



Item No. 23

Annual Meeting of Council – 13 May 2021

Constitutional Matters 2021-2022

1. Introduction

- 1.1 The Council operates within a legal framework established by the Local Government Act 1972, the Local Government and Housing Act 1989, the Local Government Act 2000, the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, the Local Government (Wales) Measure 2011, Local Government & Elections (Wales) Act 2021 and other relevant legislation (“the legislation”). Additionally, the Independent Remuneration Panel for Wales (IRPW) determines the remuneration available to Councillors and Co-opted Members.
- 1.2 This report seeks to address the requirements of the relevant legislation.

2. Independent Remuneration Panel for Wales (IRPW)

- 2.1 The IRPW Annual Report 2021-2022 www.gov.wales/independent-remuneration-panel-wales sets out “Contribution towards Costs of Care and Personal Assistance (CPA)” and “Payments to Members of Community & Town Councils”. The IRPW Groups each Community Council based on its Income or Expenditure during the previous financial year. Llangyfelach Community Council is in Group C.
- 2.2 Under the Local Government (Wales) Measure 2011, Community and Town Councils are relevant Authorities for the purpose of remuneration. Consequently, individuals who have accepted office as a Member of a Community or Town Council are entitled to receive payments as determined by the Independent Remuneration Panel for Wales. It is the duty of the Proper Officer of a Council to arrange for correct payments to be made to all individuals entitled to receive them.
- 2.3 Community / Town Councillors should receive monies to which they are properly entitled as a matter of course. There must be no requirement for individuals to ‘opt in’ to receive payments.
- 2.4 Under Section 154 of the Local Government (Wales) Measure 2011 an individual may decline to receive part, or all, of the payments if they so wish. This must be done in writing and is an individual matter. A Community or

Town Council Member wishing to decline payments must themselves write to their Proper Officer to do so.

- 2.5 The IRPW made several determinations in relation to “Payments to Members of Community and Town Councils”. A list of these determinations together with brief IRPW guidance is outlined in **Appendix A** of this report.
- 2.6 Council is asked to note the IRPW’s Determination in relation to “Contribution towards Costs of Care and Personal Assistance (CPA)”.
- a) **Determination 41:** *All relevant authorities must provide a payment towards necessary costs for the care of dependent children and adults (provided by informal or formal carers) and for personal assistance needs as follows:*
- *Formal (registered with Care Inspectorate Wales) care costs to be paid as evidenced.*
 - *Informal (unregistered) care costs to be paid up to a maximum rate equivalent to the Real UK Living Wage at the time the costs are incurred.*

This must be for the additional costs incurred by members to enable them to carry out official business or approved duties. Each authority must ensure that any payments made are appropriately linked to official business or approved duty. Payment shall only be made on production of receipts from the care provider.

- 2.7 Council is asked to note / consider each of the IRPW’s Determinations in relation to “Payments to Members of Community and Town Councils”. Llangyfelach Community Council is in Group C.
- a) **Determination 42:** *All community and town councils must make available a payment to each of their members of £150 per year as a contribution to costs and expenses.*
- b) **Determination 43:** *Community and town councils in Group A must make available an annual payment of £500 each to a minimum of 1 and a maximum of 5 members in recognition of specific responsibilities. This is in addition to the £150 payment for costs and expenses. **Note:** Not Applicable as Llangyfelach Community Council is in Group C.*
- c) **Determination 44:** *Community and town councils in Groups B or C can make an annual payment of up to £500 each to up to 5 members in recognition of specific responsibilities. This is in addition to the £150 payment for costs and expenses.*
- d) **Determination 45:** *Community and town councils can make payments to each of their members in respect of travel costs for attending approved duties. Such payments must be the actual costs of travel by public transport or the HMRC mileage allowances as below:*
- *45p per mile up to 10,000 miles in the year.*

- 25p per mile over 10,000 miles.
 - 5p per mile per passenger carried on authority business.
 - 24p per mile for private motorcycles.
 - 20p per mile for bicycles.
- e) **Determination 46:** *If a community or town council resolves that a particular duty requires an overnight stay, it can authorise reimbursement of subsistence expenses to its members at the maximum rates set out below on the basis of receipted claims:*
- £28 per 24-hour period allowance for meals, including breakfast where not provided.
 - £200 – London overnight.
 - £95 – elsewhere overnight.
 - £30 – staying with friends and / or family overnight.
- f) **Determination 47:** *Community and town councils can pay financial loss compensation to each of their members, where such loss has occurred, for attending approved duties as follows:*
- Up to £55.50 for each period not exceeding 4 hours.
 - Up to £110.00 for each period exceeding 4 hours but not exceeding 24 hours.
- g) **Determination 48:** *Community and town councils can provide a payment to the mayor or chair of the council up to a maximum of £1,500. This is in addition to the £150 payment for costs and expenses and the £500 senior salary if these are claimed.*
- h) **Determination 49:** *Community and town councils can provide a payment to the deputy mayor or deputy chair of the council up to a maximum of £500. This is in addition to the £150 payment for costs and expenses and the £500 senior salary if these are claimed.*
- i) **Determination 50:** *Members in receipt of a Band 1 or Band 2 senior salary from a principal council (that is Leader, Deputy Leader or Executive Member) cannot receive any payment from any community or town council, other than travel and subsistence expenses and contribution towards costs of care and personal assistance.*

3. Appointment of Committees, Size of Committee, Membership & Terms of Reference

3.1 Council established the following Committees in 2020-2021:

- Finance Committee.
- Personnel Committee.
- Tenders Committee.

- 3.2 Council is asked to consider whether to re-establish these Committees. If they are to be re-established then consideration is required in relation to the Size of the Committees, the Membership of the Committees, and the Terms of Reference of those Committees. **Appendix B** sets out the details of those current Committees as previously constituted.
- 3.3 It is suggested that the Tenders Committee not be re-established and that the scrutiny and acceptance of tenders and quotes on behalf of the Council be delegated to the Chair of Council, Chair of Finance Committee and Councillor Paul Baker in consultation with the Clerk to the Council.

4. Allocation of Councillors to Outside Bodies

- 4.1 The Outside Bodies that Council Allocated Councillors to and membership of those Outside Bodies during 2020-2021 are outlined in **Appendix C**.
- 4.2 Council is asked to consider the list and to determine whether to re-allocate to these Outside Bodies and to determine who to allocate (if applicable).

5. Council & Committee Meetings

- 5.1 Llangyfelach Community Council Meetings are normally held at **6.00pm on the 2nd Thursday of each month**; however, there meetings are not usually held during August. These meetings are subject to change, but details shall be available on the Council's website. The proposed dates being:

| | | |
|------------------|------------------|----------------------|
| 13 May 2021 | 14 October 2021 | 10 February 2022 |
| 10 June 2021 | 11 November 2021 | 10 March 2022 |
| 8 July 2021 | 9 December 2021 | 14 April 2022 |
| 9 September 2021 | 13 January 2022 | 12 May 2022 (Annual) |

- 5.2 Council is asked to specifically consider the date of the May 2022 Council as it falls just one week after the Local Government Elections on 5 May 2022. Holding a Meeting on 12 May would make it difficult to comply with the three clear working days rule to make the agenda available to Councillors and the public. It is suggested that Council consider holding the meeting either a week later or simply to skip May altogether.
- 5.3 Should Council resolve to establish Committees, then they will be called as required. Details shall be available on the Council's website <https://www.llangyfelachcommunitycouncil.org.uk/>

6. Grant of Delegated Powers to the Clerk - Swansea Council - Planning Applications & Planning Matters

- 6.1 The system for responding to Swansea Council Planning Applications and Planning Matters shall be:
- i) The Clerk forward via e-mail all Planning Applications / Approvals relevant to the Llangyfelach Community Council to the Councillors.

- ii) Councillors be given a period of 5 clear working days to respond to the Clerk.
- iii) The Clerk collates the responses of the Councillors and forwards them to Swansea Council's Planning Team as the formal observations of the Council.

7. Grant of Delegated Powers to the Clerk – Spending & Bank Reconciliation

- 7.1 The Clerk be authorised to make payments providing permission has been given in writing (e-mail) from two of the three following Councillors: Chair of Council, Chair of Finance Committee and Councillor Gareth Sullivan.
- 7.2 Bank Account Reconciliation Reports be sent to all Councillors on a Monthly basis.

8. Recommendations. It is recommended that:

- 8.1 The Independent Remuneration Panel for Wales' Annual Report be noted together with the determinations in relation to Community and Town Councils.
- 8.2 Determination 41 relating to "Contribution towards Costs of Care and Personal Assistance (CPA)" be noted.
- 8.3 Determination 42 for "*All community and town councils must make available a payment to each of their members of £150 per year as a contribution to costs and expenses*" be noted.
- 8.4 Council considers whether to make an annual payment of up to £500 each to up to 5 members in recognition of specific responsibilities. *This is in addition to the £150 payment for costs and expenses. (Determination 44).*
 - 8.4.1 If Council resolve to pay an amount, it will need to determine the number of Members (up to 5) that will be entitled to it and the amount (up to £500) to be paid.
- 8.3 Council considers whether to make payments to each of their Members in respect of travel costs for attending approved duties. (Determination 45).
- 8.4 Determination 46 in relation to overnight stays be noted.
- 8.5 Determination 47 in relation to the ability to pay financial loss compensation at the prescribed rates for attending approved duties be noted.

- 8.6 Council considers whether to provide a payment to the Mayor or Chair of the Council up to a maximum of £1,500 per annum. This is in addition to the £150 payment for costs and expenses and the £500 senior salary if these are claimed. (Determination 48).
- 8.6.1 If Council resolve to pay an amount, it will need to determine the amount (up to £1,500) to be paid.
- 8.7 Council considers whether to provide a payment to the Deputy Mayor or Deputy Chair of the Council up to a maximum amount of £500 per annum. This is in addition to the £150 payment for costs and expenses and the £500 senior salary if these are claimed. (Determination 49).
- 8.7.1 If Council resolve to pay an amount, it will need to determine the amount (up to £500) to be paid.
- 8.8 Determination 50 in relation to payments to Band 1 or Band 2 Senior Salary holders in Principal Councils be noted.
- 8.9 Council considers whether to appoint the Committees Finance, Personnel & Tenders), as listed in **Appendix B**.
- 8.9.1 If Council resolve to appoint the Committees, it will need to determine:
- a) The Number of Allocated Seats on each Committee.
 - b) The Membership of each Committee.
 - c) The Terms of Reference of each Committee.
- 8.10 The schedule of Council Meetings as outlined in the report be agreed. **Note:** Consideration is required in relation to the date of the May 2022 Council Meeting.
- 8.11 Councillors be allocated to serve on Outside Bodies as outlined in **Appendix C**.
- 8.12 The Clerk of the Council be delegated authority to respond directly to Swansea Council in relation to Planning Application & Planning Matters subject to the process outlined in the report being followed.
- 8.13 The Clerk of the Council be delegated authority to make payments providing permission has been given in writing (e-mail) from two of the three following Councillors: Chair of Council, Chair of Finance Committee and Councillor Gareth Sullivan.
- 8.14 The Clerk e-mail the Bank Account Reconciliation Reports to all Councillors on Monthly basis.

Background Papers: None

Appendices:

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|-------------------|--|
| Appendix A | Independent Remuneration Panel for Wales (IRPW) Annual Report 2021-2022 |
| Appendix B | Council, Committees, Number of Allocated Seats & Membership & Terms of Reference |
| Appendix C | Appointment of Councillors to Outside Bodies |

Huw Evans

Clerk to Llangyfelach Community Council

Appendix A

Independent Remuneration Panel for Wales (IRPW) Annual Report 2021-2022

The following table sets out the actions that Community and Town Councils must take annually in respect of each determination that follows.

| Determinations | | Is a decision required by Council? |
|-----------------------|---|---|
| 42 | All community and town councils must make available a payment to each of their members of £150 per year as a contribution to costs and expenses. | No - the payment of £150 is mandated for every member unless they advise the appropriate officer that they do not want to take it in writing. |
| 43 | Community and town councils in Group A must make available an annual payment of £500 each to a minimum of 1 and a maximum of 5 members in recognition of specific responsibilities. This is in addition to the £150 payment for costs and expenses. | Yes – a council must decide how many payments of £500 it will make – to between 1 and 5 members unless they advise the appropriate officer in writing that they do not want to take it. |
| 44 | Community and town councils in Groups B or C can make an annual payment of up to £500 each to up to 5 members in recognition of specific responsibilities. This is in addition to the £150 payment for costs and expenses. | Yes – it is optional to pay it for up to 5 members and, if it is paid, the amount (up to £500) must be decided. |
| 45 | Community and town councils can make payments to each of their members in respect of travel costs for attending approved duties. | Yes – the payment of travel costs is optional. |
| 46 | If a community or town council resolves that a particular duty requires an overnight stay, it can authorise reimbursement of subsistence expenses to its members. | Yes – the payment of overnight subsistence expenses is optional. |
| 47 | Community and town councils can pay financial loss compensation to each of their members, where such loss has actually occurred, for attending approved duties. | Yes – the payment of financial loss allowance is optional. |
| 48 | Community and town councils can provide a payment to the mayor or chair of the council up to a maximum of £1,500. | Yes - the payment to a Civic Head is optional. |
| 49 | Community and town councils can provide a payment to the deputy mayor or deputy chair | Yes – the payment to a Deputy Civic Head is optional. |

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|----|---|---|
| | of the council up to a maximum amount of £500. | |
| 50 | Members in receipt of a Band 1 or Band 2 senior salary from a principal council (that is Leader, Deputy Leader or Executive Member) cannot receive any payment from any community or town council, other than travel and subsistence expenses and reimbursement of costs of care. | No - Members in receipt of a Band 1 or Band 2 senior salary from a principal council (that is Leader, Deputy Leader or Executive Member) can only receive travel and subsistence expenses and reimbursement of costs of care; if they are eligible to claim, and wish to do so. |

Appendix B

Council, Committees, Number of Allocated Seats & Membership 2021-2022 & Terms of Reference

| Body | Seats | Membership / Comments |
|--|--------------|--|
| Council | 9 | <i>All 9 Councillors.</i> |
| Finance Committee Terms of Reference: To consider all matters relating to Finance and to make recommendations to Council. | 9 | <i>All 9 Councillors.</i> <i>Chair: Councillor Phil Crayford.</i> <i>Vice Chair: Chair of Council.</i> |
| Personnel Committee Terms of Reference: i) To oversee the performance of the Clerk. ii) To oversee and monitor the hours and holiday entitlement of the Clerk. iii) To monitor and manage any sickness / absence of the Clerk. iv) To manage any disciplinary or grievance issues (for or against) relating to the Clerk. v) To manage the pay and training of the Clerk. vi) To deal with any other issues referred by the Council. | 3 | 3 Councillors: Chair of Council. Chair of Finance Committee. Councillor Paul Baker. Note: Councillor Paul Baker manages the Clerk on a day-to-day basis. |
| Tenders Committee Terms of Reference: To scrutinise any quotation received and to award the contract on behalf of the Council. | 3 | 3 Councillors: Chair of Council. Chair of Finance Committee. Councillor Paul Baker. |

Appendix C

Appointment to Outside Bodies

| Outside Bodies | Membership / Comments Note: Current Membership is: |
|--|---|
| Community / Town Council Forum | Councillor Phil Crayford & Clerk of Council |
| Llangyfelach Primary School – School Governor (Additional Community Governor) Term of Office December 2017 - December 2021. | Councillor Paul Baker |
| One Voice Wales Meetings including Swansea Area Committee | Councillor Mark Tribe & Clerk of Council |
| South Wales Police Meetings with Representatives of Community Councils including PACT Meetings | Councillor Margaret Boyter / Councillor Mark Tribe |
| Swansea Rural Development Partnership | Councillor Paul Baker |