

CYNGOR SIR POWYS COUNTY COUNCIL.

**COUNTY COUNCIL MEETING
30th APRIL, 2014**

REPORT BY: **Solicitor to the Council**

SUBJECT: **Revision to the Constitution**

REPORT FOR: **Decision and Information**

1. Introduction.

- 1.1 The County Council agreed in July, 2013 to move to a new Model Constitution and instructed officers to proceed with its preparation. This work is ongoing with officers preparing draft documents which are being considered by the Constitution Working Group of the Democratic Services Committee, and the Democratic Services Committee itself, prior to the finalised draft documents being considered by the County Council in July 2014.
- 1.2 The Council did also agree that, in the interim if there were urgent amendments required to the current Constitution these would be considered by the Council. This is currently the case and the matters which require amendment are set out below.

2. Amendment to Article 7 relating to the Executive (Cabinet).

- 2.1 The present Leader has established the roles of Deputy Leaders within his Cabinet. There is no current reference within the Constitution for these roles and in order to account for this situation (and to provide that Deputy Leaders can be appointed in future Cabinets) this requires an amendment to the Article 7 of the Constitution.
- 2.2 The provision in the Article not only allows for the appointment of Deputy Leaders but also sets out their role and in particular their role in the event of a vacancy or other occurrence which affects the Leader. A copy of the revised Article is attached as **Appendix 1**.

3. Amendment to Article 12 – Officers.

- 3.1 Within the current Constitution, officers have responsibility for undertaking a range of actions relating to Acts of Parliament which fall within their areas of responsibility. In some cases officers have responsibility for Acts in full, in other for sections within Acts. This position needs to be regularised as this inconsistency is causing difficulty e.g. in relation to highways matters and the issuing of notices, and needs to be addressed. This section also needs amendment to take account of recent appointments to (and departures from) the Council. A copy of the revised pages of the Article is attached as **Appendix 2**.

3.2 The Council has since 1st April, 2014 taken on responsibility for the National Estate Agents Enforcement Function following the demise of the Office of Fair Trading which was set out in “The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading’s Functions in relation to Estate Agents etc) Order 2014”. This statutory responsibility needs to be inserted into Article 12 of the Constitution and has been included in **Appendix 2**.

Recommendation:	Reason for Recommendation:
<p>(i) That the Council approves the revised Article 7 – The Executive for inclusion in the current Constitution.</p> <p>(ii) That the Council approves the revised Article 12 – Officers for inclusion in the current Constitution.</p>	<p>To update and make urgent revisions to the Council’s current Constitution.</p>

Person(s) To Action Decision:	Clive Pinney, Solicitor to the Council.		
Date By When Decision To Be Actioned:	May, 2014		
Relevant Policy (ies):	Council’s Constitution.		
Within Policy:	Y	Within Budget:	Y
Contact Officer Name:	Tel:	Fax:	Email:
Wyn Richards Scrutiny manager	01597 826375	01597 826220	wyn.richards@powys.gov. uk

Article 7 – The Executive

7.1 Role

The Executive will carry out all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

7.2 Form and composition

- (a) The Executive will consist of the Executive Leader together with at least 2, but no more than 9 other councillors appointed to the Executive by the Executive Leader.

7.3 Executive Leader

The Executive Leader will be a Councillor elected to the position of Executive Leader by the County Council and will have authority to delegate the functions of the Leader to one or more deputies selected from the Cabinet.

The Executive Leader will hold office until:

- (a) he / she resigns from the office; or
- (b) he / she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he / she is no longer a Councillor; or
- (d) is removed from office by a resolution of the Council.

Whichever shall first occur.

7.4 Other Executive Members

Other Executive members shall hold office until:

- (a) they resign from office; or
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
- (c) they are no longer Councillors; or
- (d) they are removed either individually or collectively from office by the Executive Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer;

Whichever shall first occur.

The Executive shall not include the Chair, nor Vice-Chair, nor Assistant Vice-Chair of the Council, nor the Chair of any other Committee or Sub-Committee of the authority, nor a member of a scrutiny committee.

7.5 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4, Section 5 of this Constitution.

7.6 Responsibility for Functions

The Executive Leader will maintain a list in Part 3 of this Constitution setting out which individual member of the Executive, committees of the Executive, Area (Shire) Committees, officers or joint arrangements are responsible for the exercise of particular executive functions .

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

7.7 Joint Consultative and Negotiating Committee.

To assist with the discharge of functions relating to HR and Staff the Executive and the relevant Trades Unions have established a Joint Consultative and Negotiating Committee the constitution of which is set out in Part 12 of this Constitution.

7.8 Deputy Leader(s)

7.8.1 The Leader may appoint one or more Cabinet Members to act as Deputy Leader. The Deputy Leader(s) may exercise the functions of the Leader in the event of the resignation, death or long term incapacitation of the Leader. In the event of resignation, death or long term incapacitation of the Leader, the Deputy Leader(s) may exercise the functions of the Leader in accordance with rule 7.8.2 below until a Council meeting is held to elect a new Leader,(such Council meeting to be held as soon as reasonably practicable).

7.8.2 In the event that the Leader appoints more than one Deputy Leader, those Deputy Leaders must decide which of them is to exercise the functions of the Leader in the event of the resignation, death or long term incapacitation of the Leader, and the decision must be notified to the Monitoring Officer in writing within 24 hours of the date of the resignation, death or long term incapacitation of the Leader. Such written notification to the Monitoring Officer must be signed by a majority of the

Deputy Leaders or by both Deputy Leaders in the event that only 2 Deputy Leaders are appointed.

Article 12– Officers

12.1 Management structure

(a) General

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

(b) Chief Officers

The full Council will engage persons for the following posts, who will be designated Chief Officers and such posts will have the functions and areas of responsibility set out below. These Chief Officers together with other officers designated from time to time will comprise the Council's Management Team:

Post	Functions and Areas of responsibility
Chief Executive	<p><u>Statutory Role:</u></p> <ul style="list-style-type: none"> • Head of Paid Service • Interim Chief Education Officer (Pending Welsh Government review of the Education Service) <p><u>Specific Roles:</u></p> <ul style="list-style-type: none"> • Overall corporate management and operational responsibility (including overall management responsibility for all officers); • The provision of professional and impartial advice to all parties in the decision-making process, (the Executive, scrutiny committees, the full council and other committees); • Together with the monitoring officer, responsibility for a system of record keeping for all the authority's decisions (executive or otherwise); • Representing the authority on partnership and external bodies (as required by statute or the council); and • Service to the whole council, on a politically neutral basis. • Communications including Member Support / Member Personal Assistants • Local Service Board and Partnerships (including Community Safety Partnership Team)

Post	Functions and Areas of responsibility
<p>(Pending Appointment to post of Strategic Director – People) Strategic Director – Care and Well-Being.</p>	<p><u>Statutory Role:</u> • Statutory Director of Social Services.</p> <p><u>Service Area Responsibility:</u> ▪ Adult Care ▪ Children ▪ Housing and Public Protection</p>
<p>Strategic Director - People.</p>	<p><u>Statutory Role:</u></p> <ul style="list-style-type: none"> • Statutory Director of Social Services. • Lead Director for Children and Young People's Services <p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> ▪ Commissioning ▪ Wellbeing ▪ Children ▪ Adults ▪ Safeguarding ▪ Housing ▪ Vulnerable People ▪ Social Care
<p>Strategic Director - Place</p>	<p><u>Statutory Role:</u></p> <ul style="list-style-type: none"> • Lead Director for Children and Young People's Services (pending appointment of Strategic Director People) <p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> ▪ Commissioning ▪ Regeneration ▪ Economic Development ▪ Planning and Building Control ▪ Corporate Property and Design Services ▪ Transport ▪ Waste and Recycling ▪ Highways (including highways strategy and design) ▪ Local Environmental Services (but not the Community Safety Partnership Team) ▪ Trading Standards ▪ Environmental Health ▪ Leisure and Recreation - including the following: <ul style="list-style-type: none"> ▪ Youth service ▪ YFC ▪ Leisure (Recreation and Leisure policy, Leisure and Sports Centres, Outdoor Pursuits Centres, Indoor Bowling Centre, Health Intervention Programme, Exercise on Prescription, Cardiac Rehabilitation). ▪ Sports Development (Generic Sports Development, Sports Specific Sports Development – Football, Rugby, Cricket, Netball, Hockey, Disability Sport) ▪ Outdoor Recreation (Parks and Open Spaces, Playgrounds, Sports Pitches – Bowls, Football, Rugby, Woodland Management, Sports Pavilions, Allotments, Landscape Design) ▪ Countryside Services – including <ul style="list-style-type: none"> ▪ Rights of Way, ▪ Maintenance, ▪ Open Access,

	<ul style="list-style-type: none"> ▪ Biodiversity, ▪ Coed Cymru, ▪ Commons Registration, ▪ National Trails, ▪ Catering and Cleaning. ▪ Arts and Culture- including: <ul style="list-style-type: none"> ▪ Theatres, ▪ Galleries, ▪ Museums, ▪ Arts Strategy, ▪ Arts Development, ▪ Theatr Powys / Powys Dance ▪ Libraries and Archives (Public Library Service, Schools Library Service, Archives)
Strategic Director - Resources	<p><u>Statutory Role:</u></p> <ul style="list-style-type: none"> • Chief Financial Officer (Section 151) <p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> ▪ Commissioning ▪ Finance ▪ Human Resources ▪ Procurement ▪ Payroll Services ▪ Legal (excluding Corporate Legal, Monitoring Officer and Chief Legal Officer) ▪ Transactional Services (including Revenues and Benefits, Pensions Administration) ▪ Audit ▪ Employment Services

(c) Deputy Chief Officers.

The Employment 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.

Chief Executive Directorate.

Post	Functions and Areas of Responsibility
<ul style="list-style-type: none"> ▪ Director – Change and Governance incorporating Head of IM&T at the Powys teaching Health Board 	<p><u>Service Area Responsibility:</u></p> <ul style="list-style-type: none"> ▪ Commissioning. ▪ Performance Management ▪ Scrutiny and Democratic Services (including Head of Democratic Services and Cabinet Business Manager) ▪ Information Technology, Management and Compliance, ▪ Customer Services ▪ Electoral Registration ▪ Complaints Management ▪ Registration of Births, Deaths and Marriages ▪ Land Charges. ▪ Ombudsman. ▪ Members' Standards and Ethical Issues. ▪ Coroner's Service. ▪ Organisational Development ▪ Workforce Development ▪ Corporate Legal Team (including Solicitor to the Council, incorporating the roles of Monitoring Officer and Chief Legal Officer)

People Directorate.

Post	Functions and Areas of Responsibility
<p>Head of Children's Services</p>	<ul style="list-style-type: none"> ▪ Youth Offending Service. ▪ Commissioning and Policy for Children's Services. ▪ Local Safeguarding Children's Board. ▪ Children with Disabilities including Residential Respite Unit. ▪ Family Placement Teams. ▪ Children's Social Work Teams. ▪ Children and Young People's Partnership ▪ Childcare. ▪ Adoption. ▪ Leaving Care. ▪ Out of Hours Service ▪ Corporate Parenting
<p>Head of Housing and Commissioning</p>	<ul style="list-style-type: none"> ▪ Emergency Planning. ▪ Community Safety. ▪ Public Sector Housing (Landlord function). ▪ Housing Strategy (Affordable Housing, Supporting People). ▪ Homelessness. ▪ Private Sector Housing

Head of Adult Services	<ul style="list-style-type: none"> ▪ Mental Health. ▪ Older People. ▪ Disabled People. ▪ Learning Disabilities. ▪ Carers Services. ▪ Substance Misuse. ▪ (Operational services covers both care management and provider services). ▪ Commissioning and Contracting ▪ Adult Social Services Policy Interpretation and Development. ▪ Meals on Wheels ▪ Domiciliary Care
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Place Directorate.

Post	Functions and Areas of Responsibility
Head of Regeneration, Property and Commissioning	<ul style="list-style-type: none"> ▪ Regeneration Services ▪ Economic Development ▪ Business Services ▪ Workshop portfolio ▪ Business Grants ▪ Business Advice. ▪ Tourism and Marketing Services ▪ Tourist Information Service ▪ European Matters ▪ European funds ▪ European policy ▪ Powys Regeneration Partnership and Rural Development Plan ▪ External funding ▪ Community Regeneration ▪ Community Enablement Fund/Welsh Church Acts ▪ Communities First ▪ Development and Planning Policy, input into regional planning policy development. ▪ Development Management and Planning Control. ▪ Minerals and Waste Planning. ▪ Designation and enhancement of Conservation Areas. ▪ Listed Building control and advice. ▪ Built Heritage Conservation grants. ▪ Designation and safeguarding of trees the subject of Tree Preservation Orders. ▪ Planning Enforcement. ▪ Building Control, including health and safety of buildings, dangerous structures. ▪ Street naming and numbering service. ▪ Corporate Property ▪ County Farms Estate
Head of <u>Operations</u> <u>Highways,</u> <u>Transport and Recycling</u>	<ul style="list-style-type: none"> ▪ Building/Highways Structures Design. ▪ Contract/Procurement/Administration and Supervision. ▪ Highways Maintenance (Technical Advice). ▪ Statutory Compliance/Building Maintenance Operations. ▪ Servicing Contracts and testing. ▪ Highways Maintenance Operations (e.g. Winter Maintenance). ▪ Fleet Management (including Fuel Management). ▪ Street Cleaning (Operational). ▪ Public Conveniences (Operational). ▪ Grounds Maintenance (Operational).

	<ul style="list-style-type: none"> ▪ Markets (Operational). ▪ Refuse Collection ▪ Statistics and Analysis Research ▪ Transport Planning and Policy ▪ Traffic management ▪ Road safety ▪ Highways Development Control ▪ Transport Co-ordination ▪ Highway asset Management ▪ Network management ▪ TRACC ▪ Land Drainage ▪ Street Cleaning (Policy & Strategy) ▪ Public Conveniences (Policy & Strategy) ▪ Grounds Maintenance (Policy & Strategy) ▪ Markets (Policy & Strategy) ▪ Waste management ▪ Car parks ▪ Trunk Road Agency ▪
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Resources Directorate.

Post	Functions and Areas of Responsibility
Head of Professional Services and Commissioning	<ul style="list-style-type: none"> ▪ Finance. ▪ Procurement ▪ Legal (excluding Corporate Legal, Monitoring Officer and Chief Legal Officer) ▪ Human Resources – including: <ul style="list-style-type: none"> ▪ Human Resources Advice, Strategy—?, and Policy Development-? ▪ Occupational Health and Safety. ▪ Internal Audit
Head of Business Services	<ul style="list-style-type: none"> ▪ Payroll ▪ Revenues and benefits ▪ Pensions Administration ▪ Finance Support Services

Post	Functions and Areas of Responsibility
Head of Schools Supported by: Ceredigion's Schools Service pending further review	<ul style="list-style-type: none"> ▪ Lifelong Learning (adult continuing education inc Welsh for Adults) ▪ Special Educational Needs ▪ Exclusions ▪ Attendance ▪ Education other than at school ▪ Looked after children ▪ English as an additional language ▪ Migrant and Traveller Children ▪ Admissions ▪ Education Welfare Service ▪ Hearing Impaired / Visual Impaired Service ▪ School Effectiveness Framework ▪ School Modernisation

	<ul style="list-style-type: none"> ▪ Powys Training ▪ Race Equality ▪ School transport ▪ Child Protection ▪ Behaviour management ▪ Complementary education ▪ Education Psychology ▪ Monitoring, challenging and supporting schools and providing intervention when necessary ▪ Support for teaching and learning ▪ Support for leadership and management including governance ▪ Provision of and support for use of data ▪ Early years education ▪ Welsh Medium/ Bilingual Education ▪ Welsh Education scheme ▪ 14-19 Learning Pathways ▪ Basic skills strategic intervention programme ▪ Advising on Head Teacher Appointments ▪ National Professional Qualification for Headteachers ▪ Professional Headship Induction Programme ▪ Support for Acting Headteachers ▪ Self Evaluation and Improvement Planning ▪ Performance Management and Threshold ▪ Inclusion Standard ▪ Professional Learning Communities Arts Strategy ▪ More Able and Talented ▪ PE and School Sports ▪ Foundation Phase Curriculum ▪ Healthy Schools Initiative ▪ Special Educational Needs Tribunals ▪ Effective Home Education ▪ Arts Strategy
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(d) Departmental Structure.

The Head of Paid Service will recommend and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 15 of this Constitution.

- (e) Details of Statutory and Proper Officer Posts are set out in paragraph 12.2 below.
- (f) Further provisions relating to the functions of Statutory Officer Posts are detailed in paragraph 12.3 below.
- (g) Provisions relating to the functions delegated to officers are detailed in Part 3, Section 4 (Responsibility for Functions), the Officer Employment Procedure Rules detailed in Part 4, Section 9, the relevant employment policies of the Council contained on the Powys County Council Intranet, the Contracts Procedure Rules detailed in Part 4, Section 8 and the Financial Procedure Rules detailed in Part 4, Section 7 of this Constitution.

12.2 Appointment of Statutory and Proper Officers

- (a) In this Constitution the posts set out below shall be the designated Statutory and Proper Officer Posts for the Council and those posts shall undertake the specific responsibilities attached to the role of the specific Statutory and Proper Officer.
- (b) In the event of any Officers mentioned below being for any reason unable to act or of any of their posts being 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.
- (c) 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, for the time being, been made.
- (d) The Council has designated the following Statutory Officer Posts as follows:

Statutory Officers

Legislation	Section	Statutory Officer	Allocated To
Local Government and Housing Act 1989	S4	Head of Paid Service	Chief Executive
Local Government and Housing Act 1989	S5	Monitoring Officer	Solicitor to the Council
Local Government Act 1972	S151	Chief Finance Officer	Chief Financial Officer
Local Authority Social Services Act 1970	S6	Director of Social Services	Strategic Director – Care and Well-Being / Strategic Director - People
Education Act 1996	S532	Chief Education Officer	Chief Executive (pending Welsh Government review of the Education Service)
Children Act 2004	S27	Lead Director for Children and Young People's Services	Strategic Director – Place (pending appointment of Strategic Director – People)

(e) The Council has designated the following Proper Officer Posts as follows:

Proper Officers

Legislation	Section	Provision	Proper Officer
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.			Chief Executive
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.			Chief Executive
Registration Services Act 1953	S9(1) S3(b) S13(2)(h) S20(b)	Registration of Births, Deaths and Marriages	Chief Executive
Registration Services Act 1953		Registration of Births, Deaths and Marriages Regulations 1968 - 1994	Chief Executive
Local Government Act 1972	S89(1)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive

The Local Elections (Parish and Communities) (England and Wales) Rules 2006	Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006	Rule 46, 47	Receipt from Returning Officer of election documents	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006	Rule 48, 49, 51	Retention of election documents and making them available for public inspection	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006		Receipt from Returning Officer of names of persons elected to Town and Community Councils in the County of Powys	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006		Receipt from Returning Officer of election documents	Chief Executive
The Local Elections (Parish and Communities) (England and Wales) Rules 2006		Retention of election documents and making them available for public inspection	Chief Executive
Elections	N/A	Registration Officer for any constituency or part of a constituency coterminus with or contained in the County of Powys	Chief Executive
Elections	N/A	Returning Officer for the election of Councillors for the County Council of Powys	Chief Executive
Elections	N/A	Returning Officer for the election of Town and Community Councillors for Town and Community Councils in the County of Powys	Chief Executive

Local Government and Housing Act 1989	S2	Receipt of list of Politically Restricted Posts	Chief Executive
The Local Authorities (Standing Orders) (Wales) Regulations 2005	Regs 6 and Schedule 3, Part 4	Provisions relating to the appointment and dismissal of, and taking disciplinary action against, staff	Chief Executive or by an officer(s) nominated by the Chief Executive
Local Government Act 1974	S30(5)	Notice of Local Government Ombudsman report	Monitoring Officer
Local Government Act 1972	S115(2)	Receipt of money due from Officers	Chief Financial Officer
Local Government Act 1972	S146(1) (a) & (b)	Declarations and certificates with regard to securities	Chief Financial Officer
Local Government Act 1972	S210(6) & (7)	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	Chief Financial Officer
Local Government Act 1972	S228(3)	Accounts - to be open for inspection	Chief Financial Officer
Local Government Act 1972	N/A	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	Chief Financial Officer

Local Government Act 1972	N/A	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	Chief Financial Officer
Council Tax (Administration and Enforcement) Regulations 1992	Reg 7	Service of Attachment of Earnings Orders	Chief Financial Officer

Local Government Finance Act 1988	S114	Powers to prevent unlawful expenditure and an unbalanced budget	Chief Financial Officer
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Local Government Act 1972	S83(1)-(4)	Witness and receipt of declaration of acceptance of office	Monitoring Officer
Local Government Act 1972	S84	Receipt of declaration of resignation of office	Monitoring Officer
Local Government Act 1972	S88(2)	Convening of meeting of Council to fill casual vacancy in office of Chair/Mayor	Monitoring Officer
Local Government Act 1972	S96(1)	Receipt of notices of pecuniary interests	Monitoring Officer
Local Government Act 1972	S94 & 96(2)	Keeping of record of disclosures and notice of pecuniary interests	Monitoring Officer
Local Government Act 1972	S100(B)(2)	Circulation of reports and agendas	Monitoring Officer
Local Government Act 1972	S100(B)(7)	Supply of papers to press	Monitoring Officer
Local Government Act 1972	S100(C)(2)	Summary of minutes	Monitoring Officer
Local Government Act 1972	S100(D)(1)(a)	Compilation of background papers	Monitoring Officer
Local Government Act 1972	S100(D)(5)(a)	Identification of background papers	Monitoring Officer
Local Government Act 1972	S100(F)	Identification of confidential documents not open to Members	Monitoring Officer
Local Government Act 1972	S225(1)	Deposit of documents	Monitoring Officer
Local Government	S229(5)	Deposit of documents	Monitoring Officer

Act 1972		- certification	
Local Government Act 1972	S234(1)	Authentication of documents	Monitoring Officer
Local Government Act 1972	S236(9) & (10)	Service of Byelaws on other Authorities	Monitoring Officer
Local Government Act 1972	S238	Certification of Byelaws	Monitoring Officer
Local Government Act 1972	Schedule 14 Para 25(7)	Certification of resolutions - Para 25	Monitoring Officer
Local Government Act 1972	S248 (2)	Keeping roll of Freeman	Monitoring Officer
Local Government Act 1972	Schedule 12 Para 4(2)(b)	Signature of summons to Council	Monitoring Officer
Local Government Act 1972	Schedule 12 Para 4(3)	Receipt of notices regarding addresses which Summons to meeting are to be sent	Monitoring Officer

Local Government (Miscellaneous Provisions) Act 1976	S41	Certification of copies of resolutions, Minutes, other documents	Monitoring Officer
Local Government and Housing Act 1989	S19	Members interests - notification	Monitoring Officer
Local Government and Housing Act 1989	S15, 16, 17	Receipt of notices relating to Political Groups	Monitoring Officer

National Assistance Act 1948	All	Public Health (misc)	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
National Assistance (Amendment) Act 1951	All	Public Health (misc)	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
Local Authorities Cemeteries Order 1977	All	Officer of the burial authority	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
Local Authorities Cemeteries Order 1977	All	Registrar for various matters relating to cremation Health and to nominate a Medical Referee and Deputy Referees under the regulations	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)

Public Health (Control of Diseases) Act 1984 (as amended by the Social Care Act 2008 and associated regulations)	S48(1) S50(2)(b) S51(1) <u>All</u>	Control of Diseases (various)	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
The Health Protection (Notification)(Wales) Regulations 2010	<u>All</u>	Infectious Diseases	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
The Health Protection (Part 2A Orders)(Wales) Regulations 2010	<u>All</u>	Infectious Diseases	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
Weights and Measures Act 1985	S72 <u>All</u>	Chief Inspector and (Weights Measures)	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
Environmental Protection Act 1990	S149 <u>All</u>	Stray dogs	Head of Local and Environmental Services (pending appointment of Head of Regeneration, Property and Commissioning)
<u>The Public Bodies (Abolition of the National Consumer Council and Transfer of the Office of Fair Trading's Functions in relation to Estate Agents etc) Order 2014</u>	<u>All</u>	<u>National Estate Agents Enforcement Function</u>	<u>Head of Regeneration, Property and Commissioning</u>

Local Government Act 1972	S191	Functions in respect of Ordnance Survey	Head of Operations <u>Highways, Transport and Recycling</u>
Highways Act 1980	S37(5) <u>All</u>	Deposit of Certificate of Dedication or copy order	Head of Highways, Transport and Recycling <u>Head of Operations</u>
Highways Act 1980	S38	Power of highway authority to adopt by agreement	Head of Highways, Transport and Recycling <u>Head of Operations</u>
Highways Act 1980	S205(3)	Preparation of	Head of Highways,

		specification estimate and provisional appointment	Transport and Recycling Head of Operations
Highways Act 1980	S205(3)	Certification of copies of resolution and approved documents	Head of Highways, Transport and Recycling Head of Operations
Highways Act 1980	S210(2)	Certifications of document giving details of estimate and consequential amendment of provisional appointment	Head of Highways, Transport and Recycling Head of Operations
Highways Act 1980	S211(1)	Making final appointment	Head of Highways, Transport and Recycling Head of Operations
Highways Act 1980	S216(2) & (3)	Settlement of proportion of amount	Head of Highways, Transport and Recycling Head of Operations
Highways Act 1980	S278	Agreements as to execution of works	Head of Highways, Transport and Recycling Head of Operations
Building Act 1984	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 Head of Operations
Building Act 1984	S78 All (except S61(2))	To exercise the powers conferred on the local authority to take emergency measures in relation to dangerous buildings and structures.	Strategic Director - Place

12.3 Functions of Statutory Officers

12.3.1 Functions of the Head of Paid Service

(a) Discharge of functions by the Council

The Head of Paid Service will recommend to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) Restrictions on functions

The Head of Paid Service may not be the monitoring officer but may hold the post of chief finance officer if a qualified accountant.

12.3.2 Functions of the Monitoring Officer

(a) **Maintaining the Constitution**

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

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or the Executive in relation to an executive function, if he or she 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.

(c) **Supporting the Standards Committee**

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

(d) **Receiving reports**

The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.

(e) **Conducting investigations**

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

(f) **Proper officer for access to information**

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

(g) **Advising whether decisions of the Executive are within the budget and policy framework**

The Monitoring Officer and Chief Finance Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

(h) **Providing advice**

The Monitoring Officer and 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.

(i) **Power to Appoint to Committees and Outside Bodies.**

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.

(j) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.3.3 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making**

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 Executive in relation to an executive function, and the Council's external auditor if he or she considers that 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.

(b) **Administration of financial affairs**

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

(c) **Contributing to corporate management**

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

(d) **Providing advice**

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 and will support and advise councillors and officers in their respective roles, and in particular will advise whether decisions of the Executive are in accordance with the budget.

(f) **Give financial information**

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

12.3.4 Functions of the Director of Social Services

(a) **Protocol – Responsibility for Social Services Functions**

The areas of responsibility of the Director of Social Services are detailed in this protocol contained in Part 7, Section 2 of this Constitution.

12.3.5 Functions of the Chief Education Officer

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

12.3.6 Lead Director for Children and Young People's Services

Strategic management responsibility for ensuring that the Authority meets the

requirements of Section 27 of the Children Act 2004.

12.3.7 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

12.4 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer / Member Relations set out in Part 7, Section 1 of this Constitution.

12.5 Employment

The recruitment, selection and dismissal of officers will comply with the Officer Employment Standing Orders set out in Part 4, Section 9 of this Constitution, and the relevant employment policies of the Council contained on the Powys County Council Intranet.

12.6 Indemnities for Officers

The former Board and the County Council 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 Part 10 of this Constitution.