

SECTION 2 – PURPOSE, DEFINITION, INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

Purpose of the Constitution

2.1 The purpose of the Constitution is to:

- 2.1.1 enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other organisations;
- 2.1.2 support the active involvement of citizens in the process of local authority decision making;
- 2.1.3 help Councillors represent their constituents more effectively;
- 2.1.4 enable decisions to be taken efficiently and effectively;
- 2.1.5 create a powerful and effective means of holding decision makers to public account;
- 2.1.6 ensure that no one will scrutinise a decision in which they are directly involved (including any involvement in a joint review process);
- 2.1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 2.1.8 provide a means of improving the delivery of services to the community.

Definitions in the Constitution

2.2.1 The Constitution of the Council is this document.

2.2.2 Within the Constitution the following words and phrases have the meaning set out below:

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| “Annual Meeting” | 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. ¹ |
| “Budget” | the overall revenue and capital budget approved by Full Council (Section 4); |
| “Chief Officer” | Unless stated otherwise Chief Officer means the following officers: Chief Executive Strategic Executive Directors |
| “Clear Days” | The number of days that the notice and summons of a meeting have to be published in advance of a meeting. The clear days do not include (a) the day the document is published and / or received; and (b) the day of the meeting; and (c) weekends and bank holidays. ² |
| “Co-Opted Member” | A person chosen by the Council to serve on one of its Member Bodies consisting of the following: 5 Independent (Lay) Members of the Standards Committee; 3 Town and Community Council representatives of the Standards Community Sub-Committee; |

¹ Local Government Act 1972, Schedule 12

² Schedule 12, Part 1, Regulation 4(2) – Local Government Act 1972.

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| | <p>3 Parent Governor Representatives on the Learning and Skills Scrutiny Committee;</p> <p>1 Church in Wales representative on the Learning and Skills Scrutiny Committee;</p> <p>1 Roman Catholic Church representative on the Learning and Skills Scrutiny Committee;</p> <p>4 'Lay' Members of the Governance and Audit Committee;</p> <p>1 co-opted Member in respect of crime and disorder matters on the Economy, Residents, Communities and Governance Scrutiny Committee.</p> |
| "Councillor" | a person elected to the Council to represent an area (called an electoral division) within the county of Powys; |
| "Deputy Chief Officer" | <p>Unless otherwise stated Deputy Chief Officers means the following officers:</p> <p>Directors</p> <p>Heads of Service</p> |
| "Executive" | the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions; |
| "Executive Decision" or "Cabinet Decision" | any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member Bodies to whom the Leader or Cabinet has delegated Executive Functions to exercise or refrain exercising those functions; |
| "Executive Function" or "Cabinet Function" | <p>(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation ³ and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.</p> <p>It should be noted that regulatory functions such as planning, licensing, rights of way and building control, are not Executive Functions;</p> <p>(b) Contractual matters (within an approved budget), the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> |
| "Exempt Information" | Information which a Council is able to withhold from being disclosed to the public as it falls within one of 10 categories of information described in regulations. ⁴ |

³ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

⁴ Paragraphs 12 to 18 of Part 4 of Schedule 12A to the Local Government Act 1972 as inserted by the Local Government (Access to Information)(Variation) Order 2007 and Regulation 4 of the Local Authorities (Executive Arrangements) (Decisions, Documents and Meetings) and the Standards Committees (Wales) (Amendment) Regulations 2007.

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| “Forward Work Programme” | the Forward Work Programme is a document which lists all of the decisions that the Cabinet intend to take and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered; |
| “Full Council” | the body where all Councillors act to exercise functions of the Council; |
| “Head of Service” | such officers appointed from time to time by Strategic Directors and / or Directors to run the individual services within their directorates. |
| “Head of Paid Service” | an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Paid Service; |
| “Independent (Lay) Member” | a member of the Standards Committee who is not: (a) a Councillor; (b) an officer; or (c) the spouse of a Member or an officer of the Council, or any other Relevant Authority, or a Community Council. |
| “Lay Member” | the Co-Opted Member of the Governance and Audit Committee appointed by the Full Council who cannot be a Councillor. |
| “Local Choice Functions” | there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion; ⁵ |
| “Local Representative” | has the meaning set out in Rules 19.82 to 19.89 (Planning Protocol). |
| “Management Team” | the senior management body for officers (Section 11). It includes those officers designated from time to time by the Head of Paid Service as members of the Management Team; |
| “the Measure” | means the Local Government (Wales) Measure 2011. |
| “Member” | either a Councillor or a Co-Opted Member chosen by the Council to serve on one of its Member Bodies; |
| “Member Body” | any of the following: <ul style="list-style-type: none"> • Governance and Audit Committee; • Cabinet; • Democratic Services Committee; • Employment and Appeals Committee; • Learning and Skills Scrutiny Committee; |

⁵ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

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| | <ul style="list-style-type: none"> • Health and Care Scrutiny Committee; • Economy, Residents, <u>and</u> Communities and Governance Scrutiny Committee; • Full Council; • Licensing Act 2003 Committee; • Pensions and Investments Committee; • Planning, Taxi Licensing and Rights of Way Committee; • <u>Standards Committee</u> (or its Community Sub-Committee) <p>Note - references to Committee also includes Sub-Committee;</p> |
| “Monitoring Officer” | an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer; |
| “Non-Executive Functions” | any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member Body other than the Cabinet; ⁶ |
| “Planning Application” | any of the applications set out in the Planning Protocol set out in Section 19. |
| “Policy Framework” | The framework set out in Rule 4.2; |
| “Public Interest” | Means the test set out in Section 14. |
| “Relevant Authority” | <ul style="list-style-type: none"> (a) a county council; or (b) a county borough council; or (c) a national park authority established under section 63 of the Environment Act 1995 (as amended); or (d) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004(2) or a scheme to which section 4 of that Act applies |
| “Returning Officer” | Means the officer appointed by Full Council pursuant to section 35 of the Representation of the People Act 1983 to be the officer responsible for the administration of elections of councillors of the county, and elections of councillors of communities within the County. |
| “Scrutiny Committees” | <ul style="list-style-type: none"> • Learning and Skills Scrutiny Committee; • Health and Care Scrutiny Committee; • Economy, Residents <u>and</u> Communities and Governance Scrutiny Committee; • Governance and Audit Committee: |

⁶ The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 (as amended)

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| | <ul style="list-style-type: none"> Public Service Board Scrutiny Committee. |
| “Section 151 Officer” | an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer may have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer; |
| “Service” | any of the services provided by the Council; |
| “ Single Integrated Plan Corporate Improvement Plan (SCIP)” | <p>The CIP is a strategic document, and sets out the council’s vision for the future of Powys, in line with the priorities of the ruling administration. The plan outlines the well-being and equality objectives the council will aim to deliver over a five year period, to achieve its vision and meet the needs of local residents and communities. These objectives are required by legislation (Well-being of Future Generations Wales Act 2015 and Equality Act 2010). Means the single plan for Powys that reflects the needs of the local population and is known as the “One Powys Plan”. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young Peoples, and the Health Social Care and Wellbeing Partnership Plan.</p> |

Interpretation of the Constitution

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules and for the purposes of the meeting the Chair’s ruling is final.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.
- 2.3.4 Unless the context requires otherwise, the singular shall include the plural and vice versa, and words expressed in any gender shall include any other gender.

The headings are inserted for convenience only and shall not affect the interpretation of the Constitution.

Duty to Monitor and Review the Constitution

- 2.4.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.
- 2.4.2 The Monitoring Officer will make arrangements for any proposed changes to the Constitution to be considered by the Democratic Services Committee which will in turn make recommendations to the Full Council as to any amendments that may be necessary.

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2.4.3 The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section 16 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. S/he shall make arrangements for any proposed changes to be considered by the Governance and Audit Committee and Democratic Services Committee which will in turn make recommendations to the Full Council as to any amendments that may be necessary.

Protocol for Monitoring and Review of Constitution by Monitoring Officer

2.5 A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 2.5.1 observe meetings of different parts of the Member and Officer structure;
- 2.5.2 undertake an audit trail of a sample of decisions;
- 2.5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 2.5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

Changes to the Constitution

Approval

2.6 Subject to Rules 2.7 and 2.8 below, changes to the Constitution will only be approved by the Full Council in accordance with the procedures set out in Rule 2.4.2 above.

Minor Changes

2.7 If, in the reasonable opinion of the Monitoring Officer, a change is:

- 2.7.1 a minor variation; or
 - 2.7.2 required to be made to remove any inconsistency, ambiguity or typographical correction;
- the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the Democratic Services Committee and the next Full Council meeting for information.

2.7.3 A minor change includes changes to the titles and roles of the Senior Leadership Team and Proper Officers, and the names of Council Committees.

Legislative Change

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- 2.8 Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the Democratic Services Committee and the next Full Council meeting for information.

Suspension of the Constitution

Limit to Suspension

- 2.9 Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law except for the following rules:
- 2.9.1 Motions affecting persons employed by the Council (Rule 4.39.7)
 - 2.9.2 Point of Order (Rule 4.55)
 - 2.9.3 Right to Require Individual Vote to be Recorded (Rule 4.67)
 - 2.9.4 No Requirement to sign minutes of previous meeting at extraordinary meeting (Rule 4.76)

Procedure to Suspend

- 2.10 A motion to suspend any rule will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section. Any suspension will apply solely to the matter or matters being discussed at that meeting.

Publication

- 2.11.1 The Monitoring Officer will ensure that copies of this Constitution are available on the Council's website, and copies can be made available on request in audio format, in Welsh, and in Braille. Copies of Sections of the Constitution can be printed at the Council's Customer Service Points on request.
- 2.11.2 The Monitoring Officer will provide a link to a copy of this Constitution or by disk to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.
- 2.11.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with Rule 2.6.