

County Hall  
Rhadyr  
Usk  
NP15 1GA

11<sup>th</sup> March 2014

**Notice of Meeting:**

**Democratic Services Committee**

**Monday 17<sup>th</sup> March 2014 at 2.00pm  
Council Chamber, County Hall, Usk**

**AGENDA**

1.	Apologies for absence.
2.	Public Open Forum.
3.	Declarations of Interest.
4.	To confirm and sign the minutes of the Democratic Services Committee dated 2 <sup>nd</sup> February 2014 (copy attached)
5.	Reports from Head of Democracy and Regulatory Services (copies attached):  i) Support for Members with Caring Responsibilities ii) Individual Member review and development
6.	Update on the Review of Constitution from the Monitoring Officer (copy attached)
7.	Work Programme (copy attached)
8.	To note the date and time of the next meeting:  • Monday 28 <sup>th</sup> April 2014 at 4.00pm.

**Paul Matthews**

**Chief Executive**

# Democratic Services Committee Membership

**Councillors:** D. Blakebrough  
P. R. Clarke  
D. L. Edwards  
D. Evans  
R.G. Harris  
A. Easson  
S.G.M. Howarth  
P. Jones  
S. Jones  
J.L. Prosser  
V.E. Smith  
S. White

## *Connecting with people*

### **Our outcomes**

The Council has agreed five whole population outcomes. These are *People in Monmouthshire will:*

- Live safely and are protected from harm
- Live healthy and fulfilled lives
- Benefit from education, training and skills development
- Benefit from an economy which is prosperous and supports enterprise and sustainable growth
- Benefit from an environment that is diverse, vibrant and sustainable

### **Our priorities**

- Schools
- Protection of vulnerable people
- Supporting enterprise, job creation and entrepreneurship

### **Values**

- \* **Openness:** we aspire to be open and honest to develop trusting relationships.
- \* **Fairness:** we aspire to provide fair choice, opportunities and experiences and become an organisation built on mutual respect.
- \* **Flexibility:** we aspire to be flexible in our thinking and action to become an effective and efficient organisation.
- \* **Teamwork:** we aspire to work together to share our successes and failures by building on our strengths and supporting one another to achieve our goals.

**Minutes of the meeting of the Democratic Services Committee held at County Hall, Usk on 3<sup>rd</sup> February 2014 at 2.00 p.m.**

**PRESENT:** County Councillor D. Evans (Chairman)

County Councillors: D. Blakebrough, D.L. Edwards, R.G. Harris, A. Easson, S.G.M. Howarth, P. Jones, J.L. Prosser and V.E. Smith.

**OFFICERS IN ATTENDANCE:**

Mrs. T. Harry - Head of Improvement and Democracy  
Mrs S. King - Democratic Services Officer

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were received from County Councillors P.R. Clarke, S. Jones and S. White.

**2. PUBLIC OPEN FORUM**

There were no members of the public present.

**3. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**4. CONFIRMATION OF MINUTES**

We resolved that the minutes of the meeting of the Committee held on 16<sup>th</sup> December 2013 be confirmed as a correct record and signed by the Chairman.

It was agreed that action points would be highlighted in **bold** print.

**5. WALES CHARTER FOR MEMBER SUPPORT AND DEVELOPMENT**

We received a report, prepared by the Democratic Services Manager, which informed the Committee of the WLGA's Wales Charter for Member Support and Development and to benchmark Monmouthshire against the Charter criteria.

The report recommended that the Democratic Services Committee draw up proposals for member development and support in line with the "Wales Charter for Member Support and Development".

Information was appended to the report, which identified the position of Monmouthshire County Council in relation to recommendations within the charter

**Minutes of the Democratic Services Committee  
dated 3<sup>rd</sup> February 2014 - continued**

and members were invited to discuss further progress, in terms of taking forward the charter in areas that are not currently addressed.

During discussion the following points were noted:

- Training and Development scheme for members. Some role descriptions in place i.e. executive/chairs of scrutiny – need to develop roles for audit and licensing, all members should have a role description and personal development/training plan.
- Discussions were required among members for how training would be undertaken.
- Recognised the charter was a benchmark for achievement. Issues raised in relation to resource implications, members courses/conferences budget. The charter would have increased training demand, possible increased charges, challenge whether it can be accommodated. **Requested information on the members training budget. How much is the budget? How much used to date and what is it used for? Information would be circulated to members.**
- Personal development, usually undertaken by line manager, needs to be someone competent of what's required in a councillor. It was suggested that the Head of Improvement and Democracy would be the appropriate person, as recommended within the Measure.
- Training had been provided, such as code of conduct, licensing, planning etc. and seminars/briefings had been held throughout the year. Subscriptions are available Can subscribe to WLGA and training provided as overall subscription.
- It was suggested that as well as chairs, training was provided for vice chairs. Personal profiles were welcomed and attendance at training needed to be addressed. However, it was recognised that members could not be forced to attend training, but would assist in undertaking roles to the best of their ability. Group leaders could assist in identifying training requirements.
- The Charter would assist in raising awareness amongst members and officers were thanked for assistance in getting required information to members. It was noted that a paper telephone directory did not exist.
- It was highlighted that the charter was an example of good practice and there was a requirement to keep up to date with annual reports and member development, to ensure robustness on a democratic basis.
- There was a requirement for new councillors to be aware of duties that are involved in the role and this could be included within the application package. Councillor roles and job descriptions needed further detail and information.
- Concerns were expressed in relation to available support for undertaking duties.
- Discussions were held regarding printing facilities and a member's library. It was agreed that the shelves outside the Council Chamber could be used as a member library.
- **It was agreed that it would be proposed at full Council that meetings were not held within school half term holidays.**

**Minutes of the Democratic Services Committee  
dated 3<sup>rd</sup> February 2014 - continued**

We resolved to agree the recommendations and to aspire to Charter status. The Democratic Services committee would debate and decide the priorities (at the next meeting), in order to draw up proposals to be submitted to a future meeting of full Council.

**We resolved that the Wales Charter for Member Support and Development would be added to the work programme.**

## **6. ICT PROVISION FOR MEMBERS**

We received the revised ICT scheme for members which had been approved at the Democratic Services Committee meeting in September 2013.

The committee were advised that the Democratic Services Team were the first point of contact in relation to ICT issues.

Discussions were held regarding provision of printers for members, in preparation for paperless meetings and some views were that tablets would be beneficial for electronic meetings.

## **7. PAPERLES MEETINGS**

We received an update that the Political Leadership Group had committed to paperless meetings from April 2014. Each member would be contacted by the Democratic Services Team regarding equipment requirements and navigating around electronic agendas.

The budget for electronic tablets would be dependent on the withdrawal of printing paper copies of agendas. We were advised that training for the members involved in the ipad trial would be held imminently.

It was highlighted that members should be equipped, however, the Democratic Services team would not post agendas. It was suggested that members needed to be equipped and trained in order to progress with paperless meetings.

**We resolved that members would be notified of the intention to go paperless in April 2014, and in the meantime Select Committees would aspire to become paperless and undertake trials between now and April 2014.**

## **8. FEEDBACK FROM COUNCILS ON TABLET USE**

The Scrutiny Manager had provided the committee with a document, which identified how other authorities elected members had used tablets for Council business.

We noted to receive the responses.

**Minutes of the Democratic Services Committee  
dated 3<sup>rd</sup> February 2014 - continued**

**9. UPDATE ON THE REVIEW OF DEMOCRATIC SERVICES RESTRUCTURE**

The Head of Democracy and Improvement provided feedback on the restructure of Democratic Services and Elections, we noted the following points:

- Report completed and would be sent to the Trade Unions and staff for consultation.
- Consequence would be no redundancies.
- Utilising vacant posts to achieve savings.
- Posts for current staff would remain.
- Elections and Chairman's Secretary would be included in the restructure to increase flexibility.

Members highlighted that capacity may be an issue, however, it was noted that this could be continually reviewed.

**10. DEMOCRATIC SERVICES COMMITTEE WORK PROGRAMME**

Members reviewed the work programme of the committee and the following points were noted:

- Addition of the Wales Charter for Member Support and Development. To consider priorities at the next meeting.
- Any comments regarding the review of the Monmouthshire County Council constitution could be sent directly to the Monitoring Officer.

**11. DATE AND TIME OF NEXT MEETING**

It was noted that the next meeting of the Committee would be held at County Hall, Usk on **Monday 17<sup>th</sup> March 2014 at 2.00pm.**

**The meeting ended at 4.20 p.m.**

<b>SUBJECT:</b>	<b>Support for Members wiith Caring Responsibilities</b>
<b>MEETING:</b>	<b>Democratic Services Committee</b>
<b>DATE:</b>	<b>17 March 2014</b>
<b>DIVISION/WARDS AFFECTED:</b>	<b>N/A</b>

## NON-PUBLICATION

(Insert appropriate non publication paragraph if necessary)

### 1. PURPOSE:

To inform members of the existing support available to members who have caring responsibilities.

### 2. RECOMMENDATIONS:

Members note the content of this report.

### 3. KEY ISSUES:

The Independent Remuneration Panel for Wales outlines the allowances that members are entitled to claim for undertaking their role as councillors.

Section 3.30 of the annual allowance report refers to reimbursement of care costs. Determination(11) of the report states "all authorities must provide for the reimbursement of necessary costs for the care of dependent children and adults (provided by formal or informal carers) up to a mximum of£403/month. Reimbursements should only be made on production of receipts from the carer

The reimbursement of costs of care allowance is intended to enable any person whose ability to participate as a member of an authority would be limited by their responsibilities as a carer. As a result of its 2013 consultation the panel urges authorities to encourage greater take up of this support to facilitate increased diversity amongst authority members.

Such provision would be especially relevant to those individuals in sectors of the population that are currenmtly under respresentedon authorities but who may become engaged when awareness of the support available for the costs of care becomes more widely known."

### 4. REASONS:

To inform members about the support available to members who have caring responsibilities that inhibit their ability to fulfill their role as a councillor or prevent individuals from putting themselves forward for the role.

**5. RESOURCE IMPLICATIONS:**

None as a consequence of this report

**6. AUTHOR:**

**Tracey Harry, Head of Democracy and Regulatory Services**

**10. CONTACT DETAILS:**

**Tel:07796610435**

**E-mail: Traceyharry@monmouthshire.gov.uk**



<b>SUBJECT:</b>	<b>Individual Member Review and Development</b>
<b>MEETING:</b>	<b>Democratic Services Committee</b>
<b>DATE:</b>	<b>17<sup>th</sup> March 2014</b>
<b>DIVISION/WARDS AFFECTED:</b>	<b>N/A</b>

**1. PURPOSE:**

To seek member approval to the proposed individual member review and development scheme attached to this report as appendix1.

**2. RECOMMENDATIONS:**

- Members consider the proposed individual member review and development scheme attached as appendix1.
- Members endorse the scheme attached, subject to any changes agreed by the committee, and recommend adoption by the next available full council.

**3. KEY ISSUES:**

The local Government Measure places a requirement on authorities to provide all members with an opportunity to have a personal development review to assess their development needs:-

- “ A local authority must secure the provision of reasonable training and development opportunities for its members;
- a local authority must make available to each member of the authority an annual review of the member’s training and development needs;
- the review must include an opportunity for an interview with a person who is, in the opinion of the authority, suitably qualified to provide advice about the training and development needs of a member of the authority;
- in the case of an authority which operates a leader and cabinet executive, a reference in this section to a member of a local authority does not include the executive leader.”

Whilst the authority currently offers a range of training opportunities to members the authority does not have a scheme in operation for individual review and this needs to be addressed in order to comply with the measure and also to ensure that members are able to build confidence, develop skills and knowledge and improve their own performance and contribution to the council and the community it serves.

**4. REASONS:**

To ensure the authority complies with the Local Government (Wales ) Measure and to provide members with the opportunity to formally review their performance and identify training and development need which will enable them to undertake their specific duties as a councillor effectively.

**5. RESOURCE IMPLICATIONS:**

Individual member and Review officer time associated with the review process.

**8. BACKGROUND PAPERS:**

Local Government (Wales) Measure 2011

**9. AUTHOR:**

**Tracey Harry, Head of Democracy and Regulatory Services**

**10. CONTACT DETAILS:**

**Tel: 07796610435**

**E-mail: Traceyharry@monmouthshire.gov.uk**

## **Appendix 1**

### **Individual Member Review and Development Scheme**

Individual member review is a way for a member and his/her authority to mutually assess a member's personal development needs. The scheme is set within the context of the role of the member, his/her aspirations for what he hopes to achieve, the purpose and aspirations of the authority and the needs of the community.

#### **Purpose of individual Review**

Individual review enables members to build confidence, develop skills and knowledge and improve their own performance and contribution to the council and the community. They can provide:-

- Clarity for members about the expectations and accountabilities placed upon them;
- Understanding of and support for the individual and collective development needs of members
- Support for members in preparing for new roles ( succession planning)
- An understanding and ownership of organisational goals
- Support for improved member performance

**Individual review is not a performance appraisal it is a means of supporting and developing members.**

#### **Review Process**

**The review process must include the following in order to comply with the statutory guidance :-**

Every member, except the Executive Leader must be offered the opportunity to have their training and development needs reviewed on an annual basis.

The review must include an opportunity for a pre-planned interview between the member and a suitably qualified person. ( a suitable qualified person could be the leaders of the political parties who undertake the review with their members, The Statutory Head of Democracy, The chief Executive or a suitable qualified Hr professional – who ever is identified must receive relevant training to enable them to undertake the reviews effectively)

Local authorities may wish to consider detailing the outcome of the interview in an agreed plan which sets out training and development needs, if any, agreed for the year ahead. This plan must be signed by both the interviewer and the member. This is a private document, which can be used by the member to use in their annual report or not as they see fit.

To enable the review to be as effective as possible the following proforma should be completed by the member prior to the review taking place.

## **Proforma for Individual Member Review**

**Please complete this proforma and bring it to the meeting. This form is confidential to you and the person who is conducting your review, The training needs identified will be fed into member support to enable them to put together a training schedule for all members for the year ahead.**

**1. What are my current roles and responsibilities?(council executive member, scrutiny member, member of planning etc role within the community)**

**2.What specific tasks do I need to achieve this year? What do I plan to do by when?**

**3.What do I need to know about and be able to do to undertake my role and deliver my plans( your role description. Person spec and the member development framework may help you)**

**4.What aspects of my role am I confident in?**

**5. Where am I less confident?**

**6. What might prevent me from undertaking my role effectively?( consider any personal, organisational or political issues which might be a barrier to success)**

**7. What learning and development have I undertaken this year?**

**8. Why have I learned and been able to achieve as a result of this learning and development?**

**9. What additional learning and development would be useful, use the table below:-**

<b>Areas that I would like to develop are:</b>	<b>Preferred method of development ( eg visits to other authorities, peer networking, practical workshops, etc)</b>
<b>Skills ( eg meeting management, questioning skills medis interviews)</b>	
<b>Knowledge ( eg code of conduct, equalities, the planning process, local policy etc)</b>	

## **Guidance for Members being Interviewed**

**Before undertaking your review you may find it useful to consider the following guidance:-**

### **Purpose of the Review**

The purpose of your meeting will be to provide you with an opportunity to review your role generally, consider any specific tasks for the year ahead, consider the areas where you feel confident and identify areas that you may find challenging and may need support and development. You can also review the usefulness of training already received.

### **Preparation**

Before your meeting you will need to complete the proforma. This will help you think about your role, specific tasks for this year and any support you may need. Make contact with your interviewer and plan a time and a place convenient to you both where you can have a confidential undisturbed conversation.

### **Undertaking the Review**

**Please remember the conversation you have with the interviewer is confidential to the two of you.**

- Use the proforma as the basis for your discussions
- Your interviewer will help you consider your role/contribution, strengths and weaknesses and training needs. They will act as an objective sounding board in this conversation  
**THEY WILL NOT GIVE FEEDBACK ON YOUR PERFORMANCE**
- Please note it is your responsibility to undertake any actions resulting from the conversation, keep any documentation and ensure that the table outlining the training needs is completed and forwarded to democratic services members support to enable them to put a training programme for all members together.

**SUBJECT: Review of Constitution**  
**MEETING: Democratic Services Committee**  
**DATE: 17 March 2014**  
**DIVISION/WARDS AFFECTED: All**

**1. PURPOSE:**

To update members on progress on the review of the Council's Constitution.

**2. RECOMMENDATIONS:**

Members consider the attached annotated drafts.

**3. KEY ISSUES:**

This committee considered elements of the new model constitution (specifically the rules of procedure, and the cabinet and scrutiny procedure rules) at its meeting in November. Since then further consideration has been given to other elements including the Members Code of Conduct, Member/Officer protocol and other local procedures by the Standards Committee. Cabinet have also recently approved amendments to the Officer Code of Conduct and the Council's whistleblowing protocol. The Audit committee are due to review the procurement procedures and financial regulations later this month. Officers are currently considering the Officer scheme of delegations.

I am planning to present an interim report to Council in April and in the meantime we are endeavouring to timetable a member seminar to afford members the opportunity for informal discussion and review.

I have attached to this report the following:

1. Annotated draft of sections 1 to 11 incorporating:  
Council Rules of Procedure  
Cabinet  
Scrutiny arrangements  
Standards and Regulatory Committees  
Officers - management structure, appointment and dismissal
2. Amended Protocol for self-regulation as recommended by Standards Committee
3. Amended Protocol - Member/Officer Relations agreed by Standards Committee

**4. REASONS:**

The council has agreed that a review of the constitution should be undertaken initially by this committee.

**5. RESOURCE IMPLICATIONS:**

None specifically identified to date

**6. SUSTAINABLE DEVELOPMENT IMPLICATIONS:**

These will fall to be considered following any suggested amendments to the current constitution.

**7. CONSULTEES:**

Leadership team, Cabinet, Audit Committee and other bodies will be consulted as the consideration of the new draft model progresses. A “travelling” draft has been placed on “The Point” for the benefit of all members.

**8. BACKGROUND PAPERS:**

None

**9, AUTHOR:** S.M.W. Andrews, Monitoring Officer.

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## SECTION 1

### 1. INTRODUCTION

#### 1.1 Purpose and Content of the Constitution

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, Membership and procedural rules.
- 1.1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.1.3 You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Select Committees, Standards Committee and Regulatory Committees. Section 11 provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions at Section **Error! Reference source not found.** says which Council bodies, and which Officers, have authority to make which decisions.
- 1.1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, eg Full Council (Section 4), the Cabinet (Section 5) and Overview and Scrutiny (Section 7). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 1.1.5 Sections **Error! Reference source not found.** to **Error! Reference source not found.** have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

#### 1.2 How the Council Operates

- 1.2.1 The Council is comprised of 43.0 Councillors elected every four years. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in Monmouthshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.
- 1.2.2 All Councillors have agreed to follow a Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council Annually. The Leader then decides the size and Membership of the Cabinet ie the role of individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions. The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

**Comment [AM1]:** This is our current arrangement – the so-called “Strong Leader” model endorsed by DSC

If you need any further help please do not hesitate to contact us.

Monitoring Officer, Innovation House PO Box 106 Caldicot NP26 9AN Tel 01633 644644

Whilst the Constitution is very long we hope that you will find it easy to use. We have spent a lot of time trying to make it as easy to follow as is possible with such a long and complex legal document.

## **SECTION 2**

### **2. PURPOSE, DEFINITION INTERPRETATION AND AMENDMENT OF THE CONSTITUTION**

#### **2.1 Purpose of the Constitution**

The purpose of the Constitution is to:

- 2.1.1 enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other organisations;
- 2.1.2 support the active involvement of citizens in the process of local authority decision making;
- 2.1.3 help Councillors represent their constituents more effectively;
- 2.1.4 enable decisions to be taken efficiently and effectively;
- 2.1.5 create a powerful and effective means of holding decision makers to public account;
- 2.1.6 ensure that no one will scrutinise a decision in which they are directly involved;
- 2.1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 2.1.8 provide a means of improving the delivery of services to the community.

#### **2.2 Definitions in the Constitution**

2.2.1 The Constitution of the Council is this document (Sections 1 to **Error! Reference source not found.**).

2.2.2 Within the Constitution the following words and phrases have the meaning set out below:

“Budget”	the overall revenue and capital budget approved by Full Council (Section 4);
“Chief Officer”	any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services): <ul style="list-style-type: none"><li>• who reports directly to the Head of Paid Service in respect of all or most of his/her duties; or</li><li>• for whom the Head of Paid Service is directly responsible;</li></ul>
“Councillor”	a person elected to the Council to represent an area (called an electoral division) within Monmouthshire County Council;
“Deputy Chief Officer”	any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who reports directly to a Chief Officer in respect of all or most of his/her duties;
“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom

	the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function”	<p>(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.</p> <p>(b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> <p>It should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;</p>
“Forward Work Programme”	the Forward Work Programme is a document which lists all of the decisions that the Council and the Cabinet intend to take and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;
“Full Council”	the body where all Councillors act to exercise functions of the Council;
“Head of Paid Service”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Paid Service;
“Leadership Team”	the senior management body for Officers (Section 11). It includes those Officers designated by the Head of Paid Service from time to time as Members of the Leadership Team;
“Local Government (Wales) Measure 2011”	referred to as “The Measure”. Legislation introduced, inter alia, to strengthen local democracy, deal with changes to executive arrangements, overview and scrutiny, county councils and Member payments;
“Member”	either a Councillor or a person chosen by the Council to serve on one of its Member Bodies (called “a Co-Opted Member”);
“Member Body”	<p>any of the following:</p> <ul style="list-style-type: none"> <li>• Full Council;</li> <li>• Cabinet;</li> <li>• a Select Committee;</li> <li>• Licensing Committee;</li> <li>• Standards Committee (or one of its sub-committees);</li> <li>• Planning Committee;</li> <li>• Appeals Panel;</li> </ul>

	<ul style="list-style-type: none"> <li>• Audit Committee;</li> <li>• Democratic Services Committee;</li> </ul> <p>Note - references to Committee also includes Sub-Committee;</p>
“Monitoring Officer”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member body other than the Cabinet;
“Planning Application”	<p>any of the following:</p> <ul style="list-style-type: none"> <li>• application for planning permission (including renewal);</li> <li>• application for approval of reserved matters;</li> <li>• application for listed building consent;</li> <li>• application relating to trees;</li> <li>• proposal to serve an urgent works notice or acquire a listed building in need of repair;</li> <li>• application for conservation area consent;</li> <li>• application for advertisement consent;</li> </ul> <p>application to vary or remove conditions on a planning condition;</p>
“Policy Framework”	<ul style="list-style-type: none"> <li>• See Section 4.2;</li> </ul>
“Section 151 Officer”	an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;
“Service”	one of the services provided by the Council;
“Single Integrated Plan (SIP)”	this is the single plan for the area that reflects the needs of the local population. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young Peoples and the Health Social Core and Wellbeing Partnership Plan.

## 2.3 **Interpretation of the Constitution**

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

## 2.4 **Duty to Monitor and Review the Constitution**

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section **Error! Reference source not found.** of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Section **Error! Reference source not found.** to the next available Council meeting for noting.

## 2.5 **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 2.5.1 observe meetings of different parts of the Member and Officer structure;
- 2.5.2 undertake an audit trail of a sample of decisions;
- 2.5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 2.5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

## 2.6 **Changes to the Constitution**

### 2.6.1 Approval

Subject to paragraphs 2.6.2 and 2.6.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the Monitoring Officer or on recommendation of the Cabinet.

### 2.6.2 Minor Changes

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (a) a minor variation; or
- (b) required to be made to remove any inconsistency, ambiguity or typographical correction; or
- (c) required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

### 2.6.3 Legislative Change

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so

decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

## 2.7 **Suspension of the Constitution**

### 2.7.1 **Limit to Suspension**

Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

### 2.7.2 **Procedure to Suspend**

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section.

## 2.8 **Publication**

2.8.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.

2.8.2 The Monitoring Officer will give a printed or (upon request) an electronic copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.

2.8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 2.6.

## **SECTION 3**

### **3. GETTING INFORMATION AND GETTING INVOLVED**

#### **3.1 Getting Information**

##### **3.1.1 Information Available to Members of the Public**

(a) *When Meetings of the Member Bodies Will Take Place*

A programme of meetings is available by contacting the Council direct or via the website.

(b) *Forward Work Programme*

From the Forward Work Programme, see what decisions will be taken by the Cabinet or Council and what issues the Select Committees will be considering and when these matters will be discussed.

(c) *Information Available Prior to a Meeting*

Three days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

**Comment [AM2]:** This is the statutory minimum in Wales endorsed by DSC. In England the equivalent position is 5 days

(d) *Information Available at a Meeting*

The Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save during any part of the meeting to which the public are excluded).

(e) *Information Available After a Meeting*

For a period of six years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of four years.

(f) *Council's Accounts*

Inspect the Council's accounts and make views known to the external auditor (sections 29 and 30 Public Audit (Wales) Act 2004). Under the Accounts and Audit (Wales) Regulations 2005, the accounts will be available for public inspection for twenty (20) working days after the date appointed by the auditor.

Information which is confidential or exempt (as defined in paragraphs **Error! Reference source not found.** and **Error! Reference source not found.**) will not be disclosed to members of the public at any time.

##### **3.1.2 Information Available to Members of the Council**

(a) Members can see any information, which is available to a member of the public.

(b) In addition, a Member may see any information which he or she needs to know in order to fulfil his or her role as a Member of the Council (otherwise known as "need to know"). A Member will not make public information which is confidential or exempt (as defined in Section **Error! Reference source not found.**) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.



### 3.1.3 Members of a Select Committee

A Member of a Select Committee may also see any document containing material relating to:

- (a) any business transacted at or meeting of the Cabinet;
- (b) any decision taken by an individual Member of the Cabinet.

A Select Committee Member is not be entitled to:

- (c) any document in draft form;
- (d) any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Committee's Forward Work Programme.

NB. No Member is entitled to see any information relating to a matter in which he or she has a prejudicial interest.

### 3.1.4 Information Available to Officers

The Monitoring Officer, the Section 151 Officer and the Head of Paid Service may see any papers or records held by any part of the Council or its Officers. Other Officers may see any information held by the Council provided:

- (a) they need to see the information to do their job; and
- (b) that information is processed lawfully in accordance with the Data Protection Act 1998.

## 3.2 Getting Involved

### 3.2.1 Members of the Public

Members of the public can get involved in the following ways:

- (a) *Voting for Councillors*  
if they are over 18 years and registered as a local elector with the Council.
- (b) *Suggesting Items of Business for Meetings*  
A member of the public can seek to get a matter included in an agenda by:
  - (i) asking the Chair of any Member Body to add an item to the agenda; and/or
  - (ii) attending a meeting of the body and suggest that it looks at an issue when it is considering "items of future business relating to the functions of the Member Body".
- (c) *Taking Part in Meetings*
  - (i) Members of the public can come to and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Section 4.
  - (ii) You can also ask Formal Questions at meetings of Full Council (Section 4).
- (d) *Views of the Public*

Under the arrangements put in place by the Authority under section 62 of the Local Government (Wales) Measure 2011, to bring to the attention of the relevant Select Committees their views on any matter under consideration by the relevant Select Committee, the relevant Select Committee must take into account any views brought to their attention under these arrangements.

**Comment [AM3]:** The item must already be on the agenda or under consideration by the select committee

(e) *When are Meetings Open to the Public?*

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See section **Error! Reference source not found.** for definition of exempt information and section **Error! Reference source not found.** for definition of public interest.)

(f) *Making Comments/Complaints*

(i) A member of the public may comment or complain about Council services by:

- (A) contacting their local councillor;
- (B) contacting the Member of the Cabinet responsible for the service;
- (C) contacting the Officer responsible for delivering the service or their manager;
- (D) using the Council's complaints procedure;
- (E) contacting the Public Services Ombudsman for Wales at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk).

(ii) Comments or complaints can be made about an Officer or Member by:

- (A) *Officer*  
contacting the Officer or the Officer's manager.
- (B) *Members*

If the complaint is against a Member then the complaint should be referred to the Monitoring Officer or the Public Services Ombudsman for Wales (contact details above).

(g) *Engage with Overview and Scrutiny*

All members of the public who live or work in the area of the Council may bring to the attention of a Select Committee their views on any matter under consideration by that Select Committee. Select Committees must take into account any views brought to its attention by a member of the public.

### 3.3 **Getting Involved – Members**

Members can get involved by:

#### 3.3.1 Suggesting Items of Business for the Agenda

As a Member of the Council, you have the same rights as members of the public. In addition to these rights you also have the following rights:

- (a) Member bodies in Column A can request that Member bodies in Column B consider or reconsider an issue.

Column A	Column B
Democratic Committee	Council
Services	

Select Committees	Cabinet (Section 7.21, page 44) Cabinet (Section 7.25, page 46))
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- (b) Any Member can submit a Notice of Motion to Council (Section 4) and also ask questions (Section 4).

### 3.3.2 Participating in Meetings

Members of the Council are entitled to attend any formal meeting of the Council, its committees or sub-committees or the Cabinet.

- (a) Members of the Council may attend and speak at any meetings where they are a Member of that body. Where they are not a Member of that body, their attendance and right to speak is at the discretion of the Chair of the body.
- (b) Members of the Cabinet have a special role to play within the Council. They are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

### 3.3.3 Comments and Complaints

- (a) Members may comment, subject to restrictions in the Code of Conduct for Members (Section **Error! Reference source not found.**) on any aspect of Council business by:
- (i) talking to Officers;
  - (ii) talking to the Leader or Member of the Cabinet;
  - (iii) talking to the Chair of a Select Committee.
- (b) If a Member wishes to complain about an:
- (c) *Officer*  
The procedure set out in the Protocol on Member/Officer Relations may be used (Section **Error! Reference source not found.**).
- (d) *Member*  
The procedure set out in Appendix 3 to Section **Error! Reference source not found.** may be followed.

## **SECTION 4**

### **4. FULL COUNCIL**

#### **4.1 Introduction**

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

#### **4.2 The Policy Framework**

The Policy Framework means the following plans and strategies:

Equalities Plan

Improvement Plan;

Young People's Partnership Strategic Plan;

Local Transport Plan;

Local Housing Strategy;

Unitary Development Plan/Local Development Plan;

Welsh Language Scheme;

Youth Justice Plan.

Corporate Plan;

Policy agreements;

Asset Management Plan;

E-Government Strategy;

Report on Corporate Parent for Looked After Children

#### **4.3 The Single Integrated Plan**

This replaces four of the existing plans and strategies which formed part of the Policy Framework, namely the Community Strategy, the Children and Young People's Plan, the Health, Social Care and Wellbeing Strategy and the Community Safety Partnership Plan.

#### **4.4 The Budget**

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section **Error! Reference source not found.** for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

#### **4.5 Housing Land Transfer**

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

#### **4.6 Functions of the Full Council**

Only the Full Council will exercise the following functions:

4.6.1 adopting and changing the Constitution;

Comment [AM4]: Is this list correct? Should any Plans or policies be added, deleted or renamed

- 4.6.2 approving or adopting the Single Integrated Plan, Policy Framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- 4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section **Error! Reference source not found.** of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;
- 4.6.4 appointing and removing the Leader;
- 4.6.5 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
- 4.6.6 changing the name of the area or conferring the title of freedom of the County;
- 4.6.7 making or confirming the appointment of the Head of Paid Service and other Chief Officers;
- 4.6.8 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;
- 4.6.9 all Local Choice Functions set out in Section **Error! Reference source not found.** of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- 4.6.10 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.11 appointing representatives to outside bodies unless the appointment has been delegated by the Council or is exercisable only by the Cabinet.

#### 4.7 **Membership**

- 4.7.1 All Members of the Council shall be Members of Full Council.
- 4.7.2 Substitution is not possible at meetings of the Council.
- 4.7.3 **Chairing the Council**
  - (a) The Councillor elected annually by the Council as its chair will be called the "Chair".
  - (b) The Chair will cease to be Chair if they resign, are dismissed by a vote of Full Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They continue to act as Chair after an election until their successor has been appointed.

#### 4.7.4 **Role and Function of the Chair**

The Chair of the Council and in his/her absence, the Vice Chair will have the following roles and functions:

##### (a) *Ceremonial Role*

The Chair of the Council:

- (i) is the civic leader of Monmouthshire County Council;
- (ii) promotes the interests and reputation of the Council and Monmouthshire County Council as a whole and acts as an ambassador for both; and

**Comment [AM5]:** The Local Government (Democracy) (Wales) Act 2013 introduced the possibility of splitting this role between the (Civic) Chair and a Presiding Officer, each attracting a Senior salary. The Democratic Services Committee supported the status quo.

(iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.

(b) *Responsibilities of the Chair*

(i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;

(ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the Community;

(iii) to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Cabinet are able to hold the Cabinet and Committee Chair to account;

(iv) to promote public involvement in the Council's activities;

(v) to be the conscience of the Council; and

(vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate;

#### 4.8 **Council Meetings**

There are three types of Council meeting:

4.8.1 the annual meeting;

4.8.2 ordinary meetings; and

4.8.3 extraordinary meetings

#### 4.9 **Rules of Procedure and Debate**

The Council Procedure Rules contained in the Sections below will apply to meetings of the Full Council.

#### 4.10 **Council Procedure Rules - Annual Meeting of the Council**

##### 4.10.1 Timing and Business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. The annual meeting will:

(a) elect a person to preside if the Chair and Vice Chair of the Council is not present;

(b) elect the Chair of the Council;

(c) elect the Vice Chair of the Council;

(d) approve the minutes of the last meeting;

(e) receive any announcements from the Chair and/or the Head of Paid Service;

(f) elect the Leader of the Council, except where the Leader was appointed for a period of four years at the initial annual meeting of the Council;

(g) be informed by the Leader of the number of Members to be appointed to the Cabinet;

(h) appoint the Select Committees, a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are

Executive Functions (as set out in Section **Error! Reference source not found.** of this Constitution);

- (i) receive from the Leader the scheme of delegations (as set out in Section **Error! Reference source not found.** of this Constitution);
- (j) approve a programme of ordinary meetings of the Council for the year; and
- (k) consider any business set out in the notice convening the meeting.

#### 4.10.2 Selection of Councillors on Committees and Outside Bodies

At the annual meeting, the Council meeting will:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

#### 4.11 Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the Chair and Vice Chair are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4 receive any announcements from the Chair;
- 4.11.5 receive a report from the Leader and receive questions and answers on the report;
- 4.11.6 receive a report from the Cabinet and receive questions and answers on the report;
- 4.11.7 receive reports from the Council's committees and receive questions and answers on those reports;
- 4.11.8 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.9 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Select Committees ;
- 4.11.10 consider motions; and
- 4.11.11 deal with questions from Members in accordance with Rule 4.19
- 4.11.12 receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions.

#### 4.12 Extraordinary Meetings

##### 4.12.1 Calling Extraordinary Meetings

The Proper Officer and/or Monitoring Officer may call Council meetings in addition to ordinary meetings. Those listed below may request the Proper Officer to call additional Council meetings:

- (a) the Council by resolution;
- (b) the Chair of the Council;
- (c) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### 4.12.2 Business

The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc, except that the Chair may at his/her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

### 4.13 Time, Place and Duration of Meetings

#### 4.13.1 Time and Place of Meetings

The time and place of meetings will be determined by the Proper Officer and notified in the summons.

#### 4.13.2 Duration of Meetings

At an ordinary meeting of the Council, when **three** hours have elapsed after the commencement of the meeting, the Chair shall adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

**Comment [AM6]:** This is a new proposal agreed by DSC

#### 4.14 Notice of and Summons to Meetings

The **Proper Officer** will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section **Error! Reference source not found.** At least three clear days before a meeting, the Proper Officer will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

**Comment [AM7]:** The Chief Executive here, but could be the Monitoring Officer or Head of Democratic Services.

#### 4.15 Chair of Meeting

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings, references to the Chair should instead be read as reference to the chair of that committee or sub-committee.

#### 4.16 Quorum

The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### 4.17 Remote Attendance

**Comment [AM8]:** This is subject to Statutory Guidance yet to be issued by WG

### 4.18 Questions by the Public

#### 4.18.1 General

- (a) Members of the public may ask questions of Members of the Cabinet at ordinary meetings of the Council.



(b) The total time allocated for questions by the public should be limited to 15 minutes.

4.18.2 Order of Questions

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

4.18.3 Notice of Questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Democratic Services no later than midday five working days before the day of the meeting. Each question must give the name and address of the questioner.

Comment [AM9]: This could be Monitoring Officer

Comment [AM10]: This clarifies an omission in current constitution

4.18.4 Number of Questions

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

4.18.5 Scope of Questions

The Head of Democratic Services may reject a question if it:

Comment [AM11]: Could be MO

- (a) is not about a matter for which the Council has a responsibility or which affects the County;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.

4.18.6 Record of Questions

- (a) The Head of Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.
- (b) Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

4.18.7 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

4.18.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds set out in Rule 4.18.5 above.

4.18.9 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

4.18.10 Reference of Question to the Cabinet or a Committee

Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

4.19 Questions by Members

4.19.1 On Reports of the Cabinet or Committees

A Member of the Council may ask the Leader or the Chair of a Committee any question without notice directly arising from an item of the report of the Cabinet or a Committee, when that item is being received or is under consideration by the Council

4.19.2 Questions on Notice at Full Council

Subject to Rule 4.19.4, a Member of the Council may ask:

- (a) the Chair;
- (b) a Member of the Cabinet;
- (c) the chair of any committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the County Council.

4.19.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 4.19.4, a Member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

4.19.4 Notice of Questions

A Member may ask a question under Rule 4.19.2 or 4.19.3 if either:

- (a) they have given at least **five** working days' notice in writing of the question to the Head of Democratic Services; or
- (b) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Head of Democratic Services at least two hours before the meeting.

**Comment [AM12]:** This allows time for the question to be included on the formal agenda

4.19.5 Maximum Number of Questions

A Member may ask **only one question** under Rule 4.19.2 or 4.19.3 except with the consent of the Chair of the Council, committee or sub-committee. The maximum number of questions that may be asked at any meeting of the Full Council is **eight** and if the number of questions exceeds **eight** the questions to be asked shall be determined by ballot to be conducted by the Head of Democratic Services.

**Comment [AM13]:** This would be a departure from our current arrangement

**Comment [AM14]:** Ditto

4.19.6 Order of Questions

Questions of which notice has been given under Rule 4.19.2 or 4.19.3 will be listed on the agenda in the order determined by the Chair of the Council, committee or sub-committee.

4.19.7 Content of Questions

Questions under Rule 4.19.2 or 4.19.3 must, in the opinion of the Chair:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;

(c) not relate to questions of fact.

#### 4.19.8 Response

An answer may take the form of:

- (a) a direct oral answer at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) Where the reply cannot conveniently be given orally, a written answer circulated within five working days to the questioner.

Comment [AM15]: No deadline in current constitution

#### 4.19.9 Supplementary Question

A Member asking a question under Rule 4.19.2 or 4.19.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

#### 4.19.10 Length of Speeches

A Member asking a question under Rule 4.19.2 or 4.19.3 and a Member answering such a question may speak for no longer than three minutes unless the Chair consents to a longer period.

Comment [AM16]: No equivalent provision in current constitution

#### 4.19.11 Time Allowed for Questions at Council Meetings

- (a) The time allowed for consideration of questions submitted under Rule 4.19.2 shall not, without the consent of the Council, exceed thirty minutes.
- (b) At the conclusion of the answer to the question under consideration at the expiry of thirty minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chair shall conclude the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

Comment [AM17]: Currently no limit

### 4.20 Motions on Notice

#### 4.20.1 Notice

Except for motions which can be moved without notice under Rule 4.21 and in cases of urgency, written notice of every motion, must be delivered to the Head of Democratic Services not later than 5.00 pm on the fifth working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

Comment [AM18]: Are members content with this. It helps agenda preparation

#### 4.20.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

#### 4.20.3 Scope

Motions must be about matters for which the Council has a responsibility or which affect the wellbeing of the administrative area of the Council.

#### 4.20.4 Motion to Remove the Leader

Comment [AM19]: This is new

- (a) A motion to remove the Leader cannot be moved unless the notice of motion is signed by a number of councillors which is at least equivalent to 15% of the total number of councillors on the Council and which includes councillors from at least two political groups. See Section 6.3.2.
- (b) In order for such a motion to be carried it must have the support of at least two thirds of those Members voting and present in the room at the time the question was put.

- (c) A motion to remove the Leader cannot be moved more than once in any rolling 12 month period.

**4.20.5 One Motion per Member**

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chair.

Comment [AM20]: Currently we have no such restriction

**4.20.6 Time Allowed for Motions**

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed thirty minutes. At the conclusion of the speech being delivered at the expiry of thirty minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

Comment [AM21]: Ditto

- (a) if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
- (b) if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise his right of reply; and
- (c) Otherwise, the Chair shall allow the mover of the motion to exercise his right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

**4.21 Motions without Notice**

The following motions may be moved without notice:

- 4.21.1 to appoint a Chair of the meeting at which the motion is moved;
- 4.21.2 in relation to the accuracy of the minutes;
- 4.21.3 to change the order of business in the agenda;
- 4.21.4 to refer something to an appropriate body or individual;
- 4.21.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 4.21.6 to receive reports or adoption of recommendations of committees or Officers and any resolutions following from them;
- 4.21.7 to withdraw a motion;
- 4.21.8 to amend a motion;
- 4.21.9 to proceed to the next business;
- 4.21.10 that the question be now put;
- 4.21.11 to adjourn a debate;
- 4.21.12 to adjourn a meeting;
- 4.21.13 to suspend a particular Council Procedure Rule;
- 4.21.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 4.21.15 to not hear further a Member named under Rule 4.29.2 or to exclude them from the meeting under Rule 4.29.3; and

4.21.16 to give the consent of the Council where its consent is required by this Constitution.

#### 4.22 **Rules of Debate**

##### 4.22.1 No Speeches until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

##### 4.22.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him before it is discussed.

##### 4.22.3 Secunder's Speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

##### 4.22.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order no speech may exceed **ten** minutes without the consent of the Chair.

Comment [AM22]: As now

##### 4.22.5 When a Member may Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

##### 4.22.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) to leave out words;
  - (iii) to leave out words and insert or add others; or
  - (iv) to insert or add wordsas long as the effect of 4.22.6(a)(ii) to 4.22.6(a)(iv) is not to negate the motion.
- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.

- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

#### 4.22.7 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

#### 4.22.8 Withdrawal of Motion

A Member may withdraw a motion which he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### 4.22.9 Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his amendment.

#### 4.22.10 Motions which may be Moved During Debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;
- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (h) to not hear further a Member named under Rule 4.29.2 or to exclude them from the meeting under Rule 4.29.3.

#### 4.22.11 Closure Motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member;
  - (i) to proceed to the next business;
  - (ii) to act that the question be now put;

- (iii) to adjourn a debate; or
  - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
  - (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.
  - (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### 4.22.12 Point of Order

A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chair on the matter will be final.

#### 4.22.13 Personal Explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

### 4.23 **State of the County Debate**

#### 4.23.1 Calling of Debate

The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chair.

#### 4.23.2 Form of Debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the debate.

#### 4.23.3 Chairing of Debate

The debate will be chaired by the Chair.

#### 4.23.4 Results of Debate

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area which work in active partnership with the Council and considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

### 4.24 **Previous Decisions and Motions**

#### 4.24.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least **eleven** Members, except in the case of new information becoming available.

#### 4.24.2 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least **eleven** Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### 4.25 Voting

#### 4.25.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

#### 4.25.2 Chair's Casting Vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### 4.25.3 Method of Voting

Unless a recorded vote is demanded under Rule 4.25.4 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

#### 4.25.4 Recorded Vote

If **nine** Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

#### 4.25.5 Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

#### 4.25.6 Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### 4.26 Minutes

#### 4.26.1 Signing the Minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### 4.26.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.



#### 4.26.3 Form of Minutes

Minutes will contain all motions and amendments in the form and order the Chair put them.

#### 4.27 **Record of Attendance**

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

#### 4.28 **Exclusion of Public**

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section **Error! Reference source not found.** of this Constitution or Rule 4.30 (Disturbance by Public).

#### 4.29 **Members' Conduct**

##### 4.29.1 Speaking at Meetings

When a Member speaks at Full Council he/she must address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation. Chair Speaking

When the Chair speaks during a debate, any Member speaking at the time must stop.

##### 4.29.2 Member not to be Heard Further

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.

##### 4.29.3 Member to Leave the Meeting

If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

##### 4.29.4 General Disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he thinks necessary.

#### 4.30 **Disturbance by Public**

##### 4.30.1 Removal of Member of the Public

If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

##### 4.30.2 Clearance of Part of Meeting Room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

#### 4.31 **Filming and Use of Social Media During Meetings**

Filming and use of social media is permitted during meetings **so long as there is no disturbance to the conduct of the meeting.**

Comment [AM23]: No requirement to stand

Comment [AM24]: Do we want to add that this is at the absolute discretion of the Chair?

#### 4.32 **Suspension and Amendment of Council Procedure Rules**

##### 4.32.1 Suspension

All of these Council Rules of Procedure except Rule 4.20.5, 4.25.5 and 4.26.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Rule 4.20.5 can only be suspended by motion on notice and the motion must have the support of at least two thirds of those Members present and voting.

##### 4.32.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

#### 4.33 **Application to Committees and Sub-Committees**

All of the Council Rules of Procedure apply to meetings of Full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4.13 to 4.16, 4.19 to 4.22, 4.24 to 4.33 (but not Rule 4.29.1) apply to meetings of committees and sub-committees.

#### 4.34 **Appointment of Substitute Members on Council Bodies**

Comment [AM25]: Anew provision

4.34.1 The substitution rules will not apply to meetings of the Cabinet, the Standards Committee or the Audit Committee.

4.34.2 Subject to any other restrictions elsewhere in the Constitution, any Member of the Council will be permitted to act as a substitute on a Council Body.

4.34.3 The Head of Democratic Services will allow a request from a Member of a Council Body to appoint a substitute Member, providing that substitute Member is from the same political group and the request is received no later than one hour before the meeting.

Comment [AM26]: Is this timescale OK?

4.34.4 In order to be eligible to sit as substitutes on regulatory or quasi-judicial committees or panels or staff appointments or disciplinary bodies established by the Council, Members must have received formal training in relevant procedures and the law.

4.34.5 Substitute Members will have all the powers and duties of any ordinary Member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

4.34.6 Substitute Members may attend meetings in that capacity only:

- (a) to take the place of the ordinary Member for whom they are designated substitute;
- (b) where the ordinary Member will be absent for the whole of the meeting; and
- (c) where the ordinary Member or that Member's political group has notified Head of Democratic Services of the intended substitution at least one hour before the start of the relevant meeting.

## **SECTION 5**

### **5. THE CABINET**

#### **5.1 Introduction**

The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

#### **5.2 Form and Composition of the Cabinet**

The Cabinet will consist of:

5.2.1 the Leader of the Council (the "Leader"); and

5.2.2 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

#### **5.3 Leader**

##### **5.3.1 Election**

The Leader will be a Councillor elected to the position of Leader by the Council.

##### **5.3.2 Term of Office**

The Leader is appointed on an annual basis at the annual meeting of the Council.

##### **5.3.3 Role of the Leader**

The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet. Further information is contained in Section 6.

#### **5.4 Deputy Leader**

5.4.1 The Leader will appoint up to two Deputy Leaders, one of whom to act as Leader in the Leader's absence, and may also if he/she thinks fit remove the Deputy Leaders from Office at any time.

5.4.2 The Deputy Leader appointed by the Leader for the purpose may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

**Comment [AM27]:** This has been inserted to accommodate our current arrangement.

#### **5.5 Other Cabinet Members**

Other Cabinet Members will be Councillors elected to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

5.5.1 he/she resigns from that office; or

5.5.2 he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or

5.5.3 he/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

#### **5.6 Delegation of Functions**

The Leader may exercise Executive Functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

5.6.1 the Cabinet as a whole;

5.6.2 a Committee of the Cabinet (comprising executive Members only);

5.6.3 an individual Cabinet Member;

5.6.4 a joint committee;

5.6.5 Another local authority or the executive of another local authority;

5.6.6 A delegated Officer.

## 5.7 **Rules of Procedure and Debate**

The proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules in Section 5.8.1 below.

## 5.8 **Cabinet Procedure Rules**

### 5.8.1 **How does the Cabinet Operate?**

#### (a) *Delegation by the Leader*

Following the annual meeting of the Council, **the Monitoring Officer**, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section **Error! Reference source not found.** to this Constitution. This will contain the following information about Executive Functions in relation to the coming year:

- (i) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- (iii) the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- (iv) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made; and

**(v) [any other information you want to include.]**

#### (b) *Sub-Delegation of Executive Functions*

- (i) Where the Cabinet, a committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements or an Officer.
- (ii) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an Officer.
- (iii) Where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

#### (c) *The Council's Scheme of Delegation and Executive Functions*

- (i) The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the **Monitoring Officer** and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (ii) Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when he has served it on its chair.

(d) *Conflicts of Interest*

- (i) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in **Section Error! Reference source not found.** of this Constitution.
- (ii) If any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in **Section Error! Reference source not found.** of this Constitution.
- (iii) If the exercise of an Executive Function has been delegated to a committee of the Cabinet, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in **Section Error! Reference source not found.** of this Constitution.

(e) *Cabinet Meetings – When and Where?*

The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

(f) *Public or Private Meetings of the Cabinet?*

The Cabinet will hold its meetings in public, except in the circumstances set out in the Access to Information Procedure Rules in **Section Error! Reference source not found.**, for example where confidential or exempt information is being discussed.

(g) *Quorum*

- (i) The quorum for a meeting of the Cabinet shall be **three** including the Leader or Deputy Leader.
- (ii) The quorum for a meeting of a committee of the Cabinet shall be a **quarter** of the number of members of the committee.

(h) **[Remote Attendance awaiting WG Guidance]**

(i) *How are Decisions to be taken by the Cabinet?*

- (i) Executive Decisions made by the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in **Section Error! Reference source not found.** of this Constitution.
- (ii) Where Executive Decisions are delegated to a committee of the Cabinet, the rules applying to Executive Decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 5.9 **How are Cabinet Meeting Conducted?**

### 5.9.1 Who Presides?

The Leader will preside at any meeting of the Cabinet or its committees at which he is present. In his absence, the Deputy Leader will preside. In his/her absence, then a person appointed to do so by those present shall preside.

### 5.9.2 Who May Attend?

These details are set out in the Access to Information Procedure Rules in **Section Error! Reference source not found.** of this Constitution. See also Section 3 in relation to Member participation in meetings.

### 5.9.3 What Business?

At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by Select Committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 7 and **Error! Reference source not found.** of this Constitution;
- (d) consideration of reports from Select Committees;
- (e) consideration of reports from Cabinet Committees;
- (f) reports from Officers of the Authority.

Comment [AM28]: We do not have minutes currently – just logs. Do you want to introduce this?

### 5.9.4 Consultation

All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken with stakeholders and with the Select Committees and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### 5.9.5 Who can put Items on the Cabinet Agenda?

- (a) The Leader will decide upon the schedule for meetings of the Cabinet. He/she may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any Member or Officer in respect of that matter.
- (b) Any Member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened in pursuance of their statutory duties.
- (d) In other circumstances, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be considered at which the matter will be considered.

Comment [AM29]: Our current constitution provides that any member may ask the Leader to place an item on an agenda and that if the Leader agrees.....

Comment [AM30]: Should this be the HoPS and/or MO and or HoDS

## 5.10 Disturbance by the Public, Filming and Use of Social Media

5.10.1 The provisions in Council Procedure Rules in Section 4.30 in relation to disturbance by the public apply to meetings of the Cabinet.

5.10.2 The provisions in Council Procedure Rules in Section 4.31 relating to filming and use of social media apply to meetings of the Cabinet.

## **SECTION 6**

### **6. THE LEADER**

#### **6.1 Election**

- 6.1.1 The Leader will be elected by Full Council.
- 6.1.2 The Leader will usually be elected **on an annual basis** at the Annual Council meeting. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

#### **6.2 Term of Office**

The Leader is appointed on an annual basis at the annual meeting of the Council.

#### **6.3 Resignation, Dismissal, Disqualification and Suspension**

- 6.3.1 The Leader may resign the position of Leader by writing to the Chair.
- 6.3.2 The Leader can be dismissed where the Council passes a resolution removing him/her from office in accordance with the Rules below.
- 6.3.3 The Leader shall cease to be Leader if he/she is suspended or disqualified as a Councillor, or, for other such reasons cannot fulfil the role of Leader.
- 6.3.4 The Leader will cease to be Leader upon death or upon suffering any disability which will, or is likely to, prevent them from undertaking the role of Leader for a period of three months or more.

#### **6.4 Deputy Leader**

##### **6.4.1 Appointment**

The Leader may designate **up to two** Members of the Cabinet as Deputy Leader.

##### **6.4.2 Duties of the Deputy Leader**

The Deputy Leader **appointed by the Leader for the purpose** may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

##### **6.4.3 Removal from Office**

The Leader may, if he/she thinks fit, remove a Deputy Leader from office at any time.

#### **6.5 Functions and Delegated Authority**

##### **6.5.1 Membership of the Cabinet**

The Leader appoints and dismisses the Members of the Cabinet subject only to there being a minimum of two, and a maximum of nine, Members of the Cabinet (not counting the Leader) at any time (Section 5.2, page 34).

##### **6.5.2 Role of the Leader**

The Leader will chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

##### **6.5.3 The Cabinet Scheme of Delegations**

The Leader will prepare and submit for approval a Cabinet Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the Cabinet, and thereafter keep this under review and submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under

others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.

(NB: no Member of the Cabinet may have a Deputy, other than the Leader. This means that no Member of the Cabinet can have responsibilities which mean that they will work to, or under, another Member of the Cabinet, except the Leader).

#### 6.5.4 Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting three clear days before it takes place, and other conditions contained in Section 3.1, page17, the Leader can call meetings of the Cabinet at such times and places as he/she chooses (NB: the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the Cabinet as well).

#### 6.5.5 Chairing Cabinet Meetings

The Leader shall chair Cabinet meetings. In the Leader's absence a Deputy Leader will chair. If no Deputy Leader is available the Cabinet will appoint a Member of the Cabinet to Chair the meeting on their behalf by informing the Proper Officer of the person chosen (subject to quorum).

#### 6.5.6 Appointments of Representatives on Outside Bodies

The Leader has authority to appoint representatives of the Council on outside bodies where those outside bodies relate to Executive Functions of the Council.



## **SECTION 7**

### **7. SELECT COMMITTEES**

#### **7.1 Introduction**

7.1.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. Select Committees should be powerful committees that can contribute to the development of Council policies and also hold the Cabinet to account for its decisions. Another key part of the overview and scrutiny role is to review existing policies, consider proposals for new policies and suggest new policies.

7.1.2 Overview and scrutiny should be carried out in a constructive way and should aim to contribute to the delivery of efficient and effective services that meet the needs and aspirations of local inhabitants. Select Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

#### **7.2 Select Committees**

In order to achieve this, the Council have appointed Four Select Committees which between them will:

7.2.1 review or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions whether by the Cabinet or another part of the Council;

7.2.2 make reports or recommendations to the Council or the Cabinet in connection with the discharge of any functions;

7.2.3 consider any matter which affects the Council's area or its inhabitants; and

7.2.4 exercise the right to call in for reconsideration decisions made but not yet implemented by the Cabinet and Officers.

#### **7.3 Role, Scope and Membership**

The role, scope and Membership of the Select Committees are described in the table below:

<b>Committee and Membership</b>	<b>Role and Scope</b>
Adult Select - 11 members, ... co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of adults
Children and Young People Select - 11 members, ... co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of children and young people
Economy and Development Select – 11 members, ... co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of economy and development
Strong Communities Select – 11 members, ... co-opted members	To review, scrutinise, measure and promote improvement in the provision of services and compliance with Council policies in the area of strong communities including crime and disorder.

## 7.4 **Specific Functions**

### 7.4.1 **Policy Development and Review**

The Select Committees may:

- (a) assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues;
- (b) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (c) question Members of the Cabinet and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;
- (d) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interest of local people are enhanced by collaborative working; and
- (e) consider the impact of policies to assess if they have made a difference.

### 7.4.2 **Scrutiny**

The Select Committees may:

- (a) review and scrutinise the decisions by and performance of the Cabinet and/or Committees and Council Officers in relation to individual decisions and over time;
- (b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (c) question Members of the Cabinet and/or Committees and Chief Officers from the Council about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;
- (d) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- (e) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Select Committees and local people about their activities and performance; and
- (f) question and gather evidence from any person (with their consent).

### 7.4.3 **Finance**

[Add what is relevant for your authority]

Comment [AM31]: Nothing at present

### 7.4.4 **Crime and Disorder Functions and the Strong Communities Select Committee**

This Committee:

- (a) may review and scrutinise decisions made or other actions taken in connection with the discharge of crime and disorder functions by Responsible Authorities under Sections 5 & 6 of the Crime & Disorder Act 1998. The Committee may make reports or recommendations to full Council or the Cabinet with respect to the discharge of crime and disorder functions, in which case it must provide a copy to each of the Responsible Authorities and those co-operating persons and bodies referred to in the Police & Justice Act 2006.
- (b) must consider any local crime and disorder matter (as defined by Section 19 of the Police & Justice Act 2006 (included on the agenda for the meeting where the matter has been referred to the Committee by a member of the Council)). It must consider whether to make a report or recommendations to full Council and/or the Cabinet with respect to that

local crime and disorder matter, having regard to any representations made by the member concerned. If the Committee decides not to make a report or recommendations it must notify the member concerned of its decision and the reasons for it. If the Committee does make a report or recommendations to full Council and/or Cabinet then it must provide a copy of the report or recommendations to the member concerned and such of the Responsible Authorities and co-operating persons or bodies, as it thinks appropriate.

- (c) Whenever it provides a copy of the report or recommendations to a Responsible Authority or a co-operating person or body, must remind that authority/body of its statutory duty to have regard to the report or recommendations in exercising its functions, to consider the report or recommendations and to respond to the Committee indicating what (if any) actions that person or body proposes to take.

#### **7.4.5 Annual Report**

The Select Committees must report annually to the Full Council on their workings with recommendations for their future work programme and amended working methods if appropriate.

#### **7.5 Head of Democratic Services**

One of the roles of the Head of Democratic Services under section 8 of The Measure is to promote the role of the Council's Select Committees and to promote support and guidance to Council Members and Officers generally about the functions of the Select Committees .

#### **7.6 Who May Sit on Select Committees?**

All Councillors except Members of the Cabinet ~~and the Chair of the Council~~ may be Members of the Select Committees. However, no Member may be involved in scrutinising on decisions in which he has been directly involved.

**Comment [AM32]:** The scrutiny chairs liaison group do not agree that Chair of Council should be excluded. Our current constitution does not exclude the Chair

#### **7.7 Co-Optees**

Each Select Committee shall be entitled to recommend to Council the appointment of a maximum of **five** people as non-voting co-optees. In exercising or deciding whether to exercise a co-option, the Authority must, under section 76 of The Measure, have regard to guidance given by the Welsh Ministers and comply with directions given by them.

#### **7.8 Education Representatives**

The Children and Young People Select Committee shall include in its Membership voting representatives of religious faiths and of parent governors, as required by law and guidance from the National Assembly for Wales.

#### **Crime and Disorder Representatives**

In discharging its crime and disorder functions, the Strong Communities Select Committee may co-opt officers, employees or members of Responsible Authorities or Co-operating Persons or Bodies (as defined by section 5 of the Crime and Disorder Act 1998. Co-optees cannot be members of the Council's Executive and no co-optee is entitled to vote, unless the Committee allows it. Co-optees may be appointed for a particular matter or type of matter and membership may be withdrawn at any time by the Committee

#### **7.9 Who Chairs?**

The arrangements included in sections 66-75 of the Local Government (Wales) Measure 2011 will be followed for appointing persons to chair Select Committees .

#### **7.10 Role of the Chair and the Select Committees**

7.10.1 The role of the Chair of the Select Committees will be essential in implementing the new method of working. The Chairs will liaise with the Cabinet and supervise the Work Programme and identify cross cutting themes arising from the various Select Committees .

7.10.2 In summary, therefore, the Chair will:

- (a) be accountable for delivering the new way of working for scrutiny;
- (b) will meet regularly to monitor Work Programmes;
- (c) will liaise with the Cabinet on issues affecting the Scrutiny Work Programme; and
- (d) report to meetings of the Co-ordinating Board on progress in implementing the new methods of working.

#### 7.11 **Work Programme**

The Select Committees will be responsible for setting their own Work Programme and in doing so they should take into account wishes of Members who are not Members of the largest political group on the Council. It may also consider urgent and unforeseen matters not included in the Work Programme.

#### 7.12 **Meetings**

7.12.1 The Select Committees will have 8 meetings a year.

7.12.2 Extraordinary meetings may be called from time to time in order to deal with call-ins (Section 7.25) where the Chair of a Select Committee and the Chair of Council agree it is necessary for that Select Committee to consider the called in decision before the Select Committee's next programmed meeting.

7.12.3 The quorum of a Select Committee will be 3 Members.

#### 7.13 **Joint Select Committees**

Under section 58 of The Measure, regulations may be made to permit two or more local authorities to appoint a joint Select Committee. This is set out in the Local Authority (Joint Overview and Scrutiny) (Wales) Regulations 2012.

#### 7.14 **Rules of Procedure and Debate**

The Overview and Scrutiny Procedure Rules will apply to meetings of the Select Committees .

#### 7.15 **What will be the Number and Arrangements for Select Committees?**

7.15.1 The Council will have Four Select Committees set out in the table in Section 7.3 and will appoint to them as it considers appropriate from time to time. The Select Committees may appoint smaller groups to carry out detailed examination of particular topics for report back to them. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist.

7.15.2 The terms of reference of the various Select Committees will be to:

- (a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions; (except any matters specifically identified in the terms of reference of any other select committee)
- (b) make reports and/or recommendations to the full Council and/or the executive and/or any joint or area committee in connection with the discharge of any functions;
- (c) consider any matter affecting the area or its inhabitants;
- (d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive and/or any area committees; and
- (e) convene joint meetings with overview and scrutiny committees of other councils.
- (f) assess the impact of partnerships with and resources and services provided by external organisations including the Welsh Assembly Government and

Assembly Sponsored Public Bodies on the effectiveness of Council service delivery.

#### **Specific functions**

**Policy development and review** Select committees may:

- (g) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
- (h) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (i) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (j) question members of the executive and/or committees and chief officers about their views on issues and proposals affecting the area; and
- (k) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

**Scrutiny** Select committees may:

- (l) review and scrutinise the decisions made by and performance of the executive and/or committees and council officers both in relation to individual decisions and over time;
- (m) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- (n) question members of the executive and/or committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- (o) make recommendations to the executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;
- (p) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the select committee and local people about their activities and performance; and
- (q) question and gather evidence from any person (with their consent).

#### **Finance**

Select committees may exercise overall responsibility for the finances made available to them.

#### **Report**

From time to time, as appropriate, the Chairman of each Select committee will report to full Council on the workings of the committee including future work programmes.

#### **Officers**

Select committees may exercise overall responsibility for the work programme of the officers employed to support their work.

7.15.3 Each Select Committee will be Chaired by a Chair appointed from the membership of that Select Committees :

- (a) there will be cross party Membership of all Select Committees;
- (b) the Select Committees shall undertake the following:

**Comment [AM33]:** This is extracted from our current constitution

- (i) investigate or review a particular matter in depth and without delay, reporting their conclusions and making any recommendations to the Council or Cabinet as appropriate;
- (ii) conduct research, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships;
- (iii) consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options;
- (iv) question Cabinet Members and Officers about their views and actions on issues and proposals affecting the County;
- (v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working; and
- (vi) question and gather evidence from any person (with his/her consent) whilst conducting investigative and reporting processes.

#### 7.16 **Meetings of the Select Committees**

The Council may determine a cycle of meetings for the Select Committees. If the Council do not set the cycle, each such Select Committee shall determine their own cycle of meetings. The Chair, or in their absence the Vice Chair, may change the date or cancel meetings, or call additional meetings as they consider necessary to deal with the Select Committee's work programme. A meeting of a Select Committee may be called by the Chair (or in his or her absence, the Vice Chair) or by the Monitoring Officer or by the Head of Democratic Services, if he or she considers it necessary or appropriate.

#### 7.17 **Quorum**

The quorum for a Select Committee shall be as set out in the Council Procedure Rules in Section 4 of this Constitution.

#### 7.18 **Agenda Items**

7.18.1 Any Member of a particular Select Committee shall be entitled to give notice to the Proper Officer that he wishes an item relevant to the functions of the that Select Committees to be included on the agenda for the next available meeting. [Seven] working days' notice of the item should be given to Proper Officer together with sufficient information to enable the Officer to advise about the nature and purpose of the item.

7.18.2 On receipt of such a request, so long as it is an appropriate matter to be considered, the Proper Officer will ensure that it is included on the next available agenda.

7.18.3 Select Committees shall also respond, as soon as their work programme permits, to requests from the Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the particular Select Committees shall report their findings and any recommendations back to the Cabinet and/or Council. The Council and/or the Cabinet shall consider the report of the Select Committees within **one month** of receiving it.

**Comment [AM34]:** This reflects our existing constitution and the changes in the 2011 Measure to apply s119 of the Local Government and Public Involvement in Health Act 2007. The scrutiny chairs liaison group have objected to it in the mistaken belief (I think) that it applies to **ALL** members

#### 7.19 **Policy Review and Development**

7.19.1 The role of the Select Committees in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules in Section **Error! Reference source not found.**

7.19.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Select Committees may make

proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.

- 7.19.3 Select Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

#### **7.20 Reports from the Select Committees**

- 7.20.1 All formal reports from the Select Committees will be submitted to the **Proper Officer** for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (eg if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 7.20.2 If a Select Committee cannot agree on one single final report to the Council or Cabinet as appropriate, one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.
- 7.20.3 The Council or Cabinet shall consider the report of a Select Committee within **one month** of it being submitted to the **Proper Officer**.

#### **7.21 Making sure that Overview and Scrutiny Reports are considered by the Cabinet**

- 7.21.1 The agenda for Cabinet meetings shall include an item entitled "Issues Arising from Overview and Scrutiny". The reports of the Select Committees referred to the Cabinet shall be included at this point in the agenda (unless they have been considered in the context of the Cabinet's deliberations on a substantive item on the agenda) as soon as practicable. Where an item is not considered by the Cabinet within **two months**, the Cabinet will give an explanation of the reasons to the Chair of the relevant Select Committee as soon as practicable.
- 7.21.2 Where the Cabinet has delegated decision making power to another individual Member of the Cabinet, the relevant Select Committee will submit a copy of its report to him or her for consideration. At the time of doing so the Select Committee shall serve a copy on the Head of Legal Services. The Member with delegated decision making power must consider the report and respond in writing to the Select Committee within **four weeks** of receiving it. A copy of his written response to it shall be sent to the **Proper Officer** and the Leader. The Member will also attend a future meeting of that Select Committee to present their response.

#### **7.22 Rights of Members of the Select Committees to Documents**

- 7.22.1 In addition to their rights as Councillors, Members of the Select Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section **Error! Reference source not found.** of this Constitution.
- 7.22.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Select Committee as appropriate depending on the particular matter under consideration.

#### **7.23 Members and Officers Giving Account**

- 7.23.1 The Select Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Cabinet, the Chief Executive and/or any senior Officer to attend before it to explain in relation to matters within their remit:

- (a) any particular decision or series of decisions;
  - (b) the extent to which the actions taken implement Council policy; and/or
  - (c) their performance
- and it is the duty of those persons to attend if so required.

7.23.2 For this purpose, senior Officer includes any chief Officer, deputy chief Officer and other appropriate senior Officer. Where there are concerns about the appropriateness of the Officer who should attend, the relevant chief Officer shall discuss this with the appropriate Overview and Scrutiny Chair or Vice Chair with a view to achieving consensus.

7.23.3 Where any Member or Officer is required to attend a Select Committee under this provision, the Chair of that Committee will inform the **Proper Officer**. The **Proper Officer** shall inform the Member or Officer, if necessary in writing, giving at least **10 working days** notice of the meeting at which he or she is required to attend (unless agreed otherwise). Any notice will state the nature of the item on which he or she is required to attend to give account and whether any papers are required to be produced for the Committee.

Comment [AM35]: Currently 15 clear

7.23.4 Where the account to be given to a Select Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for preparation of that documentation.

7.23.5 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Select Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

#### 7.24 **Attendance by Others**

Select Committees may invite people other than those people referred to in paragraph 7.23 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and shall invite such people to attend.

#### 7.25 **Call-In**

##### 7.25.1 **Rules**

- (a) Where a decision is made by the Cabinet an individual Member of the Cabinet or a Committee of the Cabinet or under joint arrangements, the decision shall be published by the **Proper Officer**, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 clear working days of it being made. All Members of the Select Committees will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless a Select Committee objects to it and calls it in for review.
- (c) During that period the **Proper Officer** shall call-in a decision for scrutiny by a Select Committee if so requested **in the specified format** by three **Members of that Select Committee** and, shall then notify the decision taker of the call-in. He/she shall call a meeting of that Select Committees on such a date as he/she may determine, where possible after consultation with the **Chair or Vice Chair** of that Select Committees, and in any case within **15 clear working days of the decision to call-in** (only in exceptional circumstances will the Chair of the Select Committee consider extending this time limit).

Comment [AM36]: In due course members may wish to review this



(d) If, having considered the decision, the Select Committee is still concerned about it, then it may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns or refer the matter to Full Council. If referred to the decision maker they shall then reconsider within a further 10 clear working days, amending the decision or not, before adopting a final decision. If referred to full Council, the Proper Officer will convene a meeting of the Council within 15 clear working days.

Comment [AM37]: We have no finite date in the current constitution

Comment [AM38]: Ditto

(e) If following an objection to the decision, a Select Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Select Committee' meeting, or the expiry of that further 15 clear working day period, whichever is the earlier.

Comment [AM39]: Reflects our current position

(f) If the matter was referred to Full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a Committee of it, a meeting will be convened to reconsider within [five] working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within [five] working days of the Council's request.

Comment [AM40]: Currently TEN

Comment [AM41]: Currently TEN

(g) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.

(h) In order to ensure that call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:

(i) a Select Committee may only call-in a total of [three] decisions per [three] month period;

(ii) three Members of a Select Committee (from at least two political groups) are needed for a decision to be called in;

(iii) once a Member has signed a request for call-in under this paragraph, he/she may not do so again until the period of three months has expired.

(iv) No Education Co-opted Members may report a decision be called in.

Comment [AM42]: This is significantly more restrictive than our current position but does remove the arbitrary £10k threshold

(i) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.

(j) Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.

Comment [AM43]: Members may wish to consider whether to make attendance a requirement regardless of circumstances. Otherwise, who adjudicates the "exceptional circumstances"? DSC agreed this approach.

Comment [AM44]:

### 7.25.2 Call-In and Urgency

(a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair the Deputy

Comment [AM45]: Our current constitution gives this role to HoPS

Chair's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent should be required. Decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for urgency.

- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

#### 7.26 **The Party Whip**

If a Member of a Select Committee is subject to a party whip in respect of an issue to be considered by it, that Member must declare the existence of the whip and the nature of it before the commencement of deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

#### 7.27 **Procedure at Select Committee Meetings**

7.27.1 Select Committees shall consider the following business:

- (a) minutes of the last meeting;
- (b) declarations of interest;
- (c) consideration of any matter referred to that Select Committee for a decision in relation to call in of a decision;
- (d) responses of the Cabinet to reports of that Select Committee;
- (e) the business otherwise set out on the agenda for the meeting.

The Rules of Procedure at a Select Committee will be the same as the Council procedure Rules except that the Chair of the meeting may allow the rules of debate to be relaxed to enable a full contribution by those attending the meeting whether as Members of a Select Committee or in any other capacity which allows them to contribute to the worth of the meeting.

7.27.2 Select Committees may ask people to attend to give evidence or answer questions about any items on their agenda. Meetings should be conducted in accordance with the following principles:

- (a) that the business be conducted fairly and all Members of the Select Committees be given the opportunity to ask questions of attendees, and to contribute and speak;
- (b) that those assisting by giving evidence be treated with respect and courtesy;
- (c) that the business be conducted as efficiently as possible.

7.27.3 Following any investigation or review, a Select Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### 7.28 **Matters within the Remit of more than one Select Committees**

Where a matter for consideration by a Select Committee also falls within the remit of one or more other Select Committee, the decision as to which Select Committees will consider it will be resolved by the respective Chairs or, if they fail to agree, the decision will be made by the Co-ordinating Board.

#### 7.29 **Councillor Call for Action**

7.29.1 The Councillor Call for Action is a mechanism for enabling elected Members to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of "last resort".

7.29.2 Any Member may request that an item is placed on the agenda of an Select Committees for consideration.

**Comment [AM46]:** This reflects our current position. If we do not change it, provision for the Board will need to be inserted elsewhere.

7.29.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to these Rules at Appendix 1.

## **Appendix 1 to Section 7**

### **Councillor Call for Action - Guidance for Councillors**

#### **INTRODUCTION**

The Local Government Wales Measure 2011 introduced a number of new provisions aimed at strengthening local democracy. Section 63 of the Measure introduced a provision for "Councillor Calls for Action" (CCfA) which enables Councillors to refer issues of local importance to Select Committees .

CCfAs are intended to enable local Councillors and their electors to obtain a response from their Council Leadership on issues of local importance. CCfAs should be regarded as one of a series of tools which elected Members have at their disposal to resolve local issues and make a positive difference in their community. Previously in Wales, only local Crime and Disorder issues could be referred by the local Member to the designated Crime and Disorder Select Committee for action and it should be noted that these local crime and disorder referrals will remain in place under separate legislation.

As part of their community leadership role, councillors have always attempted to resolve issues on behalf of their local residents and CCfAs provide an additional avenue for councillors to follow if the normal ways of resolving an issue have not been successful and the issue meets the criteria for a referral. It should be noted that a referral under this process should be seen as a last resort after all other avenues have been exhausted.

CCfAs have been introduced alongside other powers for scrutiny, including powers to scrutinise a wide range of bodies not previously subject to local authority scrutiny. CCfAs are intended to enable any Member for the Council to refer to a Select Committee, "a local government matter" which falls within the Select Committees remit.

#### **HOW SHOULD I NORMALLY ATTEMPT TO RESOLVE A LOCAL ISSUE IN MY AREA?**

Local issues can be resolved in a number of ways by councillors on behalf of their residents as listed in the Welsh Government's Statutory Guidance from the Local Government Measure 2011:

- informal discussions with Officers or other councillors;
- informal discussions with partner representatives;
- referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee;
- formal discussions with Officers and councillors;
- formal letters to the Cabinet Members;
- asking questions at Full Council;
- submitting a motion to Full Council;
- organising public meetings;
- use of petitions;
- making a complaint;
- questions at Full Council
- freedom of information requests;
- communication with local AMs or MPs;
- use of social media or email based campaigns.

This is not an exhaustive list and councillors may choose different routes for specific issues. If an issue has not been resolved after exhausting all possible alternative routes, then a local councillor can refer it to the appropriate Select Committees .

## **WHAT IS A COUNCILLOR CALL FOR ACTION**

In order for the Select Committees to accept a CCfA as an agenda item for discussion at one of their meetings, the issue must affect either all or part of a councillor's electoral area or it must affect someone who lives or works in that area.

A Councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that an a CCfA is not guaranteed to solve a given problem, though it can provide a method for discussing such problems and, through discussion, attempt to overcome them.

## **HOW AND WHEN SHOULD I MAKE A CCFA**

A flowchart showing the process is provided at Annex A. A councillor may initiate the process by completing the form at Annex B. Further copies are available from [your Scrutiny Support]. It is important that the local councillor specifies what outcome is expected from the referral. After completion the form should be returned to [your Scrutiny Support] who will log and acknowledge the referral within five working days, to track its progress and forward a copy of the form to **the Head of Legal Services (The Proper Officer)**.

The Proper Officer will confirm whether or not the referral satisfies the requirements outlined in paragraph 0 above to enable it to be placed on the agenda for discussion at a meeting of the Select Committee. The Proper Officer reserves the right to exclude from the agenda any matter which is vexatious, discriminatory or otherwise potentially unlawful; and the Councillor will be informed of this outcome as soon as practicable.

## **CRITERIA TO BE FOLLOWED BY A SELECT COMMITTEE**

It is up to the Members of a Select Committee to decide whether, and in what form, to take the matter further. The Select Committee will use the following criteria to decide whether or not the referral is appropriate to be considered by that Select Committees :

Is that Select Committee satisfied that all reasonable attempts have been made to resolve the issue by the local councillor? Do the responses received by the referring councillor demonstrate that the matter is not being progressed?

Has that Select Committee considered a similar issue recently? If so, have the circumstances or evidence changed?

Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate CCfA hearing. Relevant time pressures on resolving the CCfA should be taken into account.

Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response has the councillor received?

Is this a case that is being or should be pursued via the Council's corporate complaints procedure?

Is it relating to a "quasi-judicial" matter or decision such as planning or licensing?

Is the matter an issue of genuine local concern which impacts on the local community rather than a personal matter?

Is this an issue currently being looked at by another form of local scrutiny?

And, as with all scrutiny, does the matter have the potential for scrutiny to produce recommendations which could realistically be implemented and lead to improvements for anyone living or working in the Member's electoral division?

NB: Crime and Disorder referrals should be directed to the designated Crime and Disorder Select Committee .

If a Select Committees decides not to accept the CCfA it must inform the councillor of the decision and the reasons for it.

If a Select Committee decides to accept the CCfA the Councillor will be informed and advised of the agreed Protocol, eg the Councillor will be given adequate notice (a minimum of 10

clear days) of the date of the Select Committee's meeting. The Councillor will be requested to attend to the Select Committee and informed that he/she will have five minutes in which to address the Select Committee. The Select Committee may then wish to question the Councillor further before deciding how it intends to take the matter forward. This could include:

asking the relevant responsible authorities to respond to the CCfA;

setting up a research or task and finish group to undertake a more in-depth review;

asking for further evidence and/or witnesses to be brought to a future meeting. The Select Committee has the power to request "designated persons" such as representatives from other public bodies/agencies to attend, where relevant, and to request information. (The Welsh Government has yet to publish a list of "designated persons".)

**Comment [AM47]:** This has been the subject of a recent consultation to which the council has responded.

### **POTENTIAL OUTCOMES FROM A CCFA**

A Select Committee could:

determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;

write a response and make recommendations on the CCfA to a relevant responsible authority;

decide that further action is not appropriate giving its reasons.

Once a Select Committee has completed its work, the Councillor who made the referral will receive a copy of any response or recommendations made.

### **TIMESCALES FOR DEALING WITH A CCFA**

In exceptional circumstances, for example where there are unavoidable time constraints, a special Select Committee meeting may be convened.

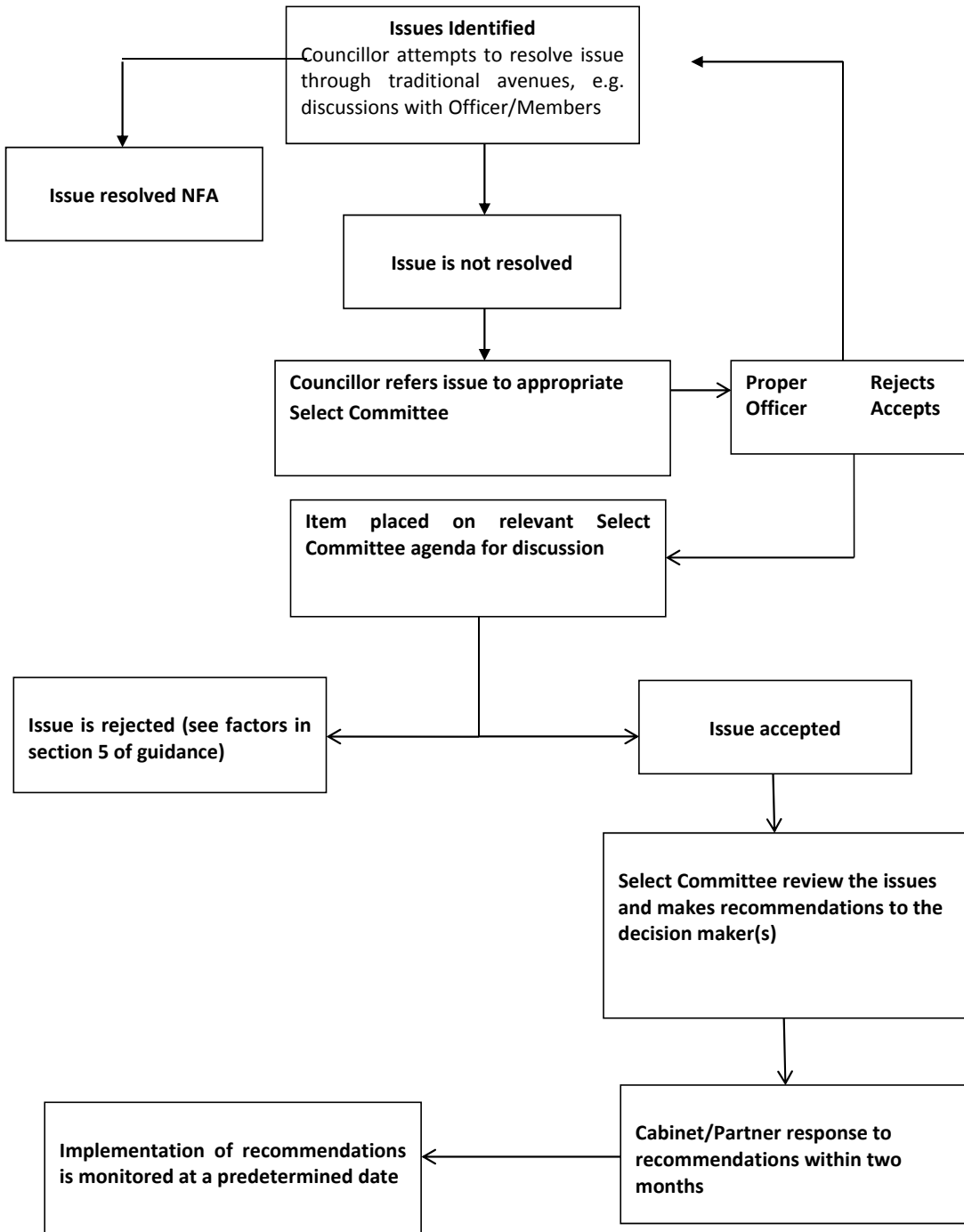
Should a CCfA result in recommendations to the Cabinet responsible authorities, they will be requested to make a response to the recommendations within 28 days and two months respectively.

A Select Committees will monitor implementation of any recommendations as part of its Forward Work Programme.

### **REVIEW OF THIS GUIDANCE**

This guidance is based on a model prepared and approved by the Association of Council Secretaries and Solicitors (ACSeS) in October 2009. ACSeS will review their model guidance in light of experience of the use of these procedures by local authorities in Wales, and this guidance may therefore be modified accordingly.

## **APPENDIX 2 TO SECTION 7**



**Flow Chart for Councillor Call for Action**

**Appendix 3 to Section 7**

**Councillor Call for Action Referral**

<b>For the attention of (name and title of Proper Officer)</b>	
<b>From</b>	Councillor
<b>Electoral Division</b>	
<b>Contact details</b>	
<b>Telephone</b>	
<b>E-mail</b>	
<b>SUBJECT</b>	
<b>Details</b> Please briefly explain what the issue is and how it affects your electoral division.	
<b>Action taken to date</b> Please explain what steps have been taken, with whom, to try to resolve the issue (please tick the actions you have taken to date) or add additional.	<ul style="list-style-type: none"><li>• Informal discussions with Officers or other councillors</li><li>• Informal discussions with partner representatives</li><li>• Referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee</li><li>• Formal discussions with Officers and councillors</li><li>• Formal letters to the Cabinet Members</li><li>• Asking questions at Full Council</li><li>• Submitting a motion to Full Council</li><li>• Organising public meetings</li><li>• Use of petitions</li><li>• Making a complaint</li><li>• Questions at Full Council</li><li>• Freedom of Information requests</li><li>• Communication with local AMs or MPs</li><li>• Use of social media or email based campaigns</li></ul>
<b>Expected Outcome</b> Please describe the outcome you hope to gain via this referral.	
<b>Papers attached</b>	



Please list documents attached which should evidence the impact of the issue, the steps taken and any responses received.	
---	--

The following criteria will be taken into consideration when a Select Committee decide whether to progress with your CCfA:

Have all reasonable attempts been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?

Has the committee considered a similar issue recently – if yes have the circumstances or evidence changed?

Is there a similar or related issue which is the subject of a review on the current work programme? It may be more appropriate to link the new issue to an existing review, rather than hold a separate LCDR hearing. Relevant time pressures on resolving the CCfA should be taken into account.

Have all relevant service areas or partner organisations been informed and been given enough time to resolve the issue? What response have you received?

Is this a case that is being or should be pursued via the Council's corporate complaints procedure?

Is it relating to a “quasi-judicial” matter or decision such as planning or licensing?

Is the matter an issue of genuine local concern, which impacts on the local community rather than a personal matter?

Is this an issue currently being looked at by another form of local scrutiny?

And, as with all scrutiny, does the matter referred have the potential for scrutiny to produce recommendations, which could realistically be implemented and lead to improvements for anyone living or working in your electoral division.

Please consider whether your referral might be considered premature by the Select Committee. Consider whether other potential remedies have been exhausted, before a referral is made. Members should be aware that if a premature referral is made, the Committee is likely to refuse to deal with the issue, based on the criteria outlined above. If the Proper Officer believes that the referral is premature, he/she will advise you accordingly.

## **SECTION 8**

### **8. THE STANDARDS COMMITTEE**

#### **Composition**

##### **8.1 Membership**

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

- 8.1.1 5 "independent" Members, who are not either a Councillor or an Officer or the spouse of a Councillor or an Officer of this Council or any other relevant Authority as defined by the Local Government Act 2000, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (as amended);
- 8.1.2 3 Councillors other than the Leader and not more than one Member of the Executive; and
- 8.1.3 1 Community Council Member.

##### **8.2 Term of Office**

- 8.2.1 Independent Members are appointed for a period of not less than four and not more than six years and may be reappointed for a consecutive term not exceeding four years.
- 8.2.2 Members of local authorities who are Members of the Standards Committee will have a term of office of no more than four years or until the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for one further consecutive term.

##### **8.3 Quorum**

A meeting of the Standards Committee shall only be quorate when:

- 8.3.1 at least three Members, including the Chairperson, are present; and
- 8.3.2 at least half the Members present (including the Chairperson) are Independent Members.

##### **8.4 Voting**

Independent Members and Community Council Members will be entitled to vote at meetings.

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

- 8.5.1 Only an Independent Member of the Standards Committee may be the Chair.
- 8.5.2 The Chair and Vice Chair will be elected by the Members of the Standards Committee for whichever is the shortest period of:
  - (i) not less than four years or no more than six years; or
  - (ii) until the term of office of the Independent Member comes to an end.

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

The Standards Committee will have the following roles and functions:

- 8.6.1 promoting and maintaining high standards of conduct by Councillors and co-opted Members of the Authority;
- 8.6.2 assisting the Councillors and co-opted Members to observe the Members' Code of Conduct;
- 8.6.3 advising the Council on the adoption or revision of the Members' Code of Conduct;

- 8.6.4 monitoring and from time to time reviewing the operation of the Members' Code of Conduct and protocols which apply to members of the Council, employees, contractors and other parties or organisations associated with Council activity;
- 8.6.5 advising, training or arranging to train Councillors and co-opted Members on matters relating to the Members' Code of Conduct;
- 8.6.6 granting dispensations to councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;
- 8.6.7 dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales;
- 8.6.8 mentoring and supporting the Council's Monitoring Officer in the discharge of his/her role;
- 8.6.9 receiving and investigating (where statute permits) reports and complaints relating to the Members' Code of Conduct and protocols approved by the Council from time to time;
- 8.6.10 the exercise of the foregoing in relation to the town and community councils wholly or mainly in its area and the members of those town and community councils;
- 8.6.11 ensuring the Council's whistle blowing procedures operate effectively;
- 8.6.12 ensuring the Council's complaints procedures operate effectively and publishing an annual report on the operation of the system.

#### 8.7 **Work Programme**

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

#### 8.8 **Rules of Procedure and Debate**

- 8.8.1 The Council Procedure Rules at Section 4 will apply to the meetings of the Standards Committee Members.
- 8.8.2 When considering the conduct of individual Councillors, the procedures outlined in **Appendix 3 to Section Error! Reference source not found.** will apply.

## **SECTION 9**

### **9. REGULATORY COMMITTEES**

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

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

#### **9.2 The Audit Committee**

9.2.1 The Council will appoint an Audit Committee to discharge the functions described in **Section Error! Reference source not found.** of this Constitution and in accordance with sections 81-87 of The Measure.

9.2.2 The Committee shall comprise of Councillor Members (being at least two thirds of the Membership) and at least one Member who is not a Member of the Council (lay Member) and no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

9.2.3 The Chair of the Audit Committee is appointed by it and cannot be a Member of the Cabinet but can be a lay Member and can only be a Member of an executive group if there are no opposition groups.

9.2.4 Members of the Audit Committee may vote on any matter that falls to be decided by the Committee.

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

9.3.1 The Council will appoint a Democratic Services Committee to discharge the functions described in **Section Error! Reference source not found.** of this Constitution.

9.3.2 The Committee shall comprise of Councillor Members but no more than one Member of the Cabinet (which Cabinet Member must not be the Leader).

9.3.3 The Chair of the Democratic Services Committee is appointed by Full Council and must not be the Cabinet Member.

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

9.4.1 The Council will appoint such other Committees as it considers appropriate to the exercise of its functions. These will include a Planning and Licensing Committee.

9.4.2 Any Committee appointed by the Council may at any time appoint additional Sub-Committees and panels throughout the year. The terms of reference and delegation of powers to them shall be explicit and within the appointment Committee's terms of reference.

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

The Council Procedure Rules in **Section 4** will apply.

## **SECTION 10**

### **10. JOINT COMMITTEES**

#### **10.1 Introduction**

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

#### **10.2 Arrangements to Promote Wellbeing**

The Cabinet in order to promote the economic, social, or environmental wellbeing of its area may:

10.2.1 enter into arrangements or agreements with any person or body;

10.2.2 co-operate with, or facilitate or co-ordinate the activities of any person or body; and

10.2.3 exercise on behalf of that person or body any functions of that person or body.

#### **10.3 Joint Arrangements**

10.3.1 The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not Executive Functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

10.3.2 The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint committees with these other local authorities. Except as set out below, or as permitted or required by Law, the Cabinet may only appoint Cabinet Members to such joint committees and those Members need not reflect the political composition of the Council as a whole.

10.3.3 The Cabinet may appoint Members to a Joint Committee from outside the Cabinet where the Joint Committee has functions for only part of the area of the Council and that area is smaller than two fifths of that local authority, by area or population. In such cases, the Cabinet may appoint to the Joint Committee any Councillor who is Member for an electoral division contained within the area. Political balance requirements do not apply to such appointments.

Comment [AM48]: WG consulting on this currently. Two fifths to become a half.

#### **10.4 Access to Information**

10.4.1 The Access to Information Procedure Rules in **Section Error! Reference source not found.** apply.

10.4.2 If all the Members of a Joint Committee are Members of the Cabinet in each of the participating authorities, then its access to information regime is the same as that applied to the Cabinet.

10.4.3 If the Joint Committee contains Members who are not on the Cabinet of any participating authority, then the Access to Information Rules in part VA of the Local Government Act 1972 (as amended) will apply.

#### **10.5 Delegation to and from Other Local Authorities**

10.5.1 The Council can delegate Non-Executive Functions to another local authority or, where those functions are the responsibility of the executive of another local authority, to that executive.

10.5.2 The Cabinet can delegate Executive Functions to another local authority or the executive of another local authority in certain circumstances.

10.5.3 The decision whether or not to accept such a delegation from another local authority is reserved to the Full Council.

10.6 **Contracting Out**

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

- 10.6.1 which may be exercised by an Officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994; or
- 10.6.2 under contracting arrangements where the Contractor acts as the Council's Agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

**SECTION 11**

**11. OFFICERS**

**11.1 Management Structure**

**11.1.1 General**

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

**11.1.2 Chief Officers**

The Full Council will engage persons for the following posts, who will be designated Chief Officers, which designation includes persons acting temporarily in such capacity:

Post	Functions and Areas of Responsibility
Chief Executive (and Head of Paid Service)	<ul style="list-style-type: none"> <li>• Overall corporate management and operational responsibility including overall management responsibility for all Officers.</li> <li>• Principal adviser to the Council on general policy.</li> <li>• The provision of professional and impartial advice to all parties in the decision making process to the Cabinet, to Select Committees, the Full Council and other Committees).</li> <li>• Together with the Monitoring Officer, responsibility for a system of record keeping for all the Authority's decisions (executive or otherwise).</li> <li>• Representing the Authority on partnership and external bodies (as required by statute or the Council).</li> <li>• Service to the whole Council, on a politically neutral basis.</li> <li>• Regulatory Services</li> <li>• Citizen engagement and Performance Framework</li> <li>• Finance</li> <li>• Operations</li> </ul>
Chief Officer, Enterprise	<ul style="list-style-type: none"> <li>• Innovation and Enterprise, Developing Communities, Leisure Arts and Tourism and Human Resources..</li> </ul>
Chief Officer, Children and Young People	<ul style="list-style-type: none"> <li>• Education Services including schools and continuing education.</li> </ul>
Chief Officer, Social Care and Health	<ul style="list-style-type: none"> <li>• Housing, Older Persons, Mental Health Service, Learning disabilities,</li> <li>• Children's Services including safeguarding, looked after children and children in need, youth offending, adoption and fostering.</li> </ul>

**Comment [AM49]:** The chief Executive will want to review this in light of recent changes agreed by cabinet.

11.1.3 Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Monitoring Officer	Monitoring Officer
Chief Finance Officer	Chief Finance Officer
Head of Improvement and Democracy	Head of Democratic Services

Such posts will have the functions described in Sections 11.2 to 11.5.

11.2 **Functions of the Head of Paid Service**

11.2.1 Discharge of Functions by the Council

Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Head of Paid Service. The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Staff required for the discharge of functions, the organisation of the authority's staff and the appointment and proper management of the authority's staff.

11.2.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant.

11.3 **Functions of the Monitoring Officer**

These are set out in section 5 of the Local Government and Housing Act 1989 as amended.

11.3.1 Maintaining the Constitution

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.

11.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to any Function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

11.3.3 Supporting the Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

11.3.4 Receiving Reports

The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.



#### 11.3.5 Conducting Investigations

The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the Standards Committee.

#### 11.3.6 Proper Officer for Access to Information

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

#### 11.3.7 Advising whether decisions of the Cabinet are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Cabinet – are in accordance with the Budget and Policy Framework.

#### 11.3.8 Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to the Councillors.

#### 11.3.9 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer, the Head of Paid Service or the Head of Democratic Services.

### 11.4 **Functions of the Chief Finance Officer**

These are set out in section 6 of the Local Government and Housing Act 1989.

#### 11.4.1 Ensuring Lawfulness and Financial Prudence of Decision Making

After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

#### 11.4.2 Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

#### 11.4.3 Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### 11.4.4 Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

#### 11.4.5 Give Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.4.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

11.4.7 Restrictions on Posts

The Chief Finance Officer cannot be the monitoring officer or the Head of Democratic Services.

**11.5 Functions of the Head of Democratic Services**

These are set out in section 9 of The Measure. The functions of the Head of Democratic Services are:

11.5.1 to provide support and advice to the authority in relation to its meetings, subject paragraph 11.5.10;

11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 11.5.5) and the members of those committees, subject to paragraph 11.5.10;

11.5.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to paragraph 11.5.10;

11.5.4 to promote the role of the authority's Select Committees ;

11.5.5 to provide support and advice to:

(a) the authority's Select Committees and the members of those Select Committees; and

(b) the authority's Democratic Services Committee and the members of that committee;

(c) to provide support and advice in relation to the functions of the authority's Select Committees to each of the following:

(i) members of the authority;

(ii) members of the executive of the authority;

(iii) officers of the authority;

11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 11.5.11;

11.5.7 to make reports and recommendations in respect of any of the following:

(a) the number and grades of staff required to discharge democratic services functions;

(b) the appointment of staff to discharge democratic services functions;

(c) the organisation and proper management of staff discharging democratic services functions;

11.5.8 such other functions as may be prescribed by law.

11.5.9 Restrictions on Posts

The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.

11.5.10 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Select Committees and Democratic Services Committee.

11.5.11 Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of an Select Committees or Democratic Services Committee.

#### 11.6 **Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services**

The Council will provide the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

#### 11.7 **Conduct**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections **Error! Reference source not found.** and **Error! Reference source not found.** of this Constitution.

#### 11.8 **Employment**

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

#### 11.9 **Officer Employment Procedure Rules**

##### 11.9.1 **Recruitment and Appointment**

###### (a) *Declarations*

(i) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council.

(ii) No candidate so related to a Councillor or a senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him.

###### (b) *Seeking Support for Appointment*

(i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

(ii) No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

##### 11.9.2 **Recruitment of Chief Officers**

Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

(a) draw up a statement including the following:

(i) the duties of the Officer concerned; and

(ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

**Comment [AM50]:** Save for the appointment of the Chief Executive (11.9.4), the steps in 11.9.2 and 11.9.3 may be undertaken by a committee, sub-committee or chief officer. Do members wish to include this possibility?

(c) make arrangements for a copy of the procedures mentioned in paragraph 0 to be sent to any person on request.

11.9.3 Where a post has been advertised as provided in 11.9.2 above, the Council must:-

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.
- (c) Where no qualified person has applied, or if the Council decides to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with 11.9.2 above.

11.9.4 Appointment of Head of Paid Service/Chief Executive

The full council will make the appointment of the Head of Paid Service following the recommendation of a short list for such an appointment by a committee of the Council. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

11.9.5 Appointment of Chief Officers and Deputy Chief Officers

The full Council will appoint statutory chief officers. A committee of the Council will appoint non-statutory chief officers and deputy chief officers. That committee must include at least one member of the executive but must not comprise a majority of members of the executive.

The appointment of non-statutory and deputy chief officers

11.9.6 Disciplinary action - Head of Paid Service, Chief Finance Officer, Monitoring Officer and Head of Democracy

(a) No disciplinary action (other than action to which paragraph (b) applies) in respect of the head of the authority's paid service, its monitoring officer, its chief finance officer or its head of democratic services, may be taken by the Council, or by a committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct). The detailed rules appear in paragraph 7 below.

(b) The action to which this paragraph applies is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; provided such suspension is on full pay and terminates no later than the expiry of two months beginning on the day on which the suspension takes effect.

11.9.7 Investigation of alleged misconduct - Head of Paid Service, Chief Finance Officer, Monitoring Officer

(1) where, it appears to the Council that an allegation of misconduct which may lead to disciplinary action has been made against-

- (a) the head of the council's paid service;
- (b) its monitoring officer;
- (c) its chief finance officer; or
- (d) its head of democratic services

("the relevant officer"), as the case may be,

the council must appoint a committee ("an investigation committee") to consider the alleged misconduct.

(2) The investigation committee must:

- (a) consist of a minimum of 3 members of the relevant authority;
  - (b) be politically balanced in accordance with section 15 of the Local Government and Housing Act 1989; and must, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
- (3) For the purpose of considering the allegation of misconduct, the investigation committee:
- (a) may make such enquiries of the relevant officer or any other person it considers appropriate;
  - (b) may request the relevant officer or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and
  - (c) may receive written or oral representations from the relevant officer or any other person it considers appropriate.
- (4) Where it appears to the investigation committee that an allegation of misconduct by the relevant officer should be further investigated, it must appoint a person ("the designated independent person")
- (5) The designated independent person who is appointed–
- (a) must be such person as may be agreed between the relevant authority and the relevant officer within 1 month of the date on which the requirement to appoint the designated independent person arose; or
  - (b) where there is no such agreement, must be such person as is nominated for the purpose by the National Assembly for Wales.
- (6) The designated independent person–
- (a) may direct–
    - (i) that the relevant authority terminates any suspension of the relevant officer;
    - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 11.9.6 (b) above;
    - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction; or
    - (iv) that no steps (whether by the relevant authority or any committee, sub-committee or officer acting on behalf of the Council) by way of disciplinary action or further disciplinary action against the relevant officer, other than steps taken in the presence, or with the agreement, of the designated independent person, are to be taken before a report is made under sub-paragraph (d) below);
  - (b) may inspect any documents relating to the conduct of the relevant officer which are in the possession of the Council, or which the Council has power to authorise the designated independent person to inspect;
  - (c) may require any member or member of staff of the relevant authority to answer questions concerning the conduct of the relevant officer;
  - (d) must make a report to the Council –
    - (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the relevant officer; and
    - (ii) recommending any disciplinary action which appears appropriate for the Council to take against the relevant officer, and

(e) must no later than the time at which the report is made under sub-paragraph (d), send a copy of the report to the relevant officer.

(7) Subject to paragraph (8), the relevant officer and the Council must, after consulting the designated independent person, attempt to agree a timetable within which the designated independent person is to undertake the investigation.

(8) Where there is no agreement under paragraph (7), the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.

(9) The council must consider the report prepared by the independent person under paragraph (6) (d) above within 1 month of receipt of that report.

(10) The Council will pay reasonable remuneration to a designated independent person appointed by the investigation committee and any costs incurred by, or in connection with, the discharge of functions under this provision.

(11) A disciplinary committee of the Council (excluding those persons who served on the investigation committee) will consider the report under para. (9) above along with representations from the officer against whom allegations are made, in accordance with the Council's detailed disciplinary procedures. An appeal will lie to the full Council from the decision of this committee, except in the case of the Head of Paid Service (in which case the Council will consider an appeal, or approve the recommendation of the committee if no appeal is made).

#### 11.9.8 Other Officers

(a) Appointment and dismissal of Officers below Chief Officer is the responsibility of the Chief Executive/Head of Paid Service or his nominee, and may not be undertaken by councillors.

(b) Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Members.

## **Protocol for Self-Regulation of Member Conduct**

### **General Principles**

1. To promote high standards of conduct and behaviour as a means of strengthening respect and trust amongst members.
2. The protocol does not replace the Member-Officer Relations Protocol set out in the Council's Constitution.
3. It is NOT intended to replace the Code of Conduct rather it is intended to sit alongside it, enabling behaviour which may not reach the Ombudsman's threshold to be dealt with.
4. Members will make all reasonable attempts to resolve disputes through agreed internal processes subject to their obligations under the Members' Code of Conduct.
5. Members will avoid personal confrontation in any public forum, especially full Council and through the media.
6. These commitments will not stifle legitimate political debate or scrutiny.
7. Group discipline will become the cornerstone of self-regulation with Group Leaders taking responsibility for their own members.
8. Group Leaders individually and collectively will work to ensure compliance with this protocol.
9. Members will commit to training and development in support of this protocol

### **Working to avoid problems**

To minimise the number of instances of alleged breaches all Group Leaders are asked to commit to:-

1. A Member Learning and Development Strategy – to which they will seek to secure the commitment of their group members. All reasonable endeavours will be made to ensure that the Learning and Development Strategy identifies and responds to the needs of members.
2. Attending relevant Member training events - in particular those relating to the Code of Conduct or probity courses within the scope of their role.
3. Support the provision made by the County Council for complying with sections 5 and 7 of the Local Government Measure 2011 (Annual reports & Training and development)

### **Role of Group Leaders**

A complaint by a member relating to a member of the same group will be referred to the Group Leader. A complaint by a member concerning the activities of a member of a different political group will be discussed with the complainant's own Group Leader, who will then refer the issue to the Group Leader with responsibility for the member against whom the complaint is made.

Upon receiving a complaint, it is the role of Group Leaders to take responsibility for discipline within their groups. Group discipline should seek to be informal, resolved through face to face meetings. Group Leaders will need to retain some records but the process will not be “document heavy”. The emphasis should be on training, education, mediation and conciliation.

When appropriate, a sanction such as removal from a committee or an outside body, may be used in extreme cases or after persistent breaches and the matter will be referred to the Public Services Ombudsman for Wales.

Prior to considering any sanction, or training, the relevant Group Leader may consult with a member of the Standards Committee in conjunction with the Monitoring Officer or Deputy Monitoring Officer. The Standards Committee will seek to ensure fairness and consistency in the discipline imposed within each Group.

At the next available Group Leaders’ meeting any issue of discipline which has been referred to a Group Leader will be discussed with the group and with the objective of seeking to ensure that fair and consistent sanctions are applied.

#### Unaffiliated Members

As far as unaffiliated members are concerned, the Chair of the Council will fulfil the role of Group Leader. Concerns regarding the conduct of an unaffiliated member should be referred to the Chair who will apply the same principles and standards as those of the Group Leaders in terms of training/mediation/conciliation.

In the event that an unaffiliated member refuses to provide reasonable co-operation to the Chair of the Council, or if the breach is significant, or in the event of repeated breaches, then the Council may remove the unaffiliated member from any committee seats allocated by the full Council. Such a proposal should be put to the Council jointly by the Group Leaders. In the case of persistent breaches the matter shall be referred to the Ombudsman by the Monitoring Officer or in his/her absence the Deputy Monitoring Officer.

#### Persistent Breaches

In the case of persistent breaches, or areas where the Group Leaders have concerns that the conduct of an individual member or members is damaging to relations between political groups or to the reputation of the Council, then the Group Leaders will meet with the Chief Executive and Monitoring Officer to agree a way forward. Consideration will be given to joint references to the Ombudsman, by the Group Leaders, for persistent low level breaches. The collective Group Leaders will also assume this responsibility in relation to unaffiliated members.

#### **Standards Committee**

- The Standards Committee Members will play a supporting/advisory role to the Group Leaders. This process will be initiated at the request of the Group Leader, in a particular case.
- Such meetings will be private and informal.



- Any documentation, attendance notes, file notes or advisory notes passing between a Group Leader (or as appropriate the Chair of the Council) and the members of the Standards Committee shall remain private and confidential.
- When acting in an advisory role to the Group Leaders/Chair of the Council, the Standards Committee has no right of sanction. However, it shall be open to the Group Leader to request that the Standards Committee, as a last resort, issue a public censure against a group member. Where this is to be considered, the member who may be subject to censure, will be provided with a reasonable opportunity to make submissions to the Standards Committee members, either in person or in writing.
- The recommendations available to the Standards Committee will include a recommendation that a Group Leader takes action against one of their members, including removal from committee or outside body.

**Protocol - Standard of Conduct Expected of Members**

This protocol sets out the standards of conduct expected from Members within Monmouthshire County Council in dealing with each other. It should be read in conjunction with the Members Code of Conduct and the Local Resolution Procedure. It adds to these documents and does not detract from them.

Members are expected to:

**1. PUBLIC BEHAVIOUR**

- 1.1 show respect to each other;
- 1.2 not to make personal abusive comments about each other;
- 1.3 not to publish anything insulting about each other;
- 1.4 not to make malicious allegations against each other;
- 1.5 not to publish or spread any false information about each other;
- 1.6 show respect to diversity and equality;

**2. BEHAVIOUR IN MEETINGS**

- 2.1 behave with dignity;
- 2.2 show respect to the Chair and obey his/her decisions;
- 2.3 not to use indecent language nor make racial remarks or remarks which prejudice any section of society;

**3. CONFIDENTIALITY**

- 3.1 keep the confidentiality of exempt papers and any other documents which are not public;
- 3.2 not to release confidential information to the press or the public;
- 3.3 not to use confidential information for purposes other than intended;

**4. LOCAL MEMBERS**

- 4.1 work with Members of adjoining electoral divisions for the benefit of the locality;
- 4.2 if dealing with any matter relating to another electoral division:
  - 4.2.1 explain to anyone seeking assistance that he/she is not the local Member;
  - 4.2.2 inform the local Member, unless it would lead to a breach of confidentiality.

## **PROTOCOL ON MEMBER / OFFICER RELATIONS**

### **1.1 Introduction**

The purpose of this Protocol is to guide Members and Employees of the Council in their relations with one another.

1.2 Mutual respect between Members and Employees is essential to good local government. However, close personal familiarity between individual Members and Employees can damage this relationship and prove embarrassing to other Members and Employees.

1.3 The relationship has to function without compromising the ultimate responsibilities of Employees to the Council as a whole, and with due regard to such technical, financial, professional and legal advice that Employees can legitimately provide to Members. The Protocol seeks to set a framework that assists the working relationships between Members and Employees.

### **1.4 Roles of Members**

Members undertake many different roles. Broadly these are:

1.4.1 Members express political values and support the policies of the party or group to which they belong (if any).

1.4.2 Members represent their electoral division and are advocates for the citizens who live in the area.

1.4.3 Members are involved in active partnerships with other organisations as community leaders.

1.4.4 Members contribute to the decisions taken in Full Council and in its various bodies on which they serve, as well as joint committees, outside bodies and partnership organisations.

1.4.5 Members help develop and review policy and strategy.

1.4.6 Members monitor and review policy implementation and service quality.

1.4.7 Members are involved in quasi-judicial work through their Membership of regulatory committees.

### **1.5 Roles of Employees**

Briefly, Employees have the following main roles:

1.5.1 Managing and providing the services for which the Council has given them responsibility and being accountable for the efficiency and effectiveness of those services.

1.5.2 Providing advice to the Council and its various bodies and to individual Members in respect of the services provided.

1.5.3 Initiating policy proposals.

1.5.4 Implementing agreed policy.

1.5.5 Ensuring that the Council always acts in a lawful manner.

### **1.6 Respect and Courtesy**

1.6.1 For the effective conduct of Council business there must be mutual respect, trust and courtesy in all meetings and contacts, both formal and informal, between Members and Employees. This plays a very important part in the Council's reputation and how it is seen in public. It is very important that both Members and Employees remember their respective obligations to enhance the

Council's reputation and to do what they can to avoid criticism of other Members, or other Employees, in public places.

#### 1.6.2 Undue Pressure

- (a) It is important in any dealings between Members and Employees that neither should seek to take unfair advantage of their position.
- (b) In their dealings with Employees (especially junior Employees) Members need to be aware that it is easy for them to be overawed and feel at a disadvantage. Such feelings can be intensified where Members hold senior official and/or political office.
- (c) A Member should not apply undue pressure on an Employee either to do anything that he is not empowered to do or to undertake work outside normal duties or outside normal hours. Particular care needs to be taken in connection with the use of Council property and services.
- (d) Similarly, an Employee must neither seek to use undue influence on an individual Member to make a decision in his favour, nor raise personal matters to do with their job, nor make claims or allegations about other Employees. (*The Council has formal procedures for consultation, grievance and discipline, and Employees have the right to report possible wrongdoing under the Council's Confidential Reporting Code.*)

#### 1.6.3 Familiarity

- (a) Close personal familiarity between individual Members and Employees can damage the principle of mutual respect. It could also, intentionally or accidentally, lead to the passing of confidential information or information which should not properly be passed between them, such as personal details.
- (b) Such familiarity could also cause embarrassment to other Members and/or other Employees and even give rise to suspicions of favouritism.
- (c) For these reasons close personal familiarity must be avoided.

#### 1.6.4 Breach of Protocol

- (a) If a Member considers that he has not been treated with proper respect or courtesy he may raise the issue with the Employee's line manager. If direct discussion with the manager does not resolve the complaint it should be referred to the Head of Service or Chief Officer responsible for the employee concerned. Breach of the Protocol may give rise to disciplinary proceedings against an Employee if the circumstances warrant it.
- (b) If an employee considers that a Member has contravened the protocol he should consult his line manager who will if necessary involve the Head of Service or Chief Officer. In certain circumstances breach of the Protocol may also constitute a breach of the Members' Code of Conduct. If the breach is sufficiently serious this may warrant a formal reference to the Monitoring Officer as a complaint to be considered for potential investigation by the Standards Committee. Many complaints will be capable of informal resolution. The Monitoring Officer or the Chief Executive will assist in this process if necessary.

### 1.7 Provision of Advice and Information to Members

- 1.7.1 Members are free to approach Employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.

- 1.7.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed ie either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [five] working days of the receipt of the enquiry.
- 1.7.3 The legal rights of Members to inspect Council documents are covered partly by statute and partly by common law.
- 1.7.4 The Access to Information Procedure Rules of this Constitution explain the position with regard to access to papers relating to the business of a Council body.
- 1.7.5 The exercise of the common law right depends upon a Member's ability to demonstrate a "need to know". In this respect a Member has no right to "a roving commission" to examine any documents of the Council. Mere curiosity is not sufficient.
- 1.7.6 The information sought by a Member should only be provided by the respective Service as long as it is within the limits of the Service's resources. For their part, Members should seek to act reasonably in the number and content of the requests they make.
- 1.7.7 It is important for Services and their staff to keep Members informed both about the major issues concerning the Council and, more specifically, about issues and events affecting the area that he represents. Local Members should be informed about proposals that affect their electoral division and should also be invited to attend Council initiated events within their electoral division. (Further details are contained in the Local Member Consultative Charter, which is annexed to this Protocol).
- 1.7.8 If a Member asks for specific information relating to the work of a particular Service, and it appears possible or likely that at a subsequent meeting an issue could be raised or question asked on the basis of the information provided, then the appropriate Cabinet Member or Committee Chair concerned should be advised about the information provided.
- 1.7.9 Officers have to advise Members from time to time that a certain course of action cannot be carried out. Members sometimes assume that this is a case of Officers deliberately obstructing the wishes of politicians. In fact this is hardly ever the case. Officers are employed to give unbiased professional advice even if it is not what Members want to hear. They do this as much for the protection of Members as for any other reason. However, the mark of an effective Officer is that if they do have to give negative advice, this will be accompanied by suggestions as to how Members might achieve some or all of their objectives in other ways. Such Officers are invaluable to any Council.
- 1.7.10 Members may be entitled under the Freedom of Information Act 2000 to receive information which falls outside their common law rights based on the "need to know". Employees are encouraged to supply documents to Members without the need for a formal FOI request if it is apparent from the Member's enquiry that any individual would be entitled to receive such documentation. The Council's Information Officer will be able to advise in consultation if necessary with the Monitoring Officer on whether any request would fall within the Freedom of Information Act.

## 1.8 **Confidentiality**

- 1.8.1 In accordance with the Code of Conduct for Members, a Member must not disclose information given to him/her in confidence by anyone, or information acquired which he/she believes, or ought reasonably to be aware, is of a confidential nature, except where:

- (a) he/she has the consent of a person authorised to give it;
- (b) he/she is required by law to do so;
- (c) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (d) the disclosure is:
  - (i) reasonable and in the public interest; and
  - (ii) made in good faith and in compliance with the reasonable requirements of the authority.

1.8.2 Confidential Committee papers (pink papers) are to be treated as confidential information unless the relevant Committee resolves not to exclude press and public. Members are reminded that the author of the report makes the initial decision as to whether or not the papers are to be treated as confidential. The decision as to whether they remain confidential is for the Committee. Other information may be confidential because to disclose it would be against the Council's or the public interest. Information may also be confidential because of the circumstances in which it was obtained.

1.8.3 Information and correspondence about an individual's private or business affairs will normally be confidential.

1.8.4 Officers should make it clear to Members if they are giving them confidential information. If a Member is not sure whether information is confidential, he or she should ask the relevant Officer, but treat the information as confidential in the meantime.

1.8.5 Any Council information provided to a Member must only be used by the Member in connection with the proper performance of the Member's duties as a Member of the Council.

1.8.6 If a Member receives confidential information and considers it should be disclosed to another person because it is reasonable and in the public interest to do so then he or she must first consult with the Monitoring Officer and shall not disclose the information without having regard to any advice given by that Officer.

## 1.9 **Provision of Support Services to Members**

1.9.1 The only basis on which the Council can lawfully provide support services (eg stationery, word processing, printing, photocopying, transport, etc) to Members is to assist them in discharging their role as Members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes.

### 1.9.2 Correspondence

Official letters on behalf of the Council should be sent in the name of the appropriate Employee, rather than over the name of a Member. There are circumstances where a letter sent in the name of a Member is perfectly appropriate, for example, in response to a letter of enquiry or complaint sent direct to that Member. Letters which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a Member.

### 1.9.3 Media

Communication with the media can be an important part of a Member's workload. In general, Members provide comment and views while Employees provide factual information. If a Member is unsure about the circumstances of a

particular issue he should contact the appropriate Chief Officer or Head of Service concerned or ask the Press Office to do so.

#### 1.10 **The Council's Role as Employer**

In their dealings with Officers, Members should recognise and have regard to the Council's role as employer. Members should be aware that Officers could rely on inappropriate behaviour of a Member in an employment case against the Council.

#### 1.11 **Political Activity**

1.11.1 There are a number of constraints that apply to an employee who occupies a post that is designated as "politically restricted" under the terms of the Local Government and Housing Act 1989.

1.11.2 In summary, such employees are prevented from:

- (a) being a Member of Parliament, European Parliament or local authority;
- (b) acting as an election agent or sub-agent for a candidate for election as a Member of any the bodies referred to in (a);
- (c) being an Officer of a political party or any branch of a political party or a Member of any committee or sub-committee of such a party or branch, if his duties would be likely to require him to:
  - (i) participate in the general management of the party or branch; or
  - (ii) act on behalf of the party or branch in dealings with persons other than Members of the party;
- (d) canvassing on behalf of a political party or a candidate for election to any the bodies referred to in (a);
- (e) speaking to the public with the apparent intent of affecting public support for a political party; and
- (f) publishing any written or artistic work of which he is the author (or one of the authors) or acting in an editorial capacity in relation to such works, or to cause, authorise or permit any other person to publish such work or collection - if the work appears to be intended to affect public support for a political party.

1.11.3 It is common for party groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant decision making body. Employees may properly be called upon to support and contribute to such deliberations by party groups provided they maintain a stance which is politically impartial. Support may include a range of activities including briefings for Members relating to their roles, eg chairperson or spokesperson. Employees should be required to give information and advice to political groups on Council business only and not on matters which are purely of a party political nature. Such advice should be available to all party groups and not solely to the majority group. It is important that the political neutrality of Employees is preserved and that group confidentiality is maintained by Employees.

1.11.4 Usually the only Employees involved in attending group meetings will be the Chief Executive, Chief Officers and Heads of Service and they will generally leave the meeting after making their presentation and answering questions.

1.11.5 Employees are employed by the Council as a whole. They serve the Council and are responsible to the Chief Executive and their respective Chief Officers/Heads of Service, and not to individual Members of the Council whatever office they might hold.

1.11.6 Both Members and Employees are subject to their own Codes of Conduct which can be found in the Constitution. This Protocol provides guidance on working

relationships between Members and Employees. It is essential that both are familiar with the detailed obligations in their respective Codes of Conduct which will prevail in the event of any conflict between the Codes and this Protocol.

#### 1.12 **Sanctions**

1.12.1 Complaints about any breach of this Protocol by a Member may be referred to the Monitoring Officer. It should be noted that certain breaches may also amount to breaches of the Code of Conduct for Members.

1.12.2 Complaints about any breach of this protocol by an Officer may be referred to the relevant Chief Officer, the Chief Executive or the Head of Legal Services.

#### 1.13 **Conclusion**

It is hoped that, by following good practice and securing sensible and practical working relationships between Members and Employees, we can provide one of the cornerstones of a successful local authority and thereby enhance the delivery of high value quality services to the people of the area. Mutual understanding, openness and respect are the greatest safeguard of the integrity of the Council, its Members and Employees.



Item	Purpose	Reporting Arrangements
<b>Annual Reports for members</b>	To help members to report their achievements and activities during the year as required under the Local Government (Wales) Measure.	16 <sup>th</sup> January 2013(Committee) and 28 <sup>th</sup> February 2013(Council)
<b>Payment of mileage allowances for constituency responsibilities</b>	To consider a scheme for payment of mileage to members for constituency responsibilities.	7 <sup>th</sup> February 2013 10 June 2013 4 <sup>th</sup> November 2013
<b>Job description for elected members</b>	To improve clarity, transparency and public engagement. Agreed to recommend a role description to full Council	10 <sup>th</sup> June 2013
<b>Review of ICT policy for members.</b>	At the meeting of the committee held on 16 <sup>th</sup> January 2013, we considered the 19 responses so far received from members and we resolved that the position be noted pending a further report following the return of outstanding ICT surveys.	23 <sup>rd</sup> September 2013
<b>Paperless meetings</b>	To discuss implementation of Council decision to move to paperless meetings	10 <sup>th</sup> June 2013 3 <sup>rd</sup> February 2014
<b>Monmouthshire County Council Constitution</b>	At the meeting of the committee held on 16 <sup>th</sup> January 2013, we resolved that the Political Group Leaders be invited to comment on those aspects of the existing constitution which members of the Council most wished to see revised, with a view to incorporating any such suggestions when the new model constitution is considered if necessary at a special meeting of the Committee.	4 <sup>th</sup> November 2013 (Pages 1-55)  Ongoing project plan

<p><b>Family Absence for members</b></p> <p><b>Survey of candidates</b></p> <p><b>Wales Charter for Member Support and Development</b></p>	<p>Welsh Government Consultation</p> <p>To review the outcome of the survey carried out in 2012</p> <p>To draw up proposals for member development and support in line with the “Wales Charter for Member Support and Development”</p>	<p>10<sup>th</sup> April 2013</p> <p>23<sup>rd</sup> September 2013</p> <p>3<sup>rd</sup> February 2014 Ongoing</p>
<p><b>On-going Items:</b></p> <p><b>Scrutiny</b> - We resolved that the Democratic Services Committee be asked to prepare a report on the way forward for the Scrutiny function and the Scrutiny committees, taking account of the report to be produced by the Wales Audit Office, and report back to Council this year(reference from Council 10<sup>th</sup> January 2013)</p> <p><b>Fully support non-executive role of councillors.</b></p> <p><b>Undertake pieces of work aimed at improving the democratic function, in line with the ethos of the Local Government Measure 2011.</b></p>		
<p><b>Dates of meetings:</b>  <b>10<sup>th</sup> April 2013</b>  <b>10th June 2013</b>  <b>15th July 2013</b>  <b>23rd September 2013</b>  <b>4th November 2013</b>  <b>16th December 2013</b>  <b>3rd February 2014</b>  <b>17th March 2014</b></p>		