

# Public Document Pack



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## DEMOCRATIC SERVICES COMMITTEE

Tuesday, 21st February, 2017

### S U P P L E M E N T A R Y P A C K

1.	<b>MATTERS RELATING TO THE CONSTITUTION</b>	<b>DSC10 - 2017</b>
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To consider future Cabinet and scrutiny arrangements and make recommendations to Full Council in respect of changes to the Constitution, so that the proposed changes can be implemented by the new Council in May 2017.

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# DSC10 - 2017

## CYNGOR SIR POWYS COUNTY COUNCIL.

### Democratic Services Committee 21st February, 2017

**REPORT AUTHOR:** Solicitor to the Council

**SUBJECT:** Review of the Constitution.

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**REPORT FOR:** Decision

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#### 1. Summary

- 1.1 The report asks the Committee to make a recommendation to the County Council to revise Sections 4, 5, 7, and 12 of the Council's Constitution.

#### 2. Background

- 2.1 The Committee will be aware that the Wales Audit Office (WAO) undertook a review of the Council's governance and financial resilience at the end of 2016. As a result of the feedback to the review the Council has developed an action plan to respond to issues raised by the WAO in advance of the final report by the WAO being received.
- 2.2 One of the major issues identified by the WAO related to strategic decision making by the Cabinet and the involvement of scrutiny in scrutinising major reports prior to their being considered by the Cabinet. In addition WAO expressed concern regarding the operation of the Cabinet and in particular the right to speak at Cabinet meetings by Scrutiny Chairs and Opposition Group Leaders.
- 2.3 A meeting was held on Tuesday 14<sup>th</sup> February, involving the Chairs of the Scrutiny and Democratic Services Committees with the Leader and representatives of the Cabinet and a way forward was discussed. As a result it was identified that urgent changes to Sections 5 and 7 of the Constitution were required, which are presented to the Committee for consideration.
- 2.4 In addition there are two sections of the Constitution (Sections 4 and 12) which have already been revised as part of the current ongoing review of the Constitution and are also presented to the Committee for consideration.

#### 3. RECOMMENDATION.

<b>Recommendation to the Democratic Services Committee</b>	<b>Reason for Recommendation:</b>
<b>That Sections 4, 5, 7 and 12 of the Constitution as amended be approved for consideration by the Council at its meeting on 7<sup>th</sup> March, 2017.</b>	<b>To update Sections of the Constitution in response to the WAO review of the Council's governance arrangements, and as part of the ongoing review of the Constitution.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y / N</b>

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	<b>Clive Pinney, Solicitor to the Council</b>
<b>Date By When Decision To Be Implemented:</b>	<b>March 2017.</b>

<b>Contact Officer:</b>	Wyn Richards, Scrutiny Manager and Head of Democratic Services.
<b>Tel:</b>	01597-826375
<b>Email:</b>	wyn.richards@powys.gov.uk

**Background Papers used to prepare Report:**

## SECTION 4 – FULL COUNCIL

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### Introduction

4.1 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.

### The Policy Framework

4.2 The Policy Framework means the following plans and strategies:

Plan, Scheme and Strategy	Reference
• Children and Young People's Plan;	• <b>Regulations made under Section 26 of the Children Act 2004 (c.31)</b>
• Best Value Performance Plan;	• <b>Section 6(1) of the Local Government Act 1999 9c.27)</b>
• Community Strategy;	• <b>Section 4 of the Local Government Act 2000 (c.22)</b>
• Crime and Disorder Reduction Strategy;	• <b>Sections 5 and 6 of the Crime and Disorder Act 1998 9c.37)</b>
• Health and Well-Being Strategy;	• <b>Section 24 of the National Health Service Reform and Health Care professions Act 2002 9c.17)</b>
• Local Transport Plan;	• <b>Section 108 of the Transport Act 2000 (c.38)</b>
• Plans and alterations which together comprise the Development Plan;	• <b>Section 10A of the Town and Country Planning Act 1990 (c.8)</b>
• Welsh Language Scheme;	• <b>Section 5 of the Welsh Language Act 1993 (c.38)</b>
• Youth Justice Plan;	• <b>Section 40 of the Crime and Disorder Act 1998 (c.37)</b>
• Powers to approve a Young People's Partnership Strategic Plan and a Children and Young Peoples Framework Partnership	• <b>Section 123, 124 and 125 of the Learning and Skills Act 2000 (c.21)</b>
• Housing Strategy;	• <b>Section 87 of the Local Government Act 2003 (c.26)</b>
• Rights of Way Improvement Plan;	• <b>Section 60 of the Countryside and Rights of Way Act 2000 (c.37)</b>
• Pay Policy	• <b>Section 38(1) of the Localism Act 2011</b>

## SECTION 4 – FULL COUNCIL

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• Single Integrated Plan	• <b>Part 2 – Local Government (Wales) Measure 2009<sup>1</sup></b>
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### **The Single Integrated Plan (The One Powys Plan)**

4.3 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.

### **The Budget**

4.4 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 15 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

### **Housing Land Transfer**

4.5 Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for a programme either:

4.5.1 by Full Council to dispose of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993: or

4.5.2 to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

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

4.6 Only the Full Council will exercise the following functions:

4.6.1 adopting and changing the Constitution;

4.6.2 approving or adopting the Single Integrated Plan (The One Powys 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 14 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 making appointments to the committees of the Council

4.6.6 making appointments of Chairs of the Scrutiny and Democratic Services committees of the Council

4.6.7 agreeing and/or amending the terms of reference for Committees, deciding on

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<sup>1</sup> Welsh Government Guidance "Shared Purpose – Shared Delivery" to Part 2 of the Local Government (Wales) Measure 2009 Rules 37 to 46.

## SECTION 4 – FULL COUNCIL

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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;

- 4.6.8 changing the name of the area or conferring the title of freedom of the County;
- 4.6.9 making or confirming the appointment of the Head of Paid Services and other Chief Officers<sup>2</sup>;
- 4.6.10 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Private Bills;
- 4.6.11 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- 4.6.12 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;
- 4.6.13 appointing representatives to outside bodies unless the appointment has been delegated by the Council.
- 4.6.14 to determine the level, and any change in the level, of the remuneration to be paid to a Chief Officer.

### Membership

- 4.7 All Councillors shall be members of Full Council.
- 4.8 Substitution is not possible at meetings of the Council.

### Chairing the Council

### Appointment And Term Of Office Of Chair, Vice-Chair And Assistant Vice-Chair Of Council

- 4.9 The County Council will at every Annual Meeting elect from amongst its Councillors:
  - 4.9.1 The Chair of the County Council;
  - 4.9.2 The Vice-Chair of the County Council;
  - 4.9.3 The Assistant Vice-Chair of the County Council.

and the Councillors so elected will hold office until the following Annual Meeting; they resign; are dismissed by a vote of Full Council upon a Motion on Notice; cease to be a member of the Council; or are unable to act as a member of the Council due to he/she being suspended or disqualified from being a Councillor under Part 3 of Local Government Act 2000.

- 4.10 The post of Chair, Vice Chair and Assistant Vice Chair will be nominated by Councillors in Montgomeryshire, Radnorshire and Brecknockshire in rotation.
- 4.11 In the event of a vacancy occurring between Annual Meetings the County Council will appoint a new Chair, Vice-Chair or Assistant Vice-Chair (as the case may be) at an ordinary meeting following the occurrence of the vacancy.

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<sup>2</sup> Defined in Section 2.2.2

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

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

#### ***Ceremonial Role***

4.12.1 The Chair of the Council:

- 4.12.1.1 is the civic leader of Powys County Council ;
- 4.12.1.2 promotes the interests and reputation of the Council and the geographic area of Powys as a whole and acts as an ambassador for both; and
- 4.12.1.3 undertakes civic, community and ceremonial activities and fosters community identity and pride.

#### ***Responsibilities of the Chair***

4.12.2 The Chair of the Council will:

- 4.12.2.1 uphold and promote the purpose of the Constitution, and to interpret the Constitution with advice from the Monitoring Officer when necessary;
- 4.12.2.2 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 with regards to their (a) participation in the affairs of Council; (b) access to documentation and information in accordance with Section 14; and (c) the interests of the Community;
- 4.12.2.3 ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and Committee chairs to account;
- 4.12.2.4 ensure public involvement in the Council's activities;
- 4.12.2.5 be the conscience of the Council; and

#### ***Political Neutrality***

4.12.3 The Chair, Vice-Chair and Assistant Vice-Chair of the Council during their periods of office will not be actively involved with any political group to which they belong.

4.12.4 The Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, cannot be a member of the Cabinet .

### **Council Meetings**

4.13 There are three types of Council meeting:

- 4.13.1 the Annual Meeting;
- 4.13.2 ordinary meetings; and
- 4.13.3 extraordinary meetings

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### Rules of Procedure and Debate

4.14 The Council Procedure Rules contained in Rule 4.15 to Rule 4.95 will apply to meetings of the Full Council and those rules marked “▲” will also apply to committee meetings (excluding Area (Shire) Committee meetings) and sub-committee meetings, but not to meetings of the Cabinet and Cabinet Committees. Those rules marked “◆” will apply to Area (Shire) Committee meetings.

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

#### Timing and Business

4.15 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. Every Annual Meeting will:

- 4.15.1 elect a person to preside if the Chair of the Council is not present. A member of the Cabinet cannot preside over a meeting of Council<sup>3</sup>;
- 4.15.2 elect the Chair of the Council (subject to 4.10 above);
- 4.15.3 elect the Vice Chair of the Council (subject to 4.10 above);
- 4.15.4 elect the Assistant Vice-Chair of the Council (subject to 4.10 above);
- 4.15.5 receive declarations of interest
- 4.15.6 receive apologies for absence
- 4.15.7 decide on any amendments to the Constitution<sup>4</sup> recommended by the Democratic Services Committee
- 4.15.8 receive any announcements from the Chair, Leader and/or the Head of Paid Service;
- 4.15.9 elect the Leader of the Council, except where the Leader was appointed for a period of four years or the term of the Council at the initial annual meeting of the Council;
- 4.15.10 be informed by the Leader of the number of Councillors to be appointed to the Cabinet;
- 4.15.11 decide on the allocation of seats on political balanced committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989
- 4.15.12 receive from political groups nominations of Councillors to serve on each of the politically balanced committees in accordance with the seats allocated to the respective political groups and to make appointments accordingly
- 4.15.13 appoint the Scrutiny Committees, Democratic Services Committee, Planning, Taxi-Licensing and Rights of Way Committee, Licensing Act 2003 Committee,

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<sup>3</sup> Schedule 12, Local Government Act 1972 (as amended)

<sup>4</sup> Any amendment to the committees of the Council including their size and terms of reference as set out in the Council's Constitution are subject to any statutory constraints or limitations and provided that the Council shall appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions under this Constitution;

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- Employment and Appeals Committee, Pensions and Investment Committee 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 13 of this Constitution);
- 4.15.14 allocate the Chairs of Scrutiny Committees to the relevant political groups and to approve the appointments to those Chairs made by the political groups
- 4.15.15 appoint the Chair of the Democratic Services Committee<sup>5</sup>
- 4.15.16 elect or appoint Members where vacancies occur in respect of:
- Independent Member of Standards Committee; and
  - Lay Member of the Audit Committee; and
  - Co-Opted Members of the Scrutiny Committee;
- 4.15.17 receive from the Leader any changes to the scheme of delegations (as set out in Section 13 of this Constitution);
- 4.15.18 to approve a Schedule of Members' Remuneration for the next ensuing financial year
- 4.15.19 consider any business set out in the notice convening the meeting.
- 4.15.20 other business, not specified in the summons as the Chair considers urgent, subject to the nature of the urgency being specified in the minutes PROVIDED ALWAYS that in allowing such urgent business the Chair shall have regard to the fact that the Annual Meeting of the Council is normally a civic / ceremonial occasion;
- 4.15.21 receive from political groups nominations of Councillors to serve on the Brecon Beacons National Park Authority and to make appointments accordingly
- 4.15.22 appoint 3 Councillors to the Welsh Local Government Association.
- 4.15.23 appoint 1 Councillor to the Welsh Local Government Association Co-Ordinating Committee
- 4.16 The order of business, with the exception of Rule 4.15.1 may be altered by the Chair or decision of Council
- 4.17 Additional agenda items for the Annual Meeting next following the ordinary election of Councillors:
- 4.17.1 Receive a report from the Returning Officer as to the Councillors elected;
- 4.17.2 Elect the Leader \*\*;
- 4.17.3 Appoint Councillors to the Standards Committee \*\*;
- 4.17.4 Appoint Councillors to the Area (Shire) Committees \*\*;
- 4.17.5 Make appointments of Councillors in accordance with the political balance requirements to:
- Police and Crime Panel \*\*;
  - Mid and West Wales Fire and Rescue Authority \*\*;
- \*\* Unless terminated earlier in accordance with this Constitution, this election / appointment will be for a term expiring at the next ordinary council elections.

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<sup>5</sup> Regulation 14(1) of Local Government Measure (Wales) 2011

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### Ordinary Meetings

4.18 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council provided that the Chief Executive and Monitoring Officer shall have authority, subject to consultation with the Chair of Council, to change the date or time of any meeting, if such change is necessary in the interest of the convenient or efficient dispatch of the Council's business. The order of business at ordinary meetings will be as follows:

- 4.18.1 elect a person to preside if the Chair, Vice Chair and Assistant Vice-Chair are not present. A member of the Cabinet cannot preside at a meeting of the Council<sup>6</sup>;
- 4.18.2 receive any declarations of interest from Councillors;
- 4.18.3 receive apologies for absence;
- 4.18.4 approve as a correct record the minutes of the last meeting;
- 4.18.5 receive any announcements from the Chair, Leader or Chief Executive
- 4.18.6 decide on any amendments to the Constitution recommended by the Democratic Services Committee<sup>7</sup>
- 4.18.7 where required to elect, appoint, or remove Members to / from the following positions:
  - 4.18.7.1 Chair, Vice-Chair, Assistant Vice-Chair of Council;
  - 4.18.7.2 Leader;
  - 4.18.7.3 Independent Member of Standards Committee;
  - 4.18.7.4 Appoint Lay Member of the Audit Committee and Co-Opted Members of the Scrutiny Committee;
  - 4.18.7.5 Chair of a Scrutiny Committee (excluding Chair of Audit) or Democratic Services Committee.
- 4.18.8 (if required due to the formation of a new political group or due to a Councillor joining a political group):
  - 4.18.8.1 decide on the allocation of seats on politically balanced committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989; and
  - 4.18.8.2 receive from political groups nominations of Councillors to serve on each of the politically balanced committees in accordance with the seats allocated to the respective political groups and make appointments accordingly; and
  - 4.18.8.3 allocate the Chairs of scrutiny committees to the relevant political groups and to note the appointments to those Chairs made by the political groups in accordance with the Local Government (Wales) Measure 2011;

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<sup>6</sup> Schedule 12, Local Government Act 1972 (as amended)

<sup>7</sup> Any amendment to the committees of the Council including their size and terms of reference as set out in the Council's Constitution subject to any statutory constraints or limitations and provided that the Council shall appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions under this Constitution

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- 4.18.9 (if required due to vacancy) note appointment of chair(s) of scrutiny committee(s) by the political group(s) in accordance with the Local Government (Wales) Measure 2011
- 4.18.10 to receive the report of the Monitoring Officer setting out appointments to fill vacancies on committees and outside bodies he / she has made in accordance with the authority delegated to him / her to make such appointments which accords with the wishes of a political group to whom the committee seat or position on the outside body has been allocated
- 4.18.11 receive written statements from the Leader and / or members of the Cabinet (which statements shall be taken as read) and any questions and answers on any of the statements;
- 4.18.12 receive reports from the Cabinet, Leader, Cabinet member, and any questions, answers and observations on any of those reports;
- 4.18.13 receive reports from any of the Council's Committees introduced by the relevant Committee Chair, and any questions, answers and observations on any of those reports;
- 4.18.14 receive reports from any of the Council's statutory officers, or Chief Officers and any questions, answers and observations on any of those reports
- 4.18.15 receive any other report that the Chief Executive considers is required to be placed before the Council and any questions, answers and observations on any of those reports
- 4.18.16 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.18.17 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;
- 4.18.18 receive any petitions
- 4.18.19 deal with any outstanding business from the last Council meeting
- 4.18.20 receive and consider recommendations from the Cabinet and the Council's committees
- 4.18.21 consider motions of which appropriate notice has been given;
- 4.18.22 receive questions submitted in accordance with Rule 4.30 (Questions on Notice), and answers in response to those questions.
- 4.18.23 consider and debate any major issue which is relevant to the Council and its functions, for example a "state of the county" debate
- 4.18.24 to receive the report of the Monitoring Officer setting out any changes by the Leader in the scheme of delegation and executive functions
- 4.18.25 consider any business set out in the notice convening the meeting
- 4.18.26 other business, not specified in the summons as the Chair considers urgent, subject to the nature of the urgency being specified in the minutes
- 4.18.27 to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules in Section 14.
- 4.18.28 The order of business, with the exception of Rule 4.18.1 may be altered by the Chair or decision of Council
- 4.18.29 No meetings of the Council, or its committees (other than Committees, Sub-Committees or Panels dealing with planning, licensing and employment matters), shall be held in the month of August, unless circumstances so require.

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### Extraordinary Meetings

#### Calling Extraordinary Meetings

4.19 The Chief Executive may call Council meetings in addition to ordinary meetings. Those listed below may request the Chief Executive to call additional Council meetings:

- 4.19.1 the Council by resolution;
- 4.19.2 the Chair of the Council;
- 4.19.3 The Leader;
- 4.19.4 The Head of Paid Service;
- 4.19.5 The Monitoring Officer or the Section 151 Officer;
- 4.19.6 any five Councillors if they have signed a requisition presented to the Chair of the Council and he / she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### Business

4.20 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.

### Time, Place and Duration of Meetings

#### Time and Place of Meetings

4.21 The time and place of meetings will be determined by the Chief Executive in consultation with the Chair and notified in the summons.

#### Duration of Meetings

<sup>8</sup>▲<sup>9</sup>◆4.22 At ordinary meetings, when 8 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 dated fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### Notice of and Summons to Meetings

▲◆4.23 The Chief Executive 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 14. At least 3 clear days before a meeting, the Chief Executive will send a summons signed by him/her to every Councillor by post and / or by leaving it at their usual place of residence and / or by electronic means

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<sup>8</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>9</sup> ◆ Denotes application to Area (Shire) Committees.

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including a link to the Members' website and / or by CD. 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 and other documents as are available.

### Chair of Meeting

4.24.1 Whenever present the Chair of Council will chair meetings of the Council. In his / her absence the Vice-Chair of Council, or in his / her absence the Assistant Vice-Chair of Council or in his/her absence the Councillor elected to preside over the meeting in accordance with Rule 4.18.1, will take the chair. The person presiding at the meeting may exercise any power or duty of the Chair. A member of the Cabinet cannot preside at a meeting of the Council

<sup>10</sup>▲<sup>11</sup>◆4.24.2 At the first meeting of Committees or Sub-Committees (save the Standards Committee) in each municipal year the Committee / Sub-Committee will elect a Chair and Vice-Chair for the forthcoming 12 month period save where the Chair of Committee has been appointed by Council by the Full Council in accordance with Rules 4.15.14, 4.15.15 or Rule 4.18.7.5.

▲◆4.23.3 Whenever present the Chair of a Committee / Sub-Committee elected in accordance with Rule 4.24.2 above will chair meetings. In his / her absence the Vice-Chair of the Committee / Sub-Committee will take the chair. In the absence of the Chair and Vice-Chair the Committee / Sub-Committee will elect a Councillor to preside over the meeting. The person presiding at the meeting may exercise any power or duty of the Chair.

### Conduct of Meeting

▲◆4.25 The Chair shall conduct the meeting to secure a proper, full and effective debate of business items where a decision is required and a committee or sub-committee has not previously considered the matter. The steps the Chair may take include:

▲◆4.25.1 calling for more time to allow the speaker to properly explain the matter;

▲◆4.25.2 permitting a Member to speak more than once;

▲◆4.25.3 allowing employees of the Council to advise the meeting as appropriate, having regard to the provisions of Rules 4.94 and 4.95 below;

▲◆4.25.4 allowing a full discussion of reports and matters for decision;

### Quorum

▲◆4.26 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.

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<sup>10</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>11</sup> ◆ Denotes application to Area (Shire) Committees.

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### Remote Attendance

<sup>12</sup>▲<sup>13</sup>◆4.27 Pursuant to Section 4 of the Local Government (Wales) Measure 2011, the County Council on 22<sup>nd</sup> October, 2014 decided not to allow any Council meetings to be held in accordance with the provisions of Section 4.

### Questions by Councillors

#### On Minutes, Reports or Statements of the Cabinet or Committees

▲◆4.28 A Member of the Council may ask the Leader, Cabinet member or the Chair of a Committee / Sub-Committee any question without notice directly **arising from an item in the minutes** (whether or not that minute has been approved as a true record at a subsequent meeting of the Cabinet or Committee / Sub-Committee), report or statements of the Cabinet / Cabinet member or a Committee / Sub-Committee, when that item is being received or is under consideration by the Council.

#### Questions on Notice at Full Council

4.29 Subject to Rule 4.30, a Councillor may ask:

- 4.29.1 the Chair;
  - 4.29.2 a member of the Cabinet;
  - 4.29.3 the chair of any committee or sub-committee;
  - 4.29.4 nominated Councillors of the Fire and Rescue Authority or the Brecon Beacons National Park Authority or the Police and Crime Panel
- a question on any matter in relation to which the Council has powers or duties or which affects the Council.

#### Notice of Questions

4.30 A Councillor may ask a question under Rule 4.29 if either:

- 4.30.1 they have given at least 10 Clear Days' notice in writing of the question to the Monitoring Officer; or
- 4.30.2 the question relates to urgent matters, they have the consent of the Chair and the Councillor to whom the question is to be put and the content of the question is given to the Monitoring Officer by 5 p.m. on the day prior to the meeting.

#### Maximum Number of Questions

4.31 A Councillor may ask only two questions (including any urgent question(s)) under Rule 4.29 except with the consent of the Chair of the Council. With the consent of the Chair of Council a Member may substitute an urgent question for a question that has already been raised provided that the urgent question complies with Rule 4.30.2.

#### Order of Questions

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<sup>12</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>13</sup> ◆ Denotes application to Area (Shire) Committees.

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4.32 Questions of which notice has been given under Rule 4.29 will be listed on the agenda in the order determined by the Chair of the Council.

### Rejection of Questions

4.33 Questions under Rule 4.29 may be rejected if, in the opinion of the Monitoring Officer and the Chair they:

4.33.1 are not about a matter for which the Council has a responsibility and which affects the administrative area of the Council;

4.33.2 are defamatory, frivolous or offensive;

4.33.3 are substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given;

4.33.4 concern an item of business which is the subject of a report to the meeting;

4.33.5 disclose confidential or exempt information where there is no demonstrable need to know;

4.33.6 are based on opinion where the factual basis for the opinion is not detailed in the question

4.33.7 relate to personal and confidential information of an employee (or former employee) in the view of the Monitoring Officer and / or the Section 151 Officer.

### Withdrawal of Questions

4.34.1 A question of which notice has been given can only be withdrawn with the consent of the person asking the question;

4.34.2 If the Monitoring Officer considers that a response to a submitted question could be provided by a senior officer prior to the relevant Council meeting, then the Monitoring Officer may contact the Councillor concerned to ascertain whether the Councillor agrees that the question could be withdrawn.

4.34.3 A question which has been withdrawn under Rule 4.34.1 may only be reinstated provided that Rule 4.30 has been adhered to.

### Responses

4.35 A response to a question or supplementary question may take the form of:

4.35.1 a direct oral answer at the meeting or if it is more appropriate to supply the answer in written form, a written answer should be circulated at the meeting or later to the questioner and other Councillors (if requested). Where an oral answer is given the response shall last for no longer than 5 minutes.

4.35.2 where the desired information is in a publication of the Council or other published work, by reference to that publication,

### Supplementary Question

4.36 A Councillor asking a question under Rule 4.29 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. The Councillor asking the supplementary question may speak for no longer than 1 minute. The speech must not amount to a response or comment upon the response provided under Rule 4.35 above.

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### Motions on Notice

#### Notice

- 4.37.1 Except for motions which can be moved without notice under Rule 4.42 and in cases of urgency under Rule 4.43, written notice of every motion, must be delivered to the Monitoring Officer not later than 5.00 p.m. 10 Clear Days before the date of the Council meeting at which it is to be considered.
- 4.37.2 Each motion must have one Member to propose and another Member to second the motion and the proposer and seconder must either sign the motion or otherwise confirm by email or in writing to the Monitoring Officer that they are proposing or seconding the motion.

#### Motion Set Out in Agenda

- 4.38.1 Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.
- 4.38.2 If an issue arises at a meeting of a committee as to the appointment, promotion, dismissal, salary, superannuation or Conditions of Service, or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council has decided on the exercise of the power of exclusion of the public under the terms of the Access to Information Rules set out in Section 14.

#### Scope

- 4.39 Motions may be rejected if, in the opinion of the Monitoring Officer and the Chair they:
- 4.39.1 are not about a matter for which the Council has a responsibility and which affects the wellbeing of the administrative area of the Council;
  - 4.39.2 are defamatory, frivolous or offensive;
  - 4.39.3 are substantially the same as a motion which has been put at a meeting of the Full Council in the past six months;
  - 4.39.4 concern an item of business which is the subject of a report to the meeting;
  - 4.39.5 disclose confidential or exempt information where there is no demonstrable need to know;
  - 4.39.6 are based upon a legally inaccurate premise;
  - 4.39.7 relate to personal and confidential information of an employee (or former employee) in the view of the Monitoring Officer and / or the Section 151 Officer;
  - 4.39.8 would amount to an attempt to “Call-In” a decision of Cabinet or a delegated decision made by a Portfolio Holder which would not be allowed due to application of the Call-In rules set out in Section 7.

#### Motion to Remove the Leader

- 4.40.1 In order for such a motion to be carried it must have the support of a simple majority of those Councillors voting and present in the room at the time the question was put.
- 4.40.2 A motion to remove the Leader cannot be moved more than once in any rolling

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6 month period.

### Two Motions per Councillor

4.41 No Councillor may give notice of more than 2 motions for any Council meeting, except with the consent of the Chair. Following debate and / or amendments a motion will be taken as a single motion.

### Motions without Notice

<sup>14</sup>▲<sup>15</sup>◆4.42 The following motions may be moved without notice:

- ▲◆4.42.1 to appoint a Chair of the meeting at which the motion is moved;
- ▲◆4.42.2 in relation to the accuracy of the minutes;
- ▲◆4.42.3 to change the order of business in the agenda;
- ▲◆4.42.4 to refer something to an appropriate committee, body or individual for consideration or reconsideration;
- ▲◆4.42.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- ▲◆4.42.6 to receive reports and / or adopt and / or amend recommendations of the Cabinet, committees or Officers and any resolutions following from them;
- ▲◆4.42.7 to withdraw a motion;
- ▲◆4.42.8 to amend a motion;
- ▲◆4.42.9 a closure motion under Rule 4.54.5
- ▲◆4.42.10 to suspend a particular Council Procedure Rule (provided that at least one half of the whole number of Members are present)<sup>16</sup>;
- ▲◆4.42.11 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- ▲◆4.42.12 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87; and
- ▲◆4.42.13 to give the consent of the Council where its consent is required by this Constitution.
- ▲◆4.42.14 urgent motions, provided the requirements of Rule 4.43 is satisfied.

### Urgent Motions

4.43.1 An urgent motion complying with Rule 4.37.2 may be presented, with the permission of the Chair, provided it has been notified to the Monitoring Officer by 5.00 p.m. on the day prior to the Council meeting

4.43.2 Subject to Rule 4.43.3 below, the Chair has general authority to agree to take an urgent motion which is not on the agenda, and the discretion is entirely that of the Chair who alone needs to be satisfied as to the need for urgency;

4.43.3 The general authority referred to above is qualified in that an urgent motion should not be taken unless:

- 4.43.3.1 the matter dealt with in the motion has arisen between the deadline for the submission of motions and the date of the meeting; and

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<sup>14</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>15</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>16</sup> See Rule 2.7.2

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4.43.3.2 the motion requires an urgent decision in the public interest which cannot be dealt with by other means (including referring the motion for consideration and decision to the Cabinet or a committee), or left to be decided at a subsequent meeting.

4.43.4 In all cases, the reason for the urgency shall be clearly stated on the motion, and the Chair will explain to the Council the reason why he or she has accepted a motion not listed on the agenda as urgent

### Rules of Debate

#### No Speeches until Motion Seconded

<sup>17</sup>▲<sup>18</sup>◆4.44 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded. The proposer of the motion shall have the right to make the first speech in relation to the motion which he / she has moved by notice.

#### Right to Require Motion in Writing

▲◆4.45 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.

#### Secunder's Speech

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

#### Content and Length of Speeches

▲◆4.47 Speeches must be directed to the question under discussion or to a personal explanation or point of order. The proposer of a motion may speak for no more than 10 minutes; otherwise no speech may exceed 5 minutes without the consent of the Chair.

#### When a Member may Speak Again

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

- ▲◆4.48.1 to speak once on an amendment moved by another Member;
- ▲◆4.48.2 to move a further amendment if the motion has been amended since he last spoke;
- ▲◆4.48.3 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);
- ▲◆4.48.4 in exercise of a right of reply;
- ▲◆4.48.5 on a point of order; and
- <sup>19</sup>▲<sup>20</sup>◆4.48.6 by way of personal explanation.

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<sup>17</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>18</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>19</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

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### Amendments to Motions

▲◆4.49.1 An amendment to a motion must be relevant to the motion and will either be:

- ▲◆4.49.1.1 to refer the matter to an appropriate committee, body or individual for consideration or reconsideration;
- ▲◆4.49.1.2 to leave out words;
- ▲◆4.49.1.3 to leave out words and insert or add others; or
- ▲◆4.49.1.4 to insert or add words;
- ▲◆4.49.1.5 to substitute another proposition

as long as the effect of Rules 4.49.1.2 to 4.49.1.4 is not to negate the motion.

- ▲◆4.49.2 Each amendment will be proposed, ~~and~~ seconded, committed to writing and handed to the Chair;
- ▲◆4.49.3 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.
- ▲◆4.49.4 If an amendment is not carried, other amendments to the original motion may be moved.
- ▲◆4.49.5 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.
- ▲◆4.49.6 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.

### Alteration of Motion

- ▲◆4.50.1 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.
- ▲◆4.50.2 Only alterations which could be made as an amendment pursuant to Rule 4.49 may be made.

### Withdrawal of Motion

- ▲◆4.51 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.

### Right of Reply

- ▲◆4.52.1 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.

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<sup>20</sup> ◆ Denotes application to Area (Shire) Committees.

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<sup>21</sup> ▲ <sup>22</sup> ◆ 4.52.2 The mover of the amendment has no right of reply to the debate on his amendment.

▲ ◆ 4.52.3 A Member exercising a right of reply will not introduce any new matter and after the reply, a vote shall be taken without further discussion. Members may not speak after the owner of a motion has exercised a right of reply, except to seek clarification of a particular matter before the owner of the motion concludes his or her speech. A Member may not speak after a proposition has been voted on except on a point of order relating to it.

### **Procedural Motions which may be Moved During Debate**

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

▲ ◆ 4.53.1 to withdraw a motion;

▲ ◆ 4.53.2 to amend a motion;

▲ ◆ 4.53.3 a closure motion under Rule 4.54.5

▲ ◆ 4.53.4 to exclude the public and press in accordance with the Access to Information Procedure Rules; and

▲ ◆ 4.53.5 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87.

▲ ◆ 4.53.6 to suspend a particular council procedure rule (provided that at least one half of the whole number of Members are present).

### **Closure Motions**

▲ ◆ 4.54.1 to proceed to the next business;

▲ ◆ 4.54.2 to ask that the question be now put;

▲ ◆ 4.54.3 to adjourn a debate; or

▲ ◆ 4.54.4 to adjourn a meeting.

▲ ◆ 4.54.5 subject to Rule 4.54.8 below, if a motion to proceed to next business under Rule 4.54.1 is seconded and only if 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.

▲ ◆ 4.54.6 subject to Rule 4.54.8 below, if a motion that the question be now put under Rule 4.54.2 is seconded and only if 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.

▲ ◆ 4.54.7 subject to Rule 4.54.8 below, if a motion to adjourn the debate or to adjourn the meeting under Rules 4.54.3 and 4.54.4 is seconded and only if the Chair thinks the item has 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.

▲ ◆ 4.54.8 in the event that a closure motion under Rule 4.54.1 to 4.54.4 is moved

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<sup>21</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>22</sup> ◆ Denotes application to Area (Shire) Committees.

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and seconded, the following procedure will apply in the order set out below:

- 4.54.8.1 the closure motion will be voted upon without further debate;
- 4.54.8.2 if an amendment has been moved and seconded before a closure motion has been passed by Full Council, that amendment must be discussed immediately but will be subject to the following restrictions:
- The debate on the amendment cannot exceed a maximum of 30 minutes in total, save for the exercising of the Chair's discretion.
  - the proposer will have a maximum of 5 minutes to speak on the amendment;
  - the relevant Portfolio Holder(s) will have a maximum of 5 minutes to speak on the amendment;
  - the seconder and all other speakers will have a maximum of 3 minutes to speak on the amendment;
- 4.54.8.3 Full Council will vote on the proposed amendment debated under Rule 4.54.8.2 above.
- 4.54.8.4 a single new amendment to the substantive motion (as amended if appropriate) will be allowed if properly seconded, but will be subject to the following restrictions:
- the first new amendment proposed and seconded will be considered and no further proposed amendments will be considered;
  - The debate on the new amendment cannot exceed a maximum of 30 minutes in total, save for the exercising of the Chair's discretion.
  - the proposer will have a maximum of 5 minutes to speak on the new amendment;
  - the relevant Portfolio Holder will have a maximum of 5 minutes to speak on the new amendment;
  - the seconder and all other speakers will have a maximum of 3 minutes to speak on the new amendment;
- 4.54.8.5 the new amendment proposed in accordance with Rule 5.54.8.4 will be voted upon.
- 4.54.8.6 the substantive motion (as amended under Rule 4.54.8.2 or Rule 4.54.8.4) will be voted upon.

### Point of Order

<sup>23</sup>▲<sup>24</sup>◆4.55 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

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<sup>23</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>24</sup> ◆ Denotes application to Area (Shire) Committees.

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point of order at any time by indicating to the Chair that they wish to raise a point of order and waiting for the Chair to call them to speak. ~~The Chair will hear them immediately~~ at a convenient point at the discretion of the Chair. 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 s/he considers it has been broken. The ruling of the Chair on the matter will be final.

### Personal Explanation

▲◆4.56 A Member may make a personal explanation at any time. A personal explanation may only relate to one of the following:

- ▲◆4.56.1 some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood;
- ▲◆4.56.2 to reply to an allegation of misconduct made against the Member giving the explanation; or
- ▲◆4.56.3 to make an apology to the Council.

▲◆4.57 The ruling of the Chair on the admissibility of a personal explanation will be final.

▲◆4.58 Points of personal explanation will only be recorded in the minutes if the Monitoring Officer considered that such an inclusion would provide greater clarity to the minutes.

### Declarations of Interest

▲◆4.59 A Member may at any time declare a personal interest under the Members' Code of Conduct and when a Member makes a declaration he / she shall be heard immediately and shall be allowed to make the declaration without interruption.

### Previous Decisions and Motions

#### Motion to Rescind a Previous Decision

▲◆4.60.1 A motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members.

4.60.2 Rule 4.37.2 does not apply to a motion under Rule 4.60.1.

4.60.3 For the sake of clarity rule 4.60.1 does not apply to decisions taken by the Cabinet.<sup>25</sup>

#### Motion Similar to One Previously Rejected

<sup>26</sup> ▲ <sup>27</sup> ◆4.61.1 A motion or amendment in similar terms to one that has been rejected at a meeting in the past six months cannot be moved unless the notice of

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<sup>25</sup> N.B. Meetings of Cabinet are not committee meetings of the Council.

<sup>26</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>27</sup> ◆ Denotes application to Area (Shire) Committees.

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motion or amendment is signed by at least 10 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.61.2 Rule 4.37.2 does not apply to a motion under Rule 4.61.1.

### Voting

#### Majority

▲◆4.62 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.

#### Chair's Casting Vote

▲◆4.63 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.

#### Method of Voting

▲◆4.64 Unless a recorded vote is demanded under Rule 4.66 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.

#### Ballots

4.65.1 In respect of Full Council the vote will take place by ballot if 10 Councillors present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

▲◆4.65.2 In respect of committees the vote will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### Recorded Vote

4.66.1 Subject to 4.66.2 below, whenever an electronic voting system is available voting at Full Council and Cabinet meetings shall take place by means of that electronic voting system and the votes cast by each Councillor will be made available on the Council's website upon publication of the draft minutes for that meeting.

4.66.2 In respect of Full Council if 10 Councillors present at the meeting demand it, before a vote is taken, the details of the votes cast by each Councillor will be made available to the meeting.

▲◆4.66.3 In respect of committees if a majority of 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. A demand for a recorded vote together with a demand for a ballot will be voted upon by the committee.

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### Right to Require Individual Vote to be Recorded

<sup>28</sup> ▲<sup>29</sup> ◆ 4.67 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.

### Voting on Appointments

#### Voting on appointments to external bodies and organisations

▲ ◆ 4.68.1 If there is one position (in an external body or organisation) to be filled by a nominee or representative of the Council and more than one person is nominated for that position then the position will be filled by the person with the greatest number of votes. 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.

▲ ◆ 4.68.2 If there are two or more positions (in an external body or organisation) to be filled by nominees or representatives of the Council and the number of nominations exceeds the number of such positions, each Councillor of the Council will be able to exercise one vote for each such position (but may vote only once for each nominee) and the persons to whom more votes have been given than other persons up to the number of positions to be filled, shall be appointed. 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.

#### Voting on employee appointments

▲ ◆ 4.69 In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the Chair will have a casting vote.

#### Voting on Internal Councillor Appointments

▲ ◆ 4.70 This Rule applies to the appointment of Councillors to positions within the Local Authority or to joint committees with other authorities including:

4.70.1 the Chair / Vice-Chair / Assistant Vice-Chair of Council;

4.70.2 Leader;

<sup>30</sup> ▲<sup>31</sup> ◆ 4.70.3 the Chair or Vice-Chair of a Committee or Sub-Committee;

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<sup>28</sup> ▲ Denotes application to Committees as well as Full Council (~~excluding Cabinet~~)

<sup>29</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>30</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>31</sup> ◆ Denotes application to Area (Shire) Committees.

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- ▲◆4.70.4 Member of a Committee or Sub-Committee or Panel;
- ▲4.70.5 Member of any other internal Council board, panel or group with or without officers;
- ▲4.70.6 Member of any joint committee, board, panel or group involving the Council and one or more local authorities, and / or other public bodies.
  
- ▲◆4.71 If there are more than two Councillors 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. Voting under this paragraph will normally be conducted by ballot paper.
  
- ▲◆4.72 Where there is a tie with two or more candidates receiving the least number of votes they both be eliminated from the voting where the addition of all the votes cast for the tied candidates would not equal or exceed the candidate with the next number of lowest votes. If the total number of votes cast for the candidates who tied would equal or exceed the next candidate, then only one of those candidates be eliminated and that decision be determined by ballot between the two.
  
- ▲◆4.73 Where there is a tie, at the end of the voting process between two candidates the Chairman shall either use his / her second or casting vote, or require the appointment to be determined by the drawing of lots.
  
- ▲◆4.74 This procedure may be varied by agreement of the meeting.

### Minutes

#### Signing the Minutes

- ▲◆4.75 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.

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

- ▲◆4.76 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting<sup>32</sup>, then the next following meeting will be treated as a suitable meeting for the purposes of signing of minutes<sup>33</sup>.

#### Form of Minutes

- <sup>34</sup>▲◆4.77 Save as provided below the form of the minutes will be a matter for the

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<sup>32</sup> a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972

<sup>33</sup> paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972

<sup>34</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

## SECTION 4 – FULL COUNCIL

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Chief Executive:

- ▲◆4.77.1 Minutes will contain all motions and amendments in the exact form and order the Chair put them.
- ▲◆4.77.2 Replies given to questions of which notice has been given under Rule 4.30 will be recorded in the minutes.

### Record of Attendance

- ▲◆4.78 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.
- ▲◆4.79 Members permanently leaving a meeting shall advise the Chair or the clerk of their departure so that this can be formally recorded in the minutes, including the time of departure and the committee clerk shall so record in the minutes of that meeting.
- ▲◆4.80 Before Members leave a meeting room before the conclusion of business the Chair shall advise that Member of the above requirement.

### Exclusion of Public

- ▲◆4.81.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rules 4.89 and 4.90 (Disturbance by the Public).
- <sup>36</sup>◆4.81.2 Where members of the public have been excluded pursuant to Rule 4.81.1, Members may nevertheless remain in the meeting (with the exception of confidential meetings of the Standards Committee) unless they have a personal and prejudicial interest.

### Members' Conduct

#### Declarations of Interest

- ▲◆4.82 Members must in all matters consider whether they have a personal interest (within the meaning within the Members' Code of Conduct) in a matter to be discussed at a meeting, and whether that Code of Conduct requires them to disclose that interest and if they conclude that it does, must disclose the existence and nature of the interest at the commencement of the discussion or when the interest becomes apparent and decide whether they should withdraw from consideration of the matter as required by the Code.
- ▲◆4.83 A Member who is under the Members' Code of Conduct required to disclose the existence and nature of such an interest must complete the requisite form provided for that purpose at meetings.

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<sup>35</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>36</sup> ■ Denotes application to Committees as well as Full Council (including Cabinet)

## SECTION 4 – FULL COUNCIL

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### Speaking at Meetings

<sup>37</sup> ▲<sup>38</sup> ◆4.84 When a Member speaks at a meeting 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 Standing

▲◆4.85 When the Chair stands during a debate, or otherwise indicates that the meeting must be silent, any Member speaking at the time must stop and all Members must be seated.

### Member not to be Heard Further

▲◆4.86 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. If the motion is passed the named Member may not discuss or debate any further business whilst it is transacted at the meeting.

### Member to Leave the Meeting

▲◆4.87 If the Member continues to behave improperly after a motion under Rule 4.86 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. If the motion is passed the named Member must leave the room forthwith.

### General Disturbance

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

### Disturbance by Public

### Removal of Member of the Public

▲◆4.89 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.

### Clearance of Part of Meeting Room

▲◆4.90 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.

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

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<sup>37</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>38</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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<sup>39</sup>▲<sup>40</sup>◆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.

### **Suspension and Amendment of Council Procedure Rules (Rules 4.15 to 4.95)**

#### **Suspension**

▲◆4.92 The Council Rules of Procedure may be suspended in accordance with Rules 2.9 and 2.10.

#### **Amendment**

▲◆4.93 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 PROVIDED ALWAYS that this Rule will not apply to any recommendations or report by the Democratic Services Committee concerning the variation, revocation or amendment of these Council Rules of Procedure.

#### **Officer Advice**

4.94 Any report placed for decision before Council should contain all necessary advice to enable Councillors to take a decision. Reports will be circulated in advance of the meeting and if a Councillor requires clarification on an issue related to the report, this should be sought prior to the meeting.

4.95 Further officer advice will only be available at the meeting of Council with the consent of the Chair, in consultation with the Chief Executive. If there is a need for further detailed legal or financial advice to be provided, the meeting should be adjourned.

#### **Attendance of Cabinet Members at Council Meetings**

4.96 The Leader and Cabinet members in attendance at meetings of Full Council will not sit with the other Councillors but shall sit alongside the Chair, Vice-Chair and Assistant Vice-Chair of the County Council. The only officers to sit alongside the Chair shall be the Chief Executive, Monitoring Officer and Clerk unless otherwise authorised to do so by the Chief Executive.

#### **Petitions**

4.97 Where a Councillor delivers a petition to the Council in accordance with Rule 4.18.18 the Councillor may outline the request by the petitioners, the reason for the request and the number of the signatories **PROVIDED THAT** in any event the Councillor may not speak under this Rule for more than 5 minutes.

4.98 Where a member of the public delivers a petition to the Council the

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<sup>39</sup> ▲ Denotes application to Full Council, Cabinet and Committees,

<sup>40</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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procedure for the receipt of that petition will be determined by the Chair of the Council.

### **All Council Seminars / Member Development Sessions**

- 4.99 The Chair, Vice-Chair or Assistant Vice-Chair of the Council will preside at all Council Seminars or Member Development Sessions. Cabinet members with responsibility for portfolios which are the subject of the Council Seminar / Member Development Session may assist the Chair / Vice-Chair or Assistant Vice-Chair in facilitating the seminar / development session but may not preside over such a seminar / development session unless authorised by the Chair of the Council.

## SECTION 5 – THE CABINET

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### **Introduction**

5.1 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.

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

5.2 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.

### **Election**

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

### **Term of Office**

5.4 The Leader is appointed for a period of 4 years or for such other period as is prescribed from time to time in legislation or until s/he leaves office pursuant to Rules 6.4 to 6.7.

### **Role of the Leader**

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

### **Other Cabinet Members**

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

5.6.1 s/he resigns from that office; or

5.6.2 s/he is removed either individually or collectively from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two Clear Days after receipt of the notice by the Monitoring Officer; or

5.6.3 s/he ceases to be a Councillor; or

5.6.4 s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension).

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

5.8 The Cabinet shall not include the Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, a member of a Scrutiny Committee, the Chair of any other Committee or Sub-Committee of the authority (save for the Pensions and Investments Committee and Chair of Area (Shire) Committees).

## SECTION 5 – THE CABINET

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### **Delegation of Functions**

5.9 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:

- 5.9.1 the Cabinet as a whole;
- 5.9.2 a committee of the Cabinet (comprising Cabinet Members only);
- 5.9.3 an individual Cabinet Member;
- 5.9.4 a joint committee;
- 5.9.5 another local authority or the executive of another local authority;
- 5.9.6 a delegated Officer.
- 5.9.7 an Area (Shire) Committee.

### **Responsibility for Functions When There is No Cabinet**

5.10 During any period when there is no Cabinet, any functions which are the responsibility of the Cabinet shall be allocated to and discharged by the Head of Paid Service or in his/her absence the Strategic Directors acting singularly or collectively **PROVIDED THAT** in discharging such functions the Head of the Paid Service or the Strategic Directors shall have regard to and comply with any protocol applying to the exercise of delegated powers in so far as that is reasonably practicable, and in consultation with all the Leaders of political groups in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

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

5.11 The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Rules 5.12 to 5.29 below.

### **Cabinet Procedure Rules**

#### ***Delegation by the Leader***

5.12 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 13 to this Constitution. This will contain the following information about Executive Functions:

- 5.12.1 the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- 5.12.2 the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 5.12.3 the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- 5.12.4 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

#### ***Sub-Delegation of Executive Functions***

5.13.1 Where the Cabinet is responsible for an Executive Function, they may

## SECTION 5 – THE CABINET

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delegate further to joint arrangements, or an Area (Shire) Committee or an Officer.

5.13.2 Where a committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to an Area (Shire) Committee or an Officer.

5.13.3 Unless otherwise stated in the delegation, where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

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

5.14.1 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 wherever practicable 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 for information purposes to the next ordinary meeting of the Council setting out the changes made by the Leader. Where the Leader withdraws any delegation from any person, body or committee the delegated powers revert back to the Leader with immediate effect from the time of receipt of the notice by the Monitoring Officer.

5.14.2 Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when it is served on its chair.

### ***Conflicts of Interest***

5.15.1 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 18 of this Constitution.

5.15.2 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 18 of this Constitution.

5.15.3 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 18 of this Constitution.

### ***Cabinet Meetings***

5.16.1 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.

5.16.2 Those listed below may ask the Monitoring Officer to call Cabinet meetings in addition to those agreed by the Leader:

5.16.2.1 the Head of Paid Service;

5.16.2.2 the Section 151 Officer

## SECTION 5 – THE CABINET

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- 5.16.2.3 the Monitoring Officer
- 5.16.2.4 any three members of the Cabinet.

5.16.3 Any request presented in accordance with Rule 5.16.2 above must be in writing and must specify the business to be transacted at the meeting.

### ***Public or Private Meetings of the Cabinet?***

5.17 The Cabinet will hold its meetings in public, except in the circumstances set out in the Access to Information Procedure Rules in Section 14, for example where confidential or exempt information is being discussed.

### ***Quorum***

5.18 The quorum for a meeting of the Cabinet, or a committee of the Cabinet, shall be 3 members of the Cabinet. During any meeting if the person presiding 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 person presiding. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting of the Cabinet.

### ***How are Decisions to be Taken by the Cabinet***

5.19.1 All decisions taken by the following need to follow the Access to Information Procedure Rules set out in Section 14:

- 5.19.1.1 Cabinet;
- 5.19.1.2 Cabinet Committee;
- 5.19.1.3 Individual Members of the Cabinet

5.19.2 All decisions taken by the Executive, a Committee of the Executive, or an Individual Member of the Executive shall comply with the Budget and Framework Procedure Rules (so far as appropriate) as set out in Section 15.

5.19.3 All decisions taken by the Executive and / or a Committee of the Executive will be taken by a majority vote of those present at the meeting with the person Chairing the meeting having a second or casting vote.

### **How are Cabinet Meetings Conducted?**

#### **Who Chairs?**

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

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### Who May Attend?

5.21.1 These details are set out in the Access to Information Procedure Rules in Section 14 of this Constitution. See also Rule 3.218.2 in relation to Member participation in meetings.

5.21.2 Subject to Rule 5.25.3 below a Member may attend any meeting of the Cabinet or Cabinet Committee (whether or not they are a member of the Cabinet or a Cabinet committee)

5.21.3 The right to attend will not apply in the following cases:

5.21.3.1 where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

5.21.3.2 where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;

5.21.3.3 where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.

### What Business?

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

5.22.1 elect a person to chair if the Leader or a Deputy Leader is not present;

5.22.2 receive apologies for absence

5.22.3 approval of the minutes of the last meeting;

5.22.4 declarations of interest, if any;

5.22.5 matters referred to the Cabinet by a Scrutiny Committee 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 15 of this Constitution;

5.22.6 consideration of reports from a Scrutiny Committee or other committees;

5.22.7 consideration of reports from Cabinet Committees;

5.22.8 reports from Cabinet Members

5.22.9 reports from Officers of the Authority.

5.22.10 make recommendations to the Council or a scrutiny or other committee

5.22.11 consider such other business specified in the summons to the meeting;

5.22.12 consider other business, not specified in the summons as the Leader considers urgent, subject to the nature of the urgency being specified in the minutes

5.22.13 exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules

5.22.14 consider the Cabinet Forward Work Programme and to ensure that the programme has been populated for at least 8 months and is regularly updated.

### Consultation

## SECTION 5 – THE CABINET

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- 5.23 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 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.

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

- 5.24.1 The Leader will decide upon the schedule for meetings of the Cabinet. S/he 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.
- 5.24.2 Any Member of the Cabinet may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 5.24.3 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.
- 5.24.4 The Leader will make sure that an item is placed on the agenda of the next available meeting of the Cabinet and / or Cabinet Committee where a Scrutiny Committee or the Full Council have resolved that an item be considered by the Cabinet and / or Cabinet Committee.
- 5.24.5 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet and / or Cabinet Committee meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet and / or Cabinet Committee. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting, and, at the discretion of the Leader or person presiding, be permitted to speak.

### Speaking at Meetings

- 5.25.1 Subject to Rules 5.25.3 and 5.26 below only Cabinet Members, employees or persons asked to or with a duty to advise Cabinet or other persons asked by the Cabinet to do so may speak at an Cabinet meeting
- 5.25.2 ~~Subject to rule 5.25.3 below a Member may attend any meeting of the Cabinet or a Cabinet Committee (whether or not they are a member of the Cabinet or of the Cabinet Committee) and w~~With the permission of the person chairing, a Member may speak at a Cabinet meeting on matters affecting his / her ward. Members wishing to speak should wherever possible notify the Chair in advance of the meeting. Members speaking under this Rule will be allowed a maximum of 5 minutes, subject to the discretion of the person chairing the meeting to extend the time.
- 5.25.3 The right to speak pursuant to rule 5.25.2 will not apply ~~in the following cases:~~
- ~~5.25.3.1~~—where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

## SECTION 5 – THE CABINET

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- ~~5.25.3.2 — where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;~~
- ~~5.25.3.3 — where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.~~

**PROVIDED THAT** nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings.

### **Rights of ~~Leaders of Political Groups~~, Chairs of Scrutiny Committees to Speak at Meetings.**

5.26 ~~A Councillor being the leader of a political group in accordance with the Local Government (Committees and Political Groups) Regulations 1990, shall have the right (such right to be exercised reasonably and not so as to interfere with the proper conduct of business) to speak once on any item at any meeting of the Cabinet or a Committee of the Cabinet even though s/he is not a member of the Cabinet or Cabinet Committee as the case may be. In the absence of the leader of such political group the Councillor designated as the leader's deputy may exercise this right. The above also applies to the Chairs (or in their absence Vice-Chairs) of the Scrutiny Committees may speak for no longer than 5 minutes at a meeting of the Cabinet only to present a scrutiny report to the Cabinet for consideration, and to respond to questions from Cabinet Members on the scrutiny report.~~

This right may not be exercised ~~in the following cases:~~

~~5.26.1 where the Councillor-Scrutiny Chair / Vice-Chair is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;~~

~~5.26.2 — where the Cabinet or any Committee of the Cabinet exercising a quasi-judicial function have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;~~

~~5.26.3 — where the Monitoring Officer or his/her representative advises that as a matter of law or to protect the Council's interest non-members of the Cabinet or the Committee of the Cabinet (as the case may be) should withdraw;~~

~~5.26.4 — in relation to Scrutiny Committees any matter outside the remit of that committee.~~

**PROVIDED THAT** nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings

### **Disturbance by the Public, Filming, Audio Recording and Use of Social Media**

## SECTION 5 – THE CABINET

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- 5.27.1 The provisions in Council Procedure Rules in Rules 4.89 to 4.90 in relation to disturbance by the public apply to meetings of the Cabinet.
- 5.27.2 The provisions in Council Procedure Rules in Rule 4.91 relating to filming, audio recording and use of social media apply to meetings of the Cabinet.

### **Format of Reports for Cabinet Decisions**

- 5.28 Reports prepared by Cabinet Members and / or officers on which it is intended that Cabinet decisions are taken whether by the Leader, the Cabinet, a Cabinet Committee, Individual Cabinet Members or an officer shall comply with a report template protocol provided by the Monitoring Officer.

### **Call-In of Decisions**

- 5.29 A decision of the Cabinet, a Committee of the Cabinet, or an Individual Member of the Cabinet is subject to the Call-In provisions set out in the scrutiny procedure rules in Section 7 of this Constitution.

## SECTION 7 – SCRUTINY COMMITTEES

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### Introduction

- 7.1 The Council is required by Law to discharge certain overview and scrutiny functions. These functions are an essential component of local democracy. The Scrutiny 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.
- 7.2 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. Scrutiny Committees should not shy away from the need to challenge and question decisions and make constructive criticism.

### Scrutiny Committees

- 7.3 In order to achieve this, the Council have appointed four Scrutiny Committees which between them will:
- 7.3.1 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;
  - 7.3.2 make reports or recommendations to the Cabinet or the Council in connection with the discharge of any functions;
  - 7.3.3 consider any matter which affects the Council's area or its inhabitants; and
  - 7.3.4 exercise the right to call in for reconsideration decisions made, but not yet implemented, by the Cabinet and Officers.

### Role, Scope and Membership

- 7.4 The role, scope and Membership of the Scrutiny Committees are described in the table below:

Committee and Membership	Terms of Reference / Areas of Responsibility
<p style="text-align: center;"><u>Audit</u></p> <p style="text-align: center;"><u>14 Councillors – Politically Balanced</u></p> <p style="text-align: center;"><u>At least 1 Co-opted Lay Member with voting rights</u></p> <p style="text-align: center;"><u>(See Rule 7.5.2 below)</u></p>	<ul style="list-style-type: none"> <li>• <u>Approve statement of accounts, income and expenditure and balance sheet;</u></li> <li>• <u>Commissioning and Procurement Working Group (Joint Working Group with the People Scrutiny Committee)</u></li> <li>• <u>External Audit Reports;</u></li> <li>• <u>Finance Monitoring – Council wide;</u></li> <li>• <u>Internal Audit Reports;</u></li> <li>• <u>Oversee the authority's internal and external audit arrangements;</u></li> <li>• <u>Performance Monitoring – Council wide, including workforce;</u></li> <li>• <u>Review and assess risk management, internal control and corporate governance arrangements and make reports and</u></li> </ul>

**SECTION 7 – SCRUTINY COMMITTEES**

	<p><u>recommendations on the adequacy and effectiveness of those arrangements;</u></p> <ul style="list-style-type: none"> <li>• <u>Review and scrutinise the authority's financial affairs and make reports and recommendations on the authority's financial affairs;</u></li> <li>• <u>Review the financial statements prepared by the authority.</u></li> </ul> <p><u>Commissioning</u> <u>Procurement</u></p>
<p><u>Scrutiny Committee 1 / A</u> <u>14 Councillors – Politically Balanced</u> <u>1 Non-Voting Co-optee for crime and disorder functions</u></p>	<p><u>Adult Social Care</u></p> <p><u>Lead on Strategic Social Services</u></p> <p><u>Mental Health</u> <u>Older People</u> <u>Disabled People</u> <u>Learning Disabilities</u> <u>Carers Services</u> <u>Substance Misuse</u> <u>(Operational services covers both care management and provider services)</u> <u>Commissioning and Contracting</u> <u>Adult Social Services Policy Interpretation and Development.</u> <u>Domiciliary Care</u> <u>Health and Well Being</u> <u>Health Intervention Programme. Exercise on Prescription, Cardiac Rehabilitation).</u></p> <p><u>Health, Social Care and Well-Being Partnership</u></p> <p><u>Older Persons Champion</u></p> <p><u>Affordable Housing</u></p> <p><u>Welsh Housing Quality Standard</u> <u>Housing</u></p> <p><u>Public Sector Housing (landlord function)</u> <u>Supporting People</u> <u>Homelessness</u> <u>Private Sector Housing</u></p> <p><u>Planning</u> <u>Development Management and Planning</u></p>

## SECTION 7 – SCRUTINY COMMITTEES

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Control.  
Enhancement of Conservation Areas.  
Listed Building control and advice.  
Built Heritage Conservation grants.  
Designation and safeguarding of trees the subject of Tree Preservation Orders.  
Planning Enforcement.  
Building Control, including health and safety of buildings, dangerous structures.  
Street naming and numbering service  
Development and Planning Policy, input into regional planning policy development.  
Minerals and Waste Planning.  
Designation  
Land Drainage associated with planning and land use

### Regeneration

#### Community Regeneration

Community Enablement Fund/Welsh Church Acts  
Communities First  
Business Services  
Business Grants  
Business Advice.  
Opportunity Wales and other contracts  
Tourism  
Tourist Information Service

#### Europe

European funds  
Powys Regeneration Partnership  
European policy  
External funding

#### Economic Development

Land Charges  
Village Halls

#### Highways

Transport Planning and Policy  
Traffic management  
Road safety  
Development Control  
Transport Co-ordination  
Highway asset Management  
Network management

**SECTION 7 – SCRUTINY COMMITTEES**

	<p><u>TRACC</u>  <u>Highways Engineering Design – Contract, Procurement, Administration &amp; Supervision</u>  <u>Highways Maintenance (Technical Advice).</u>  <u>Highways Maintenance Operations (e.g. Winter Maintenance).</u>  <u>Fleet Management (including Fuel Management).</u>  <u>Car parks</u>  <u>Trunk Road Agency</u></p> <p><u>Statutory Compliance</u>  <u>Building Maintenance Operations</u>  <u>Servicing Contracts and testing</u>  <u>Street Cleaning</u>  <u>Public Conveniences</u>  <u>Grounds Maintenance</u>  <u>Markets</u>  <u>Land Drainage</u></p> <p><u>County Farms Estate</u></p> <p><u>Waste Management</u>  <u>Refuse Collection</u></p> <p><u>Environmental Health</u></p> <p><u>Trading Standards</u></p> <p><u>Emergency Planning</u>  <u>Community Safety</u></p> <p><u>Property and Assets</u>  <u>Catering and Cleaning</u>  <u>Workshops</u>  <u>Building Design</u>  <u>Gypsies &amp; Travellers</u></p> <p><u>Archives</u></p> <p><u>Central / Corporate Support Services</u></p>
<p><u>Scrutiny Committee 2 / B</u>  <u>Membership:</u>  <u>14 Councillors – Politically</u>  <u>Balanced:</u>  <u>3 parent governor</u></p>	<p><u>Education</u>  <u>Special Educational Needs</u>  <u>Exclusions</u>  <u>Attendance</u>  <u>Education other than at school</u></p>

## SECTION 7 – SCRUTINY COMMITTEES

<p>representatives:  <u>1 Church in Wales Diocese representative:</u>  <u>1 Roman Catholic Church Diocese representative.</u></p>	<p><u>Looked after children</u>  <u>English as an additional language</u>  <u>Migrant and Traveller Children</u>  <u>Admissions</u>  <u>Behaviour management</u>  <u>Complementary education</u>  <u>Education Psychology</u>  <u>Monitoring, challenging and supporting schools and providing intervention when necessary</u>  <u>Support for teaching and learning</u>  <u>Support for leadership and management including governance</u>  <u>Provision of and support for use of data</u>  <u>Early years education</u>  <u>Welsh Medium/ Bilingual Education</u>  <u>Welsh Education scheme</u>  <u>14-19 Learning Pathways</u>  <u>Basic skills strategic intervention programme</u>  <u>Workforce remodelling</u>  <u>School Organisation Review</u>  <u>Post 16 Education</u>  <u>School Transport Policy</u>  <u>Lifelong Learning (adult continuing education incl. Welsh for Adults)</u></p> <p><u>Welsh Language</u></p> <p><u>Children's Services</u>  <u>Lead Member for Children</u>  <u>Partnership Coordination</u>  <u>Youth Offending Service</u>  <u>Child Protection</u>  <u>Commissioning and Policy for Children's Services</u>  <u>Powys Executive Safeguarding Group</u>  <u>Safeguarding</u>  <u>Children with Disabilities including Residential Respite Unit</u>  <u>Family Placement Teams</u>  <u>Children's Social Work Teams</u>  <u>Children and Young People's Partnership</u>  <u>Childcare</u>  <u>Adoption</u>  <u>Fostering</u>  <u>Leaving Care</u>  <u>Out of Hours Service</u>  <u>Corporate Parenting</u></p>
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## SECTION 7 – SCRUTINY COMMITTEES

	<p><u>Looked after Children</u></p> <p><u>Libraries</u></p> <p><u>Culture</u></p> <p><u>Libraries (Public Library Service &amp; Schools Library Service)</u></p> <p><u>Arts and Culture (Theatres, Galleries, Museums, Arts Strategy, Arts Development, Theatr Powys / Powys Dance)</u></p> <p><u>Youth Service</u></p> <p><u>YFC</u></p> <p><u>Leisure</u></p> <p><u>Leisure (Recreation and Leisure policy, Leisure and Sports Centres, Outdoor Pursuits Centres, Indoor Bowling Centre, Sports Development (Generic Sports Development, Sports Specific Sports Development – Football, Rugby, Cricket, Netball, Hockey, Disability Sport) Outdoor Recreation (Parks and Open Spaces, Playgrounds, Sports Pitches – Bowls, Football, Rugby</u></p> <p><u>Woodland Management</u></p> <p><u>Landscape Design</u></p> <p><u>Countryside Services (Countryside Rights of Way, Maintenance, Open Access, Biodiversity, Coed Cymru, Commons Registration, National Trails).</u></p> <p><u>Sustainability</u></p> <p><u>Climate Change &amp; Sustainable Development Sustainability, Green Dragon and Carbon Management</u></p> <p><u>Sustainability Strategy</u></p>
<p><u>Joint Chairs and Vice-Chairs</u></p> <p><u>Steering Group</u></p> <p><u>Membership:</u></p>	<p><u>One Powys Plan</u></p> <p><u>Partnership Management</u></p>

### Membership of the Audit Committee.

7.5.1 The Audit Committee will comprise 14 Councillors, appointed to achieve as far as reasonably practicable a political balance on the committee plus 1 voting Lay Member plus such other co-optees as may be appointed by the

## SECTION 7 – SCRUTINY COMMITTEES

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Council (subject to the total number of co-optees being less than one third of the total membership).<sup>1</sup>

7.5.2 In accordance with Section 82 of The Measure:

7.5.2.1 At least one member of the Audit Committee must be a voting Lay Member;

7.5.2.2 An act of the Audit Committee will be invalid if the membership of the committee breaches any of the membership requirements set out in Rules 7.5.1 and 7.5.2.1.

7.5.2.3 The Chair of the Audit Committee is appointed by it and the Chair:

- cannot be a member of the Cabinet;
- can be a Lay Member or a Co-Opted Member;
- can only be a member of an executive group if there are no opposition groups. (See Rule 7.5.4 below);

7.5.2.4 The Measure does not require a Cabinet Member to be a member of the Audit Committee but a maximum of one member of Cabinet (but not the Leader) may be a member of the Audit Committee;

7.5.3 The Vice-Chair of the Audit Committee will be appointed annually by the Committee who may appoint a Councillor, the Lay Member or a Co-Opted Member. (see Rule 7.5.4 below)

7.5.4 A person presiding at an Audit Committee can only be a member of an executive group if there are no opposition groups.

### General Functions

7.6 Within their terms of reference, Scrutiny Committees will:

7.6.1 review and / or scrutinise decisions made, or other action taken in connection with the discharge of any function of the authority;

7.6.2 make reports and / or recommendations to the Full Council and / or the Cabinet, and / or any joint committee or Area (Shire) Committee in connection with the discharge of any function of the authority;

7.6.3 consider any matter affecting the area or its inhabitants;

7.6.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented, by the Cabinet, a committee of the Cabinet, a member of the Cabinet, an officer exercising functions delegated by the Cabinet, and / or any Area (Shire) Committee exercising functions delegated by the Cabinet. (See Call-In Procedure – Rule 7.37);

### Specific Functions

#### Policy Development and Review

7.7 The Scrutiny Committees may:

7.7.1 assist the Council and the Cabinet in the development of its Budget and Policy Framework by in depth analysis of policy issues, including

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<sup>1</sup> See Section 82 of The Measure.

## SECTION 7 – SCRUTINY COMMITTEES

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- pre-scrutiny of draft or amended policies;
- 7.7.2 conduct research, site visits, community and other consultation in the analysis of policy issues and possible options;
- 7.7.3 question members of the Cabinet and/or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;
- 7.7.4 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;
- 7.7.5 consider the impact of policies to assess if they have made a difference;
- 7.7.6 consider and implement mechanisms to encourage and enhance community participation in the scrutiny of the development of policy options; and
- 7.7.7 investigate or review a particular matter in depth, reporting their conclusions and making any recommendations to the Council or Cabinet as appropriate.

### Scrutiny

7.8 Scrutiny Committees may:

- 7.8.1 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;
- 7.8.2 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- 7.8.3 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;
- 7.8.4 make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process;
- 7.8.5 review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;
- 7.8.6 question and gather evidence from any person (with their consent);
- 7.8.7 review and scrutinise the budget setting process;
- 7.8.8 conduct research, site visits, community (and other) consultation for the purposes of analysing issues and developing where appropriate; possible options, through liaison with the area/community partnerships; and
- 7.8.9 consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options.

### Finance

7.9 Scrutiny Committees may exercise overall responsibility for the finances made available to them.

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### Annual Report

7.10 The Scrutiny Committees may report annually to the Full Council on their workings.

### Head of Democratic Services

7.11 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 Scrutiny Committees and to promote support and guidance to members and Officers generally about the functions of the Scrutiny Committees .

### Who May Sit on Scrutiny Committees ?

7.12.1 Subject to Rule 7.12.2. below all Councillors (except members of the Cabinet) may be members of the Scrutiny Committees. However, no Member may be involved in scrutinising on decisions in which s/he has been directly involved.

7.12.2 In accordance with Section 82 of The Measure no more than one member of the Cabinet may be a member of the Audit Committee (but there is no requirement for Full Council to appoint a member of the Cabinet to the Audit Committee ). The Leader cannot be a member of the Audit Committee.

### Co-Optees

7.13.1 The People Scrutiny Committee shall include in its membership the following voting representatives:

- 7.13.1.1 One Church in Wales diocese representative;
- 7.13.1.2 One Roman Catholic diocese representative; and
- 7.13.1.3 Three parent governor representatives (covering so far as practicable the primary, secondary and special needs sectors)

7.13.2 When matters which are not education matters, which are the responsibility of the Cabinet, fall to be considered by the People Scrutiny Committee, the co-opted representatives specified in rule 7.13.1 shall not vote, although they may stay in the meeting and speak.

7.13.3 The Place Scrutiny Committee shall include in its membership in a non-voting capacity 1 representative from the Police and Crime Panel (or from such other body which replaces the Panel), subject to that representative not being a Powys County Council representative on the Police and Crime Panel.

7.13.4 In addition to co-optees appointed under rules 7.13.1.1 to 7.13.1.3 above, Scrutiny Committees may recommend to Full Council the co-option of other persons as voting or non-voting representatives. 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

7.13.5 The total number of co-optees on each Scrutiny Committee may not exceed more than one third the membership of the committee.<sup>2</sup>

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<sup>2</sup> Paragraph 8.19 Statutory Guidance from the Local Government Measure 2011 (issued by Welsh Government June 2012)

## SECTION 7 – SCRUTINY COMMITTEES

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### Who Chairs Scrutiny Committees (other than the Chair of the Audit Committee)?

7.14 The arrangements included in sections 66-75 of The Measure will be followed for appointing persons to chair Scrutiny Committees (other than the Chair of the Audit Committee who will be appointed in accordance with Rule 7.5.2.3)<sup>3</sup>.

### Role of the Chair of Scrutiny Committees

7.15.1 The chairs of the Scrutiny Committees will liaise with the Cabinet and the Head of Paid Service and will supervise the work programme for their Scrutiny Committee and identify cross cutting themes arising from the various Scrutiny Committees .

7.15.2 In summary, therefore, the Chair will:

7.15.2.1 be accountable for delivering effective scrutiny;

7.15.2.2 will regularly monitor the work programmes for their Scrutiny Committee; and

7.15.2.3 will liaise with the Cabinet on issues affecting the scrutiny work programme.

### Work Programme

7.16 The Joint Chairs Steering Group ~~Scrutiny Committees~~ will be responsible for setting their ~~own~~ work programme for each scrutiny committee and in doing so they should take into account the Cabinet Forward Work Programme and focus on strategic and important issues. ~~wishes of members of that Scrutiny Committee 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~~ Any requests from scrutiny members for matters to be scrutinised should be sent to the Joint Chairs Steering Group for consideration.

### Meetings

7.17.1 The Scrutiny Committees will have at least 4 meetings a year.

7.17.2 The Audit Committee must also meet if:

(a) the Full Council resolves that the Committee should meet; or

(b) at least one third of the members of the Audit Committee requisition a meeting by one or more notices in writing to the chair.

7.17.3 Extraordinary meetings may be called from time to time where the chair of a Scrutiny Committee considers it is necessary to do so.

### Joint Scrutiny Committees

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

### Rules of Procedure and Debate (“Scrutiny Procedure Rules”)

7.19 Rules 7.19 to 7.37 (inclusive) shall be known as the Scrutiny Procedure Rules and will apply to meetings of the Scrutiny Committees.

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<sup>3</sup> For provisions relating to the Chair of the Audit Committee See Rule 7.3.2(b)(ii) above.

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## SECTION 7 – SCRUTINY COMMITTEES

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

- 7.20.1 The Council will have four Scrutiny Committees set out in the table in Rule 7.3 and will appoint to them as it considers appropriate from time to time. The Scrutiny Committees may appoint smaller groups (Member and Officer Working Groups) to carry out detailed examination of particular topics for report back to the committee. Such groups may be appointed for a fixed period on the expiry of which they shall cease to exist or may be appointed on a task and finish basis. Such Member and Officer Working Groups should work on a non-political basis and wherever possible should comprise as many political groups as practicable.
- 7.20.2 The terms of reference / areas of responsibility of the various Scrutiny Committees will be as set out in Rule 7.4 above.
- 7.20.3 Each Scrutiny Committee (with the exception of the Audit Committee and the Local Service Board Scrutiny Committee) will be Chaired by a chair appointed by the Full Council from the membership of that Scrutiny Committee and there will be cross party membership of all Scrutiny Committees.

### **Meetings of the Scrutiny Committees**

- 7.21.1 Subject to Rule 7.17 above the Full Council may determine a cycle of meetings for scrutiny committees . If the Full Council does not set the cycle, each Scrutiny 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 Scrutiny Committee's work programme.
- 7.21.2 In addition, extraordinary meetings may be called from time to time by:
- 7.21.2.1 the Full Council by resolution; or
  - 7.21.2.2 the relevant Scrutiny Committee by resolution; or
  - 7.21.2.3 the chair of the relevant Scrutiny Committee; or
  - 7.21.2.4 any 5 members of the relevant Scrutiny Committee; or
  - 7.21.2.5 the Head of Paid Service; or
  - 7.21.2.6 the Monitoring Officer; or
  - 7.21.2.7 the Section 151 Officer;

as s/he / they considers necessary or appropriate.

### **Quorum**

- 7.22 The quorum of a meeting will be 25% of the number of members of that Scrutiny Committee. During any meeting, if the chair declares that 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 s/he does not fix a date, the remaining business will be considered at the next ordinary meeting of the Scrutiny Committee..

### **Business at First Meeting Following the Annual Meeting of the County Council**

- 7.23 The first meeting of a scrutiny committee following the Annual Meeting of the County Council will (as may be appropriate):

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- 7.23.1 elect a chair of the Audit Committee;
- 7.23.2 elect a person to preside if the chair of the Committee is not present;
- 7.23.3 elect the vice-chair of the Committee
- 7.23.4 (unless the committee decides unanimously to dis-apply the political balance requirements) allocate seats to political groups on sub-committees authorised by the Full Council.
- 7.23.5 make appointments to sub-committees authorised by Full Council (see Rules 4.6.1; 4.6.7; 4.15.7; and 4.18.6); such appointments to be in accordance with the wishes of the groups unless the committee decides unanimously to dis-apply the political balance requirements;
- 7.23.6 establish or re-establish Member and Officer Task and Finish Working Groups and make appointments thereto as appropriate;
- 7.23.7 to approve the committee's work programme for the forthcoming year;
- 7.23.8 deal with those items of business listed in Rule 7.24 below as may be appropriate.

The order of business, with the exception of items 7.23.1 and 7.23.2 may be altered by the chair.

### **Business at Other Meetings**

7.24 At all other meetings of committee, the committee will (as may be appropriate)

- 7.24.1 elect a person to preside if the chair and vice-chair of the Committee are not present;
- 7.24.2 elect the chair of the Audit Committee in the event of there being a vacancy
- 7.24.3 elect a vice-chair of the Committee in the event of there being a vacancy;
- 7.24.4 receive declarations of interest (including whipping declarations);
- 7.24.5 make appointments to sub-committees and Member and Officer Task and Finish Groups in the event of there being a vacancy;
- 7.24.6 receive apologies for absence;
- 7.24.7 approve the minutes of the last meeting;
- 7.24.8 receive any announcements from the chair;
- 7.24.9 receive reports from the Cabinet and / or from any other committees, and / or from officers;
- 7.24.10 make recommendations to the Cabinet or Full Council;
- 7.24.11 deal with any business outstanding from the last meeting;
- 7.24.12 (where the Leader or a Cabinet member attends a meeting of the committee) to receive a presentation from the Leader or a Cabinet member and / or to put questions to, and to receive responses from the Leader or a Cabinet member;
- 7.24.13 put questions to the chair or relevant officers of the Council where appropriate on items of business before the committee and to receive responses.
- 7.24.14 receive reports from sub-committees and Member and Officer Task

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- and Finish Groups;
- 7.24.15 to consider requests from members of the committee for items of business to be considered at a future meeting or at the meeting when the request is made if the chair is satisfied that the matter is urgent (the reason for the urgency being recorded in the minutes), and that the committee is able to have the necessary professional advice of officers;
- 7.24.16 consider motions without notice as set out in the Full Council Procedure Rules in Section 4 of this Constitution;
- 7.24.17 review the Committee's Work Programme for the forthcoming year and make such alterations as are necessary;
- 7.24.18 consider such other business specified in the summons to the meeting;
- 7.24.19 consider other business, not specified in the summons as the chair considers urgent, subject to the nature of the urgency being specified in the minutes;
- 7.24.20 to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules;
- 7.24.21 receive notes of meetings of the Joint Chairs and Vice-Chairs Steering Group.

The order of business, with the exception of items 7.24.1 to 7.24.4 may be altered by the chair.

### Agenda Items

- 7.25.1 Any member of a Scrutiny Committee shall be entitled to give notice to the chair of the Scrutiny Committee that s/he wishes an item relevant to the functions of that Scrutiny Committee to be included on the agenda for the next available meeting. The chair will decide in his / her absolute discretion whether or not the matter will be placed on the agenda for the next meeting.
- 7.25.2 Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Full Council and/or the Cabinet to review particular areas of Council activity. Where they do so, the particular Scrutiny Committee shall report their findings and any recommendations back to the Cabinet and/or Council as appropriate. The Council and/or the Cabinet shall consider the report of the Scrutiny Committee and respond (if appropriate) within 6 weeks of its consideration

### Policy Review and Development

- 7.26.1 The role of Scrutiny 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 15.
- 7.26.2 In relation to the development of the Council's approach to other matters not forming part of its Budget and Policy Framework, Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- 7.26.3 Scrutiny 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,

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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 any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

### **Reports from Scrutiny Committees**

- 7.27.1 All formal reports from Scrutiny Committees will be submitted to the Monitoring Officer for consideration by the Cabinet (if the proposals are consistent with the existing Budget and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework).
- 7.27.2 If a Scrutiny 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 Full Council or Cabinet with the majority report.
- 7.27.3 A Scrutiny Committee may publish any non-confidential report.

### **Making sure that Scrutiny Reports are considered by Full Council or Cabinet**

- 7.28.1 The reports of Scrutiny Committees shall be referred to the Cabinet (as determined by the Scrutiny Committee) within one month or to the next meeting of Full Council (where applicable). Where an item is not considered by Full Council or Cabinet within the period specified above, the Chair of Council or the Leader will give an explanation of the reasons to the chair of the relevant Scrutiny Committee as soon as practicable.
- 7.28.2 Where a scrutiny report is referred to the Cabinet the relevant Portfolio Holder(s) and senior officers will attend the meeting of the Cabinet wherever possible. The Cabinet will prepare a written response to the scrutiny report, including an action plan where appropriate, within 2 months. The Portfolio Holder(s) and senior officers if requested to do so will attend a future meeting of that Scrutiny Committee to present the Cabinet's response.

### **Rights of Members of Scrutiny Committees to Documents**

- 7.29.1 Members of Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section 14 of this Constitution.
- 7.29.2 Nothing in this paragraph prevents more detailed liaison between the Cabinet and the Scrutiny Committees as appropriate depending on the particular matter under consideration.

### **Members and Senior Officers Giving Account**

- 7.30.1 Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions within its remit. 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 the following matters within their remit:
- 7.30.1.1 any particular decision or series of decisions; and / or
- 7.30.1.2 the extent to which the actions taken implement Council policy;

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- and/or
- 7.30.1.3 the implementation of decision(s) and or Council policy
- and it is the duty of those persons to attend if so required.
- 7.30.2 Where there are concerns about the appropriateness of the Officer who should attend, the relevant chief Officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- 7.30.3 Where any Member or Officer is required to attend Scrutiny Committees under this provision, the Chair of that Committee will inform the Monitoring Officer. The Monitoring Officer (or officers nominated by him / her) shall inform the Member or Officer, if necessary in writing, giving at least 5 working days' notice of the meeting at which s/he 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.
- 7.30.4 For the purposes of attendances of members or Officers at the Audit Committee only, in accordance with Section 83(6) of The Measure, a person is not obliged to answer any question which the person would be entitled to refuse to answer in, or for the purposes of, proceedings in a court in England and Wales.
- 7.30.5 Where the account to be given to a Scrutiny Committee will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for its preparation.
- 7.30.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee shall in consultation with the Member or Officer arrange an alternative date for attendance.

### **Attendance by Others**

#### **Attendance of Leader or Cabinet Member**

- 7.31 Subject to the Members' Code of Conduct, the Leader or a Cabinet member in the role of the Leader's representative may attend and speak but not vote at meetings of Scrutiny Committees where the Leader has a specific issue to raise with the committee. The attendance of a Cabinet member in all other cases will be at the invitation of the chair or the Scrutiny Committee.

#### **Attendance of Members at Committee Meetings**

- 7.32.1 In addition to their right to attend all meetings of committees of which they are members, Members (with the exception of Cabinet members) shall have the right to attend any meeting of a Scrutiny Committee and to remain present notwithstanding the passing of a resolution to exclude the public.
- 7.32.2 Such attendance shall be as observer only, with no right to vote, the attendance not being included in the relevant quorum, and no right to speak, provided that the chair in his / her discretion may permit the member to speak on a particular issue.
- 7.32.3 Such right of attendance is subject to the Councillor not having a Prejudicial

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Interest in the matter under discussion under the Members' Code of Conduct and subject to any legal provisions and any limitations or restrictions within this Constitution.

### Others

- 7.33 Scrutiny Committees may invite people other than those people referred to in Rules 7.30 and 7.31 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders, members and officers in other parts of the public sector and shall invite such people to attend.

### The Party Whip in Scrutiny

- 7.34 If a member of a Scrutiny 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. The member declaring the existence of a whip may speak at the meeting but is not entitled to vote on the question.<sup>4</sup>

### Procedure at Scrutiny Committee Meetings

- 7.35.1 The Rules of Procedure at Scrutiny Committees will be the same as the Full Council Procedure Rules set out in Section 4 of this Constitution 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 members of a Scrutiny Committee or in any other capacity which allows them to contribute to the worth of the meeting.
- 7.35.2 Scrutiny 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:
- 7.35.2.1 that the business be conducted fairly and all members of the Scrutiny Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - 7.35.2.2 that those assisting by giving evidence be treated with respect and courtesy;
  - 7.35.2.3 that the business be conducted as efficiently as possible.
- 7.35.3 Following any investigation or review, a Scrutiny Committee shall prepare a report, for submission to the Cabinet and/or Full Council as appropriate and shall make its report and findings public.

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<sup>4</sup> Section 78(1) of the Local Government (Wales) Measure 2011.

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### **Matters within the Remit of more than one Scrutiny Committee**

7.36 Where a matter for consideration by Scrutiny Committees falls within the remit of more than one Scrutiny Committee the decision as to which Scrutiny Committee is to consider the matter will be resolved by the respective Chairs or, the Joint Chairs and Vice-Chairs Steering Group, or if they fail to agree, the decision will be made by Monitoring Officer.

### **Call-In Procedure Rules**

7.37 The Call-In Procedure Rules set out in this Rule 7.37 do not apply to the Local Services Board Scrutiny Committee. For the sake of clarity the Local Service Board Scrutiny Committee does not have the ability to call-in decisions / recommendations made by the Local Service Board.

7.37.1 Where a decision is made by the Cabinet or an individual member of the Cabinet or a Committee of the Cabinet or under joint arrangements with other public bodies, the decision shall be published by the Monitoring Officer, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of it being made. All Councillors will be sent copies of the records of all such decisions within the same time scale.

7.37.2 The communication to Councillors sending them the decision will (a) bear the date on which the decision is published and (b) will specify the date when the decision will come into force (subject to Rule 7.37.3) and may then be implemented, on the expiry of five clear days (the “Call-in Period”) after the date of publication of the decision, unless the appropriate Scrutiny Committee objects to it and calls it in for review within the Call-in Period.

7.37.3 During the Call-in Period the Monitoring Officer shall call-in a decision for scrutiny by the relevant Scrutiny Committee if so requested in the specified format (“the Call-In Request”<sup>5</sup>) by the chair or ~~5~~4 members of a Scrutiny Committee PROVIDED THAT the Monitoring Officer and / or the Chief Finance Officer are satisfied that the following conditions are met:

7.37.3.1 the decision or action was contrary to the policy framework or budget, or fell outside the functions of the Cabinet; or

7.37.3.2 the Cabinet or decision maker had not followed agreed procedures or failed to consult (where required) before reaching its decision; or

7.37.3.3 the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council’s actions, or other guidance adopted by the Council.

7.37.4 Where the Monitoring Officer and / or the Chief Finance Officer are satisfied that one or more of the conditions set out in rule 7.37.3 above have been met, they shall produce a written report setting out the reasons for coming to this conclusion and the Monitoring Officer will then arrange for a “Call-In

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<sup>5</sup> See Appendix 1 to this Section.

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Notice<sup>6</sup> to be issued in accordance with Rule 7.37.5 below.

7.37.5 A Call-In Notice must contain the following:

7.37.5.1 details of the condition set out in rule 7.37.3 above being relied upon;

7.37.5.2 the reasons why it is believed one or more of the conditions are satisfied;

7.37.6 The Monitoring Officer shall call a meeting of that Scrutiny Committee on such a date as s/he may determine, where possible after consultation with the chair or vice chair of that the appropriate Scrutiny Committee, and usually within 10 clear days of the receipt of the Call-In Request (the "Scrutiny Period") (only in exceptional circumstances will the chair of the Scrutiny Committee consider extending this time limit and the period of extension cannot in any circumstances exceed a further 5 clear days).

7.37.7 If, having considered the decision, the Scrutiny Committee remains concerned about the decision, then the Committee 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 for review. If the decision is referred back to the decision maker, the decision maker shall then reconsider the decision within 10 clear days of the date of the reference. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The final decision cannot be the subject of a further call-in.

7.37.8 If a Scrutiny Committee does not meet within the Scrutiny Period the decision shall take effect and be implemented on the next day following the expiry of the Scrutiny Period (as extended pursuant to Rule 7.37.6 as the case may be).

7.37.9 If following an objection to the decision, a Scrutiny Committee does not refer the matter back to the decision making person or body or to Full Council, the decision shall take effect on the date of the Scrutiny Committee meeting.

7.37.10 If a Scrutiny Committee refers the matter to Full Council, the Monitoring Officer shall call a meeting of the Full Council on such a date as s/he may determine, where possible after consultation with the chair or vice chair of the Full Council, and usually within 10 clear days of the receipt of the referral (the "Council Scrutiny Period") (only in exceptional circumstances will the chair of the Full Council consider extending this time limit and the period of extension cannot in any circumstances exceed a further 5 clear days).

7.37.11 If, having considered the decision, the Full Council remains concerned about the decision, then the Full Council may refer it back to the decision making body for reconsideration, setting out in writing the nature of its concerns. If the decision is referred back to the decision maker, the decision maker shall then reconsider the decision within 10 clear days of the date of the reference. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The final decision cannot be the subject of a further call-in.

7.37.12 If the Full Council does not meet within 10 clear days of the date of the

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<sup>6</sup> See Appendix 2 to this Section.

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reference (“the Council Scrutiny Period”), the decision shall take effect on the day after the expiry of the Council Scrutiny Period.

7.37.13 If the Full Council does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Full Council meeting.

7.37.14 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:

7.37.14.1 each Scrutiny Committee may only call-in a total of five decisions per year;

7.37.14.2 where a Call-in Request has been made by five members of a Scrutiny Committee in accordance with Rule 7.37.3 those five members must come from at least two political groups, or one political group and / or one or more non-aligned Councillor(s);

7.37.14.3 once a Member (the chair of the Scrutiny Committee excepted) has signed a Call-in Request s/he may not do so again until the period of six months has expired.

7.37.14.4 no Education Co-opted members may request a decision be called in.

7.37.14.5 only decisions involving expenditure or reduction in service over the threshold value for tenders set out in Section 17 of this Constitution may be called-in.

7.37.14.6 the decision being called-in, or broadly the same decision, has been called in during the last 6 months.

7.37.14.7 the provisions of Rule 7.38.1 apply (Urgency)

7.37.15 The Monitoring Officer and / or the Chief Finance Officer may veto any request for call-in if it falls outside the remit of this scheme.

7.37.16 Save in exceptional circumstances all members of a Scrutiny Committee requesting a matter be called in must attend the meeting at which the matter is being considered.

7.37.17 For the avoidance of doubt a Call-In remains valid even if one or more of the members who have signed the Call-in Request do not attend the Scrutiny Meeting at which the Call-in is debated.

### **Call-In and Urgency**

7.38.1 The call-in procedure set out in Rule 7.37 above shall not apply where the decision being taken is urgent. A decision will be urgent if:

7.38.1.1 any delay likely to be caused by the call-in process would seriously prejudice the Council's or other public interests; and

7.38.1.2 the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer certifies in writing that any delay likely to be caused by the call-in process could seriously prejudice the Council, or the public interest; and

7.38.1.3 the chair of the relevant Scrutiny Committee agrees in writing to the decision being treated as a matter of urgency. In the absence of the Scrutiny chair then either the Scrutiny vice chair or the chair of Council may agree to the decision being treated as a matter of

## SECTION 7 – SCRUTINY COMMITTEES

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urgency; and

7.38.1.4 the record of the decision, and notice by which it is made public, shall state that the decision is an urgent one, and that the urgency of the matter has been approved by the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer and by the chair of the relevant Scrutiny Committee or Scrutiny vice-chair or the chair of Council.

7.38.2 Decisions taken as a matter of urgency can be implemented forthwith but must be reported at the next available meeting of the relevant Scrutiny Committee, together with the reasons for urgency.

### **Joint Chairs and Vice-Chairs Steering Group – Scrutiny and Democratic Services Committees (“the Steering Group”).**

#### **Role, Scope and Membership.**

7.39

7.39.1 Membership: Chairs and Vice-Chairs of the following committees:  
People Scrutiny Committee;  
Place Scrutiny Committee;  
Audit Committee;  
Democratic Services Committee.

For the sake of clarity the Chair of the Local Service Board / Public Service Board Scrutiny Committee will not be a member of the Joint Chairs steering Group.

7.39.2 Chair : Elected annually in rotation by the Steering Group from the Chairs of the Committees detailed in “Membership” above.

7.39.3 Vice-Chair: Elected annually in rotation by the Steering Group from the Chairs of the Committees detailed in “Membership” above.

7.39.4 Meetings: Meetings of the Steering Group will be held bi-monthly. Additional meetings of the Steering Group can be called with the consent of the Chair.

7.39.5 Notes of Meetings: Notes of the meetings of the Steering Group will be considered by the Scrutiny Committees and the Democratic Services Committees.

#### **Terms of Reference:**

7.40 The Steering Group will:

- 7.40.1 co-ordinate the work programmes of the Scrutiny Committees;
- 7.40.2 assess potential items for their suitability for a scrutiny review, and allocate those items if suitable to the appropriate scrutiny committee for review;
- 7.40.3 consider items referred from the Scrutiny Committees;
- 7.40.4 ensure the co-ordination of the Scrutiny Committees’ Work

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- Programmes with the Cabinet Work Programme;
- 7.40.5 receive a summary report on the progress being made by scrutiny working groups in relation to their reviews;
- 7.40.6 discuss with the Chief Executive and Strategic Directors / Directors any items for inclusion on Scrutiny Committees' Work programmes;
- 7.40.7 undertake an annual review of the Draft One Powys Plan and make recommendations to the Cabinet;
- 7.40.8 undertake an annual review of the draft budget proposals and make recommendations to the Cabinet;
- 7.40.9 review the Cabinet's Statement of Intent and make recommendations to the Cabinet;
- 7.40.10 review the draft Annual Governance Statement and make recommendations;
- 7.40.11 review as appropriate the performance evaluation grids which form the basis of the draft Annual Improvement Report;
- 7.40.12 review the draft Annual Improvement Report and make recommendations to the Cabinet;
- 7.40.13 consider the Wales Audit Office Annual Improvement Report and consider any matters for inclusion in the Scrutiny Committees' Work Programmes;
- 7.40.14 to ensure in conjunction with the Local Service Board Scrutiny Committee that there is no duplication of work between the County Council scrutiny committees, the Local Service Board Scrutiny Committee and any other joint scrutiny arrangements with other authorities;
- 7.40.15 such other matters which relate to or affect the operation of the Scrutiny Committees.

### Finance Scrutiny Panel.

#### **Role, Scope and Membership.**

##### 7.41

7.41.1 Membership: The Panel should be no larger than 10 Members to include the following:

Chairs of the following committees:

People Scrutiny Committee;

Place Scrutiny Committee;

Audit Committee;

Leaders of the Opposition groups i.e. those political groups which are not represented on the Cabinet.

Representatives from the Audit Committee one of which should be the Independent "Lay" Member.

7.41.2 Chair : The Chair of the Audit Committee will chair the Panel.

7.41.3 Vice-Chair: The Vice-Chair of the Audit Committee will be the Vice-

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- 7.41.4 Meetings: Chair of the Panel.  
Meetings of the Panel will be held monthly. Additional meetings of the Panel can be called with the consent of the Chair.
- 7.41.5 Reports by the Panel: The Panel will make reports on its findings to the Cabinet and where necessary Full Council.

### Terms of Reference:

7.42 The Panel will:

- 7.42.1 assist with the delivery of the plans to support change and the Medium Term Financial Strategy to inform policy changes, and providing robust challenge and accountability;
- 7.42.2 assist the managed transition between the current spread of service provision and the services most likely to be provided by the Council in the medium to long term;
- 7.42.3 analyse the relationship between performance and spend with emphasis on the outcomes intended to be achieved by a particular service in the context of what may be considered affordable;
- 7.42.4 consider the robustness of the evidence base upon which programmes of change are predicated;
- 7.42.5 provide a constructive environment for reasoned, detailed discussions about changes in an independent and impartial setting;
- 7.42.6 review and scrutinise:
- Assumptions underlying the budget strategy;
  - The Medium Terms Financial Strategy / Finance Resource Model;
  - Budget Assumptions;
  - Annual Local Government Settlement and any legislative changes affecting local government;
  - Draft Budget and Impact Assessments;
  - Risk Register;
  - Financial Monitoring;
- 7.42.7 review and scrutinise where appropriate change plans by individual services particularly where those plans relate to high cost / risk areas of service;
- 7.42.8 provide evidence based recommendations to the Cabinet on its findings;
- 7.42.9 develop a forward work programme based on the budget timetable and the Council's medium term financial strategy;

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### **Councillor Call for Action**

- 7.413.1 The Councillor Call for Action is a mechanism for enabling Councillors to bring matters of local concern to the attention of the Council via the Scrutiny process. It should be an option of "last resort".
- 7.413.2 Any Councillor may request that an item is placed on the agenda of the

## SECTION 7 – SCRUTINY COMMITTEES

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relevant Scrutiny Committee for consideration.

- 7.423.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors attached to this section of the Rules at 7.42 to 7.46

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### Councillor Call for Action - Guidance for Councillors

#### Introduction

- 7.424.1 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 Scrutiny Committees .
- 7.424.2 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 Councillors 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 Councillor to the designated Place Scrutiny Committee for action and it should be noted that these local crime and disorder referrals will remain in place under separate legislation.
- 7.424.3 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.
- 7.424.4 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 Councillor to refer to a Scrutiny Committee, "a local government matter" which falls within the Scrutiny Committee's remit.

#### How Should I Normally Attempt to Resolve a Local Issue in My Area?

- 7.424.5 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:
- 7.424.5.1 informal discussions with Officers or other Councillors;
  - 7.424.5.2 informal discussions with partner representatives;
  - 7.424.5.3 referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee;
  - 7.424.5.4 formal discussions with Officers and Councillors;
  - 7.424.5.5 formal letters to the Cabinet members;
  - 7.424.5.6 asking questions at Full Council;
  - 7.424.5.7 submitting a motion to Full Council;
  - 7.424.5.8 organising public meetings;

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- 7.424.5.9 use of petitions;
- 7.424.5.10 making a complaint;
- 7.424.5.11 freedom of information requests;
- 7.424.5.12 communication with local AMs or MPs;
- 7.424.5.13 use of social media or email based campaigns.

7.424.6 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 Scrutiny Committee as a CCfA.

### What is a Councillor Call For Action?

- 7.424.7.1 In order for a Scrutiny Committee 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 and come within that Scrutiny Committee's remit.
- 7.424.7.2A Councillor does not however need a referral from a constituent in order to start the process. It is important to recognise that 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?

- 7.424.8.1A flowchart showing the process is provided at Rule 7.45. A Councillor may initiate the process by completing the form at Rule 7.46. Further copies are available from the Scrutiny Manager. It is important that the local Councillor specifies what outcome is expected from the referral. After completion the form should be returned to the Scrutiny Manager who will log and acknowledge the referral within five working days, to track its progress and forward a copy of the form to the Monitoring Officer.
- 7.424.8.2 The Monitoring Officer will confirm whether or not the referral satisfies the requirements outlined in Rule 7.42.9 below to enable it to be placed on the agenda for discussion at a meeting of the relevant Scrutiny Committee. The Monitoring 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 Scrutiny Committee Dealing With CCfAs

- 7.424.9 It is up to the chair of a Scrutiny Committee in consultation with the Monitoring Officer to decide whether, and in what form, to take the matter further. The chair will use the following criteria to decide whether or not the referral is appropriate to be considered by its Scrutiny Committee :
  - 7.424.9.1 does the matter fall within the remit of that Scrutiny Committee?  
NB: Crime and Disorder referrals should be directed to the Place Scrutiny Committee.
  - 7.424.9.2 is that Scrutiny 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?

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- 7.424.9.3 has that Scrutiny Committee considered a similar issue recently?  
If so, have the circumstances or evidence changed?
- 7.424.9.4 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.
- 7.424.9.5 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?
- 7.424.9.6 is this a case that is being or should be pursued via the Council's corporate complaints procedure?
- 7.424.9.7 is it relating to a "quasi-judicial" matter or decision such as planning or licensing?
- 7.424.9.8 is the matter an issue of genuine local concern which impacts on the local community rather than a personal matter?
- 7.424.9.9 is this an issue currently being looked at by another form of external scrutiny?
- 7.424.9.10 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 Councillor's electoral division?

7.424.10 If a Scrutiny Committee decides not to accept the CCfA it must inform the Councillor of the decision and the reasons for it.

7.424.11 If a Scrutiny Committee decides to accept the CCfA the Councillor will be informed and advised of the agreed Protocol, e.g. the Councillor will be given adequate notice (a minimum of 10 clear days) of the date of the Scrutiny Committee's meeting. The Councillor will be requested to attend the Scrutiny Committee and informed that s/he will have five minutes in which to address the Scrutiny Committee. The Scrutiny Committee may then wish to question the Councillor further before deciding how it intends to take the matter forward. This could include:

- 7.424.11.1 asking the relevant responsible authorities to respond to the CCfA;
- 7.424.11.2 setting up a research or task and finish group to undertake a more in-depth review;
- 7.424.11.3 asking for further evidence and/or witnesses to be brought to a future meeting. The Scrutiny Committee has the power to request "designated persons"<sup>7</sup> such as representatives from other public bodies/agencies to attend, where relevant, and to request information.

### Potential Outcomes From a CCfA

7.435.1 A Scrutiny Committee could:

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<sup>7</sup> The Welsh Government have yet to publish a list of "designated persons".

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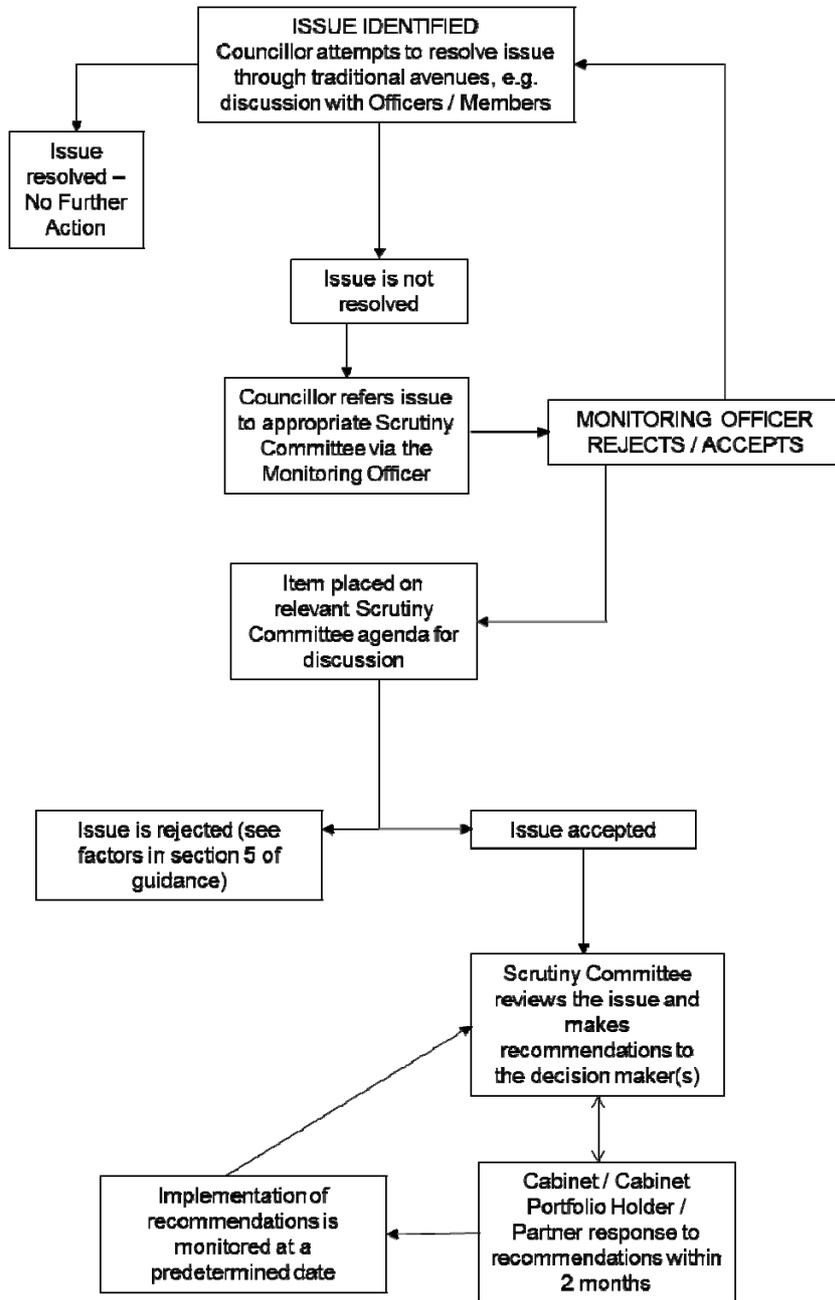
- 7.435.1.1 determine that it is a complex issue that requires further investigation and commission a scrutiny review of the issue;
- 7.435.1.2 write a response and make recommendations on the CCfA to a relevant responsible authority;
- 7.43-51.3 decide that further action is not appropriate giving its reasons.

7.435.2 Once a Scrutiny 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**

- 7.446.1 Within 10 working days of receipt of a CCfA the chair of the relevant Scrutiny Committee will consult with the Monitoring Officer to determine if the criteria set out in Rule 7.42.9 above have been met so as to ensure that it is appropriate for the CCfA to be dealt with at the next meeting of the Scrutiny Committee.
- 7.446.2 In exceptional circumstances, for example where there are unavoidable time constraints, the chair may convene a special meeting of the Scrutiny Committee.
- 7.446.3 Should a CCfA result in recommendations to the Cabinet or other responsible authorities, they will be requested to make a response to the recommendations within 28 days and two months respectively.
- 7.446.4 The Scrutiny Committee will monitor implementation of any recommendations as part of its Forward Work Programme.
- 7.457

**SECTION 7 – SCRUTINY COMMITTEES**



## SECTION 7 – SCRUTINY COMMITTEES

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### Councillor Call for Action Referral Form 7.468

<b>Name of Scrutiny Committee</b>	
<b>Date given to the Monitoring Officer</b>	
<b>Name of Councillor making CCfA</b>	Councillor .....
<b>Councillor's Electoral Division</b>	
<b>Councillor's Address</b>	
<b>Councillor's Telephone</b>	
<b>Councillor's E-mail</b>	
<b>SUBJECT of CCfA</b>	
<b>Details</b> Please briefly explain what the issue is and how it affects either all or part of your electoral area, or how it affects someone who lives or works in your electoral division.	
<b>Action taken to date</b> Please explain what steps you or others have taken, and with whom, to try to resolve the issue (please tick the actions you or others have taken to date) or add additional actions.	<input type="checkbox"/> Informal discussions with Officers or other councillors <input type="checkbox"/> Informal discussions with partner representatives <input type="checkbox"/> Referral to other "scrutiny" bodies such as Community Health Councils or internal audit committee <input type="checkbox"/> Formal discussions with Officers and councillors <input type="checkbox"/> Formal letters to the Cabinet members <input type="checkbox"/> Asking questions at Full Council <input type="checkbox"/> Submitting a motion to Full Council <input type="checkbox"/> Organising public meetings <input type="checkbox"/> Use of petitions <input type="checkbox"/> Making a complaint <input type="checkbox"/> Freedom of Information requests <input type="checkbox"/> Communication with local AMs or MPs <input type="checkbox"/> Use of social media or email based campaigns

**SECTION 7 – SCRUTINY COMMITTEES**

	Other Actions (Please Specify).
<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.	1. 2. 3. 4. 5. 6.

**Administration only.**

<b>Date received by Monitoring Officer</b>	
<b>Date CCfA accepted by Monitoring Officer</b>	
<b>Date of Next Scrutiny Committee Meeting</b>	

**Notes for Councillors:**

- 7.468.1 The following criteria will be taken into consideration when a Scrutiny Committee decide whether to progress with your CCfA:
- 7.468.1.1 have all reasonable attempts been made to resolve the issue? Do the responses received by you demonstrate that the matter is not being progressed?
  - 7.468.1.2 has the committee considered a similar issue recently – if yes have the circumstances or evidence changed?
  - 7.468.1.3 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.

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

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

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

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

7.468.1.8 is this an issue currently being looked at by another form of external scrutiny?

7.468.1.9 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.

7.468.2.1 Consider whether your referral might be considered premature by the Scrutiny Committee .

7.468.2.2 Consider whether other potential remedies have been exhausted, before a referral is made.

7.468.3 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 Monitoring Officer believes that the referral is premature, s/he will advise you accordingly.

**SECTION 7 – SCRUTINY COMMITTEES**

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**Appendix 1 – "Call-In Request"**

**CALL-IN OF LEADER / CABINET / CABINET COMMITTEE /  
PORTFOLIO HOLDER DECISION - REQUEST FORM.**

**CALL-IN REQUEST FOR A MATTER TO BE CALLED-IN BY A SCRUTINY  
COMMITTEE.**

**TO:** The Monitoring Officer.

I County Councillor \_\_\_\_\_ Chair of the

People Scrutiny Committee.	YES / NO
Place Scrutiny Committee.	YES / NO

We 5 County Councillors being Members of the

People Scrutiny Committee.	YES / NO
Place Scrutiny Committee.	YES / NO

Request the call in of the decision referred to in Schedule 1 (Attached) to be reviewed by the Committee of which [ I am Chair] [ We are Members].

I / We confirm that the matter is one which falls within the remit of the Committee of which [I am Chair] / [We are Members].

I / We make this request on the ground(s) following written advice from the Monitoring Officer and / or Chief Finance Officer (Attached at Schedule 2):

- (i) that the decision or action is contrary to the policy framework or budget, or falls outside the functions of the Cabinet; and / or
- (ii) that the Cabinet or decision maker had not followed agreed procedures on consultation before reaching its decision; and / or
- (iii) that the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council's actions, or other guidance adopted by the Council.

Date: \_\_\_\_\_

Name:	Signature:

## SECTION 7 – SCRUTINY COMMITTEES

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### **IMPORTANT NOTE TO CHAIRS AND MEMBERS OF A SCRUTINY COMMITTEE:**

If you consider that a Cabinet decision falls within one or more of the categories set out above it is your responsibility to obtain from the Monitoring Officer and / or the Chief Finance Officer their written confirmation that he / she / they agree with your view and that their written advice is appended to this request for a Call-In.

This form must be wholly completed – including Schedules 1 and 2 and must be received by the Monitoring Officer **by no later than 5 p.m. on the 5<sup>th</sup> Working Day following publication of the Cabinet decision.**

Thus by way of example where (as is usually the case) a Cabinet decision is published on a Thursday this completed form must be received by the Monitoring Officer by no later than 5 p.m. on Thursday of the following week. Where a bank holiday Monday intervenes then this deadline will be extended to 5 p.m. on the Friday of the following week.

Chairs / Members are particularly asked to note that incomplete forms **WILL NOT** be accepted nor will those received after 5 p.m. on the 5<sup>th</sup> day. No exception whatsoever will be made to this rule.

This process applies to all decisions relating to “Cabinet Functions” and so applies equally to decisions of the Leader, the Cabinet a Cabinet Committee or any decision by an individual Portfolio Holder.

**PLEASE NOTE** the following exceptions which apply to a Call-In Request:

In order to ensure that call-in is not abused or causes undue delay, certain limitations are to be placed on its use. These are:

- (i) that a scrutiny committee may only call-in 5 decisions per year.
- (ii) only decisions involving expenditure or reduction in service over a value of £25,000 may be called-in.
- (iii) five members of a scrutiny committee are needed for a decision to be called-in.
- (iv) once a member has signed a request for a call-in s/he may not do so again until a period of 6 months has expired.
- (v) the decision has not been determined to be urgent and not subject to a Call-In.

**SECTION 7 – SCRUTINY COMMITTEES**

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**SCHEDULE 1.**

**TO BE COMPLETED BY THE CHAIR OR 5 MEMBERS REQUESTING THE CALL-IN.**

<b>1.</b>	<b>Leader / Cabinet / Cabinet Committee / Individual Portfolio Holder Decision To Be Called-In</b> <i>(Please include Date of Meeting and Agenda Reference Number):</i>

**2. Reason for Call-In:**

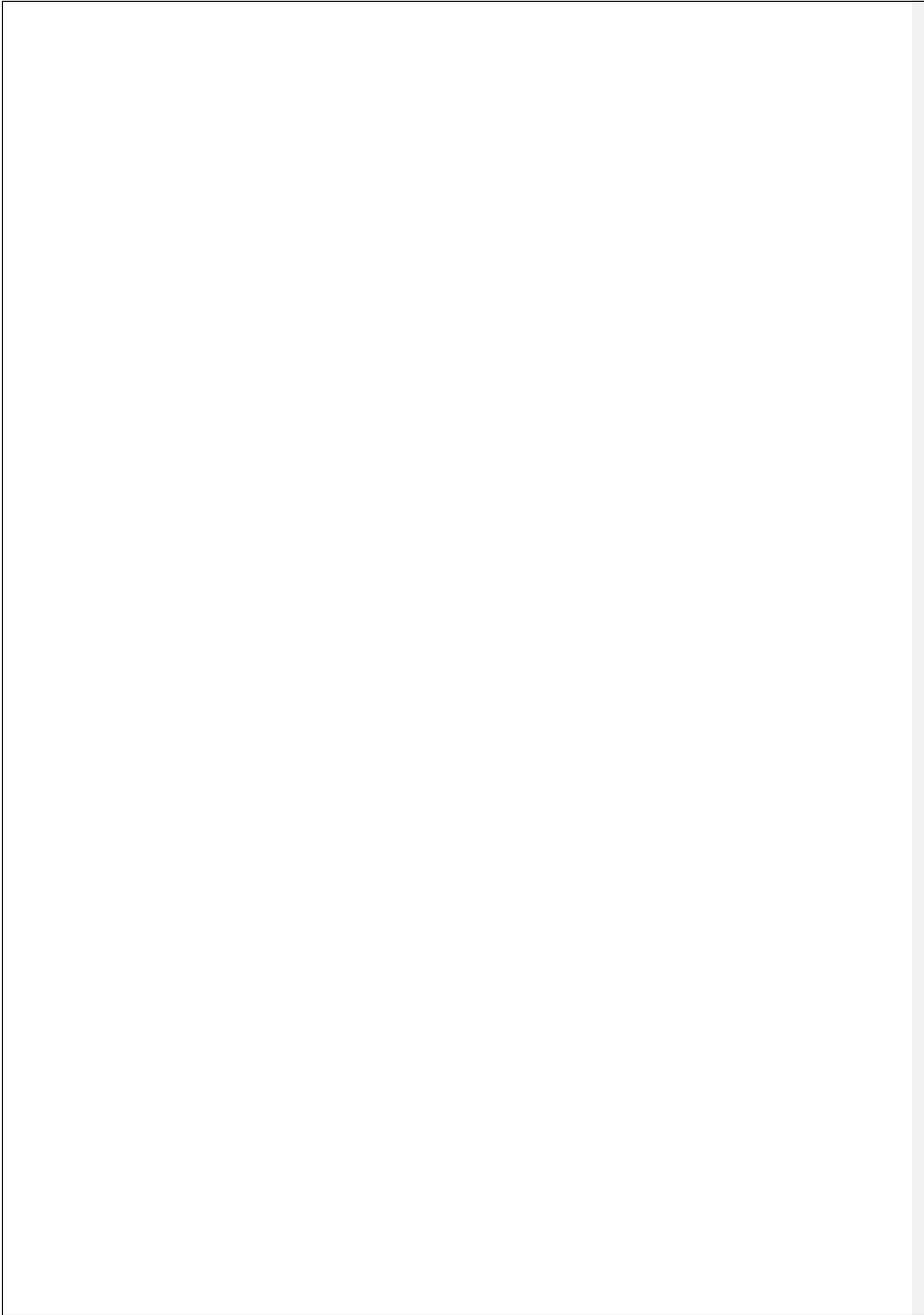
**2.1 What is the reason for the Call-In Request. Please tick which of the conditions which you believe apply:**

(i)	that the decision or action is contrary to the policy framework or budget, or falls outside the functions of the Cabinet; and / or	
(ii)	that the Cabinet or decision maker had not followed agreed procedures on consultation before reaching its decision; and / or	
(iii)	that the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council's actions, or other guidance adopted by the Council.	

**2.2 Please provide an explanation in the box below as to why you believe that the conditions in 2.1 above apply.**

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*(Please continue on a separate sheet if necessary)*

**SCHEDULE 2.**

**TO BE COMPLETED BY THE MONITORING OFFICER AND CHIEF FINANCE OFFICER.**

**1. Chief Finance Officer's Advice.**

**Chief Finance Officer's Advice on the Call-In Request.**

*(Please continue on a separate sheet if necessary)*

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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**SECTION 7 – SCRUTINY COMMITTEES**

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**2. Monitoring Officer's Advice.**

**Monitoring Officer's Advice on the Call-In Request.**

*(Please continue on a separate sheet if necessary)*

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

## SECTION 7 – SCRUTINY COMMITTEES

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### FOR INTERNAL USE ONLY:

(a)	Date of Request to Call-In Decision (as above):	
(b)	Date of Cabinet Decision:	
(c)	Is Date of Request within 5 Working Days of Cabinet Decision:	YES / NO
(d)	Does the matter fall within the remit of the Scrutiny Committee?	YES / NO
(e)	Does the Chief Finance Officer's advice support a Call-In Request:	YES / NO
(f)	Does the Monitoring Officer's advice support a Call-In Request:	YES / NO
(g)	Signature(s) of Chair or 5 Members of Relevant Committee included:	YES / NO
(h)	Call-In Notice to be Issued:	YES / NO

(i)	Date of Committee Meeting to consider Call-In (within 10 working days of issue of notice):	
(j)	Name(s) of Relevant Cabinet Portfolio Holders to be Invited to Attend Meeting:	
(k)	Details of Strategic Directors / Heads of Service to be Invited to Attend Committee:	
(l)	Cabinet Portfolio Holders / and Strategic Directors / Heads of Service Advised of Committee Meeting ( <i>insert date</i> ):	YES / NO
(m)	Questions and Checklist prepared for the Committee:	YES / NO

**SECTION 7 – SCRUTINY COMMITTEES**

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**Appendix 2 – “Call-In Notice”**

**TO BE COMPLETED BY THE MONITORING OFFICER AND CHIEF FINANCE OFFICER.**

**1. Chief Finance Officer.**

**1.1 Please tick which of the conditions which you believe apply for a “Call-In Notice” to be issued:**

(i)	that the decision or action is contrary to the policy framework or budget, or falls outside the functions of the Cabinet; and / or	
(ii)	that the Cabinet or decision maker had not followed agreed procedures on consultation before reaching its decision; and / or	
(iii)	that the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council’s actions, or other guidance adopted by the Council.	

**Please set out the reasons why it is believed that one or more of the conditions are satisfied:**

*(Please continue on a separate sheet if necessary)*

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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### 2. Monitoring Officer.

#### 2.1 Please tick which of the conditions which you believe apply for a “Call-In Notice” to be issued:

(i)	that the decision or action is contrary to the policy framework or budget, or falls outside the functions of the Cabinet; and / or	<input type="checkbox"/>
(ii)	that the Cabinet or decision maker had not followed agreed procedures on consultation before reaching its decision; and / or	<input type="checkbox"/>
(iii)	that the Cabinet had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the Council’s actions, or other guidance adopted by the Council.	<input type="checkbox"/>

**Please set out the reasons why it is believed that one or more of the conditions are satisfied:**

*(Please continue on a separate sheet if necessary)*

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

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## **SECTION 12 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **Financial Management**

12.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Section 16 of this Constitution.

### **Contracts**

12.2 Every contract made by the Council will comply with the Contract Procedure Rules set out in Section 17 of this Constitution.

### **Legal Proceedings**

12.3.1 The Solicitor to the Council is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests;

12.3.2 The Solicitor to the Council has delegated powers to authorise Officers to appear in court on the Council's behalf.

### **Authentication of Documents**

12.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her in writing, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority, to some other person to do so;

12.4.2 Every contract shall be made or confirmed in writing and signed by all parties concerned in accordance with Rules 17.50 and 17.51;

12.4.3 In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be any one of the following:

12.4.3.1 the Chief Executive;

12.4.3.2 the Solicitor to the Council;

12.4.3.3 any Chief Officer or Deputy Chief Officer of the Council concerned with the matter to which the document relates;

12.4.3.4 any Officer authorised in writing by such Chief Officer, Deputy Chief Officer, or Solicitor to the Council.

### **Common Seal of the Council**

#### **Common Seal**

12.5.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Solicitor to the Council.

12.5.2 The Common Seal may be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed.

#### **Sealing and Execution of Documents**

12.5.3 The Solicitor to the Council, or such other officer authorised in writing to do so by the Solicitor to the Council, shall have authority to affix the Common Seal and execute under Seal any deed or document.

## SECTION 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

12.5.4 The ~~Officer of~~Solicitor to the Council (or such other officer appointed by the Solicitor to the Council in writing) ~~referred to above~~ shall have authority to execute any deed or document not required by law to be under seal ~~which is necessary to effect the decisions of the Council~~.

### **Record of Sealing of Documents**

12.5.5 An entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Solicitor to the Council and consecutively numbered in a book to be provided for the purpose.