

# Article 1 – The Constitution

*References:*

*Section 37, Local Government Act 2000*

*Chapter 8, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001*

*The Local Government Act 2000 (Local Authority Constitutions) (Wales) Direction 2001*

## **1.01 Powers of the Council**

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

## **1.02 The Constitution**

This Constitution, and all its appendices, is the Constitution of the Caerphilly County Borough Council.

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community through the most effective and co-ordinated use of the Council's services and the Council's decision-making processes.

## **1.03 Interpretation and Review of the Constitution**

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will monitor and evaluate the operation of the Constitution as set out in Article 15.

# Article 2 – Members of The Council

## References:

*Part I, Part VA and Section 79, Local Government Act 1972*

*Chapter 2, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001*

*Section 18, Local Government and Housing Act 1989 and regulations made under this Act*

*Section 7, Superannuation Act 1972 and regulations made under the Act.*

## 2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 73 members, otherwise called councillors. These councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Boundary Commission in Wales and approved by the National Assembly.
- (b) **Eligibility.** Only registered voters of the county borough council or those living or working in the area will be eligible to hold the office of councillor.

## 2.02 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every five years. The terms of office of councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

## 2.03 Roles and functions of all councillors

- (a) **Key roles.** All councillors will:
  - (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions including representing the Council on other bodies;
  - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making by the council and its partnerships;
  - (iii) effectively represent the interests of their electoral division and of individual constituents;
  - (iv) respond to constituents' enquiries and representations, fairly and impartially;
  - (v) participate in the governance and management of the Council;
  - (vi) maintain the highest standards of conduct and ethics;

- (vii) where appropriate refer a local Crime & Disorder matter (as defined by S.19 of the Police & Justice Act 2006) to the Partnerships Scrutiny Committee as an Agenda item for discussion at a meeting of the Committee;
  - (viii) lead on proposals relating to best interests and the wellbeing of the local community and future generations in accordance with the principles of the Well-being of Future Generations Act 2015.
- (b) **Rights and duties**
- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
  - (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a councillor or officer entitled to know it.
  - (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.

## **2.04 Conduct**

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

## **2.05 Allowances**

Councillors will be entitled to receive salaries, expenses and allowances as set out in the Councillors' Salaries, Expenses and Allowances Payments document in Part 6 of this Constitution as determined by the Independent Remuneration Panel (Part 8 Section 141-160 and Schedules 2 and 3 of the Local Government (Wales) Measure 2011).

## **2.06 Family Absence for Members of Local Authorities**

Members will observe the Family Absence for Members of Local Authorities Protocol set out in Part 5 of this Constitution.

## **2.07 Member Training and Development**

Members will observe the Members Training and Development Protocol set out in Part 5 of this Constitution.

# Article 3 – Citizens and The Council

## 3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution:

### (a) Voting and petitions.

Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.

### (b) Information.

Citizens have the right to:

- (i) attend meetings of the Council, the Executive and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
- (ii) find out from the forward work programme what decisions will be taken by the executive or Council and which issues the overview and scrutiny committees will be considering, and when these matters will be discussed;
- (iii) see reports and background papers, and any records of decisions made by the Council and the executive; and
- (iv) inspect the Council's accounts in accordance with provisions made in Acts of Parliament and make their views known to the external auditor.

### (c) Complaints.

Citizens have the right to complain :

- (i) to the Council itself under its Corporate Complaints Procedure (leaflets are available describing this);
- (ii) to the Ombudsman about any injustice they have suffered as a result of maladministration, but they are encouraged to use the Council's own complaints scheme first;
- (iii) to the Ombudsman where they believe a member or co-opted member of the council has breached the Member's Code of Conduct.

### (d) Welsh Language

Under the Welsh Language Standards, citizens have the right to:-

- (i) receive council services through the Welsh language;

- (ii) receive the same standard of service in Welsh as they would expect to receive in English;
- (iii) have their language preference respected, whether that preference is English or Welsh.

### **3.02 Citizens' responsibilities**

Citizens must not be violent, abusive or threatening to councillors or officers and must not willfully harm things owned by the council, councillors or officers.

# Article 4 - The Full Council

## References:

*The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales ) Regulations 2001*  
*Chapters 2,3 and 4, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001*

## 4.01 Meanings

### (a) Policy Framework.

The policy framework means the following plans and strategies for the county borough together with decisions taken from time to time by the Council on matters affecting policy.

The Public Services Board's Well-being Plan  
Council's Corporate Plan and Well-being Objectives  
Regeneration Strategy  
Local Development Plan  
Corporate Plan

### (b) Budget.

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### (c) Housing Land Transfer.

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

## 4.02 Functions of the full Council

Only the Council may exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the

policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;

- (d) appointing the leader and the Cabinet portfolios (not the Cabinet members);
- (e) agreeing and/or amending the terms of reference for committees, sub-committees, panels and boards, deciding on their composition and making appointments to them;
- (f) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (g) adopting or amending an allowances scheme;
- (h) changing the name of the area, conferring the title of honorary alderman or freedom of the county borough ;
- (i) making or confirming the appointment of the head of paid service;
- (j) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (k) all local choice functions set out in Part 3 of this Constitution which the Council decides should be undertaken by itself rather than the executive; and
- (l) all other matters which, by law, must be reserved to Council.

#### **4.03 Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings

and they will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

#### **4.04 Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the executive.

# Article 5 - Chairing The Council

## *References:*

*Sections 22, 23; Schedule 12; Local Government Act 1972  
Schedule 3, Local Government Act 2000*

### **5.01 Role and function of the chair of the council**

The Mayor of council and in their absence, the Deputy Mayor will have the following roles and functions:

The Mayor will be elected by the Council annually. The Mayor will have the following responsibilities:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the executive and committee chairs can be held to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Council and he/she determines appropriate
7. to carry out duties as required under The Family Absence for Members of Local Authorities (Wales) Regulations 2013 in accordance with the Family Absence for Members Protocol set out in Part 5 of this Constitution

# Article 6 - Overview and Scrutiny Committees

The overview and scrutiny function is central to new constitutions. The Assembly Guidance makes clear that overview and scrutiny committees should be powerful committees which meet in public to discuss and make recommendations on the improvement and development of policies and hold the executive and officers exercising delegated powers to account for their actions. They will also have a key role in considering other matters of local concern.

## 6.01 Terms of reference

The Council will appoint the overview and scrutiny committees set out in the left hand column of the table below to oversee and scrutinise the discharge of the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table, whether these cover one or more service area responsibilities and will include certain delegated power decisions, as listed in Article 13.

### References:

Section 21 and Schedule 1 (Paragraphs 7,8,10 and 11), Local Government Act 2000  
Chapter 4 and 6, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001

The Police & Justice Act 2006 required Local Authorities to establish a Crime & Disorder Committee which was brought into effect in Wales on 1st October 2009. The Council's Partnerships Scrutiny Committee has the additional function conferred by the Police & Justice Act 2006.

The Well-being of Future Generations (Wales) Act 2015 requires the Council to formally collaborate with the Local Health Board, South Wales Fire & Rescue Authority and Natural Resources Wales as a Public Services Board for the geographical area of the Council and to use the sustainable development principle to meet the wellbeing duty/goals under the Act. The Act requires the Council to designate a Scrutiny Committee to scrutinize the work of the Public Services Board. The Council agreed on 12th May 2016 to re-designate the Council's Policy & Resources Committee (sitting as the Crime & Disorder Committee) as the Partnerships Scrutiny Committee to take on the additional responsibilities to scrutinize the Public Services Board. The Partnerships Scrutiny Committee will continue to scrutinize the work of the Safer Caerphilly Community Safety Partnership as required under the Police & Justice Act 2006.

In considering membership of such committees, due regard will be paid to the potential contribution of community stakeholders outside the council. Overview and scrutiny committees for education functions will comply with the provisions of paragraphs 8, 9, 10 and 11 of schedule 1 to the Local Government act 2000 (i.e. include church and governor and parent governor representatives as voting appointed members of committees with education as all or part of their remit).

| <b>Terms of Reference: Policy and Resources Scrutiny Committee (also the Council's Partnerships Scrutiny Committee)</b> |   |
|---|---|
| Public Services Board (PSB) Well-being Plan   | <p>The Well-being Plan is the shared strategic vision for the county borough developed by the PSB through its partners; Caerphilly County Borough Council, South Wales Fire and Rescue Service, Natural Resources Wales, Aneurin Bevan University Health Board, Gwent Police, the Gwent Police and Crime Commissioner, Welsh Probation bodies, Public Health Wales, Gwent Association of Voluntary Organisations and Welsh Ministers.</p> <p>It identifies that this vision will be achieved by the delivery of the PSB's Well-being Objectives for the county borough.</p> <p>Greener Caerphilly</p> <p>Under each of these Objectives a range of Priorities have been identified for action.</p>  |
| Corporate Plan and well-being objectives  | <p>The Council's own well-being objectives contribute to the overall vision of the PSB.</p>   |
| Education and Corporate Services Directorate Responsibilities   | <p>To act as general overview and scrutiny committee for the Council</p> <p>The proper financial planning budgeting and control of the Authority's resources</p> <p>Council's Policies</p> <p>The development and implementation of the Council's corporate policies and themes.</p> <p>The delivery of service to achieve the Council's strategic objectives</p> <p>The implementation of Wales Programme for Improvement across the Authority in accordance with the provisions of the Local Government (Wales) Measure 2009</p> <p>Information Communication, Technology &amp; Customer Services</p> <p>Human Resources</p> <p>Corporate Finance</p> <p>Electoral Services</p> <p>Legal Services</p> <p>Internal Audit Services</p> <p>Procurement Services</p> <p>Democratic Services</p> |

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|  | <p>Corporate Health and Safety including liaison with the Health and Safety Executive</p> <p>Performance Management</p> <p>Overview of all policy and finance issues considered by the Executive</p> <p>Equalities and Welsh Language</p> <p>Any other matter or topic which properly falls to an Overview &amp; Scrutiny Committee function but not allocated specifically to any other of the Council's named Scrutiny Committees</p>  |
| Directorate of the Communities Responsibilities  | Emergency Planning   |
| <b><u>The Policy &amp; Resources Scrutiny Committee has the following specific terms of reference when acting as the Partnerships Scrutiny Committee</u></b> | <p>Partnerships Scrutiny Committee</p> <p>The Committee is responsible for the scrutiny of the Public Services Board (PSB) as set out in the Well-being of Future Generations (Wales) Act 2015. The Committee is also responsible for the scrutiny of the Safer Caerphilly Community Safety Partnership (SCCSP) as required under the Police and Justice Act 2006.</p> <p>Membership of Committee</p> <p>The Committee will be comprised of the following Members:</p> <ul style="list-style-type: none"> <li>• Policy &amp; Resources Scrutiny Committee Members</li> <li>• Co-Opted Members</li> </ul> |
|  | <p>The Committee will invite co-opted representatives from each of the PSB statutory partner agencies:</p> <p>1 non-executive, non-Councillor representative of Aneurin Bevan University Health Board</p> <p>1 non-executive representative from the Natural Resources Wales Board</p> <p>1 non-executive representative from the South Wales Fire &amp; Rescue Authority</p> <p>1 additional co-opted member from each of the following:-</p>   |

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|  | <p>An equalities/Welsh language organisation</p> <p>A disability organisation</p> <p>The Youth Council</p> <p>Giving a Committee membership of 16 Councillors, 6 co-opted members (3 statutory partner agencies and 3 others as listed above). In addition up to 6 Invited Representatives as outlined below.</p> <p>Invited Representatives</p> <p>In order to ensure that the Scrutiny Committee has the benefit of additional expert knowledge and expertise from the wider partnership arena, a standing invitation will be extended to the following organisations, seeking a representative who is not a Public Services Board member.</p> <p>Gwent Association Voluntary Organisation</p> <p>Office of the Police and Crime Commissioner</p> <p>Aneurin Bevan Community Health Council</p> <p>Wales Community Rehabilitation Company</p> <p>Wales National Probation Service</p> <p>Welsh Government.</p> <p>Witnesses</p> <p>In order to carry out its role the committee will need to consider evidence to fulfil its statutory scrutiny function. The committee can seek additional information and invite expert witnesses. The following organisations will be invited to give evidence, alongside other witnesses identified by the committee.</p> <p>Chair and Members of Public Services Board</p> <p>PSB Partner Organisations Lead Officers</p> <p>Chair of the Safer Caerphilly Community Safety Partnership</p> <p>SCCSP Partnership Organisations Lead Officers</p> <p>Terms of Reference</p> |
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|  | <p>The Terms of Reference for the Partnership Scrutiny Committee are as follows:</p> <p><b>Public Services Board</b></p> <ul style="list-style-type: none"> <li>• To provide a 'critical friend' challenge to the Public Services Board.</li> <li>• To scrutinise and evaluate the decisions and actions of the Public Services Board acting in partnership.</li> <li>• To review the governance arrangements of the Public Services Board.</li> <li>• To submit reports to the Public Services Board (as appropriate) in respect of its functions or governance arrangements and make recommendations for consideration and adoption.</li> <li>• To consider matters relating to the Board as the Welsh Ministers may refer to it and report to Welsh Ministers accordingly.</li> <li>• Carry out other functions in relation to the Board that are imposed on it by the Act.</li> </ul> <p><b>Crime &amp; Disorder</b></p> <p>To scrutinise the work of the SCCSP and the partners ("responsible authorities") who comprise it 'insofar as their activities relate to the partnership itself'. In other words, Members' scrutiny role relates only to the work done by the SCCSP.</p> <p>The role includes:</p> <ul style="list-style-type: none"> <li>• To consider actions taken by the responsible authorities on the SCCSP.</li> <li>• To consider Councillor Calls for Action.</li> <li>• To make reports or recommendations to the Council and or others and monitor those recommendations.</li> </ul> <p><b>Scrutinizing Partnership Activity</b></p> <p>The Committee does not have statutory powers to scrutinize partners individually. It can only scrutinize activity taken in partnership when working collaboratively.</p> |
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**Cabinet Members Reporting to Policy and Resources Scrutiny Committee:**

**Relevant Cabinet Member(s). For more information in relation to the portfolios of Cabinet posts please see Article 7.**

| <b>Terms of Reference: Education Scrutiny Committee</b> |  |
|---|--|
| Directorate of Education and Corporate Services         | The discharge of the Council's obligations as Local Education Authority under statute and regulation.  |
|   | The preparation and scrutiny of statutory education and lifelong learning strategic plans, relevant Council Well-being Objectives and Directorate Performance  |
|   | To monitor the performance of the Education Achievement Service in relation to the delivery of the Raising Standards Agenda including monitoring, support and challenge in inverse proportion to success, delivered by the EAS on behalf of the Authority *. |
|   | *Local Management of Schools and Fair Funding.   |
|   | Forward planning re. school places, , school admissions and student awards.  |
|   | Inclusion Services which involve Learning Support Services, educational psychology, education welfare, behavioural support and managing pupil exclusions.  |
|   | *Governor support and training.  |
|   | *Welsh Language Education.   |
|   | *Agreed RE Syllabus.<br>SACRE<br>* means delivered by the EAS with statutory duty retained by the Council  |
|   | Joint Services via Gwent VI Service.   |
|   | National Grid for Learning Cymru.  |
|   | Adult Community Learning Partnership   |
|   | Lifelong learning, and community education.  |
|   | Public Library Service.  |
|   | Music Service.   |
| Securing grants.  |  |
| Youth Service   |  |

**Cabinet Members Reporting to Education Scrutiny Committee:**

**Relevant Cabinet Member(s). For more information in relation to the portfolios of Cabinet posts please see Article 7.**

| <b>Terms of Reference: Social Services Scrutiny Committee</b> |  |
|---|--|
| Directorate of Social Services Responsibilities               | Provision of Children's & Adults Social Care under statute |
|   | Provision of advice, guidance and support.                 |
|   | The assessment, care planning and reviewing of all         |

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|   | support packages for service users meeting the defined eligibility thresholds in line with current legislation regulation and statutory guidance |
|   | Commissioning and contracting for Social Services  |
|   | The preparation and scrutiny of statutory social services plans, relevant Council Well-being Objectives and Directorate Performance              |
| Directorate of Communities Responsibilities | Social Services Transport Operations   |

**Cabinet Members Reporting to Social Services Scrutiny Committee:**

**Relevant Cabinet Member(s). For more information in relation to the portfolios of Cabinet posts please see Article 7.**

**Terms of Reference: Environment and Sustainability Scrutiny Committee**

|   |   |
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| Directorate of Communities Responsibilities   | The preparation and scrutiny of statutory plans, relevant Council Well-being Objectives and Directorate Performance |
|   | Waste Collection, Waste Treatment & Disposal and Street Cleansing   |
|   | Burials, Cemeteries and Bereavement Services  |
|   | Highways Maintenance  |
|   | Street Lighting   |
|   | Engineering Services  |
|   | Land Drainage   |
|   | Fleet Management & Maintenance  |
|   | Parks & Outdoor Spaces Facilities   |
|   | Leisure & Sports Development  |
|   | Public Conveniences   |
|   | Public Transport  |
|   | Land Reclamation & Tips   |
|   | Road Safety   |
|   | Traffic Management (including Traffic Regulation Orders & Notices)  |
|   | Highway Development Control   |
|   | Car Parking   |
|   | Civil Engineering Design & Procurement  |
|   | Structures  |
|   | Transportation & Planning Improvements  |
| Public Health (including infectious diseases and health promotion/education)                              |   |
| Food Safety Enforcement   |   |
| Pollution Control (including noise, litter and illicit tipping, air and water quality, contaminated land) |   |
| Public Health (statutory nuisance and sewer/drains)   |   |

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|  | Trading Standards   |
|  | Health and Safety of commercial premises                  |
|  | CCTV & Community Safety Wardens                           |
|  | Pest Control, Dog Warden, Animal Trespassing Services     |
|  | Animal Health and Welfare Enforcement                     |
|  | Licensing   |
|  | Registrar of Births, Deaths, Marriages/Civil Partnerships |
|  | Building Cleaning   |
|  | Catering  |
|  | Community Centres   |
|  | Property Services   |
|  | Corporate Asset Management                                |

**Cabinet Member Reporting to The Environment and Sustainability Scrutiny Committee:**

**Relevant Cabinet Member(s).** For more information in relation to the portfolios of Cabinet posts please see Article 7.

| <b>Terms of Reference: Regeneration and Housing Scrutiny Committee</b> |   |
|--|---|
| Directorate of the Social Services Responsibilities                    | Housing Strategy  |
|  | Private Sector Housing  |
|  | Public Sector Housing   |
|  | Public Sector Housing   |
|  | Delivery of Welsh Housing Quality Standards   |
|  | Housing Repair Operations   |
| Directorate of Communities   | Planning – Strategic & Development Plan Policy  |
|  | Planning – Urban Renewal & Town Centre Management   |
|  | Planning – Development & Building Control (excluding those matters set out in the Terms of Reference of the Planning Committee) |
|  | Planning – Countryside & Landscape Services   |
|  | Economic Development & European Programme Funding   |
|  | Arts Development  |
|  | Tourism and Heritage  |

Cabinet Member Reporting to the Regeneration & Housing Scrutiny Committee:

Relevant Cabinet Member(s). For more information in relation to the portfolios of Cabinet posts please see Article 7

**6.02 General role** (which may be discharged by the Committee itself or by appointing task and finish groups to examine an issue and report to the Committee for decision).

(a) Within their terms of reference, overview and scrutiny committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
  - ii) make reports and/or recommendations to the full Council and/or the executive and/or any joint committee in connection with the discharge of any functions;
  - iii) consider any matter affecting the area or its inhabitants; and
  - iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the executive.
  - v) monitor the operation and performance of individual services, the Council's services and appropriate external bodies, including joint committees.
  - vi) comment on draft budgets
  - vii) examine performance monitoring information.
  - viii) consider relevant Councillor Calls for Action
- (b) With their terms of reference, overview and scrutiny committees may:
- i) assist the Council and the executive in the development of its budget and policy framework by in-depth analysis of policy issues;
  - ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
  - iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
  - iv) question members of the executive and/or officers about their views on issues and proposals affecting the area;
  - v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
  - vi) question and gather evidence from any person (with their consent).
- (c) **Finance.** Overview and scrutiny committees may exercise overall responsibility for the finances made available to them.
- (d) **Annual report.** Overview and scrutiny committees must report annually to full Council on their workings and report future work programmes and amended working methods if appropriate.
- (e) **Officers.** Overview and scrutiny committees may exercise overall responsibility for the work programme of the officers employed to support their work.

### **6.03 Proceedings of overview and scrutiny committees**

Overview and scrutiny committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

### **6.04 Delegated powers**

- a) Each Overview and Scrutiny Committee has delegated to it all those matters falling within that Committee's terms of reference;
- b) Those powers delegated to an Overview and Scrutiny Committee may also be exercised by the Chief Executive or a Director or a Head of Service after consultation with the Chair or Vice-Chair of the appropriate Committee.

# Article 7 – The Executive

## THE ROLE OF THE EXECUTIVE

The Rules of Procedure in Part 4 of this constitution set out how the executive will operate. These include arrangements for meetings, scheme of delegation and sub-delegation of functions.

*References:*

*Section 11 and Schedule 1, paragraphs 1,2,3, Local Government Act 2000  
Chapter 4 and 6, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001  
Wellbeing of Future Generations Act 2015*

### 7.01 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, and will have a collective responsibility for the well-being of the local community and future generations.

### 7.02 Form and composition

The executive will consist of the executive leader appointed by the Council together with nine councillors appointed to the executive by the executive leader and holding the following portfolios:

1. Deputy Leader Finance Performance & Governance (to include the role of Older Persons Champion)
2. Deputy Leader Economy, Infrastructure and Sustainability (to include the role of Future Generations Champion)
3. Cabinet Member Social Care and Wellbeing
4. Cabinet Member Education and Achievement
5. Cabinet Member Environment and Public Protection
6. Cabinet Member Neighbourhood Services
7. Cabinet Member Homes and Places
8. Cabinet Member Corporate Services

***Finance Performance & Governance Portfolio includes (this list is not exhaustive), the following:-***

- The proper financial budgeting and control of the Authority
- Legal Services
- Electoral Services
- Internal Audit Services
- Policy & Performance including equalities and Welsh language Executive link to Democratic Services including Member training
- Corporate Governance

***Economy Infrastructure & Sustainability Portfolio includes (this list is not exhaustive), the following:-***

- Deputy representative on City Deal Joint Cabinet
- Economic Development and Regeneration
- Sustainability/Well-being of Future Generations
- Tourism & Cultural Facilities
- Strategic Highways and Maintenance
- Integrated Transport Plan – Highways, Rail, Metro and other forms of transport
- Member of regional transport authority
- Flood and water management including land drainage
- Street lighting
- Transport including Education and Social Services transport operations
- Land reclamation and tips
- Traffic management including car parking, traffic regulation orders and notices
- Digital infrastructure

***Social Care & Well-being Portfolio includes (this list is not exhaustive) the following:-***

- All aspects of the provision of adult social care and services
- All aspects of the provision of children's social care and services
- Integration with health services

***Education & Achievement Portfolio includes (this list is not exhaustive), the following:-***

- The discharge of the Council's statutory obligations as Local Education including (but not limited to) preparation and scrutiny of strategic education plans, forward planning, re: school places and admission, local management of schools and fair funding and learning support services
- Executive link to EAS
- Public library service
- Youth service
- Adult learning (including community education)
- Youth engagement/liaison with youth forum

***Environment & Public Protection Portfolio includes (this list is not exhaustive), the following:-***

- Planning – the proper operation of development services and building control (excluding applications to the authority)
- Public protection
- Environmental health
- Licensing
- Community safety
- Emergency planning
- Registration services
- Catering services

***Neighbourhood Services Portfolio includes (this list is not exhaustive), the following:-***

- Waste & recycling
- Cleansing
- Sport & leisure services
- Parks, recreation and outdoor sports facilities
- Country parks and countryside services
- Community centres
- Building cleansing
- Fleet management and vehicle maintenance
- Burial, cemeteries and bereavement services

**Homes & Places Portfolio includes (this list is not exhaustive), the following:-**

- Public sector housing
- Delivery of Welsh housing quality standards
- Private housing including enforcement issues
- Homelessness
- Executive link with Housing Quality Task group issues
- Corporate assessment management
- Property services

**Corporate Services Portfolio includes (this list is not exhaustive), the following:-**

- All aspects of the Council's functions as an employer (other than the appointment of staff) including the oversight of recruitment, terms and condition of employment, conduct and disciplines, structural review and consequences thereof
- Oversight of HR
- Council business management
- Information and Technology services
- Customer services
- Procurement services
- Corporate health and safety
- Communications

### **7.03 Leader**

The leader will be a councillor elected to the position of leader by the Council. The 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) he/she is removed from office by resolution of the Council

#### **7.04 Other executive members**

Only councillors may be appointed to the executive. Neither co-optees nor substitutes for executive members is permitted. Although the Assembly Guidance notes that local authorities are free to have deputy cabinet members, it also points out that they are unable to substitute for a member of the executive at a cabinet meeting nor vote on behalf of the cabinet member for whom they deputise. Neither the chair nor vice chair of the Council may be appointed to the executive and members of the executive (including the leader) may not be members of an overview and scrutiny committee.

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 from office by the leader who must give written notice of any removal to the Council's Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

#### **7.05 Deputy cabinet members**

The Council has decided that there will be no post of deputy cabinet members other than two deputy leaders.

#### **7.06 Proceedings of the executive**

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

#### **7.07 Responsibility for functions**

The leader will maintain a list setting out which individual members of the executive, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions as set out in Part 3 of this Constitution.

(Note: the Council has decided that there will not be a delegation of powers to individual Cabinet members).

## **Article 8 – Regulatory & Other Committees**

Planning and licensing are not executive or board functions. Councils will therefore need to create committees to undertake these functions under powers delegated from full Council. These are called "regulatory committees". The Council has also established

- (1) an Audit Committee
- (2) a Democratic Services Committee

### **8.01 Regulatory and other committees**

The Council appoints the following committees with the Terms of Reference and delegated powers to the Committees and to officers, as set out on the following pages:-

**a) PLANNING COMMITTEE**

**Terms of Reference**

To discharge the functions of the Caerphilly County Borough Council in relation to all aspects of the following:

1. To exercise the functions of the Council as local planning authority
2. Without prejudice to the generality of the foregoing to discharge the following:
  - a) Development management and all aspects of planning enforcement
  - b) Advertisement Control
  - c) Building Preservation Notices
  - d) Tree Preservation, Felling Licences
  - e) Building Regulations
  - f) Dangerous structures and derelict sites.
  - g) Listed Building Control.
  - h) Access for disabled people
  - i) Street naming and numbering.
  - j) Minerals Planning - Policy control and enforcement
3. The institution of legal proceedings or the defence of legal proceedings in respect of infringements of legislation common law or procedures falling within the Terms of Reference of this Committee.
4. Power to take any action on behalf of the Council in relation to any matter within this Committee's Terms of Reference, where such action is necessary to protect the Council's interests and delay would significantly prejudice the attainment of the object in view.
5. Contracts and other expenditure within the Committee's Terms of Reference, where there is an existing relevant expenditure approved by the Council and subject to the Council's Standing Orders and Financial Regulations.
6. Power to authorise appropriate officers, in consultation with the Chairman and Vice Chairman, and if deemed necessary after seeking the views of appropriate members, to discharge any of this Committee's functions on behalf of the Committee.

PROVIDED THAT:

- (a) All matters relating to policy where there is no existing relevant policy decision of the Council shall be referred to the Cabinet for recommendation to the Council;
  - (b) All matters relating to financial expenditure where there is no existing relevant expenditure approved by the Council shall be referred to the Cabinet for recommendation to the Council.
  - (c) In the event that it appears to the Committee that a matter under consideration is also within the jurisdiction of another committee of this Council then the matter shall be referred to the Cabinet for a determination as to which committee shall determine the matter.
  - (d) Proposed virements within the revenue budgets agreed by the Council in excess of the sum fixed from time to time by the Council must be referred to the Cabinet for recommendation to the Council.
  - (e) Where the Head of Regeneration & Planning or the Planning Services Manager is prevented from supporting at a Public Inquiry the Committee's reasons for refusal then the member or members who promoted the decision will, if called upon to do so by the Head of Legal Services, appear as one of the Council's witnesses.
7. The Council at its meeting held on 8th May, 2014 agreed that the current restrictions within Standing Orders, which prohibits a meeting for sitting longer than four hours be removed from the Planning Committee, subject to a requirement on the Committee to take appropriate breaks, so as to ensure the comfort of those participating in the meeting.

POWERS DELEGATED TO THE COMMITTEE

All those matters listed above within the Committee's Terms of Reference subject to the Challenge Procedure.

POWERS DELEGATED TO THE COUNCIL'S OFFICERS

|   |   |
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| <p>1. The determination by the Head of Regeneration &amp; Planning or the Planning Services Manager of all enforcement matters under the Town and Country Planning Act 1990 and associated legislation, other than</p> <ul style="list-style-type: none"> <li>(a) any case that any Member requests in writing to the Head of Regeneration &amp; Planning within 21 days of the publication of the weekly list containing the latest cases shall be determined only after consultation with the Chair and Vice-chair of the Planning Committee and local Member(s)</li> <li>(b) any case where it is recommended</li> </ul> | <p>Head of Regeneration &amp; Planning or Planning Services Manager</p> |
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| <p>that it is not expedient to take enforcement action but the resulting development would be contrary to the Council's planning policies shall be determined only after consultation with the Chair and Vice-chair of the Planning Committee and local Member(s)</p> <p>(c) cases which in the opinion of the officers are likely to be controversial or of significant public interest or should in any event be determined only after consultation with the Chair and Vice-chair of the Planning Committee and local Member(s)</p> <p>(d) cases where the decision would conflict with an objection received from a statutory consultee shall be determined only after consultation with the Chair and Vice-chair of the Planning Committee and local Member(s)</p> |   |
| <p>2. Emergency action on behalf of the Council in relation to any matter within the Committee's Terms of Reference where such action is necessary to protect the Council's interests and delay in bringing the matter before the Committee would significantly prejudice the attainment of the object in view</p>   | <p>The Director or the Head of Regeneration &amp; Planning or the Planning Services Manager in consultation with the Chairman and the Vice Chairman of the Committee</p>                                      |
| <p>3. The institution of legal proceedings in respect of any matter within the Committee's Terms of Reference and the defence of legal proceedings instituted against the Council</p>  | <p>Head of Legal Services or any Principal Solicitor or the Head of Regeneration &amp; Planning or the Planning Services Manager in consultation with the Head of Legal Services or any Senior Solicitor.</p> |
| <p>4. Service of Building Preservation Notices</p>   | <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p>   |
| <p>5. Approval or refusal of plans under Building Regulations</p>  | <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p>   |
| <p>6. Completion certificates for guarantee purposes</p>   | <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p>   |
| <p>7. Enforcement action under Building Regulations, dangerous structures and ruinous and dilapidated property</p>   | <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p>   |
| <p>8. Determination of dates upon which duly authorised enforcement notices take</p>   | <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p>   |

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|     | effect   |   |
| 9.  | Approval of minor amendments to approved plans or relaxation of Building Regulations   | Head of Regeneration & Planning or the Planning Services Manager  |
| 10. | Receipt of planning applications, determination of fees, extension of time for determination of planning applications  | Head of Regeneration & Planning or the Planning Services Manager  |
| 11  | Any action under the terms of a confirmed Tree Preservation Order, or any issue relating to Tree Felling Licences below 10 hectares.   | Head of Regeneration & Planning or the Planning Services Manager. |
| 12. | Signing on behalf of the Council all notices required in accordance with decisions, determinations and enforcements within the Terms of Reference of this Committee  | Head of Regeneration & Planning or the Planning Services Manager  |
| 13. | Any steps required in connection with the progressing of appeals to the Secretary of State against the decision of the local planning authority.   | Head of Regeneration & Planning or the Planning Services Manager  |
| 14. | Serving of notices for the proper maintenance of waste land.   | Head of Regeneration & Planning or the Planning Services Manager  |
| 15. | Making any necessary determinations under Regulations 5,6,7,10 and 25 of The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 or any amendment thereto.  | Head of Regeneration & Planning or the Planning Services Manager  |
| 16. | Conservation Area consent including demolition of buildings or extension thereto.  | Head of Regeneration & Planning or the Planning Services Manager  |
| 17. | In consultation with the Chairman and Vice-Chairman of the committee to correct or amend consents to take account of errors or omissions or minor amendments not considered at the committee which do not significantly affect the nature of the decision taken for the consent granted. | Head of Regeneration & Planning or the Planning Services Manager  |
| 18. | <del>The determination of all applications for</del>   |   |



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| <p>planning application where a Member has requested in writing on material planning grounds to the Head of Regeneration &amp; Planning within the 21day consultation period that the application should be considered by the Planning Committee.</p> <p>(c) Departure Applications - any application where it is recommended that permission be granted contrary to the Council's Planning Policies.</p> <p>(d) Officer Referral - any application which in the opinion of the Head of Regeneration &amp; Planning or the Planning Services Manager has a community wide impact, is of strategic significance or should in any event be determined by the Planning Committee.</p> <p>(e) Any planning application submitted by any officer of the Council involved in the planning process or a Councillor.</p> <p>19 The consideration of details and schemes submitted pursuant to a condition applied to a planning permission in accordance with Section 72 of the Town and Country Planning Act 1990, apart from details and schemes submitted as 'reserved matters' as defined by Article 2 of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012</p> <p>20. Discharging all other day to day aspects of the functions listed within the Committee's Terms of Reference which power shall be exercised by the appropriate Director or Head of Regeneration &amp; Planning or the Planning Services Manager after consultation with the Chairman and Vice Chairman of the Committee</p> | <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p> <p>Head of Regeneration &amp; Planning or the Planning Services Manager</p> |
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Explanatory note for delegations under paragraph 18 above.

For the purposes of criteria (a) of the above proposed scheme of delegation a major planning application is as defined in the Town and Country Planning (Development Management Procedures) (Wales) Order 2012 (DMPWO) namely:

- a proposal to erect 10 or more dwellings
- where the number of dwellings is not known (outline applications), the application site exceeds 0.5 hectares
- where the application site exceeds 1 hectare
- where proposed buildings/extensions create a floor area exceeding 1000 square metres
- winning and working of minerals
- waste development

For the purposes of criteria (b) whilst the call-in procedure is a fundamental and important part of the democratic process, unnecessary 'call-ins' can lead to unreasonable delay. Therefore, where it is considered that a Member or Members is/are unreasonably calling in planning applications or otherwise potentially abusing the 'call-in' process, the Chair and Vice-chair, in consultation with relevant Ward Member(s), will have the authority to withdraw any "call-in" request. The decision of this panel is final.

For the purposes of criteria (e) an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or give advice or support to Officers or Councillors involved in the planning process or could be perceived to be involved in the planning process.

#### CHALLENGE PROCEDURE

1. This Procedure is only available in respect of development control and associated matters where this Committee has delegated powers.
2. This Procedure is only available to any member not a member of the Planning Committee who is unable to attend the meeting of the Planning Committee at which the particular matter the subject of the challenge is to be considered for the first time.
3. Any Challenge should wherever possible be submitted within 21 days of the appearance of the matter in the Council's weekly list of applications but in any event no later than 48 hours before the time appointed for the meeting at which the matter is to be considered.
4. The Challenge shall:
  - (a) be in writing and
  - (b) be sent to the Chief Executive to be received by him no later than 48 hours before the date fixed for the meeting and
  - (c) shall be in the following form:

***"I am of the opinion that permission should be granted/refused/granted subject to the following conditions: .....for the following reason(s): ..... If the***

***Planning Committee does not resolve accordingly, I require its decision to be deferred to the next meeting of the Planning Committee"***

## **GUIDELINES FOR SITE VISITS**

### **Purpose of site inspections**

- 1 Site inspections are fact-finding exercises to allow members to make a more informed decision than would be possible from reading the officer's report and considering the views expressed at the Planning Committee meeting.
- 2 The sole purpose of site inspections is to allow the chairperson and vice-chairperson and other members to look at the site and its surroundings. In conducting the site visit, the members will not formally debate the application, express a prior opinion, lobby for any particular decision or come to any decision.

### **Requests for Committee site inspections**

- 3 If Members wish an application to be reported to Planning Committee and be the subject of a site visit, they should advise the case officer or in his/her absence any other officer of the Development Management Team in writing (including email) within 21 days of receiving the weekly list of planning applications.
- 4 Site visits should be allowed on the basis of a request from either the chairperson or vice-chairperson, or from any local member including an adjoining ward Councillor whether or not a member of the committee. It is expected that local members will already be familiar with the site. Members are encouraged to go to the sites themselves, discuss proposals with officers, and look at the presentation that officers now email to Planning Committee Members before Committee.
- 5 Site visits may also be arranged, at the behest of the Head of Planning and Regeneration or Development Control Manager when they consider that there are particular site issues that members should be aware of prior to the determination of the application.

### **Criteria for agreeing to hold site inspections**

- 6 Any request for a formal site visit will have to comply with the following criteria:-
  - Illustrative material is insufficient to convey the issues;
  - A judgement is required on visual impact;
  - The setting and surroundings are relevant to the determination of the application;
  - The site has not been visited recently by the Planning Committee in relation to another planning application.
- 7 Requests for formal site visits made at Planning Committee will only be allowed in exceptional circumstances, e.g. where a Councillor is incapable of notifying officers of the need for a site visit when the application for planning permission was first publicised.

Examples where a site visit would not normally be appropriate include where:

- The member simply disagrees with the conclusion reached in the report.

- The member wishes to consider boundary or neighbour disputes.
- Loss of property values
- Any issues that are not material planning considerations.
- Where councillors have already visited the site within the last 12 months, except in exceptional circumstances.

Where there is any dispute about the need for a site visit, the final decision will be taken by the Chair and/or Vice-Chair of the Planning Committee in consultation with the Head of Planning and Regeneration and/or the Development Control Manager.

### **Notification of site visits**

- 8 All site visits will take place on the Monday before Planning Committee for applications being reported to that Committee. Where it is impractical to undertake all approved site visits on the Monday before the Planning Committee, the visit/s may take place on any day subject to the visit/s taking place before the Planning Committee to which the application/s is/are being reported. All Members (subject to declarations of interests) will be entitled to attend the site visits, and all Planning Committee Members will be encouraged to attend.

Committee Services will arrange the site visits, but will not attend to take minutes. A brief note will be prepared by Planning Officers and will be presented to the Planning Committee, confirming that a site visit has taken place and providing a summary of any additional information received or matters arising from the site visit.

### **Attendance At Site Inspections**

- 9 Site visits will normally be attended by the chairperson and vice-chairperson of Planning Committee, ward members and appropriate officers. All Members (subject to declarations of interest) will be encouraged to attend the site visits and all Planning Committee Members will be encouraged to attend.
- 10 Members may through the chairperson ask questions of officers to clarify factual matters relevant to the site inspection.
- 11 If a request is received from a third party to inspect the site from a different location, the members, as a group, should take the view whether to do so. Unless there are good reasons not to do so, such a request should normally be acceded to but only if all participants at the site inspection are extended the same invitation.
- 12 Members may only enter onto the site with the permission of the site owner who has the right of attendance at the site inspection.
- 13 The public does not have a right of access to a site but may attend and view the site by way of public vantage points or on site with the consent of the owner.
- 14 Applicants, their agents and members of the public, will not be allowed to speak at

the site visits apart from providing matters of information or clarification; the informal meeting with the public that has become the part of the customer practice of the Council will end so that the site visits are undertaken in a more formal manner.

- 15 If a member finds it necessary to visit a site alone, he or she shall view it from public vantage points only, seek to avoid discussion with interested parties and, if dialogue occurs, make it clear that a decision will be taken when the Planning Committee has discussed it after the site inspection.
- 16 **Members are reminded that the rules of declarations of interest apply to site visits, and that if a member has an interest that would require the member to withdraw from a Planning Committee, the member is not entitled to attend the site meeting.**

#### **Conduct at site inspections**

- 17 The inspection will be chaired by the chairperson or vice chair of the Planning Committee who will ensure that it is conducted as a single meeting and in an orderly fashion.
- 18 The planning officer will give a brief summary of the application and the site inspection issues at the beginning of each site visit.
- 19 Members of the Planning Committee attending the site inspection shall not make comments that would create an impression that they have already formed a view on the merits of the application.
- 20 Members of the Planning Committee shall not discuss the application, other than to clarify issues of fact, and shall not make a decision while on site.
- 21 Non-Committee members may address their colleagues on issues of fact pertaining to the site context.

## **LICENSING AND GAMBLING COMMITTEE**

## Terms of Reference

1. To discharge the functions of a licensing committee as required by the Licensing Act 2003 and the Gambling Act 2005 and to authorise, approve or determine any enforcement matters under the Acts;

### POWERS DELEGATED TO THE COMMITTEE

All those matters referred to in paragraph 1 above, including a power to delegate to a sub-committee the power to determine matters within the Committee's Terms of Reference.

### POWERS DELEGATED TO OFFICERS

| POWER   | DELEGATED TO   |
|---|--|
| All matters arising from the exercise of the Committee's terms of reference (to include the power to issue licences and permits), with the power to establish one or more sub-committees in accordance with Section 9 of the Licensing Act 2003, and powers under the Gambling Act 2005 and power to delegate its functions under the Licensing Act 2003, and under the Gambling Act 2005 to a sub-committee or to an officer of the authority. | The Chief Executive or a Director or a relevant Head of Service or any of the following officers:-<br>Licensing Manager & Assistant Licensing Manager, Senior Licensing Administrator, Licensing Administrator<br>Trading Standards, Licensing & Registrars Manager<br>Environmental Health Manager<br>*Senior Trading Standards Officer<br>*Senior Environmental Health Officer<br>*Trading Standards Officer<br>*Senior Fair Trading Officer<br>* Environmental Health Officer<br>*Senior Commercial Safety Officer<br>*Commercial Safety Officer<br>*Fair Trading Officer<br>*Enforcement Officer (Officers marked * where appropriate are appointed under Section 19(1) of the Health and Safety at Work Act 1974 or any statutory amendment thereto)] |
| The following officers are designated as authorised for the purposes of the Licensing Act 2003, and of the Gambling Act 2005 and are given delegated powers to act in that capacity.  | Head of Public Protection<br>Environmental Health Manager<br>Trading Standards Licensing & Registrars Manager<br>Licensing Manager<br>Assistant Licensing Manager<br>Senior Environmental Health Officer<br>Environmental Health Officer<br>Senior Trading Standards Officer<br>Trading Standards Officer<br>Senior Fair Trading Officer<br>Fair Trading Officer<br>Scientific Officer   |

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|  | Senior Commercial Safety Officer<br>Commercial Safety Officer<br>Community Safety Wardens<br>Enforcement Officer |
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The Council on the 24<sup>th</sup> January 2017 approved the following procedural matters in relation to the Licensing and Gambling Committee and the Licensing and Gambling sub-committee, including a procedural change to the Council's Standing Orders, as follows: -

- (a) the quorum for the Licensing and Gambling sub-committee is two. Every effort will be made to maintain the sub-committee at three members present when dealing with an application but there will inevitably be some circumstances where a member is unable to attend at the last minute and a substitute cannot be found or a member part way through needs to declare an interest and withdraw from the hearing. In accordance with our Standing Orders, the chairman will have a casting vote.
- (b) that members serving on the Licensing and Gambling sub-committee will be drawn in rotation from the whole of the Licensing and Gambling Committee. This will allow each member an equal opportunity to contribute to the work of the Committee and will hopefully ensure a fairness to members in the demands being made on them to sit;
- (c) that the chair and vice-chair of the Licensing and Gambling Committee are not automatically on the Licensing and Gambling sub-committee but will be part of the normal rotation;
- (d) that the current restriction within Standing Orders which prohibits a meeting sitting for longer than four hours be removed from applying to the Licensing and Gambling Committees or its sub-committee, subject to a requirement on the committee to take appropriate breaks so as to ensure the comfort of those participating in the meeting.

## TAXI AND GENERAL COMMITTEE

### Terms of Reference

1. To discharge on behalf of the Council all matters relating to the grant, refusal, issue, revocation, cancellation and suspension of licences or permits and without prejudice to the generality of the foregoing to discharge these functions in respect of:
  - a) Private Hire Operators.
  - b) Private Hire and Hackney Carriage Drivers.
  - c) Private Hire Vehicles.
  - d) Hackney Carriage
  - e) Hypnotism
  - f) Lottery Registrations
  - g) Street Collections.
  - h) House-to-House Collections.
  - i) Street Trading.
  - j) Sex Shops & Sexual Entertainment Venues.
  - k) Burials in Public Cemeteries.
  - l) Reservoirs.
  - m) Dangerous Wild Animals.
  - n) Animal Boarding Establishments.
  - o) Guard Dogs.
  - p) Acupuncture\Cosmetic\Piercing\Electrolysis\Tattooing\Semi Permanent Skin Colouring.
  - q) Performing Animals.
  - r) Pet Shops.
  - s) Zoos.
  - t) Camping Sites.
  - u) Caravan Sites.
  - v) Pleasure Boats.
  - w) Filling Materials.
  - x) Riding Establishments.
  - y) Charities for Disabled Persons and War Charities.
  - z) Explosives.
  - aa) Fireworks.
  - bb) Petroleum.
  - cc) Marriage & Civil Partnerships.
  - dd) Those matters set out in Part B of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 in so far as they are not governed by the Licensing Act 2003 and/or the Gambling Act 2005 or delegated separately under Part 3 of the Council's Constitution.
  - ee) Such other matters as may from time to time under statute or practice fall to be considered by the Council in a quasi-judicial manner, other than employment appeals or grievances in so far as they are not governed by the Licensing Act 2003 and/or the Gambling Act 2005 or delegated separately under Part 3 of the Council's Constitution.

POWERS DELEGATED TO THE COMMITTEE

All those matters listed above, including a power to delegate to a sub-committee the power to determine matters within the Committee's Terms of Reference.

POWERS DELEGATED TO OFFICERS

| POWER   | DELEGATED TO   |
|---|--|
| All matters arising from the exercise of the Committee's terms of reference (to include the power to issue licences and permits), | The Chief Executive or a Director or a relevant Head of Service or any of the following officers:-<br>Licensing Manager & Assistant Licensing Manager, Senior Licensing Administrator, Licensing Administrator<br>Trading Standards, Licensing & Registrars Manager<br>Environmental Health Manager<br>*Senior Trading Standards Officer<br>*Senior Environmental Health Officer<br>*Trading Standards Officer<br>*Senior Fair Trading Officer<br>* Environmental Health Officer<br>*Senior Commercial Safety Officer<br>*Commercial Safety Officer<br>*Fair Trading Officer<br>*Enforcement Officer<br>Acting Parks Manager<br>(Officers marked * <i>where appropriate</i> are appointed under Section 19(1) of the Health and Safety at Work Act 1974 or any statutory amendment thereto)] |
|   |  |

The Council on the 24<sup>th</sup> January 2017 approved the following procedural matters in relation to the Taxi and General Committee and the Taxi and General sub-committee, including a procedural change to the Council's Standing Orders, as follows: -

- (a) the quorum for the Taxi and General sub-committee is two. Every effort will be made to maintain the sub-committee at three members present when dealing with an application but there will inevitably be some circumstances where a member is unable to attend at the last minute and a substitute cannot be found or a member part way through needs to declare an interest and withdraw from the hearing. In accordance with our Standing Orders, the chairman will have a casting vote.
- (b) that members serving on the Taxi and General sub-committee will be drawn in rotation from the whole of the Taxi and General Committee. This will allow each member an equal opportunity to contribute to the work of the Committee and will hopefully ensure a fairness to members in the demands being made on them to sit;

- (c) that the chair and vice-chair of the Taxi and General Committee are not automatically on the Taxi and General sub-committee but will be part of the normal rotation;
- (d) that the current restriction within Standing Orders which prohibits a meeting sitting for longer than four hours be removed from applying to the Taxi and General Committee or its sub-committee, subject to a requirement on the committee to take appropriate breaks so as to ensure the comfort of those participating in the meeting.

**c) RIGHTS OF WAY COMMITTEE**

**The functions of the (Council) Rights of Way Committee ceased to exist on the 16 February 2007 by virtue of changes in legislation. The function is now carried out by a committee of the Cabinet - see the entry in Part 3 of this Constitution.**

## **d) AUDIT COMMITTEE**

### **Terms of Reference**

#### **1. MEMBERSHIP**

- 1.1 The Audit Committee will have a membership of thirteen individuals, twelve shall be elected members being representative of all parties and independents and one lay co-opted member to be appointed by the Committee. Members of the executive will not be eligible to be members of this Committee.
- 1.2 The co-opted member, not being a member of the Council, to be recruited for skills appropriate to the Audit Committee's work, and shall be appointed by the Councillor members of the Audit Committee for a fixed term to be determined by them when the appointment is made.
- 1.3 As and when necessary the appointment of a lay member to the Committee shall be undertaken by an appointment panel consisting of three Audit Committee members, to include the Chairperson. The panel will be responsible for considering all applications for the vacancy, short listing and interviewing prospective candidates. The panel will report their recommendations to the Audit Committee for confirmation/agreement prior to approval by Council.
- 1.4 The Audit Committee will appoint its chairperson who will not be a member of any of the groups represented on the Executive except when all groups are represented on the Executive (and could be a co-opted member).
- 1.5 All members of the Audit Committee shall have a vote.

#### **2. MEETINGS**

- 2.1 The Committee will meet at least 4 times a year. Additional meetings may be convened as the chair deems necessary or when the Authority as a whole resolves that it should.
- 2.2 A quorum for the meeting will be one quarter of the whole membership.
- 2.3 The Committee shall be advised by the Director of Education and Corporate Services, the Section 151 Officer, the Head of Corporate Finance, the Head of Business Improvement and both the external and internal auditors. They may additionally, within an approved budget, seek independent advice from outside the authority
- 2.4 The Committee shall meet with the Council's external auditor on an informal basis as deemed necessary by the Committee to discuss and exchange information.
- 2.5 The Section 151 Officer, the Manager of Internal Audit and the representative of the External Auditor will have free and confidential access to the Chair of the Committee.

- 2.6 The external and internal auditors of the council shall have the right to request the chair of the audit committee to consider any matter which the auditors believe should be brought to the attention of the council
- 2.7 The Committee may ask any other officers to attend to assist it with its discussions on any particular matter.

### **3. TERMS OF REFERENCE**

- 3.1 To review and scrutinise the Authority's financial affairs, to make reports and recommendations in relation to the Authority's financial affairs and to review and consider the financial statements prepared by the Authority or its external auditors.
  - 3.1.1 to review the authority's accounting policies and procedures with a view to appropriateness and compliance.
  - 3.1.2 to provide direction concerning accounting records and control systems as may be required by the Accounts and Audit Regulations (Wales) 2005.
  - 3.1.3 to consider the external auditors report to those charged with governance on issues arising from the audit of the financial statements.
  - 3.1.4 to review and consider the effectiveness on the Council's policy for the prevention of fraud and corruption.
- 3.2 Review and assess the risk management, internal control and corporate governance arrangements and to report and make recommendations on the adequacy and effectiveness of those arrangements:
  - 3.2.1 To ensure that the authority has a sound system of internal control which facilitates the effective exercise of functions and which includes arrangements for the management of risk and adequate and effective financial management. To review the effectiveness of internal control at least once a year and approve an annual governance statement for inclusion with the authority's statement of accounts.
  - 3.2.2 In reviewing corporate governance, risk management or internal control issues any member or officer of the authority may be required to attend before the committee to explain in relation to matters within their remit e.g. compliance or otherwise with council procedures, compliance or otherwise with established corporate governance standards and the degree to which risk has been considered and addressed.
  - 3.2.3 to oversee and monitor the compliance and assurance requirements and to satisfy itself as to the adequacy of the structures, processes and responsibilities for identifying and managing key risks facing the organisation.
  - 3.2.4 to review the councils corporate governance framework.

- 3.2.5 to receive, review and approve the annual governance statement and the resultant action plans.
  - 3.2.6 to develop and keep under review a risk management strategy for the council including methodology for assessing risks in all functions of the council.
  - 3.2.7 to oversee and monitor Council activities that are subject to the RIPA regulations.
  - 3.2.8 to oversee and monitor the outcomes of complaints received by the Authority under the Council's Corporate Complaints Policy and to review the policy on an annual basis and to make comments on the adequacy and effectiveness of the policy.
- 3.3 Oversee the internal and external audit arrangements of the Council
- 3.3.1 to liaise with the Wales Audit Office over the appointment of external auditors
  - 3.3.2 to consider the external auditors proposed audit plan
  - 3.3.3 to consider the external auditors Annual letter
  - 3.3.4 to approve, on behalf of the Council, a statement of aims and objectives of the internal audit function
  - 3.3.5 to consider the annual audit plan as to the allocation of internal audit resources against different categories of work
  - 3.3.6 to ensure that the internal audit function is adequately resourced and has appropriate standing within the organisation
  - 3.3.7 to consider the Head of Internal audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the council's internal control environment

POWERS DELEGATED TO THE COMMITTEE

All those matters listed above within the Committee's terms of reference.

POWERS DELEGATED TO OFFICERS

| POWER  | DELEGATED TO  |
|--|---|
| All matters arising from the exercise of the Committee's terms of reference. | The Chief Executive or a Director or the Head of Corporate Finance after consultation with the Chair or Vice Chair of the Committee. Any officer mentioned above may authorise in writing that any delegated function given to him/her may be exercised by any officer named in that authorisation. |

**(e) Democratic Services Committee**

**Terms of Reference**

9.1 The Democratic Services Committee shall have the following requirements and functions:

(a)

(i) Each Member of the Democratic Services Committee shall be a Member of the Council; and

No more than one Member of the committee shall be a Member of the executive which executive member must not be the Leader.

(ii) Each Member of the Democratic Services Committee shall be appointed by full Council.

(iii) The Chair of the Democratic Services Committee shall be appointed by full Council.

(b) The Democratic Services Committee is a body to which Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to political groups) applies.

(c) The Chair of the Democratic Services Committee must not be a member of the 'Executive group'.

(d) The Democratic Services Committee may appoint one or more sub-committees, and may arrange for the discharge of any of its functions by such a sub-committee.

(e) Any sub-committee of the Democratic Services Committee may not discharge functions other than those conferred on it.

(f) The Democratic Services Committee is to appoint the person who is to chair any sub-committee of such a Committee.

(g) All Members of the Democratic Services Committee, or of a sub-committee of the committee, may vote on any question that falls to be decided by the Committee.

(h) The Democratic Services Committee may require members and officers of the Council to attend before it to answer questions such members and officers having a duty to comply with but are not obliged to answer any questions which they would be entitled to refuse to answer in court proceedings in England and Wales. The Democratic Services Committee may invite other persons to attend meetings of the committee.

(i) The Democratic Services Committee must meet at least once in every calendar year.

(j) The Democratic Services Committee must meet if the Council resolves it should meet.

- (k) At least one third of the members of the Democratic Services Committee may requisition a meeting by giving notice in writing to the chair of the committee.
- (l) The Chair of the Democratic Services Committee must secure that meetings are held in accordance with the requirements stated in paragraph (i) - (k) above.
- (m)
  - (i) Designating one of the Council's Officers to be the Head of Democratic Services (who may not be the Head of Paid Service, Monitoring Officer or Chief Finance Officer (as defined in the Local Government and Housing Act 1989). The Head of Democratic Services shall exercise the functions as set out in Section 9(1) of the Measure;
  - (ii) review the adequacy of provision by the Council of staff, accommodation and other resources to discharge Democratic Services functions; and
  - (iii) make reports and recommendations to the Council in relation to such provision.
- (n) To determine how it exercises its functions listed under paragraphs (m)(i)(ii)(iii) above and not exercise any functions other than those set out in these Terms of Reference.
- (o) To make reports and recommendations on Member induction activities following local elections.
- (p) To secure a programme of reasonable training and development opportunities for Councillors and co-opted members and make reports and recommendations to full Council as necessary.
- (q) To monitor the quality and value of Members' training and development.
- (r) To monitor the Council's membership of the WLGA Wales Charter for Member Support and Development.
- (s) To nominate a Member Development Champion from the Committee's membership.
- (t) To be consulted on reports published by the Independent Remuneration Panel for Wales (or other bodies) in respect of Member's salaries, expenses and allowances.
- (u) To make reports and recommendations on the support and advice provided for any other Member support service.
- (v) To assist the Council's Monitoring Officer to review and make recommendations about the Council's Constitution.
- (w) To review and make recommendations about Members role descriptions.
- (x) To review and make recommendations about Members Annual Reports.
- (y) To review and make recommendations about Webcasting and Remote Attendance.

- (z) To review and make recommendations about the Council's programme and timing of Council meetings.
- (aa) To review and make recommendations about the Council's Members' ICT Policy and provision.
- (bb) To review and make recommendations about Members Family absence policy.
- (cc) To review and make recommendations about the Youth Champion.
- (dd) To review and make recommendations to promote public engagement in Council business.
- (ee) To be consulted on reports published by the Welsh Government, Local Government Boundary Commission and Electoral Commission (or other bodies) in respect of ward boundaries, local authority boundaries and electoral arrangements.
- (ff) To consider any report or recommendation sent to its members prepared by the Head of Democratic Services under Section 9(1)(h) of the Measure at a meeting held not more than three months after copies of the report are first sent to members of the committee.
- (gg) As soon as practicable after it has prepared a report or made a recommendation under paragraph (ff) above arrange for a copy of it to be sent to each Member of the Council who is not a Member of the Committee.
- (hh) The Council must consider any report or recommendation at a meeting held not more than three months after copies of the report or recommendation are first sent to the Members of the Council.
- (ii) To have regard to formal guidance issued by The Welsh Ministers.
- (jj) An Executive Member sitting on the Democratic Services Committee should have within his/her portfolio Member Development and Training
- (kk) To oversee the Council's Constitution.

POWERS DELEGATED TO THE COMMITTEE

All those matters listed above within the Committee's terms of reference.

POWERS DELEGATED TO OFFICERS

| POWER  | DELEGATED TO  |
|--|---|
| All matters arising from the exercise of the Committee's terms of reference. | The Head of Democratic Services in consultation with the Chair or Vice Chair of the Committee |

## Article 9 – The Standards Committee

*References:*

*Sections 53-55 and Sections 81(5), Local Government Act 2000*  
*The Standards Committees (Wales) Regulations 2001 as amended (“the Regulations”)*  
*Local Government (Democracy) (Wales) Act 2013*

## **9.01 Standards Committee**

- (a) The Council will establish a Standards Committee with the Terms of Reference and delegated powers to the Committee, and officers, as set out below:

Note: Two or more Councils may establish a Joint Standards Committee.

## **9.02 Composition**

- (a) **Membership.** The Standards Committee will be composed of eight members. Its membership will include:

- i. Five ‘independent’ members, who are not either a councillor or an officer or the spouse of a councillor or an officer of this council or any other relevant authority as defined by the Act, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001 (the Council’s appointment criteria exclude someone who is an active member of a political party);
- ii. two councillors excluding any member of the Executive;
- iii. one member of a community council wholly or mainly in the Council’s area (a ‘community council member’).

- (b) **Term of office.**

- i. Independent members are appointed for a period of not less four years and may be re-appointed for one further consecutive term of up to four years only.
- ii. Members of the local authority who are members of the standards committee will have a term of office of no longer than the period until the next ordinary Local Government Elections following the Members appointment to the Committee. They may be reappointed for one further consecutive term.
- iii. A Member of the Standards Committee who is a Community Council Member will have a term of office of no longer than the period until the next ordinary elections for the Community Council following his or her appointment to the Standards Committee. They may be reappointed for one further consecutive term.

- (c) **Quorum.** A meeting of the standards committee shall only be quorate when:

- i. at least three members, including the chair, are present, and

- ii. at least half the members present (including the chair) are independent members

(Note: See (f) below as to who can act as chair of the meeting)

- (d) **Voting.** Independent members and community council members will be entitled to vote at meetings;
- (e) **Community council members.** A community council member shall not take part in the proceedings of the standards committee when any matter relating to their community council is being considered;
- (f) **Chairing the Committee.**
  - i. The Chair and Vice-Chair of the Standards Committee must be independent members
  - ii. The Chair and Vice-Chair will be elected by the members of the Standards Committee for the duration of the period of that person's appointment as an independent member by the Council
  - iii. For the purpose of deciding whether the committee is quorate, "the Chair" means the Chair of the Standards Committee or in the absence of that person the Vice-Chair and in the absence of both of those persons an independent member present at the meeting chosen by members of the committee present at the meeting to preside for that meeting.

### 9.03 Terms of Reference

1. To promote and maintain high standards of conduct by the members and co-opted members of the authority.
2. To assist members and co-opted members of the authority to observe the authority's code of conduct.
3. To advise the Council on the adoption or revision of a code of conduct.
4. To monitor the operation of the Council's adopted Code of Conduct throughout the Authority.
5. To train councillors and advise on conduct matters generally.
6. Where statutes so permit, to arrange dispensation to speak and/or vote where a councillor has an interest.
7. To receive and implement advice from the Public Services Ombudsman For Wales or Standards Board or recommendation from the Adjudication Panel or case tribunals.
8. Where statute permits to receive reports and complaints in relation to councillors, to conduct or oversee appropriate investigations and to make appropriate recommendations to the Council.

9. To receive and hear complaints referred to the Committee under the Council's Local Resolution Protocol set out in Part 5 of the Council's Constitution.
  10. To receive reports on the outcome of disciplinary matters.
  11. To oversee the whistleblowing régime.
  12. (a) To receive Public Services Ombudsman For Wales reports in relation to allegations of maladministration or allegations of breach of a code of conduct and make appropriate recommendations.  
  
(b) To consider referring a report from the Public Services Ombudsman for Wales to the appropriate Scrutiny Committee, where in the opinion of the Standards Committee there has been a serious failure in service delivery that would benefit from further consideration by the appropriate Scrutiny Committee. A report setting out the reason for referral will be presented to the relevant Scrutiny Committee along with the report from the Ombudsman. The Chair of Standards Committee (or a nominee) will be invited to attend the respective Scrutiny Committee when the report is presented.
  13. To exercise such powers or duties as may be given to or imposed on Standards Committees from time to time by legislation.
  14. To exercise in relation to community councils and their members within the County Borough area such of the foregoing matters as are covered by Section 56 of the Local Government Act 2000.
  15. To consider referrals by the Head of Democratic Services of member(s) who refuse to attend the mandatory training or do not have good reason for being unable to attend mandatory training as set out in the Member Training and Development Protocol set out in Part 5 of this Constitution.
- Note: Provision is made under the Regulations to enable the Standards Committee or a monitoring officer with the prior written agreement of the Chairperson of the Standards Committee to
- (a) refer a report of a misconduct investigation to another authority's Standards Committee for determination and/or
  - (b) To refer a dispensation application to another authority's Standards Committee for determination.

#### POWERS DELEGATED TO THE COMMITTEE

Delegated powers in relation to any matter within the terms of reference of the committee except where this involves expenditure where there is no approved budget.

#### POWERS DELEGATED TO OFFICERS

|  |  |
|--|--|
|  |  |
|--|--|

| POWER   | DELEGATED TO   |
|---|--|
| All matters arising from the exercise of any of the Committee's terms of reference. | The Monitoring Officer, Head of Legal Services, Chief Executive, or any Director or Head of Service after consultation with the Chair or Vice-Chair of the Committee |

The following procedure shall apply

- (a) that applications for dispensation from county borough or community or town council members must be unless this is impracticable be made in writing and must state:-
  - (i) the name of the member;
  - (ii) the nature of the interest;
  - (iii) the grounds for application.
- (b) the Monitoring Officer will report the application to the Standards Committee or where this is not possible with the Chair or the Vice-Chair of the committee and with one other independent member and will determine the application under delegated powers taking account of comments made in that consultation and the result notified in writing to the councillor involved;
- (c) that all applications and their results determined under delegated powers be reported to the Standards Committee for information.

The statutory grounds on which a Standards Committee can grant dispensation are as follows:-

- (i) No fewer than half of the members of the relevant authority or of a committee of the authority (as the case may be) by which the business is to be considered has an interest which relates to that business;
- (ii) No fewer than half of the members of a leader and cabinet executive of the relevant authority by which the business is to be considered has an interest which relates to that business and either paragraph (iv) or (v) also applies;
- (iii) In the case of a county or county borough council, the inability of the member to participate would upset the political balance of the relevant authority or of the committee of the authority by which the business is to be considered to such an extent that the outcome would be likely to be affected;
- (iv) The nature of the member's interest is such that the member's participation in the business to which the interest relates would not damage public confidence in the conduct of the relevant authority's business;
- (v) The interest is common to the member and a significant proportion of the general public;
- (vi) The participation of the member in the business to which the interest relates is justified by the member's particular role or expertise;

- (vii) The business to which the interest relates is to be considered by an overview and scrutiny committee of the relevant authority and the member's interest is not a pecuniary interest;
- (viii) The business which is to be considered relates to the finances or property of a voluntary organisation of whose management committee or board the member is a member otherwise than as a representative of the relevant authority and the member has no other interest in that business provided that any dispensation shall not extend to participation in any vote with respect to that business; or
- (ix) It appears to the committee to be in the interests of the inhabitants of the area of the relevant authority that the disability should be removed; or
- (x) It appears to the Committee to be otherwise appropriate to grant a dispensation.

Note: A dispensation granted by the Standards Committee on the grounds set out in paragraph (x) above and which remains in effect must be reviewed by the Standards Committee once in every 12 month period from the date on which the dispensation is first granted.

When considering a review the Standards Committee must determine whether the dispensation should continue to have effect.

# Article 10 - Joint Arrangements

## References:

*Sections 2, 19, 20 Local Government Act 2000*

*The Local Authorities (Executive Arrangements) (Discharge of Functions) (Wales) Regulations 2001 (No. 2287)*

*The Local Authorities (Executive Arrangements) (Discharge of Functions) (Amendment) (Wales) Regulations 2002 (No. 2941)*

*The Local Authorities (Alternative Arrangements) (Wales) Regulations 2001*

*Chapter 4, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001*

## 10.01 Joint arrangements

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions – in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
- (c) The executive may appoint executive or non-executive members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The executive may appoint members to a joint committee from outside the executive where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the executive may appoint to the joint committee any councillor who is a member for an electoral division which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements including any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

## 10.02 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the executive.

- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### **10.03 Delegation to and from other local authorities**

- (a) The Council may delegate functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The executive may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether or not to accept a delegation from another local authority shall be reserved to the Council meeting.

### **10.04 Contracting out**

The Council may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 11 - Officers

Contracts for all officers will be with the authority rather than, in executive constitutions, the executive. All officers will be subject to the same code of conduct as part of their conditions of service.

The use of the word "officers" means all employees and staff engaged by the council to carry out its functions. This word has also been used instead of "employees" to cover those engaged under short term, agency or other non employed situations.

*References:*

*Chapter 2 and 4, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001*

### 11.01

- (a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. There are statutory obligations (e.g. Health & Safety) which apply to all of the Authority's officers.

| Post  | Functions and areas of responsibility   |
|---|---|
| Chief Executive (and Head of Paid Service)<br>Including Director of Environment responsibilities included below | <ul style="list-style-type: none"> <li>• Overall corporate management and operational responsibility (including overall management responsibility for all officers);</li> <li>• The provision of professional and impartial advice to all parties in the decision making process the executive, overview and scrutiny committees, the full council and other committees;</li> <li>• Together with the monitoring officer, responsibility for a system of record keeping for all the authority's decisions (executive or otherwise);</li> <li>• Representing the authority on partnership and external bodies (as required by statute or the council); and</li> <li>• Service to the whole council, on a politically neutral basis.</li> </ul> |
| Deputy Chief Executive & Director of Corporate Services   | To support the Chief Executive and manage agreed directorate services including Audit, Corporate Finance, I.T., Legal, Personnel, Property Services, Corporate Asset Management, Performance, oversight of Policy & Central Services function, Monitoring Officer and Procurement functions, Public and Private Housing. To deputise for the Chief Executive in his absence in respect of all directorate services/activities.  |
| Director of the   | <ul style="list-style-type: none"> <li>• Highways, Transportation Engineering,</li> </ul>   |

| <b>Post</b>   | <b>Functions and areas of responsibility</b>   |
|---|--|
| Environment   | Planning (management and strategic) Catering & Cleaning <ul style="list-style-type: none"> <li>• Registrars Births Deaths &amp; Marriages &amp; Civil Partnerships</li> <li>• Emergency Planning</li> <li>• Burials Cemeteries &amp; Bereavement Services</li> <li>• Environmental &amp; Community Health &amp; Trading Standards</li> <li>• Licensing</li> <li>• Community Safety</li> <li>• Oversight of Economic Development</li> <li>• Leisure &amp; Community Facilities</li> </ul> |
| Corporate Director of Education & Lifelong Learning | <ul style="list-style-type: none"> <li>• Education, community education, and libraries, Youth Service &amp; Community Centres</li> </ul>   |
| Corporate Director of Social Services               | <ul style="list-style-type: none"> <li>• Social and welfare services for children and adults.</li> </ul>   |

- (b) **Head of paid service, monitoring officer and chief financial officer (S151 Officer).** The Council will designate the following posts as shown:

| <b>Post</b>                 | <b>Designation</b>        |
|-----------------------------|---------------------------|
| Chief Executive             | Head of Paid Service      |
| Monitoring Officer          | Monitoring Officer        |
| Head of Corporate Finance   | S151 Officer              |
| Head of Democratic Services | Deputy Monitoring Officer |

Such posts will have the functions described in Article 12.02–12.04 below.

- (c) **Structure.** The head of paid service will determine 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 7 of this Constitution.

## 11.02 Functions of the head of paid service

*References:*

*Sections 4 and 5, Local Government and Housing Act 1989*

- (a) **Discharge of functions by the Council.** The head of paid service will report 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.

### 11.03 Functions of the monitoring officer

#### *References:*

*Section 5, Local Government and Housing Act 1989*

*Sections 68 – 73; 78 - 80, Local Government Act 2000*

*Chapter 2, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001*

- (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 to 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 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 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 will advise whether decisions of the executive are in accordance with the budget and policy framework.
- (h) **Providing advice.** The monitoring 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) **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.

#### **11.04 Functions of the chief finance officer (S151 Officer)**

*Reference:*

*S.151 Local Government Act 1972.*

- (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 councillors and officers in their respective roles.
- (e) **Give financial information.** The chief finance officer will provide financial information to the media, members of the public and the community.

#### **11.05 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.

#### **11.06 Functions of the Head of Democratic Services**

- (a) To discharge the responsibilities contained in Section 9 of the Local Government (Wales) Measure 2011.
- (b) To review the adequacy of provision by the Authority of staff, accommodation and other resources to discharge democratic services functions.
- (c) To make reports and recommendations to the Authority in relation to such provision.
- (d) To carry out duties as required under the Family Absence For Members of Local Authorities (Wales) Regulations 2013.

The Head of Democratic Services must not be:

- (a) the Head of the Authority's Paid Service, the Monitoring Officer or the Chief Finance Officer.

### **11.07 Conduct**

All Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Part 5 of this Constitution.

### **11.08 Employment**

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Part 4 of this Constitution.

# Article 12 - Decision Making

New constitutions established under the Local Government Act 2000 change the basis of decision making in local authorities fundamentally. They require the Council to record and keep up to date details of who has responsibility for which decisions, and to make this available to the public. They also change the way in which information about forthcoming decisions are publicised and the ways in which decisions of the executive are recorded.

## 12.01 Responsibility for decision-making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

## 12.02 Principles of decision-making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) decisions are made in accordance with the policy framework, particularly with respect to sustainable development and *equality*.

## 12.03 Decisions reserved to full Council

Decisions relating to the functions listed in Article 4.02 will be made by the full Council and not delegated.

## 12.04 Decision making by the full Council

Subject to Article 13.07, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

## 12.05 Decision making by the executive

Subject to Article 13.07, the executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

## **12.06 Decision making by Council bodies acting as tribunals**

Many of the licensing and enforcement functions of ordinary committees will entail them acting in a "quasi judicial" capacity.

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Note: The principles set out above also apply where the powers are exercised by officers under their delegated powers.

## **12.07 Scrutiny of officer delegated power decisions**

Decisions taken under an officer's delegated powers in the following categories will be recorded in writing and notified to members by way of an Information Bulletin. These may be subject to scrutiny in accordance with Article 6.

- (a) Matters which are not within approved budgets or within the Council's approved policies;
- (b) Matters relating to the development of policy or budgets for the Authority;
- (c) Something which materially impacts upon the delivery of a service in respect of which a decision has been taken.
- (d) Matters which on consultation have produced responses which are contrary to the decision taken by the officer;
- (e) The sale, purchase or lease or other disposal of land or property which the Protocol for Disposal of Property requires a report.

Matters falling within categories (a) to (e) will be reported on the Information Bulletin and may be brought before a Scrutiny Committee in accordance with Article 6.

# Article 13 - Finance, Contracts And Legal Matters

## *References:*

*Sections 135, 151, 223 & 234, Local Government Act 1972  
Part VIII, Local Government Finance Act 1988*

### **13.01 Financial management**

The management of the Council's financial affairs will be conducted in accordance with the financial rules set out in Part 4 of this Constitution.

### **13.02 Contracts**

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

### **13.03 Legal proceedings**

The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal Services considers that such action is necessary to protect the Council's interests.

### **13.04 Authentication of documents**

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.

### **13.05 Common Seal of the Council**

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or the Chief Executive or some other person authorised by the Council.

# Article 14 - Review And Revision Of The Constitution

*References:*

*Sections 30 and 37, Local Government Act 2000*

Chapter 7 and 8, The Local Government Act 2000 Part II: Guidance for County and County Borough Councils in Wales on Executive Arrangements, July 2001

## **14.01 Duty to monitor and review the constitution**

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.

## **14.02 Protocol for monitoring and review of constitution by monitoring officer**

A key role for the monitoring officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the monitoring officer may:

- (a) observe meetings of different parts of the member and officer structure;
- (b) undertake an audit trail of a sample of decisions;
- (c) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (d) compare practices in this authority with those in other comparable authorities, or national examples of good practice.

## **14.03 Change where there is a Cabinet form of Executive.**

Changes to the constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer.

# Article 15 – Suspension, Interpretation and Publication of the Constitution

## 15.01 Suspension of the Constitution

This Article ensures that the articles of the Constitution may not be suspended. This provides certainty and stability to the fundamental aspects of the Council's governance. However, it does provide for rules of procedure to be suspended provided this is to achieve an effect consistent with the purposes of the Constitution set out in Article 1. This might apply, for example, to rules of debate in Council where particular circumstances arise.

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules of Procedure may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to suspend.** This is set out in the Council's Procedure rules in Part 4.

## 15.02 Interpretation

The ruling of the Chairman of the council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

## 15.03 Publication

(a) The Chief Executive will provide an electronic version of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council.

(b) The Chief Executive will ensure that copies are available for inspection at council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

(c) The Monitoring Officer will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

# Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 of Part 2 (Overview and Scrutiny committees) and the Overview and Scrutiny Procedure Rules;
2. Article 7 of Part 2 (The Executive) and the Executive Procedure Rules;
3. Article 13 of Part 2 (Decision making) and the Access to Information Procedure Rules;
4. Part 3 (Responsibility for Functions).