

Mae'r ddogfen hon ar gael yn Gymraeg hefyd



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## **SECTION 8 - THE STANDARDS COMMITTEE**

The Council has established a Standards Committee to promote high standards of conduct and behaviour by Members, the details of which are set out below. All Members are subject to the Code of Conduct, as per Appendix 1.

### **8.1 Membership**

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

- 8.1.1 Five “independent” Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 8.1.2 Three Councillors, other than the Leader and not more than one Member of the Cabinet; who should not be from the same political groups.
- 8.1.3 One Community Council Member(s). The community committee member shall not take part in the proceedings of the Standards Committee when any matter relating to his/her community council is being considered.

Past Councillors and Officers of this Council may not be independent members of the Standards Committee. Past Councillors and officers of other relevant authorities may not be an independent member of the Standards Committee until after 12 months of that person ceasing to be a Councillor or officer.

Standards Committees do not have to comply with political balance rules in Section 15 of the Local Government and Housing Act 1989.

### **8.2 Term of Office**

- 8.2.1 Independent members are appointed for a period between four years and six years and may be re-appointed for a consecutive term.
- 8.2.2 Members of the local authority who are members of the Standards Committee and the community committee member will have a term of office of no longer than the period until the next ordinary local government elections for that authority following the member's appointment to the committee. They may be reappointed for one further consecutive term. A member ceases to be a member of the Standards Committee if he ceases to be a member of the Council or the relevant community council.
- 8.2.3 The term of office of a member of the Standards Committee which commences or expires by reference to ordinary local government elections in any year shall commence or expire on the fourth day following those elections.

### **8.3 Quorum**

- 8.3.1. A meeting of the Standards Committee shall only be quorate when:
  - (i) at least 3 Members are present; and
  - (ii) at least half the Members present (including the Chairperson) are Independent Members.

- 8.3.2. (i) When a report has been referred to the Monitoring Officer by the Public Services Ombudsman for Wales that requires a hearing to be conducted by the Standards Committee in accordance with the Standards Committee Procedures – Hearings (appendix 1 to this section), the quorum of the Standards Committee shall be at least five members and at least half the members present shall be independent members.
- (ii) None of the members hearing a matter referred to at paragraph 8.3.2(i) can have been previously involved in the matters contained in the report from the Public Services Ombudsman for Wales.

#### **8.4 Voting**

As well as Conwy County Borough Councillors (who have been appointed as members of the Standards Committee), Independent Members and Community Council Members will be entitled to vote at meetings.

#### **8.5 Chairing the Committee**

Only an independent member of the Standards Committee may be the Chair and Vice-Chair. (If both the Chair and Vice-Chair are absent such other independent member as the members of the Standards Committee present may appoint shall preside.

#### **8.6 Role and Function**

The Standards Committee will have the following roles and functions:

- 8.6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 8.6.2 assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- 8.6.3 advising the Council on the adoption or revision of the Members' Code of Conduct;
- 8.6.4 monitoring the operation of the Members' Code of Conduct;
- 8.6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- 8.6.6 granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- 8.6.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any complaint made to him or on any matter referred to that officer by the Public Services Ombudsman for Wales.
- 8.6.8 undertaking an annual review of findings of maladministration against this Council by the Public Services Ombudsman in Wales and reporting its views (if any) to the Council;
- 8.6.9 specific functions relating to levels of representation and repayment of costs of representation under indemnities given to Officers.

- 8.6.10 to consider each application for a costs indemnity individually for Members, following allegations of a breach of the Code of Conduct and decide whether an indemnity should be given at all. If an indemnity is to be given, the Standards Committee will decide on the amount of that indemnity up to a maximum of £20,000. No one Member shall be given two or more indemnities, if those indemnities would amount to a sum in excess of £30,000, in any one municipal term.
- 8.6.11 in consultation with the Monitoring Officer, considering such other matters as are appropriate and necessary to maintain the highest standards of conduct by the Council, its Members and co-opted members. (This includes approved roles under the Protocol for Member/Officer relations and the Protocol for Liaison with Local Members);
- 8.6.12 regular monitoring of both the Register of Members' Interests and the Register of Gifts and Hospitality.

## **8.7 Annual Report**

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

## **8.8 Work Programme**

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

## **8.9 Joint Standards Committee**

The Council may establish a joint standards committee with one or more local authorities for the purpose of discharging the statutory functions of the Standards Committee.

## **8.10 Rules of Procedure and Debate**

8.10.1 The Council Procedure Rules at Section 4 will apply to the meetings of the Standards Committee Members.

8.10.2 When considering the conduct of individual Councillors, the procedures outlined in Appendix 2 to Section 19 will apply.

## **8.11 Meetings of the Standards Committee**

- (i) The Standards Committee shall hold at least one meeting during every calendar year.
- (ii) The Monitoring Officer or his representative shall attend every meeting of the Standards Committee and no business shall be conducted in the absence of the Monitoring Officer or his representative.

## **8.12 Standards Committee sub-committees**

The Standards Committee may create a sub-committee to exercise any of the functions set out in Paragraph 8.6.

## **8.13 Dispensation Sub-Committee**

- (i) The Dispensation Sub-Committee will comprise of 3 Members of the Standards Committee, with no more than one Member being a Member of Conwy County Borough Council
- (ii) The Chair of the Sub-Committee has to be an Independent Member.
- (iii) To consider applications for dispensations submitted by County Councillors, Town and Community Councillors and Co-opted Members

## **8.14 Hearings of the Standards Committee**

These will be conducted in accordance with the relevant legislation.

## **SECTION 8 - APPENDIX 1**

### **STANDARDS COMMITTEE PROCEDURES – HEARINGS**

#### **Legislation: Part III Local Government Act 2000**

Statutory Instrument: Local Government Investigations (Functions of Monitoring Officers and Standards Committees) (Wales) Regulations 2001, SI No 2000/2281(W.171)

#### **1. Role of the Standards Committee**

The Standards Committee will receive from the Monitoring Officer, either:

- a) Reports of investigations conducted by the Monitoring Officer with recommendations, if appropriate; or
- b) Reports of investigations undertaken by the Public Services Ombudsman for Wales

If appropriate the Monitoring Officer may include recommendations with the Ombudsman's report.

[Regulation 3(1) and 3(2)]

#### **2. Copies of the reports**

In addition to sending the report to the Standards Committee the Monitoring Officer will send a copy of the report to:

- a) The person who was the subject of the investigation; and
- b) The person who made the allegation

[Regulation 6(b) and (c)]

#### **3. Initial Determination**

On receipt of a report the Standards Committee must determine either:

- a) That there is no evidence of any failure to comply with the relevant Code of Conduct. In which case the Committee must notify:
  - (i) the person who was the subject of the investigation;
  - (ii) the person who made the allegation; and
  - (iii) the Public Services Ombudsman for Wales; or
- b) That the person the subject of the investigation 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 relevant Code of Conduct.

[Regulation 7(a) and (b)]

4. Presence of Investigating Officer

The Committee may require the Investigating Officer (whether the Public Services Ombudsman for Wales, or his/her representative, or the Monitoring Officer) to attend before it for the purpose of presenting his/her report or explaining any of the matters in it (but not otherwise).

[Regulation 8(2)]

5. Presence of Complainant

The person making the allegation shall be entitled, but not required, to make written or oral representations to the Standards Committee.

6. Questions

Members of the Committee shall be entitled to ask any relevant question of the person who is the subject of the investigation and the complainant if he/she appears before the Committee.

7. Procedure at the Standards Committee Meeting

It is intended that hearings should adopt an inquisitorial rather than adversarial approach. With such an approach the facts set out in the Investigating Officer's report are taken as given and the investigation that produced the report will not normally be revisited. The Standards Committee will focus on the issues that are either unclear or in dispute and, should the allegation be upheld, on the appropriate penalty.

At the meeting the procedure will usually be:

- Presentation of the report by the Investigating Officer
- The complainant will have the opportunity to address the Committee and to call witnesses
- The member will be permitted to question the complainant and witnesses
- Members of the Committee will have the opportunity to ask questions of the complainant and witnesses
- The member concerned will have the opportunity to address the Committee and call witnesses
- The complainant will be permitted to question the member and witnesses
- Members of the Committee will have the opportunity to ask questions of the member concerned and witnesses
- The complainant will have the opportunity to sum up
- The member concerned will have the opportunity to sum up
- The Committee will go into private session to consider the matter and reach its conclusion
- The Committee will make its decision within 5 working days



8. Failure to make representations

If the person who is the subject of the investigation fails to make representations in accordance with paragraph 3(b) above, then:

- a) unless satisfied that there is sufficient reason for such failure, the Committee may consider the Monitoring Officer's report and make a determination in the absence of representations; or
- b) the Committee may give that person a further opportunity to make representations.

[Regulation 8(4)]

9. Determinations

The Standards Committee will make one of the following determinations:

- a) that there is no evidence of failure to comply with the Code of Conduct and no further action is necessary;
- b) that there has been a failure to comply with the Code of Conduct but no further action is necessary;
- c) that there has been a failure to comply with the Code of Conduct and the member or co-opted member (or former member or co-opted member) should be censured; or
- d) that there has been a failure to comply with the Code of Conduct and the member or co-opted member should be suspended or partially suspended from being a member or co-opted member of the relevant authority for a period not exceeding 6 months.

[Regulation 9(1)]

10. Report of Determination

The Standards Committee shall inform the following of their determination within 5 working days, giving reasons for the decision:

- a) the person who is the subject of the investigation;
- b) the person who made the allegation; and
- c) the Public Services Ombudsman for Wales

[Regulation 9(3)]

11. Commencement of Suspension

A period of suspension or partial suspension will commence on the day after whichever is the later of:

- a) the expiry of the time allowed to lodge a notice of appeal (which is 21 days of receiving the Standards Committee's determination);
- b) receipt of the notification of the conclusion of any appeal; and

- c) a further determination by the Standards Committee made after receiving a recommendation from an Appeals Panel (see paragraph 13(a)(ii) below).

[Regulation 8(5) and (6)]

12. Right of Appeal

Where a determination has been made under paragraphs 9(b) (c) or (d), the Member against whom a finding has been made may appeal to an Appeals Tribunal drawn from the Adjudication Panel for Wales.

The Appeal must be instigated within 21 days of receiving notification of the Standards Committee's determination.

[Regulation 10(1) and (2)]

13. Outcome of Appeal

On conclusion of an appeal the Tribunal will either:

- a) uphold the Standards Committee's determination that there has been a breach of the Code of Conduct; and
  - (i) uphold the penalty imposed; or
  - (ii) refer the matter back to the Standards Committee with a recommendation that a different penalty be imposed; or
- b) overturn the determination of the Standards Committee that any person has breached the Code of Conduct

and must inform the following of the outcome, giving reasons for the decision:

- (1) the Public Services Ombudsman for Wales
- (2) the Standards Committee
- (3) the person the subject of the investigation

[Regulation 12]

14. Review of penalty

If the Appeals Tribunal makes a decision under paragraph 13(a)(ii) above, the Standards Committee shall meet to determine whether or not it should uphold its original determination or accept the Appeal Tribunal's recommendation.

The Monitoring Officer shall, on behalf of the Standards Committee, notify the President of the Adjudication Panel of the Standards Committee's decision.

[Regulation 9(2)]

15. Standards Committee Report

Within 14 days of whichever is the later of:

- (i) the expiry of the time allowed to make an appeal (see paragraph 12 above)
- (ii) receipt of notification of the conclusion of an appeal (see paragraph 13 above)
- (iii) a further determination by the Standards Committee under paragraph 14

the Standards Committee shall cause to be prepared a report of the outcome of its deliberations. That report shall be sent to:

- (i) the Ombudsman
- (ii) the Monitoring Officer
- (iii) the person the subject of the complaint
- (iv) the person who made the allegation

[Regulation 13]

16. Publication

On receipt of the report of the Standards Committee the Monitoring Officer shall:

- i) for a period of 21 days publish the report on the County Borough Council's website and make copies available for inspection by the public during normal office hours. Copies of the report or extracts may be made; and
- ii) supply a copy of the report to any person on request, subject to a reasonable fee being paid; and
- iii) not later than 7 days after receipt of the report give public notice, in local newspapers that the report is available as above.

17. Representation

Any person who attends before the Standards Committee may be represented by counsel, a solicitor or any other person.

[Regulation 14]

18. Costs

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

[Regulation 15]

## **SECTION 9 – REGULATORY COMMITTEES**

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

9.1.1 The Council will appoint the Committees to discharge the functions set out in Section 14 of this Constitution.

9.1.2 The terms of reference for the Regulatory and Other Committees are included as appendices to this section.

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

9.2.1 The Council will appoint a Governance and Audit Committee to discharge the functions described in Section 14 of this Constitution and in accordance with sections 81-87 of The Measure.

2.2.2 The Committee shall comprise of two-thirds Councillor Members and one-third members who are not a Member of the Council (lay members). No more than one member of the Committee may be a member of the Cabinet, which must not be the Leader or an Assistant to the Executive, although the Committee may have no Cabinet Members or Assistants to the Executive among its membership.

2.2.3 The Council shall appoint Members to the Governance and Audit Committee in accordance with the political balance rules.

2.2.4 The Chair of the Governance and Audit Committee and Deputy Chair are appointed by it. The person appointed Chair of the Governance and Audit Committee must be a lay member. The person appointed as Deputy Chair cannot be a Member of the Cabinet or an Assistant to the Executive.

2.2.5 A meeting of the Governance and Audit Committee is to be chaired:

- (a) by the Chair of the Governance and Audit Committee, or
- (b) if the Chair of the Governance and Audit Committee is absent, by the Deputy Chair.
- (c) If both the Chair of the Governance and Audit Committee and the Deputy Chair are absent, the Committee may appoint a member of the Committee who is not a member of the Council's Cabinet, or an Assistant to the Executive, to chair the meeting.

2.2.6 Members of the Governance and Audit Committee may vote on any matter from the Committee.

2.2.7 The Terms of Reference for the Governance and Audit Committee is included at [Appendix 1](#).

### **9.3 The Democratic Services Committee**

- 9.3.1 The Council will appoint a Democratic Services Committee to discharge the functions described in Section 14 of this Constitution.
- 2.3.2 The Committee shall comprise of Councillor Members but no more than one Member of the Cabinet, which must not be the Leader.
- 2.3.3 The Council shall appoint Members to the Democratic Services Committee in accordance with the political balance rules.
- 2.3.4 The Chair of the Democratic Services Committee is appointed by Full Council and must not be the Cabinet Member.
- 2.3.5 The Terms of Reference for the Democratic Services Committee is included at [Appendix 2](#).

### **9.4 Other Committees and Sub-Committees**

- 2.4.1 The Council will appoint such other Committees as it considers appropriate to the exercise of its functions. These will include a Planning and Licensing Committee.
- 2.4.2 Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year. The terms of reference and delegation of powers to them shall be explicit and within the appointment Committees terms of reference.
- 2.4.3 The Terms of Reference for the Planning Committee, Licensing Committees and other Committees are included at [Appendix 3](#).

### **9.5 Rules of Procedure and Debate**

- 2.5.1 The Council Procedure Rules in Section 4 will apply, except as set out in paragraph 9.5.2 below.
- 2.5.2 A meeting of the Planning Committee shall only be quorate when at least half of the total number of members of the Committee, rounded to the nearest whole number, are present.

## **SECTION 9 - APPENDIX 1:**

### **GOVERNANCE & AUDIT COMMITTEE TERMS OF REFERENCE**

#### **Statement of purpose**

1. The Governance and Audit Committee is a key component of Conwy County Borough Council's corporate governance. It provides an independent and high-level focus on the audit, assurance, and reporting arrangements that underpin good governance and financial standards.
2. The purpose of the Governance and Audit Committee is to provide independent assurance to members of full council (*'those charged with governance'*) of the adequacy of the risk management framework and the internal control environment. It provides an independent review of Conwy County Borough Council's governance, risk management and control frameworks and oversees the financial reporting and annual governance processes. It oversees internal and external audit, helping to ensure efficient and effective assurance arrangements are in place.
3. There is clear separation between the role of the Governance and Audit Committee and that of scrutiny committees. The Governance and Audit Committee role seeks assurance that internal control systems of the council are working, rather than the actual scrutiny of activities and or policies.

#### **Composition and arrangements**

4. The Governance and Audit Committee is a non-executive body established under the requirements of the Local Government and Elections (Wales) Act 2021 and is a fully constituted committee of the Council operating at a strategic level. The committee will conduct its business non-politically.
5. The committee membership consists of 2/3<sup>rd</sup> elected members and 1/3<sup>rd</sup> lay members, appointed by full council at its annual meeting. Only one of the committee's members may be from the council's executive (Cabinet) and this must not be the leader. Lay members shall be appointed for the term of the Council.
6. Lay members cannot be:
  - A current member or officer or a member or officer within the last 12 months; or
  - The spouse or civil partner of a member or officer.
7. A number of changes have also been made to the committee's arrangements:
  - The committee has a duty to appoint its own chair and deputy chair.
  - The chair of the committee has to be a lay member.

- The deputy chair must not be a member of the Local Authority Executive.
  - In the absence of both the chair and deputy chair only non-members of the executive can chair meetings.
8. Council approved on 3<sup>rd</sup> March 2022 that the size of the Governance and Audit Committee be set at a static number of 12 members in total, with 8 councillors and 4 lay members.
  9. Members will receive ongoing training in their role and regular briefings on new legislation, professional guidance and research.
  10. The committee members will elect the chair and vice chair of the committee. All committee members, including lay members, have the right to vote on any issue considered by the committee.
  11. In accordance with the Local Government and Elections (Wales) Act 2021, any officer or member of the Council requested to attend a Governance and Audit Committee meeting must do so. The committee may invite other persons to attend before it, but anyone else so invited to attend is under no compulsion to do so.
  12. The Governance and Audit Committee is subject to normal arrangements of openness and transparency. Meetings will be held in public, agendas and reports are published and available for inspection. The exception to this is where 'exempt items' are being considered.
  13. The committee will meet four times per year and will also meet if the full council so decides, or if at least a third of the committee's members request that a meeting be held. The committee can meet whenever it chooses.
  14. The Strategic Director Finance and Resources is a key point of contact for Governance and Audit Committee members. The committee will provide effective support to the Strategic Director, who consequently, will have direct access to the committee.
  15. The Head of Internal Audit will attend all meetings of the committee.
  16. Informal meetings with the internal and external auditors may be held in private.

### **Accountability arrangements**

17. The committee will report to '*those charged with governance*' (full council) on an annual basis the Governance and Committee's findings, conclusions and recommendations concerning the adequacy and effectiveness of their governance, risk management and internal control frameworks; financial reporting arrangements, and internal and external audit functions.

18. The committee will report to full council, on an annual basis, the Governance and Audit Committee's performance in relation to these terms of reference and the effectiveness of the committee in meeting its purpose and its agreed terms of reference. A regular self-assessment will be used to support the planning of the Governance and Audit Committee work programme and training plans and will inform the committee's annual report.

## **Governance**

19. The committee will review and assess the council's corporate governance arrangements against the governance framework and make reports and recommendations to the council on the adequacy and effectiveness of these arrangements.
20. The committee will review the draft Annual Governance Statement to consider whether it properly reflects the risk environment and supporting assurances, taking into account internal audit's opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control.
21. The committee will help the council to implement the values of ethical governance. It will promote measures to improve transparency and accountability and effective public reporting to the authority's stakeholders and the local community. As part of its review of governance arrangements, it will ensure there are adequate arrangements in place to enforce a strong commitment to ethical values and legal compliance at all levels.
22. The committee will review partnership arrangements including the adequacy of governance and risk management arrangements, ensuring accountability to stakeholders, transparency of decision-making and standards of probity are maintained.
23. The committee will review the effectiveness of the council's whistleblowing arrangements.

## **Financial reporting**

24. The committee will review the council's financial affairs, making reports and recommendations in relation to them.
25. The committee will review and approve on behalf of the Council the authority's annual financial statements, including the explanatory foreword, key messages, trends, consistency with financial performance, suitability of and compliance with accounting policies and treatments and major judgemental areas.
26. The committee will consider the external auditor's report to '*those charged with governance*' on issues arising from the audit of the accounts and whether they need to be brought to the attention of the Council.



## **Treasury management**

27. Council has nominated the Governance and Audit Committee to be responsible for ensuring effective monitoring of the treasury management strategy and policies. The committee will undertake this role in accordance with the CIPFA Treasury Management Code of Practice.
28. The committee will review the treasury management policy and procedures to be satisfied that controls are satisfactory. It will receive regular reports on activities, issues and trends. The committee will review the treasury risk profile and processes, and assurances on treasury management.

## **Value for money**

29. The committee will support the development of robust arrangements to ensure that the council makes best use of its resources and taxpayers and service users receive excellent value for money.
30. The committee will review the council's overall approach to value for money and assess whether it is in line with governance objectives and the assurances on this to underpin the Annual Governance Statement.
31. The committee will consider assurances and assessments on the effectiveness of these arrangements, in particular, the Audit Wales' annual improvement reports.

## **Assurance framework**

32. The committee will consider the council's assurance framework and ensure that it adequately addresses the risks and priorities of the council. This will support the committee's approval of the internal audit risk-based plan by identifying the extent to which it will rely on Internal Audit for its assurance requirements.
33. The committee will ensure there is clarity of what assurance is provided, that there is a clear allocation of responsibility for providing assurance and duplication is avoided.

## **Risk management**

34. Assurance over risk management will be a key element underpinning the Annual Governance Statement. To this end, the committee will review and assess the effective development and operation of risk management in the council. In particular, it will:
  - Oversee the authority's risk management policy and strategy, and their implementation in practice
  - Oversee the integration of risk management into the governance and decision-making processes of the organisation

- Review the arrangements to co-ordinate and lead risk management, including the process
- Review the risk profile, keep up to date with significant areas of strategic risks and major operational or major project risks
- Seek assurance that management appropriately own and manage risks effectively
- Seek assurance that adequate risk assessments support strategies and policies and risks are actively being managed and monitored.
- Follow up and monitor risks identified by auditors and inspectors to ensure that they are integrated into the risk management process
- Support the development and embedding of good practice in the field of risk management practice.

### **Well-being of Future Generations**

35. The committee will review and assess the Authority's response to its duty under the well-being of Future Generations (Wales) Act 2015 to act in accordance with the sustainability principle and ensure this guides decision making, improving the economic, social, environmental and cultural well-being of Wales. The committee will ensure the Authority acts in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

### **Complaints**

36. The committee will review and assess the Council's ability to deal with complaints effectively. The committee will make reports and recommendations in relation to the Council's ability to deal with complaints effectively.

### **Controls**

37. The committee will review and assess the effectiveness of internal controls and monitor the implementation of agreed actions.

### **Countering fraud and corruption**

38. The committee will review the assessment of fraud risks and potential harm to the council from fraud and corruption.

39. It will review the fraud risk profile to understand the level of fraud risk to which the authority is exposed and the implications for the wider control environment.

40. The committee will monitor the counter-fraud strategy, actions and resources, to ensure that it meets with recommended practice, governance standards and legislation.

41. It will oversee any major areas of fraud identified and monitor action plans to address control weaknesses.

## Internal audit

42. The Local Government and Elections (Wales) Act 2021 has an explicit requirement for the Governance and Audit Committee to oversee the council's internal audit arrangements.
43. The role of the Governance and Audit Committee in relation to internal audit comprises:
  - a. supporting internal audit's independence
  - b. overseeing its objectivity, performance and professionalism
  - c. supporting the effectiveness of the internal audit process
  - d. promoting the effective use of internal audit within the assurance framework.
44. It will review and approve the internal audit charter, which defines the internal audit's activity purpose, authority and responsibility.
45. The committee will approve (but not direct) the risk-based internal audit plan, including internal audit's resource requirements. It will have a good understanding of the level of assurance risk management provides when it reviews the risk-based internal audit plan. The committee will approve significant interim changes to the plan and resource requirements.
46. The committee will make appropriate enquiries of both management and the Head of Internal Audit to determine if there are any inappropriate scope or resource limitations.
47. The committee will consider reports from the Head of Internal Audit on Internal Audit's performance during the year, including the performance of external providers of Internal Audit services.
48. The committee will consider updates on the work of internal audit including key findings, issues of concern and action in hand as a result of internal audit work. It will consider specific internal audit reports as requested.
49. The committee will consider the Head of Internal Audit's annual report and the opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control together with the summary of the work supporting the opinion. These will assist the committee in reviewing the Annual Governance Statement.
50. The committee will receive reports outlining the action taken where the Head of Internal Audit has concluded that management has accepted a level of risk that may be unacceptable to the authority or there are concerns about progress with the implementation of agreed actions.
51. The committee will consider reports on instances where the Internal Audit function does not conform to the Public Sector Internal Audit Standards and

Local Government Application Note, considering whether the non-conformance is significant enough that it must be included in the Annual Governance Statement.

- 52. The committee will contribute to the Quality Assurance and Improvement Programme and in particular, to the external quality assessment of internal audit that takes place at least once every five years. It will oversee the qualifications and independence of the assessor.
- 53. The committee will consider a report on the effectiveness of Internal Audit to support the Annual Governance Statement, where required to do so by the Accounts and Audit (Wales) Regulations 2014.
- 54. The committee will support the development of effective communication with the Head of Internal Audit, by having free and unfettered access to the chair of the Governance and Audit Committee. The engagement between the Head of Internal Audit and the Governance and Audit Committee is a crucial component of delivering an effective Internal Audit service.

#### **External audit**

- 55. The committee will consider the external auditor's annual letter and the report to '*those charged with governance*'. It will contribute to the council's response to the annual audit letter.
- 56. The committee will oversee external audit arrangements, comment on the scope and depth of external audit work and ensure it gives value for money. It will consider external audit reports and will monitor their recommendations
- 57. The committee will advise and recommend on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.
- 58. There will be an opportunity for the Governance and Audit Committee to meet privately and separately with the external auditor, independent of those officers with whom the auditor must retain a working relationship.

#### **Other regulators and inspectors**

- 59. The committee will receive and consider reports from any other regulators or inspectors. In respect of these, the authority will ensure there is no unnecessary duplication between the audit committee and any overview and scrutiny committee in considering such reports.

## SECTION 9: APPENDIX 2

### **DEMOCRATIC SERVICES COMMITTEE - TERMS OF REFERENCE**

	Membership	Functions
<b>Democratic Services Committee</b>	<p>17 Members, which Must consist solely of councillors and cannot include more than one member of the Executive (Cabinet), who must not be the Leader.</p> <p>The Council must appoint the chair of the DSC, who must not be a member of any political groups represented on the Executive (Cabinet) and all members of the DSC.</p>	<p>To carry out the Local Authority's function of designating the Head of Democratic Services.</p> <p>Keep under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services, in order to ensure that it is adequate for the responsibilities of the post.</p> <p>Make reports, at least annually, to the Council in relation to these matters.</p> <p>To receive and consider Reports from the Public Services Ombudsman for Wales issued under Section 16 of the Public Services Ombudsman (Wales) Act 2005 and to determine what action to take in relation to any Recommendations contained within such Report.</p> <p>To consider and be consulted upon proposed amendments to the Council's Constitution prior to consideration by Council.</p>

<b>Appeals Committee</b> <b>Family Absence</b>	3 Members of the Democratic – Services Committee (must not include the Chair of the Council)	In accordance with The Family Absence for Members of Local Authorities (Wales) Regulations 2013:  To hear appeals from Members against a decision to withdraw entitlement to family absence  To settle disputes, where a Member, who is on leave of absence would like to attend a particular meeting, type of meeting, or perform a particular duty or type of duty and the Chair of the Council refuses this request.
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## SECTION 9: APPENDIX 3

### **OTHER COMMITTEE TERMS OF REFERENCE**

*The Monitoring Officer has delegated authority in consultation with Group Leaders, to make minor amendments to the size of any Council committee, in order to reflect political balance.*

<b>Decision Making Body</b>	<b>Membership</b>	<b>Functions</b>
Planning	<p>17 members of the Authority (all of whom shall have received appropriate training prior to being able to vote at Committee meetings). In exceptional circumstances, no more than one member of the Executive (Cabinet) Committee may serve on the Planning Committee with the consent of the Council.</p> <p>Only one Member of any electoral division may sit on the Planning Committee, in order to allow other Members of that division to perform the representative role for local community interests.</p> <p>Each meeting of the Planning Committee must have a quorum of 50% to make decisions.</p> <p>The use of a substitute Member is prohibited.</p>	<p>Those functions relating to Town and County Planning and Development Control as are set out in the Constitution from time to time as being within the remit of the Planning Committee including :-</p> <p>Outline and full planning applications for major developments</p> <p>Where there has been an objection to an application falling into one of the categories as set out in the Constitution</p> <p>Applications submitted for Council development or for development on Council land (other than works within the highway relating to access)</p> <p>Applications submitted by Chief Officers, Officers within Development Control, Members of the Council or their close relatives and the officer recommendation is to grant permission</p> <p>All decisions relating to the revocation or modification or a permission of consent</p>

<b>Decision Making Body</b>	<b>Membership</b>	<b>Functions</b>
Statutory Licensing Regulation	<p>11 members of the authority (all of whom shall have received appropriate training prior to being able to vote at Committee meetings). In exceptional circumstances, no more than one Member of the Executive (Cabinet) Committee may serve on the Statutory Licensing n Committee with the consent of the Council.</p> <p>The Statutory Licensing Committee can, but does not have to be, politically balanced.</p>	All licensing functions relating to the Licensing Act 2003 and the Gambling Act 2005
General Licensing Committee	<p>11 Members - membership as the Statutory Licensing Committee above (all of whom shall have received appropriate training prior to being able to vote at Committee meetings). In exceptional circumstances, no more than one Member of the Executive (Cabinet) Committee may serve on the General Licensing Committee with the consent of the Council.</p> <p>The General Licensing Committee must be politically balanced.</p>	Any licensing and regulation functions which fall outside the Licensing Act 2003 or the Gambling Act 2005 (e.g street trading or taxi licences)



Committees with Employment Functions: Decision Making Body	Membership	Functions
Senior Employment Committee	<p>11 Members</p> <p>11 for all matters relating to the appointment of Chief Executive, Strategic Directors, and Head of Democratic Services</p> <p>5 for all other functions</p> <p>In the event that the Portfolio Holder is not on the Committee he/she shall be co-opted for the relevant function.</p>	<p><b>a) Engagement</b></p> <p>Functions relating to the appointment of the Chief Executive, the Monitoring Officer, the Section 151 Officer Strategic Directors, Head of Democratic Services and Chief Officers (Heads of Service engaged on JNC Chief Officers Terms and Conditions of Service).</p> <p>To draw up short list in respect of the appointment of the Chief Executive.</p> <p>To draw up short list with the Chief Executive and Head of Corporate Human Resources in respect of the appointment of the Monitoring Officer, the Section 151 Officer, Strategic Directors, the Chief Education Officer and Head of Democratic Services.</p> <p>To assist in the drawing up of the job description and job specification for Chief Officers.</p> <p>To participate in the selection process for Chief Executive, the Monitoring Officer, the Section 151 Officer Strategic Directors, the Chief Education Officer, Head of Democratic Services and make recommendations to the Council.</p> <p>To appoint Heads of Service. Shortlist to be drawn up by the Chief Executive and relevant Director(s) in consultation with the Head of Corporate Human Resources.</p> <p>To make recommendations and select membership for any joint appointment committee with another organisation as the need arises.</p>

Committees with Employment Functions: Decision Making Body	Membership	Functions
		<p><b>b) Pay, Grading &amp; Discretionary Severance and Flexible Retirement</b></p> <p>i) To receive and consider proposals for the permanent regrading of the Chief Executive, the Monitoring Officer, the Section 151 Officer, Strategic Directors, Head of Democratic Services and Chief Officers (Heads of Service engaged on JNC Chief Officers Terms and Conditions of Service) and make recommendations to the Council. Any decision to determine or vary the remuneration of chief officers must be made by full Council, without the possibility of delegating it to a committee of the Council.</p> <p>ii) To make decisions on <b>discretionary payments</b> on termination of employment for the officers in b) i) above where the sum does not exceed the threshold of £100,000 recommended in the Welsh Government's "Revised Guidance Relating to Pay Policy Statement" (February 2014).</p> <p>iii) Where the threshold of £100,000 is exceeded the Committee will consider and make a recommendation to the Council for it to make a decision.</p>

		<p><b>iv)</b> Section 63 of the Local Government (Democracy) (Wales) Act 2013 enables the Independent Remuneration Panel to take a view on anything in a Council's Pay Policy Statement which relates to the salary of its (Chief Executive. It allows the Panel to make recommendations in respect of any proposal to change the salary of a Chief Executive. In particular should the Council wish to change the salary of the Chief Executive it must consult the Panel, unless the change being considered is commensurate with a general pay increase or reduction for other officers. The Council must have regard to the Panel's recommendations when reaching its subsequent decision.</p> <p>v) To receive and consider proposals to pay an honorarium (additional temporary remuneration) to Directors and make a recommendation to Council.</p> <p><b>vi)</b> Authority to pay an honorarium to other Chief Officers i.e. not Directors, will be delegated to the Chief Executive who will consult with the appropriate Portfolio Holder(s).</p> <p>vii) Flexible Retirement - Delegated authority to approve such applications continue to be granted to the Head of Corporate Human Resources, the Strategic Director (Finance and Efficiencies) and the appropriate Director for the service in which the applicant works, except where an application is made by a Head of Service (Chief Officer) ,a Strategic Director, or the Chief Executive in which case the decision will be made by the Senior Employment Committee, unless the overall value of the "package" is likely to exceed the Welsh Government's new threshold of £100,000 (in accordance with the Council's current Pay Policy) where the application will be referred to the Council for a decision.</p>
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<b>Committees with Employment Functions: Decision Making Body</b>	<b>Membership</b>	<b>Functions</b>
		<p><b>c) Grievance</b>  To hear grievances against the Chief Executive or from the Chief Executive assisted by the Monitoring Officer and the Head of Corporate Human Resources. Where the Committee upholds a grievance and decides that it is a matter of a serious nature it may refer the matter to the Senior Investigation and Disciplinary Committee or the Standard Committee.</p>
<b>Senior Investigation and Disciplinary Committee</b>	11 Members, with the Committee splitting on an alternating basis into 2 groups of members; half the group forming the Investigation Committee and the other half the Disciplinary Committee.	<p>To be the Disciplinary Committee in respect of the Chief Executive, the Section 151 Officer, the Monitoring Officer and the Head of Democratic Services in accordance with Section 7 (11) of the Officer Employment Rules.</p> <p>To be the Investigation Committee for the conduct of disciplinary matters relating to the Chief Executive, the Section 151 Officer, the Monitoring Officer and the Head of Democratic Services in accordance with Section 7 (11) of the Officer Employment Rules i.e. to consider any allegation of misconduct and decide whether it should be investigated further.</p>
<b>Grievance Panel</b>	3 - 1 elected member as Chair, 1 experienced trade union representative and one Senior Manager (unconnected to the case) advised by a member of HR or Legal.	Grievance Appeal Panel; to hear all Stage 3 Grievances other than those which are the preserve of the Senior Employment Committee and Senior Investigation and Disciplinary Committee.

<b>Committees with Employment Functions: Decision Making Body</b>	<b>Membership</b>	<b>Functions</b>
<b>Corporate Joint Consultative Committee</b>	<p>19 - Leader, Cabinet Member for Democracy and Governance, Chair of the Finance and Resources Overview and Scrutiny Committee, Chief Executive, Strategic Director of Finance and Resources, Strategic Director (Social Care and Education), Head of People and Performance, Head of Environment, Roads and Facilities and Head of Education Services</p> <p>Note: Chief Executive to have delegated authority to change the officer CJCC members (but not the numbers) at his discretion.</p> <p>10 union representatives</p>	<p>The key principle is for elected members, management and staff to work together in partnership to build positive relationships in the workplace and foster constructive collaboration.</p> <p>Functions include:</p> <ul style="list-style-type: none"> <li>• To consider and discuss matters of overall CCBC strategy and corporate interest.</li> <li>• Terms and conditions of employment.</li> <li>• Working practices.</li> <li>• Facilities and time off for trade union officials.</li> <li>• Matters referred to it by any other Committee including Service or Departmental consultative bodies.</li> <li>• Matters of organisational performance.</li> <li>• Training and development.</li> <li>• Corporate communications.</li> <li>• Standards of conduct and behaviour (not case specific).</li> <li>• Equality of opportunity and work/life balance issues.</li> <li>• The discharge of such other functions specifically assigned to it by the Executive.</li> <li>• To make recommendations to the Executive or other Committee as appropriate.</li> </ul> <p>Meetings held quarterly; quorum one third of each side(Manager/members and union reps)</p>

<b>Committees with Employment Functions: Decision Making Body</b>	<b>Membership</b>	<b>Functions</b>
<b>Corporate Joint Health Safety and Health Promotion Committee</b>	19 - Employer representatives- Leader, Cabinet Member for Democracy and Governance, Chair of the Finance and Resources Overview and Scrutiny Committee, Chief Executive, Strategic Director (Finance and Resources), Strategic Director (Social Care and Education), Head of People and Performance Resources, Head of Environment, Roads and Facilities, and Head of Education Services; and 10 union representatives.	<p>The Committee shall consider all matters relating to the legal obligations of the Council and its employees under the provision of the Health and Safety at Work Act 1974 and other related legislation and shall make recommendations thereon, and on such matters as may be deemed appropriate to the execution of the Council's approved policy for Health and Safety.</p> <p>The Committee shall also take a lead role in advancing and integrating health promotion initiatives into the Council's employment practices.</p> <p>Meetings held quarterly; quorum one third of each side (Manager/members and union reps)</p>

<b>Excellence Working Group</b>	<b>Fund</b>	The Committee will comprise of 11 Members	To consider applications received in line with the grant guidelines from individuals living in Conwy who are talented at sport, education and the arts, and make recommendations for funding (up to a maximum of £1000) to the Cabinet Member for Education, Skills and Employability.
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## **SECTION 9 - APPENDIX 4**

### **PROTOCOL FOR MEMBERS OF THE COUNCIL'S APPOINTED LICENSING COMMITTEE:**

#### **LICENSING ACT 2003 GAMBLING ACT 2005**

##### **1. Introduction**

The Licensing Act 2003 transferred responsibility for the alcohol licensing function undertaken by the Magistrates' Courts to Local Authorities, thereby integrating the separate licensing regimes for liquor on the one hand, and public entertainments, cinemas, theatres and late night refreshment houses on the other, under a single licensing regime.

The Better Regulation Task Force, who undertook a review of alcohol licensing laws, which led to these changes, said that licensing was 'not a judicial function', and at the time it suggested three compelling reasons for giving local authorities the licensing function: accountability, accessibility, and crime and disorder strategies. It was also recognised that the existing regime failed 'to provide local accountability for licensing decisions, and makes it hard for local residents to influence the process'.

The success of the licensing regime is dependent on the efficiency and effectiveness of the local authorities. As the Licensing Authority for the County Borough area, this success will be achieved in Conwy by working in partnership with Licence Holders, Responsible Authorities and Interested Parties.

Members of the Council's appointed Licensing and Regulation Committee, when exercising their function / duties as the Licensing Authority, will play a crucial role.

The decision-making process involved in dealing with opposed applications is fundamental. Members must strike a balance in considering the application before them, any relevant representations put forward, and the wider community interest.

##### **2. Personal and Prejudicial Interests**

This protocol provides a summary of the main issues relevant to the Licensing Act, and the duties of Members, but it should not be considered in isolation, reference should also be made to the Code of Conduct for Members (further advice can be sought from the Monitoring Officer or the Head of Service. Part III of the Council's Code of Conduct for Members, deals with Disclosure and Registration of Interests. In terms of the Licensing Act, a key issue relates to the question of what is to be regarded as a personal or prejudicial interest.

In addition to the normal rules on declarations of interest, a Member has to consider whether there may be a perception of bias on their part. It does not matter whether

there is actual bias - the test is “would a reasonable person think there could be bias”?

Because of the nature of the Licensing Sub-Committees, the key issue to ensure the legality of the decision is the “public perception of a probability of unconscious bias” This brings into consideration the previous dealings of Members of the Licensing Sub-Committee and views expressed by them.

For example, are you a regular customer at the premises concerned? Electoral Divisional Members will need to consider whether the public might perceive that they hold a particular view in advance of any hearing. In such circumstances, Members should not participate in the hearing.

Any Member who has a personal or prejudicial interest should not take part in or attend at the hearing. If this is the case, they must not try to influence any other Members in respect of any licensing application.

### **3. Training**

It has been decided that only those Members who have undergone appropriate training will be eligible to sit on any Licensing Sub-Committee.

The provision of any training for Members of the Licensing Committee will be the duty and responsibility of the Head of Regulatory and Housing Services.

Appropriate records of training undertaken by Members will be maintained, not only to monitor individual development, but so that should the need arise at any appeal, it is thought essential to be able to demonstrate the professionalism of the Members engaged in licensing hearings on behalf of the Council.

### **4. Committees / Sub-Committees – Delegation of functions**

The responsibility of adopting the Statement of Licensing Policy is that of the Council itself.

Otherwise, all functions in respect of the Licensing Act 2003 are delegated to the Licensing and Regulation Committee, which consists of 12 Members. The Committee has in turn delegated certain functions to Licensing Sub-Committees (three Members).

Whenever the Sub-Committee sits to consider and determine an application, the Chair and / or Vice Chair will form part of that Sub-Committee.

The Head of Regulatory and Housing Services, or his nominee, will be responsible for ensuring the availability and eligibility of Members in respect of any applications dealt with by the Licensing Sub-Committee, and the officer will ensure that the Members have possession of all the relevant paperwork associated with the application. Declaration of Personal or Prejudicial interests will form part of the selection process.



## 5. Open Mind

Members need to demonstrate that they have come to the hearing with an open mind. They should not express a view on any case prior to the hearing. Political group meetings are wholly inappropriate when dealing with individual cases. Members also need to demonstrate that they have not influenced the way in which officers present the cases before them. Any briefings by officers in advance of a hearing must relate to procedural points only, and **not** on the merits of the case. To remove any question of predetermination, it is considered best practise for Members of the Licensing Committee not to sit on Planning Committees or be involved with any interested groups, including Town and Community Councils where the application has already been deliberated. Members should (if in any doubt) seek the advice of the Monitoring Officer.

## 6. Lobbying

Members must avoid any attempts to lobby them at all times. For example, this could be by individuals or could arise at a Community or Town Council meeting. Members should point out the nature of the hearings and explain that they cannot enter into discussions.

In Summary:

- **Members who are on the Licensing Committee must not allow themselves to be lobbied by anyone, either for or against an application.**
- **Members of the Licensing Committee must not express a view on a licensing application prior to any hearing. This will jeopardise the Member's impartiality and bar them from being able to sit and consider the application at any subsequent hearing.**
- **Members of the Licensing Committee should always refer lobbyists to Licensing Officers.**
- **Members who do not sit on the Licensing Committee, must not lobby Members who do sit on the Licensing Committee.**

## 7. Representational Role

There is no doubt that some applications made in connection with the Licensing Act 2003, may pose a difficult problem for Electoral Divisional Members who sit on the Licensing Committee. How do they fulfil their role, if an application is controversial? One option might be to ask the constituent to approach another Electoral Divisional Member, or in the case of a single Member Division, to find a Member from another Electoral Division to assist them.

Any Electoral Divisional Member may submit a relevant representation.

Should a Member of the Sub-Committee submit a relevant representation, this would exclude that Member from being able to sit at the relevant hearing. It would also mean that when the Sub-Committee retired to make their decision that the Member must not retire with them.

In such cases, the Member should provide notification to the Head of Regulatory and Housing Services.

## **8. Press Statements**

Members must refrain from making any statements to the press prior to any hearing. Any enquiries received should be referred to the Head of Regulatory and Housing Services. Any comments will be of an explanatory nature only and will not express a view on the merits of a particular case. After a hearing, Members must not make any media statements, in case of any possible appeal.

## **9. Hearings**

Members are reminded that there are important factors that should be borne in mind and will assist in determining any application:

- **Members have a duty to promote the statutory licensing objectives whenever they make a decision under the Act.**
- **Members have a duty to have regard to the Statutory Guidance under Section 182 of the Licensing Act 2003 in their decision-making. Any departure from this Guidance must be supported by good reasons for doing so.**
- **Members must also have regard to the Council's Statement of Licensing Policy in making any decision. Any departure from the Policy should only occur when there is good reason to do so.**

It is essential that the Sub-Committee deal with each of these three important points, as it will not only ensure that any decisions are guided by the correct considerations, but it will avoid costly and unnecessary appeals and possible judicial reviews.

In order to ensure that the person / case appearing before the Sub Committee has been given a fair hearing, the following general principles should be considered.

### **Principle 1: Procedure**

The Sub-Committee Hearing is not a court of law. The Sub-Committee should try to keep the proceedings as informal as possible. Some degree of formality is required to ensure that all parties receive a fair hearing, and offers an equal opportunity to present their case.

There are certain circumstances when different procedures should apply. The principles of natural justice have to be followed, and the extent to which this is required can vary according to differing circumstances. The basic principles of natural justice are as follows:

- a. No person is to be a judge in his own cause
- b. No person is to be dealt with without having the opportunity of putting his or her own case.

The detailed application of the rules of natural justice only applies to certain decisions. These often relate in circumstances where an individual's legal rights and livelihood are affected. This protocol identifies strict procedural requirements.. The Sub-Committee and its Members must act fairly. Failure to comply with the pertinent points contained within this protocol by any Member, could lead to a decision being the subject of a legal challenge.

### **Principle 2: The purpose of the hearing.**

The purpose of the Sub-Committee hearing is:

- to enable those with a right to appear to advance their point and to test the case of the other party; and
- to assist the Sub-Committee to gather evidence and understand the relevant issues.

These basic purposes should be borne in mind if a procedural issue arises.

### **Principle 3: Format of the Hearing.**

It is essential that the Sub-Committee establish the ground rules at the outset, so that the parties know what to expect and what is expected of them. This will reduce the chance of conflict during the proceedings.

The Chair will refer to the 'format of the hearing', which will be included within each set of papers. For example, it will indicate the order of presentation and closing submissions.

Members should have read and familiarised themselves with the relevant report, papers and issues. The Chair should provide a clear indication that this is the case, so that points are not repeated or made at length.

In the event that a large number of attendees all refer to the same point, the Chair may invite a spokesperson to address the Sub-Committee and/or cross-examine witnesses. The Chair in such circumstances should stress that the Sub-Committee acknowledge the strength of feeling, and that the mere fact that it does not hear from all parties on this point, will not mean that their representations are not taken fully into account. It is merely that the point will not gain weight through repetition.

#### **Principle 4: Hearsay Evidence**

Hearsay evidence is when a witness gives evidence of something they did not hear or see, but were only told about. For example:

My neighbour says they were kept up all night  
I got a letter from a local resident which said they could not sleep because of the music from the pub next door.

Although hearsay evidence may be considered, it is for Members to decide how much weight they attach to it, as it may well be less, given that it cannot be tested by cross-examination.

#### **Principle 5: Petitions**

Courts/Inquiries in the past have given little weight to petitions, as it is not difficult to get people to sign up, and the only real evidence available to Members is that of the written view of the signatories.

It is important that Members do not dismiss petitions out of hand, but decide upon how much weight they attach to it from an evidential perspective.

#### **Principle 6: Relevant Representations**

Should any Member receive correspondence from an Interested Party, which relates to a licensing application, that may be the subject of a hearing, a copy of that correspondence should be forwarded to the Licensing Service without undue delay.

At a hearing, a Responsible Authority or Interested Party may choose to rely on their written representations that gave rise to the hearing, but they may not add further representations to those disclosed to the applicant prior to the hearing. They may if they wish amplify their existing representations.

Relevant representations will only be brought before Members if they are not frivolous or vexatious and have been made in accordance with statutory requirements of the Act.

#### **Principle 7: Fair treatment of witnesses**

It is the responsibility of the Chair to protect witnesses from being berated or interrupted by any legal representative or any other party in attendance at the hearing equally and fairly.

The Chair however, may also require any witness at the proceedings to answer the actual question and prevent them from straying from the point.

The Chair should also intervene should any leading questions be posed. Not only is this practise unfair on other parties, but it helps neither the witness, nor the Sub-Committee, because the evidence is not really that of the witness.

### **Principle 8: Level playing field**

The Sub-Committee may, should the number of witnesses and amount of evidence be excessive, set time limits for presentation, these limits must be adhered to by all parties.

If at the end of a witness's evidence a Member has some questions, these should be directed through the Chair.

### **Principle 9: Repetitive issues**

When and where possible, the Chair may clarify issues by ascertaining whether points really are contested, or by indicating that the Sub-Committee has heard and understood the point (this may have been covered in the case papers, or by an earlier witness).

### **Principle 10: Pro-active use of conditions**

Many contested applications fall away once the parties talk sensibly about conditions. Frequently, conditions may be applied which are not only acceptable to the applicant, but resolve all of the objectors issues.

The Sub-Committee should always consider whether objections may be overcome by the imposition of conditions.

The Chair should invite comment on proposed conditions before imposing them.

### **Principle 11: Advice**

Where Members seek advice on any point, legal or otherwise, and this may not solely relate to the Licensing Act 2003, it must be given or repeated in open session and the Chair should invite comment from the parties involved in the hearing.

### **Principle 12: Decision making process**

The Sub-Committee should hear all available evidence and take into account all relevant factors and circumstances. Members should not determine the application until the end of the hearing and, just as importantly, Members should not appear to have done so in any way.

The parties have a right to know why they have succeeded or not. Furthermore, dubious or badly drafted reasons may weaken the Licensing Authority's case on any appeal.

The Sub-Committee must:

- **Ensure that each and every relevant representation is referred to in its decision.**
- **State the extent to which it has taken account of the Statutory Guidance and the Statement of Licensing Policy.**

- **When refusing in whole or in part, or attaching conditions, state both that it is considered necessary to do so in order to promote any specific licensing objective, and the reasons for so being.**

**10. When in doubt.**

Members should seek the advice of the Head of Regulatory and Housing Services, or in his absence, the Principal Licensing and Trading Standards Officer, or a representative of the Head of Law and Governance.

## **SECTION 10 – JOINT ARRANGEMENTS**

### **10.1 Introduction**

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

### **10.2 Arrangements to promote well being**

The Council, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

### **10.3 Joint arrangements**

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee, including joint Overview and Scrutiny Committees with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.
- (c) The Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.
- (d) When considering whether to establish a joint committee, the Council and the Cabinet shall have regard to any guidance issued by the Welsh Ministers about establishing joint committees and the circumstances in which it is appropriate to do so.

### **10.4 Access to information**

- (a) The Access to Information Rules in Section 15 of this Constitution apply.
- (b) If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Executive.

- (c) If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **10.5 Delegation to and from other local authorities**

- (a) The Council may delegate functions to another Local Authority or, in certain circumstances, the Cabinet of another local authority.
- (b) The Cabinet may delegate Executive functions to another Local Authority or Cabinet of other local authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

#### **10.6 Contracting out**

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

10.6.1 which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or

10.6.2 under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.



## **SECTION 11 - CORPORATE JOINT COMMITTEES**

### **11.1 Introduction**

Corporate joint committees may be established: -

11.1.1 at the instigation of the Welsh Ministers, to undertake the Council's transport, strategic planning, economic development and/or improving education functions; or

11.1.2 at the instigation of the Council, to undertake any of the Council's functions.

### **11.2 Corporate Joint Committees**

11.2.1 The Council may, jointly with one or more other local authorities make a joint committee application to the Welsh Ministers, asking them to consider making regulations under section 72 of the Local Government and Elections (Wales) Act 2021 establishing a corporate joint committee to exercise a function of those authorities or the economic wellbeing function in relation to the principal areas of those authorities.

11.2.2 The Council shall not make such an application unless and until it has consulted: -

- (a) local people in the Council's area;
- (b) community councils in the Council's area;
- (c) the National Park authority for a National Park, any part of which is in the Council's area;
- (d) the Public Services Board;
- (e) every trade union which is recognised (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992) by the Council; and
- (f) such other persons as the Council considers appropriate.

11.2.3 The Council may, jointly with all other local authorities for the principal areas in a corporate joint committee's area, make an application to the Welsh Ministers asking them to consider making regulations under section 80 of the Local Government and Elections (Wales) Act 2021 to amend or revoke joint committee regulations which establish a corporate joint committee of which the Council is a member.

11.2.4 The Council may not exercise the power in section 11.2.3 to ask the Welsh Ministers to amend corporate joint committee regulations so as to omit or modify a function which relates to the Council's transport, strategic planning, economic development or improving education functions.