB-COMMITTEES

- (a) A person who is a Councillor or Officer of the Constituent Councils or the spouse or civil partner of a Councillor or an Officer;
- (b) A person who has been, but is no longer a Councillor or Officer of the Constituent Councils;
- (c) A person who is a member or an officer, or the spouse or civil partner of a member or an officer of:

Any other County Council;
Any County Borough Council;
Any National Park Authority; Any
Fire Authority;
Any Community Council.

- (d) For the period of 12 months commencing with the date on which that person ceased to be a member or officer of any of the bodies listed below, a person who has been, but is no longer a member or officer of;

Any other County Council;
Any other County Borough
Council; A National Park Authority;
A Fire Authority.

F1.1.2 1 Councillor from the Standards Committee of each Constituent Council (not a Member of the Cabinets of either Constituent Council) appointed by the Constituent Council at their Annual Meetings following the ordinary local government elections for the County Council, or at an ordinary meeting in the event of a vacancy occurring.

F1.1.3 1 Member from the Standards Committee of the Brecon Beacons National Park Authority.

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F2 Term of Office

F2.1 Independent (Lay) Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.

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F2.2 Councillors of Constituent Councils who are Members of the Standards Committee will have a term of office of no more than five years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term. A Councillor ceases to be a Member of the Standards Committee upon ceasing to be a Councillor of a Constituent Council.

F3 Meetings.

F3.1 The Standards Committee must meet at least once annually.

F4 Quorum of Standards Committee

F4.1 A meeting of the Standards Committee shall only be quorate when:

F4.1.1 at least 3 Members, including the Chair, are present; and

F4.1.2 at least half the Members present (including the Chair) are Independent (Lay) Members.

F5 Voting

F5.1 All Members including Independent (Lay) Members will be entitled to vote at meetings.

F5.2 A question to be decided by the Standards Committee shall be decided by a majority of the votes cast by those members present at the meeting and eligible to vote.

F5.3 In the case of an equality of votes, the person presiding at a meeting of the Standards Committee shall have a second, casting vote.

F6. Chairing the Committee.

F6.1 Only an Independent (Lay) Member of the Standards Committee may be the Chair or Vice-Chair.

F6.2 If the Chair is absent from a meeting of the Standards Committee, then the Vice-Chair of the Committee, if present, shall preside.

F6.3 If both the Chair and the Vice-Chair of the Standards Committee are absent from a meeting, an independent member as chosen by the Standards Committee shall preside.

F6.4 Subject to Paragraphs F6.1 and F6.5 the Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:

(i) not less than four years or no more than six years; or

(ii) until the term of office of the Independent Member comes to an end.

F6.5 A Chair or Vice-Chair can be re-elected following their re-appointment as a Member of the Committee as the case may be.

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F7. Role and Function

F7.1 The Standards Committee will have the following roles and functions:

- F7.1.1 promoting and maintaining high standards of conduct by Members;
- F7.1.2 assisting Members to observe the Members' Code of Conduct;
- F7.1.3 advising the CJC on the adoption or revision of the Members' Code of Conduct;
- F7.1.4 monitoring the operation of the Members' Code of Conduct;
- F7.1.5 advising on training or arranging to train Members on matters relating to the Members' Code of Conduct;
- F7.1.6 granting dispensations to Members from requirements relating to interests set out in the Members' Code of Conduct;
- F7.1.7 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.
- F7.1.8 overseeing the CJC's whistle-blowing regime;
- F7.1.9 providing advice to individual Members on such issues as the treatment of personal interest and on conduct matters generally;
- F7.1.10 determining appropriate action on matters referred to it by the Public Services Ombudsman for Wales.
- F7.1.11 overseeing the Register of Interest of Members and Officers.
- F7.1.12 overseeing the CJC's rules and protocols on accountability of members.
- F7.1.13 overseeing the attendance of Members at relevant meetings;
- F7.1.14 As soon as reasonably practicable after the end of each financial year, the Standards Committee will make an annual report to the CJC setting out the following:
 - (a) how the Committee's functions have been discharged
 - (b) what has been done to discharge the general and specific functions set out in Paragraphs 1.12.1 to 1.12.5 above;
 - (c) reports and recommendations made or referred to the Committee by the Ombudsman;
 - (d) action taken by the Committee following its consideration of such reports and recommendations;
 - (e) notices given to the Committee by the Adjudication Panel for Wales.
 - (f) such other matters as the Committee may wish to draw to the attention of CJC in relation to the Standards Committee's functions.

F8. Rules of Procedure and Debate

F8.1 Rule 5.6 above will apply to the meetings of the Standards Committee.

SECTION 5 – SUB-COMMITTEES

- F8.2 When considering the conduct of individual Members, the procedures outlined in Section 9 will apply.

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Section 6 – Officers

Staffing

6.1 The CJC will make arrangements in relation to staffing as are necessary for the proper discharge of its functions. Provisions in the Establishing Regulations apply to the CJC's arrangements for staffing.

Duty to Appoint Chief Executive Officer

6.2 The CJC will appoint a Chief Executive Officer for such period as it considers appropriate.

6.3 The Chief Executive Officer must:

6.3.1 Keep review of how the CJC exercises its different functions, the CJC's arrangements and staffing matters, and

6.3.2 where appropriate to do so, make a report to the CJC setting out the Chief Executive's proposals in respect of any of those matters.

6.4 Provisions in the Establishing Regulations in relation to the direct employment of a Chief Executive officer will apply.

Duty to Appoint Chief Finance Officer and Reporting Functions

6.5 The CJC will appoint a Chief Finance Officer under Section 151 of the Local Government Act 1972 for such period as it considers appropriate.

6.6 The CJC's Chief Finance Officer will have the same duties and obligations for the CJC as a local authority's Chief Finance Officer for their authority and shall have the reporting duties under Section 114 of the Local Government Finance Act 1988.

Designation and Reports of Monitoring Officer

6.7 The CJC must designate a Monitoring Officer under section 5 of the Local Government and Housing Act 1989, for such period as it considers appropriate, who will not be the same individual as the CJC's Chief Executive Officer or Chief Finance Officer.

6.8 The CJC's Monitoring Officer will have the same duties and obligations for the CJC as a local authority's Monitoring Officer for their authority together with support and advice functions in relation to CJC and sub-committee meetings and their members as set out in Regulation 8 of the Corporate Joint Committees (General) (No 2) (Wales) Regulations 2021

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Section 7 – Scheme of Delegation

General.

7.1 Subject to Rule 7.3 below, the CJC may arrange for the discharge of its function by:

- 7.1.1 A sub-committee;
- 7.1.2 A member of staff;
- 7.1.3 Any other corporate joint committee;
- 7.1.4 Any county or county borough council in Wales.

Delegation

7.2 Subject always to Rule 7.3 below, the CJC delegates operational decisions on the discharge of its functions and anything that is required to facilitate or is conducive or incidental to the discharge of its functions as set out in Rule 7.4.

7.3 The CJC may not delegate any of the following to any other person or subcommittee:

- 7.3.1 Its function in relation to developing policies under the relevant provisions of the Transport Act 2000 (“Transport Policy Function”);
- 7.3.2 Its function in relation to preparing a Strategic Development Plan under the relevant provisions of the Planning and Compulsory Purchase Act 2004 (the “Strategic Development Plan Function”);
- 7.3.3 The decision to agree the CJC budgets and contributions of the Constituent Councils and the National Park;
- 7.3.4 The decision to establish CJC sub-committees; and
- 7.3.5 Other specific decisions and responsibilities set out in the Establishing Regulations.

7.4 All decisions are to be taken by the CJC except as set out below:

Decision:	Delegated to:
<p>Decisions to incur expenditure up to a maximum aggregate of £50,000 where this is:</p> <ul style="list-style-type: none"> a) Within the approved budget of the CJC for that financial year; and b) In accordance with the CJC’s Rules. 	<p>CJC Chief Executive Officer</p> <p>The CJC Chief Executive Officer may further delegate this decision to another officer of the CJC or an officer of the Constituent Councils</p>
<p>Decisions on the management, allocation, direction and supervision of staff resources made available to the CJC where this is:</p> <ul style="list-style-type: none"> a) In accordance with the staffing arrangements put in place with the employers of any staff made 	<p>CJC Chief Executive Officer</p> <p>The CJC Chief Executive Officer may further delegate this decision to another officer of the CJC or an officer of the Constituent Councils</p>

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<p>available to the CJC; and</p> <p>b) In accordance with the CJC's Rules</p>	
<p>The engagement (and terms of engagement of) any individual person as a consultant where the value of the appointment does not exceed £50,000 per accounting period</p>	<p>CJC Chief Executive Officer</p> <p>The CJC Chief Executive Officer may further delegate this decision to another officer of the CJC or an officer of the Constituent Councils</p>

RECORDS

- 8.1 The CJC will make arrangements for the proper care, preservation and management of the CJC's records.
- 8.2 Provisions in the Establishing Regulations relate to the preparation, retention, publications and facilitation of access to documents and records by the CJC.

Scope

- 8.3 These Rules apply to all meetings of a CJC and Sub-Committees.
- 8.4 The Monitoring Officer shall be the proper officer for the purposes of all statutory and regulatory provisions relating to the identification listing and availability of background papers for any report where such report is within the scope of these Rules.
- 8.5 The Monitoring Officer shall be responsible for securing compliance with the requirements of the Data Protection Act 1998 and of the Freedom of Information Act 2000 in relation to the data and information within the purview of those Acts appearing in agendas, reports and minutes to which these Rules apply.

Additional Rights to Information

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

Rights to Attend Meetings

- 8.7 Members of the public and the press may attend all meetings subject only to the exceptions set out in Rule 8.17. Save for meetings or parts of meetings which are held in confidential session pursuant to Rule 8.17 filming, audio recording and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting, and provided that children and / or vulnerable adults are not participating in the debate by way of a presentation. The right to attend meetings is subject to the CJC's right to exclude persons if their conduct is disorderly or if they misbehave at the meeting.

Notices of Meeting

- 8.8 Unless a meeting is convened at short notice in accordance with Rule 8.9, the CJC will give at least 3 clear days' notice of any meeting on its website.
- 8.9 If a matter is considered by the Monitoring Officer to be so significantly urgent and unexpected that a decision must be taken and that it is not possible to provide three clear days notice of the date of the meeting at which the decision must be taken, then with the agreement of the Chair of the meeting, the Monitoring Officer may call a meeting at short notice, subject to the agenda and reports being available to the public on the same day that they are made available to Members.

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Access to Agenda and Reports Before the Meeting

8.10 The CJC will make copies of the agenda and reports open to the public available for inspection on its website at least 3 clear days before the

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meeting. If an item is added to the agenda later, or where reports are prepared after the summons has been sent out, the Monitoring Officer shall make each revised agenda or report available to the public as soon as the agenda or report is completed and sent to Members.

Supply of Copies

8.11 The CJC will publish on the website:

- 8.11.1 any agenda;
- 8.11.2 any report connected with an agenda which are not exempt pursuant to Rule 8.27 below
- 8.11.3 if the Monitoring Officer thinks fit, copies of any other documents supplied to Members in connection with a decision
- 8.11.4 Where a member of the public is not able to access documents published on the website, those document will be available for inspection or copies provided upon payment of a charge for postage and any other printing and handling costs.

Access to Minutes etc after the Meeting

8.12 The CJC will make available either electronic or hard copies of the following for a period of at least six years after the date of a meeting:

- 8.12.1 the minutes of the meeting or record of decisions taken by the CJC and Sub-Committees, excluding any part of the minutes of proceedings when the meeting was not open to the public because Exempt or Confidential Information was being considered;
- 8.12.2 a summary of any proceedings not open to the public, where the minutes open to inspection would not provide a reasonably fair and coherent record;
- 8.12.3 the agenda for the meeting; and
- 8.12.4 reports relating to items when the meeting was open to the public.

Background Papers

List of Background Papers

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

- 8.13.1 disclose any facts or matters on which the report or an important part of the report is based; and
- 8.13.2 which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose Exempt or Confidential Information as defined in Rule 8.17 to 8.19.

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Retention of Background Papers

- 8.14 Any background papers published on the website will remain accessible electronically by members of the public for a period of six years.
- 8.15 Where it is not reasonably practicable to publish a background paper on the website, those papers shall be retained and be available for inspection by members of the public for a period of six years beginning with the date on which the decision, to which the background papers relate, was made.

Exclusion of Access by the Public to Meetings

Confidential Information – Requirement to Exclude Public

- 8.16 The public must be excluded from those parts of meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that Confidential Information would be disclosed.

Exempt Information – Discretion to Exclude Public

- 8.17 The public may be excluded from those parts of meetings whenever it is likely in view of the nature of the business to be transacted, or the nature of the proceedings, that Exempt Information would be disclosed.
- 8.18 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public, unless a private hearing is necessary for one of the reasons specified in article 6. Due regard will be had to the wishes of the individual should they elect that the hearing be held in private where the law so permits.

Meaning of Confidential Information

- 8.19 Confidential Information means information given to the CJC by a Government Department (including Welsh Government) on terms which forbid its public disclosure, or information which cannot be publicly disclosed by Court Order.

Meaning of Exempt Information

- 8.20 Exempt Information means information falling within the following eight categories (subject to any condition):

Category No.	Category of Exempt Information	Condition
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1.	Information relating to any individual. ⁷	Public interest test applies (see below).
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Category No.	Category of Exempt Information	Condition
2.	Information which is likely to reveal the identity of an individual. ⁸	Public interest test applies (see below).
3.	Information relating to the financial or business affairs of any particular person (including the authority holding that information). ⁹	Information falling within paragraph 14 is not exempt information by virtue of that paragraph if it is required to be registered under: The Companies Act 1985; The Friendly Societies Act 1974; The Friendly Societies Act 1992; The Industrial and Provident Societies Acts 1965 to 1978; The Building Societies Act 1986; or The Charities Act 1993. Public interest test applies (see below).
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority. ¹⁰	Public interest test applies (see below).

⁷ Paragraph 12 of Schedule 12A – Local Government Act 1972 (as amended)

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⁸ Paragraph 13 of Schedule 12A – Local Government Act 1972 (as amended)

⁹ Paragraphs 14 and 19 of Schedule 12A – Local Government Act 1972 (as amended)

¹⁰ Paragraph 15 of Schedule 12A – Local Government Act 1972 (as amended)

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5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings. ¹¹	
6.	Information which reveals that the authority proposes: ⁶ to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or	Public interest test applies (see below).

Category No.	Category of Exempt Information	Condition
	to make an order or direction under any enactment.	
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. ⁷	Public interest test applies (see below).

¹¹ Paragraph 16 of Schedule 12A – Local Government Act 1972 (as amended)

⁶ Paragraph 17 of Schedule 12A – Local Government Act 1972 (as amended)

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8.	<p>In relation to a meeting of a Standards Committee, or a Sub-Committee of a Standards Committee, which is convened to consider a matter referred under the provisions of section 70(4) or (5) or 71(2) of the Local Government Act 2000:</p> <p>Information which is subject to any obligations of confidentiality.</p> <p>Information which relates in any way to matters concerning national security.</p> <p>The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred to it.⁸</p>	Public interest test applies (see below).
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Public Interest Test 8.21

Information which:

- 8.21.1 falls within any category numbers 1 to 4, 6,7 and 8 of the table in Rule 8.20 above; and
- 8.21.2 is not prevented from being exempt by virtue of the “qualifications” in the table in Rule 8.20 above,

⁷ Paragraph 18 of Schedule 12A – Local Government Act 1972 (as amended)

⁸ Local Government Act 1972 as amended by the Local Authorities (Executive Arrangements)(Decisions, Documents and Meetings) and the Standards Committees (Wales) (Amendment) Regulations 2007

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is Exempt Information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Assessment of Public Interest.

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- 8.22 The starting point is that there is a general public interest in release and the public authority has to decide whether in any particular case it would serve the interest of the public better to either disclose or withhold the information.
- 8.23 There is a distinction between public interest and what merely interests the public.
- 8.24 There is no legal definition of what the public interest is, but the following have been identified as some of the relevant considerations:
- 8.24.1 further the understanding of and participation in debating issues of the day;
 - 8.24.2 facilitate transparency and accountability in and enhance scrutiny of decisions taken by the CJC;
 - 8.24.3 facilitate transparency and accountability in the spending of public money;
 - 8.24.4 help individuals understand the decisions made by the CJC affecting their lives;
 - 8.24.5 bring to light information affecting public safety or danger to the environment;
 - 8.24.6 contribute to the administration of justice and enforcement of the law, or the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - 8.24.7 protect the public from unsafe products or rogue traders or practices.
- 8.25 In making such an assessment the following factors shall be regarded as irrelevant:
- 8.25.1 possible embarrassment to the CJC or its officers or officers of a Constituent Council;
 - 8.25.2 possible loss of confidence in the CJC or another public body;
 - 8.25.3 the seniority of persons involved in the subject matter;
 - 8.25.4 the risk of the public misinterpreting the information.
- 8.26 Account may be taken of whether disclosure would breach any obligation of confidence, or the rights of any individual under the Data Protection Act 1998 or the Human Rights Act 1998.

Exclusion of Access by the Public to Reports

- 8.27 If the Monitoring Officer thinks fit, the CJC may exclude access by the public to reports which, in his or her opinion, relate to items during which, in accordance with Rule 8.20, the meeting is likely not to be open to the public. Such reports will be marked “Not for Publication”, together with the category of information likely to be disclosed and, if applicable, why it is considered in the public interest it is that the information should not

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be disclosed. After the meeting access to the report is subject to Rule 8.20.

The Forward Work Programmes

Period of Forward Work Programmes

8.28 The Forward Work Programmes will be prepared by the Monitoring Officer to cover a period of 4 months.

Contents of Forward Work Programmes

8.29 The Forward Work Programmes will contain matters which the CJC and Sub-Committees are likely to consider. It will contain information on:

- 8.29.1 the timetable for considering the budget and any plans forming part of the CJC's functions;
- 8.29.2 the timetable for considering any plans which are the responsibility of the CJC;
- 8.29.3 any individual matters on which the CJC intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- 8.29.4 the work programmes of the Sub-Committees .

8.30 The Forward Work Programmes will be published on the website at least 14 days before the start of the period covered.

Consultation on Proposals to be Considered by the Cabinet

8.31 Each item in the CJC's Forward Work Programme will contain details as to the consultation (if any) which will be undertaken prior to a decision being taken.

Record of Decisions

The Decision Record

8.32 A written record will be made of every decision made by the CJC and its Sub-Committees.

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

- 8.33.1 the decision made;
- 8.33.2 the date the decision was made;
- 8.33.3 the reasons for that decision;
- 8.33.4 any personal interest declared;
- 8.33.5 any dispensation to speak granted by the Standards SubCommittee;
- 8.33.6 any consultation undertaken prior to the decision.
- 8.33.7 a record of the name or names of the members of the decision making body who attended the meeting and of any apologies for absence

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Preparing the Decision Record

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- 8.34 The Monitoring Officer or his or her representative shall attend any meeting of the CJC or Sub-Committees and shall, as soon as reasonably practicable after the meeting, produce a decision record.
- 8.35 Where the urgency of the implementation of the decision makes compliance with Section 5, Appendix E, Paragraph E11 impracticable, the decision may be implemented provided that the provisions of Section 5, Appendix E, Paragraph E12 have been complied with (exclusion of Call-In for urgency).

Members Access to Documents

Rights of Access

8.36 Subject to Rules 8.37 to 8.38 below, Members will be entitled to access to any document which is in the possession or control of the CJC or its Sub-Committees and which contains material relating to:

- 8.36.1 any business transacted at a meeting of the CJC or its SubCommittees; or

Limit on Rights

8.37 Members will not be entitled to any part of a document that contains advice provided by a political advisor or assistant unless that information is relevant to an action or decision that is being reviewed or scrutinised or any review contained in a programme of work of the Scrutiny SubCommittee

8.38 No Member shall be entitled to a document if to do so would be in breach of any legislative provision such as the Data Protection Act 1998, any person's rights in respect of confidentiality, or commercial interests, any provision of this Constitution or any Council or Government policy, Rule or procedure.

Nature of Rights

8.39 The rights of Members under Rule 8.36 are additional to any other right s/he may have, including:

- 8.39.1 the common law right to inspect documents where this is necessary for a Member to perform his or her duties. Any Member asserting a 'need to know' in relation to documents not otherwise available under these Rules should request the documents from the Monitoring Officer only

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and not individual officers, and should take into account the reasonableness of an individual request and of cumulative requests and the impact upon officer time.

8.39.2 the statutory rights available to any person under the Freedom of Information Act 2000 and the Environmental Information Regulations 2005.

8.39.3 Members' right, under Section 228 of the Local Government Act 1972, to inspect the accounts of the CJC and of any proper officer of the CJC.

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8.40 In exercising rights of access to information Members shall have regard to any guidance issued by the Monitoring Officer.

Information Given in Confidence

Disclosure

8.41 Exempt or Confidential Information supplied to a Member in accordance with Rule 14.37 remains exempt or confidential.

8.42 Under Part 2, paragraph 5 of the Members' Code of Conduct Members must not disclose information given in confidence, without the express consent of a person authorised to give such consent, or unless required by law to do so.

8.43 Members will not make public Confidential or Exempt Information without the consent of the Authority or divulge information given in confidence to anyone other than a Member or officer entitled to know it unless otherwise authorised by law.

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Section 9 – Code of Conduct

CODE OF CONDUCT

- 9.1 The Conduct of Members (Principles)(Wales) Order 2001 which sets out the principles which are to govern the conduct of members of a Constituent Authorities in Wales apply to Members and Co-Opted Members of the CJC.
- 9.2 The Code of Conduct (Qualifying Local Government Employees) (Wales) Order 2001 applies to an officer of a corporate joint committee as it applies to an employee of a Constituent Authorities.
- 9.3 Appendix A (below) sets out the text of the Model Code of Conduct prescribed by the Local Authorities (Model Code of Conduct) (Wales) Order 2008, as amended.

Conduct of Members – The Principles¹²

SELFLESSNESS

- 9.4 Members must act solely in the public interest. They must never use their position as Members to improperly confer advantage on themselves or to improperly confer advantage or disadvantage on others.

HONESTY

- 9.5 Members must declare any private interests relevant to their public duties and take steps to resolve any conflict in a way that protects the public interest.

INTEGRITY AND PROPRIETY

- 9.6 Members must not put themselves in a position where their integrity is called into question by any financial or other obligation to individuals or organisations that might seek to influence them in the performance of their duties. Members must on all occasions avoid the appearance of such behaviour.

DUTY TO UPHOLD THE LAW

- 9.7 Members must act to uphold the law and act on all occasions in accordance with the trust that the public has placed in them.

STEWARDSHIP

- 9.8 In discharging their duties and responsibilities Members must ensure that their authority's resources are used both lawfully and prudently.

OBJECTIVITY IN DECISION-MAKING

- 9.9 In carrying out their responsibilities including making appointments, awarding contracts, or recommending individuals for rewards and benefits, Members must make decisions on merit. Whilst Members must have regard to the professional advice of officers and may properly take account of the views of others, including their political groups, it is their responsibility to decide what view to take and, if appropriate, how to vote on any issue.

¹² The Conduct of Members (Principles) (Wales) Order 2001 – S.I. 2276

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EQUALITY AND RESPECT

9.10 Members must carry out their duties and responsibilities with due regard to the need to promote equality of opportunity for all people, regardless of their

gender, race, disability, sexual orientation, age or religion, and show respect and consideration for others.

OPENNESS

9.11 Members must be as open as possible about all their actions and those of their authority. They must seek to ensure that disclosure of information is restricted only in accordance with the law.

ACCOUNTABILITY

9.12 Members are accountable to the electorate and the public generally for their actions and for the way they carry out their responsibilities as a Member. They must be prepared to submit themselves to such scrutiny as is appropriate to their responsibilities.

LEADERSHIP

9.13 Members must promote and support these principles by leadership and example so as to promote public confidence in their role and in the authority. They must respect the impartiality and integrity of the authority's statutory officers and its other employees.

Protocol - Standard of Conduct Expected by Members

9.14 This protocol sets out the standards of conduct expected from Members within the CJC in dealing with each other. It should be read in conjunction with the Members Code of Conduct. It adds to these documents and does not detract from them.

Members are expected:

PUBLIC BEHAVIOUR

- 9.15.1 to show respect to each other;
- 9.15.2 not to make personal abusive comments about each other;
- 9.15.3 not to publish anything insulting about each other;
- 9.15.4 not to make malicious allegations against each other;
- 9.15.5 not to publish or spread any false information about each other; 9.15.6 to show respect to diversity and equality;

BEHAVIOUR IN MEETINGS

- 9.16.1 to behave with dignity;
- 9.16.2 to show respect to the Chair and obey his/her decisions;
- 9.16.3 not to use indecent language nor make racial remarks or remarks which prejudice any section of society;

CONFIDENTIALITY

- 9.173.1 to keep the confidentiality of exempt papers and any other documents

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- 9.17.2 not to release confidential information to the press or the public;
9.17.3 not to use confidential information for purposes other than intended;

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Procedure for Dealing with Allegations made against Members and referred to the Standards Sub-Committee

- 9.18 The procedure for dealing with allegations against members is set out at Appendix B.

Gifts and Hospitality to Members

- 9.19 The Protocol Concerning Gifts and Hospitality is set out at Appendix C below.

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APPENDIX A

Local Government Act 2000 Model Code of Conduct for Members and Co-opted Members with voting rights

Adopted by the CJC at a meeting held on 1 July 2022.

THE MODEL CODE OF CONDUCT

PART 1 INTERPRETATION

A1.

(1) In this code

"co-opted member" ("*aelod cyfetholedig*"), means a person who is appointed as a Co-Opted Member by the CJC

"meeting" ("*cyfarfod*") means any meeting —

- (a) of the CJC,
- (b) of any sub-committee, of the CJC, or
- (c) where members or officers of the CJC are present ,

and includes circumstances in which a Member or an officer acting alone exercises a function of the CJC;

"member" ("*aelod*") includes, unless the context requires otherwise, a co-opted member;

"registered society" means a society, other than a society registered as a credit union, which is —

- (a) a registered society within the meaning given by section 1(1) of the Cooperative and Community Benefit Societies Act 2014; or
- (b) a society registered or deemed to be registered under the Industrial and Provident Societies Act (Northern Ireland) 1969;

"register of members' interests" ("*cofrestr o fuddiannau'r aelodau*") means the register established and maintained under section 81 of the Local Government Act 2000;

"relevant authority" ("*awdurdod perthnasol*") means—

- (a) a county council,
- (b) a county borough council,
- (c) a community council,

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- (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,

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- (e) a National Park authority established under section 63 of the Environment Act 1995;
- (f) Another Corporate Joint Committee

"you" ("*chi*") means you as a member or co-opted member of the CJC; and

The Mid Wales Corporate Joint Committee ("the CJC") ("*eich awdurdod*") means the Corporate Joint Committee of which you are a member or co-opted member.

PART 2 GENERAL PROVISIONS

A2. (1) Save where paragraph 3(a) applies, you must observe this code of conduct

- (a) whenever you conduct the business, or are present at a meeting, of the CJC ;
- (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
- (c) whenever you act, claim to act or give the impression you are acting as a representative of the CJC ; or
- (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.

(2) You should read this code together with the general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

A3. Where you are elected, appointed or nominated by the CJC to serve —

- (a) on another body, you must, when acting for that other authority or body, comply with the code of conduct of that other body; or
- (b) on any other body which does not have a code relating to the conduct of its members, you must, when acting for that other body, comply with this code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

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A4. You must

- (a) carry out your duties and responsibilities with due regard to the principle that there should be equality of opportunity for all people, regardless of their gender, race, disability, sexual orientation, age or religion;
- (b) show respect and consideration for others;
- (c) not use bullying behaviour or harass any person; and
- (d) not do anything which compromises, or which is likely to compromise, the impartiality of those who work for, or on behalf of, the CJC .

A5. You must not

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent

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of a person authorised to give such consent, or unless required by law to do so;

- (b) prevent any person from gaining access to information to which that person is entitled by law.

A6. (1) You must

- (a) not conduct yourself in a manner which could reasonably be regarded as bringing your office or the CJC into disrepute;
- (b) report, whether through the CJC 's confidential reporting procedure or direct to the proper authority, any conduct by another member or anyone who works for, or on behalf of, the CJC which you reasonably believe involves or is likely to involve criminal behaviour (which for the purposes of this paragraph does not include offences or behaviour capable of punishment by way of a fixed penalty);
- (c) report to the CJC 's monitoring officer any conduct by another member which you reasonably believe breaches this code of conduct;
- (d) not make vexatious, malicious or frivolous complaints against other members or anyone who works for, or on behalf of, the CJC .

- (2) You must comply with any request of the CJC 's monitoring officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

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A7. You must not

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;
- (b) use, or authorise others to use, the resources of the CJC —
 - (i) imprudently;
 - (ii) in breach of the CJC 's requirements;
 - (iii) unlawfully;
 - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the CJC or of the office to which you have been elected or appointed;
 - (v) improperly for political purposes; or
 - (vi) improperly for private purposes.

A8. You must

- (a) when participating in meetings or reaching decisions regarding the business of the CJC, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by the CJC 's officers, in particular by —
 - (i) the CJC's Chief Executive;
 - (ii) the CJC's Section 151 officer;
 - (iii) the CJC's Monitoring Officer;
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by the CJC .

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A9. You must

- (a) observe the law and the CJC 's rules governing the claiming of expenses and allowances in connection with your duties as a member;
- (b) avoid accepting from anyone gifts, hospitality (other than official hospitality, such as a civic reception or a working lunch duly authorised by the CJC), material benefits or services for yourself or any person which might place you, or reasonably appear to place you, under an improper obligation.

PART 3 INTERESTS

Personal Interests

A10.

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- (1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- (2) You must regard yourself as having a personal interest in any business of the CJC if
 - (a) it relates to, or is likely to affect
 - (i) any employment or business carried on by you;
 - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
 - (iii) any person, other than the CJC, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
 - (iv) any corporate body which has a place of business or land in the CJC's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
 - (v) any contract for goods, services or works made between the CJC and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;
 - (vi) any land in which you have a beneficial interest and which is in the area of the CJC;
 - (vii) any land where the landlord is the CJC and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in subparagraph (iv) above;
 - (viii) any body to which you have been elected, appointed or nominated by the CJC;

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- (ix) any
 - (aa) public authority or body exercising functions of a public nature;
 - (bb) company, registered society, charity, or body directed to charitable purposes;
 - (cc) body whose principal purposes include the influence of public opinion or policy;
 - (dd) trade union or professional association; or
 - (ee) private club, society or association operating within the CJC 's area, in which you have membership or hold a position of general control or management;
- (x) any land in the CJC 's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) a decision upon it might reasonably be regarded as affecting

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- (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
- (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
- (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
- (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
- (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,

to a greater extent than the majority of other tax payers, ratepayers or inhabitants of the CJC's area.

Disclosure of Personal Interests

A11.

- (1) Where you have a personal interest in any business of the CJC and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of the CJC and you make
 - (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of the CJC regarding that business, you should include details of that interest in the written communication; or
 - (b) oral representations (whether in person or some form of electronic communication) to a member or officer of the CJC you should disclose the interest at the commencement of such representations, or when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.
- (3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of the CJC and you have made a decision in exercising a function of an executive or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- (4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to the CJC in accordance with

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any requirements identified by the CJC 's monitoring officer, but, as a minimum containing

- (a) details of the personal interest;
 - (b) details of the business to which the personal interest relates; and (c) your signature.
- (5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
- (6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of the CJC .
- (7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

Prejudicial Interests

A12.

- (1) Subject to sub-paragraph (2) below, where you have a personal interest in any business of the CJC you also have a prejudicial interest in that business if the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) Subject to sub-paragraph (3), you will not be regarded as having a prejudicial interest in any business where that business—

(a) relates to

(i) another relevant authority of which you are also a member;

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(ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;

(iii) a body to which you have been elected, appointed or nominated by the CJC ; iv) your role as a school governor (where not appointed or nominated by the CJC) unless it relates particularly to the school of which you are a governor;

(b) relates to

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- (i) the functions of the CJC in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from the CJC ;
 - (ii) the functions of the CJC in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011, or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;
- (3) The exemptions in subparagraph (2)(a) do not apply where the business relates to the determination of any approval, consent, licence, permission or registration.

Scrutiny Sub-Committee

- A13.** You also have a prejudicial interest in any business before the scrutiny Subcommittee of the CJC where
- (a) that business relates to a decision made (whether implemented or not) or action taken by the CJC, or sub-committees; and
 - (b) at the time the decision was made or action was taken, you were a member of the CJC, sub-committee, mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

Participation in Relation to Disclosed Interests

A14.

- (1) Subject to sub-paragraphs (2), (2A), (3) and (4), where you have a prejudicial interest in any business of the CJC you must, unless you have obtained a dispensation from the CJC 's Standards Sub-Committee
- (a) withdraw from the meeting where the business is being held
 - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
 - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;

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- (b) not exercise CJC functions in relation to that business;
- (c) not seek to influence a decision about that business;
- (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
- (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or

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immediately cease to make such oral representations when the prejudicial interest becomes apparent.

- (2) Where you have a prejudicial interest in any business of the CJC you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (2A) Where you have a prejudicial interest in any business of the CJC you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under statutory right or otherwise.
- (2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that the CJC may adopt for the submission of such representations.
- (3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if
 - (a) you are required to attend a meeting of the scrutiny sub-committee, by such committee exercising its statutory powers; or
 - (b) you have the benefit of a dispensation provided that you
 - (i) state at the meeting that you are relying on the dispensation; and
 - (ii) before or immediately after the close of the meeting give written notification to the CJC containing
 - (aa) details of the prejudicial interest;
 - (bb) details of the business to which the prejudicial interest relates;
 - (cc) details of, and the date on which, the dispensation was granted; and
 - (dd) your signature.
- (4) Where you have a prejudicial interest and are making written or oral representations to the CJC in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to the CJC within 14 days of making the representation.

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PART 4 THE REGISTER OF MEMBERS' INTERESTS

Registration of Personal Interests

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A15.

- (1) Subject to sub-paragraph (4), you must, within 28 days of
 - (a) the CJC 's code of conduct being adopted or the mandatory provisions of this model code being applied to the CJC ; or
 - (b) your election or appointment to office (if that is later),register your personal interests, where they fall within a category mentioned in paragraph 10(2)(a), in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.
- (2) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any new personal interest falling within a category mentioned in paragraph 10(2)(a), register that new personal interest in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.
- (3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.
- (4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).
- (5) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in the CJC 's register of members' interests by providing written notification to the CJC 's monitoring officer.

Sensitive information

A16.

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and the CJC 's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify the CJC 's monitoring officer, asking that the information be included in the CJC 's register of members' interests.
- (3) In this code, "sensitive information" ("*gwybodaeth sensitif*") means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

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A17. You must, within 28 days of receiving any gift, hospitality, material benefit or advantage above a value specified in a resolution of the CJC , provide written notification to the CJC 's monitoring officer, of the existence and nature of that gift, hospitality, material benefit or advantage.

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INTRODUCTION

B1 This document sets out the procedure that the CJC's Standards Sub-Committee will follow where it is required to make decisions about the conduct of Members following investigations by the Public Services Ombudsman for Wales or the CJC's Monitoring Officer under Part III of the Local Government Act 2000 and related regulations. If there is any conflict between this document and any statutory requirements then those statutory requirements will prevail.

INTERPRETATION

B2 In this procedure:

B2.1 the "Act" means the Local Government Act 2000;

B2.2 the "Authority" means the CJC;

B2.3 the "Code of Conduct" means the code of conduct for members ¹³adopted by the CJC in accordance with section 51 of the Act, including any revisions;

B2.4 the "Complainant" means any person who made any allegation which gave rise to the investigation;

B2.5 the "Investigating Officer" means the person who conducted an investigation into any alleged breach of the Code of Conduct and produced the investigation report, being either the Ombudsman (or a person acting on his or her behalf) or the Monitoring Officer;

B2.6 an "investigation report" means a report on the outcome of an investigation into any alleged breach of the Code of Conduct produced either by the Ombudsman under s71(2) of the Act or by the Monitoring Officer under the Regulations;

B2.7 the "Member" means any person who is the subject of an investigation into any alleged breach of the Code of Conduct;

B2.8 the "Monitoring Officer" means the officer for the time being appointed by the CJC under section 5 of the Local Government and Housing Act 1989;

B2.9 the "Ombudsman" means the Public Services Ombudsman for Wales;

B2.10 the "Regulations" means the Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001 as amended;

B2.11 the "Standards Officer" means the officer for the time being appointed by the CJC to support the work of the Standards Sub-Committee.

SUMMARY OF THE PROCEDURE

B3 Under section 69 of the Act, the Ombudsman may investigate any alleged breach of the Code of Conduct by Members or Co-Opted Members (or former Members or co-opted Members) of the CJC in the CJC's area.

¹³ See Section 18.1

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B4 Under section 70(4) of the Act, where the Ombudsman ceases such an investigation before it is completed, he/she may refer the matters which are the subject of the investigation to the Monitoring Officer. The Monitoring Officer will then investigate matters in accordance with the Regulations

before reporting and, if appropriate, making recommendations to the Standards Sub-Committee.

B5 Alternatively, under section 71(2) of the Act, where the Ombudsman decides after investigating that it is appropriate, he/she will produce a report on the outcome of the investigation and send it to the Monitoring Officer. The Monitoring Officer will then consider the report of the Ombudsman in accordance with the Regulations, before, if appropriate, present the report and make recommendations to the Standards Sub-Committee.

B6 The Standards Sub-Committee will then make an initial determination either:

- (a) that there is no evidence of any failure to comply with the Code of Conduct; or
- (b) that the Member should be given the opportunity to make representations, either orally or in writing.

B7 Where the Member is given an opportunity to make representations, the Standards Sub-Committee will convene a hearing to consider any response made by the Member and it must determine under regulation 9(1) of the Regulations either that:

- (a) there is no evidence of any failure to comply with the Code of Conduct and that therefore no action needs to be taken;
- (b) the Member has failed to comply with the Code of Conduct but that no action needs to be taken in respect of that failure;
- (c) the Member has failed to comply with the Code of Conduct and should be censured; or
- (d) the Member has failed to comply with the Code of Conduct and should be suspended or partially suspended from being a member or co-opted Member of the CJC for a period not exceeding six months

and take any such action accordingly.

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INVESTIGATIONS BY THE MONITORING OFFICER (REFERRALS UNDER SECTION 70(4) OF THE ACT)

B8 Where the Ombudsman ceases his/her investigation before it is completed and refers the matters which are the subject of the investigation to the Monitoring Officer under section 70(4) of the Act, the Monitoring Officer must:

- (a) conduct an investigation; and
- (b) report, and if appropriate, make recommendations to the CJC's Standards Sub-Committee.

B9 The Monitoring Officer will investigate in accordance with the Regulations and may follow such procedures as he or she considers appropriate in the circumstances of the case.

B10 After concluding an investigation, the Monitoring Officer must:

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- (a) produce a report on the findings of his or her investigation and, if appropriate, may make recommendations to the Standards SubCommittee;
- (b) send a copy of the report to the Member; and
- (c) take reasonable steps to send a copy of the report to the Complainant.

B11 The Standards Sub-Committee will consider the Monitoring Officer's report and any recommendations in accordance with the procedure set out below.

INVESTIGATIONS BY THE OMBUDSMAN (REFERRALS UNDER SECTION 71(2) OF THE ACT)

B12 Where the Ombudsman completes his or her investigation and sends a report to the Monitoring Officer and the CJC's Standards Sub-Committee under section 71(2) of the Act, the Monitoring Officer must consider the Ombudsman's report and, if appropriate, make recommendations to the CJC's Standards Sub-Committee.

B13 The Standards Sub-Committee will consider the Ombudsman's report together with any recommendations made by the Monitoring Officer in accordance with the procedure set out below.

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THE FIRST MEETING OF THE STANDARDS SUB-COMMITTEE - INITIAL DETERMINATION

B14 After the Monitoring Officer has:

- (a) produced an investigation report in accordance with Rule B10(a); or
- (b) considered the Ombudsman's investigation report in accordance with Rule B13

he/she will arrange for a meeting of the Standards Sub-Committee to be convened as soon as possible and for a copy of the investigation report, together with the Monitoring Officer's recommendations (if any), to be sent to each of the members of the Standards Sub-Committee.

B14 Notice of the time and place of the meeting will be given in accordance with Part VA of the Local Government Act 1972 as amended by the Standards Committees (Wales) Regulations 2001. The agenda will name the Member against whom the allegation of misconduct have been made. The first substantive item on the agenda will be to determine whether the members of the public and Members should be excluded in accordance with Rule 4.56 and 4.57.

B15 If the investigation report is produced by the Ombudsman, the Monitoring Officer will advise the Standards Sub-Committee. If the investigation report is produced by the Monitoring Officer, the Standards Officer or some other suitably qualified person will advise the Standards Sub-Committee.

B15 The business of the Standards Sub-Committee meeting will be limited to considering the investigation report and the Monitoring Officer's recommendations (if any) and to making an initial determination either:

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- (a) that there is no evidence of any failure to comply with the Code of Conduct; or
- (b) that the Member should be given the opportunity to make representations,

either orally or in writing in respect of the findings of the investigation and any allegation that he or she has failed, or may have failed, to comply with the Code of Conduct.

B16 The decision of the Committee under Rule B15 will be published and the name of the Member against whom the allegation of misconduct has been made will be made public even if the Committee decides that there is no failure to comply with the Members' Code of Conduct.

AFTER THE FIRST MEETING OF THE STANDARDS SUB-COMMITTEE

B17 Where the Standards Sub-Committee decides that there is no evidence of any failure to comply with the Code of Conduct, the Standards Officer will accordingly notify the Member, the Complainant and the Ombudsman.

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B18 Where the Standards Sub-Committee decides that the Member should be given the opportunity to make representations, the Standards Officer will notify the Member of the Committee's decision and the procedure which the Committee proposes to adopt to receive and consider any representations that he or she may wish to make.

PREPARING FOR THE HEARING TO CONSIDER THE MEMBER'S REPRESENTATIONS

B19 The Standards Officer, in consultation with the Chair of the Standards SubCommittee, will write to the Member to propose a date for a hearing to consider any representations that the Member may wish to make and the Member will respond in writing within 7 days indicating whether he / she wishes to attend the hearing and his / her ability to attend the hearing. In the event that the Member is unable to attend a hearing on the date(s) proposed, the Member will be able to propose alternative dates for consideration by the Chair of the Standards Sub-Committee, who will decide the reasonableness or otherwise of the proposed alternative date and arrange the date for the hearing to take place at which meeting the Committee will decide whether or not to proceed in the event that the Member fails to attend the hearing.

B20 The letter from the Standards Officer in accordance with B19 will also ask the member to respond in writing within 14 days of that letter to confirm whether he / she:

- (a) wants to make representations, whether orally or in writing and if so, to include any written representations in his or her response;
- (b) disagrees with any of the findings of fact in the investigation report, and if so, which matters he or she disagrees with and the reasons for any disagreements in addition to the disputed facts set out in the investigation report;

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- (c) wants to appear before the Committee in person or be represented at the hearing by a solicitor, barrister or any other person, in accordance with his/her right under the Regulations;
- (d) wants to give evidence to the Standards Sub-Committee, either orally or in writing;
- (e) wants to call relevant witnesses to give evidence to the Standards Sub-Committee and confirm their identity and either provide a statement of their evidence or the substance of the evidence to be given orally to the Standards Sub-Committee;
- (f) wants any part of the meeting to be held in private and the reasons why the meeting should not be in public;
- (g) wants any part of the investigation report or other relevant documents to be withheld from the public and the reasons why the document should not be made public

B21 The Standards Officer will notify the Investigating Officer of the proposed hearing date and ask whether he or she will be attending the hearing.

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- B22 The Standards Officer will send a copy of the Member's response under rule B19 to the Investigating Officer and will ask him/her to confirm in writing within seven days whether he/she:
- (a) has any comments on the Member's response;
 - (b) wants to be represented at the hearing;
 - (c) wants to call relevant witnesses to give evidence to the Standards Sub-Committee;
 - (d) wants any part of the meeting to be held in private; and
 - (e) wants any part of the investigation report or other relevant documents to be withheld from the public.
- B23 The Standards Officer will write to the members of the Committee, the Member and the Investigating Officer at least two weeks before the hearing to:
- (a) confirm the date, time and place for the hearing;
 - (b) summarise the allegation;
 - (c) outline the main facts of the case that are agreed;
 - (d) outline the main facts which are not agreed;
 - (e) note whether the Member or the Investigating Officer will attend or be represented at the hearing;
 - (f) list those witnesses, if any, who will be asked to give evidence;
 - (g) enclose the investigation report, any relevant documents, the Member's response and any further response from the Investigating Officer; and
 - (h) outline the proposed procedure for the meeting.

POWERS OF THE STANDARDS SUB-COMMITTEE

- B24 The Standards Sub-Committee may, in accordance with the requirements of natural justice, conduct the meeting in the manner it considers most suitable to the clarification of the issues before it and generally to the just handling of the proceedings. The Committee must to whatever extent it considers to be

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appropriate, seek to avoid formality and inflexibility in its proceedings. The Standards Sub-Committee will decide factual evidence on the balance of probabilities.

- B25 The Member or the Investigating Officer, whether or not they are legally qualified, may be represented or accompanied by another person but if in any particular case the Standards Sub-Committee is satisfied that there is a good reason, it may refuse to permit a particular person to assist or represent a party at the hearing.
- B26 The Standards Sub-Committee may take legal advice from a CJC officer appointed for this purpose at any time during the meeting or while they are considering the outcome. The substance of any legal advice given to the Committee will be shared with the Member and the Investigating Officer if they are present.

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B27 Where appropriate, and in accordance with the Regulations, the Standards Sub-Committee has power to censure the Member, or suspend or partially suspend the Member for a period not exceeding six months.

PROCEDURE AT THE HEARING

B28 The hearing will be held in public unless the Standards Sub-Committee is persuaded that there is a good reason to exclude the public.

B29 The procedure at the meeting shall be as set out below, subject to the Chair making such changes as he or she thinks fit in order to ensure a fair and efficient hearing.

Introduction

B30 The Chair of the Standards Sub-Committee will introduce those persons present and will explain the manner and order of proceedings

First Stage - Preliminary Procedural Issues

B31 The Standards Sub-Committee will then resolve any issues or disagreements about how the hearing should continue, which have not been resolved during the prehearing process.

Second Stage - Making Findings of Fact

B32 The Standards Sub-Committee will then consider whether or not there are any significant disagreements about the facts contained in the investigation report.

1 If there is a disagreement as to the facts:

- (a) the Investigating Officer, if present, will be invited to make any necessary representations to support the relevant findings of fact in the investigation report;
- (b) the Investigating Officer may call any necessary supporting witnesses to give evidence, with the Standards Sub-Committee's permission and the Committee shall give the Member an opportunity to challenge any evidence put forward by any witness called by the Investigating Officer;
- (c) the Member will then be invited to make representations to support his or her version of the facts;

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- (d) the Member may call any necessary witnesses to give evidence, with the Standards Sub-Committee's permission and the Committee shall give the Investigating Officer an opportunity to challenge any evidence put forward by any witness called by the Member.

2 At any time, the Standards Sub-Committee may question any of the people involved or any of the witnesses.

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- 3 If the Member disagrees with any relevant fact in the investigation report, without having given prior notice of the disagreement, he or she must give good reasons for not mentioning it before the hearing. If the Investigating Officer is not present, the Standards Sub-Committee will consider whether or not it would be in the public interest to continue in his or her absence. After considering the Member's explanation for not raising the issue at an earlier stage, the Committee may then:
 - (a) continue with the hearing, relying on the information in the investigation report;
 - (b) allow the Member to make representations about the issue, and invite the Investigating Officer to respond and call any witnesses, as necessary; or
 - (c) postpone the hearing to arrange for appropriate witnesses to be present, or for the Investigating Officer to be present if he or she is not already.
- 4 At the conclusion of the representations as to matters of fact, the Standards Sub-Committee will retire to deliberate in private on the representations, after which the Chair of the Standards SubCommittee will announce their findings of fact.

Third Stage - Deciding whether the Member has failed to comply with the Code

B33

- 1 The Standards Sub-Committee will then consider whether, based on the facts it has found, the Member has failed to comply with the Code.
- 2 The Standards Sub-Committee will invite the Investigating Officer to make representations as to whether or not, based on the facts the Sub-Committee has found, the Member has failed to comply with the Code of Conduct.
- 3 The Standards Sub-Committee will invite the Member to respond to the representations of the Investigating Officer and to make representations as to whether or not, based on the facts the SubCommittee has found, he or she has failed to comply with the Code of Conduct.
- 4 The Standards Sub-Committee may, at any time, question anyone involved on any point they raise in their representations.
- 5 The Member will be invited to make any final relevant points.

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- 6 The Standards Sub-Committee will retire to deliberate in private on the representations and decide whether or not the Member has failed to comply with the Code of Conduct, after which the Chair of the Standards Sub-Committee will announce their findings.

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Fourth Stage – Action to be Taken

B34

- 1 If the Standards Sub-Committee decides that the Member has not failed to comply with the Code of Conduct, it will formally record that there is no evidence of any failure by the Member to comply with the Code of Conduct and that therefore no action needs to be taken.
- 2 If the Standards Sub-Committee decides that the Member has failed to comply with the Code of Conduct it will invite the Member and the Investigating Officer to make representations as to:
 - (a) whether or not the Committee should apply a sanction; and (b) what form any sanction should take.
- 3 The Standards Sub-Committee will retire to deliberate in private on the representations and decide either that:
 - (a) no action needs to be taken in respect of the failure to comply with the Code of Conduct;
 - (b) the Member should be censured; or
 - 1 the Member should be suspended or partially suspended from being a member or Co-Opted Member of the CJC for a period not exceeding six months (or, if shorter, for the remainder of that person's term of office);after which the Chair of the Standards Sub-Committee will announce their decision in public.
- 4 After making a decision the Standards Sub-Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision (including details of the Member's right of appeal) to the Member, the Complainant and the Ombudsman as soon as reasonably practicable.
- 5 The decision of the Standards Sub-Committee will be deemed to have been received by the Member on the second day after the date the letter was sent by first class post, provided that the Standards Officer has proof of postage.

FAILURE TO MAKE REPRESENTATIONS / ATTEND THE HEARING

- B35 If the Member fails to make representations, the Standards SubCommittee may:

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- (a) unless it is satisfied that there is sufficient reason for such failure, consider the investigation report and make a determination in the Member's absence; or
- (b) give the Member a further opportunity to make representations.

B36 If a party fails to be present or represented at a hearing, the Standards Sub-Committee may, if it is satisfied that the party was duly notified of the hearing and that there is no good reason for such absence:

- (a) adjourn the hearing; or
- (b) hear and decide the matter in the party's absence;
- (c) and in either case the Standards Officer will inform the Member of the outcome of the hearing by email or telephone and will thereafter arrange for the outcome to be notified to the press.

ILLNESS OR INCAPACITY

B37 If the Standards Sub-Committee is satisfied, based upon the medical evidence supplied, that any party is unable, through physical or mental sickness or impairment, to attend the hearing and that the party's inability is likely to continue for a long time, the Standards Sub-Committee may make such arrangements as may appear best suited, in all the circumstances of the case, for disposing fairly of the matter, which may include adjourning the hearing to a suitable date or proceeding with the hearing in the absence of the party if appropriate to do so in the opinion of the Standards Sub-Committee.

SUSPENSION

B38 A period of suspension or partial suspension will commence on the day after:

- B38.1 the expiry of the time allowed to lodge a notice of appeal to the Adjudication Panel for Wales under the Regulations (i.e. 21 days after receiving notification of the Standards Sub-Committee's determination in accordance with Rule 44(5)); or
- B38.2 receipt of notification of the conclusion of any appeal in accordance with the Regulations; or
- B38.3 a further determination by the Standards Sub-Committee made after receiving a recommendation from the Adjudication Panel for Wales under the Regulations,

whichever occurs last.

REFERRAL TO THE ADJUDICATION PANEL FOR WALES

B39 Where the Standards Sub-Committee determines that the Member has failed to comply with the Code of Conduct, the Member may seek permission to appeal against the determination from the President of the Adjudication Panel for Wales (APW) within 21 days of receiving notification of the Standard Committee's determination.

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B54 The APW may endorse the decision of the Standards Sub-Committee, refer a matter back to the Standards Sub-Committee recommending it impose a different penalty, or overturn the decision.

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B41 If:

- (a) the Standards Sub-Committee determines that the Member failed to comply with the Code of Conduct; and
- (b) the Member appeals to an APW drawn from the Adjudication Panel for Wales; and
- (c) the APW refers the matter back to the Standards Sub-Committee with a recommendation that a different penalty be imposed,

the Standards Sub-Committee shall meet as soon as reasonably practicable to consider the recommendation of the APW and will determine whether or not it should uphold its original determination or accept the recommendation.

- (d) After making its determination the Standards Sub-Committee will instruct the Standards Officer to confirm the decision and the reasons for the decision in writing and to send a copy of the written decision to the Member, the Complainant, the Ombudsman and the president of the APW as soon as reasonably practicable.

PUBLICATION OF THE STANDARDS SUB-COMMITTEE'S REPORT

B42 The Standards Sub-Committee will produce a report on the outcome of the investigation and send a copy to the Ombudsman, the Monitoring Officer, the Member and take reasonable steps to send a copy to the Complainant within 14 days after either:

- (a) the expiry of the time allowed to lodge a notice of appeal under the Regulations, or
- (b) receipt of notification of the conclusion of any appeal in accordance with the Regulations, or
- (c) a further determination by the Standards Sub-Committee made after receiving a recommendation from an Adjudication Panel for Wales under the Regulations, whichever occurs last.

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B43 Upon receipt of the report of the Standards Sub-Committee, the Monitoring Officer shall:

- (a) publish the report on the CJC’s website for a minimum period of 21 days and make copies available for inspection by the public without charge during office hours at one or more of the CJC’s offices, where any person shall be entitled to take copies of, or extracts from, the report when made so available;
- (b) supply a copy of the report to any person on request if he or she pays such charge as the CJC may reasonably require, and
- (c) not later than seven days after the report is received from the Standards Sub-Committee, give public notice, by advertisement in newspapers circulating in the area and such other ways as appear to him or her to be appropriate, that copies of the report will be

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available as provided by paragraphs (a) and (b) above, and shall specify the date (being a date not more than seven days after public notice is first given) from which the period of 21 days will begin.

COSTS

B44 The Standards Sub-Committee has no power to make an award of any costs or expenses arising from any of its proceedings.

Exclusion of Public and Members from Standard Committee Hearings

B45 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 8 of this Constitution or Rules 59 (Disturbance by the Public).

B46 For the purposes of Rule B55 no Member is entitled to attend (save for the Members present and appearing before the Standards Sub-Committee).

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APPENDIX C

Gifts and Hospitality to Members.

Protocol Concerning Gifts and Hospitality to Members

C1 The acceptance of gifts and hospitality by Members is not merely an administrative issue. It reflects directly upon the perception of Members and the CJC as acting in the public interest or as acting for the personal advantage of friends and for what personal benefit Members can get out of their position.

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C2 The law on the acceptance of gifts and hospitality is set out in the CJC's Code of Conduct for Members and in the Prevention of Corruption Acts. These requirements are then supplemented by this Protocol which has been adopted by the CJC, to provide a clear set of rules for the protection of both Members and the CJC. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to 7 years' imprisonment.

C3 This Protocol sets out:

- (a) the principles which you should apply whenever you have to decide whether it would be proper to accept any gift or hospitality;
- (b) a procedure for obtaining consent to accept a gift or hospitality, when you consider that it would be proper to accept it;
- (c) a procedure for declaring any gift or hospitality which you receive and for accounting for any gift to the CJC.

This Code does not apply to the acceptance of any facilities or hospitality which may be provided to you by the CJC.

General Principles.

C4 You should never accept any gift or hospitality in any of the Precluded Situations described in paragraph 9.84 of this Protocol

C5 In deciding whether in situations, other than Precluded situations, it is proper to accept any gift or hospitality, you should apply the following principles. Even if the gift or hospitality comes within one of the general consents set out below, you should not accept it if to do so would be in breach of one or more of these principles:

(a) Never accept a gift or hospitality as an inducement or reward for anything you do as a Member

- (i) As a Member, you must act in the public interest and must not be swayed in the discharge of your duties by the offer, prospect of an offer, or the non-offer of any inducement or reward for discharging those duties in a particular manner.
- (ii) The Public Bodies (Corrupt Offences) Act 1889 provides that if you accept any gift, loan, fee, reward or advantage whatsoever as an inducement to or reward for doing or forbearing to do anything in respect of any matter or transaction in which the CJC is concerned, you commit a criminal offence carrying a maximum term of imprisonment of 7 years.

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- (iii) Further, the CJC's Code of Conduct for Members provides that you must act in the public interest, serving the CJC and the whole community, rather than acting in the interests of any particular individual or section of the community, and that it is a breach of the Code improperly to confer any advantage or disadvantage on any person, including yourself.

Section 9 – Code of Conduct

(b) You should only accept a gift or hospitality if there is a commensurate benefit to the CJC.

- (i) The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit for the CJC which would not have been available but for the acceptance of that gift or hospitality.
- (ii) Acceptance of hospitality can confer an advantage on the CJC, such as an opportunity to progress the business of the CJC expeditiously through a working lunch, or to canvass the interests of the CJC and its area at a meeting. Acceptance of a gift is much less likely to confer such an advantage. But unless the benefit to the CJC is clear, and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for your personal benefit.
- (iii) As set out above, the CJC's code provides that you must not improperly confer any advantage on anyone, including yourself. Acceptance as a Member of a gift or hospitality for your own benefit or advantage, rather than for the benefit to the CJC, would be a breach of the Code.

(c) Never accept a gift or hospitality if acceptance might be open to misinterpretation

- (i) The appearance of impropriety can be just as damaging to the CJC and to you as a Member as actual impropriety. The CJC's ability to govern rests upon its reputation for acting fairly and in the public interest. You must therefore consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that you or the CJC favours any particular person, company or section of the community or as placing you under any improper obligation to any person or organisation. If there is any possibility that it might be so interpreted, you must either refuse the gift or hospitality or take appropriate steps to ensure that such a misunderstanding cannot arise.
- (ii) Certain occasions are particularly sensitive, and require the avoidance of any opportunity for such misunderstanding. These include:
 - (a) occasions when the CJC is going through a competitive procurement process, in respect of any indication of favour for a particular tenderer.
 - (b) determinations of planning applications or planning policy, in respect of any person or organisation which stands to gain or lose from the determination,
 - (c) funding decisions, when the CJC is determining a grant application by any person or organisation.

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(d) Never accept a gift or hospitality which puts you under an improper obligation.

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- (i) Recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of buying influence. If you accept a gift or hospitality improperly, it is possible that they may seek to use this fact to persuade you to determine an issue in their favour. Equally, if others note that you have been prepared to accept a gift or hospitality improperly, they may feel that they will no longer be able to secure impartial consideration from the CJC.

(e) Never solicit a gift or hospitality

- (i) You must never solicit or invite an offer of a gift or hospitality in connection with your position as a CJC or unless the acceptance of that gift or hospitality would be permitted under this Code. You should also take care to avoid giving any indication that you might be open to such any improper offer.

Consent Regimes C6 General consent provisions

C6.1 For clarity, the CJC has agreed that in situations other than the Precluded Situations you may accept gifts and hospitality in the following circumstances provided that to do so would not be in breach of any one or more of the general principles contained in paragraph C3 above:

- (i) civic hospitality provided by another public CJC
- (ii) modest refreshment in connection with any meeting in the ordinary course of your work, such as tea, coffee, soft drinks and biscuits
- (iii) tickets for sporting, cultural and entertainment events which are sponsored by the CJC
- (iv) small gifts of low intrinsic value below £25, branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars and diaries. However, you should take care not to display any such branded items when this might be taken as an indication of favour to a particular supplier or contractor, for example in the course of a procurement exercise
- (v) a modest alcoholic or soft drink on the occasion of an accidental social meeting, such as a pint of beer from an employee of a contractor or party with whom you have done business on behalf of the CJC if you meet accidentally in a public house, cafe or bar. In such cases, you should make reasonable efforts to return the offer where this is practicable
- (vi) a modest working lunch not exceeding £10 a head in the course of a meeting in the offices of a party with whom the CJC has an existing business connection where this is required in order to facilitate the conduct of that business. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction, when arranging any such meeting, to make it clear to the other party that such a lunch must not exceed a value of £10 a head

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- (vii) modest souvenir gifts with a value below £25 from another public CJC given on the occasion of a visit by or to the CJC

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- (viii) Hospitality received in the course of an external visit or meeting which has been duly authorised by the CJC. Members should not make such arrangements themselves, but request officers to settle the detailed arrangements, and officers are under instruction to make it clear that any such hospitality for Members and officers is to be no more than commensurate with the nature of the visit
- (ix) other unsolicited gifts, where it is impracticable to return them to the person or organisation making the gift, provided that the CJC deals with the gift strictly in accordance with the following procedure: The CJC must, as soon as practicable after the receipt of the gift, pass it to the Secretary to the Chairman of the CJC together with a written statement identifying the information set out in Paragraphs C8 below. The Secretary will then write to the person or organisation making the gift thanking them on your behalf for the gift and informing them that you have donated the gift to the Chairman's Charity Fund, on whose behalf it will be raffled or otherwise disposed of in due course, the proceeds being devoted to a charitable cause chosen by the Chairman.

C7 Special consent provisions

C7.1 If you wish to accept any gift or hospitality, in a situation, other than the Precluded Situations, which is in accordance with the General Principles set out in Paragraph C3, but is not within any of the general consents set out in Paragraph C6, you may only do so if you have previously obtained specific consent in accordance with the following procedure:

C7.2 You must make an application in writing to the Monitoring Officer, setting out:

- (i) the nature and your estimate of the market value of the gift or hospitality
- (ii) who the invitation or offer has been made by or on behalf of
- (iii) the connection which you have with the person or organisation making the offer or invitation, such as any work which you have undertaken for the CJC in which they have been involved
- (iv) any work, permission, concession or facility which you are aware that the person or organisation making the offer or invitation may seek from the CJC
- (v) any special circumstances which lead you to believe that acceptance of the gift or hospitality will not be improper

C7.3 You must not accept the gift or hospitality until you have received the appropriate consent.

C7.4 The Monitoring Officer will enter details of any approval in a register which will be available for public inspection on the occasion of the public inspection of the CJC's accounts for the relevant year. But note that this does not relieve you of the obligation to register the receipt of gifts and hospitality in accordance with Paragraphs C8 and C9, below.

Section 9 – Code of Conduct

Reporting

- C8 Where you accept any gift or hospitality which you estimate to have a market value or cost of provision of £25 or greater,(or where you accept a working lunch of the type described in paragraph C6.1 (vi) above where the cost or value exceeds £10) you must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer , setting out the information set out in Paragraphs C7.2 above. A form for this purpose is attached to this Code, but you can send the same information by any convenient means. The Monitoring Officer will retain a copy of any such declaration in a register which will be available for public inspection until the approval of the CJC’s accounts for the year in question.
- C9 Even if the value of the gift or hospitality is less than £25, (or less than £10 in respect of a working lunch of the type described in paragraph C6.1 (vi)) if you are concerned that its acceptance might be misinterpreted, you may make a voluntary declaration in the same manner to ensure that there is nothing secret or underhand about the gift or hospitality.

Gifts to the CJC

- C10 Gifts to the CJC may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the CJC. You should not solicit any such gift on behalf of the CJC except where the CJC has formally identified the opportunity for participation by an external party and how that participation is to be secured, for example in relation to sponsorship of public musical and theatrical performances and developers’ contributions under Section 106 Agreements. If you receive such an offer on behalf of the CJC, you must first consider whether it is appropriate for the CJC to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the CJC under any improper obligation, whether there is a real benefit to the CJC which would outweigh any dis-benefits). If you do not have delegated CJC to accept the gift, you should report the offer directly to the Monitoring Officer who has such delegated CJC, together with your recommendation. The Monitoring Officer will then write back to the person or organisation making the offer, to record the acceptance or non-acceptance of the gift, record the gift for audit purposes and ensure that the gift is properly applied for the benefit of the CJC. If you have any concerns about the motives of the person or organisation making the offer, or whether it would be proper for the CJC to accept the gift, you should consult the Monitoring Officer directly.

Definitions

- C11 “Gift or hospitality” includes any:
- (i) the free gift of any goods or services
 - (ii) the opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public
 - (iii) the opportunity to obtain any goods or services which are not available to the general public

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- (iv) the offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.

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C12 References to the “value” or “cost” of any gift or hospitality are references to the higher of:

- (i) your estimate of the cost to the person or organisation of providing the gift or consideration
- (ii) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

C13 References to “Precluded Situations” are references to situations where a member MUST NEVER accept any gift or hospitality and are:-

- (i) situations where the gift or hospitality would be provided by an individual who is an applicant for any order, licence, permission or consent to be made or granted by the CJC or any objector to, or supporter of the grant of such order, licence, permission or consent or any other individual who may be affected by the grant or refusal of such order, licence, permission or consent; and
- (ii) situations where the gift or hospitality would be provided by an individual who is in negotiation with the CJC or has submitted a tender or offer to the CJC in relation to any proposed contract or transaction for the acquisition or disposal of any estate or interest in land or for the supply of goods or services to or from the CJC.

C14 For the purposes of this definition:-

“individual” includes any public or statutory body, a company, a partnership, an unincorporated association and any other organisation or legal entity or legal person known to and recognised by the law of England and Wales;

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APPENDIX D

To: Monitoring Officer.

Declaration of Receipt of Gifts or Hospitality

Name	
Address	

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What was the gift or hospitality?	
What is your best estimate of its market value or cost?	
Who provided it?	
When and where did you receive it?	
Does it come within one of the general consents set out in the Code of Conduct? If so, which?	
Did you get the consent of any officer before accepting it? If so, who?	
Were there any special circumstances justifying acceptance of this gift or hospitality?	
Do you have any contact with the person or organisation providing the gift or hospitality?	
Signed	Date

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GIFTS AND HOSPITALITY.

A Member who is a “Decision Maker” must:

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not accept any gifts or hospitality from anyone connected with a matter;

register any offers of gifts or hospitality refused in a register kept for that purpose maintained by the Monitoring Officer.

All other Members must comply with the Protocol Concerning Gifts and Hospitality to Members as set out in Appendix C.

“

Section 10 – Budget, Finance and Procurement

Budget

10.1 For each financial year, the CJC must calculate its budget for its functions:

10.1.1 Strategic Development Plan Function (the “Strategic Development Plan Budget”)

10.1.2 Other functions (the “General Budget”)

10.2 The budget shall be agreed no later than 31st January for each year.

10.3 Revisions can be made to the budget during the financial year to which that budget relates.

10.4 The Strategic Development Plan Budget requirement must be paid by the Constituent Councils and the National Park – the proportion to be paid by each is to be decided by unanimous agreement of the Council Members and the Brecon Beacons Member.

10.5 The General Budget requirement must be paid by the Constituent Councils – the proportion to be paid by each is to be decided by unanimous agreement of the Council Members.

General Fund

10.6 The CJC must establish and maintain a fund to be known as the CJC’s General Fund.

10.7 Any sums received or paid by the CJC, other than for specific external funds set out in the Establishing Regulations, must be done so through the CJC’s General Fund.

10.8 The CJC must keep an account of receipts into and payments out of its General Fund.

Financial Administration

10.9 Provisions in the Establishing Regulations will apply to the financial administration of the CJC.

10.10 The CJC will adopt the Financial regulations and accompanying Financial procedures of the Chief Financial Officer/ s 151 officer.

[The Council's Constitution - Ceredigion County Council](#)

(Please refer to Part 4 – Document F)

Procurement.

10.11 The contract procedure rules set out in Section 12 will apply to the CJC

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SECTION 11 –CONTRACTS AND LEGAL MATTERS

Contracts

11.2 Every contract made by the CJC will comply with the Contract Procedure Rules of the Monitoring Officer.

Legal Proceedings

11.3.1 The Monitoring Officer is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the CJC, or in any case where the Monitoring Officer considers that such action is necessary to protect the CJC's interests;

11.3.2 The Monitoring Officer has delegated powers to authorise Officers to appear in court on the CJC's behalf.

Authentication of Documents

11.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the CJC, it will be signed by the Chief Executive, Section 151 Officer or Monitoring Officer, unless any enactment or otherwise authorises or requires, or the CJC has given requisite authority, to some other person to do so;

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SECTION 12 – CONTRACT PROCEDURE RULES

Glossary of terms:-

- 12.1.1 "Tender" means a sealed bid or proposal to supply or receive goods, materials or services or for the execution of works.
- 12.1.2 "Contract" means any contract including a Purchase Order or otherwise for the supply or disposal of goods, materials or services or for the execution of works but shall exclude contracts of employment or for the sale and purchase of any interest in land.
- 12.1.3 "Quotation" means a written offer made by a supplier / contractor in response to a request received from the CJC in respect of the supply and / or disposal of goods, materials or services or for the execution of works where the values are below those in Rule 12.46.
- 12.1.4 "Purchase Order" means any order placed on the CJC's approved form(s) and signed by an appropriately authorised officer of the CJC, which includes the use of approved electronic forms, for supply or disposal of goods, materials or services or for the execution of works.
- 12.1.5 "Consideration" means the total value of (whether monetary or otherwise) payable by or to the CJC under the Contract or any series or combination of contracts of which it forms a part, the value of which will be aggregated for the purposes of the thresholds specified in Rules 12.45 to 12.47 .
- 12.1.6 "Most Economically Advantageous Tender" means that tender or quotation which when taking into account a number of criteria including but not limited to price, quality, delivery, technical merit and compatibility, functionality, support and overall cost effectiveness, affords the CJC the most economically advantageous solution.
- 12.1.7 "Clarification" – Once tenders and / or quotations have been received, there may need to be further contact with potential contractors before they can be fully evaluated. Clarification is either an exchange of documents or a minuted meeting with potential contractors to clarify aspects of a tender and / or quote and correct apparent errors.
- 12.1.8 "Framework Agreement" means an arrangement with one or more suppliers for the provision of goods, materials, works or services and which is in place for a set period of time but with no guarantees of volume of individual orders or of the consideration payable over the period. The commodity / service is acquired as and when it is needed during the Framework/contract period.
- 12.1.9 "The Exemptions Register" means the register maintained by the CJC's Monitoring Officer regarding requests for exemptions from tendering in accordance with Rules 12.57 to 12.60
- 12.1.10 "Contractor" means a third party with whom the CJC has entered into a contract for the supply or disposal of goods, services or works.
- 12.1.11 "Procurement Plan" means a plan or methodology to ensure larger or more complex procurements are carried out in a manner likely to deliver a best value solution and shall include but not be limited to the following elements:

SECTION 12 – CONTRACT PROCEDURE RULES

- 12.1.11.1 confirmation of budgetary provision
- 12.1.11.2 confirmation that a suitable corporate contract for similar goods, materials, services or works is not already in existence
- 12.1.11.3 a business case (where applicable) for the procurement in terms of its contribution to the work of the relevant department and towards achievement of the CJC's corporate objectives

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- 12.1.11.4 the procurement methodology (including the applicability of UK law)
- 12.1.11.5 the identification of a lead officer
- 12.1.11.6 the identification of project implementation issues identified (if appropriate)
- 12.1.11.7 identification of evaluators
- 12.1.11.8 identification of contract manager
- 12.1.11.9 arrangements for transition planning / business continuity / mobilisation plans
- 12.1.11.10 an equality impact assessment where appropriate

Overriding principles

- 12.2 These Contract Procedure Rules are not intended to conflict with UK law. Wider legal requirements shall always take precedence over these rules.
- 12.3 These rules govern organisational behaviour in the conduct of procurement and commercial activity. It is given that such behaviour is undertaken in the support and delivery of the wider policies and objectives of the CJC.
- 12.4 Nothing in these rules shall preclude the CJC from its duty in spending public money wisely. Officers shall always seek value for money.
- 12.5 The nature and extent of procurement activity must be appropriate to the nature and value of the goods and services being procured.
- 12.6 Procurement management will be optimised to make the most of CJC resources; conducted in accordance with the CJC's strategic plans.
- 12.7 Utmost probity will be demonstrated at all times.
- 12.8 For contracts of a strategically important or politically sensitive nature, officers should:
 - 12.8.1 seek a decision from the CJC as to whether such tenders are to be invited under officers' recommended strategy; and
 - 12.8.2 ensure that Members are not involved in the tender evaluation process but where appropriate Members can be involved in the service design or commissioning stage prior to the start of a tender process.

SECTION 12 – CONTRACT PROCEDURE RULES

General principles

Extent of Contract Procedure Rules

- 12.9 The objective of these procedures is to ensure that the CJC enters into contracts for the supply and / or disposal of goods, materials and services or for the execution of works on the most economically advantageous terms through the application of ethical, consistent and transparent practices and procedures which also comply with the best value requirements and with the CJC's Commissioning and Procurement Strategy
- 12.10 Officers have delegated powers to enter into contracts on behalf of the CJC, subject to these procedure rules provided that prior to so doing the officers are satisfied that the necessary budgetary provision is in place and that the CJC's Financial Procedure Rules will be followed.
- 12.11 Where goods, materials, services or works can be provided by an internal provider or trading unit then the internal provider or trading unit may be used without recourse to these procedure rules. Where there is no internal

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- provision or where there are proper service reasons or circumstances to seek competition, then these procedure rules must be observed on every occasion that the CJC procures a contract or if proposing to procure or
- 2.12 UK law must be followed where relevant and any contract or series of contracts which are likely to exceed the UK threshold limits from time to time and contracts (currently £213,477 for services and supplies and £5,336,937 in respect of works) must be reported to the CJC's Monitoring Officer prior to any action being taken.

Compliance

- 12.13 Every contract entered into by the CJC pursuant to or in connection with the CJC's functions shall comply with:
- 12.13.1 all relevant statutory provisions
 - 12.13.2 the relevant UK procurement rules
 - 12.13.3 the CJC's constitution including:
 - 12.13.3.1 these contract procedure rules; and
 - 12.13.3.2 financial procedure rules; and
 - 12.13.3.3 schemes of delegation; and
 - 12.13.3.4 the CJC's strategic objectives; and
 - 12.13.3.5 the CJC's commissioning and procurement strategy and policies.

SECTION 12 – CONTRACT PROCEDURE RULES

- 12.14 Failure by officers to comply with any of the provisions of these contract procedure rules or any associated guidance adopted by the CJC from time to time may result in disciplinary action.
- 12.15 A number of purchasing arrangements may be put into operation within the CJC. Correct use of any such arrangements, as advised by the Monitoring Officer, is sufficient to ensure officers meet their responsibilities for compliance. Such arrangements may include:
- 12.15.1 framework Agreements available for use by the CJC,
 - 12.15.2 procurement arrangements undertaken by, or in consultation with the Monitoring Officer
 - 12.15.3 electronic systems and catalogues available for use by the CJC.
- 12.16 Any procurement carried out on behalf of the CJC may only be undertaken by officers authorised to do so.
- 12.17 All decisions taken in relation to the commissioning and procurement processes should be documented.

Procurement by consultants

- 12.18 Where the CJC uses consultants to act on its behalf in relation to any procurement, then the Chief Executive shall ensure that the consultants carry out any procurement in accordance with these contract procedure rules, including the reporting of any procurement to the Monitoring Officer.
- 12.19 No consultant shall make any decision on whether to award a contract or to whom a contract be awarded. Such decisions must be made by an officer of the CJC responsible for the procurement. The Chief Executive shall

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- ensure that the consultant's performance in relation to procurement is in accordance with these contract procedure rules and UK law.
- 12.20 Where the CJC uses consultants to act on its behalf in relation to any procurement the consultant must declare any potential conflict of interest that may arise to the Chief Executive prior to the commencement of the procurement process.
- 12.21 Where the Chief Executive considers that such a conflict of interest is significant the consultant shall not be allowed to participate in the procurement process.
- 12.22 When consultants or technical officers are employed to supervise contracts they must similarly follow Contract Procedure Rules and the CJC's Financial Procedure Rules. Their contract for service must include this requirement.

SECTION 12 – CONTRACT PROCEDURE RULES

Procurement of consultants

12.23 For the avoidance of doubt, the appointment of consultants shall be made in accordance with the requirements of these Contract Procedure Rules and the Financial Procedure Rules (reporting of costs).

Declaration of interest

12.24 No Member, officer or agent of the CJC shall improperly use their position to obtain any personal or private benefit from any contract entered into by the CJC.

12.25 Members and officers of the CJC shall comply with the requirements of section 117 of the Local Government Act 1972 about the declaration of private interest in contracts with the CJC.

12.26 Interests declared by Members and officers must be reported to the Monitoring Officer for inclusion in the appropriate register..

Electronic procurement

12.27 Any electronic procurement process (e.g. E-tendering) can only be conducted using an electronic system approved by the Monitoring Officer.

Spend Controls

12.28 The Section 151 Officer must maintain a list of names of officers who can procure or dispose of supplies, goods or works on behalf of the CJC, specifying a maximum financial limit for each transaction against each name.

Pre-Contract Requirements

12.29 Before commencing a high risk / high value / or sensitive procurement process under these procedure rules, the officer should consult with the Monitoring Officer to ensure that the following is addressed:

12.29.1 whether the appropriate commissioning process has been undertaken with the appropriate sign-off achieved at each milestone;

12.29.2 the impact of the proposal on other CJC Services;

12.29.3 whether there is adequate budgetary provision agreed / in place for the anticipated spend;

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12.29.4 a Procurement Plan is produced in consultation with the Monitoring Officer for contracts featured in the forward work plan.

SECTION 12 – CONTRACT PROCEDURE RULES

Forward Work Plan

12.30 The relevant officer shall ensure that in conjunction with the Monitoring Officer all procurement events includes (but not be limited to), details of the anticipated procurement activity, an appropriate procurement plan, spend and target savings.

Sustainable procurement

12.31 For all contracts of £150,000 or over, over the term, the CJC shall take account of social, economic and environmental issues and a return on investment through the adoption of a community benefits approach when making strategic procurement decisions using the Sustainable Risk Assessment (SRA) template.

Data Processing Agreements

12.32 Where a procurement involves the disclosure of personal data within the meaning of Section 1 of the Data Protection Act 1988, the relevant officer shall ensure that where appropriate each procurement includes a Data Processing Agreement.

Contract terms and conditions

12.33 All contracts shall be entered into on the CJC's terms and conditions and this shall be stated on all requests for quotations and invitations to tender. The CJC's terms and conditions will be made available on the CJC's internet and a link will be provided on all requests for quotations, invitations to tender and purchase orders.

12.34 Exceptions to this rule must be approved in writing by the CJC's Monitoring Officer.

Revenue earning contracts

12.35 Any contracts relating to revenue earning must be referred to the Monitoring Officer at the earliest possible instance and in any case before the procurement exercise commences.

Regeneration opportunities

12.36 The relevant officer must ensure that each commissioning and / or procurement plan has considered the regeneration opportunities for each proposal.

Quotations & Tenders

12.37 At all times during the procurement process the CJC shall ensure that all tenderers are treated equally and in a non-discriminatory and transparent manner.

12.38 Officers are required to take into account the cumulative spend of repeatedly using the same supplier to ensure that the tender thresholds set out in Rules 12.42 to 12.44 are not breached.

SECTION 12 – CONTRACT PROCEDURE RULES

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Thresholds

- 12.39 Thresholds for procurement do not apply within existing framework agreements available for use by the CJC.
- 12.40 The values under Rules 12.42 to 12.44 shall be the total or aggregate value of the contract over the whole contract period and not just the annual amount.
- 12.41 Even if the thresholds in Rules 12.42 and 12.43 are not breached, the Officers may still use one of the formal tendering procedures if for proper service reasons this is deemed appropriate.

All goods & services except works

- 12.42 Up to £5,000 it is necessary only to demonstrate that value for money is being achieved following the principles contained in these procedure rules and in the Guidance for Officers document.
- 12.43 From £5,000 to £49,999 the spirit of these procedure rules should be followed and wherever practicable, a minimum of 3 written competitive quotes must be obtained from firms, who, preferably are registered on a national procurement website (currently Sell 2 Wales). Alternatively the requirement may be openly advertised on a national procurement website (currently Sell 2 Wales). Such quotations must be retained for a period of not less than two years from the date of the Contract award.
- 12.44 £50,000 or above must be tendered, and advertised on a national procurement website (currently Sell 2 Wales). Where the UK threshold has been exceeded the procurement must be tendered and properly advertised. The relevant officer shall ensure that the Monitoring Officer is consulted before the advert is placed.
- 12.45 Where the competitive dialogue procedure is adopted a minimum of three tenders must be invited.

Agency / Consortium Contracts

- 12.46 Where an Agency / Consortium arrangement is in force between the CJC and Central Government, other Local Authorities or other public body then these procedure rules shall not be deemed to be breached if the CJC is required to follow the procedure rules or Codes of Practice of that Agency, Local Authority or public body.

SECTION 12 – CONTRACT PROCEDURE RULES

Form of Contracts

- 12.47 Subject to Rule 12.48 below, every contract shall be made or confirmed in writing and signed by all parties concerned. Electronic signatures with an audit trail established via software approved by the Monitoring Officer will be acceptable. High risk / high value / or sensitive contracts may only be signed by the Chief Executive, Section 151 Officer or Monitoring Officer. Officers may delegate the ability to sign all other contracts to other officers PROVIDED THAT the delegation is made in writing and recorded in a register to be kept by each officer.
- 12.48 Contracts entered into by means of the CJC's approved Electronic Purchase Order system are permitted PROVIDED THAT the authorising officer has been appointed in accordance with the Financial Regulations.

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- 12.49 Unless the Monitoring Officer considers it to be unnecessary, every contract must include as a minimum the following basic terms and conditions:
- 12.49.1 a description / specification of the works, goods, materials or services to be provided or carried out;
 - 12.49.2 the price to be paid or other consideration, the method, timing and frequency of payment and the calculation of any variations or increases;
 - 12.49.3 the time by which or term within which the contract is to be performed;
 - 12.49.4 the right for the CJC to:
 - 12.49.4.1 recover or withhold payment in the case of default;
 - 12.49.4.2 cancel, suspend or terminate all or part of the contract;
 - 12.49.4.3 perform the services itself or to replace the contractor;
 - 12.49.4.4 recover all related costs.
 - 12.49.5 to obtain an indemnity from the contractor to cover losses or liabilities incurred by the CJC as a result of the contractor's action or neglect;
 - 12.49.6 an obligation for the contractor to have sufficient Public and Employers' Liability Insurance and any other cover which is relevant to the contract;
 - 12.49.7 an obligation to comply with all Health and Safety legislation, regulations and code of practices etc. applicable to the contract;
 - 12.49.8 no right for the contractor to assign or sub-let the contract without the prior written consent of the CJC;

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12.49.9 that the CJC can cancel the contract and recover any resulting losses if the contractor or his / her employees or agents with or without his / her knowledge:

12.49.9.1 does anything improper to influence the CJC to award the contract. (In this respect the attention of employees of the CJC is drawn to the CJC's Code of Conduct for Members which must be observed);

12.49.9.2 Commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972 or the Equality Act 2010. in relation to the contract.

12.49.10 that it is subject to the Laws of England and Wales.

12.50 Consideration must also be given to the inclusion and relevance to clauses relating to the Freedom of Information Act, Data Protection Act, sustainability, retentions, bonds or guarantees and the need to comply with the Welsh Language Act and the CJC's own Welsh Language Scheme.

12.51 Contractors Standard Terms and Conditions should not be accepted without seeking advice from the Monitoring Officer.

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Tenders

12.52 Except as specified in Rule 17.53 below where the consideration payable under any contract may reasonably be expected:

12.52.1 to exceed £100,000 in the case of a contract for the execution of construction or civil engineering schemes; or

12.52.2 to exceed £50,000 in the case of any other contract for the supply of goods materials and services or the execution of works (other than construction schemes referred to in Rule 17.55.1 above)

contractors shall be selected by the Officers by one of the following methods:

12.52.2.1 tendering by advertisement under Rules 12.60 to 12.62;

12.52.2.2 selective tendering from an approved contractors' list compiled in accordance with UK procurement laws as set out in Rule 12.63.

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Exemptions from tendering

12.53 Subject to Rules 12.54 and 12.55 below contracts with a value below the UK threshold from time to time may be authorised in advance by the Section 151 Officer even if their procurement has not been undertaken in accordance with Rule 12.52 in the following circumstances:

- 12.53.1 for the supply of goods, materials, services or works where there appears in the written opinion of the Officers to be only one supplier with no acceptable alternative and complies with Rule 12.55 below;
- 12.53.2 for the supply of goods or materials, services or works where the CJC has decided to standardise by buying from only one supplier or where in the written opinion of the officer the services, goods or specialised materials are required for which there is only a single source of supply and complies with Rule 12.55 below;
- 11.53.3 where in the written opinion of the officer the extension, addition to or maintenance of existing goods, materials or services where this can only be done satisfactorily by the original contractor or supplier and complies with Rule 12.55 below;
- 12.53.4 for the urgent supply of goods, materials, services or works where the Officers has certified in writing that the tender process would prevent the supply within the timescales required. Such urgency should not ordinarily have been created by earlier in-action or lack of forward planning, but where the urgency has been so created the Section 151 Officer may nevertheless approve the request subject to such conditions as s/he considers necessary to ensure future compliance with these procurement rules;
- 12.53.5 for the supply of used or second-hand goods or materials where the Officers has certified in writing that the market for such goods or materials is such that it would be unreasonable to tender or where the time required to complete the tender process is likely

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to lead to the loss of opportunity to purchase a used or secondhand item;

- 12.53.6 for the supply of goods, materials, services or works in any other circumstances where the Officer has certified in writing that there are proper service reasons for not tendering for the supply of goods, materials, services or works and that they are satisfied that there will be no economic disadvantage to the CJC as a result of not so tendering.

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- 12.54 Requests for exemptions under Rules 12.53 must be submitted to the Section 151 Officer for approval. No exemption will be deemed agreed until written consent is obtained from the Section 151 Officer.
- 12.55 When Officers makes a request for an exemption under Rules 12.53.1 to 12.53.3 above s/he must certify in writing on each occasion that the advantages and disadvantages of proceeding with a single supplier are documented.
- 12.56 All exemptions granted by the Section 151 Officer in accordance with Rules 12.53 and 12.54 shall be recorded in the Exemptions Register.
- 12.57 A contract may also be entered into other than in accordance with Rule 12.52:
- 12.57.1 where the contract is awarded through a Consortium, Association or similar body, of which the CJC is, for the time being, a member, or is able to use; or .
 - 12.57.2 where the CJC, considers that there are special circumstances justifying the waiving of procedure rules and authorises such waiver by resolution.
- 12.58 Subject to Rule 12.55, all contracts shall be governed by either the CJC's own Conditions of Contract (as varied or amended from time to time, such variations and / or amendments being consistent with and in accordance with the CJC's Commissioning and Procurement Strategy) or such other forms of contracts as may be approved from time to time by the Monitoring Officer.
- 12.59 The CJC may if appropriate use a Contractors' Terms and Conditions with the approval of the Monitoring Officer and provided that they include, or are amended to include, the matters referred to in Rule 12.53.

Tendering By Advertisement

- 12.60 Subject to Rules 12.61 and 12.62 below, all tender opportunities must be advertised via a national procurement website (currently Sell 2 Wales) and in accordance with UK procurement laws where appropriate
- 12.61 An advertisement may appear in the local press, where, in the opinion of the officer there is unlikely to be a satisfactory response having regard to the nature of the goods, materials, services or works being procured.
- 12.62 The advertisement may also appear in an appropriate trade journal and / or national newspaper or such other media where in the opinion of the officer this is likely to be to the advantage of the CJC.

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Selective Tendering from an Approved Contractors' List

12.63 The intention of such lists is to ensure the availability of suitably qualified contractors for work of a recurring nature for which several contracts a year may be issued (for example, highway maintenance work).

Creation of Approved Lists

12.64 When for operational reasons an officer believes that the procurement of goods and / or services could best be undertaken by selection of an approved list of contractors, the officer must ensure that the list of contractors is compiled in accordance with the UK procurement laws and only after consultation with the Monitoring Officer.

Inviting Tenders

12.65 Every Invitation to Tender (ITT) must include as a minimum the following documentation or information or via a Framework Agreement:

- 12.65.1 a description / specification of the works, materials, goods or services to be carried out / supplied together with a required delivery date or term;
- 12.65.2 applicable Terms and Conditions (including Certificates as to Canvassing and Collusive Tendering) in accordance with Rule 17.58;
- 12.65.3 Form of Tender specifying the period which the Tender is open for acceptance;
- 12.65.4 the criteria to be used to evaluate and award the Contract will ordinarily include a reference to the most economically advantageous tender and in the case of contracts to be awarded in accordance with UK thresholds, weighted criteria;
- 12.65.5 the fact that the CJC does not bind itself to accept the lowest or any tender;
- 12.65.6 a set of Instructions to Tenderers detailing the administration arrangements regarding the procurement process (including the tender deadline).

12.66 Every ITT must state that a tender will only be considered if it is received by the due date and time and the means by which the tenders should be returned.

12.67 Tenders in paper format may only be invited after prior written approval from the Monitoring Officer.

Receipt and Opening of Tenders.

12.68 A record of all tenders received must be made on the date of opening and retained for a period of 3 years. Such records shall include the name of the

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tenderer, the nature of the goods, services, materials or works, the date, the price or consideration (where this is possible), and the name of the officer.

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12.68.1 The officer having consulted with the appropriate Monitoring Officer, may at his / her absolute discretion permit consideration of a tender submitted after the tender deadline PROVIDED THAT:

12.68.1.1 s/he is satisfied that it is in the best financial interests of the CJC to do so; and

12.68.1.2 s/he is satisfied that the tenderer has not secured an advantage over the other tenders by failing to submit a tender before the tender deadline; and

12.68.1.3 the decision to admit the tender is taken before the remaining tenders are opened.

12.68.2 A tender which has been properly submitted in accordance with the ITT (or would have been properly submitted but for a fault for which the CJC and / or its IT suppliers are responsible) but for some reason has not been recorded shall be dealt with as follows:

12.68.2.1 if it is presented to the Monitoring Officer before the other tenders have been opened but after the closing date then it shall be considered along with the rest;

12.68.2.2 if it is presented to the Monitoring Officer after the other tenders have been opened then provided the Monitoring Officer is satisfied that the tender was received by the CJC in accordance with the ITT it may be considered.

Evaluation of Tenders

12.69 For most contracts and for all contracts governed by UK procurement law a tender evaluation procedure based on a price quality ratio should be used. Where a price quality ratio is not used, approval must be obtained from the Monitoring Officer

12.70 All evaluations shall score tenders objectively using criteria which have been weighted in order of importance, and published in the ITT and will

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normally include whole life costing where the full cost of maintenance, decommissioning and disposal should be taken into account.

- 12.71 The published criteria and weightings must be strictly observed at all times throughout the evaluation process.
- 12.72 The members of the evaluation panel should be identified by the officer at the earliest opportunity and wherever possible should be involved in establishing the evaluation criteria, weightings and the questions to be asked of Tenderers.
- 12.73 All evaluators must be appropriately trained in the use of the electronic evaluation process and the application of the relevant scoring regime.

Accepting Tenders

- 12.74 Officers may approve the amendment of a tender after it has been received and before it has been accepted only to enable the correction of a genuine error, but only after consultation with the Monitoring Officer .
- 12.75 Officers may accept other than the lowest tender where the goods, materials, services or works tendered for are not available for immediate

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supply by the winning tenderer in breach of contract and where (a) specifically provided for in the tender documentation and (b) in the opinion of officers after consultation with the Monitoring Officer the contract may be awarded to the second placed tenderer

Debriefing

- 12.76 Information must be made available to tenderers via contract award notices. For contracts awarded over the UK threshold the contract award notices must be sent for publication in the relevant publication not later than 30 days after contract award and in the form of notice prescribed in the relevant regulations.
- 12.77 The responsible officer shall ensure that within 15 days of the date on which the CJC receives a request in writing from any supplier who was unsuccessful (at either the selection or tender stage) inform that supplier of the reasons for being unsuccessful and, if the supplier was unsuccessful at the tender stage, the responsible officer shall inform him / her of the characteristics and relative advantages of the successful tender as well as the name of the person awarded the contract.
- 12.78 Requests from losing tenderers for face to face debriefing meetings should be referred to the Monitoring Officer.
- 12.79 If any additional information is to be disclosed to tenderers, this must be agreed in advance with the Monitoring Officer, taking into account the requirements of any legislation relating to the disclosure of information.

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Contracts Register

12.80 All contracts over the value of £5,000 over the term must be recorded on the CJC's Contracts Register. It is the duty of the officer to ensure compliance.

Record and document retention and control

12.81 All tenders, once assessed shall be retained in secure storage (including secure electronic storage). All contracts under seal i.e. Deeds (including Tenders) to be retained for a minimum of 12 years; contracts under hand for a minimum of 6 years; unsuccessful tender documents for 2 years.

Contract management

12.82 All high risk / high value / or sensitive contracts must have a named CJC contract manager for the duration of that contract. All such contracts are to have regular, documented reviews with the contractor. The reviews should include but not be limited to:

- 12.82.1 business transfer;
- 12.82.2 service implementation;
- 12.82.3 operational issues;
- 12.82.4 compliance with contract terms;
- 12.82.5 compliance with financial terms.

Contract variation

12.83 Variation refers to a change to the terms of the agreement that the parties had previously agreed and accepted when the contract was signed.

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12.84 The Chief Executive, Section 151 Officer or Monitoring Officer is authorised to agree any variations to an existing Contract provided that this still represents the most economically advantageous solution for the CJC and does not significantly alter any proposal previously agreed by the CJC.

12.85 Contract variations should only be approved if they do not amount to a material change to the contract that was originally procured.

12.86 Variations must not be confused with claims, which usually arise from unforeseen issues or outside events. The contractors' right to claim arises from general law and does not require the consent of the CJC. The term 'claim a variation' is misleading. A contractor either applies for a variation or makes a claim.

12.87 The form of all contract variations must be approved by the Monitoring Officer or an officer nominated by him / her.

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12.88 Agreed variations must be in writing and signed by all parties to the contract and recorded in the CJC's Contracts Register. It is the duty of the officers to ensure compliance

Contract Extensions

12.89 A contract extension is a type of variation requiring continuation of a contract after its stated expiration date.

12.90 The decision to extend the contract period (term / duration) may only be made before the original expiry date, where it is in accordance with the terms and conditions of the original contract and contemplated by the original procurement exercise.

12.91 Where the terms of the contract and or original procurement exercise do not expressly provide for extension then such a contract may only be extended in exceptional circumstances, where legislation permits and value for money issues have been addressed. Such decisions shall be made by the officers in consultation with the Monitoring Officer .

12.92 Contract extensions made pursuant to Rule 12.91 and which amount to a material change to the terms of the contract that was originally procured should be strictly time limited to allow a new procurement process to take place.

12.93 All extensions must be in writing and recorded in the CJC's Contracts Register. It is the duty of officers to ensure compliance

Financial Limits

12.94 Where any financial threshold is specified in these Contract Procedure Rules, that figure is at 23rd June 2022 and may be reviewed from time to time as appropriate by the Section 151 Officer and the Monitoring Officer has delegated authority to amend the Constitution accordingly without reference to CJC.

Disposals

12.95 Although the CJC will in the majority of cases be acquiring goods, materials, services or works, these Contract Procedure rules equally apply to any disposal or provision by the CJC and shall be followed whenever possible and appropriate.

12.96 The CJC should seek to obtain best value for any item of which it disposes which may mean a competition between interested parties and this may involve the use of an electronic auction site.

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12.97 Advice should be taken from the Section 151 Officer when disposals are being considered to discuss the appropriate method or process to be used. Reference should also be made to the section on Asset Disposal in the Financial Regulations.

12.98 In the case of work carried out or services provided by the CJC for third parties, the Local Authorities (Goods and Services) Act 1970 allows this on behalf of defined Public Bodies. It is not permitted (apart from some exceptional circumstances) to provide services or carry out work to private individuals or to companies and, where this is being considered, advice must be sought from the Monitoring Officer.

Compliance with Procedure rules

12.99 It is an implied condition of employment of all staff of the CJC with responsibility for the administration of contracts that they should at all times observe the provisions of these Contract Procedure Rules and the CJC's Financial Procedure Rules. Failure to do so may be regarded as a serious disciplinary matter.

Review and amendment of contracts procedure rules

12.100 The Monitoring Officer shall continually review these contract procedure rules and shall undertake a formal review every five years. Any proposed amendments will be reported to CJC for approval save as otherwise provided in these Contract Procedure Rules.

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SECTION 13 – INDEMNITIES FOR MEMBERS AND OFFICERS

13.1 **The following is the indemnity approved** and adopted by the CJC on 4th July 2022.

13.2

FORM OF INDEMNITY TO MEMBERS AND OFFICERS

1. This indemnity is made under S.101 of the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006, and is supplementary to the provisions of S.265 of the Public Health Act 1875 as extended by S.39 and S.44(1) of the Local Government (Miscellaneous Provisions) Act 1976.
2. Subject to the limit of indemnity set out in rule 3G below, the CJC indemnifies each Member and officer of the CJC against any claim liability loss and/or damage in relation to any action or failure to act by any Member or officer which:
 - (a) is authorised by the CJC; or
 - (b) forms part of or arises from any powers conferred, or duties placed upon that Member or officer as a consequence of any function being exercised by that Member or officer (whether or not in exercising that function the Member or officer does so in the capacity of Member or officer of the CJC)
 - (i) at the request of or with the express approval of the CJC; or
 - (ii) for the purposes of the CJC

Without prejudice to the generality of this indemnity (above) the indemnity extends to action:-

- (a) taken under delegated powers;
 - (b) taken personally under any specific statutory provision such as Chief Executive, Chief Finance Officer, Monitoring Officer, Local Government (Contracts) Act 1997.
 - (c) taken at Partnerships, informal joint working arrangements, charitable organisations companies (however constituted) when the Member or officer is serving as the CJC's representative on these bodies.
3. **Conditions and Limitations applying to the Indemnity**

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A. Good faith

A Member or officer relying on the indemnity:-

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- (i) must believe that the action, or failure to act, in question was within the powers of the CJC

or

- (ii) where that action or failure to act comprises the issuing or authorising of any document containing any statement as to the powers of the CJC, or any statement that certain steps had been taken or requirements fulfilled, believed that the contents of that statement were true;

and

in either case that it was reasonable for that Member or officer to hold that belief at the time when that Member or officer acted or failed to act, in which case the council will provide the indemnity in relation to an act or failure to act which is subsequently found to be beyond the power of that Member or officer in question, but only to the extent that the Member or officer reasonably believed that the act or failure to act in question was within that Member or officer's powers at the time at which that Member or officer acted or failed to act.

B. Repayment of cost

Where any indemnity is given to a Member or officer in relation to the defence of criminal proceedings or proceedings alleging a breach of the code of conduct, then:-

- (i) in relation to criminal proceedings if the Member or officer is convicted of a criminal offence then the sums expended by the CJC or its insurers in relation to those proceedings must be reimbursed to the CJC or to the insurers;
- (ii) where the proceedings relate to an allegation against a Member of a breach of the code of conduct:-

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- (a) if a finding is made that finds that the Member has failed to comply with the code of conduct (or the Member has admitted that failure) and as a consequence the Member is suspended, partially suspended or disqualified, then the sums expended by the CJC or its insurer must be reimbursed to the CJC or its insurers
- (b) in the case of an allegation of a breach of the code of conduct and there is a finding that the Member has failed to comply with the code of conduct (or the

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Member has admitted that failure) and as a result the Member is censured or has some penalty imposed other than suspension, partial suspension or disqualification then if the CJC's Standards SubCommittee deems it appropriate the sums expended by the CJC or its insurers must be reimbursed to the CJC or its insurers.

C. Level of representation

In the case of professional representation of a Member or officer under the terms of this indemnity the Member or officer must obtain the prior approval of the CJC through its Standards SubCommittee of the nature and extent of that representation, provided always that the decision on the level or extent of representation will not unreasonably restrict the right of the individual Member or officer to properly defend those proceedings.

D. Defamation

This indemnity does not extend to the **making** of any claim by a Member or officer in relation to an alleged defamation of that Member or officer.

E. General Principles

- (i) The CJC will provide the Member or officer with reasonable and proportionate access to CJC employees and CJC resources and facilities to enable the individual officer to properly respond to allegations of personal liability being advanced;

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- (ii) The CJC will allow legal representation for a Member or officer separately from the CJC's own legal advisers (and/or the CJC's insurers' legal advisers) where the interests of the CJC and the individual officer may conflict or in such other circumstances where it is agreed between the CJC and the individual Member or officer that separate legal representation is appropriate.
- (iii) the CJC will not seek to recover from an individual Member or officer any losses incurred by the CJC as a result of an action or failure to act by the Member or officer concerned except:-
 - (a) where the Member or officer involved did not reasonably believe that the act or omission in question was within his powers at the time when that act or omission took place, or

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- (b) where the action or failure to act constituted a criminal offence.

F. Limit on Indemnity.

The limit on the indemnity provided for under this Section is £50,000.

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