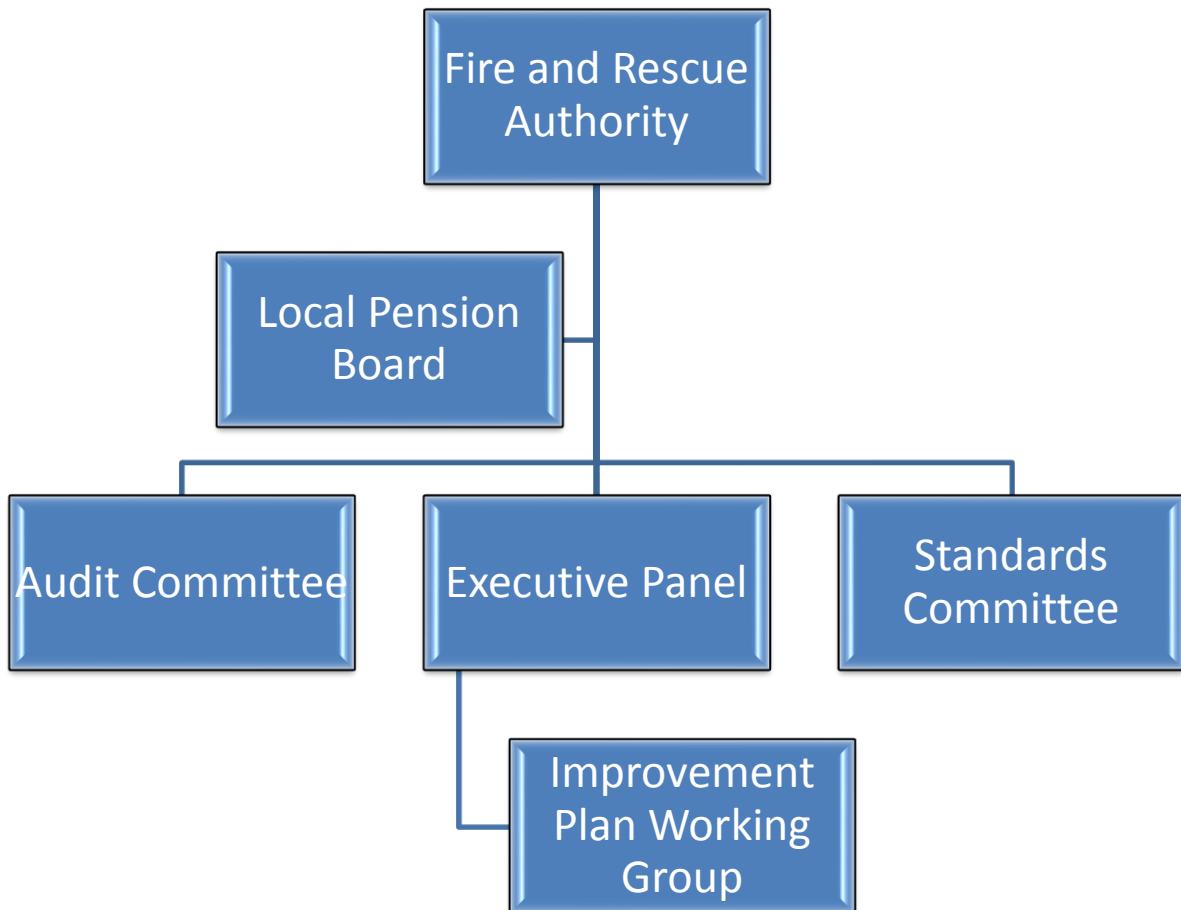


## Agenda item 15i - Appendices

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**Democratic Structure of the Fire and Rescue Authority's Committees**



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## **Appendix 2**

### **Terms of reference for the Local Pension Board of North Wales Fire and Rescue Service**

1. This document sets out the terms of reference for the Local Pension Board of North Wales Fire and Rescue Service, Firefighters' Pension Scheme as required by the Public Service Pensions Act 2013 and the Local Government (Amendment) (Governance) Regulations 2014.

#### **Scheme Management**

2. North Wales Fire and Rescue, as administering authority, is the Scheme Manager. Its functions are discharged in accordance with the Authority's scheme of delegation by the Treasurer and Chief Fire Officer.

#### **The Local Pension Board**

3. The role of the Local Pension Board is to assist North Wales Fire and Rescue Service (NWFRS), as the administering authority:
  - to secure compliance with the scheme regulations and other legislation relating to the governance and administration of the scheme;
  - to secure compliance with requirements imposed in relation to the scheme by the Pensions Regulator;
  - ensure the effective and efficient governance and administration of the Firefighters' Pension Schemes for Dyfed Pension Fund;
  - the role of the Board will be oversight of these matters and not decision making;
  - in undertaking any relevant work as requested;
  - in such other matters as the scheme regulations may specify.
4. The Local Pension Board will ensure that the Code of Practice on governance and administration issued by the Pensions Regulator is complied with. The Board will also ensure that it complies with the knowledge and understanding requirements in the Pensions Regulator's Code of Practice.
5. The Local Pension Board is accountable to the Pensions Regulator, the National Scheme Advisory Board and the Administering Authority in their role as Scheme Manager.
6. The principal functions of the Local Pension Board shall include, but not be limited to:
  - reviewing decision making processes, policies and procedures to ensure they are compliant with relevant Regulations;
  - seeking assurance that these are followed and adhered to with

- regard to Pensions decisions;
  - seeking assurance that administration performance is in compliance with the Authority's performance framework and that monitoring arrangements are adequate and robust;
  - considering the effectiveness of communication with employers and scheme members including a review of the Communication Strategy; considering and commenting on internal audit recommendations and external auditor reports.
7. Any complaint or allegation of a breach of the Regulations brought to the attention of the Local Pension Board shall be dealt with in accordance with the Code of Practice as published by the Pensions Regulator.

### **Frequency and Notice of Meetings**

8. The Local Pension Board shall meet sufficiently regularly to discharge its duties and responsibilities effectively; four meetings will be scheduled during each financial year.
9. The Members' Liaison Officer shall give notice to all Local Pension Board members of each meeting of the Board, including the date, location and time of the meeting and shall ensure that a formal record of the Local Pension Board proceedings is maintained.
10. Papers will be provided three working days before each of the formal Local Pension Board meetings.
11. All agendas and non-confidential Local Pension Board papers and minutes of meetings will be published on NWFRS' website, together with the Board Terms of Reference and details of the Board membership.

### **Membership**

12. The Local Pension Board shall consist of no fewer than 6 members (in total), and must include an equal balance of employer and scheme member (employee) representatives. These shall be constituted as follows:

<b>Constituency</b>	<b>Definition/Constraints</b>
Employer	To represent NWFRS
Scheme Member (employee)	To represent all members of the scheme (active, deferred and pensioner)

13. The term of office for all members of the Board will fall in line with council elections and therefore it is anticipated that the membership will remain until 2022. Members may at the end of their term, express a

wish to be considered for re-election.

14. Local Pension Board members must meet key attendance and training requirements to retain their membership during this period. All members must:
  - endeavour to attend all meetings of the Board
  - comply with the training plan produced by the Pensions Manager
  - ensure compliance with the Pension Regulator's Code of Practice.
15. All members within the Firefighters' Pension Schemes must have an equal opportunity to be nominated for the role of member representative.
16. For the purpose of appointing employer representatives to the Board, nominations will be sought from all Fire and Rescue Authority members. The Treasurer and Monitoring Officer (or deputy) will also provide employer representation.
17. For the purpose of appointing scheme member (employee) representatives to the Board, nominations will be requested through the Departmental Representatives and Trade Union Forum with further nominations being sought via an advert placed on the Authority's website. Where more than three nominations are received candidates will be considered, shortlisted and interviewed by an appointments panel who will then make recommendations to the Chief Fire Officer to formally appoint.
18. If a Local Pension Board member acting as an employer representative leaves the employment of the employer they are representing they will no longer be eligible to sit on the Board.
19. In the event of consistent non-attendance of a Board member, or for failure to meet key attendance and training requirements as set out in (13) above, the tenure of that membership will be reviewed. In the case of a member representative, this will be done by the appointments panel who may make recommendation for the membership to be revoked if considered necessary.  
In such event, there will be a right of appeal to the Chief Fire Officer prior to any recommendation. In the case of an employer representative, any such decision will be considered by the chair of the Fire and Rescue Authority.
20. If an employer or scheme member representative wishes to resign they must write to the Chief Fire Officer, giving at least one month's notice.
21. The Chairperson of the Local Pension Board will be rotated on a bi-annual basis between a member representing employers and those representing scheme members.

22. It will be the role of a representative acting as Chairperson to:
  - agree and set the agenda for a meeting of the Board
  - manage the meetings to ensure that the business of the meeting is completed in the agreed time
  - ensure that all members of the Board show due respect for process and that all views are fully heard and considered
  - strive as far as possible to achieve a consensus as an outcome
  - ensure that the actions and rationale for decisions taken are clear and properly recorded.
23. Due to the specialist nature of the work of the Board, personal attendance at all meetings is expected of all Board members with no provision for a substitute. However, deputies would be allowed, but they would be responsible for maintaining their own training to ensure they were *au fait* with pensions issues.
24. The Board may, with the approval of the Chief Fire Officer, co-opt persons who are not members to aid the Board for a period of time or for a specific task where this would provide additional skills, knowledge or experience. The co-opted members would not be permitted to vote.

### **Quorum**

25. Four of the Board members must be present for a meeting to be quorate. If the Chairperson is absent at a meeting and there is a quorum then the attending members must choose a Chairperson to preside over that meeting.

### **Knowledge and Skills**

26. A member of the Pension Board must be conversant with:
  - the legislation and associated guidance of the four Firefighter Pension Schemes;
  - any policies, procedures or decision making processes about the administration of the Schemes adopted by NWFRS and Dyfed Pension Fund.
27. A member of the Local Pension Board must have knowledge and understanding of the law relating to pensions and any other matters which are prescribed in Regulations.
28. It is for individual Pension Board members to be satisfied that they have the appropriate degree of knowledge and understanding to enable them to properly exercise their functions as a member of the Pension Board.
29. Pension Board members are required to be able to demonstrate their

knowledge and understanding and to refresh and keep their knowledge up to date. Pension Board members are therefore required to maintain a written record of relevant training and development.

30. Pension Board members must confirm to the Pensions Manager within six months of joining the Board that they have completed the Pension Regulator training.
31. During the first meeting of the financial year, Pension Board members must consider and agree an annual training programme.

### **Standards of Conduct and Conflicts of Interest**

32. The role of the Local Pension Board members requires the highest standards of conduct and therefore the 'seven principles of public life' will be applied to all Local Pension Board members. Board members will be required to observe the members' code of conduct and data protection policies of NWFPS. The Board is required to always act within these terms of reference. In accordance with the Public Service Pension Act 2013 a board member must not have a financial or other interest that could prejudice them in carrying out their Board duties. This does not include a financial or other interest arising merely by virtue of membership of the FPS.
33. As such all members of the Local Pension Board will be required to declare any interests and any potential conflicts of interest in line with the requirements of the Public Service Pensions Act 2013 and the Pension Regulator's Code. These declarations are required as part of the appointment process, as well as at regular intervals throughout a member's tenure.

### **Reporting**

34. The Board is expected to produce an annual report to the Fire and Rescue Authority which should include:
  - a summary of the work of the Local Pension Board and a work plan for the coming year
  - details of areas of concern reported to or raised by the Board and recommendations made
  - details of any conflicts of interest that have arisen in respect of individual Local Pension Board members and how these have been managed
  - any areas of risk or concern the Board wish to raise with the Scheme Manager
  - details of training received and identified training needs
  - details of any expenses and costs incurred by the Local Pension Board and any anticipated expenses for the forthcoming year.

35. Although the Board is only required to produce a single annual report, minutes for each meeting of the Board will be published on the Authority's website.
36. Should the Board have concerns believed to be sufficiently serious that they should be reported at a higher level than is standard (to the Pensions Manager) they should report to the Chief Fire Officer. This may include, but not be limited to, occasions where the Board feel that previous recommendations have not been acted upon. In extreme cases such as a fundamental breach of Regulations or a fundamental failure by the Administering Authority to ensure effective governance of the fund, the Board may consider reporting to the National Scheme Advisory Board and/or the Pensions Regulator.

### **Remuneration**

37. Remuneration for members of the Local Pension Board will be limited to a refund of actual expenses incurred in attending Board meetings and training.  
It is expected that employers of board members will provide appropriate capacity to allow the member to perform this role within their normal working day without any reduction to pay.
38. Expense claims should be submitted no later than 1 month following the incursion.

### **Publication of Local Pension Board Information**

39. Up to date information will be posted on NWFRS' website showing:
  - names and information of the Local Pension Board members
  - how the scheme members and employers are represented on the Local Pension Board
  - responsibilities of the Local Pension Board as a whole
  - full terms of reference and policies of the Local Pension Board and how they operate
  - Local Pension Board appointment process.

### **Review**

40. These terms of reference were formally adopted by the Board at its first meeting on 20 April 2015 and are reviewed annually or upon statutory or regulatory changes in line with paragraph 41.
41. The Chief Fire Officer is authorised to make minor amendments, consequential upon statutory or regulatory change, or to update arrangements consequential on other external factors.

Reviewed 29/04/19

**AUDIT COMMITTEE: TERMS OF REFERENCE**

**1. Membership**

- 1.1 The Audit Committee shall comprise the 14 members who are not on the Executive Panel. The Audit Committee shall be responsible for the following (and shall have delegated authority accordingly):

**2. Governance**

- 2.1 The purpose of the Audit Committee is to provide independent assurance to the members of the adequacy of the risk management framework and the internal control environment. It provides independent review of the North Wales Fire and Rescue Authority'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.
- 2.2 To oversee the production of the North Wales Fire and Rescue Authority's Annual Governance Statement and consider whether it properly reflects the governance, risk and control environment and supporting assurances and identify any actions required for improvement.
- 2.3 To maintain an overview of the North Wales Fire and Rescue Authority's constitution, particularly in respect of the contract procedure rules and financial procedure rules.
- 2.4 To review any issue referred to it by the Chief Fire Officer, S. 151 Officer or Clerk, the North Wales Fire and Rescue Authority or the Executive Panel.

**3. Financial, Resources and General Management and Assurance**

- 3.1 The Committee shall:

- 3.1.1 consider the Authority's framework of assurance and ensure that it adequately addresses the risks and priorities of the Authority;
- 3.1.2 consider the Authority's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements;
- 3.1.3 approve the Internal Audit Annual Work Programme;
- 3.1.4 consider the Internal Audit reports;

- 3.1.5 consider the Internal Audit Annual Report;
- 3.1.6 appoint an effective and efficient Internal Audit Service; and
- 3.1.7 review the performance of the Internal Audit Service;
- 3.1.8 consider the Wales Audit Office's Annual Audit Letter;
- 3.1.9 review the annual statement of accounts. Specifically, to consider whether appropriate accounting policies have been followed and whether there are concerns arising from the financial statements or from the audit that need to be brought to the attention of the North Wales Fire and Rescue Authority.

#### **4. Risk Management Panel**

- 4.1 The Committee shall:
  - 4.1.1 consider the framework of assurance and ensure that it adequately addresses the risks and priorities of the North Wales Fire and Rescue Authority;
  - 4.1.2 monitor the effective development and operation of corporate risk management and corporate governance in the North Wales Fire and Rescue Authority;
  - 4.1.3 monitor the effectiveness of the internal control environment.

#### **5. Performance**

- 5.1 The Committee shall:
  - 5.1.1 review the effectiveness of performance management;
  - 5.1.2 review the achievement of Strategic Plan objectives;
  - 5.1.3. review the achievement of agreed performance indicators; and
  - 5.1.4 generally comment upon and make recommendations to the North Wales Fire and Rescue Authority Executive Panel or the Executive Group on the performance of the North Wales Fire and Rescue Authority.

#### **6. Overview and Scrutiny**

- 6.1 The Committee may:
  - 6.1.1 review the effectiveness of policies and strategies approved by the Executive Panel;
  - 6.1.2 review the effectiveness of decisions made by the Executive Panel;
  - 6.1.3 review generally the performance of the North Wales Fire and Rescue Service;

- 6.1.4 make such reports or recommendations to the North Wales Fire and Rescue Authority, Executive Panel or Executive Group as it considers appropriate;
- 6.1.5 request the Clerk that a matter be added to any agenda for the North Wales Fire and Rescue Authority, Executive Panel or Executive Group provided that at least 10 clear days notice is given of such a request. All reasonable steps shall be taken to provide a written report on the matter to the meeting, but where this is not possible, an oral report shall be given;
- 6.1.6 the right to make a request under paragraph 6 (d) shall be vested in the Chairperson of the Audit Committee or any three Members of that Committee;
- 6.1.7 where the Audit Committee considers that a matter requires urgent consideration by either the North Wales Fire and Rescue Authority or the Executive Panel then the Audit Committee shall have power to request a meeting of that Committee in accordance with rule 6 (d) above.

## **7. Audit**

- 7.1 The Committee will provide advice and recommendations in relation to the following areas:
  - 7.1.1. Review the internal audit plan and any proposed revisions to the internal audit plan.
  - 7.1.2 Consider the head of internal audit's annual report and opinion, and a regular summary of the progress of internal audit activity against the audit plan, and the level of assurance it can give over corporate governance arrangements.
  - 7.1.3 Consider a report on the effectiveness of internal audit to support the AGS, where required to do so by the Accounts and Audit Regulations (Wales) 2014.
  - 7.1.4 Support the independence of external audit through consideration of the external auditor's annual assessment of its independence and review of any issues raised by either PSAA or the auditor panel as appropriate.
  - 7.1.5 Consider the external auditor's annual management letter, relevant reports and the report to those charged with governance.
  - 7.1.6 Consider specific reports as agreed with the external auditor.
  - 7.1.7 Provide feedback to the Wales Audit Office upon performance of the external audit.

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## **Appendix 4**

### **NORTH WALES FIRE AND RESCUE AUTHORITY**

### **CONTRACT PROCEDURE RULES**

#### **Introduction**

The purpose of these Contract Procedure Rules is to provide a methodology for the procurement of goods, works and services for the Authority and to ensure that the relevant procedures are efficient and transparent and provide a system of openness and accountability. The highest standards of probity are required of all officers and Members involved in the procurement, award and management of the Authority's Contracts.

Any queries in respect of these Contract Procedure Rules shall be referred to the Monitoring Officer.

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## **GENERAL**

### **1. Interpretation**

- 1.1 In these Contract Procedure Rules, the following terms have the following meanings:

Approved List	a list drawn up for and maintained by services for use under CPR 15
Business Case	the process for weighing up the expected benefits with the cost and risks of a proposed project.
Call Off	a Contract let using a Framework Agreement where the terms allow for a Contract to be awarded without the need for mini competition.
Code of Conduct	the Codes regulating the conduct of Officers and Members as set out in the Authority's constitution
Community Benefits	social or economic or environmental requirements which benefit the community within the Authority area
Contract	an agreement for the supply of goods or services or concessions or the execution of works
Contract File	a record of all matters relating to the Contract and procurement process
Contractor	a supplier of goods or services or concessions or works for the Authority
Contracts Register	a Register of Contracts currently operating within the Authority
Corporate Purchasing Agreement	a Contract or Framework Agreement which has been endorsed and approved for use by the ACO, Finance and Resources and its use shall be mandatory. This includes joint procurement arrangements and membership of official planning consortiums

Authority	North Wales Fire and Rescue Authority
E-Sourcing	electronic systems for the facilitation and conducting of procurement exercises
EU	European Union
EU Contract	a Contract covered by the Public Contracts Regulations 2015
Framework Agreement	an agreement which allows a Responsible Officer to Call Off or undertake a mini competition to provide goods, services or works in accordance with the terms of the agreement. The Framework Agreement usually constitutes a non-binding offer with no obligations to Call Off from the Contractor. If the Authority Calls Off from the Contractor a binding Contract comes into being.
Chief Fire Officer (CFO)	overall responsibility for each area of North Wales Fire and Rescue Service
Assistant Chief Officer (ACO)	responsible for specific areas within the North Wales Fire and Rescue Service
Invitation to Tender	Invitation to Tender documents in the form required by these Contract Procedure Rules
Member(s)	a Member of the Authority
Monitoring Officer	the Officer designated by the Authority as its statutory Monitoring Officer from time to time
Month	a calendar month
Most Economically Advantageous Tender	the tender which is the most advantageous to the Authority based on a combination of price and quality criterion
OJEU	Official Journal of the European Union
OJEU Threshold	the values that are determined by the European Union every two years
Quotation	a quotation of price and any other relevant matter made without the formal issue of an

## Invitation to Tender

Relevant ACO	the ACO whose directorate or department is responsible for the procurement exercise in question
Responsible Officer	any permanent or temporary staff member or consultant or any other person properly authorised by the Authority to carry out any of the Authority's Contracts functions
Section 151 Officer	the officer designated by the Authority to undertake its duties under section 151 of the Local Government Act 1972
Sub-OJEU	the values below the threshold that are determined by the European Union every two years
Tender	a Contractor's formal proposal submitted in response to an Invitation to Tender
Tenderer	a Contractor who is invited to submit a Tender for the provision of works, services, goods or concessions to the Authority
Value for Money	the optimum combination of whole life costs, quality and benefits to meet the Authority's requirement. Such term equates to the EU procurement requirement of "most economically advantageous offer"
Working Day	any day other than a Saturday or a Sunday or a day which is a bank or a public holiday throughout Wales

- 1.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.3 Unless the context otherwise requires, a reference to one gender shall include a reference to the other gender.
- 1.4 Any reference to actions within these Contract Procedure Rules can also be undertaken by Responsible Officers with the appropriate delegated authority to carry out such tasks.

- 1.5 Under these Contract Procedure Rules, periods expressed as a certain number of days from a particular event run from the day following that on which the event takes place. If the last day of the period falls on a Saturday, Sunday or a bank or public holiday it will end on the next working day.
- 1.6 Periods will include public holidays and weekends unless these are expressly excluded or the periods are expressed as a certain number of working days.

## **2. Compliance with Contract Procedure Rules and Legislation**

- 2.1 These Contract Procedure Rules apply to all Contracts entered into by or on behalf of the Authority.
- 2.2 The ACO (Finance and Resources), Monitoring Officer or Section 151 Officer shall advise on the implementation and interpretation of the Authority's Contract Procedure Rules.
- 2.3 Every Contract entered into by the Authority or on its behalf shall be entered into pursuant to, or in connection with, the Authority's functions and shall comply with:
  - 2.3.1 all relevant statutory provisions;
  - 2.3.2 the relevant EU law and the EU public procurement rules (including the EC treaty, the general principles of EU law and the EU public procurement directives implemented by the UK regulations);
  - 2.3.3 the Authority's constitution including these Contract Procedure Rules and the Authority's Financial Regulations.
  - 2.3.4 schemes of delegation;
  - 2.3.5 the Authority's strategic objectives and policies;
  - 2.3.6 the relevant data protection legislation.
- 2.4 Should there be a conflict between the provisions of the Authority's Contract Procedure Rules and any provision of an EU directive or any domestic legislation, the directive or legislation shall prevail.
- 2.5 All Responsible Officers must comply with the Authority's Contract Procedure Rules and Financial Regulations. Other officers must not enter into Contracts on behalf of the Authority.

- 2.6 Any failure by a Responsible Officer to comply with any of the provisions of these Contract Procedure Rules or the Authority's Financial Regulations or associated guidance adopted by the Authority or any UK or European legal requirements may result in disciplinary action.
- 2.7 Any failure to comply with these Contract Procedure Rules by Responsible Officers shall be reported immediately to the ACO (Finance and Resources).
- 2.8 Any failure to comply with these Contract Procedure Rules by Members shall be reported immediately to the Monitoring Officer.

### **3. Duties of Responsible Officers and Members**

- 3.1 The highest standards of probity are required of all Responsible Officers and members involved in the procurement, award and management of Authority Contracts.
- 3.2 Responsible Officers shall always:
  - 3.2.1 seek value for money;
  - 3.2.2 show no undue favour to any Contractor or Tenderer, nor discriminate against any Contractor or Tenderer;
  - 3.2.3 ensure that all procurement is in accordance with the highest standards of propriety and proper practice (including respecting the confidentiality of commercial information);
  - 3.2.4 do nothing that contravenes EU or domestic law;
  - 3.2.5 ensure that adequate Contract files are kept for Contracts upon which they are engaged.
- 3.3 Members and officers must comply with the Authority's policy and processes in relation to gifts and hospitality. As a general rule, offers of gifts or hospitality must not be accepted without the written authorisation of the CFO or Relevant ACO. This includes offers from Contractors, Tenderers or any firm or organisation with whom the Authority has had, is having or may have any dealings of any kind.
- 3.4 Members shall comply with the members' code of conduct.

- 3.5 Responsible Officers shall comply with the officers' code of conduct.
- 3.6 Members and officers should seek advice from the Monitoring Officer in respect of any matter arising out of these Contract Procedure Rules whenever there is any doubt as to the correct procedure.

#### **4. Declaration of Interests**

- 4.1 No Member, officer or agent of the Authority shall improperly use their position to obtain any personal or private benefit from any Contract entered into by the Authority.
- 4.2 The following shall declare any interests which may affect the Contract process:
  - 4.2.1 all Responsible Officers who play any role in the procurement process, including those designated under a scheme of delegation in CPR 5.3;
  - 4.2.2 Members involved in the procurement process; or
  - 4.2.3 external consultants.
- 4.3 The CFO or responsible ACO shall ensure that members, officers, consultants or anyone else who is not an officer of the Authority appointed or agreed by them make declarations on their appointment and on any change in circumstances (and annually in the case of officers), and shall either certify them as acceptable or take any necessary action in respect of potential conflicts of interest.  
Responsible Officers shall keep completed consultants' declarations on the Contract file.
- 4.4 All members and Responsible Officers must complete a declaration of interest form, which must be appropriately approved in compliance with the Authority's declaration of interests policy. The Authority shall maintain a register of declarations indicating the names and grades of those declaring and the nature of their declaration.

#### **5. Scheme of Delegation**

- 5.1 The Authority shall maintain a scheme of delegation setting out the delegated limits for Chief Officers and Responsible Officers. Responsible Officers must operate within delegated limits when entering into a Contract on behalf of the Authority.
- 5.2 Each ACO shall compile and maintain a scheme of delegation specific to their service, detailing the names and grades of Responsible Officers

approved for the purposes of obtaining quotations, tendering, entering into contracts and placing orders on behalf of the authority and the maximum contract or order value allocated to each Responsible Officer for these purposes.

- 5.3 Each ACO must provide the ACO (Finance and Resources) with their scheme of delegation before the start of each financial year and on making any amendment.
- 5.4 The ACO (Finance and Resources) shall keep a register of all schemes of delegation and shall ensure the appropriate scheme of delegation is replicated within the purchase-to-pay solution (for ordering, receipting and payments).

## **6. Electronic Procurement Solutions**

- 6.1 All purchase to pay processes including requisitioning, ordering, receipting and invoice payments shall be conducted via the corporate purchase-to-pay solution.

## **7. Corporate Purchasing Agreements and Dynamic Purchasing Agreements**

- 7.1 The use of the following Corporate Purchasing Agreements as endorsed by the ACO (Finance and Resources) shall be mandatory, unless a justification not to use them has been made in writing and been approved by the ACO (Finance and Resources):
  - 7.1.1 Corporate purchasing agreements resulting from the National Procurement Service or any other approved official purchasing consortiums;
  - 7.1.2 Any other Framework Agreements and any subsequent call off arrangements; and
  - 7.1.3 Joint procurement arrangements.

- 7.2 Any membership of an official purchasing consortium which requires upfront Authority commitment shall be approved by the ACO Finance and Resources prior to the involvement by or on behalf of the Authority.

## **8. Use of Consultants**

- 8.1 The engagement of consultants must be approved, in the first instance, by the Relevant ACO and such approval shall be recorded on the corporate Contracts Register.

- 8.2 When calculating the estimated value of the Contract, due consideration must be given to any follow on work that may result from the original Contract. Where it is proposed that consultants are engaged by the Authority, the Relevant ACO shall ensure that:
- 8.2.1 there is a clear identification of need. In particular, the availability of in-house resources must be considered before seeking to engage external consultants;
  - 8.2.2 a budget has been agreed;
  - 8.2.3 a project brief has been prepared;
  - 8.2.4 Contracts are in accordance with these Contract Procedure Rules, unless CPR 14 applies;
  - 8.2.5 comprehensive criteria against which proposals will be evaluated are set;
  - 8.2.6 the selection decision is clearly documented;
  - 8.2.7 a formal agreement or detailed letter of engagement is prepared and signed;
  - 8.2.8 fee payments and progress are monitored;
  - 8.2.9 a detailed Contract file is maintained;
  - 8.2.10 performance is reviewed and adequate management monitoring and reporting is in place, including implementation of any recommendations made by consultants;
  - 8.2.11 there is a clear requirement for knowledge and skills transfer from the consultant to in-house staff;
  - 8.2.12 declare any interests which may affect the Contract process.
- 8.3 Consultants shall be required to provide evidence of and maintain professional indemnity policies to the satisfaction of the Relevant ACO for the periods specified in the respective agreement. The excess for any one claim shall be no more than £20,000 except with the approval of the ACO (Finance and Resources).
- 8.4 For the engagement of technical external staff such as architects, surveyors, engineers and lawyers, the Relevant ACO shall annually review the level of use of such external staff.

- 8.5 Where consultants or technical external staff such as architects, surveyors, engineers or lawyers are appointed to be responsible for supervision of a Contract on behalf of the Authority, it shall be a condition of appointment that they shall comply with these Contract Procedure Rules and the Authority's Financial Procedure Rules in relation to that Contract as if they were an officer of the Authority and that on completion of the Contract they shall submit all relevant records to the Relevant ACO.

## **PROCUREMENT PLANNING**

### **9. Purchasing Need and Procurement Planning Approval**

- 9.1 The Relevant ACO shall, having established and identified a purchasing need, nominate a Responsible Officer to fully assess the purchasing need.
- 9.2 Before undertaking a procurement exercise the Responsible Officer shall ensure that the authority's business planning process is followed. This includes the appropriate scoping of goods/service requirements, ensuring that there is approved budget for such expenditure and the route to market is compliant with these procedure rules.

### **10. Determining the Contract Value**

- 10.1 Before conducting any procurement exercise the Responsible Officer will estimate and record the total expected cost of a proposed Contract, including any Contract extensions, incidental or ancillary costs net of recoverable VAT over the full duration of the Contract. For construction Contracts the estimate must be produced by a suitably qualified officer.
- 10.2 Where a service or supply Contract does not stipulate a total price, the value shall be estimated as follows:
- 10.2.1 fixed term service Contracts of up to 48 months: total consideration payable over the term;
- 10.2.2 service Contracts or Contracts for the hire of goods for an indefinite or uncertain period or for a fixed term of more than 48 months; consideration payable in respect of each month multiplied by 48.

- 10.3 The value of regular or renewable service or supply Contracts shall be estimated either:
  - 10.3.1 by aggregating the value of similar Contracts for the same categories of services or supplies awarded by the Authority over the previous financial year or 12 months, adjusted where possible for anticipated changes in quantity or value over the next 12 months; or
  - 10.3.2 by taking the estimated aggregate value during the 12 months following the first supply or service performed, or during the term of the Contract where this is greater than 12 months.
- 10.4 A Contract cannot be artificially divided, nor a valuation method selected with the intention of avoiding any clauses within these Contract Procedure Rules. Contracts shall be packaged to ensure best service delivery, competition and value for money.
- 10.5 Where a purchasing requirement is subdivided into several smaller Contracts, the estimated value of each shall be aggregated to estimate the total Contract value. However it will not be necessary to aggregate the following:
  - 10.5.1 any works Contract that has an estimated value of less than the small lots provision in the table of values; or
  - 10.5.2 any service Contract that has an estimated value of less than the small lots provision in the table of values, provided that the aggregate value of all those smaller Contracts is less than 20% of the total Contract value.

## **11. Pre-Tender Enquiries**

- 11.1 Enquiries of Contractors may be made before tenders are invited in order to:
  - 11.1.1 establish whether goods, works or services that the Authority wishes to purchase are available and within what price range;
  - 11.1.2 prepare the Invitation to Tender, price estimates and Contracts;
  - 11.1.3 establish whether particular Contractors wish to be invited to tender or quote.

11.2 In making enquiries:

- 11.2.1 no information shall be disclosed to one Contractor which is not then disclosed to all those of which enquiries are made, or who are subsequently invited to submit a tender or quotation;
- 11.2.2 no Contractor shall be led to believe that the information they offer will necessarily lead to them being invited to submit a tender or quotation, or being awarded the Contract;
- 11.2.3 a written record, including notes of any meetings held, the responses and the names of all individuals present shall be kept by the Responsible Officer on the Contract file.

**12. Sustainable Procurement and Safeguarding**

- 12.1 The Authority has a duty under the Wellbeing of Future Generations (Wales) Act 2015 to act in accordance with the sustainability principle and to ensure this guides decision making. The Authority must act 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.
- 12.2 For all Contracts over £100,000 for goods and services the Authority shall consider whether to take account of social, economic and environmental issues when setting the tender evaluation criteria.
- 12.3 For all Contracts exceeding £2,000,000 the Authority must demonstrate compliance with the Welsh Government's Community Benefits In Procurement requirements. For relevant Contracts, Contractors will be required to complete the Community Benefits Toolkit as part of their Contractual requirements.

**EXEMPTIONS**

**13. Exempt Contracts**

- 13.1 An Exempt Contract is one to which these Contract Procedure Rules do not apply.
- 13.2 The following Contracts are exempt from the requirements of these Contract Procedure Rules:
  - 13.2.1 employment Contracts;

- 13.2.2 agreements relating solely to disposal or acquisition of an interest in land with the exception of Development Agreements (see CPR 52);
- 13.2.3 internal purchases or service provision;
- 13.2.4 Contracts for the engagement of counsel; and
- 13.2.5 Contracts for the engagement of an expert witness.

#### **14. Exemption from Contract Procedure Rules**

- 14.2 For Contracts other than those specified under CPR 13, a Responsible Officer may seek an exemption from applying these Contract Procedure Rules in exceptional circumstances.
- 14.3 A Contract shall only be negotiated with a single Contractor where the Authority having considered all the circumstances decides that such a course is desirable in the public interest. Such a decision shall be made only after consideration by the ACO (Finance and Resources) in conjunction with the Monitoring Officer where appropriate.  
Circumstances may include:
  - 14.3.1 where the works, goods or services can only be provided by a particular Contractor for reasons that are technical or connected with the protection of exclusive rights;
  - 14.3.2 urgency brought about by events unforeseeable by the Authority and in accordance with the strict conditions stated in the Public Contracts Regulations 2015;
  - 14.3.3 goods are required as a partial replacement or addition to existing goods or installations and obtaining them from another Contractor would result in incompatibility or disproportionate technical difficulties in operation or maintenance;
- 14.4 No exemptions may be granted which would result in a breach of European or domestic law.
- 14.5 A register of approved exemptions will be maintained.

#### **APPROVED LISTS**

#### **15. Authority's Approved Lists**

- 15.1 Approved lists may be established for certain types of goods, works and service Contracts. Generally these will be for low value high

frequency purchases.

- 15.2 The approval from the ACO (Finance and Resources) must be sought prior to set up or adoption of an Approved List.
- 15.3 Authority Approved Lists shall:
  - 15.3.1 indicate whether the Contractors listed are approved for all Contracts or for only some of the specified categories, values or amounts;
  - 15.3.2 be publicly advertised and reviewed in full at least every four years. As a minimum, a public advertisement must be published on the National Procurement Service website (Sell2Wales);
  - 15.3.3 be open to receive new expressions of interest from any Contractor;
  - 15.3.4 be an Approved List prepared by another public body providing that it has been composed in a proper manner by that body and that the Responsible Officer is satisfied that the procedure used does not conflict with the Authority's policies and procedures.
- 15.4 The financial standing of Contractors may be subject to financial assessment. Where the CFO or ACOs choose not to adhere to the financial assessment limits advised by the ACO (Finance and Resources), a documented risk assessment must be undertaken to support the decision.
- 15.5 A Contractor shall not be placed on an Authority Approved List or invited to tender if:
  - 15.5.1 it is bankrupt or is being wound up or is having its affairs administered by a court or has entered into an arrangement with creditors or has suspended its business activities or is subject to court proceedings regarding any of these matters;
  - 15.5.2 it, or any of its directors, have been convicted of an offence concerning professional conduct or have been guilty of grave professional misconduct;
  - 15.5.3 it has not fulfilled obligations relating to the payment of taxes or other statutory contributions;
  - 15.5.4 it has fundamentally misrepresented information supplied to the Authority.

- 15.6 Where an Approved List is in place, the consideration of other Contractors shall only be permitted where the Contractors are to be subject to a separate pre-qualification questionnaire exercise as part of a specific procurement exercise.
- 15.7 Responsible Officers must ensure a process of continual checking and verification is in place with respect to Contractors who are on an Approved Lists or Framework Agreements or have a Contract in place. Issues which shall be subject to verification shall include financial standing (see CPR 15.6), level of insurance cover (including any policy exclusions), accreditations, level of prosecutions and any other relevant information which may be subject to change or renewal.

## **16. Removal of a Contractor from an Approved List**

- 16.1 The Relevant ACO may, in consultation with the ACO (Finance and Resources), immediately suspend a Contractor from an Approved List, Framework Agreement, dynamic purchasing agreement or (in exceptional circumstances) Contract, whenever there are substantiated concerns regarding the Contractor's financial standing or technical capability or compliance with health and safety requirements.
- 16.2 Investigations of the Contractor must take place immediately. if the suspicions are confirmed, the Contractor must be removed from the Approved List, Framework Agreement or dynamic purchasing agreement. If the suspicions are dispelled, the Relevant ACO must immediately reinstate the Contractor.
- 16.3 A Contractor may be removed from an Approved List, Framework Agreement if the Relevant ACO considers that the Contractor or its staff have breached standards of conduct that are relevant to the nature of the work performed by the Contractor. Action may be taken under this paragraph even if there are no doubts about the financial standing or technical capability of the Contractor.
- 16.4 In the event that a Contractor is removed from an Approved List, Framework Agreement the ACO (Finance and Resources) will be notified of the decision.
- 16.5 A Contractor which has been removed from an Approved List or Framework Agreement shall have the right to appeal the decision within 7 working days of receipt of the letter informing them of their removal.
- 16.6 Any appeal shall be heard by the Monitoring Officer and Section 151 Officer.

## **PROCUREMENT APPROACHES**

### **17. Requirements for All Contracts**

- 17.1 The Authority is actively involved in collaborative agreements and arrangements across the public sector. These include joint procurement agreements to secure economies of scale and the use of public sector procurement frameworks.
- 17.2 Such arrangements known as Corporate Purchasing Agreement must be considered in the first instance. If in place an order shall be placed under the Corporate Purchasing Agreement accordingly.
- 17.3 When considering the value of a contract, please refer to section 10, on page 10-11.
- 17.4 A purchase order must be sent via the purchase-to-pay solution following award of the Contract.

### **18. Contracts Valued at less than £10,000 (Goods, Works and Services)**

- 18.1 The need to obtain written quotations shall be at the Relevant ACO's discretion although this does not alleviate the Relevant ACO of their responsibility to demonstrate that value for money has been obtained.

### **19. Contracts Valued between £10,000 and £40,000 (Goods, Works and Services)**

- 19.1 Where a Corporate Purchasing Agreement is not available, the Responsible Officer shall obtain a minimum of three quotations.

### **20. Contracts Valued between £40,000 and OJEU Threshold (Goods, Works and Services)**

- 20.1 Where a Corporate Purchasing Agreement is not available, the Responsible Officer must follow the tender requirements.

### **21. Contracts Valued over OJEU Threshold (Goods, Works and Services)**

- 21.1 Where a Corporate Purchasing Agreement is not available, the Responsible Officer shall invite tenders with appropriate advertisements in the OJEU.

### **22. Request for Quotes and Invitation to Tender Documentation**

- 22.1 The Invitation to Tender and all other procurement documentation (including requests for quotation, pre-qualification questionnaires and

Contract award letters) used shall be in compliance with the corporate standard documentation.

- 22.2 Every set of procurement documents shall state the nature and purpose of the Contract for which tenders are invited, specify the last date and time when tenders will be received and state that the Authority reserves the right not to accept any tender or to accept a tender other than the lowest where payment is to be made by the Authority or the highest where payment is to be received by the Authority.
- 22.3 The Invitation to Tender must include an indication of the method of selection of the successful tender i.e. price basis, quality basis or a combination of price and quality (most economically advantageous tender).
- 22.4 Instructions must be given to Tenderers regarding submission of documents which state that tenders must be received by the time and date indicated on the Invitation to tender. Receipts will be issued for hand delivered tenders.
- 22.5 All Tenderers shall be required to submit a signed statement to the effect that their tender price has not been communicated to others apart from that disclosed in confidence to insurers and that they have not adjusted the amount of any tender or quotation in accordance with any agreement or arrangement between the proposed Tenderer and any other person.

### **23. Tender Specifications**

- 23.1 The Responsible Officer shall ensure the Invitation to Tender specifies the quality, performance, safety and other characteristics required of the works or goods or services or supplies. Specifications may include requirements relating to methods of construction, design and costing, tests, testing methods, inspection and acceptance, quality assurance, packaging, marking and labelling.
- 23.2 Technical specifications shall be defined by reference to relevant European specifications or, where they do not exist, in the following order: to British technical specifications, British standards implementing international standards, other British standards and technical approvals or any other standards. Where an appropriate standard is current at the date of tender, all works, goods, services and supplies shall be at least of equal quality.

23.3 Specifications shall not refer to goods of a particular make or source unless:

- 23.3.1 it is justified by the purchasing requirement; or
- 23.3.2 the purchasing requirement cannot otherwise be described precisely and intelligibly, provided references are accompanied by the words 'or equivalent'.

## **24. Tender Bid Clarifications**

- 24.1 At all times during the procurement process the Authority shall ensure that all Tenderers and Contractors are treated equally and in a non-discriminatory and transparent manner.
- 24.2 Tenderers must be provided with an opportunity to ask questions of the Authority in relation to the procurement exercise and Contract requirement. Where a Tenderer seeks clarification from the Authority prior to tender submission, the Responsible Officer shall ensure that the clarification question and response are brought to the attention of all Tenderers.
- 24.3 Following receipt of tenders, the Responsible Officer may seek clarification from Tenderers where appropriate in consultation with the ACO (Finance and Resources).

## **25. Tender Submissions**

- 25.1 The principles governing the submission of tenders should apply to both electronic and written (paper) submission, and in compliance with the instructions to Tenderers issued as part of the Invitation to Tender.
- 25.2 The tender should be submitted in a plain sealed envelope which shall be duly marked "Tender for the .....," according to the subject to which it relates, and the tender conditions shall clearly indicate the last day and time for receipt of tenders. The date and time received shall be recorded on all envelopes and arrange for the safe custody of all submitted tenders, which shall remain unopened until the time appointed for their opening.
- 25.3 If a tender is opened in error, no attempt shall be made to ascertain any contents of the tender or its origin and the matter shall be reported to the Relevant ACO. The envelope shall be resealed immediately and signed by the officer concerned.

- 25.4 No Responsible Officer or member shall communicate with any Tenderer once the Invitation to Tender has been posted to, or collected by the Tenderer. No information relating to that procurement process shall be disclosed to anyone not involved directly in arranging the Contract, except where it is necessary:
- 25.4.1 for an officer or Tenderer to carry out an inspection of works, in which case all Tenderers shall be offered an equal opportunity to carry out an inspection; or
  - 25.4.2 to inform Tenderers of a change in the procurement arrangements, including the supply of additional or changed information, in which case all Tenderers shall be sent the same information at the same time; or
  - 25.4.3 in response to a request for clarification.

## **26. Tender Opening**

- 26.1 All tenders shall be opened at the same time and place after the closing time for receipt of tenders as stated in the Invitation to Tender or as early as reasonably practical thereafter.
- 26.2 The Authority shall have arrangements in place to record the following details of each tender:
  - 26.2.1 the last date and time for the receipt of tenders;
  - 26.2.2 the time and date the tender was received;
  - 26.2.3 the name of each Tenderer and where practicable the value of each tender;
  - 26.2.4 the date the tenders were opened;
  - 26.2.5 Contract title;and the record shall be signed by all designated persons present at the tender opening.

## **27. Late Tenders Received**

- 27.1 Any tender received after the specified time shall be endorsed with the time and date of receipt.
- 27.2 If all other tenders have been opened, the late tender shall not be considered for evaluation and shall be opened only to ascertain the

name of the Tenderer. No other details of the tender shall be disclosed. The Responsible Officer shall arrange for the tender to be returned to the Tenderer immediately. A notification letter explaining why the tender has not been considered shall be sent to the Tenderer.

- 27.3 The late tender may be considered, providing that the other tender have not been opened and that the Monitoring Officer or relevant ACO is satisfied:
  - 27.3.1 that there is evidence that the late tender was posted or submitted in time for delivery by the due date in the normal course of postal service or internet service; or
  - 27.3.2 that exceptional circumstances surrounds the submission of the late tender.
- 27.4 Any decision is to be recorded on the tender opening document and a copy of the decision should be included in the register.

## **28. Tender Evaluation**

- 28.1 All tenders for goods, services or works shall be evaluated and awarded on the basis of most economically advantageous tender, which shall include a combination of price and quality criteria, unless an exemption to this requirement has been approved by the ACO (Finance and Resources).
- 28.2 Any scoring or weighting attributable to any criteria or sub-criteria must be clearly stated in the Invitation to tender. The criteria shall be strictly observed and remain unchanged at all times throughout the evaluation process. It must be noted that prior disclosure of and adherence to award criteria and weightings is a fundamental requirement of the core principle of transparency. The core procurement principles of transparency, equal treatment and non-discrimination apply to all procurements.

## **29. Errors in Tenders**

- 29.1 As a general rule no adjustment or qualification to any tender shall be permitted. However, errors identified during the examination of tenders may be addressed. invitations to tender must state the method to be used for dealing with errors in tenders.
- 29.2 Responsible Officers may invite Tenderers to amend their tender to correct genuine arithmetical error(s). In this case, no other adjustment revision or qualification is permitted.

- 29.3 Where examination of tenders reveals other errors not stated in CPR 34.2 or omissions which would affect the tender figure, the Tenderer shall be given details of such errors and an opportunity of confirming or withdrawing its tender.
  - 29.4 Where a standard form Contract is used, the Responsible Officer shall deal with errors in accordance with the rules applicable to that form of Contract.
  - 29.5 The Responsible Officer shall ensure that the forms of tender are scrutinised in order to identify any errors or other discrepancy affecting the validity of the tender. Where tender values are compiled from a detailed bill of quantities the Responsible Officer shall also scrutinise the priced bill of quantities supporting the lowest tender received and any others he considers appropriate.
- 29.6 If a Tenderer withdraws or a corrected tender is no longer the highest ranking, the tender from the next highest ranking Tenderer in competitive order will be examined in more detail.

## **30. Negotiations**

- 30.1 Where procurement is conducted pursuant to the Public Contracts Regulations 2015 through either the open or restricted procedures, no negotiations are permitted following tender submission. The Responsible Officer may seek clarification from Tenderers where appropriate. Negotiations on price are never permissible.
- 30.2 At all times during the procurement (whether subject to the Public Contracts Regulations 2015 or not), the Authority shall consider and implement the principles of non-discrimination, equal treatment and transparency.
- 30.3 The Responsible Officer shall keep a written record of all negotiations, including notes of all meetings and the names of all individuals present and signed as such by all participants. At least two officers should be present when conducting negotiations; these procedures also apply where it is proposed to extend an existing Contract by negotiation.
- 30.4 Where negotiation results in a fundamental change to the specification or Contract terms, the Contract must not be awarded but re-tendered.

## **31. Contract Award**

- 31.1 The Authority shall only award a Contract where it represents best value for money. Tenders duly invited and submitted in accordance with the provisions of these Contract Procedure Rules may be awarded

in accordance with the Authority's scheme of delegation.

- 31.2 In respect of Contracts where the lowest price is predetermined to be the appropriate criteria for award, a tender or quotation other than the lowest if payment is to be made by the Authority or the highest if payment is to be received by the Authority shall not be accepted until the ACO (Finance and Resources), has considered a written report from the Relevant ACO.

### **32. Joint Procurements**

- 32.1 The use of any Framework Agreements or Joint Contracts resulting from a procurement exercise involving other public bodies as the lead authority shall be approved by the ACO (Finance and Resources) prior to their use. All such requests shall be made in writing to the ACO (Finance and Resources) and, once approved; the Responsible Officer shall ensure that the Framework Agreement or Joint Contract shall be inputted onto the Corporate Contract Register.
- 32.2 The Responsible Officer will ensure that the Contract Procedure Rules or equivalent of the lead authority or organisation will be acceptable to the Authority and are to be followed throughout the procurement exercise and the duration of the Contract.
- 32.3 Any joint procurement arrangement with any other public sector organisation that results in the Authority being committed to Contractual obligations on behalf of those other organisations (not including Framework Agreements) shall be approved by the ACO (Finance and Resources) prior to commitment stage.

### **33. Standstill Period**

- 33.1 'Standstill' letters issued as part of the process for procurements over the OJEU Threshold under the Public Contracts Regulations 2015 or optionally as part of any Sub OJEU procurement process must not be issued prior to confirmation of Contract award.
- 33.2 There must be a mandatory standstill period between communicating the award decision to all Tenderers and conclusion of the Contract with respect to procurements above the OJEU Threshold. This standstill period shall be 10 calendar days if sent electronically or 15 calendar days for notices sent by other methods. Where the last day of the standstill period is not a working day, the standstill period is extended to midnight at the end of the next working day.
- 33.3 With respect to Contract awards involving mini competitions undertaken within a Framework Agreement or Contract awards with

respect to Sub OJEU procurements a standstill period of 10 calendar days is recommended.

#### **34. Notification of Tender Award and De-briefing Requests**

- 34.1 The notification letters which are sent to any Tenderer who was successful or unsuccessful at either prequalification or Contract award stage shall be sent promptly once the decision has been made. The unsuccessful Tenderer shall be informed of the reasons for being unsuccessful and shall also be informed of the characteristics and relative advantages of the successful Contractor as well as the name of Contractor awarded the Contract.

#### **35. Post-Contract Award Requirements**

- 35.1 Following approval for Contract award and having received no legal challenges during the 'standstill' period, the Responsible Officer shall ensure all Contracts are in writing as per CPR 42 and that a purchase order is entered on to the purchase-to-pay solution (where available), once the Contract has been signed.
- 35.2 The Responsible Officer shall record all Contracts awarded by their service on the corporate Contracts register along with the E-Sourcing solution (where available).
- 35.3 The Responsible Officer shall send a Contract award notice to the OJEU within 30 days of the award with respect to an above OJEU Threshold Contract. The Responsible Officer shall publish a Contract award note to be published on the National Procurement Service (Sell2Wales) website for Sub OJEU Contracts.

#### **36. Letters of Intent**

- 36.1 Letters of intent must only be used in exceptional circumstances after prior approval in writing has been obtained from the Monitoring Officer and shall only be used as follows:
- 36.1.1 where the Contractor is required to provide services, goods or works prior to formal written acceptance by the Authority; or
- 36.1.2 where all the Contractual terms and conditions have been agreed and there would be an unacceptable delay in waiting for the Contractual documentation to be completed.
- 36.2 In all cases, where appropriate, Contract award letters should be used rather than a letter of intent.

## **37. Non-Concluded Terms and Conditions of Contract**

- 37.1 The Authority must always ensure that terms and conditions are fully agreed by including them in the Invitation to Tender and requiring Tenderers to accept them as part of the procurement process.
- 37.2 Where the terms and conditions of Contract are not fully agreed, no Contractor shall be allowed to commence delivery of goods, works or services until all terms and conditions have been agreed and signature or written agreement of both parties obtained.
- 37.3 Responsible Officers must in no circumstances contemplate entering into a Contract on the Contractor's own standard terms and conditions, or negotiate terms which are significantly different to those included or referred to during the procurement process without the prior approval of the Monitoring Officer and subject to CPR 31.

## **FORM OF CONTRACT**

### **38. Contracts in Writing**

- 38.1 The following Contracts shall be in writing and executed under seal:
  - 38.1.1 if the Authority wishes to enforce the Contract for more than six years after its end;
  - 38.1.2 where the price paid or received under the Contract is a nominal price or there is no consideration and does not reflect the value of the works, goods or services;
  - 38.1.3 where there is any doubt about the authority of the person signing for the other Contracting party;
  - 38.1.4 where it is required by law; or
  - 38.1.5 where the total value of the Contract exceeds £1m.
- 38.2 The seal must not be affixed without the authority of the Executive Panel or a Member or CFO or ACO acting under delegated powers. All Contracts under seal will also require an official purchase order to be created on the purchase-to-pay solution (where available).
- 38.3 All Contracts above £40,000 in value shall be in writing and in a form of Contract approved by the Monitoring Officer and be signed by the Relevant ACO or their nominated representative. All Contracts require an official purchase order to be created on the purchase-to-pay

system.

- 38.4 All Contracts below £50,000 in value shall be in the form of an official purchase order which refers to the Authority's relevant general terms of conditions or such other terms and conditions included in request for quotation. All such Contracts shall be created on the purchase-to-pay solution (where available) and can be approved or signed by the CFO or Relevant ACO or their nominated representative.
- 38.5 Emergency Contracts awarded under CPR 14.3.3 or 14.3.11 need not be in writing before commencement but must be confirmed in writing as soon as possible.
- 38.6 All original Contracts in writing should be retained by the Responsible Officer.
- 38.7 Where there is an appropriate national standard form of Contract, that standard form shall be used, subject to any amendments as may be agreed with the Monitoring Officer in consultation with Relevant ACO. Responsible Officers must ensure that any standard form Contract used in any procurement is still in force, up to date and reflects current legislation.
- 38.9 Commencement of any Contract shall not take place until the written documentation is finalised, except in cases of emergency, in which case the written documentation shall be finalised as soon as practicable.

#### **39. Bonds, Securities, Liquidated and Other Damages**

- 39.1 The Responsible Officer shall undertake a risk assessment to determine whether a performance bond or performance guarantee is required.
- 39.2 All Contracts shall include a provision for liquidated damages to be paid by the Contractor where applicable in case the terms of the Contract are not duly performed, save where the Monitoring Officer approves another type of remedy.

#### **40. Parent Company Guarantee**

- 40.1 The Responsible Officer shall seek a parent company guarantee when a Contractor is a subsidiary of a parent company and:
  - 40.1.1 The award is based on evaluation of the parent company; or
  - 40.1.2 There is some concern over the stability of the Contractor.

## **OPERATION OF CONTRACT**

### **41. Contract Management**

- 41.1 All Contracts must have a named Contract manager for the duration of the Contract. Contract managers must comply with these Contract Procedure Rules and where appropriate a project management framework.
- 41.2 All Contracts which are strategically critical or high risk or high value or high profile as determined by the Relevant ACO, are to be subject to a formal Contract review with the Contractor.

### **42. Contract Performance**

- 42.1 All Contractors shall be subjected to regular Contract performance reviews through feedback received from external and internal stakeholders. Where appropriate, a performance review shall be undertaken at the end of each completed Contract or job. This shall include a requirement to record good and poor performance including complaints, issues and defects arising under a Contract and to monitor the aggregation of Contractor defaults including performance issues.
- 42.2 Incidents of poor performance shall first be raised with the Contractor in writing or at a meeting where notes are made and sent to the Contractor before the annual report is despatched. In cases of particularly poor performance or persistent poor performance, the Responsible Officer shall consider whether to recommend suspension or exclusion from the Authority's Framework Agreement or Dynamic Purchasing Agreement or to terminate early the Contract as per CPR 47.

### **43. Termination of Contract**

- 43.1 Legal advice should be sought prior to the early termination of any Contract.
- 43.4 Any Contracts that are terminated early must be recorded against the Contract entry on the corporate Contracts register.

### **44. Contract Variations and Contract Extensions**

- 44.1 Any Contract may be varied or extended in accordance with its terms and conditions and providing that the Contract has not expired.

- 44.2 Where the terms do not expressly provide for variation or extension then variations or extensions may be made with the agreement of the other Contracting parties and approval from the Relevant ACO.

No variation or extension may be made if the proposed variation would:

- (a) mean the works, services or goods to be added to or deleted from the original Contract are substantially different in scope: or
  - (b) be in breach of UK or EU legislation.
- 44.3 The value of a variation or extension shall be calculated by taking the aggregate value of all variations or extensions made to the Contract. No variation which adds to the cost of the Contract shall be made until funding has been identified by the Relevant ACO.
- 44.4 CPR 44.2 shall not apply in cases of emergency, the variation or extension may be approved by the Relevant ACO providing that the same is reported as soon as practicable.

- 44.5 All Contract variations shall be entered in the register of Contracts and an amendment shall be made to the original purchase order via the purchase-to-pay solution (where available).

## **45. Contract Payments**

- 45.1 The relevant officer shall maintain Contract documents, ensure the Contracts register is updated and raise a purchase order on the purchase-to-pay solution.
- 45.2 Payments to Contractors on account of Contracts shall be made only on a certificate issued by the Relevant ACO, or private consultant whenever engaged by the Authority, or by an officer nominated by the Relevant ACO as appropriate. The names of officers authorised to approve such records shall be sent to the Section 151 Officer.
- 45.3 The final certificate of any Contract should not be issued until the Responsible Officer has produced a detailed statement of account and all relevant documents.
- 45.4 The ACO (Finance and Resources) may use discretion to offset any sums due from a Contractor to the Authority against any sums due from the Authority to the Contractor, provided that a standard form Contract is in place, any action taken is in accordance with that standard form.

- 45.5 Claims from Contractors in respect of matters not clearly within the terms of any existing Contract shall be referred to the Monitoring Officer before a settlement is reached.
- 45.6 The Responsible Officer shall consider applying liquidated damages in accordance with the conditions of the Contract where the requirements of the Contract are not duly performed.

#### **46. Assignments and Novation**

- 46.1 Assignment of any Contract to another Contractor can only be done with the prior approval of the Relevant ACO providing this has been included as a Contract condition and is permissible under EU legislation.

#### **47. Nominating Products or Contractors or Suppliers**

- 47.1 The core procurement principles of transparency, non-discrimination and equal treatment are undermined by the nomination of products and suppliers.
- 47.2 Responsible Officers must seek to specify goods and services by reference to objective, non-product specific descriptions. Equivalent goods or services are nearly always capable of being specified. If this is not possible for genuine technical reasons, and a particular type of product or service or method of production or delivery has to be stated, then the words "or equivalent" must always be added.
- 47.3 The Authority may provide potential main or principal Contractors with a list of Authority-approved suppliers or sub-Contractors provided that it is made clear that they are free to sub-Contract to whoever they wish, subject to the Authority's right to consent. The Authority's consent shall not be unreasonably withheld. Any sub-Contractors must meet the Authority's reasonable requirements in relation to technical standards, financial standing and insurance levels.
- 47.4 These Contract Procedure Rules apply to the nomination of a sub-Contractor or supplier for carrying out works or services or supplying goods. Sub-Contractors or suppliers shall send with the tender an undertaking to work for the main Contractor and indemnify them for the sub-Contracted works, services or goods.

## **SPECIFIC CONTRACTS**

### **48. Land Contracts**

- 48.1 All land transactions must comply with Section 120 - 123 of the Local Government Act 1972.
- 48.2 The appointment of a developer under a Development Agreement may be subject to the Public Contracts Regulations 2015 and CPRs 18, 19, 20 and 21 of these Contract Procedure Rules.
- 48.3 Advice must be sought from the Monitoring Officer in respect of any land transactions which involve Development Agreements.

## **OTHER**

### **49. Retention of Contract Files**

- 49.1 Where funding has been received from an external organisation, the Responsible Officer must ensure that the Contract and Contract file are retained for the length of time specified by that funding body.
- 49.2 In all other cases, the Contract file prepared for all Contracts over £40,000 must be kept for six years from the end of the Contract term unless the Contract was executed under seal, in which case the Contract must be kept for twelve years from the end of the Contract term.
- 49.3 Documents relating to unsuccessful Tenderers may be micro-filed or electronically scanned or stored by some other suitable method after 12 months from award of the Contract, provided there is no dispute about the award.

### **50. Review and Amendment of the Contract Procedure Rules**

- 50.1 The Monitoring Officer may make any minor or consequential changes to these Contract Procedure Rules.
- 50.2 The ACO (Finance and Resources) in conjunction with the Monitoring Officer shall continually review these Contract Procedure Rules and shall undertake a formal review every three years.

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## **PART 5 – CODES AND PROTOCOLS**

### **Members' Code of Conduct**

**ADOPTED BY RESOLUTION OF**

**THE NORTH WALES FIRE AND RESCUE AUTHORITY**

16 June 2008  
and updated 20 June 2016

**THE LOCAL AUTHORITIES**

**(MODEL CODE OF CONDUCT) (WALES) ORDER 2008**

## PART 1

### INTERPRETATION

**1.(1)** In this code —

“co-opted member”, in relation to a relevant authority, means a person who is not a member of the authority but who —

is a member of any committee or sub-committee of the authority, or

is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority,

and who is entitled to vote on any question which falls to be decided at any meeting of that committee or sub-committee;

“meeting” means any meeting —

(a) of the relevant authority,

(b) of any Cabinet or board of the relevant authority,

(c) of any committee, sub-committee, joint committee or joint sub-committee of the relevant authority or of any such committee, sub-committee, joint committee or joint/sub-committee of any Cabinet or board of the authority, or

(d) where members or officers of the relevant authority are present other than a meeting of a political group constituted in accordance with regulation 8 of the Local Government (Committee and Political Groups) Regulations 1990(**OF1**),

and includes circumstances in which a member of an Cabinet or board or an officer acting alone exercises a function of an authority;

“member” includes, unless the context requires otherwise, a co-opted member;

“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” means—

(a) a county council,

(b) a county borough council,

(c) a town or community council,

(d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(**1F2**) or a scheme to which section 4 of that Act applies,

(e) a National Park authority established under section 63 of the Environment Act 1995(**2F3**);

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(1) S.I. 1990/1553 as amended by S.I. 1991/1389; S.I. 1993/1339; S.I. 1998/1918; and S.I. 1999/500.

(2) 2004 c.21.

(3) 1995 c.25.

“you” means you as a member or co-opted member of a relevant authority; and

“your authority” means the relevant authority of which you are a member or co-opted member.

(2) “(2) In relation to a community council—

(3) (a) “proper officer” (“swyddog priodol”) means an officer of that council within the meaning of section 270(3) of the Local Government Act 1972(1); and

(b) “standards committee” (“pwyllgor safonau”) means the standards committee of the county or county borough council which has functions in relation to the community council for which it is responsible under section 56(1) and (2) of the Local Government Act 2000.”

## PART 2

### GENERAL PROVISIONS

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

- (a) whenever you conduct the business, or are present at a meeting, of your authority;
  - (b) whenever you act, claim to act or give the impression you are acting in the role of member to which you were elected or appointed;
  - (c) whenever you act, claim to act or give the impression you are acting as a representative of your authority; or
  - (d) at all times and in any capacity, in respect of conduct identified in paragraphs 6(1)(a) and 7.
- (2) You should read this code together with the attached general principles prescribed under section 49(2) of the Local Government Act 2000 in relation to Wales.

**3.**Where you are elected, appointed or nominated by your authority to serve —

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

**4. You must —**

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

**5. You must not —**

- (a) disclose confidential information or information which should reasonably be regarded as being of a confidential nature, without the express consent of a person authorised to give such consent, or unless required by law to do so;
- (b) prevent any person from gaining access to information to which that person is entitled by law.

**6.(1) You must —**

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

**(2) You must —**

- (a) adhere to the NWFRA standard of conduct
- (b) cooperate with the Local Resolution Procedure
- (c) comply with any request of the Monitoring Officer, or the Public Services Ombudsman for Wales, in connection with an investigation conducted in accordance with their respective statutory powers.

**7. You must not —**

- (a) in your official capacity or otherwise, use or attempt to use your position improperly to confer on or secure for yourself, or any other person, an advantage or create or avoid for yourself, or any other person, a disadvantage;

- (b) use, or authorise others to use, the resources of your authority —
- (i) imprudently;
  - (ii) in breach of your authority's requirements;
  - (iii) unlawfully;
  - (iv) other than in a manner which is calculated to facilitate, or to be conducive to, the discharge of the functions of the authority or of the office to which you have been elected or appointed;
  - (v) improperly for political purposes; or
  - (vi) improperly for private purposes.

**8. You must —**

- (a) when participating in meetings or reaching decisions regarding the business of your authority, do so on the basis of the merits of the circumstances involved and in the public interest having regard to any relevant advice provided by your authority's officers, in particular by —
  - (i) the authority's head of paid service;
  - (ii) the authority's Section 151 officer;
  - (iii) the authority's monitoring officer;
  - (iv) the authority's chief legal officer (who should be consulted when there is any doubt as to the authority's power to act, as to whether the action proposed lies within the policy framework agreed by the authority or where the legal consequences of action or failure to act by the authority might have important repercussions);
- (b) give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

**9. You must —**

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

## **PART 3**

### **INTERESTS**

#### ***Personal Interests***

- 10.**(1) You must in all matters consider whether you have a personal interest, and whether this code of conduct requires you to disclose that interest.
- (2) You must regard yourself as having a personal interest in any business of your authority if —
- (a) it relates to, or is likely to affect —
    - (i) any employment or business carried on by you;
    - (ii) any person who employs or has appointed you, any firm in which you are a partner or any company for which you are a remunerated director;
    - (iii) any person, other than your authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties as a member;
    - (iv) any corporate body which has a place of business or land in your authority's area, and in which you have a beneficial interest in a class of securities of that body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital of that body;
    - (v) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
    - (vi) any land in which you have a beneficial interest and which is in the area of your authority;
    - (vii) any land where the landlord is your authority and the tenant is a firm in which you are a partner, a company of which you are a remunerated director, or a body of the description specified in sub-paragraph (iv) above;
    - (viii) any body to which you have been elected, appointed or nominated by your authority;
    - (ix) any —
      - (aa) public authority or body exercising functions of a public nature;
      - (bb) company, industrial and provident society, charity, or body directed to charitable purposes;
      - (cc) body whose principal purposes include the influence of public opinion or policy;
      - (dd) trade union or professional association; or
      - (ee) private club, society or association operating within your

- authority's area,  
in which you have membership or hold a position of general control or management;
- (x) any land in your authority's area in which you have a licence (alone or jointly with others) to occupy for 28 days or longer;
- (b) or
- (c) a decision upon it might reasonably be regarded as affecting —
- (i) your well-being or financial position, or that of a person with whom you live, or any person with whom you have a close personal association;
  - (ii) any employment or business carried on by persons as described in 10(2)(c)(i);
  - (iii) any person who employs or has appointed such persons described in 10(2)(c)(i), any firm in which they are a partner, or any company of which they are directors;
  - (iv) any corporate body in which persons as described in 10(2)(c)(i) have a beneficial interest in a class of securities exceeding the nominal value of £5,000; or
  - (v) any body listed in paragraphs 10(2)(a)(ix)(aa) to (ee) in which persons described in 10(2)(c)(i) hold a position of general control or management,
- to a greater extent than the majority of—
- (aa) in the case of an authority with electoral divisions or wards, other council tax payers, rate payers or inhabitants of the electoral division or ward, as the case may be, affected by the decision; or
  - (bb) in all other cases, other council tax payers, ratepayers or inhabitants of the authority's area.

### ***Disclosure of Personal Interests***

- 11.(1)** Where you have a personal interest in any business of your authority and you attend a meeting at which that business is considered, you must disclose orally to that meeting the existence and nature of that interest before or at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority and you make —
- (a) written representations (whether by letter, facsimile or some other form of electronic communication) to a member or officer of your authority regarding that business, you should include details of that interest in the written communication; or
  - (b) oral representations (whether in person or some form of electronic communication) to a member or officer of your authority you should disclose the interest at the commencement of such representations, or

when it becomes apparent to you that you have such an interest, and confirm the representation and interest in writing within 14 days of the representation.

- (3) Subject to paragraph 14(1)(b) below, where you have a personal interest in any business of your authority and you have made a decision in exercising a function of an Cabinet or board, you must in relation to that business ensure that any written statement of that decision records the existence and nature of your interest.
- (4) You must, in respect of a personal interest not previously disclosed, before or immediately after the close of a meeting where the disclosure is made pursuant to sub-paragraph 11(1), give written notification to your authority in accordance with any requirements identified by your authority's monitoring officer, or in relation to a community council, your authority's proper officer, from time to time but, as a minimum containing—
  - (a) details of the personal interest;
  - (b) details of the business to which the personal interest relates; and
  - (c) your signature.
- (5) Where you have agreement from your monitoring officer that the information relating to your personal interest is sensitive information, pursuant to paragraph 16(1), your obligations under this paragraph 11 to disclose such information, whether orally or in writing, are to be replaced with an obligation to disclose the existence of a personal interest and to confirm that your monitoring officer has agreed that the nature of such personal interest is sensitive information.
- (6) For the purposes of sub-paragraph (4), a personal interest will only be deemed to have been previously disclosed if written notification has been provided in accordance with this code since the last date on which you were elected, appointed or nominated as a member of your authority.
- (7) For the purposes of sub-paragraph (3), where no written notice is provided in accordance with that paragraph you will be deemed as not to have declared a personal interest in accordance with this code.

### ***Prejudicial Interests***

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

- (a) relates to —
- (i) another relevant authority of which you are also a member;
  - (ii) another public authority or body exercising functions of a public nature in which you hold a position of general control or management;
  - (iii) a body to which you have been elected, appointed or nominated by your authority;
  - (iv) your role as a school governor (where not appointed or nominated by your authority) unless it relates particularly to the school of which you are a governor;
  - (v) your role as a member of a Local Health Board where you have not been appointed or nominated by your authority;
- (b) relates to —
- (i) the housing functions of your authority where you hold a tenancy or lease with your authority, provided that you do not have arrears of rent with your authority of more than two months, and provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) the functions of your authority in respect of school meals, transport and travelling expenses, where you are a guardian, parent, grandparent or have parental responsibility (as defined in section 3 of the Children Act 1989) of a child in full time education, unless it relates particularly to the school which that child attends;
  - (iii) the functions of your authority in respect of statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of such pay from your authority;
  - (iv) the functions of your authority in respect of an allowance or payment made in accordance with the provisions of Part 8 of the Local Government (Wales) Measure 2011(2), or an allowance or pension provided under section 18 of the Local Government and Housing Act 1989;
- (c) your role as a town or community councillor in relation to a grant, loan or other form of financial assistance made by your town or community council to community or voluntary organisations up to a maximum of £500.
- (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.

### **Overview and Scrutiny Committees**

- 13.** You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where—

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority's Cabinet, board or another of your authority's committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the Cabinet, board, committee, sub-committee, joint-committee or joint sub-committee mentioned in sub-paragraph (a) and you were present when that decision was made or action was taken.

### ***Participation in Relation to Disclosed Interests***

- 14.(1)** Subject to sub-paragraphs (2), (2A) (3) and (4), where you have a prejudicial interest in any business of your authority you must, unless you have obtained a dispensation from your authority's standards committee —
- (a) withdraw from the room, chamber or place where a meeting considering the business is being held—
    - (i) where sub-paragraph (2) applies, immediately after the period for making representations, answering questions or giving evidence relating to the business has ended and in any event before further consideration of the business begins, whether or not the public are allowed to remain in attendance for such consideration; or
    - (ii) in any other case, whenever it becomes apparent that that business is being considered at that meeting;
  - (b) not exercise Cabinet or board functions in relation to that business;
  - (c) not seek to influence a decision about that business;
  - (d) not make any written representations (whether by letter, facsimile or some other form of electronic communication) in relation to that business; and
  - (e) not make any oral representations (whether in person or some form of electronic communication) in respect of that business or immediately cease to make such oral representations when the prejudicial interest becomes apparent.
- (2) Where you have a prejudicial interest in any business of your authority you may attend a meeting but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.
- (2A) Where you have a prejudicial interest in any business of your authority you may submit written representations to a meeting relating to that business, provided that the public are allowed to attend the meeting for the purpose of making representations, answering questions or giving evidence relating to the business, whether under a statutory right or otherwise.

(2B) When submitting written representations under sub-paragraph (2A) you must comply with any procedure that your authority may adopt for the submission of such representations."

(3) Sub-paragraph (1) does not prevent you attending and participating in a meeting if —

- (a) you are required to attend a meeting of an overview or scrutiny committee, by such committee exercising its statutory powers; or
- (b) you have the benefit of a dispensation provided that you —
  - (i) state at the meeting that you are relying on the dispensation; and
  - (ii) before or immediately after the close of the meeting give written notification to your authority containing —
    - (aa) details of the prejudicial interest;
    - (bb) details of the business to which the prejudicial interest relates;
    - (cc) details of, and the date on which, the dispensation was granted; and
    - (dd) your signature.

(4) Where you have a prejudicial interest and are making written or oral representations to your authority in reliance upon a dispensation, you must provide details of the dispensation within any such written or oral representation and, in the latter case, provide written notification to your authority within 14 days of making the representation.

## PART 4

### THE REGISTER OF MEMBERS' INTERESTS

#### ***Registration of Financial and Other Interests and Memberships and Management Positions***

**15.(1)** Subject to sub-paragraph (4), you must, within 28 days of—

- (a) your authority's code of conduct being adopted or the mandatory provisions of this model code being applied to your authority; or
- (b) your election or appointment to office (if that is later),

register your financial interests and other interests, where they fall within a category mentioned in paragraph 10(2)(a) in your authority's register of members' interests by providing written notification to your authority's monitoring officer.

(2) Subject to sub-paragraph (4) You must, within 28 days of becoming aware of any new personal interest falling within paragraph 10(2)a, register that new personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(3) Subject to sub-paragraph (4), you must, within 28 days of becoming aware of any change to a registered personal interest falling within a category mentioned in paragraph 10(2)(a), register that change in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

(4) Sub-paragraphs (1), (2) and (3) do not apply to sensitive information determined in accordance with paragraph 16(1).

(5) Sub-paragraphs (1) and (2) do not apply if you are a member of a relevant authority which is a community council when you act in your capacity as a member of such an authority.

(6) You must, when disclosing a personal interest in accordance with paragraph 11 for the first time, register that personal interest in your authority's register of members' interests by providing written notification to your authority's monitoring officer, or in the case of a community council to your authority's proper officer.

### **Sensitive information**

**16.**(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to the interest under paragraph 15.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under sub-paragraph (1) is no longer sensitive information, notify your authority's monitoring officer, or in relation to a community council, your authority's proper officer, asking that the information be included in your authority's register of members' interests.

(3) In this code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

### **Registration of Gifts and Hospitality**

**17.** You must, within 28 days of receiving any gift, hospitality material benefit or advantage above a value specified in a resolution of your authority, provide written notification to your authority's monitoring officer, of the existence and nature of that gift, hospitality material benefit or advantage. or in relation to a community council, your authority's proper officer

**18.** The Authority has determined that for the purposes of paragraph 17 the amount shall be £25.00 until further determination.

## **THE PRINCIPLES**

The Local Government Act empowered the National Assembly to issue principles to which you must have regard in undertaking your role as a member. The Code is based on these principles which are designed to promote the highest possible standards. These principles draw on the 7 Principles of Public Life which were set out in the Nolan Report “Standards of Conduct in Local Government in England, Scotland and Wales”. Three more were added to these: a duty to uphold the law, proper stewardship of the Council’s resources and equality and respect for others.

Members elected to local authorities give generously of their time and commitment for the benefit of their communities. The principles provide a framework for channelling your commitment in a way which will reflect well on you and your authority, and which will give your communities confidence in the way that your authority is governed.

The individual sections of the Code are designed to support the implementation of the Principles. For example, the Selflessness principle is covered by Section 7 of the Code – Selflessness and Stewardship.

The current principles were set out in a statutory instrument<sup>1</sup> and are detailed below.

### **1. Selflessness**

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.

### **2. Honesty**

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.

### **3. Integrity and Propriety**

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.

### **4. Duty to Uphold the Law**

Members must act to uphold the law and act on all occasions in

accordance with the trust that the public has placed in them.

## **5. Stewardship**

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

## **6. Objectivity in Decision-making**

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.

## **7. Equality and Respect**

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.

## **8. Openness**

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.

## **9. Accountability**

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.

## **10. Leadership**

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.

The principles are not part of the Model Code, and failure to comply with the Principles is not of itself, therefore, indicative of a breach of the Code. However, it is likely that a failure, for example, to adhere to the principle concerning equality and respect would constitute a breach of the requirements of paragraphs 4 (a) and (b) in the Code in respect of equality

of opportunity and respect.

In any event, the Principles offer a sound basis for your conduct in office and I encourage members to have regard to them at all times.

*Public Services Ombudsman for Wales*

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**NORTH WALES FIRE AND RESCUE AUTHORITY**  
**PROTOCOL ON MEMBER/EMPLOYEE RELATIONS**

**Member/Employee Protocol**

This protocol codifies existing good practice in member/employee relations in North Wales Fire and Rescue Authority. It is not intended as a prescriptive checklist.

**1. Introduction**

- 1.1 An effective working relationship between members and employees is crucial to the successful operation of the Authority's business.
- 1.2 **Members** are appointed by their respective county (borough) council and serve until their appointment is terminated, they resign or they cease to be a member of their council.
- 1.3 **Employees** are employed to advise the Authority and to implement its decisions. Employee advice must be full and impartial and should include all relevant options. It must not seek to second-guess the decisions of members, for example by excluding presumed unpalatable options, and must be clear and professional at all times. Members should respect employees' political neutrality at all times. But members are entitled to reject employee advice and to give effect to their lawful policies even if these are clearly at variance with the views of employees. Members are entitled to seek advice and to call for a report to a committee on any matter within its terms of reference.
- 1.4 **Relations between members and employees** – For the effective conduct of Authority business there must be mutual respect in all meetings and contact between members and employees. The basic tenets of common courtesy apply in both formal and informal settings. Members should be aware that employees are constrained in the response they may make to public comment from members, and should not abuse employees in public or through the press, nor seek to undermine their position by abuse, rudeness or ridicule. This in no way reduces members' proper right and duty to criticise the reports actions and work of a department or section of the Authority, where they believe such criticism is merited. If members believe they have reason to criticise the work of an individual employee, the proper approach should be through the senior manager of the section or the Chief Fire Officer. Equally, where employees feel they have good cause to criticise a member, an approach by the Chief Fire Officer to the Chair is a sensible first step.

- 1.5 It is widely accepted that there will be informal contact between party political groups and employees at a senior level, often of a sensitive nature. This protocol is designed to provide a framework for contact between members and employees, both formal and informal, and to ensure that members and employees are as clear as they can be as to their roles and responsibilities in relation to each other.

## 2. Specific Issues

- 2.1 **Appointments** – Every appointment to paid local authority employment must be on merit.
- 2.2 **Political impartiality** – Senior employees cannot be local authority councillors or AMs/MPs, nor can they “speak or publish written work for the public at large or to a section of the public with the apparent intention of affecting public support for a political party”. Such employees are nevertheless able to engage in such activity to “such extent as is necessary for the proper performance of their duties”. (Section 1- 3 Local Government and Housing Act 1989 and Local Government Employees (Political Restrictions) Regulations 1990).
- 2.3 **Employees are employed by the Authority**, not by committees or individual councillors, and are subject to the Authority's employment procedures. Employees cannot be required to advise any political group of the Authority, either as to the work of the group or as to the work of the Authority, nor can they be required to attend any meetings of any political groups. This is without prejudice to any arrangements to the contrary which may be made with any employee and which includes safeguards to preserve the political neutrality of the employee in relation to the affairs of the Authority.
- 2.4 **Authorship of reports** – Committee reports should be written by the relevant Principal Officer or another employee authorised by him or her. The report is the employee's and may not be amended by a member. Nor can an individual member instruct an employee not to present a report if the employee considers it proper to do so. If the report is not regarded as appropriate, the remedy is for the committee to reject its recommendations or refer it back.

- 2.5 **Decision making and political groups** – Members and employees must understand that Authority decisions can only be made by the Authority, a committee or sub-committee or the Chief Fire Officer acting under delegated authority. Members and employees should not act on group decisions. Representations by interested parties on any matter for Authority decision should be made to the appropriate committee, and not exclusively to a political group, at which employee advice on the points raised is unavailable.
- 2.6.1 **Proper communication between members and employees** – Principal Officers must recognise that it is their duty to keep members fully informed about developments of significance in relation to Authority activities. Principal Officers must also report promptly to the relevant committee any significant failure to implement a decision of that committee.
- 2.6.2 Regular contact between members and senior employees is necessary to ensure the efficient working of the Authority. In this context, it is the responsibility of Principal Officers to identify the senior employees who should have regular contact with members, and this will depend upon the nature of the service they provide and the nature of the member contact envisaged. But members should always bring major concerns about issues directly to the attention of the Principal Officer concerned. Principal Officers may issue instructions to their staff to ensure that this is the case.
- 2.6.3 Serious problems can arise if members by-pass appropriate lines of communication to Principal Officers and their senior colleagues and, for example, deal with more junior members of staff to seek views on policy issues, non-routine business, or attempt to give instructions to staff. This has the effect of depriving members of the formal, informed and accountable advice they have a right to expect from Principal Officers and which they have a duty to consider. It may also serve to undermine the formal accountability of staff to their line manager.
- 2.7.1 **Courtesy and complaints** – Contact between members and employees should always be courteous both in public and in private. If an individual member has a complaint about a junior employee, it should be raised with the appropriate Principal Officer.
- 2.7.2 If the complaint concerns a senior employee it should be raised with the Chief Fire Officer. A complaint about the Chief Fire Officer should be raised with the Clerk to the Authority. A complaint may be dealt with as part of routine liaison, supervision or review, or be referred for formal action in accordance with Authority procedures and any statutory provisions governing disciplinary action. This does not however preclude a member from making public, at a meeting or in another appropriate way, a concern about the manner in which the

Service has acted. Nor does it prevent members at formal meetings being critical of employee advice or action or of the quality of reports before them.

- 2.8 **Social contact** between senior employees and members is beneficial in a public setting and a work-related context. However, a professional relationship must be maintained at all times and employees must be careful not to socialise with members of one political group to the exclusion of others. Social contact between a member and a more junior employee may also be appropriate providing this occurs openly and does not result in breaches of confidence or of management instructions, or the reasonable suspicion of them. Employees must always take care in such situations to avoid casting doubt on their impartiality.
- 2.9.1 **Canvassing and visits** – Members should be aware that it can be a disciplinary offence for members of staff to seek to circumvent agreed staff consultative procedures by lobbying Members on matters which directly concern them as employees. Members should also remember that informal contacts with staff should not be used to promote their own personal interests.
- 2.9.2 Members will frequently come into contact with junior employees when visiting Service premises. Such visits are encouraged as they increase member understanding of Service functions, provide reassurance to service users of the involvement of their elected representatives in monitoring services, and will often also be welcomed by staff. However, such visits should be arranged via the Members Liaison Employee and relevant Principal Officers should normally be advised in advance of member visits to front-line services.
- 2.10 **Close personal relationships** between members and employees with whom they have, or are likely to have, contact in the course of their duties as a councillor are to be avoided. This includes close friendships between members and Principal Officers, and applies in particular to sexual relationships. If such a relationship arises, the member or employee should disclose this to the Chief Fire Officer who will consult with the Chair on the appropriate course of action. Both members and employees should also avoid establishing business or contractual relationships with each other, or entering into loans or other financial obligations.

- 2.11 **Assistance to all members** - Employees have a duty to offer the same assistance and facilities to all members and they must treat all members in the same manner irrespective of political party or the local authority from which the members is drawn. This particularly applies to briefings, at which employees provide oral advice and information to members outside the formal processes of the Authority. They may be requested by the relevant members or offered by Principal Officers, and are confidential in the sense that employees should not disclose matters discussed at such briefings. Individual members may also request briefings from Principal Officers from time to time on general issues affecting the work of the Authority. It is the duty of employees to comply with reasonable requests of this kind.
- 2.12.1 **Correspondence and confidentiality** – Frequently, members and employees correspond, and where not obviously confidential, such correspondence may, subject to the rules below, be copied by either the sender or the recipient to others. Correspondence should be courteous. Wide circulation of it should not be employed as a means of administering a public rebuke to an Authority employee or member. Members should, wherever possible, keep departmental or section heads informed by copying their correspondence, e-mails, etc. or approaching them directly for replies to general queries.
- 2.12.2 If a member asks for information about or relating to another member or asks for comment upon another member's conduct then the member requesting the information must be told in writing that any reply will be shared with the member to whom the information relates. If the member making the request does not agree to this they will not be given the information.
- 2.13 **Access to Information** – Members have legal rights of access to documents in the possession or under the control of the Authority and employees should implement requests for information from members who need that information for the fulfilment of their duties as a member.
- a) Normally, employees will accept that members do not ask for information without good reason and will not question the member's "need to know". But in the words of relevant legal judgements, a member has no right to a "roving commission" and "mere curiosity or desire" is not sufficient. Nor can the member exercise the right for some improper motive, e.g. to assist someone in litigation with the Authority, its staff, suppliers or service users.
- b) In rare cases, therefore the Chief Fire Officer may apply the "need to know" test. The member will need to show why the information is necessary to fulfil Authority duties. Where an employee considers that a member has not established a "need to know" in support of a

request for access to information and refuses to provide the information requested, the employee shall state reasons for doing so.

- c) The Authority must comply with the General Data Protection Regulation and other legislation on data protection. It will not normally be necessary for a councillor to need the personal details of an employee or member of the public in order to undertake their duties as a member of the authority. The Chief Fire Officer will therefore almost always apply the "need to know" test to any request for information that would reveal personal data;
- d) The Authority is also subject to a duty of confidence to its employees, especially in respect of disciplinary matters. The Chief Fire Officer will therefore almost always apply the "need to know" test to any request for information that would reveal information in respect of which the Authority owes a duty of confidence to its employees
- e) A member asking for complex or bulky information should be flexible in his or her demands if compiling and reproducing the documentation results in significant cost to a department. The member will normally be able to retain material for a reasonable time, and to copy individual documents, but may not make use of such information for an improper purpose or one unrelated to the member's duties as a councillor.

- 2.14.1 **Press and public relations** – contact with the media on issues related to the Authority, or to Authority business, including the issue of press release, will be handled through the Corporate Communications Team.
  - 2.14.2 Any Member who approaches the media purporting to speak on behalf of the Authority on any item involving or affecting the Authority, without first approaching or consulting with the Chair and Chief Fire Officer will be responsible for such action.
3. **Legal Rights of Members** - Nothing in this code shall derogate in any way from any right of a member enshrined in law and such legal rights override any conflicting provisions in this code.

## **LOCAL RESOLUTION PROCEDURE FOR COMPLAINTS ABOUT BEHAVIOUR**

### **INTRODUCTION**

1. The NWFRA Standard and the Protocol for Member-Officer Relations are important in promoting good co-operation between members and between members and officers, thereby allowing the Authority to fulfil its duties effectively and professionally. It is therefore important that any allegations against a member that they have breached the standard and/or protocol can be dealt with quickly and effectively. The purpose of this procedure is to introduce a simple and easy way to understand the method of dealing with such allegations.
2. It is important that poor behaviour is quickly addressed and matters are handled whilst recollections are fresh. This procedure will therefore only apply to incidents or behaviour occurring in the 12 months prior to a complaint being made in writing to the Monitoring Officer.

### **STAGE 1 OF THE PROCEDURE**

3. Any member or officer who wishes to submit an allegation under this procedure should send the complaint to the Clerk/Monitoring Officer. Officers wishing to make a complaint should first consult with their Line Manager. Following receipt of the complaint the Monitoring Officer will act as follows:-
  4. The Clerk/Monitoring Officer will not deal with the allegation at this stage in order to preserve their ability to advise the Standards Committee later in the process. In the first place the allegation will be referred either to the Deputy Clerk/Monitoring Officer (or another officer nominated by the Monitoring Officer) who will advise whether the allegation falls within this procedure or whether it should be referred to the Ombudsman as an allegation of breach of the Members Code of Conduct.
- N.B. The complainant has the statutory right to complain to the Public Service Ombudsman for Wales ("PSOW"). Should the complainant exercise that right then this procedure will not be used, and any efforts to resolve a complaint using this procedure will be stopped. The process will only resume if the matter is referred back for local resolution.
5. This procedure is only suitable for allegations made by officers or members of NWFRA that a member has breached the NWFRA

Standard or the Protocol on Member/Officer relations. It is not suitable for complaints:

- made by members of the public;
  - which in the opinion of the Clerk/Monitoring Officer allege a serious breach of the code of conduct; or
  - alleging repeated breaches of the code of conduct, or breaches where are similar to complaints that have been handled at Stage 3 of this procedure.
6. If the complaint is suitable for this procedure then the Deputy Clerk/Monitoring Officer will give advice about how to possibly resolve the complaint. If the complaint is not suitable for this procedure then the Deputy Clerk/Monitoring Officer will give advice about what (if anything) can be done.
  7. If following the first stage the complainant wishes to proceed with the allegation under this procedure the matter may be referred either to a conciliation meeting under Stage 2 or to a hearing by the Standards Committee under Stage 3.

### **STAGE 2 OF THE PROCEDURE**

8. At Stage 2 a meeting will be held between:
  - the complainant
  - the member against whom the complaint is made
  - the Chief Fire Officer
  - the Deputy Clerk/Monitoring Officer.
- It is also possible for the matter to be dealt with in the complainant's absence in exceptional cases.
9. The purpose of this meeting will be to try and resolve the matter by conciliation.

### **STAGE 3 OF THE PROCEDURE**

10. The third Stage is a hearing before the Standards Committee. The complainant will be asked to submit the substance of the complaint in writing and the member concerned will be asked for a written response. These papers, together with any additional written evidence that is submitted by either side will be distributed to the members of the Standards Committee.
11. Both the complainant and the member have the right to appear before the Standards Committee and to submit evidence from witnesses. Both will have the right to representation or to have a

colleague present. The Authority will not meet the costs of representation.

12. If either side wishes not to be present or fails to attend, the hearing may be held in their absence.
13. After the evidence has been heard, both sides and their representatives will be asked to leave the chamber and the Standards Committee will come to a conclusion on the allegation. The Monitoring Officer will be available to advise the Committee.
14. The Committee can come to one of three conclusions, namely :-
  - a) That there is no basis to the complaint.
  - b) That there is a basis to the complaint but that no further action is required.
  - c) That there is a basis to the complaint and that the member should be censured.

In addition the Committee can make recommendations to the Authority regarding changing any procedures or taking any further action.

### **SUPPLEMENTARY MATTERS**

15. The papers for the hearing will be exempt and it will be recommended that the hearing will take place with the press and public excluded. Publicity will not be given to the names of either the member or the complainant unless it is decided TO UPHOLD the complaint and that the member should be censured.
16. Stages 2 and 3 do not have to be following sequentially. Although it is possible for a complainant who remains dissatisfied after the conciliation meeting to ask for the matter to be referred to a hearing before the Standards Committee, it is also possible for a matter to proceed directly to the Standards Committee without going first to a conciliation meeting.
17. The aim of this procedure is to try and resolve complaints regarding members quickly and effectively. Nothing in this procedure prevents a complainant from submitting a complaint to the Public Services Ombudsman for Wales that a member has breached the Members Code of Conduct.

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**MEMBERS AND EMPLOYEES' GIFTS AND HOSPITALITY****Introduction**

- 1.1 This document is intended as a guide to assist Members and Employees in determining the correct course of action with regard to acceptance and declaration of gifts and hospitality offered to you in your capacity as a Member or employee of the Fire Authority (or which might impact upon that role).
- 1.2 The document sets out the required approach in dealing with gifts etc, depending on their nature and value. A decision in respect of the gifts and hospitality rests with you, although guidance can be obtained from the Clerk/Monitoring Officer.
- 1.3 This document applies to all Members of the Authority. It applies to employees on local authority terms and conditions (i.e. not fire fighters).
- 1.4 Acceptance of gifts or hospitality could bring you or the Authority into disrepute if it creates the impression that:
  - someone may be seeking, or have already received, special treatment; or
  - someone may be seeking to influence decisions; or
  - people who should be working in the public interest are using their roles for self-enrichment.
- 1.5 In deciding whether to accept any gifts or hospitality, regardless of the value, you should consider whether a member of the public, knowing the facts, would reasonably think that you might have been influenced by the gift/hospitality received or that the gift/hospitality is otherwise inappropriate.
- 1.6 The Authority has decided that any gifts or hospitality worth more than £25 should be recorded. All cash gifts must be declined.

**Gifts**

- 2.1 There is no need to declare a gift worth less than £25.
- 2.2 The more valuable a gift, the greater the degree of caution required. As a general guide, you should think carefully before accepting any gift which you know or believe to be worth more than £25.
- 2.3 Where you accept any gift in your capacity as a Member/Employee of the Fire Authority (or which is likely to impact upon your role) worth more than £25 you must record the details in the Register of Gifts and Hospitality – for details of how to do this see below.

- 2.4 You should also record in the register any gifts that you have declined.

## **Hospitality**

- 3.1 In general attendance in an official capacity at a function organised by a public authority or local non-profit-making organisation is acceptable. Offers of hospitality from individuals or profit making organisations should be treated with care. An offer should be declined if you believe that it could have been made to exert influence, or to improve the standing of an individual or organisation, in relation to current or future dealings with the Authority.
- 3.2 If you accept an offer of hospitality and subsequently discover that the reason behind it was to exert undue influence, then you should, as soon as is practically possible, write to Monitoring Officer, giving details. For your own protection, you should advise the Monitoring Officer of any situation where you are concerned over the underlying intention behind the offer of hospitality, even where such an offer has been refused.
- 3.3 The table below sets out examples of hospitality and the recommended course of action.

<b>Example of Hospitality</b>	<b>Action</b>
Light refreshments prior to site meetings; presentations etc.	No need to record
Lunch/evening meal provided as part of an event by another public authority	No need to record
Reception or meal sponsored by private sector organisation as part of wider public sector/professional conference	No need to record
Lunch provided as part of a private sector sponsored conference or promotional event	Record in Register
Evening meals and overnight accommodation as part of a private sector sponsored conference or promotional event	Caution advised: If possible, decline the offer
Lunch/evening meal provided by a voluntary body at a meeting or AGM	No need to record
Lunch/evening meal provided by a voluntary body, at a meeting for the specific purpose of fund raising/lobbying	Caution is advised; consideration should be given to the underlying motives. If accepted, it should be recorded in the Register.

### **Procedure for Recording Gift/Hospitality Received**

- 4.1 In the event of members or officers receiving a gift or a form of hospitality, an email containing all the details should be sent to the Deputy Finance Manager at the Headquarters ([daniel.jones@nwales-fireservice.org.uk](mailto:daniel.jones@nwales-fireservice.org.uk)).

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## **SOCIAL MEDIA PROTOCOL**

This protocol applies to

- Members and co-opted members of the North Wales Fire and Rescue Authority (the Authority);
- Officers; and
- members of the press and public wishing to broadcast or transmit images, sound or messages from any meetings of the Authority or its committees.

### **Openness and Transparency**

The Authority recognises that members of the public have the right to attend and, where not able to attend, to know and understand what has transpired at meetings of the Authority or its committees (hereinafter called meetings).

The Authority wishes to support the use of social media at meetings. Therefore members, the press and public are able to use social media from any meeting that is open to the public provided that a fair and accurate account is given of the meeting.

The protocol applies to the use of social media, such as Twitter or Facebook, to comment from meetings on what is happening or has happened at that meeting.

### **Issues for Members of the Fire and Rescue Authority**

For Members and co-opted members ("Members") this protocol forms an addendum to the Authority's Code of Conduct and failure to adhere to the protocol may be taken into account when considering whether a breach of the Code of Conduct has taken place.

### **Courtesy, Respect and Impartiality**

Members must make decisions on the basis of all relevant evidence, which includes:

- comments made by the public exercising rights to speak at meetings;
- presentations by officers; and
- comments made during debate by fellow Members of the Authority.

Using social media in meetings can be a distraction which can lead to Members missing vital evidence and can also give the impression that members are not listening or paying attention. It is therefore the responsibility of Members to make sure that they take on board all relevant matters during a meeting, even if they are using social media and that they do not appear

discourteous by failing to pay attention, which could be seen as failing to treat others with respect.

### **Fair, Accurate and Responsible Reporting**

It is incumbent upon Members using social media to give a fair and accurate account of what transpires. Whilst people are free to make comment (see below for further advice about defamation and Code of Conduct issues) it is important that if they report what is taking place during the debate, they also report the outcome.

If Members fail to abide by this protocol, they might find that they are in breach of the Code of Conduct for failing to treat others with respect.

#### Example

During a debate it is possible that a Member might vehemently disagree with a motion that is moved and might thus transmit a note that is scornful of the proposal. However, if the motion were to be voted down in favour of another then if the fact that a different resolution was reached but was not also transmitted, that would create the wrong impression of the meeting.

### **Defamation and Code of Conduct Issues**

Comments made by Members during debate may attract the defence of qualified privilege in respect of subsequent accusations of defamation. However, comments made in social media are unlikely to benefit from this defence.

Likewise, comments made during debate are less likely to be treated as a breach of the Code of Conduct. However, comments made in social media about other people which fail to treat them with respect could be a breach of the Authority's code of conduct.

Members are also under an obligation not to reveal confidential information. Therefore, the use of social media will not be permitted whilst a meeting is in closed session. Likewise, the outcome of items considered after the exclusion of the press and public is considered to be exempt information until such time as the minute is published.

Members of the Authority are also reminded that they must not reveal any confidential or exempt information that is given to them by the Authority and that they must comply with the Data Protection Act.

### **Issues for Officers**

For officers the protocol is an addendum to their code of conduct and the social media guidance issued previously to all staff. Failure to comply with these protocols could form the basis for disciplinary proceedings.

Officers attend meetings in order to advise Members. They shall not use social media whilst at meetings unless they are doing so specifically on behalf of the Authority.

### **Issues for Members of the Press and Public**

For members of the press and public the protocol is intended to lay down the procedures that the Authority will follow should they wish use social media in meetings. It is important that the use of social media does not interfere with how the meeting is conducted, and any failure to abide by these requirements that leads to disruption of the meeting could result in members of the press and public being asked to stop and/or to leave the meeting at the discretion of the chairman.

The Authority would not seek to control what the press or public say, but would ask that they give a fair and accurate account of the content of debate and the outcome.

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**PROCEDURE FOR THE CONSIDERATION AND INVESTIGATION OF COMPLAINTS MADE IN RESPECT OF ANY MEMBER OF NORTH WALES FIRE AND RESCUE AUTHORITY**

**SECTION 1 - BACKGROUND TO THESE PROCEDURES**

- 1.1 These procedures are intended to assist the Standards Committee in dealing efficiently, fairly and effectively with complaints received in respect of any member of North Wales Fire and Rescue Authority. It is hoped that these procedures will assist the Standards Committee in ensuring that it employs a consistent and fair process when considering and investigating all complaints. These procedures also ensure that there is a clear process in place which ensures that Complainants and Members alike are kept fully informed of how the whole process will be approached by the Standards Committee.
- 1.2 The basic procedure in dealing with complaints is outlined in the various sections of this document. It is envisaged however that these basic principles will be developed over time and will be adapted by the Standards Committee as considered appropriate in order to improve their effectiveness. Such adaptations must naturally be consistent with the Committee's terms of reference and the extent of its role and duties.

**SECTION 2 - ORIGIN OF THE COMPLAINT**

- 2.1 The Standards Committee can consider the following complaints against members:
  1. A complaint arising under Stage 3 of the Local Resolution Procedure (LRP)
  2. A referral from the Public Services Ombudsman for Wales ("the Ombudsman")
- 2.2 Complaints alleging misconduct on the part of a Member may be made initially in writing to the Ombudsman at The Commission for Local Administration in Wales, 1 Ffordd yr Hen Gae, Pencoed, Bridgend, CF35 5LJ. Complaints may also be submitted to the Clerk and Monitoring Officer at North Wales Fire and Rescue Authority, County Hall, Mold, Flintshire, CH7 6NB, who will advise the complainant on whether to refer the complaint to the Ombudsman or whether the complaint might be suitable for resolution under the LRP.
- 2.3 The complaint must fully identify the Member(s) involved and give as much detail as possible as regards alleged failures to adhere to the Members' code of conduct. The current model code of conduct is in the Conduct of Councillors (Model Code of Conduct)(Wales) Order 2001 No.2289 as amended). The Clerk and Monitoring Officer may assist

the Complainant in this respect, if assistance is requested by the Complainant.

- 2.4 The Ombudsman may decide to:
  - a) reject the complaint;
  - b) refer the matter back to the Authority for it to handle under its LRP;
  - c) investigate the complaint and refer the matter to the Standards Committee for a hearing.

### **SECTION 3 – LOCAL RESOLUTION PROCEDURE**

- 3.1 The Authority has adopted a separate local resolution procedure. As described above a complainant may opt to use the LRP from the outset or the matter may be referred back to the Authority by the Ombudsman. As set out in the LRP the first two stages of the procedure are handled by officers. Only if the first two stages fail to resolve a complaint will it be referred to the Standards Committee.
- 3.2 Where a complaint is referred to the Committee under Stage 3 the process as set out in the LRP will be followed.

### **SECTION 4 - PROCEDURE WHERE AN INVESTIGATION HAS BEEN CONDUCTED BY THE OMBUDSMAN**

- 4.1 Where the Ombudsman has investigated and referred the matter to the Authority for hearing, the procedure below will be followed:
- 4.2 The Ombudsman will refer a report containing the findings of the investigation to the Authority. At least 5 working days in advance of the hearing, all parties to the hearing will be given a copy of the Order of Proceedings and the Ombudsman's report so that they have sufficient time to prepare.
- 4.3 Neither the Complainant nor the Member involved may canvass, directly or indirectly, any member of the Standards Committee during the period of preparation for the hearing.
- 4.4 If a complaint is made against a member of the Standards Committee, that member will not be involved in any aspect of the investigation, hearing or subsequent decision.
- 4.5 If a Member fails to attend a hearing or refuses to attend, the Standards Committee is entitled to proceed in his/her absence, should they so decide.

- 4.6 At the hearing, the following procedure will be adopted, unless there is a justifiable reason not to do so. Only the Standards Committee, Clerk and Monitoring Officer, Ombudsman (or his nominated representative), the Member(s) who is/are the subject of the complaint and friend will be entitled to be present at the hearing. Simultaneous translation will be made available for the purpose of any person involved who requests to give evidence in Welsh. The Clerk and Monitoring Officer will make a detailed note of all the evidence heard:-
- 4.6.1 The Chair will introduce all persons present and outline the Order of Hearing; the Complainant will then be invited to address the Standards Committee.
- 4.6.2 The Ombudsman will open the case and address the Standards Committee on all aspects that are to be raised. The Ombudsman may refer to any of the evidence that has been distributed to all parties prior to the hearing and may call witnesses if necessary.
- 4.6.3 The Member will then be given an opportunity to ask questions of the Ombudsman and/or witness(es) via the Chair of the Standards Committee.
- 4.6.4 Members of the Committee will be given an opportunity to ask questions of the Ombudsman and/or witness(es).
- 4.6.5 The Member will then be given the opportunity to put forward his/her case and address the Standards Committee on aspects that he/she wishes to raise. He/she may refer to any of the evidence distributed to all parties before the hearing and may call witnesses if necessary.
- 4.6.6 The Ombudsman may then ask questions of the Member, via the Chair.
- 4.6.7 Members of the Committee may then ask questions of the Member.
- 4.6.8 The Ombudsman will sum up the case.
- 4.6.9 The Member will sum up his/her case.

4.6.10 The Chair will ask the parties to leave the room. The Committee will then retire in private, along with the Clerk and Monitoring Officer, in order to assess the evidence heard and to make its decision. The reasons for reaching a decision should be carefully recorded. The Committee may make its decision in stages as set out below. If it does so it will seek representations from the Ombudsman and Member at each stage:

4.6.10.1 determine the disputed facts, and which facts are proven;

4.6.10.2 determine whether the proven facts reveal a breach of the code;

4.6.10.3 determine what penalty, if any, should be imposed on the member in respect of any breaches of the code that have been proven. This will be determined having regard to the guidance on potential sanctions from the Adjudication Panel for Wales, previous decisions of the Authority's own Standards Committee plus the published decisions of other Standards Committees and Case Tribunals.

- 4.7 Within seven days, the Committee will write to the Member to set out the decision (a copy will also be sent to the Ombudsman). The letter will include detail of the member's right to appeal the Standards Committee's decision.

## **SECTION 5: APPEAL PROCESS**

- 5.1 Anyone wishing to appeal the decision of the panel will need to seek permission from the President to the Adjudication Panel for Wales whose contact details are noted below:

Government Buildings  
Spa Road East  
Llandrindod Wells  
Powys  
LD1 5HA  
Phone - 03000 259805  
E-mail - [Adjudication.Panel@Gov.Wales](mailto:Adjudication.Panel@Gov.Wales)  
Fax - 03000 259801