

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO:	<u>THE CHAIR AND MEMBERS OF THE COUNCIL</u>
SUBJECT:	<u>SPECIAL MEETING OF THE COUNCIL – 7TH</u> <u>FEBRUARY, 2022</u>
REPORT OF:	<u>DEMOCRATIC OFFICER</u>

PRESENT: COUNCILLOR J. HOLT (THE CHAIR,
PRESIDING)

Councillors P. Baldwin
D. Bevan
J. Collins
M. Cross
N. Daniels
D. Davies
G. A. Davies
G. L. Davies
M. Day
P. Edwards
L. Elias
D. Hancock
K. Hayden
S. Healy
J. Hill
W. Hodgins
M. Holland
J. Mason
H. McCarthy, B.A. (Hons)
C. Meredith
J. Millard
M. Moore
J. C. Morgan
J. P. Morgan
L. Parsons
G. Paulsen
K. Pritchard
K. Rowson

T. Smith
G. Thomas
S. Thomas
H. Trollope
J. Wilkins
D. Wilkshire
B. Willis
L. Winnett

AND: Managing Director
Corporate Director of Social Services
Corporate Director of Education
Chief Officer Resources
Head of Community Services
Head of Legal and Corporate Compliance
Head of Organisational Development
Head of Governance and Partnerships
Service Manager – Community Services
Communications and Marketing Manager

ALSO: **Representatives of Audit Wales:**
Mr. Adrian Crompton – Auditor General for Wales
Mr. Derwyn Owen – Director
Mr. David Rees – Governance Manager

<u>No.</u>	<u>SUBJECT</u>	<u>ACTION</u>
---	<p><u>WELCOME</u></p> <p>A warm welcome was extended to the representatives of Audit Wales.</p>	
1.	<p><u>SIMULTANEOUS TRANSLATION</u></p> <p>It was noted that no requests had been received for the simultaneous translation service.</p>	

2. **APOLOGIES**

Apologies for absence were received from Councillors M. Cook, T. Sharrem, B. Summers, Corporate Director of Regeneration & Community Services and Chief Officer Commercial & Customer.

3. **DECLARATIONS OF INTEREST AND DISPENSATIONS**

The following declarations of interest were reported:

Item No. 4 – Report of the Auditor General for Wales – Deficiencies in Blaenau Gwent County Borough Council’s Governance and Oversight Arrangements in Respect of the Council Owned Company, Silent Valley Waste Services Limited

The Members had sought advice from the Monitoring Officer in relation to this item as follows:

Councillor Lee Parsons – would be able to remain and participate in the meeting whilst this item of business was considered and vote on the matter, if required.

Councillor Hedley McCarthy – would take no part in the discussion/consideration of this item.

Councillor Joanna Wilkins – would be able to remain and participate in the meeting whilst this item of business was considered and vote on the matter, if required.

Councillor John Hill – would be able to remain and participate in the meeting whilst this item of business was considered and vote on the matter, if required.

The Leader of the Labour Group raised a query relating to the final two declarations of interest that had been made and wished this to be placed on record. He continued by stating that he clearly understood the reason why the current Board Members were not participating in the meeting and with no disrespect to the other two Members concerned, pointed out that from 2018 one Member had spent 1 year on the Board and the other 2 years on the Board and

during this time they could have discussed this issue as an on-going concern as Board Members and, therefore, could be open to bias.

The Head of Legal and Corporate Compliance (Monitoring Officer) confirmed that she had spoken to the Leader of the Labour Group recently on this point and had discussed this with the Members concerned and had provided full written advice to them in relation to the declarations of interest in respect of the report. She continued by stating that it was important to note, that the two Members did not have a current interest, their interest had ended some time ago. The context of the report was such that there was no criticism or implication of either Member inherent in the report and their state of knowledge was such that it did not give them any special or different knowledge of the matters under discussion.

The Head of Legal and Corporate Compliance advised that both Members were able to discuss the matter and vote without any bias or predetermination. Both had noted their interests for the record and minutes and that being noted, the officer was satisfied that both Members were able to participate and vote, if required on the matter.

Item No. 6 – Waste Transfer Station and Household Waste Recycling Centre

Councillor Lyn Elias – would declare an interest and leave the meeting whilst this item of business was considered.

4. REPORT OF THE AUDITOR GENERAL FOR WALES – DEFICIENCIES IN BLAENAU GWENT COUNTY BOROUGH COUNCIL’S GOVERNANCE AND OVERSIGHT ARRANGEMENTS IN RESPECT OF THE COUNCIL OWNED COMPANY, SILENT VALLEY WASTE SERVICES LIMITED

As detailed in Item No. 3, Councillors L. Parsons, H. McCarthy, J. Wilkins and J. Hill declared an interest in this item.

Consideration was given to the report of the Auditor General for Wales together with the report of the Managing Director.

At the invitation of the Chair, the Managing Director advised that the purpose of the meeting was for Members to consider the report (at Appendix 1) of the Auditor General for Wales on the Deficiencies in

Blaenau Gwent County Borough Council's governance and oversight arrangements in respect of the Council-owned company, Silent Valley Waste Services Limited.

Members were advised that the Auditor General's investigation had commenced in the summer of 2017, when the Council had received a whistleblowing letter raising concerns relating to the Council's oversight of Silent Valley, a company wholly owned by the Council. This correspondence had been brought to the attention of Audit Wales as part of the duties of the Council's Whistleblowing policy and a request had been made for an investigation to be undertaken to examine the concerns raised within the letter.

On 27th January, 2022 the Auditor General for Wales issued the final report (the Report) in the public interest under Section 22 of the Public Audit (Wales) Act 2004. This report provided the findings of the investigation undertaken by Audit Wales for Members to consider and respond.

The Managing Director, thereupon, concluded by outlining the options for recommendation detailed at paragraph 3 of the covering report.

At this juncture, Mr. Adrian Crompton – Auditor General for Wales expressed his appreciation to the Members for the opportunity to address the Council meeting and said that he would make a few brief remarks about the audit report that was due to be considered. Mr. Crompton, thereupon, introduced his colleagues from Audit Wales, Mr David Rees and Mr. Derwyn Owen who were also in attendance at the meeting.

Mr. Crompton said he was sure that Members would have read the report and understood the reasons why the conclusion had been reached i.e. that the oversight and governance arrangements of Silent Valley Waste Services Ltd had been deficient for many years. Whilst he was not planning to go through the report findings and conclusions because the report spoke for itself, he advised that he would explain the:

- Reason why the audit had been undertaken;
- Audit process; and
- Scope of the audit.

Why the Audit had been undertaken:

Mr. Crompton explained that in 2017 the Council had received correspondence from a whistleblower highlighting a number of concerns regarding the oversight and governance of Silent Valley Waste Services Ltd. At that juncture, the Council's then temporary lead Corporate Director requested that an investigation be undertaken by Audit Wales. The Auditor General for Wales' predecessor had considered this correspondence and had reached the view that the concerns were of a serious nature and subsequently, auditors liaised with the whistleblower to seek clarification of the concerns that had been raised. Therefore, the previous Auditor General for Wales had, thereupon, concluded that an audit review should be undertaken because if the concerns were to found to have substance, this would represent significant deficiencies in the Council's governance and oversight of Silent Valley Ltd.

The Audit Process:

Due to the extent of the work required to be undertaken and the level of complexity and legal issues involved, the audit had taken some time to complete.

The purpose of the audit was to discharge the statutory duty set out in the Public Audit Wales Act 2014 to audit the Council's accounts and provide an audit opinion on those accounts. That duty did not simply include examining the transactions and disclosure contained in the accounts but the Auditor General for Wales was required to satisfy that the Council had put in place proper arrangements to secure economy, efficiency and effectiveness in the use of its resources.

The audit team had, therefore, sought to confirm that the Council had established proper arrangements to secure economy, efficiency and effectiveness in the use of public resources through Silent Valley Ltd. The team had analysed a considerable amount of documentary evidence relating to the Council's relationship with the company and had interviewed Council officers to understand the arrangements that had been put in place. This work had identified further concerns and early in 2018 the auditors had decided to consult Gwent Police to ensure that the audit would not prejudice any possible police investigation. In July 2018 Gwent Police

decided to undertake an investigation and the Auditor General put the audit on hold on the advice received from the Gwent Police. As outlined in paragraph 7 of the report, in September 2019 Gwent Police decided not to pursue criminal charges against any individuals and the Auditor General was able to resume the work.

It was pointed out that there were a number of legal issues that had arisen during the course of the audit which related to pensions, procurement, officer remuneration and termination payments and external legal advice was sought on these elements and the findings contained in the report on the issues raised were consistent with this legal advice. In addition, a number of the issues referenced in the report had taken place many years ago and had provided significant audit challenges in terms of locating relevant documentation and, therefore, had resulted in a reliance on the memories of those involved and had resulted in a complex and lengthy clearance process. It had, therefore, been necessary to share extracts of the draft copy of report with numerous individuals to seek their comments, inviting them to identify factual inaccuracies and seeking additional evidence they felt should be considered. In a number of cases recollection of the events had differed significantly.

Mr. Crompton advised that the process had been a thorough and comprehensive one but more protracted than originally anticipated.

Scope of the Audit:

The Auditor General's report was concerned about the adequacy of the Council's governance and oversight arrangements in respect of Silent Valley and had not sought to conclude on Silent Valley's performance or whether Silent Valley provided value for public money. The reason for this was because the Auditor General was not Silent Valley's auditor and his statutory remit did not allow him to carry out an audit of Silent Valley's performance. Whilst there was a case, the Auditor General had concluded that there were long standing deficiencies in the Council's governance and oversight arrangements in respect of Silent Valley and this was different to drawing any conclusion on the company's performance and whether it did or did not provide value for money.

Mr. Crompton concluded by acknowledging the steps taken by the Council since the audit commenced to establish much improved governance and oversight arrangements in respect of Silent Valley

and acknowledged the leadership of the Council's Managing Director in this matter.

Members of the Council were thereupon provided with the opportunity to comment and raise questions in respect of the Auditor General's report.

The Leader of the Labour Group commented that this was an extremely lengthy report (78 pages) which had been produced following a lengthy investigation of 4.5 years. However, there was no doubt that the report contained the most unacceptable revelations of behaviour seen by this Council in decades. The actions in the report by senior officers of Council were appalling and demonstrated that the behaviour had gone on for years and said he felt that Silent Valley had been used as a 'gentleman's club' or exclusive 'meal ticket' for the most senior of officers and those officers had displayed behaviours that could be described in his opinion as self-serving, greedy and as outlined in the report, deceptive.

It was important to remember that at that time frontline service workers at Silent Valley were earning less than the minimum wage. There was a litany of misdemeanours which included remuneration payments, appointments being fundamentally flawed, flawed processes that had led to liabilities for the Council, an unlawful resolution by the Executive, breach of pension regulations, legal advice that had been ignored and officers accruing higher pensions benefits than they were entitled to.

These were officers from the highest tiers of the organisation i.e. directors, chief executives and chief finance officers who Members relied on to prepare professional reports for consideration and for Members to take essential decisions on. The situation around the job advertisement and appointment that followed he felt was the final humiliation for the Council and if ever there was a situation that warranted the phrase of 'jobs for the boys' this surely was it.

The Leader of the Labour Group said that both opposition groups felt that there were too many unanswered questions arising out of the report and concurred with paragraph 11 of the report that the Council should be satisfied that the culture and deficiencies contained in the audit no longer persisted. However, both opposition

groups had major concerns that these did persist and intended to propose an alternative recommendation at the appropriate juncture.

Mr. Crompton said that the Member had made some important points in respect of the report which, had described a sequence of events that occurred over a protracted period of time that were of a serious nature. He encouraged Council to focus on the broader question of the environment and culture that had clearly existed at that time and which had allowed the actions and behaviours to take place.

He continued by stating that he applauded the actions of the Council to improve governance and oversight arrangements of Silent Valley but the single recommendation contained in the report was a much broader one i.e. that the Council satisfy itself that the factors that contributed to that environment and culture over such a long period of time no longer existed and had taken all necessary steps ensure that the governance and oversight of those arrangements at present and in the future were far stronger.

A Member commenced by stating that although he had been made aware and had concerns for a number of years regarding the matter, he was both surprised and disappointed with regard to the contents of the report. He continued by explaining that he had chaired a meeting of the Audit Committee on 12th September, 2017 when the then Audit Wales representative at that time had advised that a particular report required further investigation and he had challenged this. It was noted that at the time, not all Members had been aware that there was an investigation being conducted.

The Member said that he had served over 30 years in public life and during that time had maintained his reputation and standards. However, he expressed his concern and could not comprehend at the time that those individuals who were employed in public life and were under investigation by the Police had not been suspended until those investigations had concluded. He expressed his personal concern that he felt public standards were slipping in Wales and said that Members were 'lay' people who represented their communities and depended on senior officials and senior Council officers for advice and support.

Following the Audit Committee, the Member advised that both he and the then Chair of the Audit Committee had met with then Audit

Wales representative and Chief Officer Resources three times requesting a letter from Audit Wales to confirm that the on-going issues and investigation had no reflection on him as Chair. The Member concluded by stating that the report was very damaging and he did not want to be classed as one of the people with 'noses in the trough' but unfortunately, this seemed to be the reputation that Blaenau Gwent was developing.

Another Member advised that these issues had been happening for a number of years under all administrations. He pointed out that on an annual basis Audit Wales audited the Council and expressed his concern that over this period of time there was no indication of an audit into the TECKAL compliant company. In addition, at the time when a full analysis of the authority was also undertaken by Pricewaterhouse Coopers, there was also no mention of these issues either and the Member said that he was unable to comprehend how these issues had not been highlighted.

He continued by stating that the principal concern was that there were on occasions vast profits being generated but no-one had received any of these benefits and there were no signs of a dividend being paid back to shareholders including the major shareholder of Blaenau Gwent County Borough Council. The Member concluded by asking how these issue had not been highlighted at the time that Audit Wales was auditing the activities of the Council.

Mr. Crompton advised that he was not the auditor for Silent Valley itself, the company had appointed its own external auditors. He was the auditor for the Council and the accounts of Silent Valley were consolidated each year into those of the Council as a group but with a turnover for Silent Valley of only around £1m, the financial significance was relatively small in the scheme of Blaenau Gwent's expenditure as a whole and the audit of the group accounts focussed on higher value areas. This illustrated a fundamental point i.e. that Audit Wales and audit profession generally should not be seen as the safeguard that protected any public body from these actions and behaviours. The internal governance and oversight that an organisation put in place was the first line of defence to ensure that this situation was avoided.

Mr. Crompton said that it was with regret that the audit had taken so long to report but this was for all the reasons explained earlier and once the audit had commenced it had been extremely complex and

was a long standing chain of events with a considerable amount of legal issues and sensitivities attached. The key was the oversight and governance that the authority had in place at the time and this should have been the major safeguard for the public and organisation to rely on in order to avoid the chain of events that the report detailed.

The Member expressed his appreciation to Audit Wales for the work undertaken to investigate the concerns raised by the whistleblower.

Another Member said that this was a long and detailed account and advised that he had struggled and found it a little confusing as a new Member in his first term of office, with identifying some of the individuals named in the associated report. Whilst page 112 had provided details, he requested that if at all possible, if Members could be provided with details of timescales of employment in order that a better understanding could be gained.

Mr. Crompton sympathised with the Member as there were a number of posts detailed in the report and advised that a short note would be provided to cover those points.

The Leader of the Labour Group said that the audit had revealed that there needed to be a distinction between roles and referred to an earlier point with regard to chief officers and directors who clearly had information but that it was obvious that information had not been provided to Members.

The Leader of the Labour Group at this juncture posed a number of questions which were responded to as follows:

In reply to a question, the Managing Director confirmed that the whistleblowing letter had been received in August 2017 and as outlined in the Council's Whistleblowing Policy was required to remain confidential and not be disclosed. Therefore, this correspondence had not been provided to Members as part of the information pack.

The correspondence had been sent to the Corporate Director of Strategy Transformation and Culture in August 2017 at which point he was also interim Head of Paid Service. Copies of the letter had also been sent to Unison, the Leader and Deputy Leader of the Council.

The Leader of the Labour Group continued by referring to paragraph 33 of the report and the process in relation to the appointment of a former Chief Executive and paragraphs 35 and 43 containing Councillor McCarthy's statement and former Councillor Welch's statement. He pointed out that he was not challenging the Audit Wales conclusion because making an appointment without Council approval was wrong.

A statement had been made that the two Executive Members at the time were acting on behalf of Council upon instruction of and in consultation with the Council Leadership and Corporate Management Team and asked whether Audit Wales had followed the natural progression to ascertain what the Member and former Member statements were correct.

Mr. Rees in response advised these events that had occurred many years previously and there was not necessarily a consistent view of how things were operating at the time and were far too long ago to reach a definitive conclusion.

The Leader of the Labour Group stated however, it had not been too far long ago to mention the two Members who in his opinion had provided straightforward and clear responses. When the Members had attended the meeting there had been embarrassment and anger from the Board. These Members were envoys sent on behalf of Council carrying a message and he could not understand the reason why the Leadership of the Council had not been approached to ascertain the truth.

Mr. Rees advised that the report did not dispute the accounts of the two Members in terms of what had happened. With regard to approaching the Council Leadership it had not been the same Council Leadership in post in 2020/2021 as at the time the events had occurred. Essentially it was based on the reflections of individuals who had long since left the Council.

Councillor P. Edwards joined the meeting at this juncture.

The Leader of the Labour Group advised that it had been the same Council Leadership and the one Member was currently Leader of the Council and at the time the events had occurred had been Deputy Leader of the Council and he would be able to qualify what

the Members had stated was correct. There was a deep sense of unfairness that these two Members had been mentioned within the Audit report for doing nothing wrong – they had only acted on orders by the Chief Executive and Leader at the time and no-one had asked the Leader of the Council to confirm if this was true.

Mr. Rees reiterated that the report did not dispute the Members accounts. The point that was being made was that the decision to appoint the former Chief Executive which was a matter for Full Council had not been taken until after he had been appointed. The report explained the detail and circumstances of how this happened and did not suggest that the reports provided by the Members were inaccurate. Neither of the Members referred to had suggested that the Leader of the Council be contacted regarding their account of these events.

At this juncture, the Chair sought guidance from the Monitoring Officer regarding the naming individuals and protocol around this.

The Head of Legal and Corporate Compliance advised that she was monitoring the debate and no-one had been named so far that had not already been named in the report. Some individuals by virtue of their job titles at that time could be identified but reiterated that no-one had been mentioned that had not been named in the report and asked Members to continue to respect this.

In reply to a question regarding paragraph 115 of the report which referenced the restructuring of the constitution of Silent Valley, Mr. Rees confirmed that the Council's legal advisors had provided a draft report to be considered by Members of the Council which set out the options for the restructuring of Silent Valley. The initial report had been drafted by the Council's legal advisors and then subsequently, amended and further iterations produced by Council officers.

The Leader of the Labour Group expressed his concern regarding these further iterations of the report and pointed out that there had been a persistent rumour circulating in the last year that chief officers at Blaenau Gwent had removed information from the report (which stated that directors were not required to be paid) prior to it being considered by Members and asked whether the audit had highlighted information in this regard.

Mr. Rees advised that the initial report from the Council's legal advisors had clearly set out that it was possible for remuneration to be paid but he was not aware of any particular or specific officer that had requested anything to be added or removed on that point.

The Leader of the Labour Group expressed his concern that the fact 'possible to pay' was not contained in the report. He had worked with these officers to bring the Council through a period of austerity and make improvements (August 2013) and said he was unable to comprehend the actions of officers that he had been working with at that time.

Mr. Rees clarified a point regarding the question that had been raised regarding the first draft of the report produced by the Council's legal advisors and advised that in respect of remuneration the only reference to remuneration was a statement under the report section 'governance' i.e. that there needed to be a limitation on remuneration of directors should those be Council Members. The first draft of the report had been produced by Council's legal advisors at end of 2011. Those legal advisors were also working in conjunction with Bevan Brittan and financial advisors.

The Leader of the Labour Group continued by stating that the Auditor General was correct in his findings, clearly good governance and culture was needed. The lead officer mentioned in the report had started the process of modernising the Council. Whilst he acknowledged that actions had been taken to address the findings of the report, in his opinion standards had slipped again and he alluded to the next report on the agenda relating to the future of Silent Valley. He pointed out that a Working Group had been established to steer discussion and look at options for Silent Valley but expressed his concern that the Corporate Director whose name appeared in the Auditor General's report had been appointed to that Working Group. He expressed his concern regarding this course of action whilst the Auditor's General's report was awaited and felt that the Council was reverting back to a bad culture.

The Managing Director clarified that this Working Group did include a number of officers including the Corporate Director of the service concerned and if a major report on future of a delivering service was brought forward and professional officers were not involved in that piece of work, Members would have found this very strange. The Managing Director confirmed that the work of that group had

concluded well before the Auditor General's report had been received. It was pointed out that the Managing Director had chaired that Working Group in early days and latterly it had been chaired by the Chief Officer Resources and the Council's most senior financial and legal advisors were also appointed to that group together with colleagues from the trade unions.

The Managing Director concluded by advising that the governance support for that piece of work had been robust and she did not accept on a professional basis the comments relating to the inclusion of the one individual and reiterated that the work of the group had concluded before the Auditor General's report had been received.

The Leader of the Labour Group continued by stating on 16th October, 2017 the Managing Director had taken up her position with the Council and had been requested to produce a senior management structure by March 2018. This comprehensive report which had been presented to Council on 22nd March, 2018 contained a number of positive facets and contained details of future areas of service delivery. In total, 34 Members had been present at that meeting and paragraph 4.2 outlined savings proposals to enhance the senior management review. Amongst those proposals was the flexible retirement of the Chief Finance Officer which included a very attractive package including a locked in pension, an annual payment and flexible retirement, being employed in a different role in the authority.

The original letter from the whistleblower had been shared with the Leader who had attend the Council meeting in March 2018 when the senior management review proposals had been considered and agreed. No other Member at that time was aware that the individual who was proposed for flexible retirement had been involved in these allegations. The Leader of the Labour Group said that he had grave concerns that this decision had not been safe and believed if Members had been made aware of these allegations this decision could have potentially been different. He reiterated that he felt that information had not been shared with Members, the Leader had made no comment at the time and he had personally voted in good faith – this highlighted the culture within Blaenau Gwent at that time.

Another Member said that Council had waited a considerable amount of time for this report and said that it should be accepted in

its entirety. He pointed out that whilst the past could not be changed, improvements had been made and this was an opportunity to move forward.

The Managing Director at this juncture confirmed the following points for factual accuracy in terms of the timeline of events. The whistleblowing complaint letter had remained confidential and very few people had had sight of this information as outlined in the Council's Whistleblowing Policy. There were a number of positions and individuals named in the letter but the majority of whom had not appeared in the final report from Audit Wales because there had been no substance in the allegations made against them. In referring to the decisions that had been made during 2018, she pointed out that this was in the early days of the investigation and the Council did not know what the outcome of the investigation would be and, therefore, conclusions were unable to be drawn or assumptions made at that stage because the information had not been available.

The Leader of the Labour Group reiterated that at the time of the Council meeting at the end of March 2018 this inquiry had commenced and Gwent Police had been consulted and the wise course of action would have been to have to remove and defer that element of the report because the full information had not been made available to Members.

Following a lengthy discussion when concern was expressed regarding previous decisions that had been made without full information being made available to Members and the culture within the organisation, the Leader of the Labour Group pointed out that there had been no internal investigation as the report had indicated and said in order to correct and address these issues on a permanent basis, he on behalf of both opposition groups proposed that a full internal Council investigation into these events be undertaken and the findings be reported back to Council accordingly. This proposal was seconded.

The Leader of the Council said that he could not foresee any Member differing with the additional proposal submitted by the Leader of the Labour Group but said that there were firm recommendations within the report that needed to be considered. However, before he did so, said that it was disappointing to read the unpalatable content of the Auditor General for Wales' report and he

offered no dispute or mitigation for anything that was contained in that with regard to overall and detail conclusions in the report. He agreed with the Leader of the Labour Group's opening remarks and said there was no need for any repetition of that. It was highly disappointing when consideration was given to the calibre of officers who had been referred to and indeed the trust and faith that Members put in them.

He was sure that officers and Members and the public would draw their own conclusions regarding the concerns clearly articulated together with the issues identified over such a protracted period of time that were contained within the report. It did offer some comfort that the report recognised that since 2017 the Council taken action to address the deficiencies in the oversight and governance of Silent Valley and he believed the Council was in a much more resilient position in dealing with such arrangements and the relatively recent experience of how the Council dealt with a review of the Aneurin Leisure Trust bears good example to that but he was firmly of the opinion that these arrangements had to be tested.

The Leader of the Council, thereupon, proposed that the formal recommendations contained within the report be approved as follows:

- The contents of the Report of the Auditor General for Wales "Deficiencies in Blaenau Gwent County Borough Council's governance and oversight arrangements in respect of the Council Owned company, Silent Valley Waste Services Limited" (the report) be agreed.
- The recommendation within the report be agreed, namely that:

'The Council should commission a review to seek assurance that its governance and oversight arrangements in respect of other companies in which it had an interest were adequate and effective, and that the deficiencies identified in the report were not more widespread'.
- The Managing Director be authorised to prepare a written response, to be agreed with the Auditor General, to be published in a local newspaper as required under the Public Audit (Wales) Act.

In addition, given the significance of the report of the Auditor General for Wales and relative to the recommendation that Council should commission a review of its governance and oversight arrangements in respect of other companies, the Leader of the Council proposed the following additional recommendation:

- Appropriate Council officers meet with Audit Wales with a view to jointly determining the approach and scope of commissioning the review in order to ensure it was acceptable to all concerned. The findings of this review be reported back via the democratic process.

Upon a vote being taken it was unanimously,

RESOLVED, subject to the foregoing, that the report be accepted and

- The contents of the Report of the Auditor General for Wales “Deficiencies in Blaenau Gwent County Borough Council’s governance and oversight arrangements in respect of the Council Owned company, Silent Valley Waste Services Limited” (the report) be agreed.
- The recommendation within the report be agreed, namely that:

‘The Council should commission a review to seek assurance that its governance and oversight arrangements in respect of other companies in which it had an interest were adequate and effective, and that the deficiencies identified in the report were not more widespread’.

- Appropriate Council officers meet with Audit Wales with a view to jointly determining the approach and scope of commissioning that review in order to ensure it was acceptable to all concerned. The findings of this review be reported back via the democratic process.
- The Managing Director be authorised to prepare a written response, to be agreed with the Auditor General, to be published in a local newspaper as required under the Public Audit (Wales) Act.

	<ul style="list-style-type: none"> - A full internal Council investigation be undertaken into the events referred to and the findings reported back to Council accordingly. <p>The Chair expressed appreciation to the representatives of Audit Wales for their contribution and attendance at the meeting.</p>	
---	<p><u>ADJOURNMENT</u></p> <p>At this juncture the meeting adjourned and resumed at 11.20 a.m.</p>	
5.	<p><u>EXEMPT ITEM</u></p> <p>To receive and consider the following report which in the opinion of the proper officer was an exempt item taking into account consideration of the public interest test and that the press and public should be excluded from the meeting (the reasons for the decisions for the exemption was available on a schedule maintained by the proper officer).</p>	
6.	<p><u>WASTE TRANSFER STATION AND HOUSEHOLD WASTE RECYCLING CENTRE</u></p> <p>Councillor Lyn Elias declared an interest in this item and left the meeting whilst it was under discussion.</p> <p>Having regard to the views expressed by the Proper Officer regarding the public interest test, that on balance, the public interest in maintaining the exemption outweighed the public interest in disclosing the information and that the report should be exempt.</p> <p>RESOLVED that the public be excluded whilst this item of business is transacted as it is likely there would be a disclosure of exempt information as defined in Paragraph 14, Schedule 12A of the Local Government Act, 1972 (as amended).</p> <p>Consideration was given to the joint officers' report.</p>	

The Managing Director commenced by bringing to Members' attention to correspondence that had been received from the General Manager of Silent Valley Waste Management Ltd on behalf of the Board raising objections to the report. Whilst this correspondence had been received at a late stage and officers had not yet had the opportunity to consider it, the Managing Director proposed that the report continue to be presented for decision. The Executive Member for Environment supported this proposal.

The Managing Director continued by advising that Members had received briefings on the matter a few weeks previously and the report had also been considered at the Community Services Scrutiny Committee. She thereupon presented in detail the key issues as set out in the report which included the scope and background together with the options for recommendation.

The Chief Officer Resources at this juncture outlined in detail the budgetary implications of the review and the costs associated with each of the options.

Members were advised that the preferred option was option 3.

The views of Members were, thereupon, sought (summarised below) and were responded to by the Managing Director, Chief Officer Resources, Head of Community Services and Head of Legal and Corporate Compliance.

- It was pointed out that some Members of the Scrutiny Committee had felt that the report should be deferred until the next administration pending preparation of a robust and detailed business plan
- Grave concerns were expressed regarding bringing the services back in house under the current organisational structure and details were provided of appointments to other organisations that were held on record at Companies House. The Auditor General for Wales' report had been damning and a full open and transparent internal investigation needed to be undertaken before any action was taken to bring the services back in house.

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| <ul style="list-style-type: none">- Concerns were raised regarding the financial implications this proposal would have on the Council and which could potentially in future be borne by the residents. | |
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Councillor Mandy Moore left the meeting at this juncture.

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| <ul style="list-style-type: none">- In reply to a question regarding the operation of the Regional Wood Facility at the site, the Head of Community Services clarified the status of the land ownership and the leasing arrangements that were currently in place and potential arrangements that could be established in the future to ensure project opportunities would not be lost.- A Member said that a business case needed to include how the site could be brought forward as an operational project and expressed his concern regarding the potential costs of bringing the services back in house.- Members felt that they were not in receipt of all relevant information and requested a copy of the late correspondence that the Managing Director had referred to earlier in the debate.- Agency staff were currently employed by Silent Valley and a Member asked whether these staff would be subject to TUPE or would they be redeployed. | |
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The Chief Officer Resources confirmed that agency staff did not form part of the permanent establishment and would, therefore, not have TUPE rights. Only permanent current employees were protected under the TUPE arrangements and would be eligible to TUPE across to the employment of the Council, if they wished.

The Member referred to the current situation where people were struggling with cost of living pressures and said that he could not support any proposal that would lead to job losses.

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| <ul style="list-style-type: none">- A business plan should include detailed costings and the decision should be deferred until the next administration. Concern was also expressed regarding the future of the New Vale HWRC facility. | |
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Following a lengthy discussion, Members of the Labour Group proposed deferral of the report because due diligence on the matter could not be undertaken until:

- The internal Council investigation had concluded (this course of action had been agreed as part of the previous item);
- Members had been provided with copies of all relevant information including the late correspondence;
- Preparation of a Business Plan to sit alongside the Transition Plan; and
- The report and relevant information be considered by the new administration.

The Managing Director advised that Members were in receipt of all relevant information (apart from the late correspondence) and whilst she was not recommending deferral of the report, if Members felt it was important to peruse a copy of the letter Members had the option to defer the item.

The Head of Legal and Corporate Compliance advised that the letter contained no information that had not been previously raised and was taking issue with the process followed including the consultants' methodology used to undertake the piece of work. Therefore, it was advised that there was no new relevant information being put forward in the letter which would prevent Council from taking a decision on the report.

The Leader of the Labour Group referred to the opinion of Head of Legal and Corporate Compliance and said that Members should be free to decide for themselves whether the material should be considered and he, thereupon, proposed the following **amendment**:

- **That the report be deferred pending receipt of the detailed information (outlined earlier in the debate) and the item considered by the new administration.**

This amendment was seconded.

A Member asked that it be recorded that Members of Council had put forward a desire and request to be in receipt of the information referred to but the request was denied.

The Executive Member for Environment, thereupon, **proposed that:**

- **Option 3 be approved with the caveat that a Business Plan be prepared alongside the Transition Plan. This proposal was also seconded.**

A recorded vote was, thereupon, requested.

In Favour of the amendment to defer the report – Councillors P. Baldwin, D. Bevan, M. Cross, P. Edwards, K. Hayden, M. Holland, H. McCarthy, J. Millard, J. C. Morgan, K. Pritchard, T. Smith, S. Thomas, H. Trollope, D. Wilkshire, B. Willis and L. Winnett.

Against the amendment to defer the report – Councillors J. Collins, N. Daniels, D. Davies, G. A. Davies, M. Day, S. Healy, J. Hill, W. Hodgins, J. Holt, J. Mason, C. Meredith, J. P. Morgan, L. Parsons, G. Paulsen, K. Rowson, G. Thomas, J. Wilkins.

The vote on the amendment was not carried.

As none of the Members that had voted against deferral of the report were opposing the preferred option (3) a further vote was not required.

Option 3 (preferred option) was, thereupon, carried.

RESOLVED, subject to the foregoing, that the report which related to the financial and business affairs of any particular person (including the authority) be accepted and Option 3 be agreed, namely that:

- The services be brought back in-house and the winding up of the company named therein.
- A transition plan be prepared by end of March 2022 to ensure the transition of services was managed correctly and that appropriate management arrangements were put in place.
- Engagement of external specialist support to work with the Council to develop the transition plan.
- In accordance with the Shareholders' Reserved Powers contained within the Articles of Association, a special resolution (to be agreed at full Council in its capacity as sole shareholder of the Company) be served upon the Company instructing the

	<p>Directors of the Company to work with the Council to ensure co-operation and progress in two areas:</p> <p>(i) In the timely publication of the pending Audit Wales report.</p> <p>(ii) During the transition period, any use of the Company's provisions and reserves would require agreement of the Council.</p> <ul style="list-style-type: none"> - Additional costs be built into the Council's Medium Term Financial Strategy (MTFS) and agreed budget from 2022/23 onwards. It was estimated that this would be £390,000 for 2022/23 increasing to £673,000 in 2023/24, prior to cost mitigation opportunities. - A Business Plan be developed alongside the Transition Plan. 	
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