

CYNGOR SIR POWYS COUNTY COUNCIL.

Council
3rd March , 2022

REPORT AUTHOR: Head of Legal and Democratic Services

SUBJECT: Constitution

REPORT FOR: Decision

1. Purpose of Report

1.1 Council is asked to consider possible revisions to the Constitution recommended to Council by the Democratic Services Committee ("DSC") at its meeting on 21st February 2022. The proposed changes are required in response to Local Government and Elections (Wales) Act 2021 .

2. Possible Revisions to the Constitution

2.1 Section 2 – Purpose, Definition, Interpretation and Amendment to the Constitution

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

- Addition of a definition for "Petition Scheme" to Rule 2.2.2 (see page 4 of Section 2). The Council in accordance with the Local Government and Elections (Wales) Act 2021 is required to establish a petition scheme by May 2022. There are consequential amendments to Sections 3 and 4 of the Constitution arising from this requirement (see below) .
- Addition of a definition for Corporate Joint Committees to Rule 2.2.2 (see page 2 of Section 2). following the establishment of the Mid Wales Corporate Joint Committee in January 2022. References to this committee have been included in Sections 6, 13 and 23 of the Constitution as well.
- Addition of the term Leader to Rule 2.2.2 (see page 3 of Section 2).so that any references to Leader in the Constitution means that it could be a Leader or Leaders where the role subject to a is job-share.

Proposed Recommendation to the County Council:	Reason for Recommendation:
1. That the amendments to Section 2 of the Constitution is approved as set out in the draft Section 2 attached to the report. 2. That the Monitoring Officer is authorised to make such other changes to the Constitution as may be required to reflect the changes set out in Recommendation 1 above.	To review and amend the Constitution so that it aligns with the current requirements of the Council.

2.2 Section 3 – Getting Information and Getting Involved.

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

- Addition of Rule 3.17 (see page 3 of Section 3) setting out the requirement under the Local Government and Elections (Wales) Act 2021 that the Council established a public participation strategy by May 2022 to encourage local people to participate in the making of decisions by the Council. A draft Public Participation scheme will be brought to DSC after the May elections for approval before going out to public consultation. We are still awaiting guidance from Welsh Government on Participation Schemes The result of the public participation will be brought back to DSC for consideration with a view to recommending a Participation Scheme to Full Council.
- Addition of the ability by the public to raise a matter with the Council by submitting a petition in accordance with the Local Government and Elections (Wales) Act 2021 (Rule 3.18.3) (see page 3 of Section 3). A separate Report is being brought to Council with the details of the Petition Scheme

Proposed Recommendation to the County Council:	Reason for Recommendation:
3. That the amendments to Section 3 of the Constitution are approved as set out in the draft Section 3 attached to the report. 4. 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 3 above.	To review and amend the Constitution so that it aligns with the current requirements of the Council.

2.3 Section 4 – Full Council.

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

- Addition of Rule 4.6.15 (see page 3 of Section 4) which is an additional responsibility of the Council to approve, review and amend the Council's petition scheme. The requirement for the Council to have a petition scheme is in accordance with the Local Government and Elections (Wales) Act 2021.
- Addition of Rule 4.6.16 (see page 3 of Section 4) which is an additional responsibility of the Council to approve, review and amend the Council's public participation scheme. The requirement for the Council to have a petition scheme is in accordance with the Local Government and Elections (Wales) Act 2021.

Proposed Recommendation to the County Council:	Reason for Recommendation:
5. That the amendments to Section 4 of the Constitution are approved as set out in the draft Section 4 attached to the report. 6. That the Monitoring Officer is	To review and amend the Constitution so that it aligns with the current requirements of the Council.

<p>authorised to make such other changes to the Constitution as may be required to reflect the change set out in Recommendation 5 above.</p>	
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2.4 Section 5 – The Cabinet.

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

- Addition of Rules 5.2.3 and 5.2.7 (see page 1 of Section 5) to include the mandatory requirement arising from the Local Government and Elections (Wales) Act 2021 (Section 58 of the Act) that provisions be included in the Constitution for the Leader and Executive Members to be allowed to job share. However, this does not mean that it must be implemented and whether the provision is used will be for a future Leader and Cabinet to decide.
- Amendment of Rule 5.2 7 (see page 1 of Section 5) which cross references the numbers on the Cabinet to Rule 5.2.3 to 5.2.5 (job-sharing).
- Addition of Rules 5.9.1 to 5.9.4 (see page 2 of Section 5) arising from the Local Government and Elections (Wales) Act 2021 (Section 57 of the Act) that the Cabinet may consider appointing Assistants to the Executive. This is not a mandatory requirement and Council has a discretion whether or not to add this facility to the Constitution. The recommendation from DSC is that Constitution should be amended to allow the appointment of Assistants in the future. The addition of this provision to the Constitution merely provides the ability for a future Cabinet to implement this if it so wishes. If Council recommends the addition of Rules 5.9.1. to .5.9.4 to the Constitution, further minor consequential amendments will be required to Sections 7 and 9 (see below). .
- Addition of Rule 5.19.2(see page 5 of Section 5) which amends the rules for the Quorum of a Cabinet where posts are subject to a job-share.
- Addition of Rule 5.20.4 (see page 5 of Section 5) in respect of voting at meetings of a Cabinet where posts are subject to a job-share.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>7. That the amendments to Section 5 of the Constitution are approved as set out in the draft Section 5 attached to the report.</p> <p>8. 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 7 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.5 Section 6 – The Leader.

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

- Addition of Rule 6.13 (see page 2 of Section 6) to comply with Regulation 7 of the Mid Wales Corporate Joint Committee Regulations 2021 which stipulates that

the Leader is the Council's representative on the Mid Wales Corporate Joint Committee..

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>9. That the amendments to Section 6 of the Constitution are approved as set out in the draft Section 6 attached to the report.</p> <p>10. 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 9 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.6 Section 7 – Scrutiny Committees.

The following amendments will only be required if Council decides that the Constitution is amended to introduce the ability of Cabinet to appoint Assistants to the Executive.

- Amendment to Rule 7.11(see page 5 of Section 7) so that Assistants to the Executive as well as Cabinet Members cannot be members of a scrutiny committee in accordance with the Local Government and Elections (Wales) Act 2021.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>11. That the amendments to Section 7 of the Constitution are approved as set out in the draft Section 7 attached to the report.</p> <p>12. 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 11 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.7 Section 9 – Regulatory Committees.

The following amendments will only be required if Council decides that the Constitution is amended to introduce the ability of Cabinet to appoint Assistants to the Executive.

- Amendment to Rule 9.4.4.4 and 9.4.8 (see page 4 of Section 9) in accordance with the Local Government and Elections (Wales) Act 2021 to the effect that the Leader and Assistants to the Executive cannot be members of the Governance and Audit Committee.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>13. That the amendment to Section 9 of the Constitution is approved as set out in the draft Section 9 attached to the report.</p> <p>14. 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 13 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.8 Section 13 – Responsibility for Functions.

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

- Addition of Rule 13.1.8 ((see page 1 of Section 13) to include a Corporate Joint Committee as a decision maker following the establishment of the Mid Wales Corporate Joint Committee.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>15. That the amendments to Section 13 of the Constitution are approved as set out in the draft Section 13 attached to the report.</p> <p>16. 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 15 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.9 Section 20 – Code of Conduct for Employees.

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

- Amending Rules 20.18 and 20.19 (see page 3 of Section 20) to refer staff to guidance which will be located under the HR policies on the Council's intranet in respect of declaring conflicts of interest and declarations of a gift or hospitality. This has arisen from recommendations made by a SWAP report on the disclosures of interests by officers which has required amendments to the Constitution to strengthen and clarify the process for recording disclosures of interest and gifts and hospitality. The forms at the end of this document will be replaced by updated forms placed on the Council's intranet site together with the guidance to officers.

Proposed Recommendation to the County Council:	Reason for Recommendation:
17. That the amendments to Section	To review and amend the Constitution

<p>20 of the Constitution are approved as set out in the draft Section 20 attached to the report.</p> <p>18. 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 17 above.</p>	<p>so that it aligns with the current requirements of the Council.</p>
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2.10 Section 23 – Member Role Descriptions.

The document has been reviewed following revised model role descriptions being received from the Welsh Local Government Association (WLGA). In addition the skills matrix which was included under each section has been removed and the document will need to be read in conjunction with the WLGA's "A Development Framework for Councillors in Wales 2021 (copy attached as an Appendix) which is the updated skills matrix from the WLGA.

Relevant role descriptions and sections of the development framework will be circulated to Members when they undertake roles within the Council and will be used to assist in identifying any individual training needs.

The role description of the Leader has in addition been further amended to include the role of the Council's representative on the Mid Wales Corporate Joint Committee.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>19. That the amendment to Section 23 of the Constitution is approved as set out in the draft Section 23 attached to the report.</p> <p>20. 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 19 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.11 Constitution Guide.

This is a new requirement of the Local Government and Elections (Wales) Act 2021 (Section 45), that the Council published a guide to its constitution. A model document has been prepared by Browne Jacobson solicitors commissioned by the WLGA on behalf of all authorities in Wales. The draft document (attached) has been amended to be relevant to Powys. The Guide does not form part of the Constitution.

The Guide is awaiting a Welsh translation and there is also a link which cannot be included as yet as it is subject to forthcoming Welsh Government Guidance which is currently subject to consultation.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>21. That the draft Guide to the Constitution is approved as set out in the draft document attached to the report.</p> <p>22. 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 21 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.12 For Information – Amendment to Rule 4.53.3 pursuant to Rule 2.7

Rule 2.7 allows the Monitoring Officer to make changes to the Constitution which are of a minor nature or which are required to remove any inconsistency, ambiguity or a typographical correction provided that such changes are reported to the Democratic Services Committee and the next Full Council meeting for information.

Pursuant to Rule 2.7, I have made the following amendment to Rule 4.54:

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

4.53.3 a closure motion under Rule 4.54.5

The amendment was brought to the attention of DSC at its meeting on 21st February 2022.

I have made this amendment as the reference to Rule 4.54.5 in Rule 4.53.3 is a typographical error which brings Rule 4.53.3 into contradiction with Rule 4.42.9 and in any event does not make sense.

Rule 4.42.9 refers to all forms of closure motions under Rule 4.54 as being an allowable motion without notice but as Council we see from the above, the original Rule 4.53.3 suggested that only closure motions under Rule 4.54.5 could only be made without motion. Unfortunately Rule 4.54.5 is not actually a closure motion but sets out the process by a closure motions proposed under Rules 4.54-1 to 2.54.4 should be dealt with.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>23. That Council notes the amendment to Rule 4.53.3 made by the Monitoring Officer under Rule 2.7</p>	<p>To fulfil the requirement of Rule 2.7 to notify DSC and Council of such amendments3.</p>

3. Resource Implications

3.1 The Head of Finance (Section 151 Officer) notes the content of the report. The amendments to the Constitution will not of themselves have any financial

consequences. Job sharing will not have a financial impact as the allowance will be split between the job shares. The appointment of assistants could have financial consequences in the future, but at this point the addition of this provision to the Constitution merely provides the ability for a future Cabinet to implement this if it so wishes. If this is implemented in the future the financial consequences will need to be considered at that time and budget identified to support it.

4. Legal implications

4.1 Legal: the recommendations can be accepted from a legal point of view

4.2 The Head of Legal and Democratic Services (Monitoring Officer) has commented as follows: " I note the legal comment and have nothing to add to the report".

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

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Head of Legal & Democratic Services
Date By When Decision To Be Implemented:	

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