

## CYNGOR SIR POWYS COUNTY COUNCIL.

DEMOCRATIC SERVICES COMMITTEE – 9<sup>TH</sup> JULY, 2015  
COUNTY COUNCIL MEETING - 15<sup>TH</sup> JULY, 2015

REPORT BY: Solicitor to the Council

SUBJECT: New Constitution

REPORT FOR: Decision

**1. Introduction.**

Over the last 2 years, officers, the Constitution Working Group and the Democratic Services Committee have been preparing a New Constitution for the County Council following the new model constitution developed by the Welsh Local Government Association. This has meant the amalgamation of the current constitution with the new model and has included consultation with a number of the Council's committees as part of the process. This report seeks to bring this work to a conclusion and to seek the approval of the Council to implementing the New Constitution.

**2. Sections of the New Constitution Approved by Full Council.**

Full Council has already approved the following Sections of the New Constitution:

**21<sup>st</sup> January, 2015.**

Section 1	Introduction
Section 2	Purpose, Definition, Interpretation and Amendment of the Constitution
Section 3	Getting Information and Getting Involved
Section 4	Full Council
Section 5	The Cabinet
Section 6	The Leader
Section 8	The Standards Committee
Section 9	Regulatory Committees
Section 10	Joint Committees
Section 18	Code of Conduct for Members
Section 19	Code of Conduct for Members and Officers Dealing with Planning Matters
Section 23	Member Role Descriptions
Section 24	Rights of Way Matters – Public Speaking Provisions
Section 26	Indemnity for Members and Officers
Section 27	Protocol on Civic and Executive Matters
Section 28	Local Resolution Process

**23<sup>rd</sup> April, 2015.**

Section 11	Officers
Section 14	Access to Information Procedure Rules
Section 15	Budget Procedure Rules
Section 16	Financial Procedure Rules
Section 22	Confidential Reporting “Whistleblowing” Code

### **3. Amendments to Approved Sections of the Constitution.**

As the Council’s Constitution is a “living document” it will require regular updates and amendments. Such amendments have already been identified to Sections of the New Constitution already approved by Full Council as follows:

- (i) All references to the Environment, Infrastructure and Crime and Disorder Scrutiny Committee are changed to the Place Scrutiny Committee following Full Council’s decision on 23<sup>rd</sup> April, 2015.
- (ii) **Section 2 – Purpose, Definition, Interpretation and Amendment of the Constitution.**

“Executive / Decision” or “Cabinet Decision”	any decision taken by the <u>Cabinet</u> to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member Bodies to whom the Leader or <u>Cabinet</u> has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function” or “Cabinet Function”	(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. It should be noted that regulatory functions such as planning, licensing, rights of way and building control, are not Executive Functions; (b) Contractual matters (within an approved budget), the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.
“Local Representative”	has the meaning set out in Rules <b>19.67 to 19.73 (Planning Protocol)</b> .
“Member Body”	any of the following: <ul style="list-style-type: none"> <li>• Area (Shire) Committee – Montgomeryshire, Radnorshire and Brecknockshire;</li> <li>• Audit Committee;</li> <li>• Cabinet;</li> <li>• Democratic Services Committee;</li> <li>• Employment and Appeals Committee;</li> <li>• <b>Place</b> Scrutiny Committee;</li> <li>• Full Council;</li> </ul>

	<ul style="list-style-type: none"> <li>• Licensing Act 2003 Committee;</li> <li>• Pensions and Investments Committee;</li> <li>• People Scrutiny Committee;</li> <li>• Planning, Taxi Licensing and Rights of Way Committee;</li> <li>• Standards Committee (or its Community Sub-Committee)</li> </ul> <p>Note - references to Committee also includes Sub-Committee;</p>
“Scrutiny Committees”	<ul style="list-style-type: none"> <li>• Place Scrutiny Committee;</li> <li>• People Scrutiny Committee;</li> <li>• Audit Committee;</li> <li>• Local Service Board Scrutiny Committee.</li> </ul>

**(iii) Section 4 – Full Council.**

**Filming, Audio Recording and Use of Social Media During Meetings**

▲◆4.91 Save for meetings or parts of meetings which are held in confidential session pursuant to Section 14 or which are webcast, filming, audio recording and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting, and provided that children and / or vulnerable adults are not participating in the debate by way of a presentation.

**(iv) Section 19 - Code of Conduct for Members and Officers Dealing with Planning Matters.**

Although this document was approved in January, 2015, circumstances have necessitated a revision to the document. The revised document is attached to this report for consideration.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<p>(i) That the Democratic Services Committee recommends to Full Council the approval of the amendments to the Sections 2 and 4 of the new Constitution set out above.</p> <p>(ii) That the Democratic Services Committee recommends to Full Council the approval of the revised Section 19 as attached to this report.</p>	<p>To agree sections of the new Council.</p>

#### 4. New Sections for Approval.

Set out below are the new sections of the Constitution which Democratic Service are being asked to recommend to Full Council for approval:

Section 7	Scrutiny Committees
Section 12	Finance, Contracts and Legal Matters
Section 13	Responsibility for Functions
Section 17	Contract Procedure Rules
Section 20	Code of Conduct for Employees
Section 21	Protocol on Member / Officer Relations

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
That the Democratic Services Committee recommends to Full Council the approval of the Sections of the new Constitution set out above.	To agree sections of the new Council.

#### 5. Approval of Date for the Implementation of the New Constitution

This report concludes the work in preparing the new Constitution. Full Council has already agreed that the new Constitution would not come into force until all the new Sections had been agreed and a date for implementation was set by the Council. In order to allow sufficient time to advise officers of the existence of the new Constitution it is suggested that the new Constitution should come into effect on 1<sup>st</sup> September 2015.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
That the Democratic Services Committee recommends to Full Council the approval of the implementation of the new Constitution to take effect from 1 <sup>st</sup> September, 2015.	To agree sections of the new Council.

<b>Person(s) To Action Decision:</b>	<b>Solicitor to the Council.</b>		
<b>Date By When Decision To Be Actioned:</b>	<b>When the Constitution is adopted as a whole by Council</b>		
<b>Relevant Policy (ies):</b>	Council's Constitution.		
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y</b>
<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
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Scrutiny Manager and Head of Democratic Services			
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