

CYNGOR SIR POWYS COUNTY COUNCIL.

**County Council
09 December, 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 09 December 2021. These revisions were considered and approved at a meeting of the Democratic Services Committee on 3rd December, 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:

- Deleting the definition for the "Head of Paid Service" and replacing it with a definition for "Chief Executive" as the Council will no longer have a Head of Paid Service in accordance with the Local Government and Elections (Wales) Act 2021. This has meant consequential changes to 11 other Sections of the Constitution which can be dealt with by the Monitoring Officer as minor changes.
- Addition of a definition for "Council Term". This has meant consequential changes to other sections of the Constitution which previously referred to a 4 year term of office. The term of a Council is now set at 5 years from 2022 in accordance with the Local Government and Elections (Wales) Act 2021.

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 4 – Full Council.

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

- Addition of Rule 4.39.9 following the Council decision in September 2021, that any motions to Council must include a costed analysis of the financial and resource implications. The amendment means that if a costed analysis of the financial and resource implications is not included with a motion then it can be rejected by the Chair on the advice of the Monitoring Officer. The Democratic Services Committee have decided to review the operation of the need to provide financial and resource implication after a period of 12 months has elapsed.
- Amendment to Rule 4.49.2.1 to include a timetable for the receipt of motions and amendments which allows time for the costed analysis of the financial and resource implications of an amendment to be prepared and approved prior to the motion and amendment being considered by the Council. In essence the amendment requires motions to be submitted (with financial implications having been previously agreed by the S151 officer) at least 3 weeks before a Council meeting instead of the current 2 weeks. The extra time is to allow for the financial implications of amendments to be considered.

Motions and Amendments to Motions	These are calendar days
Last day for Receipt of Motions with confirmation from S151 Officer that a costed analysis of the financial and resource implications of the Motion has been received and agreed in accordance with Rule 4.39.9	-21 days before the day of Council
Chair to Agree Motion is compliant with the Constitution	-18 days before the day of Council
Members advised of Motions approved by the Chair on a Confidential basis	-18 days before the day of Council
Time for proposed amendments and financial consequences of Amendments to be discussed with S151 Officer	-17 to -3 days before the day of Council
Last date for Receipt of Amendment approved by Section 151 Officer	-2 days before the day of Council
Chair to Agree Amendment	- 1 day before the day of Council
Council	

- Amendment of Rule 4.37.1 which reflects Rule 4.39.9 about every motion requiring a costed analysis of the financial and resource implications of that motion, as well as Rule 4.49.2.1 which sets out the timetable for the receipt of motions and amendments before the date of the Council meeting where the motion is to be considered.
- Addition of Rule 4.49.2.2 which relates to amendments to budget proposals (including alternative budget proposals). This also links to amendments to Section 15 (Budget Procedure Rules). The addition means that once the Cabinet budget and any alternative budgets have been published for a meeting of the Council with the agenda, then no amendments to either budget (Cabinet or alternative) will be allowed unless (i) they arise during the debate and (ii) they do not negate or change the material substance of the original proposal.

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

2.3 Section 7 – Scrutiny Committees.

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

- Addition of Rule 7.6.8 so that every Committee is required to regularly review the effectiveness of its meetings and undertake an annual self assessment exercise as part of the annual review of the Council's performance. This is required as a result of the Audit Wales Review of scrutiny arrangements in Powys and the Local Government and Elections (Wales) Act 2021.
- Rule 7.12.1 – reducing the numbers of parent governor representatives on the Learning and Skills Scrutiny Committee to the statutory minimum of two and amending the areas they would cover to primary / special schools and secondary / all through schools. This has been discussed with the Chairs and Vice-Chairs of the Scrutiny Committee and their views will be reported verbally to the Committee.
- Addition of Rule 7.12.1.4 to comply with the statutory regulations that the term of office for Co-opted Members on the Learning and Skills Scrutiny Committee is a maximum of four years.
- Addition of Rule 7.12.6 with the effect that a Co-opted Member cannot become a Vice-Chair of a scrutiny committee or represent the Council on an outside body.
- Rule 7.15 – amendment to reflect current practice for the suggestion of scrutiny topics to be added to the committee's forward work programme.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>5. 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>6. 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 5 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.4 Section 8 – The Standards Committee.

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

- Addition of Rule 8.8.15 to add the responsibility to the Committee's remit to monitor compliance by political group leaders of steps taken to promote and maintain high standards of conduct by members of their group.
- Addition of Rule 8.8.16 in accordance with the Local Government and Elections (Wales) Act 2021 that a Standards Committee must make an annual report to Council and detailing what the annual report must contain as required by the Local Government and Elections (Wales) Act 2021

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

2.5 Section 9 – Regulatory Committees.

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

- Addition of responsibilities to the role of the Governance and Audit Committee arising from the Local Government and Elections (Wales) Act 2021 in respect of reviewing:
 - the Council's draft self assessment report,
 - the Council's draft Panel Performance Assessment,
 - Auditor General's report following a special inspection.

Similar amendments are being made to Section 13.

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

2.6 Section 11 – Officers.

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

- Amending the role of the Chief Executive to reflect the requirement of the Local Government and Elections (Wales) Act 2021, namely removing the role of Head of Paid Service and adding other responsibilities defined in the Act.
- Amending various references to the "Head of Paid Service" to "Chief Executive" throughout the Section. This in addition makes consequential changes to the Easy Guide to the constitution and Sections 3, 5, 6, and 26 which can be dealt with by the Monitoring Officer as minor changes.
- Amending in Rules 11.17 and 11.30 the restrictions on which officers can undertake certain roles in accordance with the Local Government and Elections (Wales) Act 2021 so that in future the Monitoring Officer may be the Head of Democratic Services e.g. Monitoring Officer (Rule 11.17) and Head of Democratic Services (Rule 11.30)

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>11. That the amendments to Section 11 of the Constitution are approved as set out in the draft Section 11 attached to the report.</p> <p>12. 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 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 13 – Responsibility for Functions.

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

- Addition of responsibilities to the role of the Governance and Audit Committee arising from the Local Government and Elections (Wales) Act 2021 (Pages 35 and 36) in respect of reviewing reports and the Council's responses to:
 - the Council's draft self assessment report,
 - the Council's draft Panel Performance Assessment,
 - Auditor General's report following a special inspection.

Similar amendments are being made to Section 9.

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

may be required to reflect the change set out in Recommendation 13 above.	
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2.8 Section 15 – Budget Procedure Rules.

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

- Amendments in respect of consideration of the budget and alternative budgets (Rules 15.2.1; 15.2.2 and 15.3). This means that a timetable will be published by the Section 151 Officer by 31st July of each year, setting out the budget process, the date for the submission of alternative budgets, and timescales for the scrutiny of both the Cabinet and alternative budgets.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>15. That the amendments to Section 15 of the Constitution are approved as set out in the draft Section 15 attached to the report.</p> <p>16. 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 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 16 – Financial Procedure Rules.

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

- A full review of this Section has been undertaken by the Finance Service. It has been updated to reflect changes to responsibilities and titles of officers, and amended to reflect current practice and legislation together with some tidying up. Some of the narrative has been amended to provide greater clarity and has as far as possible been future proofed so that the Rules remain compliant with regulations and will not need regularly updating. There are no major changes.

Proposed Recommendation to the County Council:	Reason for Recommendation:
<p>17. That the amendments to Section 16 of the Constitution are approved as set out in the draft Section 16 attached to the report.</p> <p>18. 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 17 above.</p>	<p>To review and amend the Constitution so that it aligns with the current requirements of the Council.</p>

2.10 Section 18 – Code of Conduct for Members.

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

- Addition to the General Provisions under Part 2 of the Members' Code of Conduct (Para 2(1)(e) of the responsibility of political group leaders to take reasonable steps to promote and maintain high standards of conduct by members of their group. This becomes a requirement for group leaders in observing the Members' Code of Conduct.

Proposed Recommendation to the County Council:	Reason for Recommendation:
19. That the amendment to Section 18 of the Constitution is approved as set out in the draft Section 18 attached to the report. 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.	To review and amend the Constitution so that it aligns with the current requirements of the Council.

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

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Wyn Richards
Date By When Decision To Be Implemented:	

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Background Papers used to prepare Report: