

Public Document Pack



Neuadd y Sir / County Hall, Llandrindod, Powys, LD1 5LG

Os yn galw gofynnwch am - If calling please ask for
Carol Johnson

Ffôn / Tel: 01597 826206

Ffôn Symudol / Mobile:

Llythyru Electronig / E-mail: carol.johnson@powys.gov.uk

DEMOCRATIC SERVICES COMMITTEE

Tuesday, 14th September, 2021

The use of Welsh by participants is welcomed. If you wish to use Welsh please inform us by noon, two working days before the meeting

SUPPLEMENTARY PACK

1.	CONSTITUTION
----	--------------

To consider the report of the Head of Legal and Democratic Services.

(Pages 3 - 96)

This page is intentionally left blank

CYNGOR SIR POWYS COUNTY COUNCIL.

Democratic Services Committee
14 September, 2021

REPORT AUTHOR: Head of Legal and Democratic Services

SUBJECT: Constitution

REPORT FOR: Decision

1. Purpose of Report

1.1 The Committee is asked to consider possible revisions to the Constitution for consideration at a Council meeting on 23 September 2021

2. Possible Revisions to the Constitution

2.1 Section 4 – Full Council.

The following amendment is proposed to this section of the Constitution:

- The Standards Committee is required to make an annual report to Full Council from May 2022 in accordance with the Local Government and Elections Act 2021. (Rule 4.18.28)

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>1. That the amendment to Rule 4.18.28 of the Constitution (Full Council) is approved as set out in the draft Section 4 attached to the report.</p> <p>2. That the Monitoring Officer is authorised to make such other changes to the Constitution as may be required to reflect the change set out in Recommendation 1 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.2 Section 11 – Officers.

The following amendments are proposed to this section of the Constitution:

- Updating Section 11 to correspond to the decision taken by Full Council in July 2021 in relation to the staffing structure proposed by the Chief Executive.
- Updating the functions and areas of responsibilities for Chief Officers and Deputy Chief Officers. (Rules 11.2 and 11.35)
- Updating the details of Statutory Officer. (Rule 11.3)
- The Monitoring Officer being able to make minor amendments in the Constitution. (Rule 11.16)
- Addition of the Functions of the Data Protection Officer. (Rule 11.33)

- Amendments to the appointment of Proper Officers. (Rules 11.36 to 11.39)
- Updating the format and details of Proper Officers. (Rule 11.40)
- Amendments to the Officer Employment Procedure Rules) (Rules 11.46 to 11.73 together with Appendices A and B)

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>3. That the amendments to Section 11 of the Constitution (Officers) are approved as set out in the draft Section 11 attached to the report.</p> <p>4. That the Monitoring Officer is authorised to make such changes to the Constitution as may be required to reflect the change set out in Recommendation 3 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.3 Governance and Audit Committee – Section 9 (Regulatory Committees).

2.3.1 Members are asked to consider an amendment to the membership of the Governance and Audit Committee from May 2022 arising from the Local Government and Elections (Wales) Act 2021.

Background

2.3.2 Section 116 of the Act makes requires the following amendments to the membership of the Committee with effect from May 2022:

- One third of the membership of the Governance and Audit Committee must be lay persons (Independent Members);
- The person appointed as Chair of the Governance and Audit Committee must be a lay person (Independent Members).

2.3.3 Whilst this change does not come into effect until May 2022, it is necessary for the Council to begin the process of recruiting Independent Members for the Governance and Audit Committee from May 2022. The Council needs to ensure that it starts the process sufficiently early to be able to draw from a wide pool of potential candidates for the role. It is hoped to commence the recruitment process during the Autumn if the proposed amendments to the Constitution are approved by Full Council in September 2021.

2.3.4 Currently the Governance and Audit Committee comprises 14 Members plus and 1 Independent Member. To comply with the requirement for one third of members to Independent Members, we can either have a Committee of 3 (i.e. 2 Members plus 1 Independent members), a Committee of 6 (i.e. 4 Members plus 2 Independent members), a Committee of 9 (i.e. 6 Members plus 3 Independent, a Committee of 12 (i.e. 8 Members plus 4 Independent members) or a Committee of 15 (i.e. 10 Members plus 5 Independent members).

2.3.5 It is considered that a Committee of only 3 or 6 are wholly inappropriate due to the limited number of Council Members being on such a Committee. Similarly, having a

committee of 12 or 15 would mean the Council would need to attract 4 or 5 new Independent Members as the current Independent Members term of office expires in May 2022 and his position cannot be renewed. The recruitment of 4 or 5 new Independent Members with the required skills set may prove to be difficult, if not impossible.

2.3.6 It is therefore recommended that the Constitution is amended to provide for a Governance and Audit Committee consisting of 9 (6 Councillors and 3 Independent Members) which would satisfy the one third requirement of the 2021 Act.

2.3.7 The above recommendation has been considered and approved by Group Leaders and will be considered by the Governance and Audit Committee.

2.3.8 Recommendation:

Recommendation to the County Council:	Reason for Recommendation:
<p>5. That Council approves an amendment to the membership of the Governance and Audit Committee to become 6 Councillors and 3 Independent Members as from May 2022.</p> <p>6. That the Monitoring Officer is authorised to make such amendments to Section 9 of the Constitution as are required to implement recommendation 5 above.</p>	<p>To meet the requirement of the Local Government and Elections (Wales) Act 2021 that as from May 2022, one third of the membership of the Governance and Audit Committee must be lay persons.</p>

2.4 Finance Panel and Section 7 (Scrutiny Procedure Rules)

2.4.1 Members are asked to consider proposed revisions to the way that Finance Panel meetings are held until May 2022 and also revisions to the composition of the Panel from May 2022.

Background

2.4.2 A review of Scrutiny was undertaken by Audit Wales in 2021. One of the recommendations was that the Council should clarify the role and membership of the Finance Panel in relation to the Portfolio Holder for Finance being a member of the Panel rather than being an invitee.

2.4.3 Members will recall that in January 2019 when the scrutiny committee structure was revised, it was decided that meetings of the Finance Panel should be held in public. It is widely accepted that in hindsight this has not been helpful and in fact has hindered a full and open debate especially around the budget development process. In view of the Audit Wales recommendation, it is timely to review the composition of the Finance Panel and consider whether an alternative approach is appropriate.

2.4.4 Discussions have taken place with the Chair of the Finance Panel and the Chair of the Governance and Audit Committee it is suggested that a two phased approach be taken to improve the effectiveness of the Panel and address the concerns of Audit Wales.

The Way Forward.

2.4.5 Phase One would include the following to be implemented from September 2021:

- Splitting meetings of the Finance Panel between public meetings, to review budget monitoring reports for Revenue and Capital and any other monitoring and performance reports as appropriate, and closed confidential meetings to discuss the development of the budget, future planning and finance transformation, allowing a more frank, open and honest discussion, and providing an opportunity to consider proposals in closed session prior to formal inclusion in the budget and public engagement. These would be scheduled as separate meetings.
- Introduction of Meetings between Finance and Opposition Group Leaders during the budget setting process, to keep them updated on funding information and offer advice and guidance should they wish to develop an alternative budget for consideration by Council
- There would be no change to the current composition of the Panel other than the Portfolio Holder for Finance would be required to attend all meetings and other Portfolio Holders together with relevant officers would be invited to attend meetings as necessary. Portfolio Holders will not be formal Members of the Finance Panel and will have not have voting rights.

2.4.6 Phase 2 would include the following to be implemented from May 2022:

- The Finance Panel should consist of 9 Members politically balanced plus an Independent Member nominated by the Governance and Audit Committee and having the best skills for the Finance Panel.
- As such, political groups would decide who is best placed to be on the Panel, considering the skills set of members to fulfil this role.
- Based on the current membership of the political groups the revised membership would be 3 Independent ; 2 Conservative ; 2 Liberal Democrats / Greens; 1 Labour ; 1 Action for Powys plus an Independent Member of the Governance and Audit Committee = 10 Members. However, this could change with changes in the Membership after the May 2022 elections.
- Public and private meetings of the Panel as set out on para 2.4.5 above to continue.
- Meetings between Finance and Opposition Group Leaders during the budget setting process to continue.
- The Portfolio Holder for Finance would be required to attend all meetings and other Portfolio Holders together with relevant officers would be invited to attend meetings as necessary. Portfolio Holders will not be formal Members of the Finance Panel and will have not have voting rights.

2.4.7 Recommendation:

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>7. That the revisions to the operation and composition of the Finance Panel in two phases as set out in Paragraphs 2.4.5 and 2.4.6 above be supported.</p> <p>8. That the revised Terms of Reference of the Finance Panel as set out in Rules 7.37 and 7.38 is approved and implemented with immediate effect.</p> <p>9. That the Monitoring Officer is authorised to make such changes to Section 7 of the Constitution as may be required to reflect the changes set out in Recommendations 7 & 8 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	N/A
---------------------------	-----

Person(s) To Implement Decision:	Wyn Richards
Date By When Decision To Be Implemented:	

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

Background Papers used to prepare Report:

This page is intentionally left blank

SECTION 4 – FULL COUNCIL

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

SECTION 4 – FULL COUNCIL

• Single Integrated Plan

• **Part 2 – Local Government (Wales) Measure 2009¹**

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. The Chair of a Scrutiny Committee and the Democratic Services Committee may be removed from office by a motion to

¹ 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

- remove to Council which is put on the agenda pursuant to Rule 4.38.1.
- 4.6.7 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
 - 4.6.8 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 Officers²;
 - 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.

² Defined in Section 2.2.2

SECTION 4 – FULL COUNCIL

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

SECTION 4 – FULL COUNCIL

Rules of Procedure and Debate

4.14 The Council Procedure Rules contained in Rules 4.15 onwards will apply to meetings of the Full Council. Unless otherwise indicated, those rules marked:

♣	will apply to Cabinet and Cabinet Committees
▲	will apply to committee and sub-committee meetings (with the exception of the Planning, Taxi Licensing and Rights of Way Committee when performing the functions of a planning authority as defined in Section 319ZD of the Town and Country Planning Act 1990)
■	will apply to the Planning, Taxi Licensing and Rights of Way Committee when performing the functions of a planning authority as defined in Section 319ZD of the Town and Country Planning Act 1990

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 Council³;
- 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 Constitution⁴ 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

³ Schedule 12, Local Government Act 1972 (as amended)

⁴ 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;

SECTION 4 – FULL COUNCIL

- 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, 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 note the appointments to those Chairs made by the political groups
- 4.15.15 appoint the Chair of the Democratic Services Committee⁵
- 4.15.16 elect or appoint Members where vacancies occur in respect of:
- Independent Member of Standards Committee; and
 - Lay Member of the Governance and 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
- 4.15.24 approve the Council's Pay Policy. Full Council has granted a dispensation for an officer nominated by the Section 151 Officer to be present during the course of the debate to answer any matters raised by members in the debate. Dispensation is also given for an officer to be present during the course of the debate to run the congress system.
- 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 **;

⁵ Regulation 14(1) of Local Government Measure (Wales) 2011

SECTION 4 – FULL COUNCIL

- 4.17.3 Appoint Councillors to the Standards Committee **;
- 4.17.4 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.

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 Council⁶;
- 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 Committee⁷
- 4.18.7 where required to elect, appoint, or note the appointment, 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 Governance and 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

⁶ Schedule 12, Local Government Act 1972 (as amended)

⁷ 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

SECTION 4 – FULL COUNCIL

- 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;
- 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 s/he 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

SECTION 4 – FULL COUNCIL

- 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 To consider annual reports received from the Standards Committee within three months of receipt.
- 4.18.28⁹ The order of business, with the exception of Rule 4.18.1 may be altered by the Chair or decision of Council
- 4.18.29³⁰No 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.

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 s/he 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

♣ ▲ ■⁸4.21 The time and place of meetings will be determined by the Chief Executive in consultation with the Chair and notified in the summons. ♣ ▲ ■⁹

Duration of Meetings

♣ ▲ ■¹⁰4.22 At ordinary meetings, when 8 hours have elapsed after the commencement of the meeting, the Chair shall adjourn immediately after the

⁹ See Rule 4.14

SECTION 4 – FULL COUNCIL

disposal of the item of business being considered at the time. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

Notice, Summons and Agenda of Meetings

- ♣ ▲ ■¹¹4.23.1 The Chief Executive will give notice to the public (Notice) of the time and place by publishing it on the Council's website 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 including a link to the Members' website.
- 4.23.2 Where the meeting or part of the meeting is open to the public and is held through remote means only the Notice, will give details of the time of the meeting and how to access it;
- 4.23.3 Where the meeting or part of the meeting is open to the public and is held partly through remote means or is not held through remote means, the Notice will give details of the time and place of the meeting and how to access it;
- 4.23.4 Where the meeting is not open to the public and is held partly through remote means or is not held through remote means, the Notice will give details of the time and place of the meeting and the fact that it is not open to the public;
- 4.23.5 Where the meeting is not open to the public and is held through remote means only, the Notice will give details of the time of the meeting, and the fact that it is being held through remote means only and is not open to the public.¹²
- 4.23.6 The agenda and connected reports (which are not exempt pursuant to Section 14) for all Council meetings will be published on the Council's website and where an item is added to an agenda which has been published on the website, the item (or the revised agenda), and any report for the meeting relating to the item, must be published on the website from the time the item is added to the agenda.¹³

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
- ▲ ■¹⁴4.24.2 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

¹⁰ See Rule 4.14

¹¹ See Rule 4.14

¹² Regulation 4 – Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 as amended

¹³ Regulation 5 - Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 as amended

¹⁴ See Rule 4.14

SECTION 4 – FULL COUNCIL

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.

- ▲ ■¹⁵4.23.3 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

- ♣ ▲ ■¹⁶4.25 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:

- ♣ ▲ ■¹⁷4.25.1 calling for more time to allow the speaker to properly explain the matter;
- ♣ ▲ ■¹⁸4.25.2 permitting a Member to speak more than once;
- ♣ ▲ ■¹⁹4.25.3 allowing employees of the Council to advise the meeting as appropriate, having regard to the provisions of Rules 4.94 and 4.95 below;
- ♣ ▲ ■²⁰4.25.4 allowing a full discussion of reports and matters for decision;

Quorum

- ♣ ▲ ■²¹ ²²4.26 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.

Remote Attendance

- ♣ ▲ ■²³4.27.1 Pursuant to Section 47 of the Local Government and Elections (Wales) Act 2021, Members may attend meetings by remote means..

- 4.27.2²⁴ For the purposes of Rule 4.27.1 above ““remote means” has the following meaning namely a meeting held by means of any equipment or other facility which enables persons who are not in the same place to

¹⁵ See Rule 4.14

¹⁶ See Rule 4.14

¹⁷ See Rule 4.14

¹⁸ See Rule 4.14

¹⁹ See Rule 4.14

²⁰ See Rule 4.14

²¹ See Rule 4.14

²² For the quorum of the Planning, Taxi Licensing and Rights of Way Committee acting as a Planning Authority see Rule 19.92

²³ See Rule 4.14

²⁴ Regulation 2 – Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) (Wales) Regulations 2001 as amended

SECTION 4 – FULL COUNCIL

Speak to and be heard by each other (whether or not the equipment or facility enables those persons to see or be seen by each other)

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 from Members

4.29A Subject to Rule 4.30, a Councillor may ask on Notice at Full Council:

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 other than operational matters which must be addressed as set out in Rule 4.29C

4.29B In addition to questions put under Rule 4.29A above a Councillor may ask the Leader or a Portfolio Holder a written question on any matter in relation to which the Council has powers or duties or which affects the Council other than operational matters which must be addressed as set out in Rule 4.29C at any time which must be responded to within 10 working days. All such questions and responses will be published on the council's website.

4.29C In addition to questions put under Rules 4.29A and 4.29B above a Councillor may ask the relevant Head of Service a written question on any operational matter at any time which must be responded to within 10 working days. All such questions and responses will be published on the council's website.

Notice of Questions

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

4.30.1 written notice of the question has been received by 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; 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 received by the Monitoring Officer by 5 p.m. on the day prior to the meeting.

Maximum Number of Questions

SECTION 4 – FULL COUNCIL

- 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

- 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,

SECTION 4 – FULL COUNCIL

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.

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 received by 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

SECTION 4 – FULL COUNCIL

application of the Call-In rules set out in Section 7.

Appointment and Removal of the Leader

4.40.1 The following process will be followed for the appointment of the Leader:

- 4.40.1.1 The Chair will ask for written nominations;
- 4.40.1.2 The Chair will declare the number of nominations for each candidate and where a candidate has been nominated by more than 1 Councillor they will be deemed to have had their nomination seconded. For candidates with a single nomination, the Chair will ask for a seconder from the floor of Council;
- 4.40.1.3 Those nominated will be asked whether they accept or refuse the nomination;
- 4.40.1.4 In the event of there being a single candidate, there will be a secret ballot and the Chair will have a casting vote.
- 4.40.1.5 In the event of there being more than 1 candidate, all candidates will be asked to leave the Chamber and each candidate will be invited, in alphabetical / surname order to separately make a presentation of up to 5 minutes to Council.
- 4.40.1.6 After all presentations have been made there will be a vote by secret ballot. Where no candidate receives a 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 a majority. If the bottom 2 candidates have the same number of votes, 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 as to the candidate to be eliminated.
- 4.40.1.7 For the avoidance of doubt in the event of the last 2 candidates having the same number of votes, the Chair will have a casting vote as to which candidate is appointed as Leader.

4.40.2 The Leader may be removed by a Notice on Motion which has a simple majority of those Councillors voting and present in the room at the time the question was put.

4.40.3 A motion to remove the Leader cannot be moved more than once in any rolling 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

4.42 The following motions may be moved without notice:

- ♣ ▲ ■²⁵4.42.1 to appoint a Chair of the meeting at which the motion is moved;

²⁵ See Rule 4.14

SECTION 4 – FULL COUNCIL

- ♣ ▲ ■²⁶4.42.2 in relation to the accuracy of the minutes;
- ♣ ▲ ■²⁷4.42.3 to change the order of business in the agenda;
- ♣ ▲ ■²⁸4.42.4 to refer something to an appropriate committee, body or individual for consideration or reconsideration;
- ♣ ▲ ■²⁹4.42.5 to appoint a committee or Member to perform a function or duty arising from an item on the summons for the meeting;
- ♣ ▲ ■³⁰4.42.6 to receive reports and / or adopt and / or amend recommendations of the Cabinet, committees or Officers and any resolutions following from them;
- ♣ ▲ ■³¹4.42.7 to withdraw a motion;
- ♣ ▲ ■³²4.42.8 to amend a motion;
- ♣ ▲ ■³³4.42.9 a closure motion under Rule 4.54
- 4.42.10 to suspend a particular Council Procedure Rule (provided that at least one half of the whole number of Members are present)³⁴;
- ♣ ▲ ■³⁵4.42.11 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- ♣ ▲ ■³⁶4.42.12 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.
- ♣ ▲ ■³⁷4.42.14 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 received by 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
 - 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.

²⁶ See Rule 4.14

²⁷ See Rule 4.14

²⁸ See Rule 4.14

²⁹ See Rule 4.14

³⁰ See Rule 4.14

³¹ See Rule 4.14

³² See Rule 4.14

³³ See Rule 4.14

³⁴ See Rule 2.10

³⁵ See Rule 4.14

³⁶ See Rule 4.14

³⁷ See Rule 4.14

SECTION 4 – FULL COUNCIL

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

♣ ▲ ■³⁸4.44 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 s/he has moved by notice.

Right to Require Motion in Writing

♣ ▲ ■³⁹4.45 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

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

Content and Length of Other Speeches

4.47.1 Non aligned Members and a nominated principal speaker from each Political Group will be able to speak on each motion with all Members having a right to speak to raise additional or different issues in the debate.

▲ ■⁴¹4.47.2 Speeches in accordance with 4.47.1 above must be directed to the motions under discussion or to a personal explanation, point of order or right of reply. 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

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

- ▲ ■⁴³4.48.1 to speak once on an amendment moved by another Member;
- ▲ ■⁴⁴4.48.2 to move a further amendment if the motion has been amended since he last spoke;
- ▲ ■⁴⁵4.48.3 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);
- ▲ ■⁴⁶4.48.4 in exercise of a right of reply;

³⁸ See Rule 4.14

³⁹ See Rule 4.14

⁴⁰ See Rule 4.14

⁴¹ See Rule 4.14

⁴² See Rule 4.14

⁴³ See Rule 4.14

⁴⁴ See Rule 4.14

⁴⁵ See Rule 4.14

⁴⁶ See Rule 4.14

SECTION 4 – FULL COUNCIL

- ▲ ■⁴⁷4.48.5 on a point of order; and
- ▲ ■⁴⁸4.48.6 by way of personal explanation.

Amendments to Motions

- ♣ ▲ ■⁴⁹4.49.1 Subject to Rules 4.49.2 to 4.49.9 below an amendment to a motion must be relevant to the motion and will either be:

- ♣ ▲ ■⁵⁰4.49.1.1 to refer the matter to an appropriate committee, body or individual for consideration or reconsideration;
- ♣ ▲ ■⁵¹4.49.1.2 to leave out words;
- ♣ ▲ ■⁵²4.49.1.3 to leave out words and insert or add others; or
- ♣ ▲ ■⁵³4.49.1.4 to insert or add words or additional recommendations;
- ♣ ▲ ■⁵⁴4.49.1.5 to substitute another proposition which is committed to writing and received by the Head of Legal and Democratic Services and / or the Head of Democratic Services no later than 5 p.m. on the day prior to the meeting.

as long as the effect of Rules 4.49.1.2 to 4.49.1.4 is not to negate or would otherwise change the material substance of the original motion.

- ♣ ▲ ■4.49.2 Amendments in accordance with Rule 4.49.1.2 to 4.49.1.4 (adding, removing or substituting words), will only be allowed if committed to writing and received by the Head of Legal and Democratic Services and / or the Head of Democratic Services no later than 5 p.m. on the day prior to the meeting
- ♣ ▲ ■4.49.3 Any amendments received in accordance with these rules will be automatically circulated to all Members as soon as reasonably practicable.
- ♣ ▲ ■4.49.4 The Chair will have a general discretion to allow any amendments which do not have the effect of negating or would otherwise change the material substance of the original motion, in circumstances where the Chair in his / her absolute discretion considers the amendment has arisen out of the debate.
- ▲ ■⁵⁵4.49.5 Each amendment will be proposed, seconded, committed to writing and handed to the Chair;
- ♣ ▲ ■⁵⁶4.49.6 Only one amendment may be moved and discussed at any one time and strictly in the order of receipt. No further amendment may be moved until the amendment under discussion has been decided.
- ♣ ▲ ■⁵⁷4.49.7 If an amendment is not carried, other amendments to the original motion

⁴⁷ See Rule 4.14

⁴⁸ See Rule 4.14

⁴⁹ See Rule 4.14

⁵⁰ See Rule 4.14

⁵¹ See Rule 4.14

⁵² See Rule 4.14

⁵³ See Rule 4.14

⁵⁴ See Rule 4.14

⁵⁵ See Rule 4.14

⁵⁶ See Rule 4.14

⁵⁷ See Rule 4.14

SECTION 4 – FULL COUNCIL

- may be moved.
- ♣ ▲ ■⁵⁸4.49.8 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.
- ♣ ▲ ■⁵⁹4.49.9 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

- ♣ ▲ ■⁶⁰4.50.1 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.
- ♣ ▲ ■⁶¹4.50.2 Only alterations which could be made as an amendment pursuant to Rule 4.49 may be made.

Withdrawal of Motion

- ♣ ▲ ■⁶²4.51 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

- ♣ ▲ ■⁶³4.52.1 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.
- ♣ ▲ ■⁶⁴4.52.2 The mover of the amendment has no right of reply to the debate on his amendment.
- ♣ ▲ ■⁶⁵4.52.3 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

- ♣ ▲ ■⁶⁶4.53 When a motion is under debate, no other motion may be moved except the following procedural motions:
- ♣ ▲ ■⁶⁷4.53.1 to withdraw a motion;

⁵⁸ See Rule 4.14

⁵⁹ See Rule 4.14

⁶⁰ See Rule 4.14

⁶¹ See Rule 4.14

⁶² See Rule 4.14

⁶³ See Rule 4.14

⁶⁴ See Rule 4.14

⁶⁵ See Rule 4.14

⁶⁶ See Rule 4.14

⁶⁷ See Rule 4.14

SECTION 4 – FULL COUNCIL

- ♣ ▲ ■⁶⁸4.53.2 to amend a motion;
- ♣ ▲ ■⁶⁹4.53.3 a closure motion under Rule 4.54.5
- ♣ ▲ ■⁷⁰4.53.4 to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- ♣ ▲ ■⁷¹4.53.5 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87.
- ♣ ▲ ■⁷²4.53.6 to suspend a particular council procedure rule (provided that at least one half of the whole number of Members are present).

Closure Motions

- ♣ ▲ ■⁷³4.54.1 to proceed to the next business;
- ♣ ▲ ■⁷⁴4.54.2 to ask that the question be now put;
- ♣ ▲ ■⁷⁵4.54.3 to adjourn a debate; or
- ♣ ▲ ■⁷⁶4.54.4 to adjourn a meeting.
- ♣ ▲ ■⁷⁷4.54.5 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.
- ♣ ▲ ■⁷⁸4.54.6 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.
- ♣ ▲ ■⁷⁹4.54.7 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.
- ♣ ▲ ■⁸⁰4.54.8 in the event that a closure motion under Rule 4.54.1 to 4.54.4 is moved 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:

⁶⁸ See Rule 4.14

⁶⁹ See Rule 4.14

⁷⁰ See Rule 4.14

⁷¹ See Rule 4.14

⁷² See Rule 4.14

⁷³ See Rule 4.14

⁷⁴ See Rule 4.14

⁷⁵ See Rule 4.14

⁷⁶ See Rule 4.14

⁷⁷ See Rule 4.14

⁷⁸ See Rule 4.14

⁷⁹ See Rule 4.14

⁸⁰ See Rule 4.14

SECTION 4 – FULL COUNCIL

- 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

♣ ▲ ■⁸¹4.55 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 point of order at any time by indicating to the Chair by standing that they wish to raise a point of order and waiting for the Chair to call them to speak 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.

⁸¹ See Rule 4.14

SECTION 4 – FULL COUNCIL

Personal Explanation

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

♣ ▲ ■⁸³4.56.1 some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood;

♣ ▲ ■⁸⁴4.56.2 to reply to an allegation of misconduct made against the Member giving the explanation; or

♣ ▲ ■⁸⁵4.56.3 to make an apology to the Council.

♣ ▲ ■⁸⁶4.57 The ruling of the Chair on the admissibility of a personal explanation will be final.

♣ ▲ ■⁸⁷4.58 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

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

Previous Decisions and Motions

Motion to Rescind a Previous Decision

▲ ■⁸⁹4.60.1 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.

▲ ■⁹⁰4.60.2 Rule 4.37.2 does not apply to a motion under Rule 4.60.1.

▲ ■⁹¹4.60.3 For the sake of clarity rule 4.60.1 does not apply to decisions taken by the Cabinet.

Motion Similar to One Previously Rejected

▲ ■⁹²4.61.1 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 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.

⁸² See Rule 4.14

⁸³ See Rule 4.14

⁸⁴ See Rule 4.14

⁸⁵ See Rule 4.14

⁸⁶ See Rule 4.14

⁸⁷ See Rule 4.14

⁸⁸ See Rule 4.14

⁸⁹ See Rule 4.14

⁹⁰ See Rule 4.14

⁹¹ See Rule 4.14

⁹² See Rule 4.14

SECTION 4 – FULL COUNCIL

▲ ■⁹³4.61.2 Rule 4.37.2 does not apply to a motion under Rule 4.61.1.

⁹³ See Rule 4.14

SECTION 4 – FULL COUNCIL

Voting

Majority

♣ ▲ ■⁹⁴4.62 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

♣ ▲ ■⁹⁵4.63 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

♣ ▲ ■⁹⁶4.64 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.

♣ ▲ ■⁹⁷4.65.2 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 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.

♣ ▲ ■⁹⁸4.66.3 In respect of committees and the Cabinet 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.

⁹⁴ See Rule 4.14

⁹⁵ See Rule 4.14

⁹⁶ See Rule 4.14

⁹⁷ See Rule 4.14

⁹⁸ See Rule 4.14

SECTION 4 – FULL COUNCIL

Right to Require Individual Vote to be Recorded

♣ ▲ ■⁹⁹4.67 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

♣ ▲ ■¹⁰⁰4.68.1 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.

♣ ▲ ■¹⁰¹4.68.2 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

♣ ▲ ■¹⁰²4.69 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

♣ ▲ ■¹⁰³4.70 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;

♣ ▲ ■¹⁰⁴4.70.3 the Chair or Vice-Chair of a Committee or Sub-Committee;

⁹⁹ See Rule 4.14

¹⁰⁰ See Rule 4.14

¹⁰¹ See Rule 4.14

¹⁰² See Rule 4.14

¹⁰³ See Rule 4.14

¹⁰⁴ See Rule 4.14

SECTION 4 – FULL COUNCIL

- ♣ ▲ ■¹⁰⁵4.70.4 Member of a Committee or Sub-Committee or Panel;
- ♣ ▲ ■¹⁰⁶4.70.5 Member of any other internal Council board, panel or group with or without officers;
- ♣ ▲ ■¹⁰⁷4.70.6 Member of any joint committee, board, panel or group involving the Council and one or more local authorities, and / or other public bodies.
- ♣ ▲ ■¹⁰⁸4.71 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.
- ♣ ▲ ■¹⁰⁹4.72 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.
- ♣ ▲ ■¹¹⁰4.73 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.
- ♣ ▲ ■¹¹¹4.74 This procedure may be varied by agreement of the meeting.

Minutes

Signing the Minutes

- ♣ ▲ ■¹¹²4.75 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

- ♣ ▲ ■¹¹³4.76 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting¹¹⁴, then the next following

¹⁰⁵ See Rule 4.14

¹⁰⁶ See Rule 4.14

¹⁰⁷ See Rule 4.14

¹⁰⁸ See Rule 4.14

¹⁰⁹ See Rule 4.14

¹¹⁰ See Rule 4.14

¹¹¹ See Rule 4.14

¹¹² See Rule 4.14

¹¹³ See Rule 4.14

¹¹⁴ a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972

SECTION 4 – FULL COUNCIL

meeting will be treated as a suitable meeting for the purposes of signing of minutes¹¹⁵.

Form of Minutes

♣ ▲ ■¹¹⁶4.77 Save as provided below the form of the minutes will be a matter for the Chief Executive:

♣ ▲ ■¹¹⁷4.77.1 Minutes will contain all motions and amendments in the exact form and order the Chair put them.

♣ ▲ ■¹¹⁸4.77.2 Replies given to questions of which notice has been given under Rule 4.30 will be recorded in the minutes.

Record of Attendance

♣ ▲ ■¹¹⁹4.78 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.

♣ ▲ ■¹²⁰4.79 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.

♣ ▲ ■¹²¹4.80 Before Members leave a meeting room before the conclusion of business the Chair shall advise that Member of the above requirement.

Exclusion of Public

♣ ▲ ■¹²²4.81.1 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).

♣ ▲ ■¹²³4.81.2 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

♣ ▲ ■¹²⁴4.82 Members must in all matters consider whether they have a personal interest (within the meaning within the Members' Code of Conduct) in a

¹¹⁵ paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972

¹¹⁶ See Rule 4.14

¹¹⁷ See Rule 4.14

¹¹⁸ See Rule 4.14

¹¹⁹ See Rule 4.14

¹²⁰ See Rule 4.14

¹²¹ See Rule 4.14

¹²² See Rule 4.14

¹²³ See Rule 4.14

¹²⁴ See Rule 4.14

SECTION 4 – FULL COUNCIL

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.

- ♣ ▲ ■¹²⁵4.83A 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.

Speaking at Meetings

- ♣ ▲ ■¹²⁶4.84 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

- ♣ ▲ ■¹²⁷4.85 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

- ♣ ▲ ■¹²⁸4.86 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

- ♣ ▲ ■¹²⁹4.87 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

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

¹²⁵ See Rule 4.14

¹²⁶ See Rule 4.14

¹²⁷ See Rule 4.14

¹²⁸ See Rule 4.14

¹²⁹ See Rule 4.14

¹³⁰ See Rule 4.14

SECTION 4 – FULL COUNCIL

Disturbance by Public

Removal of Member of the Public

♣ ▲ ■¹³¹4.89 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

♣ ▲ ■¹³²4.90 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

♣ ▲ ■¹³³4.91 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

♣ ▲ ■¹³⁴4.93 Any motion to add to, vary or revoke these Council Rules of Procedure will, stand adjourned without discussion and be automatically referred to the Democratic Services Committee which will make a recommendation to 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

♣ ▲ ■¹³⁵4.94 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.

♣ ▲ ■¹³⁶4.95 Further officer advice will only be available at the meeting of Council

¹³¹ See Rule 4.14

¹³² See Rule 4.14

¹³³ See Rule 4.14

¹³⁴ See Rule 4.14

¹³⁵ See Rule 4.14

¹³⁶ See Rule 4.14

SECTION 4 – FULL 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 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 7 – SCRUTINY COMMITTEES

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 will appoint three Scrutiny Committees (and in addition the Council will participate in a PSB Scrutiny Committee) 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;">Economy, Residents, and Communities Scrutiny Committee</p> <p>14 Councillors – Politically Balanced; 1 Non-Voting Co-optee for crime and disorder functions</p>	<p style="text-align: center;">Vision 2025 objectives:</p> <p>Economy:</p> <ul style="list-style-type: none"> • Providing support for businesses to grow • Promoting Powys as a place to live, visit and do business • Improving the availability of affordable and sustainable housing • Improving our infrastructure to support regeneration and attract investment • Improving skills and supporting people to get good quality jobs <p>Residents and Community:</p>

SECTION 7 – SCRUTINY COMMITTEES

	<ul style="list-style-type: none"> • Strengthening community development and resilience • Support communities to be able to do more for themselves and reduce the demand on our public services • Strengthening our relationship with residents and communities • Improve our understanding of our residents needs and improve our service delivery <p style="text-align: center;">SERVICE AREAS:</p> <p>CHIEF EXECUTIVE</p> <ul style="list-style-type: none"> • Finance • Legal and Democratic Services <p>ECONOMY AND ENVIRONMENT</p> <ul style="list-style-type: none"> • Property, Planning and Public Protection • Highways, Transport and Recycling • Housing and Community Development <p>TRANSFORMATION</p> <ul style="list-style-type: none"> • Strategy, Performance and Transformation Programmes • Customers and Communications • Workforce and OD <p style="text-align: center;">PARTNERSHIPS</p> <ul style="list-style-type: none"> • Growing Mid Wales • Powys Regeneration Partnership • TRACC • BBNP • MWWFRA • WLGA • Central Wales Infrastructure Collaboration • Central Wales Waste Partnership • North and Mid Wales Trunk Road Agency Partnership Board • Tourism Partnership Mid Wales • Western Valleys Strategic Regeneration Area Board • Powys Community Endowment Fund
Health and Care Scrutiny Committee	<p style="text-align: center;">Vision 2025 objectives:</p> <p>Health and Care:</p> <ul style="list-style-type: none"> • Focussing on well-being

SECTION 7 – SCRUTINY COMMITTEES

<p>14 Councillors – Politically Balanced</p>	<ul style="list-style-type: none"> • Early help and support • Providing joined up care • Developing a workforce for the future • Creating innovative environments • Developing digital solutions • Transforming in partnership <p style="text-align: center;">SERVICE AREAS:</p> <ul style="list-style-type: none"> • Children’s Services • Adult Services • Commissioning (Children and Adults) <p>TRANSFORMATION</p> <p>PARTNERSHIPS</p> <ul style="list-style-type: none"> • Regional Partnership Board • Powys Executive Safeguarding Group • Regional Safeguarding Group • Youth Justice Board • Health, Social Care and well-Being Partnership • Powys Community Health Council
<p>Learning and Skills Scrutiny Committee Membership: 14 Councillors – Politically Balanced; 3 parent governor representatives; 1 Church in Wales Diocese representative; 1 Roman Catholic Church Diocese representative,</p>	<p style="text-align: center;">Vision 2025 objectives:</p> <p>Learning and Skills:</p> <ul style="list-style-type: none"> • Improving the educational attainment of all pupils • Supporting children and families to have the best start in life • Improving our schools infrastructure • Improving the skills and employability of young people and adults <p style="text-align: center;">SERVICE AREAS:</p> <ul style="list-style-type: none"> • Education <p>TRANSFORMATION</p> <p>PARTNERSHIPS</p> <ul style="list-style-type: none"> • ERW
<p>Public Service Board Scrutiny Committee</p>	<p>As set out in Rules 7.39 to 7.41</p>

SECTION 7 – SCRUTINY COMMITTEES

General Functions

7.5 Within their terms of reference, Scrutiny Committees will:

- 7.5.1 review and / or scrutinise decisions made, or other action taken in connection with the discharge of any function of the authority;
- 7.5.2 make reports and / or recommendations to the Cabinet and / or the Full Council, and / or any joint committee in connection with the discharge of any function of the authority;
- 7.5.3 consider any matter affecting the area or its inhabitants;
- 7.5.4 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.(See Call-In Procedure – Rule 7.36);

Specific Functions

Policy Development and Review

7.6 The Scrutiny Committees may:

- 7.6.1 assist the Cabinet and the Council in the development of its Budget and Policy Framework by in depth analysis of policy issues, including pre-scrutiny of draft or amended policies;
- 7.6.2 conduct research, site visits, community and other consultation in the analysis of policy issues and possible options;
- 7.6.3 question members of the Cabinet and / or Committees and Chief Officers from the Council about their views on issues and proposals affecting the area;
- 7.6.4 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;
- 7.6.5 consider the impact of policies to assess if they have made a difference;
- 7.6.6 consider and implement mechanisms to encourage and enhance community participation in the scrutiny of the development of policy options; and
- 7.6.7 investigate or review a particular matter in depth, reporting their conclusions and making any recommendations to the Cabinet or Council as appropriate.

Scrutiny

7.7 Scrutiny Committees may:

- 7.7.1 review and scrutinise the decisions by and performance of the Cabinet and / or Cabinet Committees and Council Officers in relation to individual decisions and over time;
- 7.7.2 review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- 7.7.3 question members of the Cabinet and / or Cabinet Committees and Chief Officers from the Council about their decisions and performance,

SECTION 7 – SCRUTINY COMMITTEES

- whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or project;
- 7.7.4 make recommendations to the Cabinet and / or appropriate Committee and / or Council arising from the outcome of the scrutiny process;
 - 7.7.5 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;
 - 7.7.6 question and gather evidence from any person (with their consent);
 - 7.7.7 review and scrutinise the budget setting process;
 - 7.7.8 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
 - 7.7.9 consider and report on mechanisms to encourage and enhance community participation in the development of service delivery options.

Finance

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

Annual Report

- 7.9 Each Scrutiny Committee shall report annually to the Full Council on their workings.

Head of Democratic Services

- 7.10 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 ?

- 7.11 All Councillors (except members of the Cabinet) may be members of the Scrutiny Committees. However, no Member may be involved in scrutinising decisions in which they have been directly involved.

Co-Optees

- 7.12.1 The Learning and Skills Scrutiny Committee shall include in its membership the following voting representatives:
 - 7.12.1.1 One Church in Wales diocese representative;
 - 7.12.1.2 One Roman Catholic diocese representative; and
 - 7.12.1.3 Three parent governor representatives (covering so far as practicable the primary, secondary and special needs sectors)
- 7.12.2 When matters which are not education matters, which are the responsibility of the Cabinet, fall to be considered by the Learning and Skills Scrutiny Committee, the co-opted representatives specified in rule 7.12.1 shall not vote, although they may stay in the meeting and speak.

SECTION 7 – SCRUTINY COMMITTEES

- 7.12.3 The Economy, Residents and Communities 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.
- 7.12.4 In addition to co-optees appointed under rules 7.12.1.1 to 7.12.1.3 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
- 7.12.5 The total number of co-optees on each Scrutiny Committee may not exceed more than one third the membership of the committee.¹

Who Chairs Scrutiny Committees?

- 7.13 The arrangements included in sections 66-75 of The Measure will be followed for appointing persons to chair².

Role of the Chair of Scrutiny Committees

- 7.14.1 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 .
- 7.14.2 In summary, therefore, the Chair will:
- 7.14.2.1 be accountable for delivering effective scrutiny;
 - 7.14.2.2 will regularly monitor the work programmes for their Scrutiny Committee; and
 - 7.14.2.3 will liaise with the Cabinet on issues affecting the scrutiny work programme.
 - 7.14.2.4 Prepare Annual Reports to Council in accordance with Rule 7.9 above
 - 7.14.2.5 To receive requests from Members of Scrutiny of potential matters to be scrutinised.

Work Programme

- 7.15 The Chair in consultation with the Committee and officers will be responsible for setting the 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.

¹ Paragraph 8.19 Statutory Guidance from the Local Government Measure 2011 (issued by Welsh Government June 2012)

SECTION 7 – SCRUTINY COMMITTEES

Joint Scrutiny Committees

7.16 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”)

7.17 Rules 7.17 to 7.36 (inclusive) shall be known as the Scrutiny Procedure Rules and will apply to meetings of the Scrutiny Committees.

What will be the Number and Arrangements for Scrutiny Committees ?

- 7.18.1 Subject to Rules 7.39 to 7.41 the Council will have three 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 Committee 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.
- 7.18.2 The terms of reference / areas of responsibility of the various Scrutiny Committees will be as set out in Rule 7.4 above.
- 7.18.3 Each Scrutiny Committee (with the exception of the Public 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

- 7.19.1 The three Scrutiny Committees will meet on a regular basis to meet the needs of Council and with the agreement of each Chair of Scrutiny.
- 7.19.2 In addition, extraordinary meetings may be called from time to time by:
- 7.19.2.1 the Full Council by resolution; or
 - 7.19.2.2 the relevant Scrutiny Committee by resolution; or
 - 7.19.2.3 the chair of the relevant Scrutiny Committee; or
 - 7.19.2.4 any 5 members of the relevant Scrutiny Committee; or
 - 7.19.2.5 the Head of Paid Service; or
 - 7.19.2.6 the Monitoring Officer; or
 - 7.19.2.7 the Section 151 Officer;

as s/he / they considers necessary or appropriate.

Quorum

7.20 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..

SECTION 7 – SCRUTINY COMMITTEES

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

- 7.21 The first meeting of a scrutiny committee following the Annual Meeting of the County Council will (as may be appropriate):
- 7.21.1 elect a chair of the PSB Scrutiny Committee;
 - 7.21.2 elect a person to preside if the chair of the Committee is not present;
 - 7.21.3 elect the vice-chair of the Committee
 - 7.21.4 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;
 - 7.21.5 deal with those items of business listed in Rule 7.23 below as may be appropriate.

The order of business, with the exception of items 7.21.1 and 7.21.2 may be altered by the chair.

Business at Other Meetings

- 7.22 At all other meetings of committee, the committee will (as may be appropriate)
- 7.22.1 elect a person to preside if the chair and vice-chair of the Committee are not present;
 - 7.22.2 elect the chair of the PSB Scrutiny Committee in the event of there being a vacancy
 - 7.22.3 elect a vice-chair of the Committee in the event of there being a vacancy;
 - 7.22.4 receive declarations of interest (including whipping declarations);
 - 7.22.5 make appointments to sub-committees and Member and Officer Task and Finish Groups in the event of there being a vacancy;
 - 7.22.6 receive apologies for absence;
 - 7.22.7 approve the minutes of the last meeting;
 - 7.22.8 receive any announcements from the chair;
 - 7.22.9 receive reports from the Cabinet and / or from any other committees, and / or from officers;
 - 7.22.10 make recommendations to the Cabinet or Full Council;
 - 7.22.11 deal with any business outstanding from the last meeting;
 - 7.22.12 (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;
 - 7.22.13 put questions to the chair or relevant officers of the Council where appropriate on items of business before the committee and to receive responses.
 - 7.22.14 receive reports from sub-committees and Member and Officer Task and Finish Groups;
 - 7.22.15 to consider requests from members of the committee for items of business for consideration at a future meeting or at the meeting

SECTION 7 – SCRUTINY COMMITTEES

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;

- 7.22.16 consider motions without notice as set out in the Full Council Procedure Rules in Section 4 of this Constitution;
- 7.22.17 review the Committee's Work Programme for the forthcoming year;
- 7.22.18 consider such other business specified in the summons to the meeting;
- 7.22.19 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;
- 7.22.20 to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules;

The order of business, with the exception of items 7.22.1 to 7.22.4 may be altered by the chair.

Agenda Items

- 7.23.1 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 for inclusion on the agenda for the next available meeting.
- 7.23.2 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 Cabinet and / or the Council shall consider the report of the Scrutiny Committee and respond (if appropriate) as soon as possible or at the latest within 2 months of the date of the meeting.

Policy Review and Development

- 7.24.1 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.
- 7.24.2 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.
- 7.24.3 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, 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.

SECTION 7 – SCRUTINY COMMITTEES

Reports from Scrutiny Committees

- 7.25.1 All formal reports from Scrutiny Committees will be submitted 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).
- 7.25.2 If a Scrutiny Committee cannot agree on one single final report to the Cabinet or Council as appropriate, one minority report may be prepared and submitted for consideration by Cabinet or Council with the majority report.
- 7.25.3 A Scrutiny Committee may publish any non-confidential report.

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

- 7.26.1 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 Cabinet or Council within the period specified above, the Chair of Council or the Leader or Portfolio Holder will give an explanation of the reasons to the chair of the relevant Scrutiny Committee as soon as practicable.
- 7.26.2 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, as soon as possible or at the latest within 2 months of the date of the meeting. 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

- 7.27.1 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.
- 7.27.2 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

- 7.28.1 Scrutiny Committees / Working Groups 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:
- 7.28.1.1 any particular decision or series of decisions; and / or
 - 7.28.1.2 the extent to which the actions taken implement Council policy; and/or
 - 7.28.1.3 the implementation of decision(s) and or Council policy
- and it is the duty of those persons to attend if so required.
- 7.28.2 Where there are concerns about the appropriateness of the Officer who

SECTION 7 – SCRUTINY COMMITTEES

- should attend, the relevant Chief Officer shall discuss this with the appropriate Scrutiny Chair or Vice Chair with a view to achieving consensus.
- 7.28.3 Where any Cabinet Member is required to attend Scrutiny Committees / Working Group under this provision, the Chair of that Committee / Working Group will inform the relevant Cabinet Member in writing at least 5 working days' before the meeting at which s/he is required to attend (unless agreed otherwise). The written 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.
- 7.28.4 Where any Officer is required to attend Scrutiny Committees / Working Group under this provision, the Chair of that Committee / Working Group will inform the relevant Head of Service. The relevant Head of Service shall inform the 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). The 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.
- 7.28.5 Where the account to be given to a Scrutiny Committee / Working Group will require the production of a report, then the Member or Officer concerned will be given sufficient notice to allow for its preparation.
- 7.28.6 Where, in exceptional circumstances, the Member or Officer is unable to attend on the required date, then the Scrutiny Committee / Working Group shall in consultation with the Member or Officer arrange an alternative date for attendance.

Attendance by Others

Attendance of Leader or Cabinet Member

- 7.29 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

- 7.30.1 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.
- 7.30.2 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.
- 7.30.3 Such right of attendance is subject to the Councillor not having a Prejudicial 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.

SECTION 7 – SCRUTINY COMMITTEES

Others

7.31 Scrutiny Committees / Working Group may invite people other than those people referred to in Rules 7.28 and 7.29 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

7.32 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.³

Procedure at Scrutiny Committee Meetings

7.33.1 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.

7.33.2 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:

7.33.2.1 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;

7.33.2.2 that those assisting by giving evidence be treated with respect and courtesy;

7.33.2.3 that the business be conducted as efficiently as possible.

7.33.3 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.

Matters within the Remit of more than one Scrutiny Committee

7.34 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 Chair or if they fail to agree, the decision will be made by Monitoring Officer.

³ Section 78(1) of the Local Government (Wales) Measure 2011.

SECTION 7 – SCRUTINY COMMITTEES

Call-In Procedure Rules

- 7.35A The Call-In Procedure Rules set out in this Rule 7.35 do not apply to the Public Services Board Scrutiny Committee. For the sake of clarity the Public Service Board Scrutiny Committee does not have the ability to call-in decisions / recommendations made by the Public Service Board.
- 7.35B For the purpose of Rule 7.35, where the Monitoring Officer and / or the Chief Finance Officer is the author of the report which is the subject of a potential Call-In to scrutiny, that officer cannot undertake the decisions described in Rules 7.35.3 and 7.35.15 in which event, the decision will be taken by the Chief Executive in consultation with the Deputy Monitoring Officer and / or Deputy Chief Finance Officer as appropriate.
- 7.35.1 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.
- 7.35.2 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 7.36.3) 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.
- 7.35.3 Subject to Rule 7.35B above, and 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”⁴) by the chair or 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:

Appendix 1 - Call In Request

- 7.35.3.1 the decision or action was contrary to the policy framework or budget, or fell outside the functions of the Cabinet; or
- 7.35.3.2 the Cabinet or decision maker had not followed agreed procedures or failed to consult (where required) before reaching its decision; or
- 7.35.3.3 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.
- 7.35.4 Where the Monitoring Officer and / or the Chief Finance Officer are satisfied that one or more of the conditions set out in rule 7.35.3 above have been

⁴ See Appendix 1 to this Section.

SECTION 7 – SCRUTINY COMMITTEES

met, they shall produce a written report setting out the reasons for coming to this conclusion and the Monitoring Officer (subject to Rule 7.35B above) will then arrange for a “Call-In Notice”⁵ to be issued in accordance with Rule 7.35.5 below.

Appendix 2 - Call In Notice

- 7.35.5 A Call-In Notice must contain the following:
- 7.35.5.1 details of the condition set out in rule 7.35.3 above being relied upon;
 - 7.35.5.2 the reasons why it is believed one or more of the conditions are satisfied;
- 7.35.6 The Monitoring Officer (subject to Rule 7.35B above) 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).
- 7.35.7 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.
- 7.35.8 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 7.35.6 as the case may be).
- 7.35.9 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.
- 7.35.10 If a Scrutiny Committee refers the matter to Full Council, the Monitoring Officer (subject to Rule 7.35 above) 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).
- 7.35.11 If, having considered the decision, the Full Council remains concerned about

⁵ See Appendix 2 to this Section.

SECTION 7 – SCRUTINY COMMITTEES

- 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.
- 7.35.12 If the Full Council does not meet within 10 clear days of the date of the reference (“the Council Scrutiny Period”), the decision shall take effect on the day after the expiry of the Council Scrutiny Period.
- 7.35.13 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.
- 7.35.14 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:
- 7.35.14.1 each Scrutiny Committee may only call-in a total of five decisions per year;
 - 7.35.14.2 where a Call-in Request has been made by four members of a Scrutiny Committee in accordance with Rule 7.35.3 those four members must come from at least two political groups, or one political group and / or one or more non-aligned Councillor(s);
 - 7.35.14.3 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.
 - 7.35.14.4 no Education Co-opted members may request a decision be called in.
 - 7.35.14.5 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.
 - 7.35.14.6 the decision being called-in, or broadly the same decision, has been called in during the last 6 months.
 - 7.35.14.7 the provisions of Rule 7.36.1 apply (Urgency)
- 7.35.15 Subject to Rule 7.35B above, 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.
- 7.35.16 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.
- 7.35.17 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

- 7.36.1 The call-in procedure set out in Rule 7.35 above shall not apply where the decision being taken is urgent. A decision will be urgent if:
- 7.36.1.1 any delay likely to be caused by the call-in process would seriously

SECTION 7 – SCRUTINY COMMITTEES

- prejudice the Council's or other public interests; and
- 7.36.1.2 Subject to Rule 7.36.3 below the Head of Paid Service and / or the Monitoring Officer and / or the Chief Finance Officer certifies in writing the reasons why any delay caused by a call-in process could seriously prejudice the Council, or the public interest; and
- 7.36.1.3 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 urgency; and
- 7.36.1.4 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 (subject to Rule 7.35B above) and by the chair of the relevant Scrutiny Committee or Scrutiny vice-chair or the chair of Council.
- 7.36.2 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, such report to the scrutiny committee must contain the written certification as required in Rule 7.36.1.2 above.
- 7.36.3 For the purposes of Rules 7.36.1.2 above the officer certifying the reasons why any delay caused by a call-in process could seriously prejudice the Council, or the public interest cannot be an officer whose report is being considered under the Rule 7.36 procedure.

Finance Panel.

Role, Scope and Membership.

7.37

- 7.37.1 Membership: The Panel should be no larger than 10 Members to include the following:
- Chairs of the scrutiny committees (excluding the PSB Scrutiny Committee).
 - ~~Portfolio Holder for Finance~~
 - Leaders of the Opposition groups i.e. those political groups which are not represented on the Cabinet.
 - Other representatives from the Governance and Audit Committee one of which should be the Independent "Lay" Member appointed by the Governance and Audit Committee.
 - The Portfolio Holder for Finance will be required to attend

Section 7 – Page 16

Version 123 – Effective from 1523-079-2021

SECTION 7 – SCRUTINY COMMITTEES

all meetings, but will not have any voting rights.

- 7.37.2 Chair : The Chair of the Panel will be elected from the Panel's membership, ~~(excluding the Portfolio Holder for Finance).~~
- 7.37.3 Vice-Chair: The Vice-Chair of the Panel will be elected from the Panel's membership.
- 7.37.4 Meetings: Meetings of the Panel will be held on a schedule to be determined by the Panel.
- 7.37.5 Reports by the Panel: The Panel will make reports on its findings to the Cabinet and where necessary Full Council.

Terms of Reference:

7.38 The Panel will concentrate on strategic financial matters including the following:

~~7.38.1 assist with the delivery of financial plans to support change and the Medium Term Financial Strategy to inform policy changes, and providing robust challenge and accountability;~~

~~7.38.2 consider the robustness of the evidence base upon which the MTFS and Council budget are predicated;~~

7.38.31 review and scrutinise in private session:

- assist with the delivery of financial plans to support change and the Medium Term Financial Strategy to inform policy changes, and providing robust challenge and accountability;
- consider the robustness of the evidence base upon which the MTFS and Council budget are predicated
- 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;
- Development of the budget, future planning and finance transformation
- ~~Financial aspects of the Risk Register;~~
- ~~Financial Monitoring;~~
- provide evidence based recommendations to the Cabinet on its findings;
- develop a forward work programme based on the budget timetable and the Council's medium term financial strategy;

7.38.42 to review and scrutinise in public session:

- ~~Annual Local Government Settlement and any legislative changes affecting local government;~~
- Financial aspects of the Risk Register;
- Financial Monitoring;
- to review budget monitoring reports for Revenue and Capital
- any other monitoring and performance reports as appropriate

Formatted: Not Highlight

Formatted: Font:

Formatted: Font:

SECTION 7 – SCRUTINY COMMITTEES

- provide evidence based recommendations to the Cabinet on its findings
- develop a forward work programme

~~provide evidence based recommendations to the Cabinet on its findings;
7.38.5—develop a forward work programme based on the budget timetable
and the Council's medium term financial strategy;~~

Public Service Board Scrutiny Committee.

- 7.39 The Chairs of the Scrutiny Committees shall appoint two Members from the Scrutiny Committees to act as representatives of the Council on the Public Service Board Scrutiny Committee.
- 7.40 The Chairs of the Scrutiny Committees shall appoint a substitute for each of the two Members of the Public Service Board Scrutiny Committee appointed under Rule 7.39 above from the Scrutiny Committees, such substitute shall not be a member of the Public Service Board.
- 7.41 The Terms of Reference and Membership of the Public Service Board Scrutiny Committee are set out in the “Arrangements for the Scrutiny of the Public Service Board in Powys” document approved by Full Council from time to time.

Councillor Call for Action

- 7.42.1 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”.
- 7.42.2 Any Councillor may request that an item is placed on the agenda of the relevant Scrutiny Committee for consideration.
- 7.42.3 The procedure for dealing with a Call for Action is set out in the Councillor Call for Action - Guidance for Councillors which can be found on the Council's website as follows:

[Councillor Call for Action - Guidance for Members](#)

SECTION 11 – OFFICERS

Management Structure

General

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

Chief Officers

11.2 The Full Council will engage persons for the following posts, who will be designated Chief Officers¹, which designation includes persons acting temporarily in such capacity:

Post	Functions and Areas of Responsibility
Chief Executive	<p>The Chief Executive will be the Head of Paid Service and will have the responsibility for the following:</p> <ul style="list-style-type: none">• Leading and managing the Executive and Senior Leadership Teams• Delivery of Vision 2025• Overall performance of the Council• With S151 officer, the oversight of the Medium Term Financial Strategy• With Monitoring Officer, the smooth running of democracy• Leadership of strategic partnerships and major structural collaborations/service mergers• Performance management of Executive Directors, Section 151 Officer and Monitoring Officer.

Post	Functions and Areas of Responsibility
Executive Director – Economy and Environment	<p>The Executive Director – Economy and Environment will share be responsible for leading and managing the Corporate Portfolio as follows:</p> <ul style="list-style-type: none">• Leadership of aspects of Vision 2025 (to be agreed with Chief Executive);• Development of the Mid-Wales Growth Deal;• Leadership of the Council's overall approach to commercialisation;• Emergencies and business continuity;• Performance management of relevant Heads of Service.

¹ Defined in Section 2, 2.2

SECTION 11 – OFFICERS

Executive Director – People and Organisational Development	<p>The Executive Director – People and Organisational Development will be responsible for leading and managing the Corporate Portfolio as follows:</p> <ul style="list-style-type: none"> • This Executive Director will also be the Council’s statutory Director of Social Services and the lead Director for Children and Young People; • Leadership of aspects of Vision 2025 (to be agreed with Chief Executive); • Outcomes for all children and young people and vulnerable adults; • Leadership of the Regional Partnership Board (RPB) and working with key strategic partners especially Education and Health; • Performance management of relevant Heads of Service; • Leading the Council’s Workforce and Organisational Development, including Health and Safety and Welfare. • As Director of Social Services this post holder will be the Council’s senior lead on Safeguarding.
---	---

Statutory Officers

11.3 The Council will designate the following posts as shown:

<u>Designation</u>	<u>Post</u>
Head of Paid Service ²	Chief Executive
Monitoring Officer ³	Solicitor to the Council Head of Legal and Democratic Services <u>Head of Legal and Democratic Services</u>
Chief Finance Officer (Section 151 Officer) ⁴	Strategic Executive – Director – Resources <u>Head of Finance</u>
Director of Social Services	Strategic Executive – Director – People ⁵ <u>Executive Corporate Director – Children and Adults</u> People and Organisational Development
Chief Education Officer	Chief Executive Head of Education Interim Chief Education Officer <u>Director of Education</u> ⁶
⁷ Lead Director for Children and Young People’s Services	Strategic Executive – Director – People Corporate Executive Director – eChildren and Adults People and Organisational Development

² Section 4 – Local Government and Housing Act 1989.

³ Section 5 – Local Government and Housing Act 1989.

⁴ Section 151 – Local Government Act 1972.

⁵ Section 6 – Local Authority Social Services Act 1970

⁶ Section 532 – Education Act 1996

⁷ Section 27 – Children Act 2004.

SECTION 11 – OFFICERS

<u>Head of Democratic Services</u>	Scrutiny Manager
Professional Lead – Data Protection Officer	Professional Lead – Data Protection Data Protection Officer

11.4 The posts set out in Rule 11.3 above will have the functions described in Rules 11.5 to 11.3~~2~~3.

Functions of the Head of Paid Service

Discharge of Functions by the Council

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

Restrictions on Functions

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

Functions of the Monitoring Officer

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

Maintaining the Constitution

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

Ensuring Lawfulness and Fairness of Decision Making

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

Supporting the Standards Committee

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

Receiving Reports

11.11 The Monitoring Officer will receive and act on reports made by the Public Services Ombudsman for Wales ("the Ombudsman") and decisions of the case tribunals.

Conducting Investigations

SECTION 11 – OFFICERS

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

Proper Officer for Access to Information

11.13 The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and ~~relevant Officer~~officer under investigation reports and background papers are made publicly available as soon as possible.

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

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

Providing Advice

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

Power to Appoint to Committees and Outside Bodies and Amendments to the Constitution.

11.16.1 The Council has authorised the Monitoring Officer to make an appointment to fill a vacancy on a committee or outside body where the appointment must reflect the wishes of a political group and the appointment reflects such wishes of that political group to whom the committee seat or position on the outside body remains allocated.

11.16.2 The Council has authorised the Monitoring Officer to make minor amendments to the Constitution in accordance with Rule 2.7 and Council confirms that changes to the titles and roles of the Senior Leadership Team and Proper Officers are minor changes which can be made by the Monitoring Officer provided that they are reported to the Democratic Services Committee and the next Full Council meeting for information.

Restrictions on Posts

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

Functions of the Chief Finance Officer (Section 151 Officer)

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

Ensuring Lawfulness and Financial Prudence of Decision Making

11.19 After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if s/he considers that

SECTION 11 – OFFICERS

any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

Administration of Financial Affairs

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

Contributing to Corporate Management

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

Providing Advice

11.22 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles and in particular will advise whether decisions of the Cabinet or Full Council are in accordance with the budget.

Give Financial Information

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

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

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

Restrictions on Posts

11.25 The Chief Finance Officer cannot be the Monitoring Officer or the Head of Democratic Services.

Functions of the Director of Social Services

Protocol – Responsibility for Social Services Functions

11.26 The areas of responsibility of the Director of Social Services are detailed in the protocol contained in Section 25 of this Constitution.

Lead Director for Children and Young People's Services

11.27 Strategic management responsibility for ensuring that the Authority meets the requirements of Section 27 of the Children Act 2004.

Functions of the Chief Education Officer

11.28 Strategic management responsibility and provision of the Council's education services in accordance with Section 532 of the Education Act 1996.

SECTION 11 – OFFICERS

Functions of the Head of Democratic Services

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

- 11.29.1 to provide support and advice to the authority in relation to its meetings, subject to Rule 11.31;
- 11.29.2 to provide support and advice to committees of the authority (other than the committees mentioned in Rule 11.29.5) and the members of those committees (subject to Rule 11.31);
- 11.29.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to Rule 11.31;
- 11.29.4 to promote the role of the Scrutiny Committees;
- 11.29.5 to provide support and advice to:
 - 11.29.5.1 the authority's Scrutiny Committees ; and
 - 11.29.5.2 the authority's Democratic Services Committee;
- 11.29.6 to provide support and advice in relation to the functions of the authority's Scrutiny Committees to each of the following:
 - 11.29.6.1 Members and officers of the authority;
 - 11.29.6.2 members of the Cabinet of the authority;
- 11.29.7 to provide support and advice to each Member of the authority in carrying out the role of Member of the authority, subject to Rule 11.32;
- 11.29.8 to make reports and recommendations in respect of any of the following:
 - 11.29.8.1 the number and grades of staff required to discharge democratic services functions;
 - 11.29.8.2 the appointment of staff to discharge democratic services functions;
 - 11.29.8.3 the organisation and proper management of staff discharging democratic services functions;
- 11.29.9 such other functions as may be prescribed by law.

Restrictions on Posts

- 11.30 The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- 11.31 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Scrutiny Committees and Democratic Services Committee.
- 11.32 Advice to a Member does not include advice in connection with their role as a Cabinet Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of a Scrutiny Committee or Democratic Services Committee).

SECTION 11 – OFFICERS

Functions of the Data Protection Officer.

11.33.1 To monitor internal compliance with GDPR, to inform and advise the Council on its data protection obligations, to provide advice regarding Data Protection Impact Assessments (DPIAs) and act as a contact point for data subjects and the supervisory authority.

11.33.2 To monitor compliance with the GDPR and other data protection laws, the Council's data protection policies, awareness-raising, training, and audits.

11.33.3 To act as the contact point for the ICO, and to co-operate with the ICO in all matters.

Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer, ~~and~~ Head of Democratic Services and Data Protection Officer

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

Deputy Chief Officers.

11.34.5 The Employment and Appeals Committee will engage persons for the following Director and Heads of Service posts within the directorates indicated, who will be designated Deputy Chief Officers and such posts will have the functions and areas of responsibility set out below.

Post	Functions and Areas of Responsibility
Director of Education	<ul style="list-style-type: none"> • Statutory Director of Education and will be accountable for the effective and efficient delivery of educational services to young people across Powys • Lead and Manage Education Services providing educational leadership and oversight of major strategic priorities • Strategic Responsibility for: <ul style="list-style-type: none"> • Adult and Community Learning • ALN / SEN • Cross networking with Powys Teaching Local Health Board • Schools Service • School Transformation • Standards in schools and School Improvement • Regional and National Partnerships • Youth Services

Post	Functions and Areas of Responsibility

SECTION 11 – OFFICERS

Head of Finance	<ul style="list-style-type: none"> ▪ Council's statutory s151 officer, the statutory officer for all financial matters and the proper administration of the Council's financial affairs, as defined by section 151 of the Local Government Act 1972 ▪ Section 151 Officer for the Powys Pension Fund ▪ Income and Awards ▪ Commercial Services ▪ Risk
Head of Legal and Democratic Services	<ul style="list-style-type: none"> ▪ Monitoring Officer, the statutory officer with the specific duty to ensure that the Council, and its Elected Members and officers, maintain the highest standards of conduct in all they do, as set out in section 5 of the Local Government and Housing Act 1989, as amended by the Local Government Act 2000 ▪ Corporate Legal Team ▪ Electoral Registration ▪ Members' Standards and Ethical Issues. ▪ Ombudsman. ▪ Registration of Births, Deaths and Marriages ▪ Scrutiny, Democratic Services and Member Support
Head of Transformation, and Communications	<ul style="list-style-type: none"> • Lead on improvement, performance and transformation • Lead delivery of the 21st Century Schools programme • Lead development of Corporate strategies, and plans including the Corporate Improvement Plan, the Strategic Equality Plan and the Public Service Board Wellbeing Plan • Lead Communications and Welsh Language Services • Lead the development and overall strategic Programme Management of the Council's Transformation
Head of Economy and Digital Services	<ul style="list-style-type: none"> ▪ Customer Services ▪ Digital Transformation of Council's services ▪ Economic Growth ▪ ICT Support Services and Cyber Security ▪ Information Governance
Head of Workforce and Organisational Development	<ul style="list-style-type: none"> ▪ Workforce strategy, planning and development ▪ Health and Safety ▪ Employment Services ▪ Human Resources advice, guidance and support ▪ Leadership, management and corporate development programme
Head of Property, Planning and Public Protection	<ul style="list-style-type: none"> ▪ Building Control. ▪ Community Safety ▪ County Farms Estate ▪ Corporate Property ▪ Emergency Planning ▪ Environmental Health

SECTION 11 – OFFICERS

	<ul style="list-style-type: none"> ▪ National Estate and Lettings Agency ▪ Planning ▪ Trading Standards
Head of Highways, Transport and Recycling	<ul style="list-style-type: none"> ▪ Active Travel ▪ Car parks ▪ Countryside Services ▪ Fleet Management ▪ Grounds Maintenance ▪ Home to School / College Transport ▪ Highways ▪ Local Lead Flood Authority, Sustainable Approval Body & Land Drainage ▪ Markets ▪ Public Conveniences ▪ Public rights of way management and enforcement; ▪ Public Transport ▪ Road safety ▪ Street Cleaning (▪ TraCC (Trafnidiaeth Canolbarth Cymru / Mid Wales Transportation) ▪ Traffic Management ▪ Waste & Recycling Services
Head of Housing and Community Services	<ul style="list-style-type: none"> ▪ Archives and Information Management ▪ Arts ▪ Catering and Cleaning ▪ Housing ▪ Leisure ▪ Libraries ▪ Museums ▪ Sports Development
Head of Education	<ul style="list-style-type: none"> ▪ Chief Education Officer ▪ Overall strategic responsibility for: <ul style="list-style-type: none"> ▪ Developing and maintaining strong relationships with school leaders ▪ School improvement and effectiveness ▪ Additional learning needs (ALN) and inclusion (0-25) ▪ School transformation and organisation ▪ School standards and school provision ▪ Pupil attainment ▪ Pupil exclusions and attendance ▪ Central Support Services relating to education and Powys schools ▪ Development of educational strategies and operating arrangements

SECTION 11 – OFFICERS

	<ul style="list-style-type: none"> ▪ School improvement aspects of 21st Century Schools (delivery lead of 21st Century Schools is Head of Transformation and Communications) ▪ Education welfare and educational psychology ▪ Education other than at school, including Pupil Referral Units ▪ Children looked after's (CLA) educational needs ▪ English as an additional language ▪ Education provision for migrant and traveller children ▪ Pupil admissions and links with school transport policy ▪ School governance and Governor support ▪ Early years education ▪ Post – 16 provision ▪ Youth Services ▪ Adult continuing learning, training and skills ▪ Relations with strategic partners
Head of Children Services	<ul style="list-style-type: none"> ▪ Early Help Services ▪ Children's Services Front Door ▪ Assessment Services ▪ The local authority's care and support provision for children with disabilities ▪ Services for children in need of Care and Support ▪ Services for children in need of Protection ▪ Services for children in the care of Powys County Council ▪ Care Leaver Services ▪ Adoption Services ▪ Fostering Services ▪ RISCA regulated services ▪ Intervention and Prevention Services ▪ Youth Justice Services ▪ Workforce Development for Adult and Children's Social Services ▪ Safeguarding Services ▪ Emergency Duty Team for Adult and Children's Social Services ▪ Responsibility for delegated budget across Children's Services ▪ Systems to ensure children and young people in Powys are safeguarded and the management of associated risks ▪ System leadership for the safety and wellbeing of children across the Startwell agencies ▪ Strategic Oversight of the delivery of the Health and Care Strategy
Head of Adult Services	<ul style="list-style-type: none"> ▪ Bodlondeb extra care support ▪ Day services and day centres

SECTION 11 – OFFICERS

	<ul style="list-style-type: none"> ▪ Front Door (Assist) ▪ Home support ▪ Housing Wardens ▪ Occupational Therapy ▪ Provider services ▪ Reablement and Domiciliary Care ▪ Sensory Loss ▪ Shared Lives ▪ Social Services Emergency Duty Team ▪ Social Work Assessment Teams (Older Peoples, Disabilities and Mental Health) ▪ Supported Living
<p>Head of Commissioning and Partnerships</p>	<ul style="list-style-type: none"> • Carers Services • Childcare and Support • Contract monitoring • Health and Care Equipment and Technology Enabled Care • Long-term support and care for children, adults, and older people • Partnership with the Powys Teaching Health Board and other external partners • Social care focussed accommodation and homelessness prevention • Social care emergency planning and social care business continuity • Strategic planning and Commissioning for adults and children's services • Welsh language Champion for social services

Departmental Structure.

11.36~~5~~ The Head of Paid Service will recommend to Cabinet and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

Appointment of Proper Officers

11.36~~7~~ The posts set out below ~~shall be~~ have been designated to the ~~the designated~~ Proper Officer Posts for the Council and those posts shall undertake the specific responsibilities attached to the role of the specific Proper Officer.

11.37~~8~~ In the event of any Officers mentioned below being unable to act in their post or the post becoming vacant, the Chief Executive or in his/her absence, the Monitoring Officer, and in the absence of both, the Chief Finance Officer, shall nominate an Officer to act in their stead.

11.38~~9~~ Until the Council decides otherwise the Chief Executive is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has been made as set out in rule Rule 11.39~~40~~ below. In the absence of the Chief Executive, or

SECTION 11 – OFFICERS

otherwise being unable to act, the Monitoring Officer will act as the proper Officer.

11.3940 The Council has designated the following Proper Officer Posts:

SECTION 11 – OFFICERS

Proper Officers

<u>Any reference to any enactment passed before or during the 1971-72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Town Clerk of a Borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council.</u>	<u>Chief Executive</u>
<u>Any reference in any local statutory provision to the Clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council.</u>	<u>Chief Executive</u>

Building Act 1984:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
S61(2)	To exercise the right to have free access to work undertaken in relation to emergency repairs of drains.	Head of Highways, Transport and Recycling
All (except S61(2))		Head of Property, Planning and Public Protection

Council Tax (Administration and Enforcement) Regulations 1992:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
Reg 7	Service of Attachment of Earnings Orders	Chief Financial Officer

Elections:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
N/A	Registration Officer for any constituency or part of a constituency coterminus with or contained in the County of Powys	Chief Executive
N/A	Returning Officer for the election of Councillors for the County Council of Powys	Chief Executive
N/A	Returning Officer for the election of Town and Community Councillors for Town and Community Councils in the County of Powys	Chief Executive

Environmental Protection Act 1990:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>

SECTION 11 – OFFICERS

All		Head of Property, Planning and Public Protection
-----	--	--

Estate Agent's Act 1979 as amended -and ancillary legislation:

Section	Provision	Proper Officer
<u>Sections 3 (Prohibition Orders);</u> <u>4 (Warning Orders);</u> <u>6 (Revocation / Variation of Orders);</u> <u>8 (Register of Orders);</u> <u>9 (Information for the Lead Enforcement Authority);</u> <u>21 (Personal Interests);</u> <u>23 (Bankrupts);</u> <u>23A (Redress Schemes);</u> <u>23B (Enforcement);</u> <u>25 (General Duties);</u> <u>29 (Service of Notices)</u> All	National Trading Standards Estate and Letting Agency Team ("the Lead Enforcement Authority")	<u>Professional Lead</u> Senior Manager – National Trading Standards Estate and Letting Agency Team

Health Protection (Notification)(Wales) Regulations 2010:

Section	Provision	Proper Officer
---------	-----------	----------------

SECTION 11 – OFFICERS

<u>All</u>	<u>Infectious Diseases</u>	<u>Head of Property, Planning and Public Protection</u>
------------	----------------------------	---

Health Protection (Part 2A Orders)(Wales) Regulations 2010:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
<u>All</u>	<u>Infectious Diseases</u>	<u>Head of Property, Planning and Public Protection</u>

Highways Act 1980:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
<u>All</u>		<u>Head of Highways, Transport and Recycling</u>

Local Authorities Cemeteries Order 1977:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
<u>All</u>		<u>Head of Property, Planning and Public Protection</u>

Local Authorities (Standing Orders) (Wales) Regulations 2005

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
<u>Regs 6 and Schedule 3, Part 4</u>	<u>Provisions relating to the appointment and dismissal of, and taking disciplinary action against, staff</u>	<u>Chief Executive or by an officer(s) nominated by the Chief Executive</u>

Local Elections (Parish and Communities) (England and Wales) Rules 2006:

<u>Section</u>	<u>Provision</u>	<u>Proper Officer</u>
<u>Rule 44</u>	<u>Receipt from Returning Officer of names of persons elected to Council</u>	<u>Chief Executive</u>
<u>Rule 46, 47</u>	<u>Receipt from Returning Officer of election documents</u>	<u>Chief Executive</u>
<u>Rule 48, 49, 51</u>	<u>Retention of election documents and making them available for public inspection</u>	<u>Chief Executive</u>
	<u>Receipt from Returning Officer of names of persons elected to Town and Community Councils in the County of Powys</u>	<u>Chief Executive</u>

SECTION 11 – OFFICERS

	<u>Receipt from Returning Officer of election documents</u>	<u>Chief Executive</u>
	<u>Retention of election documents and making them available for public inspection</u>	<u>Chief Executive</u>

Local Government Act 1972:

Section	Provision	Proper Officer
<u>N/A</u>	<u>Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992, is to be construed as a reference to the Proper Officer of the Council</u>	<u>Chief Financial Officer</u>
<u>N/A</u>	<u>Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26th October 1972 to the Treasurer or a Treasurer of a Borough which virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council</u>	<u>Chief Financial Officer</u>
<u>S83(1)-(4)</u>	<u>Witness and receipt of declaration of acceptance of office</u>	<u>Monitoring Officer</u>
<u>S84</u>	<u>Receipt of declaration of resignation of office</u>	<u>Monitoring Officer</u>
<u>S88(2)</u>	<u>Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor</u>	<u>Monitoring Officer</u>
<u>S89(1)(b)</u>	<u>Receipt of notice of casual vacancy from two local government electors</u>	<u>Chief Executive</u>
<u>S94 & 96(2)</u>	<u>Keeping of record of disclosures and notice of pecuniary interests</u>	<u>Monitoring Officer</u>
<u>S96(1)</u>	<u>Receipt of notices of pecuniary interests</u>	<u>Monitoring Officer</u>
<u>S100(B)(2)</u>	<u>Circulation of reports and agendas</u>	<u>Monitoring Officer</u>
<u>S100(B)(7)</u>	<u>Supply of papers to press</u>	<u>Monitoring Officer</u>
<u>S100(C)(2)</u>	<u>Summary of minutes</u>	<u>Monitoring Officer</u>
<u>S100(D)(1)(a)</u>	<u>Compilation of background papers</u>	<u>Monitoring Officer</u>
<u>S100(D)(5)(a)</u>	<u>Identification of background papers</u>	<u>Monitoring Officer</u>
<u>S100(F)</u>	<u>Identification of confidential documents not open to Members</u>	<u>Monitoring Officer</u>
<u>S115(2)</u>	<u>Receipt of money due from Officers</u>	<u>Chief Financial Officer</u>
<u>S146(1) (a) & (b)</u>	<u>Declarations and certificates with regard to securities</u>	<u>Chief Financial Officer</u>
<u>S210(6) & (7)</u>	<u>Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities, or if there is no such office, to the Proper Officer</u>	<u>Chief Financial Officer</u>
<u>S225(1)</u>	<u>Deposit of documents</u>	<u>Monitoring Officer</u>
<u>S228(3)</u>	<u>Accounts - to be open for inspection</u>	<u>Chief Financial Officer</u>

SECTION 11 – OFFICERS

S229(5)	<u>Deposit of documents - certification</u>	<u>Monitoring Officer</u>
S234(1)	<u>Authentication of documents</u>	<u>Monitoring Officer</u>
S236(9) & (10)	<u>Service of Byelaws on other Authorities</u>	<u>Monitoring Officer</u>
S238	<u>Certification of Byelaws</u>	<u>Monitoring Officer</u>
S248 (2)	<u>Keeping roll of Freeman</u>	<u>Monitoring Officer</u>
Schedule 12 Para 4(2)(b)	<u>Signature of summons to Council</u>	<u>Monitoring Officer</u>
Schedule 12 Para 4(3)	<u>Receipt of notices regarding addresses which Summons to meeting are to be sent</u>	<u>Monitoring Officer</u>
Schedule 14 Para 25(7)	<u>Certification of resolutions - Para 25</u>	<u>Monitoring Officer</u>
S191	<u>Functions in respect of Ordnance Survey</u>	<u>Head of Highways, Transport and Recycling</u>

Local Government Act 1974:

Section	Provision	Proper Officer
S30(5)	<u>Notice of Local Government Ombudsman report</u>	<u>Monitoring Officer</u>

Local Government (Miscellaneous Provisions) Act 1976

Section	Provision	Proper Officer
S41	<u>Certification of copies of resolutions, Minutes, other documents</u>	<u>Monitoring Officer</u>

Local Government and Housing Act 1989:

Section	Provision	Proper Officer
S2	<u>Receipt of list of Politically Restricted Posts</u>	<u>Chief Executive</u>
S15, 16, 17	<u>Receipt of notices relating to Political Groups</u>	<u>Monitoring Officer</u>
S19	<u>Members interests - notification</u>	<u>Monitoring Officer</u>

Local Government Finance Act 1988:

Section	Provision	Proper Officer
S114	<u>Powers to prevent unlawful expenditure and an unbalanced budget</u>	<u>Chief Financial Officer</u>

SECTION 11 – OFFICERS

National Assistance Act 1948

Section	Provision	Proper Officer
All	Public Health (misc)	Head of Property, Planning and Public Protection

National Assistance (Amendment) Act 1951:

Section	Provision	Proper Officer
All	Public Health (misc)	Head of Property, Planning and Public Protection

Proceeds of Crime Act 2002, Part 7 (Money Laundering):

Section	Provision	Proper Officer
S331	Money Laundering Reporting Officer	Head of Finance (Section 151 Officer)

Public Health (Control of Diseases) Act 1984 (as amended by the Social Care Act 2008 and associated regulations):

Section	Provision	Proper Officer
All	Control of Diseases (various)	Head of Property, Planning and Public Protection

Registration Services Act 1953:

Section	Provision	Proper Officer
S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Monitoring Officer
	Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Monitoring Officer

Weights and Measures Act 1985:

Section	Provision	Proper Officer
---------	-----------	----------------

SECTION 11 – OFFICERS

<u>All</u> Section 72	Chief Inspector (Weights and Measures)	Professional Lead – Trading Standards or s Such other person(s) with the relevant qualifications under the Act as nominated by the Chief Executive.
-----------------------	--	--

SECTION 11 – OFFICERS

Conduct

11.40¹ Officers will comply with the Code of Conduct for Employees (Section 20) and the Protocol on Officer/Member Relations (Section 21) set out in this Constitution.

Employment

11.41² The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out below and the relevant employment policies contained on the Council's intranet..

Indemnities for Officers

11.42³ The former Board and the County Council⁸ has under the Local Government Act 2000 and the Local Authorities (Indemnities for Members and Officers) (Wales) Order 2006 approved a form of indemnity for both Members and officers as set out in Section 26 of this Constitution.

Officer Employment Procedure Rules

Recruitment and Appointment

Declarations

11.43^{4.1} A candidate for an appointment as an Officer must state in writing whether they have any relationship with any Councillor or Senior Officer (i.e. Senior Management Grade or above) of the Council.

11.43^{4.2} No candidate so related to a Councillor or a Senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him / her.

Seeking Support for Appointment

11.44^{5.1} The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.

11.44^{5.2} No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

Recruitment and Appointment (Including Shortlisting) of Head of Paid Service, other Chief Officers,

11.45⁶ Subject to Rule 11.58 below, the Full Council will appoint the Head of Paid Service and any other Chief Officer as defined in Rule 11.2 above, from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.

~~11.46 For the purposes of Rules 11.47 to 11.50¹ (inclusive) apply to the following posts – only Chief Officer means the Head of Paid Service, the Monitoring Officer, the Chief Education Officer or Director of Education, the Director of~~

⁸ Board Meeting 11th October, 2006 and Council Meeting 26th October, 2006.

SECTION 11 – OFFICERS

- ~~Social Services, the Section 151 Officer, Strategic Directors, Directors, the Solicitor to the Council and the Senior Manager, Chief Executive and Member Services.~~
- 11.47.1 Where it is proposed to pay an Chief-Officer a remuneration of £100,000 or more per annum, the Full Council will determine the level, and any change in the level, of remuneration of such an Chief-Officer.
- 11.47.2 Rule 11.47.1 above does not apply if the Authority proposes to appoint ~~the an~~ Chief-Officer for a period of no longer than 12 months.
- 11.48 Subject to Rule 11.47.2 above, where the Council proposes to appoint an Chief-Officer and the remuneration it proposes to pay is £100,000 or more per annum the Full Council must–
- 11.48.1 draw up a statement specifying:
- (i) the duties of the officer concerned, and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- 11.48.2 make arrangements for the post to be publically advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 11.48.3 make arrangements for a copy of the statement mentioned in Rule 11.48.1 to be sent to any person on request.
- 11.49 Where a post has been advertised as provided in Rule 11.48.2, the Full Council must interview those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub- Committee of that committee as referred to in Rule 11.45 above.
- 11.50 Where no qualified person has applied, or if the Council decide to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with Rule 11.48.2.
- 11.51 The power to approve the appointment of the Head of Paid Service must be exercised by the Full Council and accordingly section 101 of the Local Government Act 1972 (arrangements for discharge of functions by local authorities) does not apply to the exercise of that power.

Recruitment and Appointment (Including Shortlisting) of ~~the non-Strategic Executive~~ Executive Directors of Change and Governance

- 11.52 ~~Subject to Rule 11.58 below, the~~ Employment and Appeals Committee will appoint the non-Executive Director of Change and Governance from a shortlist of candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.
- 11.53 Where the Employment and Appeals Committee proposes to appoint the non-Executive Director of Change and Governance and it is not proposed that the appointment be made exclusively from among its existing officers, the Authority must:
- 11.53.1 draw up a statement specifying:

SECTION 11 – OFFICERS

- 11.53.1.1 the duties of the officer concerned, and
11.53.1.2 any qualifications or qualities to be sought in the person to be appointed;
- 11.53.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- 11.53.3 make arrangements for a copy of the statement mentioned in Rule 11.53.1 to be sent to any person on request.
- 11.54 Where a post has been advertised as provided in Rule ~~6-11.5345.2~~, the Council must interview those qualified candidates included on a short list prepared by the Employment and Appeals Committee or a Sub-Committee of that committee as referred to in Rule ~~6-11.45~~ above.
- 11.55 Where no qualified person has applied, or if the Authority decides to re-advertise the appointment, the Authority may make further arrangements for advertisement in accordance with Rule 11.53.2.

Recruitment and Appointment (Including Shortlisting) of Heads of Service.

- 11.56 Subject to Rule 11.5899 below, the Employment and Appeals Committee will appoint Heads of Service from a shortlist of one or more candidates prepared by the Employment and Appeals Committee or a Sub-Committee of that committee. The Employment and Appeals Committee or a Sub-Committee of that committee must include at least one Member of the Cabinet.

Recruitment and Appointment (including Shortlisting) of Joint Appointments with other organisations.

11.5897 In respect of recruitment and employment of joint appointments with other organisations, Rules 11.45 to 11.5787 shall not apply and the method and process of recruitment and appointment (including shortlisting) shall be agreed between the Head of Paid Service and the Chair of the Employment and Appeals Committee so as to ensure that a post appropriate process is achieved.

11.596058 The recruitment process agreed pursuant to Rule 11.589 shall be reported for information purposes to the next meeting of the Employment and Appeals Committee.

Recruitment and Appointment (Including Shortlisting) of the Monitoring Officer and Section 151 Officer (if not to be appointed under Rules 11.47 to 11.501 above)

- 11.5760459 The relevant Chief Officer or Deputy Chief Officer will appoint the Monitoring Officer and / or Section 151 Officer and Members must not be involved.
- 11.586420 Where the relevant Chief Officer or Deputy Chief Officer proposes to appoint the Monitoring Officer and / or Section 151 Officer and it is not proposed that the appointment be made exclusively from among its existing officers, the Authority must:

SECTION 11 – OFFICERS

11.5861.1 draw up a statement specifying:

- 11.586421.1.1 the duties of the officer concerned, and
- 11.586421.1.2 any qualifications or qualities to be sought in the person to be appointed;

11.586421.2 make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

11.586421.3 make arrangements for a copy of the statement mentioned in Rule 11.586421.1 to be sent to any person on request.

11.596232 Where a post has been advertised as provided in Rule 11.586421.2, the Authority must interview those qualified candidates included on a short list prepared by the relevant Chief Officer or Deputy Chief Officer.

11.60343 Where no qualified person has applied, or if the Authority decides to re-advertise the appointment, the Authority may make further arrangements for advertisement in accordance with Rule 11.586421.2.

Recruitment and Appointment (Including Shortlisting) of staff below Head of Service (other than Monitoring Officer and Section 151 Officer)

11.64454 The function of the recruitment and appointment (including shortlisting) of officers below Heads of Service are the responsibility of the relevant Head of Service or his/her nominee and Members must not be involved.

Dismissals of Chief Officers and Deputy Chief Officers

11.62565 In Rules 11.62556 to 11.70334 and in Appendices A and B:

“the Investigatory Sub-Committee of the Employment and Appeals Committee as constituted in accordance with Appendix B; and

~~“the Proper Officer” means the Head of Paid Service or the Solicitor to the Council; Head of Legal and Democratic Services (as appropriate).~~

11.63676 The dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 Officer), Monitoring Officer and Head of Democratic Services is the responsibility of the Full Council and the procedures set out in Appendix A to this Section of the Constitution shall apply.

11.64787 The dismissal of the Chief Officers as defined in Rule 11.2 (with the exception of those identified in Rule 11.6367 above) and Deputy Chief Officers as defined in Rule 11.34 is the responsibility of the Investigatory Committee and the procedures set out in Appendix B to this Section of the Constitution shall apply.

11.65898 Notice of the dismissal of an officer named in Rule 11.64454 and / or Rule 11.62565 above must not be given by the Employment and Appeals Committee or the Investigatory Committee or Full Council (as appropriate) until the Authority has complied with Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006.

Formatted: Font color: Auto

SECTION 11 – OFFICERS

Other Officers

11.6697690 Appointment and dismissal of officers below Chief Officer is the responsibility of the Chief Executive, Head of Paid Service or his / her nominee, and may not be undertaken by Councillors.

11.677040 Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as adopted from time to time, allow a right of appeal to Councillors.

Disciplinary Action

11.687421 In Rules 11.62565 to 11.70343 and in Appendices A and B "disciplinary action" includes proposed dismissal for any reason other than redundancy, permanent ill health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.

Written Procedures

11.697232.1 Disciplinary action against the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services will be taken in accordance with Appendix A.

11.697232.2 Disciplinary action against all other Officers will be taken in accordance with the Disciplinary Policy (or such other document which supersedes the Disciplinary Policy).

Appeals

11.70343 None of the above shall prevent a Councillor serving as a member of an appeals committee or body established to consider an appeal in accordance with Appendices A and / or B.

APPENDIX A.

Procedure for dismissal of the Head of Paid Service, Chief Finance Officer (Section 151 Officer), Monitoring Officer and the Head of Democratic Services.

1. No disciplinary action (other than suspension under paragraphs 2 and 3) in respect of the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer or the Head of Democratic Services, may be taken by the Full Council, other than in accordance with a recommendation in a report made by a designated independent person under regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006 (investigation of alleged misconduct).
2. Suspension of officers to which this Appendix applies (other than the Head of Paid Service) for the purpose of investigating alleged misconduct may be undertaken by the ~~Proper Officer~~ Head of Paid Service or Monitoring Officer (as appropriate) ~~for the purposes of Rule 11.625~~ in conjunction with the ~~Professional Lead – Human Resources Management and Development~~ Head of Workforce and Organisational Development, and such suspension (subject to an extension in accordance with paragraph 4(6)(a)(ii) below) must terminate no later than the

SECTION 11 – OFFICERS

expiry of two months beginning on the day on which the suspension takes effect and will be on full pay⁹.

3. Suspension of the Head of Paid Service (Chief Executive) may be undertaken only by the Chair or Vice Chair of the Employment and Appeals Committee following consultation with the Leader.¹⁰
4.
 - 4(1) Where it appears to the Authority that an allegation of misconduct which may lead to disciplinary action has been made against:
 - (a) the Head of Paid Service; or
 - (b) the Monitoring Officer; or
 - (c) the Chief Finance Officer; or
 - (d) the Head of Democratic Services.
~~("the relevant officer"), as the case may be,~~ the Full Council must appoint an Investigation Committee ~~"an investigation committee"~~ to consider the alleged misconduct.
 - 4(2) The ~~i~~nvestigation ~~e~~Committee must:
 - (a) consist of a minimum of 3 Councillors; and
 - (b) be politically balanced in accordance with section 15 of the 1989 Act; andmust, within 1 month of its appointment, consider the allegation of misconduct and decide whether it should be further investigated.
 - 4(3) For the purpose of considering the allegation of misconduct, the ~~i~~nvestigation ~~e~~Committee:
 - (a) may make such enquiries of the ~~relevant officer~~officer under investigation or any other person it considers appropriate; and / or
 - (b) may request the ~~relevant officer~~officer under investigation or any other person it considers appropriate to provide it with such information, explanation or documents as it considers necessary within a specified time limit; and / or
 - (c) may receive written or oral representations from the ~~relevant officer~~officer under investigation or any other person it considers appropriate.
 - 4(4) Where it appears to the ~~investigation committee~~Investigation Committee that an allegation of misconduct by the ~~relevant officer~~officer under investigation should be further investigated, the ~~investigation committee~~Investigation Committee must appoint a person ("the designated independent person") for the purposes of paragraph 1 above.
 - 4(5) The designated independent person who is appointed:

⁹ Paragraph 3 of Schedule 4 of the Local Authority (Standing Orders) (Wales) Regulations 2006

¹⁰ County Council decision 4th March, 2013.

SECTION 11 – OFFICERS

- (a) must be such person as may be agreed between the ~~investigation committee~~ Investigation Committee and the ~~relevant officer~~ officer under investigation within 1 month of the date on which the requirement to appoint the designated independent person arose; or
 - (b) where there is no such agreement, must be such person as is nominated for the purpose by the Welsh Government.
- 4(6) Subject to paragraph 4(7) below, the ~~relevant officer~~ officer under investigation and the ~~investigation committee~~ Investigation Committee must consult with the designated independent person, and attempt to agree a timetable within which the designated independent person is to undertake the investigation.
- 4(7) Where there is no agreement under paragraph 4(6) above, the designated independent person must set a timetable as that person considers appropriate within which the investigation is to be undertaken.
- 4(8) The designated independent person:
- (a) may direct:
 - (i) that the Authority terminate any suspension of the ~~relevant officer~~ officer under investigation; or
 - (ii) that any such suspension is to continue after the expiry of the period referred to in paragraph 2¹¹; or
 - (iii) that the terms on which any such suspension has taken place are to be varied in accordance with the direction of the designated independent person; or
 - (iv) that no steps (whether by the Full Council) by way of disciplinary action or further disciplinary action against the ~~relevant officer~~ officer under investigation, (other than steps taken in the presence, or with the agreement, of the designated independent person), are to be taken before a report is made under subparagraph (d) below;
 - (b) may inspect any documents relating to the conduct of the ~~relevant officer~~ officer under investigation which are in the possession of the Authority, or which the Authority has power to authorise the designated independent person to inspect;
 - (c) may require any Member or member of staff of the Authority to answer questions concerning the conduct of the ~~relevant officer~~ officer under investigation;
 - (d) must make a report to the Full Council:
 - (i) stating an opinion as to whether (and, if so, the extent to which) the evidence obtained supports any allegation of misconduct against the ~~relevant officer~~ officer under investigation; and

¹¹ Regulation 9(6)(ii) of the Local Authority (Standing Orders) (Wales) Regulations 2006

SECTION 11 – OFFICERS

- (ii) recommending any disciplinary action which appears appropriate for the Full Council to take against the ~~relevant officer~~ officer under investigation, and
 - (e) must no later than the time at which the report is made under subparagraph (d) above, send a copy of the report to the ~~relevant officer~~ officer under investigation.
- 4(9) The Full Council must consider the report prepared under paragraph 4(8) (d) above within 1 month of receipt of that report.

Pre-Disciplinary Hearing Procedure

- 5.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or his nominee, shall send a copy to the ~~Relevant Chief Officer~~ officer under investigation. This shall be accompanied by a written indication if any further action is to be taken, and if so, notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 5.2 The officer under investigation ~~Relevant Chief Officer~~ shall, if they so wish, request further information and/or documents relating to the allegations within five working days of receipt of the Investigation Report.
- 5.3 Any additional information and documentation requested will be provided by the Investigator, where relevant, within ~~seven~~ five working days or such other time as appropriate in the circumstances.
- 5.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 5.3 above, the Chief Executive or a nominee shall give the officer under investigation ~~Relevant Chief Officer~~ not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
 - 5.4.1 the time (date) and place of the Disciplinary Hearing;
 - 5.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee, including any witnesses;
 - 5.4.3 a copy of the Investigator's Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
 - 5.4.4 confirmation that the Disciplinary Hearing is convened under this procedure and could result in disciplinary action, including dismissal (where appropriate);
 - 5.4.5 confirmation that the officer under investigation ~~Relevant Chief Officer~~ may be accompanied at the Disciplinary Hearing by a local trade union representative, an official employed by a trade union or a fellow work colleague (~~"Companion"~~) or professional representative ("Companion");
 - 5.4.6 confirmation that the officer under investigation ~~Relevant Chief Officer~~ may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and details of the documents to be adduced at the hearing or

SECTION 11 – OFFICERS

witness statements are provided to the Chief Executive, or his nominee, at least five working days before the date of the Disciplinary Hearing, for distribution to all parties.

- 5.5 Within two working days of receipt of the notice under paragraph 9.4, the officer under investigation ~~Relevant Chief Officer~~ shall either agree the date for the Hearing or propose to the Chief Executive or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the officer under investigation's ~~Relevant Chief Officer's~~ Companion. If the officer under investigation ~~Relevant Chief Officer~~ requests a postponement, the Chief Executive or a nominee and the officer under investigation ~~Relevant Chief Officer~~ (or his representative) shall agree the new date for the hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 5.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the officer under investigation ~~Relevant Chief Officer~~ if the Hearing has been postponed) of the date for the Disciplinary Hearing. The Investigating and Disciplinary Committee will be sent a full copy of all relevant documentation including the Investigation Report and supporting evidence and any written representations and witness evidence provided by the officer under investigation ~~Relevant Chief Officer~~.
- 5.7 The officer under investigation ~~Relevant Chief Officer~~ and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the officer under investigation ~~Relevant Chief Officer~~ fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 5.8 At least five working days before the date of the Disciplinary Hearing the officer under investigation ~~Relevant Chief Officer~~ shall give to the Chief Executive, or a nominee:-
- 5.8.1 Full details of any witnesses they wish to call together with copies of their witness statements (it shall be the responsibility of the officer under investigation ~~Relevant Chief Officer~~ to arrange for the attendance of their witnesses via the contact officer) ; and
 - 5.8.2 Copies of any documents which they wish to refer to in support of their response; and
 - 5.8.3 Any written statements or submissions which they wish to submit; and
 - 5.8.4 Details of the Companion they wish to bring to the Disciplinary Hearing. If the officer under investigation ~~Relevant Chief Officer~~'s choice of Companion is unreasonable, the Chief Executive or his nominee may request that another Companion be selected e.g. where the Companion may have a conflict of interest or prejudice the Disciplinary Hearing.
- 5.9 The Chief Executive or a nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as

SECTION 11 – OFFICERS

reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

The Investigating and Disciplinary Committee Hearing

- 6.1 The procedure for the Disciplinary Hearing will be as follows:-
- 6.1.1 the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;
 - 6.1.2 the Investigating Officer will present the Investigation Report and introduce the evidence relating to each allegation and/or complaint, including documents and witness evidence either in person or in writing as previously notified;
 - 6.1.3 the officer under investigation ~~Relevant Chief Officer~~ or his/her Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Investigating Officer including direct questions to any witnesses;
 - 6.1.4 the officer under investigation ~~Relevant Chief Officer~~ or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;
 - 6.1.5 the Investigating Officer, the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the officer under investigation ~~Relevant Chief Officer~~ and/or their Companion, including direct questions to any witnesses;
 - 6.1.6 both sides will sum-up their presentations, commencing with the Investigating Officer.
- 6.2 The Companion can address the hearing, put and sum up the officer under investigation ~~Relevant Chief Officer~~'s case, make representations on behalf of the officer under investigation ~~Relevant Chief Officer~~ to any views expressed at the Disciplinary Hearing and confer with the officer under investigation ~~Relevant Chief Officer~~ during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the officer under investigation ~~Relevant Chief Officer~~'s behalf.
- 6.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need any further investigations to be carried out, such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The officer under investigation ~~Relevant Chief Officer~~ will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.
- 6.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:-
- 6.4.1 taking no further action;
 - 6.4.2 recommending informal resolution or other appropriate procedures be followed;
 - 6.4.3 referring back to the Investigator for further investigation and a further report;

SECTION 11 – OFFICERS

- 6.4.4 taking disciplinary action against the officer under investigation ~~Relevant Chief Officer~~ in accordance with paragraph 6.5.
- 6.5 In the case of disciplinary action, this can include the following:-
- 6.5.1 a recorded or oral warning;
- 6.5.2 a final written warning;
- 6.5.3 a final written warning accompanied by:-
- (a) suspension on half pay or no pay for a specified period; and/or
 - (b) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
 - (c) demotion;
- 6.5.4 dismissal (whether summary dismissal or on notice); and
- 6.5.5 alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post (provided that such a post is vacant) where there are issues relating to capability or loss of trust and confidence in the officer under investigation ~~Relevant Chief Officer~~ in their current role.
- 6.6 For the avoidance of doubt, the actions set out in paragraph 6.5.3 above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.
- 6.7 A Final Written warning will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.
- 6.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.
- 6.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Disciplinary Hearing. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the officer under investigation ~~Relevant Chief Officer~~ in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.
- 6.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).
7. The Authority must pay reasonable remuneration to a designated independent person appointed by the ~~investigation committee~~ Investigation Committee and any costs incurred by, or in connection with, the discharge of functions under this regulation.

APPENDIX B

SECTION 11 – OFFICERS

Procedure for the dismissal of the Chief Officers and Deputy Chief Officers with the exception of those identified in Appendix A.

DISCIPLINARY PROCEDURE FOR CHIEF OFFICERS

Scope of Procedure

- 1.1 This procedure applies to ~~“Relevant Chief Officers” which for the purposes of this Appendix B is defined as follows:~~
~~“Relevant Chief Officers” means~~ all Chief Officers (and Deputy Chief Officers) of the Authority other than the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer (Section 151 Officer) and the Head of Democratic Services.
- 1.2 This procedure has been adopted by the Full Council for the purpose of dealing with disciplinary, capability and other similar issues in relation to an officer under investigation ~~Relevant Chief Officers~~ of the Authority under Appendix B.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this procedure is to:-
 - 1.4.1 encourage employees to achieve and maintain acceptable standards of behaviour;
 - 1.4.2 provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - 1.4.3 minimise disagreements about disciplinary matters; and
 - 1.4.4 reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Chief Executive and the officer under investigation ~~Relevant Chief Officer~~ the steps set out in this procedure should be followed. It is recognised that it may be necessary to depart from the procedure, from time to time, according to particular circumstances of a case. In such circumstances, the Chief Executive and the officer under investigation ~~Relevant Chief Officer~~ involved will give fair consideration to reasonable proposals to modify the procedure accordingly, and such modifications will be recorded in writing.
- 1.6 This procedure does not form part of a officer under investigation ~~Relevant Chief Officer~~'s contract of employment and it may be amended at any time.
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Roles and Responsibilities

- 2.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a officer under investigation ~~Relevant Chief Officer~~, the Chief Executive shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 5 below. The Chief Executive may choose to appoint another Chief Officer or an independent person to carry out the preliminary investigation on his behalf and whosoever undertakes

SECTION 11 – OFFICERS

that role shall be referred to as the “Preliminary Independent Investigator” in this procedure.

- 2.2 The Chief Executive or nominee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration the Chief Executive will decide whether or not the investigation can be carried out by an officer of the same grade or above or by an independent person (“Investigating Officer”). ~~by an investigating and disciplinary committee as established as set out in paragraph 7 (“Investigating and Disciplinary Committee”). The Investigating and Disciplinary Committee shall be constituted in accordance with paragraph 7.2.~~
- 2.3 Save where the Chief Executive is satisfied, following a preliminary investigation, that the issue requires no further action or can be resolved informally, the matter must be referred to ~~the~~ an Investigating and Disciplinary Committee consisting of no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation. The Leader shall appoint the Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee. ~~The Investigating and Disciplinary Committee which shall be responsible for determining the matter.~~

Timescale

- 3.1 The procedure does not incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. However, it is implicit that all stages of the procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

Suspension

- 4.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where, in the opinion of the Chief Executive, it is believed that the officer under investigation ~~Relevant Chief Officer~~'s continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Authority's functions.
- 4.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 4.3 Prior to imposing suspension in any case, the Chief Executive shall inform the officer under investigation ~~Relevant Chief Officer~~ in writing, of the reason for the proposed suspension and the officer under investigation ~~Relevant Chief Officer~~ shall have the opportunity to make written representations before a decision is taken.
- 4.4 The necessity for the officer under investigation ~~Relevant Chief Officer~~ to remain suspended should be reviewed at monthly intervals and where possible lengthy periods of suspension should be avoided. Further specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the officer under investigation ~~Relevant Chief Officer~~'s suspension, whilst avoiding any compromise to the investigation or to the efficient exercise of the Authority's functions.

SECTION 11 – OFFICERS

- 4.5 Absence due to suspension shall be on full pay.
- 4.6 The Chief Executive will allocate a contact officer for the officer under investigation ~~Relevant Chief Officer~~. The contact officer should be another Chief Officer, with no direct relationship to the officer under investigation ~~Relevant Chief Officer~~ being suspended, and be someone whom the officer under investigation ~~Relevant Chief Officer~~ should use as a point of contact for accessing any witnesses etc.

Preliminary Investigation

- 5.1 The Chief Executive will be responsible for informing the officer under investigation ~~Relevant Chief Officer~~, in writing, of the nature of the allegations or other issues under investigation. The date of this notification shall be the “commencement date” for the purpose of this procedure.
- 5.2 The Chief Executive shall be responsible for determining the arrangements for conducting a preliminary investigation, as set out in paragraph 2.2 above.
- 5.3 The Chief Executive shall, when appointing another to conduct the preliminary investigation on ~~his~~ their behalf, determine the terms of appointment of the Preliminary Independent Investigator, agree any remuneration payable to the Preliminary Independent Investigator (if appropriate), provide facilities and all available information regarding allegations or other issues under investigation as are necessary to enable the Preliminary Independent Investigator to fulfil their role.
- 5.4 The Preliminary Independent Investigator will be entitled to interview witnesses and carry out such enquiries as they deem necessary. This may include examining the Authority’s email, internet, and other IT systems, including the accounts of the officer under investigation ~~Relevant Chief Officer~~ in line with GDPR Guidance. The officer under investigation ~~Relevant Chief Officer~~ shall fully cooperate with the Preliminary Independent Investigator and shall make themselves available for such interviews and meetings and provide any relevant documentation or information as the Preliminary Independent Investigator deems necessary.
- 5.5 The officer under investigation ~~Relevant Chief Officer~~ shall be given reasonable facilities and access to the Authority’s premises and systems as well as personal files/diary, etc. to allow them to prepare their responses on such terms as may be agreed by the Preliminary Independent Investigator.
- 5.6 The Preliminary Independent Investigator shall prepare a short report following their investigation which, save where the investigation is conducted by the Chief Executive, shall be submitted to the Chief Executive for consideration (“Preliminary Investigation Report”). A copy of the Preliminary Investigation Report shall be provided to the officer under investigation ~~Relevant Chief Officer~~ within seven working days of receipt by the Chief Executive or where completed by the Chief Executive within seven working days of its completion.
- 5.7 The officer under investigation ~~Relevant Chief Officer~~ shall, if they so wish, make written representations in relation to the Preliminary Investigation Report, within five working days of receipt by the officer under investigation ~~Relevant Chief Officer~~ of the Preliminary Investigation Report.
- 6.1 The Chief Executive will give careful consideration to the allegations or other issues, the Preliminary Investigator’s Report, supporting evidence and any written

SECTION 11 – OFFICERS

representations put forward by the officer under investigation ~~Relevant Chief Officer~~ before taking further action.

6.2 The Chief Executive shall decide whether:

6.2.1 The issue requires no further formal action under this procedure (in which case they will consider what other steps, if any, should be taken) and would ordinarily lift any suspension immediately; or

6.2.2 The issue should be referred to the Investigating and Disciplinary Committee, in which case paragraphs 7 to 11 shall apply.

6.3 The Chief Executive shall inform the officer under investigation ~~Relevant Chief Officer~~ of the decision, in writing, as soon as practicable.

The Role of the Investigating and Disciplinary Committee and appointing an Investigator

7.1 If the Chief Executive decides that the matter should be referred to the Investigating and Disciplinary Committee, the Chief Executive shall appoint another Chief Officer, or an independent person, to carry out any further investigation required into the allegations or other issues as soon as practicable (“the Investigator”). The Investigator can be the same person who carried out the preliminary investigation.

7.2 The Chief Executive shall determine the terms of appointment of the Investigator, agree the Investigator’s remuneration (if appropriate), procure the necessary facilities and provide all available information about the allegations or other issues under investigation as shall be necessary to enable them to fulfil their role.

7.3 The officer under investigation ~~Relevant Chief Officer~~ will be informed that the matter has been referred to the Investigating and Disciplinary Committee, the members of the Committee and that an Investigator has been appointed who, subject to availability, may be the same person who carried out the preliminary investigation.

7.4 The Investigating and Disciplinary Committee should include no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation. The Leader shall appoint the Cabinet Member and the members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee.

7.5 The Investigating and Disciplinary Committee shall appoint a chair person to oversee the function of the Committee (“Chair”).

7.6 The Investigating and Disciplinary Committee shall be advised throughout by a suitable adviser who may be employed by or independent of the Authority, (“the Independent Adviser”) who shall ordinarily be accompanied by a member of the Council’s HR or Legal Teams, save in cases where a conflict of interest could arise, in which case the Chief Executive shall appoint a nominee.

Responsibilities of the Investigator

8.1 It will be the responsibility of the Investigator to carry out a further investigation into the allegations or other issues under investigation and to prepare a report (“Investigation Report”):

SECTION 11 – OFFICERS

- 8.1.1 stating in his/her opinion whether (and if so, the extent to which) the evidence they have obtained supports any allegation of misconduct, or incapability or supports a need for action under this procedure for some other substantial reason; and
- 8.1.2 recommending what, if any, disciplinary action or range of actions appears to be appropriate for the Authority, through its Investigating and Disciplinary Committee, to take against the officer under investigation ~~Relevant Chief Officer~~ having regard to all the circumstances of the case.

Pre-Disciplinary Hearing Procedure

- 9.1 Within seven working days of receipt of the Investigation Report, the Chief Executive, or his nominee, shall send a copy to the officer under investigation ~~Relevant Chief Officer~~. This shall be accompanied by a written indication if any further action is to be taken, and if so, notice of the specific allegations to be considered by the Investigating and Disciplinary Committee at the Disciplinary Hearing and any supporting documentation.
- 9.2 The officer under investigation ~~Relevant Chief Officer~~ shall, if they so wish, request further information and/or documents relating to the allegations within five working days of receipt of the Investigation Report.
- 9.3 Any additional information and documentation requested will be provided by the Investigator, where relevant, within seven working days or such other time as appropriate in the circumstances.
- 9.4 Once the period for requesting further information has elapsed or once a response has been provided by the Investigator further to paragraph 9.3 above, the Chief Executive or a nominee shall give the officer under investigation ~~Relevant Chief Officer~~ not less than ten working days written notice of the date of the Disciplinary Hearing with the Investigating and Disciplinary Committee. The notice shall include:-
 - 9.4.1 the time and place of the Disciplinary Hearing;
 - 9.4.2 who will be in attendance at the Disciplinary Hearing including the members of the Investigating and Disciplinary Committee;
 - 9.4.3 a copy of the Investigator's Report and any supporting documentation (including any witness statements where relevant) and the allegations to be considered at the Disciplinary Hearing;
 - 9.4.4 confirmation that the Disciplinary Hearing is convened under this procedure and could result in disciplinary action, including dismissal (where appropriate) ;
 - 9.4.5 confirmation that the officer under investigation ~~Relevant Chief Officer~~ may be accompanied at the Disciplinary Hearing by a local trade union representative, an official employed by a trade union or a fellow work colleague ("Companion");
 - 9.4.6 confirmation that the officer under investigation ~~Relevant Chief Officer~~ may ask any person to be present as a witness or adduce any documents or written statements in support of his response, provided full details of such witnesses and details of the documents to be adduced at the hearing or witness statements are provided to the Chief Executive, or his nominee, at

SECTION 11 – OFFICERS

least five working days before the date of the Disciplinary Hearing, for distribution to all parties.

- 9.5 Within two working days of receipt of the notice under paragraph 9.4, the officer under investigation ~~Relevant Chief Officer~~ shall either agree the date for the Hearing or propose to the Chief Executive or a nominee, a postponement for the date of the Hearing for a period not exceeding ten working days setting out the reasons for the request. For the avoidance of doubt, the postponement includes any postponement due to the availability of the officer under investigation ~~Relevant Chief Officer~~'s Companion. If the officer under investigation ~~Relevant Chief Officer~~ requests a postponement, the Chief Executive or a nominee and the Relevant Chief Officer (or his representative) shall agree the new date for the hearing. If they cannot agree the date within one working day, the Chair of the Investigating and Disciplinary Committee, having taken appropriate advice, shall determine the date of the Disciplinary Hearing.
- 9.6 The Chief Executive or a nominee shall then formally give notice to the Investigating and Disciplinary Committee (and the officer under investigation ~~Relevant Chief Officer~~ if the Hearing has been postponed) of the date for the Disciplinary Hearing. The Investigating and Disciplinary Committee will be sent a full copy of all relevant documentation including the Investigation Report and supporting evidence and any written representations and witness evidence provided by the Relevant Chief Officer.
- 9.7 The officer under investigation ~~Relevant Chief Officer~~ and their Companion must make every effort to attend the Disciplinary Hearing (whether reconvened or otherwise). Failure to attend without good reason may be treated as misconduct in itself. If the officer under investigation ~~Relevant Chief Officer~~ fails to attend without good reason, or persistently fails to do so, the Disciplinary Hearing may proceed in their absence and a decision may be made based on the available evidence.
- 9.8 At least five working days before the date of the Disciplinary Hearing the officer under investigation ~~Relevant Chief Officer~~ shall give to the Chief Executive, or a nominee:
- 9.8.1 Full details of any witnesses they wish to call together with copies of their witness statements (it shall be the responsibility of the officer under investigation ~~Relevant Chief Officer~~ to arrange for the attendance of their witnesses via the contact officer); and
- 9.8.2 Copies of any documents which they wish to refer to in support of their response; and
- 9.8.3 Any written statements or submissions which they wish to submit; and
- 9.8.4 Details of the Companion they wish to bring to the Disciplinary Hearing. If the officer under investigation ~~Relevant Chief Officer~~'s choice of Companion is unreasonable, the Chief Executive or his nominee may request that another Companion be selected e.g. where the Companion may have a conflict of interest or prejudice the Disciplinary Hearing.
- 9.9 The Chief Executive or a nominee shall provide a copy of such documents and information to the Investigating and Disciplinary Committee as soon as

SECTION 11 – OFFICERS

reasonably practicable thereafter and no later than three working days prior to the Disciplinary Hearing.

The Investigating and Disciplinary Committee Hearing

10.1 The procedure for the Disciplinary Hearing will be as follows:

10.1.1 the Chair of the Investigating and Disciplinary Committee will explain the purpose of the Hearing and the procedure to be followed;

10.1.2 the Investigating Officer will present the Investigation Report and introduce the evidence relating to each allegation and/or complaint, including documents and witness evidence either in person or in writing as previously notified;

10.1.3 the officer under investigation ~~Relevant Chief Officer~~ or his/her Companion, and the Investigating and Disciplinary Committee and Independent Adviser, will have the opportunity to ask questions of the Investigating Officer including direct questions to any witnesses;

10.1.4 the officer under investigation ~~Relevant Chief Officer~~ or their Companion will introduce evidence in support of their response to the allegations, including documents and witnesses as previously notified;

10.1.5 the Investigating Officer, the Investigating and Disciplinary Committee and the Independent Adviser will have the opportunity to ask questions of the officer under investigation ~~Relevant Chief Officer~~ and/or their Companion, including direct questions to any witnesses;

10.1.6 both sides will sum-up their presentations, commencing with the Investigating Officer.

10.2 The Companion can address the hearing, put and sum up the officer under investigation ~~Relevant Chief Officer~~'s case, make representations on behalf of the Relevant Chief Officer to any views expressed at the Disciplinary Hearing and confer with the officer under investigation ~~Relevant Chief Officer~~ during the Disciplinary Hearing. The Companion does not, however, have the right to answer questions on the officer under investigation ~~Relevant Chief Officer~~'s behalf.

10.3 The Disciplinary Hearing may be adjourned if the Investigating and Disciplinary Committee need any further investigations to be carried out, such as re-interviewing witnesses in the light of any new points which are raised at the Disciplinary Hearing. The officer under investigation ~~Relevant Chief Officer~~ will be given a reasonable opportunity to consider any new information obtained before the Disciplinary Hearing is reconvened.

10.4 When the Investigating and Disciplinary Committee has heard all of the evidence submitted they will adjourn to consider what, if any, further action should be taken. The range of options available to them include:

10.4.1 taking no further action;

10.4.2 recommending informal resolution or other appropriate procedures be followed;

10.4.3 referring back to the Investigator for further investigation and a further report;

10.4.4 taking disciplinary action against the officer under investigation ~~Relevant Chief Officer~~ in accordance with paragraph 10.5.

SECTION 11 – OFFICERS

10.5 In the case of disciplinary action, this can include the following:

10.5.1 a recorded or oral warning;

10.5.2 a final written warning;

10.5.3 a final written warning accompanied by:

- (a) suspension on half pay or no pay for a specified period; and/or
- (b) relegation (i.e. reduction in salary) for a specified period and/or on specified terms; and/or
- (c) demotion;

10.5.4 dismissal (whether summary dismissal or on notice); and

10.5.5 alternatively the Investigating and Disciplinary Committee may explore other alternatives such as but not limited to early retirement, secondment, or redeployment to a more junior post (provided that such a post is vacant) where there are issues relating to capability or loss of trust and confidence in the officer under investigation ~~Relevant Chief Officer~~ in their current role.

10.6 For the avoidance of doubt, the actions set out in paragraph 10.5.3 above shall only be applied in circumstances where the Investigating and Disciplinary Committee has decided that appropriate disciplinary action would include dismissal but that action short of dismissal would be more appropriate due to mitigating or other circumstances.

10.7 A Final Written warning will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that period.

10.8 All others present at the Disciplinary Hearing (other than the Independent Adviser) will withdraw while the Investigating and Disciplinary Committee consider their decision.

10.9 Where practicable, the decision of the Investigating and Disciplinary Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Disciplinary Hearing. However, in order to ensure that the Investigating and Disciplinary Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the officer under investigation ~~Relevant Chief Officer~~ in writing within five working days of the Disciplinary Hearing, or as soon thereafter as is reasonably practicable.

10.10 The letter will outline the decision and the action, if any, to be taken and will set out the rights of appeal (“Decision Letter”).

Appeal Process

11.1 The officer under investigation ~~Relevant Chief Officer~~ shall have the right to appeal the Investigating and Disciplinary Committee's decision, to an Appeals Committee consisting of no fewer than three elected members made up of one member of the Cabinet plus members of the Employment and Appeals Committee and should not include any member with a direct personal involvement in the complaint or who has participated in the preliminary investigation or the Disciplinary Hearing. The Leader shall appoint a Cabinet Member and the

SECTION 11 – OFFICERS

- members of the Employment and Appeals Committee shall be appointed in consultation with the Chair of that Committee.
- 11.2 Any appeal must be made in writing to the Chief Executive or his / her nominee as set out in the Decision Letter within ten working days of the date of the Decision Letter including the grounds of appeal (“Notice of Appeal”).
- 11.3 Within five working days of submitting a Notice of Appeal the officer under investigation~~Relevant Chief Officer~~ must inform the Chief Executive of the following details in relation to the Notice of Appeal and provide the following information:
- 11.3.1 whether the officer under investigation ~~Relevant Chief Officer~~ is to be accompanied at the appeal hearing by a Companion and if so by whom;
 - 11.3.2 whether they wish to call witnesses and if so, their names and copies of their statements if not already supplied for the purposes of the original Disciplinary Hearing;
 - 11.3.3 copies of any additional documents or information relevant to the appeal that was not provided at the Disciplinary Hearing;
- 11.4 Having considered the Notice of Appeal, the Appeals Committee in its absolute discretion will determine whether the appeal hearing will take the form of a full re-hearing or a review of the decision taken by the Investigating and Disciplinary Committee and will notify the officer under investigation ~~Relevant Chief Officer~~ of their decision in writing.
- 11.5 The Appeals Committee will consider the appeal as soon as reasonably practicable after the Notice of Appeal has been received. It will invite the following persons to be present at an appeal hearing:
- 11.5.1 the officer under investigation~~Relevant Chief Officer~~, who may be accompanied by a Companion; and
 - 11.5.2 the Chair of the Investigating and Disciplinary Committee or another members of the Committee if so nominated by the Chair, to explain their reasons for their decision and to answer any questions; and
 - 11.5.3 the Investigating Officer.
- 11.6 The procedure for convening the Appeal Hearing and the procedure at the Appeal Hearing will follow that set out above in relation to the Disciplinary Hearing.
- 11.7 The Appeals Committee shall be advised by an independent adviser who shall not usually be the same adviser who advised the Investigating and Disciplinary Committee.
- 11.8 The Appeals Committee in its absolute discretion shall decide the extent to which (if any) it will take into account any additional information which has become available in relation to the allegations or other issues under investigation since the Disciplinary Hearing.
- 11.9 The Appeals Committee may decide to uphold/dismiss the original decision of the Investigating and Disciplinary Committee or impose a different sanction within the range of penalties as set out in paragraphs 10.4 and 10.5.
- 11.10 Where practicable, the decision of the Appeals Committee will be delivered orally after an adjournment with full reasons for the decision being given by letter within five working days of the Appeal Hearing. However, in order to ensure that the

SECTION 11 – OFFICERS

Appeal Committee shall be afforded sufficient time to fully consider their decision, their decision may be deferred and issued to the officer under investigation ~~Relevant Chief Officer~~ in writing within five working days of the Appeal Hearing, or as soon thereafter as is reasonably practicable.

11.11 The letter will outline the decision and the action, if any, to be taken.

11.12 The decision reached will be final and there is no further right of appeal.