

CYNGOR SIR POWYS COUNTY COUNCIL.

**COUNTY COUNCIL MEETING
21st JANUARY, 2015**

REPORT BY: **Solicitor to the Council**

SUBJECT: **New Constitution**

REPORT FOR: **Decision and Information**

1. Introduction.

- 1.1 The County Council agreed in July, 2013 to move to a new Model Constitution and instructed officers to proceed with its preparation. This work is ongoing with officers preparing draft documents which are being considered by the Constitution Working Group of the Democratic Services Committee, and the Democratic Services Committee itself, prior to the finalised draft documents being considered by the County Council.
- 1.2 The New Model Constitution was developed following a similar review in England instigated by the Local Government Association where a firm of solicitors, Bond Dickinson were commissioned to develop a New Model Constitution. Following the development of the English Model the WLGA commissioned Bond Dickinson to produce a new simplified model for Wales and this is the model which is being used by this Council (and others) in developing a new Constitution.

2. Approval Process by the County Council.

- 2.1 On 3rd October, 2014 the Democratic Services Committee agreed that certain sections of the Constitution which have been completed would be presented to the Council for approval, on the basis that the sections of the new Constitution which were approved could not come into force until the new Constitution had been approved as a whole. It is not possible to have parts of two different Constitutions in place at the same time.
- 2.2 Members will be aware that a similar report was intended to be brought before Council on 22nd October, 2014 but was not considered due to the lack of time.

3. Sections of the New Constitution for Approval.

- 3.1 Attached are the following Sections of the new Constitution which the Council is being asked to approve:
- 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.

3.2 In addition the following sections have recently been approved by the Council for inclusion in the current Constitution and it is not intended to amend these and as such they are now attached to this report unamended save for changes to the format/numbering used in the new Constitution.:

- Section 28 – Local Resolution Process.
- Section 29 – Protocol on Civic and Executive Matters.

3.3 In the new Constitution there are some provisions which are new to the Council and other provisions which amount to a significant change from the existing Constitution. These provisions are detailed in **Appendices A and B**, attached to this report.

3.4 The sections of the new Constitution listed above have been discussed by the Constitution Member and Officer Working Group, the Democratic Services Committee as well as the relevant individual committees prior to being presented to Full Council for approval.

Recommendation:	Reason for Recommendation:
That the Council approves the Sections of the new Constitution set out in the report, subject to those sections not coming into force until the whole of the new Constitution has been agreed by the Council.	To agree sections of the new Council.

Person(s) To Action Decision:	Solicitor to the Council.		
Date By When Decision To Be Actioned:	When the Constitution is adopted as a whole by Council		
Relevant Policy (ies):	Council's Constitution.		
Within Policy:	Y	Within Budget:	Y
Contact Officer Name:	Tel:	Fax:	Email:
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New Council Constitution – Details of Significant Changes.

Section	Rules	Subject Matter	Detail of Change	Notes
Section 2	2.2.2	Definition – ‘clear days’	Clarification of the definition of ‘clear days’.	
Section 4	4.31	Maximum Number of Questions	Maximum number of questions which can be asked by a Member per Council session.	
Section 4	4.33.7	Rejection of Questions	Question can be rejected if it relates to personal and confidential information of an employee or former employee.	
Section 4	4.39.7	Scope of a Motion – Rejection of a Motion	Rejection of a motion if it relates to personal or confidential information of an employee or former employee	
Section 4	4.39.8	Scope of a Motion – Rejection of a Motion	Rejection of a Motion if it would attempt to “Call-In” a decision of Cabinet or a delegated decision made by a Portfolio Holder which would not be allowed in the Scrutiny Call-In Rules.	
Section 4	4.41	Two Motions per Member	Maximum number of motions which Members may give notice of for any Council meeting.	
Section 4	4.91	Filming, Audio Recording and Use of Social Media During Meetings.	Allowing filming, audio recording and use of social media during Council meetings unless the meeting is in confidential session.	
Section 19	19.39	Councillor with a Prejudicial Interest	A Councillor whose prejudicial interest is so significant can hand over the ‘Local Representative’ role	

			to another Councillor.	
Section 19	19.59 and 19.60	Councillor undertaking the 'Local Representative' role with a prejudicial interest.	Members undertaking this role who have a prejudicial interest cannot make written representations in lieu of speaking at a meeting of the Planning Committee.	
Section 19	19.98.3(a)	Public Speaking Procedures	An applicant / agent to be given the same aggregate time to respond as multiple objectors had to speak.	
Section 26	26.2 – Form of Indemnity para 2	Indemnities for Members and Officers	Extension of the indemnity cover to all Independent / Lay and Co-Opted Members of the Council.	This is already provided for within the Council's insurance policy as confirmed by the Insurance Section.

New Council Constitution – New Provisions.

Section	Rules	Subject Matter	Detail of Change	Notes
Section 4	4.22	Duration of Meetings	Time limit set for the duration of Council and Committee meetings	
Section 4	4.27	Remote Attendance	As agreed by the Council in October 2014 that Council will not undertake remote attendance at meetings.	
Section 4	4.34.3	Withdrawal of Questions	Reinstatement of a question which has been withdrawn.	
Section 4	4.40	Motion to Remove the Leader	New rules on removal of Leader.	
Section 6	6.7	Resignation, Dismissal, Disqualification and Suspension of the Leader	Leader ceasing to be Leader upon death or being incapacitated which will prevent him / her undertaking the role for a period of three months or more.	
Section 6	6.14 and 6.15	Deputy leaders	Provision for appointment of Deputy Leader(s) and one of those Deputies exercising the function of Leader in the event of resignation, death or incapacitation of the Leader until a new Leader can be appointed.	
Section 19	19.84	Committee refusing an application contrary to officer recommendation.	The Committee can defer confirmation of conditions to the next meeting in order to obtain further information.	