

CYNGOR SIR POWYS COUNTY COUNCIL.

**Democratic Services Committee
8th January 2024**

REPORT AUTHOR: Clive Pinney, Head of Legal Services and Monitoring Officer

REPORT TITLE: Minor Amendments to the Constitution

REPORT FOR: Decision

1. Purpose

1.1 To advise the Democratic Services Committee of minor amendments to the Constitution undertaken by the Monitoring Officer under delegated authority as set out in Rules 2.4, 2.7 and 2.8 of the Constitution and to ask DSC to consider further proposed amendments for consideration at Full Council

2. Minor Amendments made by Monitoring Officer .

Section 18 – Code of Conduct for Members

Rule	Amendment	Reason
18.5.2	<p>Amended version now reads as follows with amendment highlighted:</p> <p>18.5.2 The law on the acceptance of gifts and hospitality is set out in the authority's Code of Conduct for Members [Part 2 - paragraphs 9(b) and Part 3 – paragraph 17] and in the Prevention of Corruption Acts. These requirements are then supplemented by this Protocol which has been adopted by this authority, to provide a clear set of rules for the protection of both Councillors and the authority. Acceptance of a gift or hospitality in breach of the Code, or failure to declare receipt of such a gift or hospitality, can lead to disqualification from holding any public officer for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a</p>	Amended to correct the reference in the Code of Conduct

	heavy fine or up to 7 years' imprisonment.	
18.5.4.1, 18.5.4.2, 18.5.5.1, 18.5.5.2, 18.5.6.1,	Amending references in each Rule from (i) 'paragraph' to 'Rule' and (ii) 'Chairman' to 'Chair'.	Correction of inappropriate wording

Section 20 – Code of Conduct for Employees

Rule	Proposed Amendment	Reason
20.55	Amendment to legislation Deleted 20.55 Legislation, including the Freedom of Information Act 2000, the Data Protection Act 1998, and the Environmental Information Regulations 2004 requires that certain types of information must be made available to the public and other recognised third parties and to employees and Members. Replaced with 20.55 Legislation, including the Freedom of Information Act 2000, the Data Protection Act 2018, and the Environmental Information Regulations 2004 requires that certain types of information must be made available to the public and other recognised third parties and to employees and Members.	Amended to reflect the current legislation

3. Further Proposed Amendments for the Consideration of Democratic service Committee

Section 9 – Regulatory Committees

Rule	Proposed Amendment	Reason
9.4.1	<p>Delete</p> <p>9.4 Governance and Audit Committee.</p> <p>9.4.1 The role, scope and Membership of the Governance and Audit Committee is set out below:</p> <ul style="list-style-type: none"> • Approve the annual audit plan, ensuring there is sufficient and appropriate coverage, with a strong emphasis on risk management and resources are available to implement the plan. <p>Replace with</p> <p>9.4 Governance and Audit Committee.</p> <p>9.4.1 The role, scope and Membership of the Governance and Audit Committee is set out below:</p> <ul style="list-style-type: none"> • Approve on an annual basis the Internal Audit plan, ensuring there is sufficient and appropriate coverage, with a strong emphasis on risk management and alignment with the Corporate Objectives, and that resources are available to deliver the work programme 	<p>The internal audit plan is approved annually but it not an annual plan as it is an agile plan, subject to change throughout the year. The proposed amendment has been requested by the Governance & Audit Committee</p>

Section 18 – Code of Conduct for Members

Rule	Proposed Amendment	Reason
18.5.8.3	<p>Amending the definition of the “Planning Protocol”.</p> <p>Deleted</p> <ul style="list-style-type: none"> • “Planning Protocol” means the Code of Conduct Dealing With Planning Matters/Applications In Respect Of The Planning Service adopted by the County Council on 24th April 2008 	<p>To reflect that the Constitution was previously amended by Council to allow amendments to the Planning Protocol to be made by the Planning, Taxi Licensing & Rights of Way Committee.</p>

	<p>Replaced With</p> <ul style="list-style-type: none"> • “Planning Protocol” means the Planning Protocol approved and reviewed by the Planning, Taxi Licensing & Rights of Way Committee from time to time. 	
<p>18.5.8.3 (i)</p>	<p>Including extracts from the Planning Protocol</p> <p>Amended version now reads as follows with amendment highlighted:</p> <p>18.5.8.3 References to “Precluded Situations” are references to situations where a member MUST NEVER accept any gift or hospitality and are:-</p> <p>(i) situations covered by the Planning Protocol, the relevant extracts of which are for ease of reference reproduced in Annex A to this Protocol;</p> <p>Annex A Extract from the Planning Protocol</p> <p>OBLIGATIONS OF DECISION MAKER 19.28 A Decision Maker in relation to any Planning Application to be determined by the Planning Committee:</p> <p>19.28.5 shall not accept any gifts or hospitality from anyone connected with such Planning Application and take immediate step to register any offers of gifts or hospitality refused in the Register kept for that purpose by the Solicitor to the Council;</p> <p>OBLIGATIONS OF LOCAL REPRESENTATIVE 19.40 A Councillor acting as a Local Representative (whether a member of the Planning Committee or not):</p> <p>19.40.5 Shall not accept any gift or hospitality from anyone connected with the</p>	<p>The current Constitution refers to extracts from the Planning Protocol in Annex A but there is no Annex A in the Constitution . The proposed amendment inserts Annex A as an Annex and clarifies that the Annex is to Section 18 of the Constitution and not to the Planning Protocol</p>

	Planning Application in question and take immediate steps to register any offers of gifts or hospitality refused in the Register kept for that purpose by the Solicitor to the Council.	
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Section 20 – Code of Conduct for Employees

Rule	Proposed Amendment	Reason
20.10a and 20.10b	<p>Proposed insertion of new Rules 20.10a and 20.10b as follows:</p> <p>20.10a As an employee of the Council you are required not to take part in or contribute towards any activity that is or may constitute fraud, bribery or corruption against the Council as not only are these criminal offences but it also undermines the standards of public service and reduces the resources available for the good of the whole community. Such activity, if proven will lead to dismissal and may include criminal proceedings being taken against you.</p> <p>As a Council employee you are also required to be vigilant to any potential threat of fraud, or bribery or corruption; and are required to report any suspicious activity. Powys County Council has a fraud team dedicated to preventing, detecting and investigating fraud, bribery and corruption. If you have concerns you should report those concerns in the first instance to the fraud team confidentially. You may also wish to report your concerns in line with the Councils Whistleblowing policy.</p>	New additions requested by Councils Fraud Team to reflect the obligations on employees in relation to fraud and corruption

	<p>20.10b The Council has an Anti-Fraud Bribery and Corruption Policy which you are required to read and accept as a policy that applies to you. The policy is contained here (add link).</p>	
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Section 21 – Protocol on Member/Officer Relations

Rule	Suggested Amendment	Reason
21.10.1	<p>Delete</p> <p>21.10.1 Members are free to approach employees of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.</p> <p>Replace with</p> <p>21.10.1 Members should approach the relevant Head of Service of the Council to provide them with such information and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent.</p>	<p>Amendment to reflect the current arrangements so as to ensure that members requests for information are provided in a timely manner .</p>

21.10.2	<p>Amend to read as follows (suggested amendment highlighted) :</p> <p>21.10.2 Employees should always endeavour to respond to requests for information promptly and should in any event inform the Member if there is likely to be any appreciable delay in dealing with an enquiry. As a minimum the timescale for responding to correspondence should be observed i.e. either a full response or, if this is not possible, an acknowledgement that fully explains what is happening within [fiveten] working days of the receipt of the enquiry.</p>	<p>Amendment suggested requires a response to 10 days to reflect the position in the Customer Charter (Rule 3.9B) so as to maintain consistency., avoid confusion and to provide a timescale for responses that must be met unless the delay is explained within the timescale</p>
21.21	<p>Amend to read as follows (suggested amendment highlighted) :</p> <p>21.21 The role of staff is to give information to members and assist them in making a decision. The presentations will focus on conveying information and facts rather than on giving an opinion. For the avoidance of doubt information which is essentially service based will be relayed to Members via Area (Shire) meetings Member Development/briefing sessions or whole Council Seminars; only major issues such as those concerning the policy framework, budget or strategic matters will normally be the subject of officer briefings to the Groups.</p>	<p>Amendment suggested to reflect the removal of From Area(Shire) meetings with information now provided in Member development/briefing meetings.</p>

Recommendation

Recommendation to the Democratic Services Committee:	Reason for Recommendation:
1. To note the minor amendments made to the Constitution by the Head of Legal Services and Monitoring Officer as set out in section 2 of the report .	To monitor, review and make minor amendments to the Constitution in accordance with Rules 2.4, 2.7 and 2.8 of the Constitution.
2. To consider each of the proposed amendments to the Constitution as set out in section 3 of the report and to make such recommendations for amendments to Council as the committee considers appropriate .	In compliance of the Council's obligations to ensure that the Constitution is reviewed regularly and remains fit for purpose.

Contact Officer:	Clive Pinney, Head of Legal Services and Monitoring Officer
Tel:	01597 826746
Email:	clive.pinney@powys.gov.uk

Corporate Director:	Emma Palmer- Chief Executive
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