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Cyngor Bwrdeistref Sirol Pen-y-bont ar Ogwr

Bridgend County Borough Council



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*Rydym yn croesawu gohebiaeth yn Gymraeg.
Rhowch wybod i ni os mai Cymraeg yw eich
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Cyfarwyddiaeth y Prif Weithredwr / Chief Executive's Directorate

Deialu uniongyrchol / Direct line /: 01656 643148 /
643147 / 643694

Gofynnwch am / Ask for: Democratic Services

Ein cyf / Our ref:

Eich cyf / Your ref:

Dyddiad/Date: Wednesday, 3 February 2021

Dear Councillor,

CABINET

A meeting of the Cabinet will be held remotely via Microsoft Teams on **Tuesday, 9 February 2021** at **14:30**.

AGENDA

1. Apologies for Absence
To receive apologies for absence from Members.
2. Declarations of Interest
To receive declarations of personal and prejudicial interest (if any) from Members/Officers in accordance with the provisions of the Members' Code of Conduct adopted by Council from 1 September 2008.
3. Medium Term Financial Strategy 2021-22 to 2024-25 and Draft Budget Consultation Process 3 - 16
4. Anti-Tax Evasion Policy 17 - 44
5. Forward Work Programme 45 - 56
6. Award of Funding in Relation to Transforming Towns: Green Infrastructure and Biodiversity Grant: Sunnyside Wellness Village 2020-2021 57 - 60
7. Additional Learning Needs Grant 61 - 64
8. School Modernisation - Bridgend North East - Outcome of the Feasibility Study at Brackla Hill 65 - 70
9. Urgent Items
To consider any items of business that by reason of special circumstances the chairperson is of the opinion should be considered at the meeting as a matter of urgency in accordance with paragraph 2.4 (e) of the Cabinet Procedure Rules within the Constitution.
10. Exclusion of the public

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The following item is not for publication as it contains exempt information as defined in Paragraph 14 of Part 4 and Paragraph 21 of Part 5, Schedule 12A of the Local Government Act 1972, as amended by the Local Government (Access to Information) (Variation) (Wales) Order 2007.

If following the application of the public interest test Cabinet resolves pursuant to the Act to consider this item in private, the public will be excluded from the meeting during such consideration.

11. School Modernisation - Bridgend North East

71 - 78

Note: Please note: Due to the current requirement for social distancing this meeting will not be held at its usual location. This will be a virtual meeting and Members and Officers will be attending remotely. The meeting will be recorded for subsequent transmission via the Council's internet site which will be available as soon as practicable after the meeting. If you have any queries regarding this, please contact cabinet_committee@bridgend.gov.uk or tel. 01656 643147 / 643148.

Yours faithfully

K Watson

Chief Officer, Legal, HR & Regulatory Services

Councillors:

HJ David
CE Smith

Councillors

HM Williams
D Patel

Councillors

RE Young
NA Burnett

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

9 FEBRUARY 2021

REPORT OF CORPORATE OVERVIEW AND SCRUTINY COMMITTEE

MEDIUM TERM FINANCIAL STRATEGY 2021-22 TO 2024-25 AND DRAFT BUDGET CONSULTATION PROCESS

1. Purpose of report

1.1 The purpose of this report is to present Cabinet with the findings and recommendations of the Corporate Overview and Scrutiny Committee (COSC) in relation to:

- a) the findings of the Budget Research and Evaluation Panel (BREP) attached at **Appendix A** and **Appendix B**;
- b) the comments and recommendations from the combined meeting of all Overview and Scrutiny Committees in relation to Cabinet's draft budget proposals, attached at **Appendix C**.

2. Connection to corporate well-being objectives / other corporate priorities

2.1 This report assists in the achievement of the following corporate well-being objective/objectives under the **Well-being of Future Generations (Wales) Act 2015**:-

1. **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
2. **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
3. **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 In considering the challenges associated with continued budget reductions, Members recognised the need for a 'whole Council' response to be adopted in managing anticipated cuts to services against a backdrop of increasing demand and the challenging financial outlook.
- 3.2 It was therefore recommended in 2017, that a Budget Research and Evaluation Panel be established to engage Members on budget proposals as well as to enable members to feed in community intelligence gained from their representative role and to engage in shaping future service provision.
- 3.3 The Corporate Overview and Scrutiny Committee has the overall responsibility of scrutinising budget monitoring reports throughout the year. As such, it was agreed at a meeting of Council in September 2017 that it would continue this role and appoint BREP members from within the COSC membership.
- 3.4 The purpose of the Budget Research and Evaluation Panel was subsequently agreed as the following:
- To achieve consensus on the direction of the budget over the life of the medium term financial strategy;
 - To achieve a detailed overview and assessment of the budget proposals where the expertise and knowledge of each Committee contributes to a Corporate understanding and appreciation of the draft budget proposals;
 - To assist the Council to develop a budget for the forthcoming year that aims to meet the needs of the communities of Bridgend County Borough;
 - To facilitate firmer understanding of the budget setting process and the draft proposals in order to assist the Committees in making informed comments, constructive challenge or recommendations to Cabinet as part of the budget consultation process.
- 3.5 Members would be presented with the draft Medium Term Financial Strategy 2021-22 to 2024-25 and asked to consider the information contained in the report and determine whether they wish to make comments or recommendations for consolidation and inclusion in the report to Cabinet on the draft budget proposals as part of the budget consultation process.

4. Current situation/proposal

- 4.1 The Corporate Overview and Scrutiny Committee considered the findings of the BREP and the combined meeting of all Overview and Scrutiny committees on 1 February 2021 to determine whether the recommendations should be forwarded to Cabinet as part of the budget consultation process.
- 4.2 For ease of reference COSC have split the recommendations into separate appendices. They are set out as follows:

BREP findings and recommendations in relation to the Medium Term Financial Strategy 2021-22 to 2024-2025 – **Appendix A** and **Appendix B**

Comments and recommendations from the combined meeting of all Scrutiny Committees on the Medium Term Financial Strategy 2021-22 to 2024-25 – **Appendix C**

- 4.3 The Committee accepted the recommendations and comments from both the BREP and the combined meeting of all Overview and Scrutiny Committees and agreed to submit them to Cabinet.

5. Effect upon policy framework and procedure rules

- 5.1 This item relates to the role of Overview & Scrutiny Committees as consultees in respect of the budget setting process.

6. Equality Impact Assessment

- 6.1 There are no equality implications directly attached to this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The Act provides the basis for driving a different kind of public service in Wales, with 5 ways of working to guide how public services should work to deliver for people. The following is a summary to show how the 5 ways of working to achieve the well-being goals have been used to formulate the recommendations within this report:

- Long-term - The consideration and approval of this report will assist in the budget setting process for both the short-term and in the long-term.
- Prevention - The consideration and approval of this report will assist in the budget setting process by approving and shaping preventative measures provided by Directorates to generate savings.

- Integration - The report supports all the wellbeing objectives
- Collaboration - The consideration and approval of this report will assist in the budget setting process by approving and shaping collaboration and integrated working to generate savings.
- Involvement - Publication of the report ensures that the public and stakeholders can review the work that has been undertaken by Scrutiny members.

8. Financial implications

8.1 The report relates to the budget setting process and the financial implications associated with that.

9. Recommendation

9.1 Cabinet is requested to consider the recommendations of the Corporate Overview and Scrutiny Committee, in response to the Medium Term Financial Strategy 2021-22 to 2024-25 and the Draft Budget Consultation Process.

3 February 2021

Contact officers: Meryl Lawrence
Senior Democratic Officer - Scrutiny

Tracy Watson
Scrutiny Officer

Telephone: (01656) 643515 / 643263

Email: scrutiny@bridgend.gov.uk

Postal address: Democratic Services - Scrutiny
Bridgend County Borough Council
Civic Offices
Angel Street
Bridgend
CF31 4WB

Background documents: None

Report of the Budget Research and Evaluation Panel in respect of the Medium Term Financial Strategy 2021-22 to 2024-25

- 1.1. The Budget Research and Evaluation Panel (BREP) has considered the draft budget proposals for the year 2021-22. During this period, the authority was experiencing unprecedented demand in relation to its support for communities during the Covid-19 pandemic. This is ongoing and, in response, the authority has set up a Cross-Party Recovery Panel. The Terms of Reference for this Recovery Panel extend beyond financial management. Particular emphasis was placed on BREP management to ensure there was no duplication in review processes.
- 1.2. The Panel met on five occasions and were supported by two Scrutiny Officers, Interim Chief Officer Finance, Performance and Change, Interim Deputy Head of Finance and the Deputy Leader.
- 1.3. At the first meeting in July, Members discussed the importance of attending for the full cycle of the BREP. Should Members feel unable to attend during the year, their Group Leader could nominate another Member to attend. This would apply for the duration of the BREP cycle.
- 1.4. The Interim Chief Officer Finance, Performance and Change set out in full the financial position, detailing the overspends and underspends in relation the Medium Term Financial Strategy (MTFS). It was identified that the underspends were utilised to set up a new earmarked reserve of £3m for unfunded Covid-19 costs.
- 1.5. At the second meeting in September, the Chief Executive presented an overview of the current budgetary position linked to the Covid-19 recovery and impact. The Consultation Engagement and Equalities Manager presented an update on the proposed Budget Consultation.
- 1.6. Members discussed the direction of the BREP and, with the agreement of the Chief Executive, invitations would be made to all Corporate Directors to attend the BREP in future meetings.
- 1.7. At the third meeting in October, the Consultation Engagement and Equalities Manager provided the BREP with an update on the Budget Consultation. BREP Members were encouraged to support the Consultation. The current Covid-19 situation presented unique challenges to public consultation.

- 1.8. The Chief Executive provided an overview of his budget. The Chief Executive answered questions on a variety of budgetary issues including Miscellaneous spend (apprenticeships), Business Support, the challenges to remote working, the impact of Covid-19 and the need to set the council tax rate. The issue of managing multiple grant opportunities from Welsh Government (WG) was also discussed. It was accepted that this was also an increased burden on the authority.
- 1.9. The Head of Operations – Community Services provided an overview of the Directorate’s budget. In particular, BREP Members asked questions on Highway, Fleet, and Supplies Services, the delay in vacating the Waterton depot, and public realm. Additionally, the impact of Covid-19 on the Directorate was also discussed.
- 1.10. At the fourth meeting in November, the Corporate Director - Education and Family Support provided an overview of the budget. In particular, BREP Members enquired about deficit budgets within schools and what central support was being provided.
- 1.11. The BREP also received an overview from the Corporate Director - Social Services and Wellbeing. In particular, BREP Members enquired about the overspend on Looked After Children (LAC).
- 1.12. The BREP were aware of the pressures on each Directorate when compiling and meeting budget savings year on year. These savings would prove difficult to deliver when considering expenditure to meet the Covid-19 pandemic demands. At present this left little opportunity to suggest additional budget saving proposals.

MTFS Budget Reduction Proposals for 2021-22 to 2023-24

- 1.13. After receiving a presentation from the Chief Executive in relation to his budget management, the BREP identified the following challenges.
 - The impact of financial management of Covid-19.
 - The closure of the Bridgend Ford plant that would have a significant community impact.
 - The necessity to work closely with WG in relation to ongoing grant funding management.
 - The necessity to work in partnership with third sector organisations.
 - The necessity to work in partnership with Town and Community Councils.

- 1.14. The BREP identified that the centralisation of Business Support mechanisms within the authority may well be a positive step forward to manage these unique challenges.

Recommendation 1

The Panel recommends the development of the centralisation of Business Support that would improve services, for example to other Directorates including Education and Family Support, and Social Services and Wellbeing.

- 1.15. The BREP acknowledged overspends in most Directorates that may well have been impacted upon by the current Covid-19 pandemic. This may well adversely affect Directorates' ability to support the MTFS.

Recommendation 2

The Panel recommends that all Directorates review their individual bespoke savings plan to support the MTFS and to present these revised plans to the BREP 2021/22.

- 1.16. The BREP identified there were significant Covid-19 costs and budgetary pressures, which previously could not have been anticipated. These costs were not only in relation to current Directorates' activities to support activities but may well have been impacted upon in the long-term post Covid-19.

Recommendation 3

The Panel recommends that all Directorates identify all Covid-19 related costs and budgetary pressures, with clear differentiation between savings and cuts and with clear differentiation between budget pressures and the impact of Covid-19 pressures and in particular ensures there is full cost recovery, where appropriate, from WG.

- 1.17. The BREP acknowledged the unique set of circumstances that the authority found itself in with regards to all aspects of financial management and the obligation on the authority to deliver a MTFS. The Corporate Management Board (CMB) and Cabinet will clearly be confronted with a difficult decision-making process in terms of meeting this obligation. The Panel therefore recommends:

Recommendation 4

The Panel once again extends an invitation to Members of the CMB and Cabinet, to take a more thematic approach in tasking BREP when considering a Forward Work Programme. This is an ideal opportunity for CMB and Cabinet to identify areas of work for BREP going forward.

- 1.18. The BREP reviewed the Education budget and identified the large number of deficit budgets within various schools across the county borough. The Panel was satisfied that central support was in place and that schools were receiving bespoke financial advice and guidance.
- 1.19. The BREP complimented the School Modernisation Programme and saw this as a positive step forward to improve educational facilities across the county borough. BREP noted a number of new school buildings across the County Borough. The Panel queried whether there were cost savings in revenue to run these new schools.

Recommendation 5

The Panel recommends a review of revenue costs for all new school builds, subject to the School Modernisation Programme and to establish whether there are cost savings in overall revenue costs for the new schools. The Panel also requested assurance that the School Modernisation Programme was compliant with the carbon neutral green policy adopted at Council.

- 1.20. The BREP identified a reduction in Youth Service provision across the county borough as a result of service cuts to meet the MTFs. The Corporate Director – Education and Family Support provided information that there was a Youth Service provision, albeit on a smaller scale, that was proving effective in some communities. Youth Service provision was made on a needs basis. The Panel identified that, for example, ACE may well impact upon youth mental health. The Panel suggested that this may well be a subject matter for the Recovery Panel to consider. In addition, the current Youth Service provision may well be suitable to be included in a Scrutiny Committee Forward Work Programme.
- 1.21. **The Panel recommends referring to the Cross-Party Recovery Panel the development of a method for recording the effects of Covid-19 on ACE and education. The current Youth Service provision is subject to a Scrutiny Committee Forward Work Programme.**
- 1.22. The BREP also looked at opportunities to further support schools in managing deficit budgets. It was accepted that an option for some schools may well be to implement staff redundancies. The Panel felt there were significant skills and experience within the teaching community across the county borough, which could be utilised in a transfer process. This process could be considered when one school was forced into a redundancy and another school was looking to appoint.

Recommendation 6

To further support schools in their management of deficit budgets and the likelihood of potential redundancies, the Panel recommends that a central redeployment register of qualified and experienced staff is set up in collaboration with the Trade Union Movement. This central register should be made available to all Senior Management Teams within schools across the county borough.

- 1.23. The BREP acknowledged that LAC was a continuous and annual overspend. The Panel fully acknowledged that this was a demand-led service that was difficult to manage and financially prepare for. The Panel focused exploration on prevention and early intervention measures as a means to support the Directorate in meeting its obligations to the MTFS. The Panel therefore recommends:

Recommendation 7

The Panel acknowledges that LAC is an annual overspend and the Directorate considers further strategic investment in prevention and early intervention programmes. Further, that the Scrutiny Committee process supports the Directorate in this initiative.

- 1.24. In respect of the Budget Consultation, the BREP complimented the Consultation Engagement and Equalities Manager in the focus, direction and energy to deliver a public budget consultation process during the height of the Covid-19 pandemic. Although public responses were reduced significantly when compared with previous years, this was in no way reflected in the effort to fully engage with the public.
- 1.25. The BREP identified that the budget consultation process was an essential tool to both the CMB and Cabinet in gauging public awareness of public finances and public expectation of services.
- 1.26. The BREP identified that financial management issues may well be considered by the Recovery Panel in their review of Covid-19 pressures currently in place across the county borough.

1.27. **The Panel recommends that the Cross-Party Recovery Panel reviews financial support processes and value for money from the following organisations:**

- **Recovery support for well-established partnerships such as Halo and Awen.**
- **An assessment of the financial costs of volunteering services and the possibility of developing a joint volunteer register with the third sector.**
- **The impact of Covid-19 on individuals who receive support through other methods other than the conventional methods of referrals into Social Services.**

1.28. The BREP acknowledged the Recovery Panel Work Programme and the necessity to prepare a bespoke action plan for consideration by the CMB and Cabinet. In order to ensure transparency and consistency, the recommendations from the BREP could also be included in an action plan. Both action plans could then be considered individually and prevent duplication with the Recovery Panel.

Recommendations of the Budget Research and Evaluation Panel in respect of the Medium Term Financial Strategy 2021-22 to 2024-25

Recommendation 1

The Panel recommends the development of the centralisation of Business Support that would improve services, for example to other Directorates including Education and Family Support, and Social Services and Wellbeing.

Recommendation 2

The Panel recommends that all Directorates review their individual bespoke savings plan to support the MTFS and to present these revised plans to the BREP 2021/22.

Recommendation 3

The Panel recommends that all Directorates identify all Covid-19 related costs and budgetary pressures, with clear differentiation between savings and cuts and with clear differentiation between budget pressures and the impact of Covid-19 pressures and in particular ensures there is full cost recovery, where appropriate, from WG.

Recommendation 4

The Panel once again extends an invitation to Members of the CMB and Cabinet, to take a more thematic approach in tasking BREP when considering a Forward Work Programme. This is an ideal opportunity for CMB and Cabinet to identify areas of work for BREP going forward.

Recommendation 5

The Panel recommends a review of revenue costs for all new school builds, subject to the School Modernisation Programme and to establish whether there are cost savings in overall revenue costs for the new schools. The Panel also requested assurance that the School Modernisation Programme was compliant with the carbon neutral green policy adopted at Council.

Recommendation 6

To further support schools in their management of deficit budgets and the likelihood of potential redundancies, the Panel recommends that a central redeployment register of qualified and experienced staff is set up in collaboration with the Trade Union Movement. This central register should be made available to all Senior Management Teams within schools across the county borough.

Recommendation 7

The Panel acknowledges that LAC is an annual overspend and the Directorate considers further strategic investment in prevention and early intervention programmes. Further, that the Scrutiny Committee process supports the Directorate in this initiative.

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Combined Meeting of all Scrutiny Committees' Recommendations on Medium Term Financial Strategy 2021-22 to 2024-25

Following the Combined Meeting of all Scrutiny Committees' consideration of the draft budget proposals, the Committee made the following recommendations:

1. The Committee recommended that the Cabinet lobbies Welsh Government to ensure that additional legislation comes with the consequential funding to avoid putting the Local Authority under additional unnecessary financial pressure from existing budgets. (CEX5 Homelessness Funding.)
2. The Committee recommended that consideration be given to greater communication with the public explaining the costs of services and how the Council spends money.
3. The Committee recommended that clarification is sought regarding the Local Government Minister expressing this year's settlement is a flat cash budget that requires no redundancies.
4. The Committee recommended that Corporate Management Board and Cabinet are requested to review and define what the role and responsibility of BREP is and respond to Corporate Overview and Scrutiny to consider.
5. The Committee recommended that Cabinet are requested to write to Welsh Government to impress upon them the need to lobby Westminster, as while NHS Staff and Teachers pay protections are devolved to Welsh Government, Local Government staff are on NJC Terms and Conditions, is not a devolved budget, and they will be subject to a pay freeze. Furthermore, the White Paper for the care sector requires that commissioned services should be paid a real living wage on the same terms & conditions as LA staff.
6. The Committee expressed concern about the Ed Psych provision and the additional pressure the pandemic placed on the service and recommend an increase in the budget for 2021-22 to alleviate the likely huge demand from younger people from the impact of the pandemic, as well as increased additional learning needs. (EFS7)
7. The Committee expressed concern that the target of £300k for 2021-22 was unrealistic and recommended that it should be removed. While it supported the CAT process it was felt that any savings should be reinvested into the service. If this target cannot be removed for 2021-22, then the Committee recommend that the target of £300k be spread across 3 years from 2022-23 onwards. (COM1)

8. The Committee recommended that the narrative be amended, as it states “this may impact on the availability to maintain the current number of children’s play areas”, but the Capital Programme is investing in play areas.(COM 1)
9. The Committee recommended that CAT Transfer progress be monitored by Subject Overview and Scrutiny Committee 3 at the half year point. (COM1)
10. The Committee recommended that the Fees and Charges policy be reviewed in 2021-22 to change it from “inflation +1%”, to just “inflation” with a view to it being implemented from the budget in 2022-23.
11. The Committee were concerned regarding the impact of cutting the Pest Control Contract completely, due to the impact on those in receipt of benefits and recommended that the Pest Control Savings proposal is placed on hold pending the Cabinet reviewing of the proposal. (CEX2)
12. The Committee recommended that a working group actively look at identifying relatively small one off investments on safe routes to schools which could offset ongoing costs of some Home to School transport. (EFS2/Budget Pressure EFS7)
13. The Committee expressed concern about spending on consultants because of the lack of in-house capacity due to service cuts made over the last 10 years and recommended that future MTFS budget savings proposals fully consider any possible long term implications that may incur additional cost in future years.(COM1)
14. While the Committee acknowledged that there were huge pressures upon the authority from the impact of Covid-19, there were incredible pressures within local communities and the Committee recommended that Cabinet embrace the concept of prioritisation based upon the needs of those local communities.

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

9 FEBRUARY 2021

REPORT OF THE INTERIM CHIEF OFFICER – FINANCE, PERFORMANCE AND CHANGE

ANTI-TAX EVASION POLICY

1. Purpose of report

- 1.1 The purpose of the report is to present Cabinet with the new Anti -Tax Evasion Policy for approval.

2. Connection to corporate well-being objectives / other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015:-**

1. **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 The Criminal Finances Act 2017 (the '2017 Act') became law in the summer of 2017 and Part 3 of the 2017 Act sets out how those organisations categorised as 'relevant bodies' under the Act will be considered criminally liable where they fail to prevent those who act for, or on their behalf, from criminally facilitating tax evasion.
- 3.2 The 2017 Act introduced new offences that will be committed where a relevant body fails to have taken appropriate steps to prevent an associated person criminally facilitating the evasion of a tax, and this will be the case whether the tax evaded is owed in the UK or in a foreign country.
- 3.3 '**Relevant bodies**' include corporate or partnerships (wherever incorporated or formed), local authorities and fire authorities.
- 3.4 An '**associated person**', as set out in the legislation, is an employee, agent or other person who performs services for or on behalf of the Council.
- 3.5 '**Tax evasion**' can be described as any fraudulent activity that intends to divert funds from the public revenue and constitutes the common law offence of cheating the public revenue.
- 3.6 Organisations, including local authorities, could be liable to severe penalties if they fail to put in place adequate procedures to prevent tax evasion.

- 3.7 In order for the corporate charges to be brought there must first be two offences that have taken place. There must be a criminal offence by the tax payer and an associated person must deliberately and dishonestly take action to facilitate the taxpayer's evasion. To accidentally, ignorantly or negligently facilitate the evasion of tax will not result in the corporate offence.
- 3.8 If both offences have been committed then the Council will have committed the corporate offence of "failure to prevent the facilitation of tax evasion" unless it can demonstrate that it had reasonable preventative procedures in place.
- 3.9 The penalty for this offence includes unlimited fines and ancillary orders such as confiscation orders or serious crime prevention orders, as well as reputational damage to the Council. Tax based fraud or evasion is generally investigated by Her Majesty's Customs and Revenue (HMRC) with prosecutions brought by the Crown Prosecution Service (CPS).
- 3.10 HMRC issued guidance for relevant bodies formulated around the following six guiding principles:
- a) Risk assessment
 - b) Proportionality of risk-based prevention procedures
 - c) Top level commitment
 - d) Due diligence
 - e) Communication (including training)
 - f) Monitoring and review.
- 3.11 HMRC's Freedom of Information release 'Number of live Corporate Criminal Offences Investigations' dated 21 October 2020 identified that it had 13 live Corporate Criminal Offence cases underway and a further 18 live opportunities under review. These investigations spanned 10 different business sectors including financial services, labour provision and software development. The number and spread of investigations clearly demonstrate that HMRC is actively enforcing the legislation across all tax and duty regimes and across a wide range of organisations.
- 3.12 Covid-19 has resulted in an increased risk of businesses becoming the victim of fraud, as incentive and opportunity gives rise to individual rationalisation to commit tax fraud, with furloughed schemes being identified as a high risk area for tax evasion and fraud by HMRC.

4. Current situation / proposal

- 4.1 The Council is committed to establishing and maintaining effective arrangements to prevent and detect acts of bribery, corruption and tax evasion in relation to Council services. The Council requires all Elected Members and employees to demonstrate the highest standards of honesty and integrity and this includes compliance with the relevant legislation.
- 4.2 The Council already has Anti- Fraud and Bribery and Anti-Money Laundering policies in place to support effective arrangements to prevent and detect acts of bribery and corruption which are monitored and reviewed by the Governance and Audit Committee.

4.3 A policy has now been developed specifically to address the prevention of tax evasion and will provide a coherent and consistent approach for all employees and any person who performs services for and on behalf of Bridgend County Borough Council. The Anti-Tax Evasion Policy is attached as **Appendix A**.

4.4 This policy statement is supplementary to the Council's wider Anti-Fraud and Bribery Strategy which sets out the key responsibilities with regard to fraud prevention and what to do if fraud or financial irregularity is suspected and the action that will be taken by management.

5. Effect upon policy framework and procedure rules

5.1 In the Financial Procedure Rules (Part 4 of the Constitution), the section on 'Prevention of Theft, Fraud & Corruption' will require amending to be to make reference to the new 'Anti-tax evasion' policy. Similarly under Part 3 of the Constitution, 'Responsibility of Functions', the Terms of Reference (ToR) of the Audit Committee will require amendment to include the monitoring of this policy alongside the Anti-Fraud and Bribery Strategy and Anti-Money laundering Policy.

5.2 The proposed amendments to the Constitution and ToR (attached as **Appendix B**) will be presented to Council at a future meeting, following which the Constitution will be amended accordingly.

6. Equality Impact Assessment

6.1 There are no equality implications arising from this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The well-being goals identified in the Act were considered in the preparation of this report. The following is a summary to show how the 5 ways of working to achieve the well-being goals have been used to formulate the recommendations within this report:

- **Long Term** The Anti-Tax Evasion Policy, Procedure and Reporting Arrangements will assist in the long term to support officers and Members in the successful execution of their duties by meeting the legal obligations in the course of business activities.
- **Prevention** The purpose of the procedure is to prevent the facilitation of Tax Evasion under the Criminal Finances Act 2017.
- **Integration** The outcomes that the procedure supports is that implementation of the policy will help in the prevention of the facilitation of tax evasion by persons associated with the Council and in doing so prevent fraudulent activity that intends to divert funds from the public revenue. This

objective links with the Government objective to tackle tax evasion.

- **Collaboration** An 'associated person' or person who performs services on behalf of the Council will be required to adhere to this policy.
- **Involvement** The persons mainly involved in the procedure will be BCBC staff. However any agent or other person who performs services for or on behalf of the Council will be included, this may involve a diverse range of stakeholders.

8. Financial implications

8.1 There are no financial implications directly associated with the Anti-Tax Evasion Policy.

9. Recommendation

9.1 It is recommended that Cabinet:

- Approve the Anti-Tax Evasion Policy attached as Appendix A;
- Note the proposed amendments to the Terms of Reference and Constitution attached as Appendix B to be presented to Council for approval.

Gill Lewis CPFA
Interim Chief Officer – Finance, Performance and Change
11 January 2021

Contact officer: Fran Mantle
Finance Manager Governance & Exchequer

Telephone: (01656) 643286

Email: Frances.Mantle@bridgend.gov.uk

Postal address: Raven's Court
Brewery Lane
Bridgend CBC
CF31 4AP

Background documents: None



ANTI-TAX EVASION POLICY



January 2021

ANTI-TAX EVASION POLICY

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1. Introduction

- 1.1 The Government believes that relevant bodies should be criminally liable where they fail to prevent those who act for, or on their behalf, from criminally facilitating Tax Evasion.
- 1.2 The Criminal Finances Act 2017 (the '2017 Act') became law in the summer of 2017 and Part 3 of the 2017 Act introduced new offences which sets out how those organisations categorised as 'relevant bodies' under the Act will be considered criminally liable where they fail to prevent those who act for, or on their behalf from criminally facilitating Tax Evasion. The act applies to both tax evaded which is owed in the UK or in a foreign country.
- 1.3 This statement sets out Bridgend County Borough Council's (the Council) policy in relation to anti-tax evasion and sets out the procedures that must be followed to enable the Council to comply with its legal obligation.
- 1.4 This policy statement is supplementary to the Council's wider Anti-Fraud and Bribery Strategy which sets out the key responsibilities with regard to fraud prevention and what to do if fraud or financial irregularity is suspected and the action that will be taken by management.
- 1.5 The Council aims to conduct its financial affairs in a law abiding way and does not tolerate either the commitment or facilitation of Tax Evasion. The Council has a zero tolerance approach to all forms of Tax Evasion, whether under UK law or under the law of any foreign country.
- 1.6 The Council already has a range of policies, procedures and guidance that underpins its financial activities including the Anti-Money Laundering Policy and Anti-Fraud and Bribery Policy.
- 1.7 We request all our officers and all who have, or seek to have, a business relationship with the Council, to familiarise themselves with our Anti-Tax Evasion Policy and to act at all times in a way which is consistent with the procedures and reporting arrangements therein.

2. Scope of the policy

- 2.1 This policy applies to all persons working for the Council or any subsidiary, including employees at all levels, directors, officers and associates (as defined below), including, but not limited to, agency workers, seconded workers, volunteers, apprentices, contractors, external consultants, third party representatives and business partners, sponsors or any other person associated with us, wherever located.
- 2.2 This policy is adopted by the Council. Officers in leadership positions are responsible for ensuring those reporting to them understand and comply with the policy.

3. What is the facilitation of tax evasion?

- 3.1 Part 3 of the Criminal Finances Act 2017 (“the Act”) created the corporate criminal offence of failure to prevent the facilitation of Tax Evasion. Under this offence the Council, if found to be facilitating Tax Evasion, could face an unlimited fine and consequent damage to reputation. The Council could be found guilty if a third party committed Tax Evasion which a member of Council staff or an associate helped to assist in any way.
- 3.2 This legislation aims to overcome the difficulties in attributing criminal liability to relevant bodies for the criminal acts of employees, agents or those that provide services for or on their behalf. Under the Act the new offence does not radically alter what is criminal, it simply focuses on who is held to account for acts contrary to the current criminal law. It does this by focussing on the failure to prevent the crimes of those who act for or on behalf of a corporation, rather than trying to attribute criminal acts to that corporation.
- 3.3 The legislation applies to any form of tax including employment taxes and indirect taxes such as VAT, national insurance, landfill tax, custom tax and excise duties e.g. road fund licence and tax on the sale of alcohol and tobacco, capital gains and employment taxes. This list is not exhaustive.
- 3.4 A person is “**associated**” with a relevant body if that person is an employee, agent or other person who performs services for or on behalf of the relevant body e.g. contractors, professional advisors and back office outsourced service suppliers such as IT or payroll providers.
- 3.5 Only a “**relevant body**” can commit the offences contained in the ‘2017 Act’. This means that only incorporated bodies (typically companies) and partnerships can commit the new offences, including local authorities. Individuals cannot commit these offences.

3.6 **Tax Evasion** is the illegal non-payment or under-payment of taxes, usually as the result of making a false declaration (or no declaration) of taxes due to the relevant tax authorities, which results in legal penalties if the perpetrator is caught.

3.7 **Tax Avoidance**, by contrast, is seeking to minimise the payment of taxes without deliberate deception. This is often legitimate but is sometimes contrary to the spirit of the law, e.g. involving the exploitation of loopholes. Importantly the corporate criminal offence of facilitation only applies to Tax Evasion.

3.8 There are two stages to assessing whether an offence has been committed under the Act and these apply to both UK and overseas Tax Evasion offences:

Stage 1: A criminal Tax Evasion by the taxpayer (either by an individual or legal entity) must have occurred under existing law. A prosecution is not a pre-requisite for tax evasion, however where there is no criminal conviction of the taxpayer, the prosecution in respect of the corporate offence would still have to prove to the criminal standard of beyond reasonable doubt that the taxpayer's offence had been committed.

Stage 2: The criminal facilitation of the offence by a person associated with the Council with a view to aiding, abetting, counselling or procuring the evasion of tax by the taxpayer.

3.9 Liability is strict - if stages 1 and 2 are satisfied, the Council will have committed an offence unless it shows that it has put in place reasonable measures and procedures to prevent the criminal facilitation of Tax Evasion or that it was not reasonable in the circumstances to expect it to have prevention procedures in place.

3.10 If a relevant body is found guilty of a facilitation of Tax Evasion it could face unlimited financial penalties. Tax based fraud or evasion is generally investigated by Her Majesty's Revenue and Customs (HMRC) with prosecutions brought by the Crown Prosecution Service (CPS).

3.11 The foreign Tax Evasion facilitation offence can only be committed by an organisation that has a connection with the UK, namely:

- it is a body incorporated, or partnership formed, within the UK, or;
- it carries on business, or part of a business, within the UK, or;
- through any conduct constituting part of the foreign Tax Evasion facilitation offence takes place in the UK.

4. Examples of tax evasion

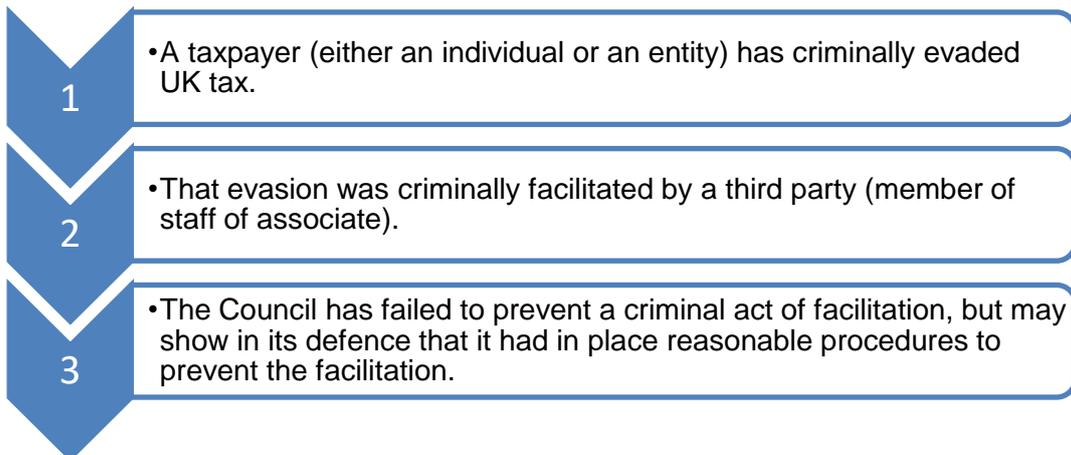
- 4.1 It is not possible to give examples covering every possible scenario, however, some 'red flag' indicators are detailed below to give a flavour of the scope of the legislation:

<i>INDICATORS OF POSSIBLE TAX EVASION:</i>
<i>You become aware, in the course of your work, that a third party has made or intends to make a false statement relating to tax; has failed to disclose income or gains to, or to register with, HMRC; has delivered or intends to deliver a false document relating to tax; or has set up or intends to set up a structure to try to hide income, gains or assets from a tax authority.</i>
<i>You become aware, in the course of your work that a third party has deliberately failed to register for VAT or failed to account for VAT.</i>
<i>Someone who works for a third party supplier offering you what seems like a discount because they tell you they don't need to charge you VAT – without giving a reason.</i>
<i>Someone asking you to do something that does not match up or 'feel right' and does not adhere to policy documentation – for example, paying into a different account than that which is specified on the invoice.</i>
<i>A third party requests payment in cash and/or refuses to provide an invoice or receipt for a payment made.</i>
<i>You become aware, in the course of your work that a third party working for us as an employee asks to be treated as a self-employed contractor, but without any material changes to their working conditions.</i>

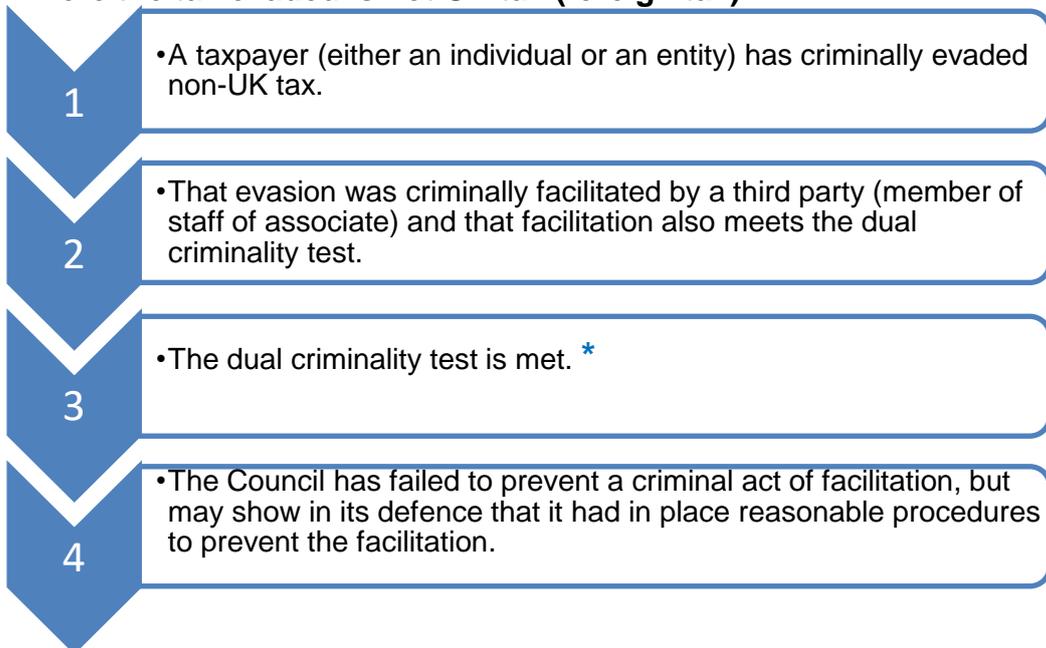
5. Defences

- 5.1 For the corporate offence to be committed there must be criminal facilitation of the taxpayer evasion by a person acting in the capacity of a person associated with the relevant body. The associated person must deliberately and dishonestly take action to facilitate the taxpayer-level evasion. If the associated person is only proved to have accidentally, ignorantly or even negligently facilitated the Tax Evasion offence then the offence is not committed by the relevant body.
- 5.2 It is a defence to the corporate criminal offence of facilitating Tax Evasion if the Council can prove that it has in place such prevention procedures as it is reasonable to expect in the circumstances. The diagram below summarises the stages of the offence for both UK and foreign Tax Evasion:

Where the tax evaded is UK tax



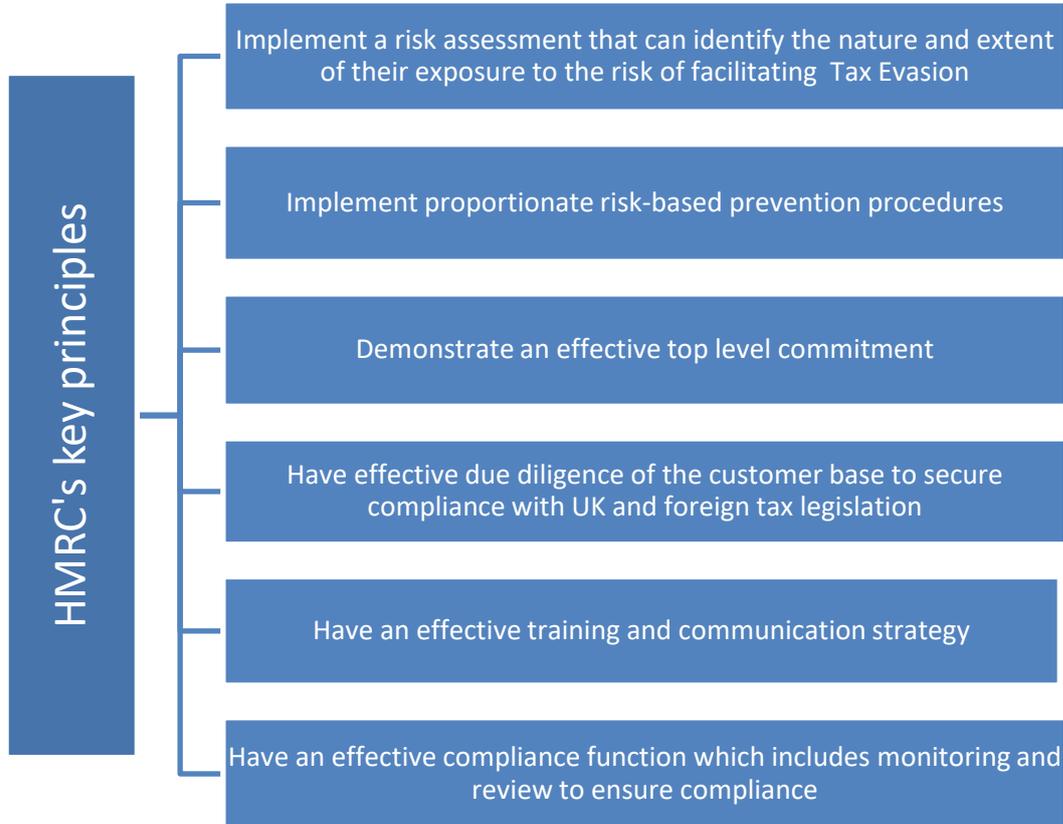
Where the tax evaded is not UK tax (foreign tax)



* *An organisation must have a connection with the UK and there must also be so-called “dual criminality”. In effect this broadly means equivalence between both the taxpayer’s Tax Evasion offence and the “associated person” facilitator’s offence with regard to the UK and the foreign jurisdiction:*

- For the taxpayer Tax Evasion offence: e.g. a French taxpayer evades French income tax (i.e. this is an offence in France) – Income Tax Evasion is a criminal offence in the UK, so there is “dual criminality”;
- For the “associated person” facilitator’s offence: e.g. an “associated person” commits a French offence of aiding and abetting Tax Evasion – aiding and abetting Income Tax Evasion is a criminal offence in the UK, so there is “dual criminality”.

5.3 HMRC has produced guidance on the appropriate set of prevention measures (six core principles) which could be put in place by a relevant body to prevent associated persons from criminally facilitating Tax Evasion are:



6. Responsibilities of staff & other associated persons

- 6.1 The prevention, detection and reporting of all forms of financial irregularity, including suspected Tax Evasion, are the responsibility of all those working for the organisation or under its control (“associated person”). All staff are required to avoid activity that breaches this policy.
- 6.2 To prevent Tax Evasion, Council staff (and associates, so far as relevant) should:
- always follow Council policies, procedures and guidance;
 - tell management if any criminal activity is suspected;
 - attend any appropriate training offered.

- 6.3 Failure to comply with these policies, procedures and guidance, including in particular failure to comply with the obligations detailed in this policy, may result in disciplinary action for staff and the termination of arrangements with associates.
- 6.4 Should staff or associates be concerned that another employee or associate is facilitating a third party's Tax Evasion, they should report this (*please see section 10 on how to raise your concerns*).
- 6.5 Specifically, staff and associates must not knowingly do anything that helps someone else to evade tax. Note in this context that the Council is only responsible for the actions of associates in respect of things they do for, or on behalf of, the Council. Other than this the Council is not responsible for the way associates manage their business.
- 6.6 It is not acceptable for officers and associates to:
- engage in any form of facilitating Tax Evasion or Foreign Tax Evasion.
 - aid, abet, counsel or procure the commission of a Tax Evasion offence or Foreign Tax Evasion offence by another person.
 - fail to promptly report any request or demand from any third party to facilitate the fraudulent Evasion of Tax by another person, in accordance with this policy;
 - engage in any other activity that might lead to a breach of this policy;
 - threaten or retaliate against another individual who has refused to commit a Tax Evasion offence or a Foreign Tax Evasion offence or who has raised concerns under this policy.
 - commit an offence under the law of any part of the UK consisting of being knowingly concerned in, or taking steps with a view to, the fraudulent evasion of tax.

7. Risk assessment

- 7.1 The Council should assess the nature and extent of its exposure to the risk of those who act for or on its behalf engaging in activity during the course of business to criminally facilitate Tax Evasion, analysing whether they have the motive, opportunity and means to do so and how that risk might be managed. The Council should keep the risks under review.
- 7.2 The Council's systems of control are designed to aid compliance. In addition, the Council's Internal Audit Team conducts regular compliance checks paying specific attention to areas of high risk and reporting back to Governance and Audit Committee.
- 7.3 Examples of the type of exposure the Council faces in relation to the prevention of the facilitation of Tax Evasion and how the risk is managed is attached as **Appendix A**.
- 7.4 The Council has governance processes and procedures to address specific risks. This includes both this policy and a "whistle blowing" policy. The Council also has procedures in place on the segregation of duties, budget holder's guidance, Anti Money Laundering Policy and Anti-Fraud and Bribery Strategy.
- 7.5 There is not an exhaustive list of Tax Evasion opportunities. At a more general level, the best defence of Tax Evasion and facilitation of Tax Evasion remains the vigilance of our officers and the adoption of a common sense approach supported by our clear whistleblowing procedures.

8. Senior management commitment

- 8.1 The top-level management of a relevant body should be committed to preventing persons associated with it from engaging in the criminal facilitation of Tax Evasion. Those at the most senior levels of a relevant body are best placed to foster a culture where actions intended to facilitate Tax Evasion are considered unacceptable.
- 8.2 This policy has been approved by Cabinet and complements the Anti-Fraud and Corruption Strategy.
- 8.3 Once adopted the policy will be reported to the Governance and Audit Committee for monitoring and review.

9. Due diligence

- 9.1 A relevant body should apply due diligence procedures, taking an appropriate risk based approach, to identify the risk of criminal facilitation of Tax Evasion by associated persons, in order to mitigate such risks.
- 9.2 Reasonable care and caution is exercised when processing all transactions particularly high value/high risk area payments. Regular monitoring takes place and particular caution is exercised when making payment to new suppliers.
- 9.3 In applying a common sense approach, officers must be aware of the following:
- Is there anything unusual about the manner in which an associate of the Council is conducting their relationship with the third party (usually a customer)?
 - Is there anything unusual about the customer's or associate's conduct or behaviour?
 - Are there unusual payment methods?
- 9.4 An example of high risk factors are listed below:
- Private banking.
 - Anonymous transactions (which may include cash).
 - Non face-to-face business relationships or transactions.
 - Payment received from unknown or associated third parties.
 - The business relationship is conducted in unusual circumstances.
 - Non-resident customers.
 - Businesses that are cash intensive.
 - The ownership structure of the company appears unusual or excessively complex.
 - Countries identified by credible sources as not having adequate anti-money laundering and counter-terrorism financing approaches.
 - Countries subject to sanctions, embargoes, or similar measures issued by, for example, the UN
 - Countries identified by credible sources as providing support for terrorist activities, or that have designated terrorist organisations operating within their country
- 9.5 Unusual payment methods and unusual conduct of third parties with Council associates can be indicative that a transaction may not be as it seems – please refer to section 5 of the Council's 'Anti-money Laundering Policy' for further guidance on unusual payment methods and unusual conduct. Likewise, the Council procedures outlined in the aforementioned policy for identifying the customer are also an important part of the Councils' policy against Tax Evasion.

10. How to raise a concern

- 10.1 The Council is committed to ensuring that there is a safe, reliable, and confidential way of reporting any suspicious activity, and wants each and every member of staff to know how they can raise concerns.
- 10.2 All have a responsibility to help detect, prevent and report instances of Tax Evasion. If you have a concern regarding a suspected instance of Tax Evasion, please speak up – your information and assistance will help. The sooner it is brought to attention, the sooner it can be resolved. You do NOT need to be certain that Tax Evasion is taking place to report it.
- 10.3 The Council has clear guidance in its Whistleblowing Policy in relation to how employees can raise their concern. However as this policy relates to specifically to Tax Evasion any concerns or suspicions should be directed to the:
- Chief Officer – Finance, Performance and Change, and
 - Interim Deputy Head of Finance
- 10.4 Officers are encouraged to raise concerns about any issue or suspicion of Tax Evasion as soon as possible. If there is any suspicions of any intention that a staff member, associate or third party is attempting to commit Tax Evasion, the details of the parties and the transaction must be reported to the Chief Officer – Finance, Performance and Change using the confidential form at **Appendix B**, who may report the circumstances to HMRC.
- 10.5 Concerns expressed anonymously may, at the Council's discretion, be considered but are much less powerful. It is better to raise your concerns in writing but you may equally express your concerns verbally and have the detail recorded for you. Whilst you will not be expected to prove the truth of any allegations you make, you will need to demonstrate sufficient grounds for your concerns.
- 10.6 In the event that an incident of suspected wrong doing is reported, the Council will act as soon as possible to evaluate the situation. It has clearly defined procedures for investigating fraud, misconduct and non-compliance issues and these will be followed in any investigation of this kind. This is easier if and quicker if concerns raised are not anonymous.

11. What happens if an officer prefers not to report their suspicions?

- 11.1 This should never happen. If there is any suspicion of any intention to evade tax and the transaction is nevertheless finalised, the Council can be criminally prosecuted, subject to a large fine and be publically named and shamed.

12. Self reporting

- 12.1 If an organisation suspects that one of the two offences may have taken place it may wish to undertake an internal investigation and (voluntarily) self-report; self-reporting can be done via an online form. The official UK HM Revenue & Customs guidance states that “In order to encourage relevant bodies to disclose wrongdoing, timely self-reporting will be viewed as an indicator that a relevant body has reasonable procedures in place” (so an organisation may have a defence).

13. Communication & training

- 13.1 To ensure that the policy against engaging in activities to help clients commit tax fraud is communicated, embedded and understood throughout the organisation to help deter those providing services on behalf of the relevant body from engaging in such activities, all new staff, especially those involved in processing and approving financial transactions, will be made aware of this policy via their induction.
- 13.2 All staff will also be able to access this information on the Council’s intranet.
- 13.3 It will be the responsibility of Chief Officers for ensuring compliance with the policy.

14. Monitoring & review

- 14.1 Monitoring and reviews of the Council’s prevention procedures will form part of audit programmes with regular reports back to the Governance and Audit Committee.
- 14.2 The Chief Officer – Finance, Performance and Change will be responsible for the continuous review and amendment of this policy document, to ensure that it remains compliant with good practice and legislative requirements. The next review date is scheduled for December 2022 and biennial thereafter.

15. Other relevant policies

- 15.1 Further information on the relevant Council policy and practice can be found in the following internal documents:

- The Council's [Constitution](#), incorporating the Members' Code of Conduct, Officers' Code of Conduct, Contract Procedure Rules, Financial Procedure Rules;
- [Anti-Money Laundering Policy](#);
- [Anti-Fraud and Bribery Policy](#);
- [Whistleblowing Policy](#);
- [Gifts & Hospitality Policy for Officers](#);

APPENDIX A

Example of risk exposure within the Council in relation to the facilitation of tax evasion & how the risk is managed

1. Construction Industry Scheme

- 1.1 There is a risk of suppliers purposely submitting artificially low labour breakdowns on their invoices to avoid tax being deducted on the labour element or no tax being deducted at all.
- 1.2 There is a risk that staff have a lack of understanding as to what work comes within the scope of the scheme or the implications of not applying the scheme.
- 1.3 The member of staff would have had to act deliberately and dishonestly to facilitate the taxpayer-level evasion for the Council to be considered as having committed a criminal offence in assisting in a third party in Criminal Tax Evasion.
- 1.4 The Council has in place adequate Construction Industry Scheme (CIS) procedure documents, and undertakes a daily check of all CIS payments input into the financial information system to ensure that they have been correctly included or excluded from the CIS scheme and that labour has been recorded and flagged as such, if expected. In addition all new data entry inputters receive full training about the scheme and their responsibilities, and are provided with the rules of the scheme on an annual basis. All staff centrally supporting the payment of CIS transactions have also received internal training and are familiar with the HMRC guidance on CIS.

2. Direct Payments (for Care & Support Services)

- 2.1 There is a risk that there is a deliberate failure to ensure deduction of Income Tax and National Insurance from payments made to personal assistants by recipients of Direct Care Payments.
- 2.2 There is a risk that the Council makes payments to people who have over-stated their requirements at the needs assessment stage.
- 2.3 A member of staff would have had to act deliberately and dishonestly to facilitate the taxpayer-level evasion for the Council to be considered as having committed a criminal offence in assisting in a third party in Criminal Tax Evasion. To achieve such evasion, it would require collusion by a number of parties involved in the Direct Payments process.
- 2.4 The Council has adequate Direct Payments Protocol and Guidance documents in place. The Council has a contract in place with a Direct Payments Support

Organisation, who offer support to Direct Payment recipients, by providing a fully comprehensive payroll service in accordance with HMRC regulations. Direct Payments bank accounts are monitored and reconciled, to ensure that the money is being used appropriately. All payments calculated by the Council to Direct Payment recipients are checked and authorised by a second member of staff.

3. Grants

- 3.1 There is a risk that an organisation purposely fails to ensure that grant funding provided by the Council is used for its intended purpose.
- 3.2 There is a risk that the Council gives a grant to an organisation for a specific project or service which may include the employment of staff. Staff are paid without the appropriate deduction of Income Tax and National Insurance.
- 3.3 The member of staff would have had to act deliberately and dishonestly to facilitate the taxpayer-level evasion for the Council to be considered as having committed a criminal offence in assisting in a third party in Criminal Tax Evasion.
- 3.4 The Council has in place a number of controls to mitigate the risk including a robust process in place in relation to the financial management of grants via its grant procedure rules, strong segregation of duties, due diligence and financial procedure rules which assists in mitigating the risk of collusion.

4. Off Payroll Working – IR35

- 4.1 There is a risk that a member of staff fails to identify workers and associates that should be paid via the payroll system rather than the creditors system. If the member of staff did not deliberately and dishonestly take action to facilitate the taxpayer-level evasion and are proved to have accidentally, ignorantly or even negligently facilitated the Tax Evasion offence then an offence has not been committed by the Council.
- 4.2 There is a risk that a supplier wishes to be treated as a self-employed contractor so that payments to them are paid gross and they can evade paying the appropriate income tax and national insurance liabilities. There is a risk that a Council officer helps the supplier by deliberately falsifying information on the Employment Status Questionnaire so the worker is treated as a contractor rather than deducting PAYE at source. By supplying false information in this way, the Council employee is committing a criminal offence as they have assisted a third party in Criminal Tax Evasion.

4.3 The Council has in place a number of controls to mitigate risk. Control procedures are in place so that all new suppliers are set up centrally and are reviewed to ensure that off payroll working is identified and treated appropriately. All sundry suppliers are reviewed daily and investigated where necessary to identify if they meet the criteria for off payroll working. Although there are central controls to diligently review that off payroll working is identified, it does rely on the manager completing the IR35 self-assessment correctly.

5. PAYE- Income Tax & National Insurance

5.1 There is a risk that a member of staff fails to deduct the tax and NI at the correct rate. If there is no collusion and the member of staff did not deliberately and dishonestly take action to facilitate the taxpayer-level evasion and are proved to have accidentally, ignorantly or even negligently facilitated the Tax Evasion offence then an offence has not been committed by the Council.

5.2 The Council has in place a number of controls to mitigate this risk, Tax and National Insurance details are system generated on the payroll system so the only potential issue could be where these are manually overwritten. If this should happen then this would be picked up in the monthly real time submission to HMRC which provides information about tax and other deductions under the PAYE system.

6. Value Added Tax

6.1 There is a risk of suppliers adding VAT to their invoices when they are not registered for VAT. Payment would be made to the supplier and recovered from HMRC. The expense would not fall as a cost to anyone's budget so would be difficult to spot.

6.2 There is a risk that an officer pays a fraudulent VAT only invoice. The expense would not fall as a cost to anyone's budget as the money would be recovered from HMRC.

6.3 Both instances would have to be in collusion with officers for there to be an offence of assisting a third party in Criminal Tax Evasion.

6.4 The Council has in place a number of controls to mitigate risk. The Council's Constitution - Part 4 Rules of Procedure requires that each Chief Officer be responsible for examining, verifying and authorising invoices and any other payment vouchers or accounts arising from sources in their Directorate. Before authorising an account, the authorising officer shall be satisfied that invoices satisfy VAT regulations and that prices, extension, calculations etc. are correct. A similar responsibility exists for schools where the checking of invoices for

accuracy and that VAT has correctly been charged is the responsibility of the Finance Officer or Bursar. Additionally, VAT only invoices are costed separately and are easily identifiable and as such are reviewed by a member of the VAT team to ensure VAT has correctly been applied.

7. Payment To Suppliers

- 7.1 There is a risk that a supplier seeks to evade tax by asking to be paid into an offshore account, to deliberately and dishonestly hide their income which will not be declared in the UK for UK tax purposes, and that they send an invoice to the Council asking to be paid into this bank account which is not the same as the one set up within our supplier database.
- 7.2 There is a risk that an officer of the Council (who in this example is the 'associated person') facilitates this Tax Evasion by deliberately and dishonestly paying this invoice into the offshore account at the request of the supplier. This could be as a result of collusion (such as taking a bribe), or could be simply turning a blind eye to the Tax Evasion of which they are aware.
- 7.3 Both instances would have to be in collusion with officers for there to be an offence of assisting a third party in Criminal Tax Evasion
- 7.3 The Council has in place a number of controls to reduce the risk and prevent the facilitation of Tax Evasion including managing all supplier creation at a central point, a verification process for changing supplier bank details, the on-line authorisation of invoices and all supplier transactions must be supported by relevant invoice(s) / documentation and independently signed off as approved to pay. For payments over a certain financial value there is an additional tier of authorisation before payment is processed. Financial Procedure Rules also apply to all payments made by Corporate Purchasing Cards which should mitigate the risk of fraud and error. Planned Internal Audit reviews of payments also ensure that procedures are in place and being followed.

8. Cash

- 8.1 There is a risk that cash received from a supplier or service recipient by a member of staff is retained by the individual and not paid into the Authority's bank account.
- 8.2 Whilst this would be considered a criminal activity, for a Criminal Tax Evasion Offence to be committed under the Act collusion would also have had to have taken place.
- 8.3 The Council has in place a number of controls to reduce the risk of the theft or facilitation of tax evasion in respect of cash transactions including financial procedure rules. Cash high risk areas also have additional controls in place to ensure the safety of cash as it progresses internally to the point of collection by our external secure cash collection service providers. For example all our metric car parking machines can be interrogated from the back office system to establish which machines need emptying, two officers are allocated for collection and

counting of the cash & collection and there is dual supervision when counting monies. Receipt of cash is supported by a full audit trail and coins bagged in readiness for collection by our courier service is reconciled back to machine receipts which is then signed for by the cash collection courier before onward transmission to a specialist sorting office for banking. The system supporting metric car parking also has functionality which can identify any discrepancies very early so we can check machines to minimise and protect potential financial losses. A number of newer machines also have card payment facilities and as a result the use of coin is falling considerably, additionally most car parks have a paybyphone system and this usage has also increased.

9. Outsourcing

9.1 There is a risk that an outsourced service provide colludes with a member of staff to facilitate tax evasion.

9.2 The Council has in place a number of controls to mitigate this risk of staff colluding with outsourced services as officers have to adhere to internal rules such as contract procedure rules and financial procedure rules. Additionally outsourced service providers have other rules that they need to comply with. For example:

- I. Our leisure services provider are a registered charity and a company limited by guarantee and therefore have to comply with company law as well as charity law and intrinsically are required to submit externally audited accounts and statutory reports to both annually. The leisure services provider have in place financial procedures and controls that support budget setting, financial performance review and operational controls that would be expected of an established charity, as well as an internal audit function. Financial performance is scrutinised at their board level and discussed as part of client monitoring approaches. An advisory board mechanism is available in Bridgend and quarterly reports present financial and other performance information. The leisure services provider provides their accounts to the charity commissioners and share the details with Bridgend County Borough Council. They also manage any food and beverage related services themselves – there is no outsourcing – which falls under the internal controls and processes established by the leisure services provider.
- II. Our cultural trust services provider also has in place financial procedures and controls that support budget setting, financial performance review and operational controls that would be expected of an established charity. Financial performance is scrutinised at the cultural trust services board level and discussed as part of client monitoring approaches. They also provide their accounts to the charity commissioners and share the details with Bridgend County Borough Council. Cultural Trust Services Trading is in place to operate services that have a level of commerciality (Bryngarw House, Bryngarw Café, Pavilion Café and bars) and to donate any profits to the Trust as the parent organisation-standard practice for Trust based models. The services referenced such as food and beverage are now directly operated by

the Trust as opposed to being sub contracted. As well as the external audit, the Trust also have an internal audit function which assists in creating financial controls, ensuring they are adhered to, indicating where they need improving and ensuring that those improvements are actioned as required.

APPENDIX B

Report of tax evasion activity

Report to the Chief Officer – Finance, Performance and Change

To: Chief Officer – Finance, Performance and Change

From: _____

[Insert name of employee]

Directorate: _____

[Insert post title and team]

Ext/Tel No: _____

Urgent Yes/No

Date by which response needed: _____

Details of suspected offence:**Name(s) and address(es) of person(s) involved:**

[If a company/public body please include details of nature of business, please supply as many details as possible]

Nature, value and timing of activity involved:

[Please include full details e.g. what, when, where, how. Continue on a separate sheet if necessary]

Nature of suspicions regarding such activity:

[Please continue on a separate sheet if necessary]

--

Has any investigation been undertaken (as far as you are aware)? [Delete as appropriate]
Yes / No

If yes, please include details below:

Have you discussed your suspicions with anyone else? [Delete as appropriate]
Yes / No

If yes, please specify below, explaining why such discussion was necessary:

Please set out below any other information you feel is relevant:

Signed: _____ Dated: _____

Please do not discuss the content of this report with anyone and particularly those you believe to be involved in the suspected tax evasion activity described.

Part 4 Rules of Procedure

23. Prevention of Theft, Fraud and Corruption

23.1 The Chief Finance Officer is responsible for advising on effective systems of internal control to prevent fraud and corruption.

23.2 The Chief Finance Officer is responsible for developing, maintaining and implementing an Anti-Fraud and Bribery Policy. If a Chief Officer suspects any irregularities concerning cash, stores or other property of the Council or held on trust by the Council, they will notify the Chief Finance Officer who will take such steps as considered necessary by way of investigation and report.

23.3 The Chief Finance Officer is ~~also~~ responsible for developing, maintaining and implementing an Anti-Money Laundering Policy. The key message of this Policy is to make staff aware of their responsibilities and if they suspect that money laundering activity may be taking place or proposed, they must disclose those suspicions to the Council's Money Laundering Reporting Officer who is the Chief Finance Officer.

23.4 The Chief Finance Officer is also responsible for developing, maintaining and implementing the Anti-Tax Evasion Policy. The policy addresses the prevention of tax evasion and will provide a coherent and consistent approach for all employees and any person who performs services for and on behalf of Bridgend County Borough Council.

23.54 All Chief Officers are responsible for ensuring compliance with ~~both~~ the Anti-Fraud and Bribery Policy, ~~and~~ Anti-Money Laundering Policy and the Anti-Tax Evasion Policy and with systems of internal control.

Part 3 Responsibility for Functions

Committee, SubCommittee, Panel or other Body	Membership	Functions	Delegation of Functions
Governance and Audit Committee	12 County Borough Councillors and Lay Members (as set out in Article 8)	<ul style="list-style-type: none"> To monitor the Council's Anti-Fraud and Bribery Strategy, and Anti-Money Laundering <u>Policy</u> <u>and Anti-Tax Evasion Policy</u>. 	None.

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BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

9 FEBRUARY 2021

REPORT OF THE CHIEF OFFICER LEGAL, HR AND REGULATORY SERVICES

FORWARD WORK PROGRAMME

1. Purpose of Report

- 1.1 The purpose of this report is to seek Cabinet approval for items to be included on the Forward Work Programme for the period 1 March to 30 June 2021 and for Cabinet to note the Council and Overview and Scrutiny Forward Work Programmes for the same period.

2. Connection to corporate well-being objectives / other corporate priorities.

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-
1. **Supporting a successful sustainable economy** – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focussed on raising the skills, qualifications and ambitions for all people in the county borough.
 2. **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
 3. **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 In accordance with the Council's Constitution, the Forward Work Programme will be prepared by the Monitoring Officer to cover a period of four months except when ordinary elections of councillors occur, in which case the Forward Work Programme will cover the period up to the date of the elections.
- 3.2 The Forward Work Programme will contain matters which the Cabinet, Overview and Scrutiny Committees and full Council are likely to consider. It will contain information on:

- (a) the timetable for considering the Budget and any plans, policies or strategies forming part of the Policy Framework and requiring Council approval, and which body is to consider them;
- (b) the timetable for considering any plans, policies or strategies which are the responsibility of the Cabinet;
- (c) any individual matters on which the Cabinet intends to consult in advance of taking a decision, and the timetable for consultation and decision;
- (d) the work programme of the Overview and Scrutiny Committees, to the extent that it is known.

3.3 The Forward Work Programme will be published at least 14 days before the start of the period covered. The Authority is required to publish once a year a notice in at least one newspaper circulating in the area, stating that a Forward Work Programme will be published and giving the publication dates for that year.

4. Current situation / proposal

4.1 The proposed Forward Work Programmes are described below:

- Cabinet 1 March to 30 June 2021 - **Appendix 1**
- Council 1 March to 30 June 2021 - **Appendix 2**
- Overview and Scrutiny 1 March to 30 June 2021 - **Appendix 3**

4.2 Following consideration by Cabinet, the Forward Work Programmes will be published on the Council's website.

5. Effect upon Policy Framework and Procedure Rules

5.1 There are no implications relating to the Policy Framework and Procedure Rules.

6. Equality Impact Assessment

6.1 There are no negative equality implications arising from this report.

7. Wellbeing of Future Generations (Wales) Act 2015 implications

7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

8. Financial Implications

8.1 There will be a translation cost of approximately £60 for each quarterly update of the Forward Work programme when it is published on the Bridgend County Borough Council Website. These will be met from within existing budgets.

9. Recommendations

9.1 Cabinet is recommended to:

- Approve the Cabinet Forward Work Programme for the period 1 March to 30 June 2021 at Appendix 1;
- Note the Council and Overview and Scrutiny Forward Work Programmes for the same period as above, shown at Appendix 2 and 3 of the report, respectively.

Kelly Watson
Chief Officer Legal, HR and Regulatory Services
February 2021

Contact Officer: Andrew Rees
Democratic Services Manager

Telephone: (01656) 643148
Email: mark.galvin@bridgend.gov.uk

Postal address: Democratic Services
Civic Offices
Angel Street
Bridgend
CF31 4WB

Background documents: None

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CABINET FORWARD WORK PROGRAMME - 1 MARCH 2021 TO 30 JUNE 2021

Date	Title of Report	Contact officer
9 Mar	Secure Estate Care Contract	Claire Marchant Corporate Director Social Services & Wellbeing Tel: 01656 643248 Email: Clairemarchant@bridgend.gov.uk
9 Mar	Care Home Contract	Claire Marchant Corporate Director Social Services & Wellbeing Tel: 01656 643248 Email: Clairemarchant@bridgend.gov.uk
9 Mar	Dementia Training Agreement	Claire Marchant Corporate Director Social Services & Wellbeing Tel: 01656 643248 Email: Clairemarchant@bridgend.gov.uk
9 Mar	National Adoption Service Partnership Arrangement	Claire Marchant Corporate Director Social Services & Wellbeing Tel: 01656 643248 Email: Clairemarchant@bridgend.gov.uk
9 Mar	High Street and Retail Rates Relief Scheme 2021-22	Gill Lewis Interim Chief Officer - Finance, Performance and Change Tel: 01656 643302 Email: Gill.Lewis@bridgend.gov.uk

9 Mar	Insurance Renewal	Gill Lewis Interim Chief Officer - Finance, Performance and Change Tel: 01656 643302 Email: Gill.Lewis@bridgend.gov.uk
9 Mar	Schools Admissions Policy 2022-23	Lindsay Harvey Corporate Director – Education and Family Support Tel: 01656 642612 Email: Lindsay.harvey@bridgend.gov.uk
9 Mar	Appointment to School Governor Vacancies	Lindsay Harvey Corporate Director – Education and Family Support Tel: 01656 642612 Email: Lindsay.harvey@bridgend.gov.uk
9 Mar	Cosy Corner	Janine Nightingale Corporate Director Communities Tel: 01656 643241 Email: Janine.nightingale@bridgend.gov.uk
9 Mar	Bridgend and District Heat Network - SPV	Janine Nightingale Corporate Director Communities Tel: 01656 643241 Email: Janine.nightingale@bridgend.gov.uk
9 Mar	Revised Contract Procedure Rules	Kelly Watson Chief Officer, Legal, HR and Regulatory Services Tel: 01656 643248 Email: Kelly.Watson@bridgend.gov.uk

7 Apr	Corporate Safeguarding Policy	Claire Marchant Corporate Director Social Services & Wellbeing Tel: 01656 643248 Email: Clairemarchant@bridgend.gov.uk
7 Apr	Specialist Learning Disability Supported Living Framework	Claire Marchant Corporate Director Social Services & Wellbeing Tel: 01656 643248 Email: Clairemarchant@bridgend.gov.uk
7 Apr	Town and Community Council Fund 2021/22	Gill Lewis Interim Chief Officer - Finance, Performance and Change Tel: 01656 643302 Email: Gill.Lewis@bridgend.gov.uk
7 Apr	Bedford Park Local Nature Reserve	Janine Nightingale Corporate Director Communities Tel: 01656 643241 Email: Janine.nightingale@bridgend.gov.uk
15 Jun	Capital Programme Outturn 2020-21	Gill Lewis Interim Chief Officer - Finance, Performance and Change Tel: 01656 643302 Email: Gill.Lewis@bridgend.gov.uk
15 Jun	Revenue Budget Outturn 2020-21	Gill Lewis Interim Chief Officer - Finance, Performance and Change Tel: 01656 643302 Email: Gill.Lewis@bridgend.gov.uk

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COUNCIL FORWARD WORK PROGRAMME - 1 MARCH 2021 TO 30 JUNE 2021

Item	Title of Report	Contact Officer
10 Mar	Revised Contract Procedure Rules	Kelly Watson Chief Officer, Legal, HR and Regulatory Services Tel: 01656 643248 Email: Kelly.watson@bridgend.gov.uk
10 Mar	Amendment to Constitution – Governance and Audit Committee Terms of Reference	Kelly Watson Chief Officer, Legal, HR and Regulatory Services Tel: 01656 643248 Email: Kelly.watson@bridgend.gov.uk
10 Mar	Independent Remuneration Panel for Wales Annual Report	Kelly Watson Chief Officer, Legal, HR and Regulatory Services Tel: 01656 643248 Email: Kelly.watson@bridgend.gov.uk
10 Mar	Educational Facilities and Residential Development SPG	Janine Nightingale Corporate Director Communities Tel: 01656 643241 Email: Janine.nightingale@bridgend.gov.uk

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OVERVIEW & SCRUTINY FORWARD WORK PROGRAMME – 1 MARCH 2021 TO 30 JUNE 2021

Date	Title of Report	Scrutiny Committee	Contact Officer
3 Mar	Budget Monitoring 2020-21 – Quarter 3 Revenue Forecast	Corporate Overview and Scrutiny Committee	Gill Lewis Interim Chief Officer - Finance, Performance and Change Email: Gill.Lewis@bridgend.gov.uk
15 Mar	Blended / hybrid / remote learning including safeguarding (welfare and wellbeing)	Subject Overview and Scrutiny Committee 1	Lindsay Harvey, Corporate Director Education and Family Support Email: lindsay.harvey@bridgend.gov.uk

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BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

9 FEBRUARY 2021

REPORT OF THE CORPORATE DIRECTOR COMMUNITIES

AWARD OF FUNDING IN RELATION TO TRANSFORMING TOWNS: GREEN INFRASTRUCTURE AND BIODIVERSITY GRANT: SUNNYSIDE WELLNESS VILLAGE 2020-2021

1. Purpose of report

- 1.1 The purpose of this report is to seek approval from Cabinet to accept a revised funding offer from Welsh Government and enter into an agreement and associated legal charge with Linc Cymru (Linc) to support the delivery of the Transforming Towns – Green Infrastructure and Biodiversity for the Green Infrastructure elements of the Sunnyside Wellness Village.

2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:-

Supporting a successful sustainable economy – taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions for all people in the county borough.

Smarter use of resources – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

- 3.1 The Transforming Towns - Green Infrastructure and Biodiversity grant forms part of the Welsh Government's Transforming Towns (TT) programme. The TT programme is intended to build on the achievements of the 2014-2017 Vibrant and Viable Places programme, but takes a wider approach to regeneration by including ambitions of the Well-being of Future Generations (Wales) Act 2015 and the priorities identified in Local Well-being Plans and other local and regional plans for enhancing economic regeneration and community well-being.
- 3.2 The TT programme is intended to run until March 2022, and will look to invest in projects which can deliver realistic economic and community outcomes. Bridgend County Borough Council (BCBC) will be looking to deliver these outcomes over the 2020-2021 and 2021-2022 financial years. Applications for funding had to be made by local authorities on behalf of themselves or another public, private or third sector organisation.

3.3 Linc Cymru approached BCBC to ask that an application be made to Welsh Government for Green Infrastructure funding to support the green infrastructure elements of the Sunnyside Wellness Village development.

3.4 The Sunnyside Wellness Village is a proposed integrated social housing, health, and green open space project situated on the edge of Bridgend town centre that is being developed by Linc Cymru. The wider development comprises a new Healthcare Facility and 59 new affordable homes. This regeneration of a high-profile site in the centre of Bridgend aims to contribute towards the development of a vibrant, sustainable local community with multifunctional green spaces. Green infrastructure is a fundamental element of the Wellness Village concept with key features including a communal growing area, natural play area, engineered tree planting, protection and cultivation of existing treescape.

4. Current situation/proposal

4.1 A funding application was submitted for Green Infrastructure funding for the green infrastructure elements of the Sunnyside Wellness Village development in early 2020. BCBC received notification from Welsh Government via an award of funding, dated 25th March 2020, and more recently via a variation letter to this grant award, dated 13th January 2021, that the Green Infrastructure proposals associated with the Sunnyside development have been approved.

4.2 The funding approved for the Green infrastructure elements at the Sunnyside development is £315,268.

4.3 Welsh Government has structured the Green Infrastructure programme in such a way that it requires funding applications to be made by local authorities on behalf of themselves or another public, private or third sector organization. As a result the Welsh Government funding agreement will be directly between Welsh Government and BCBC.

4.4 It is a condition of the Welsh Government funding letter that BCBC must put in place appropriate grant terms and conditions in line with their funding conditions when passing Green Infrastructure funding on to any third party recipient.

4.5 Linc Cymru as developers of the Sunnyside development will be acting as third party recipients to this funding and, as such, BCBC are required to enter into a funding agreement with Linc Cymru.

4.6 The funding agreement will mirror the requirements of the Welsh Government funding agreement and will pass on the obligations contained therein and hold the grant recipients liable for any breach of the terms of the grant funding agreement caused by their default.

5. Effect upon policy framework and procedure rules

5.1 There is no direct impact on the Council's policy framework and procedure rules.

6. Equality Impact Assessment

6.1 It is considered that there will be no negative impacts from this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment Template has been completed by Linc Cymru and a summary of the implications from the assessment relating to the five ways of working is below:

- **Long-term:** The activities that form part of the scheme show a balance of short term needs which also aim to meet the long-term needs. For example, Linc Cymru have outlined that their proposed accommodation elements of are durable and adaptable. In regards the Green infrastructure element, enhanced provision of a variety of measures and activities to improve the air quality and green infrastructure including soft and hard landscaping, natural play features, and community allotments, will broaden access to green infrastructure and improve the quality of the urban environment providing well-being benefits for local people, businesses, the wider community and local third sector organisations. Research shows that access to high quality green space makes a significant contribution to peoples physical and mental well-being including reduced health inequalities, increased community cohesion and improved sense of place both in the short and long term.
- **Prevention:** To prevent problems occurring in the future as well as potential issues worsening, Linc Cymru have engaged with the relevant departments to look at crime prevention and community integration methods for example in the blend of property types proposed. In addition, some of the elements of the project such as social prescribing by GP's can impact on prevention of ill health and minimisation of medical interventions.
- **Integration:** The development will achieve this way of working by recognising the approaches that are proposed for support are those that have been identified by partner organisations due to their synergy with local, regional and national priorities. Additionally, Green infrastructure is an inherently fundamental aspect of the Wellness concept that the development at Sunnyside has been designed to encourage physical activity and social interaction.
- **Collaboration:** The proposals led by Linc Cymru have been developed in partnership with Bridgend County Borough Council, Welsh Government and the Local Health Board.
- **Involvement:** The scheme has been developed in close partnership with a range of local stakeholders. At the planning stage a number of community consultation events were held prior to the formal pre-application process. Moving forward community and resident involvement with the project will become increasingly important to ensure that the public spaces, natural play and communal growing spaces are designed with local people's involvement

8. Financial implications

- 8.1 Welsh Government have awarded £315,268 for the delivery of Green Infrastructure elements associated with the Sunnyside re-development project.
- 8.2 There are no match funding requirements for BCBC in connection with this funding.
- 8.3 If spend exceeds the grant offer value or is incurred in a way not in line with the terms and conditions of the funding, Linc Cymru will be responsible for meeting any additional funding requirements.
- 8.4 The Section 151 Officer will ensure that the grant funding provided is used solely for the purposes outlined in the grant offer letter. Expenditure of the grant will comply with all statutory requirements for accounting and internal audit (including supporting records and all systems of internal checks and control), and will be included with any internal or external audit of the Council's funding.

9. Recommendations

Cabinet is recommended to:

- 9.1 Accept the revised funding letter dated 13th January 2021 in relation to the Transforming Towns: Green Infrastructure and Biodiversity Grant from WG for 2020-21.
- 9.2 Delegate authority to the Corporate Director - Communities, in consultation with the Section 151 Officer and Head of Legal and Regulatory Services, to negotiate and enter into a funding agreement for delivery of the above and to enter into a legal charge with Linc Cymru on the development.

Janine Nightingale
Corporate Director - Communities
29th January 2021

Contact Officer: Laura Willcox, Principal Regeneration Officer

Telephone: (01656) 815203

E-mail: Laura.Willcox@Bridgend.gov.uk

Postal Address: Bridgend County Borough Council, Communities Directorate, Angel Street, Bridgend, CF31 4WB

Background documents:

Green Infrastructure Award Letter dated 25th March 2020
Green Infrastructure Variation Award Letter dated 13th January 2021

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

9 FEBRUARY 2021

REPORT OF THE CORPORATE DIRECTOR OF EDUCATION AND FAMILY SUPPORT

ADDITIONAL LEARNING NEEDS GRANT

1. Purpose of report

1.1 The purpose of the report is to seek approval from Cabinet to enter into an agreement with Rhondda Cynon Taf County Borough Council (RCTCBC), the County Council of the City and County of Cardiff, Merthyr Tydfil County Borough Council and Vale of Glamorgan County Borough Council regarding the Additional Learning Needs Transformation Grant 2020-2021.

2. Connection to corporate well-being objectives/other corporate priorities

1.2 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:

- **Supporting a successful sustainable economy** - taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions for all people in the county borough.
- **Helping people and communities to be more healthy and resilient** – taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.
- **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help to deliver the Council's well-being objectives.

3. Background

1.3 The Additional Learning Needs Transformation Grant 2020-21 (ALN Grant) is a Welsh Government grant-funded scheme to support the delivery of the additional learning needs transformation programme, including the preparation for and management of the implementation of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (ALNET Act).

3.2 RCTCBC, acting as the lead local authority, submitted an application to Welsh Government for the ALN Grant on behalf of Bridgend County Borough Council (BCBC), the County Council of the City and County of Cardiff, Merthyr Tydfil County Borough Council and the Vale of Glamorgan County Borough Council and third party providers (who are further education sector and local health boards in the regions of the councils).

- 3.3 The purpose of the ALN Grant is to support local authorities to develop and promote innovative, multi-agency and cross-sector working practices to support learners with additional learning needs (ALN) in readiness for the implementation of the ALNET Act.
- 3.4 The ALN Grant must be used to support partnerships between local authorities and other agencies involved in supporting learners with ALN such as schools, further education institutes, early years' providers, specialist post-16 providers, local health boards and the third sector.
- 3.5 In December 2019, Cabinet approved entering into a similar agreement on similar terms for the Additional Learning Needs Transformation Grant 2019-2020.

4. Current situation/proposal

- 4.1 The application for the ALN Grant was successful and an award of funding for up to £934,562 was made to RCTCBC as lead local authority which will be allocated to each council in accordance with the ALN Implementation Plan.
- 4.2 As lead local authority, RCTCBC is required to accept the terms and conditions of the ALN Grant as set out in the offer letter from Welsh Government. In order to deliver the project and ensure compliance with the terms and conditions set out in the offer letter, RCTCBC requires the Council, along with the 3 other local authorities listed at section 3.2 of this report, to enter into an agreement in relation to the ALN Grant. This agreement shall set out the roles and responsibilities of the councils and how the funding shall be allocated.
- 4.3 Representatives from the various parties meet on a monthly basis with the ALN Transformation Lead at the ALN Transformation Project Board. During this meeting, the ALN Implementation Plan and grant spend is monitored.

5. Effect upon policy framework and procedure rules

- 5.1 There is no impact on BCBC's policy framework or procedure rules.

6. Equality Impact Assessment

- 6.1 An initial Equality Impact Assessment (EIA) screening has identified that there would be no negative impact on those with one or more of the protected characteristics and an EIA of low priority is considered appropriate at this stage. It is considered that there will be no negative impacts from this report.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 A Well-being of Future Generations (Wales) Act 2015 assessment has been completed. A summary of the implications from the assessment relating to the five ways of working is as follows:

Long-term

Supports the development of training needs and preparation for the implementation of the ALNET Act.

Prevention

The focus of the ALNET Act is meeting needs of learners with ALN at an early stage and preventing situations escalating resulting in needs not being met.

Integration

The integration of all stakeholders is promoted with the introduction of the ALNET Act.

Collaboration

The ALNET Act and the preparation of its introduction promotes places an emphasis on collaboration in order to achieve a person-centered approach.

Involvement

There is diversity concerning the involvement of stakeholders such as schools, parents/carers, Central South Consortium, local health, further education institutes, early years' providers and specialist post-16 providers.

8. Financial implications

- 8.1 The total value of the grant for 2020-21 is £934,562. However, the amount available to local authorities is £809,562 as there is a retained element of £125,000 for the employment of the regional ALN Transformation Lead and associated costs and administration and finance support. The allocation of grant spend for Local Authorities is £248,487 of which BCBC expects to receive £60,885. The remainder of the grant is allocated to Schools, Further Education and Health.
- 8.2 The funding is awarded to RCTCBC as the designated lead authority and on behalf of the Central South Region which also includes Bridgend County Borough Council, the County Council of the City and County of Cardiff, Vale of Glamorgan County Borough Council and Merthyr Tydfil County Borough Council.

9. Recommendations

- 9.1 It is recommended that Cabinet:
 - approves the Council entering into the agreement with RCTCBC, the County Council of the City and County of Cardiff, Merthyr Tydfil County Borough Council and the Vale of Glamorgan County Borough Council regarding the Additional Learning Needs Transformation Grant 2020-2021; and
 - delegates authority to the Corporate Director Education and Family Support to negotiate and agree the final terms of the agreement with the other Councils and enter into and arrange execution of that agreement, subject to such delegated authority being exercised in consultation with the Section 151 Officer and Chief Officer - Legal, HR and Regulatory Services.

Lindsay Harvey
Corporate Director Education and Family Support

09 February 2021

Contact officer: Michelle Hatcher
Telephone: (01656) 815258
E-mail: michelle.hatcher@bridgend.gov.uk
Postal Address Education and Family Support Directorate
Bridgend County Borough Council
Civic Offices
Angel Street
Bridgend
CF31 4WB

Background documents: ALN Transformation Plan

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

9 FEBRUARY 2021

REPORT OF THE CORPORATE DIRECTOR – EDUCATION AND FAMILY SUPPORT

SCHOOL MODERNISATION – BRIDGEND NORTH EAST

OUTCOME OF THE FEASIBILITY STUDY AT BRACKLA HILL

1. Purpose of report

1.1 This purpose of this report is to:

- apprise Cabinet of the outcome of the feasibility study in respect of the proposed relocation and enlargement of Ysgol Gymraeg (YG) Bro Ogwr to the Brackla Hill site;
- seek approval to discount the Brackla Hill site from any future consideration in respect of the YG Bro Ogwr, Band B proposal; and
- seek approval to continue to explore alternative options for the replacement school.

2. Connection to corporate well-being objectives/other corporate priorities

2.1 This report assists in the achievement of the following corporate well-being objectives under the **Well-being of Future Generations (Wales) Act 2015**:

- **Supporting a successful sustainable economy** - taking steps to make the county borough a great place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions for all people in the county borough.
- **Smarter use of resources** – ensure that all resources (financial, physical, ecological, human and technological) are used as effectively and efficiently as possible and support the creation of resources throughout the community that can help deliver the Council’s well-being objectives.

3. Background

3.1 The Band B Strategic Outline Programme (SOP) was submitted to Welsh Government (WG) in July 2017. In October 2017 Cabinet was presented with a report detailing the outcome of the Band B review and gave approval to discontinue the original Band B schemes identified in the November 2010 Cabinet report, and approved the revised Strategic Outline Programme (SOP) and the following projects:

- Bridgend North East (primary)
 - Bridgend South East (primary) – subsequently substituted to Mynydd Cynffig Primary School
 - Bridgend West – Welsh-medium (primary)
 - Bridgend West – English-medium (primary)
 - Bridgend Special School
- 3.2 On 6 December 2017, the WG Department for Education gave ‘approval in principle’ for Bridgend’s second wave of investment, which at that stage had an estimated programme envelope cost of £68.2m. Further costs were to be determined, and these would be associated with additional infrastructure capacity.
- 3.3 In January 2018, Council approved in principle the financial commitment required for Band B of the School Modernisation Programme, subject to sufficient resources being identified and allocated to meet the match funding commitment.
- 3.4 In January 2020, Cabinet was presented with the outcome of the extensive options appraisal relating to each of the approved projects.
- 3.5 Cabinet approval was received to progress an on-site feasibility at Brackla Hill in respect of the preferred education option for the Bridgend North East scheme ie 2.5-form entry (FE) YG Bro Ogwr on the Brackla Hill site.

4. Current situation/proposal

Brackla Hill Feasibility Study

- 4.1 In progressing the feasibility study, the project team commissioned all relevant surveys, which have been analysed by the individual disciplines. Each discipline has had input into the final ‘Brackla Hill - Feasibility Report’. The following is a summary of the key aspects of the findings from the feasibility study.
- 4.2 The most notable advantage of developing the site is the proximity of the site to the existing school and its geographical location (ie able to serve the Bridgend Town and Bridgend North East areas, where there is a growing need for additional school places.
- 4.3 The site offered benefits of an excellent outlook, potential use of the adjacent woodland for teaching and learning, and the benefit of the adjacent school sharing outdoor areas, including sports facilities and the parent drop-off area.
- 4.4 Notwithstanding the potential educational benefits the site offers, there were a number of potential issues identified in developing the site.
- 4.5 In order to develop the site it would be necessary to undertake significant earthworks, which would involve a cut and fill operation. This would impact on the amount of construction traffic associated with developing the site, which

would likely cause significant disruption and inconvenience to residents, the neighbouring school and the Brackla community. This issue alone would ordinarily be enough to cause concern. In addition, the associated costs and time relating to the groundwork package, contamination, and access road would be substantial.

- 4.6 There would be an extensive requirement for retaining walls throughout the site to create relatively level areas for playing fields, playgrounds and general site circulation and access. Ramps and steps will be prevalent throughout the site to deal with any implications in relation to Approved Document M and the Disability Discrimination Act.
- 4.7 The proposals will generate a significant amount of storm water run-off which will need to be attenuated. There is limited opportunity for ponds and swales, so attenuation is likely to be underground storage, which will create additional earthworks, 'muck away' and associated cost.
- 4.8 Any building constructed would in part need to be split-level. This increases both design and construction costs. The design would need to be bespoke with limited opportunities to utilise previous models and methods of delivery. This form of design would also increase the construction period.
- 4.9 The site investigation survey reported a presence of mercury in the ground across the site, which would have a significant impact on development costs. The topography is such that significant earthworks would be required. As this operation would involve the removal of contaminated material, technical officers have advised that this would significantly increase the cost of earth removal. Shared Regulatory Services has reviewed the site investigation report of the site, undertaken by BCBC's consultant Geocon. Soil samples assessed as part of the site investigation indicate subsurface levels of mercury within the soils range from <0.17-3.22 mg/kg. The consultant's assessment of these levels, compared with the current guidance screening criteria for public open space/ parkland of 30 mg/kg confirms that the level of mercury within the soils are well below acceptable levels therefore are not a cause for concern in relation to current use and users of the site.
- 4.10 The proposed junction configuration off Brackla Way to access the site was also an area of concern among technical officers. It is anticipated that the access and junction arrangement would create significant operational difficulties, which cannot be overcome due to the need to access the adjacent school and the constraints of the site itself.
- 4.11 Despite the aim of only using as much of the site as was necessary for the development of the school, with an area of land being retained for use by the community, there would be a significant reduction in the amount of public open space available on the site.

- 4.12 There was significant representation from the Brackla community during the study regarding the potential loss of the Brackla Hill site and the impact that the loss would have on the well-being of the community.
- 4.13 When considering all these factors, it is the recommendation of the project team that the Brackla Hill site is not taken forward for development of the new school. Alternative site options should therefore be explored.

5. Effect upon policy framework and procedure rules

- 5.1 There is no effect upon the policy framework or procedure rules.

6. Equality Impact Assessment

- 6.1 An initial screening has been undertaken for the Bridgend North East project, which established that the project is unlikely to impact disproportionately on any protected group. However, the project will be subject to a full assessment, which will be completed in due course.

7. Well-being of Future Generations (Wales) Act 2015 implications

- 7.1 The Well-being of Future Generations (Wales) Act 2015 Assessment provides a comprehensive summary of the outcomes expected from the implementation of the service.

Long-term	Supports the statutory duty to provide sufficient pupil places and promote the Welsh language.
Prevention	The Council has a statutory duty to ensure there are a sufficient supply of school places, and this scheme will safeguard the Council's position in terms of any potential legal challenge in this regard.
Integration	Should the proposal proceed in the future, construction will be competitively tendered, via a mini competition through the South East and Mid Wales Collaborative Construction Framework (SEWSCAP3) or potential future iterations of the framework. This will potentially provide opportunities for local companies to engage with the main contractor for inclusion in their supply chain, via 'Meet the Buyer' events. This would support economic activity in the area. Community benefits will be maximised.
Collaboration	The local authority would work effectively with schools, Estyn and with the Central South Consortium, health, community councils and many internal and external partners to ensure that the building would meet the short-term and future needs of the users and the community, which it will serve.
Involvement	Key stakeholders have been engaged to inform the feasibility study. Should an alternative option proceed, further engagement

with stakeholders would take place. There would be a full public consultation process undertaken, according to the WG School Organisation Code, should Cabinet determine to proceed with the proposal.

8. Financial implications

- 8.1 In December 2018, Council approved a programme envelope of £71.3m, covering Band B new school builds of £68.2m and potential highways works of £3.1m (the cost of highway works will have to be met in full by the local authority, as there is no match funding from WG). Following subsequent amendments to the capital programme, the current position is that there are budgets of £49.504m for works and £3.4m for infrastructure within the capital programme, with the remaining schemes funded via the revenue funded Mutual Investment Model (MIM).
- 8.2 £12.6m has been allocated in the Capital Programme for this project and the WG intervention rate is 65%. Contractor inflation and the impact of Covid-19 and 'Brexit' may have a detrimental impact on the budget. However, this would be monitored and reviewed regularly throughout the course of the project.
- 8.3 The cost of the feasibility study at Brackla Hill has been funded from the Band B revenue feasibility funding allocation.

9. Recommendations

- 9.1 Cabinet is recommended to:
- note the outcome of the on-site feasibility study in respect of the proposed relocation and enlargement of YG Bro Ogwr to the Brackla Hill site;
 - give approval to discount the Brackla Hill site from any future consideration in respect of YG Bro Ogwr; and
 - give approval to explore alternative options for the replacement school.

Lindsay Harvey
Corporate Director - Education and Family Support

Contact Officer: Nicola Echanis
Head of Education and Early Help

Telephone: (01656) 642611

E-mail: nicola.echanis@bridgend.gov.uk
Postal address: Education and Family Support Directorate
Bridgend County Borough Council
Civic Offices
Angel Street
Bridgend
CF31 4WB

Background documents

None

By virtue of paragraph(s) 14 of Part 4 of Schedule 12A of the Local Government Act 1972.

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