

CYNGOR SIR POWYS COUNTY COUNCIL.

COUNTY COUNCIL MEETING - 15TH 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. The report was considered by the Democratic Services Committee on 9th July, 2015 and the committee's recommendations to Council are set out below.

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

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

21st 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
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23rd 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 23rd 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 19.82 to 19.89 (Planning Protocol) .
“Member Body”	any of the following: <ul style="list-style-type: none"> • Area (Shire) Committee – Montgomeryshire, Radnorshire and Brecknockshire; • Audit Committee; • Cabinet; • Democratic Services Committee; • Employment and Appeals Committee; • Place Scrutiny Committee;

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

(iii) Section 4 – Full Council.

Filming, Audio Recording and Use of Social Media During Meetings

▲◆4.91 Filming, audio recording and use of social media is permitted during meetings except (a) where children and / or vulnerable adults are participating in the debate by way of a presentation, or (b) where meetings or parts of meetings which are held in confidential session pursuant to Section 14, or (c) where a meeting is being webcast.

(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.

Recommended to Full Council:	Reason for Recommendation:
<p>(i) that the amendments to the Sections 2 and 4 of the new Constitution set out above be approved.</p> <p>(ii) that the revised Section 19 as attached to this report be approved.</p>	<p>To agree sections of the new Constitution.</p>

4. New Sections for Approval.

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

Section 7	Scrutiny Committees and the Arrangements for the Scrutiny of the Local Service Board / Public Service Board) as set out in Appendix 3)
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

Recommended to Full Council:	Reason for Recommendation:
That the Sections of the new Constitution set out above together with the arrangements for the Scrutiny of the Local Service Board / Public Service Board in Powys (set out in Appendix 3 of Section 7) be approved.	To agree sections of the new Constitution.

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 1st September 2015.

Recommended to Full Council:	Reason for Recommendation:
That the implementation of the new Constitution to take effect from 1st September, 2015 be approved.	To agree sections of the new Constitution.

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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Scrutiny Manager and Head of Democratic Services			
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