

To: Chair and Members of the
Corporate Governance Committee

Date: 22 July 2015

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Dear Councillor

I refer to this agenda for the meeting of the **CORPORATE GOVERNANCE COMMITTEE** to be held at **9.30 am** on **MONDAY, 27 JULY 2015** in **CONFERENCE ROOM 1A, COUNTY HALL, RUTHIN** and enclose the following Appendices.

**Agenda Item
No**

9 NEW MODEL CONSTITUTION (Pages 3 - 44)

To consider a report by the Head of Legal, HR and Democratic Services (copy enclosed) on the Council's new Model Constitution.

Yours sincerely

G Williams
Head of Legal and Democratic Services

MEMBERSHIP

Councillors

Ann Davies
Stuart Davies
Peter Duffy
Alice Jones

Jason McLellan
Barry Mellor
Paul Whitham

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MODEL WELSH CONSTITUTION

Sections 1 to 6 only.

(draft version 0.1)

(Proposed) Full Table of Contents – to be inserted in detail at final draft

Section 1 Introduction

Section 2 Purpose Definition interpretation of Constitution

Section 3 Getting Information and getting involved

Section 4 Full Council

Section 5 The Cabinet

Section 6 The Leader

Section 7 Overview and Scrutiny

Section 8 The Standards Committee

Section 9 Regulatory Committees

Section 10 Joint Committees

Section 11 Officers

Section 12 Finance, Contracts and Legal Matters

Section 13 Responsibility for functions

Section 14 Access to Information Procedure Rules

Section 15 Budget and Policy Framework

Section 16 Financial Procedure Rules

Section 17 Contract Procedure Rules

Section 18 Members Code of Conduct

Section 19 Code of Conduct for members and officers dealing with planning matters

Section 20 Code of Conduct for officers

Section 21 Protocols

Section 22 Whistleblowing Codes

Section 23 Member role descriptions.

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MODEL WELSH CONSTITUTION

SECTION 1

1. INTRODUCTION

1.1 Purpose and Content of the Constitution

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, Membership and procedural rules.
- 1.1.2 In Section 3 (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.1.3 You can get a better understanding of what each of the Council's bodies do in Sections 4 to 10 of this Constitution, including Full Council, Cabinet, Overview and Scrutiny Committee, Standards Committee and Regulatory Committees. Section 11 provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. Responsibility for functions at Section 13 says which Council bodies, and which Officers, have authority to make which decisions.
- 1.1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, eg Full Council (Section 4), the Cabinet (Section 5) and Overview and Scrutiny (Section 7). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view.
- 1.1.5 Sections 18 to 20 have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

1.2 How the Council Operates

- 1.2.1 The Council is comprised of 47 Councillors elected every four years or such time as the Welsh Government legislates. Each Councillor is democratically accountable to the residents of their electoral division as well as all of those who live in Denbighshire. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those that did not vote for them.
- 1.2.2 All Councillors have agreed to follow a mandatory Code of Conduct, to ensure high standards in the way they undertake their duties. The Standards Committee is responsible for training and advising on the Code of Conduct.
- 1.2.3 All Councillors meet together regularly as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall Policy Framework and set the budget each year. The Council appoints the Leader of the Council for the term of the Council. The Leader then decides the size and Membership of the Cabinet ie the role of

individual Members of the Cabinet and arrangements for the exercise and delegation of Executive Functions. The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution, together with making decisions within the Budget and Policy Framework set by the Council.

1.2.4 If you need any further help please do not hesitate to contact us at:

Head of HR, Legal and Democratic Services, County Hall Ruthin, LL151YN

Whilst the Constitution is very long we hope that you will find it easy to use. We have spent a lot of time trying to make it as easy to follow as is possible with such a long and complex legal document.

SECTION 2

2. PURPOSE, DEFINITION INTERPRETATION AND AMENDMENT OF THE CONSTITUTION

2.1 Purpose of the Constitution

The purpose of the Constitution is to:

- 2.1.1 enable the Council to provide clear leadership to the Community in partnership with citizens, businesses and other organisations;
- 2.1.2 support the active involvement of citizens in the process of local authority decision making;
- 2.1.3 help Councillors represent their constituents more effectively;
- 2.1.4 enable decisions to be taken efficiently and effectively;
- 2.1.5 create a powerful and effective means of holding decision makers to public account;
- 2.1.6 ensure that no one will scrutinise a decision in which they are directly involved;
- 2.1.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
- 2.1.8 provide a means of improving the delivery of services to the community.

2.2 Definitions in the Constitution

2.2.1 The Constitution of the Council is this document (Sections 1 to 23).

2.2.2 Within the Constitution the following words and phrases have the meaning set out below:

“Budget”	the overall revenue and capital budget approved by Full Council (Section 4);
“Chief Officer”	any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who: reports directly to the Head of Paid Service in respect of all or most of his/her duties; or the Head of Paid Service is directly responsible for;
“Corporate Team”	the senior management body for Officers (Section 11). It includes those Officers designated by the Head of Paid Service from time to time as Members of the Corporate Team;
“Councillor”	a person elected to the Council to represent an area (called an electoral division) within Denbighshire County Council;
“Deputy Chief Officer”	any Officer (other than a person whose duties are solely secretarial or administrative or whose duties are otherwise in the nature of support services) who reports directly to a Chief Officer in respect of all or most of his/her duties;

“Executive”	the Cabinet or a Member or Members of the Cabinet when exercising Executive Functions;
“Executive Decision”	any decision taken by the Cabinet to exercise or refrain from exercising an Executive Function. It also includes decisions made by persons or Member bodies to whom the Cabinet has delegated Executive Functions to exercise or refrain exercising those functions;
“Executive Function”	<p>(a) Executive Functions are defined by the Local Government Act 2000, subsidiary legislation and associated guidance. Any function that is not exercisable only by Full Council or delegated to another Member body is an Executive Function.</p> <p>(b) Contractual matters, the acquisition and disposal of land and financial support to organisations and individuals are also Executive Functions.</p> <p>It should be noted that Regulatory functions such as planning licensing and building control, are not Executive Functions;</p>
“Forward Programme”	<p>Work</p> <p>the Forward Work Programme is a document which lists all of the decisions that the Council and the Cabinet intend to take and what business the Head of Legal and Democratic Services will be considering and when those matters will be discussed. This does not prevent urgent or unforeseen matters being considered;</p>
“Full Council”	the body where all Councillors act to exercise functions of the Council;
“Head of Paid Service”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for more details. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Head of Paid Service;
“Local Functions”	<p>Choice</p> <p>there are some functions which the Council may treat as being the responsibility of the Cabinet (in whole or in part) or as being non-executive, at its discretion;</p>
“Local Government (Wales) Measure 2011”	referred to as “The Measure”. Legislation introduced, inter alia, to strengthen local democracy, deal with changes to executive arrangements, overview and scrutiny, county councils and Member payments;
“Member”	either a Councillor or a person chosen by the Council to serve on one of its Member Bodies (called “a Co-Opted Member”);
“Member Body”	<p>any of the following:</p> <p>Full Council;</p> <p>Cabinet;</p> <p>an Overview and Scrutiny Committee ;</p>

	<p>Licensing Committee;</p> <p>Standards Committee (or one of its sub-committees);</p> <p>Planning Committee;</p> <p>Appeals Panel;</p> <p>Audit Committee;</p> <p>Democratic Services Committee;</p> <p>Note - references to Committee also includes Sub-Committee;</p>
“Monitoring Officer”	an Officer who must be appointed by law to carry out certain functions. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Monitoring Officer;
“Non-Executive Functions”	any function which may only be exercised by Full Council (whether by local choice or as a matter of law) or which is delegated to a Member body other than the Cabinet;
“Planning Application”	<p>any of the following:</p> <p>application for planning permission (including renewal);</p> <p>application for approval of reserved matters;</p> <p>application for listed building consent;</p> <p>application relating to trees;</p> <p>proposal to serve an urgent works notice or acquire a listed building in need of repair;</p> <p>application for conservation area consent;</p> <p>application for advertisement consent;</p> <p>application to vary or remove conditions on a planning condition;</p>
“Policy Framework”	See Section 4;
“Section 151 Officer”	an Officer who must be appointed by law to carry out certain functions in relation to financial administration. See Section 11 for a description of those functions. The Officer will usually have other duties and a different job title. See Section 11 for which Officer is the Section 151 Officer;
“Service”	one of the services provided by the Council;
“Single Integrated Plan (SIP)”	this is the single plan for the area that reflects the needs of the local population. The SIP builds on and brings together in one document the joint work previously developed through the Community Plan, as well as the Community Safety, Children and Young Peoples and the Health Social Core and Wellbeing Partnership Plan.

2.3 **Interpretation of the Constitution**

- 2.3.1 We have tried to make the Constitution as clear and as easy to understand as possible. Inevitably, people will have different views about what certain passages mean.
- 2.3.2 During meetings, the person chairing or presiding at the meeting may interpret the relevant procedure rules.
- 2.3.3 In all other situations, the Monitoring Officer will determine the interpretation and application of the Constitution.

2.4 **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. The Section 151 Officer shall be responsible for keeping under review the Financial Regulations set out in Section 16 of the Constitution and shall make any necessary amendments and revisions as are required from time to time. He/she shall report any amendments made to Section 16 to the next available Council meeting for noting.

2.5 **Protocol for Monitoring and Review of Constitution by Monitoring Officer**

A key role for the Monitoring Officer is to make recommendations for ways in which the Constitution could be amended in order to better achieve the purposes set out in this Section. In undertaking this task, the Monitoring Officer may:

- 2.5.1 observe meetings of different parts of the Member and Officer structure;
- 2.5.2 undertake an audit trail of a sample of decisions;
- 2.5.3 record and analyse issues raised with him/her by Members, Officers, the public and other relevant stakeholders; and,
- 2.5.4 compare practices in this Council with those in comparable authorities, or national examples of best practice.

2.6 **Changes to the Constitution**

2.6.1 **Approval**

Subject to paragraphs 2.6.2 and 2.6.3 below, changes to the Constitution will only be approved by the Full Council after consideration of a proposal by the Monitoring Officer or on recommendation of the Cabinet.

2.6.2 **Minor Changes**

If, in the reasonable opinion of the Monitoring Officer, a change is:

- (a) a minor variation; or
- (b) required to be made to remove any inconsistency, ambiguity or typographical correction; or
- (c) required to be made so as to put into effect any decision of the Council or its committees or the Cabinet,

in which case the Monitoring Officer may make such a change. Any such change made by the Monitoring Officer shall come into force with immediate effect. Such changes shall be reported to the next Full Council meeting for information.

2.6.3 **Legislative Change**

Any part of the Constitution may be amended by the Monitoring Officer where such amendment is required to be made so as to comply with any legislative

provision. Such amendments shall take effect when the Monitoring Officer so decides or the legislation (where relevant) so provides. Such changes shall be reported to the next Full Council meeting for information.

2.7 **Suspension of the Constitution**

2.7.1 **Limit to Suspension**

Any of the procedure rules contained in the Constitution may be suspended to the extent permitted within these rules and the law.

2.7.2 **Procedure to Suspend**

A motion to suspend any Rules will not be moved without notice unless at least one half of the whole number of councillors is present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in this Section.

2.8 **Publication**

2.8.1 The Monitoring Officer will ensure that copies of this Constitution are available for inspection at Council offices and on the Council's website.

2.8.2 The Monitoring Officer will provide a link to a copy of this Constitution to each Member of the Council upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council and thereafter ensure that an up to date version is available for inspection and published on the Council's website.

2.8.3 The Monitoring Officer will ensure that the Constitution is updated as necessary in accordance with paragraph 2.6.

SECTION 3

3. GETTING INFORMATION AND GETTING INVOLVED

3.1 Getting Information

3.1.1 Information Available to Members of the Public

(a) *When Meetings of the Member Bodies Will Take Place*

A programme of meetings is available by contacting the Council direct or via the website.

(b) *Forward Work Programme*

From the Forward Work Programme, see what decisions will be taken by the Cabinet or Council and what issues the Overview and Scrutiny Committee will be considering and when these matters will be discussed.

(c) *Information Available Prior to a Meeting*

3.0 days before a meeting, the agenda, any report likely to be discussed and background papers to that report shall be available for inspection at the offices of the Council and on the website. If an item is added to the agenda later, the revised agenda will be open to inspection from the time when the item is added to the agenda and any report will be made available to the public as soon as it is available and sent to Councillors.

(d) *Information Available at a Meeting*

The Council will make available to the public present at a meeting a reasonable number of copies of the Agenda and of the Reports for the meeting (save during any part of the meeting to which the public are excluded).

(e) *Information Available After a Meeting*

For a period of six years the agenda, reports and the minutes of the meeting shall be available for inspection. The background papers shall remain open for inspection for a period of four years.

(f) *Council's Accounts*

Inspect the Council's accounts and make views known to the external auditor (sections 29 and 30 Public Audit (Wales) Act 2004). Under the Accounts and Audit (Wales) Regulations 2005, the accounts will be available for public inspection for twenty (20) working days after the date appointed by the auditor.

Information which is confidential or exempt (as defined in section 14) will not be disclosed to members of the public at any time, unless required by law.

3.1.2 Information Available to Members of the Council

(a) Members can see any information, which is available to a member of the public.

(b) In addition, a Member may see any information which he or she needs to know in order to fulfil his or her role as a Member of the Council (otherwise known as "need to know"). A Member will not make public information which is confidential or exempt (as defined in Section 14) without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or person(s) or organisation(s) entitled to know it.

3.1.3 Members of an Overview and Scrutiny Committee

A Member of an Overview and Scrutiny Committee may also see any document containing material relating to:

(a) any business transacted at or meeting of the Cabinet;

(b) any decision taken by an individual Member of the Cabinet.

An Overview and Scrutiny Committee Member is not be entitled to:

(c) any document in draft form;

(d) any part of a document which contains confidential or exempt information unless that information is relevant to an action or decision they are reviewing or scrutinising or intending to scrutinise and is included in the Committee's Forward Work Programme.

NB. No Member is entitled to see any information relating to a matter in which he or she has a prejudicial interest.

3.1.4 Information Available to Officers

The Monitoring Officer, the Section 151 Officer and the Head of Paid Services may see any papers or records held by any part of the Council or its Officers. Other Officers may see any information held by the Council provided:

(a) they need to see the information to do their job; and

(b) that information is processed lawfully in accordance with the Data Protection Act 1998.

3.2 Getting Involved

3.2.1 Members of the Public

Members of the public can get involved in the following ways:

(a) *Voting for Councillors*

If they are over 18 years and registered as a local elector with the Council.

(b) *Suggesting Items of Business for Meetings*

Currently there is no provision for a member of the public to seek to get a matter included in an agenda.

(c) *Taking Part in Meetings*

(i) Members of the public can come to and speak at any meeting which the Council has resolved should include participation by members of the public. The rules on when you may speak and for how long are contained in Section 4.

(ii) Members of the Public may not currently speak at Full Council.

(d) *Views of the Public*

Under the arrangements put in place by the Authority under section 62 of the Local Government (Wales) Measure 2011, to bring to the attention of the relevant Overview and Scrutiny Committee their views on any matter under consideration by the relevant Overview and Scrutiny Committee, the relevant Overview and Scrutiny Committee must take into account any views brought to their attention under these arrangements.

(e) *When are Meetings Open to the Public?*

Meetings will be open to the public wherever possible. The public must be excluded from meetings whenever it is likely that confidential information will be disclosed. The public may be excluded from meetings where it is likely that exempt information will be disclosed. (See section 14 for definition of exempt information and section for definition of public interest.)

(f) *Making Comments/Complaints*

(i) A member of the public may comment or complain about Council services by:

- (A) contacting their local councillor;
- (B) contacting the Member of the Cabinet responsible for the service;
- (C) contacting the Officer responsible for delivering the service or their manager;
- (D) using the Council's complaints procedure;
- (E) contacting the Public Services Ombudsman for Works at 1 Ffordd Yr Hen Gae, Pencoed, CF35 5LJ. Telephone: 0845 601 0987 or via the website www.ombudsman-wales.org.uk.

(ii) Comments or complaints can be made about an Officer or Member by:

(A) *Officer*

Contacting the Officer or the Officers manager.

(B) *Members*

If the complaint is against a Member then the complaint should be referred to the Monitoring Officer or the Public Services Ombudsman for Wales (contact details above).

(g) *Engage with Overview and Scrutiny*

All members of the public who live or work in the area of the Council may bring to the attention of an Overview and Scrutiny Committee their views on any matter under consideration by that Overview and Scrutiny Committee . Overview and Scrutiny Committee must take into account any views brought to its attention by a member of the public.

3.3 **Getting Involved – Members**

Members can get involved by:

3.3.1 **Suggesting Items of Business for the Agenda**

As a Member of the Council, you have the same rights as members of the public. In addition to these rights you also have the following rights:

(a) Member bodies in Column A can request that Member bodies in Column B consider or reconsider an issue.

Column A	Column B
Democratic Services Committee	Council
Overview and Scrutiny Committee	Cabinet

(b) Any Member can submit a Notice of Motion to Council (Section 4) and also ask questions (Section 4).

3.3.2 Participating in Meetings

Members of the Council are entitled to attend any formal meeting of the Council, its committees or sub-committees or the Cabinet.

- (a) Members of the Council may attend and speak at any meetings where they are a Member of that body. Where they are not a Member of that body, their attendance and right to speak is at the discretion of the Chair of the body.
- (b) Members of the Cabinet have a special role to play within the Council. They are entitled to exercise any Executive Function provided the Executive Function has been delegated to them by the Leader of the Council.

3.3.3 Comments and Complaints

(a) Members may comment, subject to restrictions in the Code of Conduct for Members (Section 18) on any aspect of Council business by:

- (i) talking to Officers;
- (ii) talking to the Leader or Member of the Cabinet;
- (iii) talking to the Chair of an Overview and Scrutiny Committee .

(b) If a Member wishes to complain about an:

(c) *Officer*

The procedure set out in the Protocol on Member/Officer Relations may be used (Section 21).

(d) *Member*

The procedure set out in Appendix 3 to Section 18 may be followed.

SECTION 4

4. FULL COUNCIL

4.1 Introduction

The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

4.2 The Policy Framework

The Policy Framework means the following plans and strategies:

Corporate Plan

Single Integrated Plan

Best Value Performance Plan

Crime and Disorder Reduction Strategy

Local Transport Plan

Plans and alterations which together comprise the Local Development Plan

Welsh Language Scheme

Youth Justice Plan

Young People's Partnership Strategic Plan

Children and Young Persons Framework Partnership

Local Housing Strategy

Rights of Way Improvement Plan

4.3 The Single Integrated Plan

This replaces four of the existing plans and strategies which formed part of the Policy Framework, namely the Community Strategy, the Children and Young People's Plan, the Health, Social Care and Wellbeing Strategy and the Community Safety Partnership Plan.

4.4 The 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. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 15 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

4.5 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 section 32 or 43 of the Housing Act 1985.

4.6 **Functions of the Full Council**

Only the Full Council will exercise the following functions:

- 4.6.1 adopting and changing the Constitution;
- 4.6.2 approving or adopting the Single Integrated Plan, Policy Framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- 4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 14 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;
- 4.6.4 appointing and removing the Leader;
- 4.6.5 agreeing and/or amending the terms of reference for Committees, deciding on their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;
- 4.6.6 changing the name of the area or conferring the title of freedom of the County;
- 4.6.7 making or confirming the appointment of the Head of Paid Services and other Chief Officers;
- 4.6.8 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Personal Bills;
- 4.6.9 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- 4.6.10 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.11 appointing representatives to outside bodies unless the appointment is an Executive function or the appointment has been delegated by the Council.

4.7 **Membership**

- 4.7.1 All Members of the Council shall be Members of Full Council.
- 4.7.2 Substitution is not possible at meetings of the Council.
- 4.7.3 **Chairing the Council**
 - (a) The Councillor elected annually by the Council as its chair will be called the "Chair".
 - (b) The Chair will cease to be Chair if they resign, are dismissed by a vote of Full Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They continue to act as Chair after an election until their successor has been appointed.

4.7.4 Role and Function of the Chair

The Chair of the Council and in his/her absence, the Vice Chair will have the following roles and functions:

(a) *Ceremonial Role*

The Chair of the Council:

- (i) is the civic leader of Denbighshire County Council;
- (ii) promotes the interests and reputation of the Council and Denbighshire County Council as a whole and acts as an ambassador for both; and
- (iii) undertakes civic, community and ceremonial activities and fosters community identity and pride.

(b) *Responsibilities of the Chair*

- (i) to uphold and promote the purpose of the Constitution, and to interpret the Constitution when necessary;
- (ii) to preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the Community;
- (iii) 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 Cabinet are able to hold the Cabinet and Committee Chair to account;
- (iv) to promote public involvement in the Council's activities;
- (v) to be the conscience of the Council; and
- (vi) to attend such civic and ceremonial functions as the Council and he/she determines appropriate;

4.8 Council Meetings

There are three types of Council meeting:

- 4.8.1 the annual meeting;
- 4.8.2 ordinary meetings; and
- 4.8.3 extraordinary meetings

4.9 Rules of Procedure and Debate

The Council Procedure Rules contained in the Sections below will apply to meetings of the Full Council.

4.10 Council Procedure Rules - Annual Meeting of the Council

4.10.1 Timing and Business

In a year when there is an ordinary election of councillors, the annual meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in May. The annual meeting will:

- (a) elect a person to preside if the Chair and Vice Chair of the Council is not present;
- (b) elect the Chair of the Council;
- (c) elect the Vice Chair of the Council;

- (d) approve the minutes of the last meeting;
- (e) receive any announcements from the Chair and/or the Head of Paid Service;
- (f) elect the Leader of the Council, except where the Leader was appointed for a period of four years at the initial annual meeting of the Council;
- (g) be informed by the Leader of the number of Members to be appointed to the Cabinet;
- (h) appoint the Overview and Scrutiny Committees , a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 13 of this Constitution);
- (i) receive from the Leader the scheme of delegations (as set out in Section 13 of this Constitution);
- (j) approve a programme of ordinary meetings of the Council for the year; and
- (k) consider any business set out in the notice convening the meeting.

4.10.2 Selection of Councillors on Committees [and Outside Bodies]

At the annual meeting, the Council meeting may:

- (a) decide which committees and sub-committees to establish for the municipal year;
- (b) decide the size and terms of reference for those committees;
- (c) decide the allocation of seats to political groups in accordance with the political balance rules;
- (d) make appointments to outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

4.11 Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the Chair and Vice Chair are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4 receive any announcements from the Chair;
- 4.11.5 receive a report from the Leader and receive questions and answers on the report;
- 4.11.6 receive a report from the Cabinet and receive questions and answers on the report;
- 4.11.7 receive reports from the Council's committees and receive questions and answers on those reports;
- 4.11.8 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.9 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the

Council's Budget and Policy Framework, Single Integrated Plan and reports of the Overview and Scrutiny Committee ;

4.11.10 consider motions; and

4.11.11 deal with questions from Members in accordance with Rule 4.19

4.11.12 [receive questions from, and provide answers to, the public in relation to matters which in the opinion of the Chair are relevant to the Council's functions.]

4.12 **Extraordinary Meetings**

4.12.1 **Calling Extraordinary Meetings**

The Chief Executive may call Council meetings in addition to ordinary meetings. Those listed below may request the Chief executive to call additional Council meetings:

(a) the Council by resolution;

(b) the Chair of the Council;

(c) any five Members of the Council if they have signed a requisition presented to the Chair of the Council and he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

4.12.2 **Business**

The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc, except that the Chair may at his/her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

4.13 **Time, Place and Duration of Meetings**

4.13.1 **Time and Place of Meetings**

The time and place of meetings will be determined by the Head of Legal, HR and Democratic Services and notified in the summons.

4.13.2 **Duration of Meetings**

At an ordinary meeting of the Council, when [] hours have elapsed after the commencement of the meeting, the Chair shall adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered at a time and dated fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

4.14 **Notice of and Summons to Meetings**

The Head of Legal, HR and Democratic Services will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution. At least five clear days before a meeting, the Head of Legal, HR and Democratic Services will send a summons signed by him/her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4.15 **Chair of Meeting**

The person presiding at the meeting may exercise any power or duty of the Chair. Where these rules apply to committee and sub-committee meetings,

references to the Chair should instead be read as reference to the chair of that committee or sub-committee.

4.16 **Quorum**

The quorum of a meeting will be 50% of the whole number of Members, rounded down. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

4.17 **Remote Attendance**

Remote attendance is not allowed at any meeting, committee or sub-committee at the present time.

4.18 **Questions by the Public**

4.18.1 **General**

- (a) Members of the public may ask questions of Members of the Cabinet at ordinary meetings of the Council.
- (b) The total time allocated for questions by the public should be limited to 30 minutes.

4.18.2 **Order of Questions**

Questions will be asked in the order notice of them was received, except that the Chair may group together similar questions.

4.18.3 **Notice of Questions**

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 2.0 working days before the day of the meeting. Each question must give the name and address of the questioner.

4.18.4 **Number of Questions**

At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.

4.18.5 **Scope of Questions**

The Head of Legal, HR and Democratic Services may reject a question if it:

- (a) is not about a matter for which the Council has a responsibility or which affects the County;
- (b) is defamatory, frivolous or offensive;
- (c) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- (d) requires the disclosure of confidential or exempt information.

4.18.6 **Record of Questions**

- (a) The Head of Legal and Democratic Services will enter each question in a book open to public inspection and will immediately send a copy of the question to the Councillor to whom it is to be put. Rejected questions will include reasons for rejection.

- (b) Copies of all questions will be circulated to all Councillors and will be made available to the public attending the meeting.

4.18.7 Asking the Question at the Meeting

The Chair will invite the questioner to put the question to the Councillor named in the notice. If a questioner who has submitted a written question is unable to be present, they may ask the Chair to put the question on their behalf. The Chair may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

4.18.8 Supplementary Question

A questioner who has put a question in person may also put one supplementary question without notice to the Councillor who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Chair may reject a supplementary question on any of the grounds set out in Rule **Error! Reference source not found.** above.

4.18.9 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Councillor to whom it was to be put, will be dealt with by a written answer.

4.18.10 Reference of Question to the Cabinet or a Committee

Unless the Chair decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Cabinet or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

4.19 Questions by Members

4.19.1 On Reports of the Cabinet or Committees

A Member of the Council may ask the Leader or the Chair of a Committee any question without notice directly arising from an item of the report of the Cabinet or a Committee, when that item is being received or is under consideration by the Council

4.19.2 Questions on Notice at Full Council

Subject to Rule 4.19.4, a Member of the Council may ask:

- (a) the Chair;
- (b) a Member of the Cabinet;
- (c) the chair of any committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the Denbighshire County Council.

4.19.3 Questions on Notice at Committees and Sub-Committees

Subject to Rule 4.19.4, a Member of a committee or sub-committee may ask the chair of it a question on any matter in relation to which the Council has powers or duties or which affects the County and which falls within the terms of reference of that committee or sub-committee.

4.19.4 Notice of Questions

A Member may ask a question under Rule 4.19.2 or 4.19.3 if either:

- (a) they have given at least 2 working days' notice in writing of the question to the Head of Legal, HR and Democratic Services; or

- (b) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Head of Legal, HR and Democratic Services by 09:00 on the day of the meeting.

4.19.5 Maximum Number of Questions

A Member may ask only one question under Rule 4.19.2 or 4.19.3 except with the consent of the Chair of the Council, committee or sub-committee. The maximum number of questions that may be asked at any meeting of the Full Council is three and if the number of questions exceeds three the questions to be asked shall be determined by ballot to be conducted by the Head of HR Legal and Democratic Services.

4.19.6 Order of Questions

Questions of which notice has been given under Rule 4.19.2 or 4.19.3 will be listed on the agenda in the order determined by the Chair of the Council, committee or sub-committee.

4.19.7 Content of Questions

Questions under Rule 4.19.2 or 4.19.3 must, in the opinion of the Chair:

- (a) contain no expressions of opinion;
- (b) relate to matters on which the Council has or may determine a policy;
- (c) not relate to questions of fact.

4.19.8 Response

An answer may take the form of:

- (a) a direct oral answer at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated within ten working days to the questioner.

4.19.9 Supplementary Question

A Member asking a question under Rule 4.19.2 or 4.19.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

4.19.10 Length of Speeches

A Member asking a question under Rule 4.19.2 or 4.19.3 and a Member answering such a question may speak for no longer than five minutes unless the Chair consents to a longer period.

4.19.11 Time Allowed for Questions at Council Meetings

- (a) The time allowed for consideration of questions submitted under Rule 4.19.2 shall not, without the consent of the Council, exceed thirty minutes.
- (b) At the conclusion of the answer to the question under consideration at the expiry of thirty minutes (or such longer period to which the Council has consented) from the time when the first questioner started to speak, the Chair shall conclude the meeting.
- (c) Any remaining questions shall be responded to in writing before the next ordinary meeting of the Council.

4.20 **Motions on Notice**

4.20.1 **Notice**

Except for motions which can be moved without notice under Rule 4.21 and in cases of urgency, written notice of every motion, must be delivered to the Head of Legal, HR and Democratic Services not later than 16:00 on the 10th working day before the Council meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

4.20.2 **Motion Set Out in Agenda**

Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

4.20.3 **Scope**

Motions must be about matters for which the Council has a responsibility or which affect the wellbeing of the administrative area of the Council.

4.20.4 **Motion to Remove the Leader**

4.20.5 **One Motion per Member**

No Member may give notice of more than one motion for any Council meeting, except with the consent of the Chair.

4.20.6 **Time Allowed for Motions**

The time allowed for consideration of motions submitted under this Rule shall not, without the consent of the Council, exceed thirty minutes. At the conclusion of the speech being delivered at the expiry of 30 minutes (or such longer period to which the Council has consented) from the commencement of the Council's consideration of the first such motion, the Chair shall put to the vote, without further discussion, all the questions necessary to dispose of the motion then under debate provided that:

- (a) if the speech to be concluded is a speech proposing a motion, the Chair shall allow the motion to be formally seconded (without comment);
- (b) if the speech to be concluded is a speech moving an amendment, the Chair shall allow the amendment to be formally seconded (without comment) and the mover of the motion to exercise his right of reply; and
- (c) otherwise, the Chair shall allow the mover of the motion to exercise his right of reply.

Any remaining motions submitted under this Rule shall be deferred to the next ordinary meeting of the Council and shall be dealt with at that meeting in the same order and before any other motions of which notice is given for that meeting.

4.21 **Motions without Notice**

The following motions may be moved without notice:

- 4.21.1 to appoint a Chair of the meeting at which the motion is moved;
- 4.21.2 in relation to the accuracy of the minutes;
- 4.21.3 to change the order of business in the agenda;
- 4.21.4 to refer something to an appropriate body or individual;
- 4.21.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 4.21.6 to receive reports or adoption of recommendations of committees or Officers and any resolutions following from them;

- 4.21.7 to withdraw a motion;
- 4.21.8 to amend a motion;
- 4.21.9 to proceed to the next business;
- 4.21.10 that the question be now put;
- 4.21.11 to adjourn a debate;
- 4.21.12 to adjourn a meeting;
- 4.21.13 to suspend a particular Council Procedure Rule;
- 4.21.14 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- 4.21.15 to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4; and
- 4.21.16 to give the consent of the Council where its consent is required by this Constitution.

4.22 Rules of Debate

4.22.1 No Speeches until Motion Seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

4.22.2 Right to Require Motion in Writing

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him before it is discussed.

4.22.3 Seconder's Speech

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

4.22.4 Content and Length of Speeches

Speeches must be directed to the question under discussion or to a personal explanation or point of order no speech may exceed 5 minutes without the consent of the Chair.

4.22.5 When a Member may Speak Again

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) to speak once on an amendment moved by another Member;
- (b) to move a further amendment if the motion has been amended since he last spoke;
- (c) if his first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- (d) in exercise of a right of reply;
- (e) on a point of order; and
- (f) by way of personal explanation.

4.22.6 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:

- (i) to refer the matter to an appropriate body or individual for consideration or reconsideration;
- (ii) to leave out words;
- (iii) to leave out words and insert or add others; or
- (iv) to insert or add words

as long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

4.22.7 Alteration of Motion

- (a) A Member may alter a motion of which he has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- (b) A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

4.22.8 Withdrawal of Motion

A Member may withdraw a motion which he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

4.22.9 Right of Reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his amendment.

4.22.10 Motions which may be Moved During Debate

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

- (a) to withdraw a motion;
- (b) to amend a motion;
- (c) to proceed to the next business;
- (d) that the question be now put;

- (e) to adjourn a debate;
- (f) to adjourn a meeting;
- (g) to exclude the public and press in accordance with the Access to Information Procedure Rules; and
- (h) to not hear further a Member named under Rule 4.29.3 or to exclude them from the meeting under Rule 4.29.4.

4.22.11 Closure Motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member;
 - (i) to proceed to the next business;
 - (ii) to act that the question be now put;
 - (iii) to adjourn a debate; or
 - (iv) to adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

4.22.12 Point of Order

A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he considers it has been broken. The ruling of the Chair on the matter will be final.

4.22.13 Personal Explanation

A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

4.23 State of the County Debate

4.23.1 Calling of Debate

The Leader may call a state of the County debate annually on a date and in a form to be agreed with the Chair.

4.23.2 Form of Debate

The Leader will decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the debate.

As part of the debate Council will consider short written reports from members on outside bodies as to the number of meetings attended, the costs of attendance, the amount of the Council's financial support (if any), the benefits derived from membership and a recommendation on whether the Council should continue to be represented. The Council will also consider progress in respect of the Council's Improvement Plan and Priorities.

4.23.3 Chairing of Debate

The debate will be Chaired by the Chair.

4.23.4 Results of Debate

The results of the debate will be disseminated as widely as possible within the community and to agencies and organisations in the area which work in active partnership with the Council and considered by the Leader in proposing the Budget and Policy Framework to the Council for the coming year.

4.24 Previous Decisions and Motions

4.24.1 Motion to Rescind a Previous Decision

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members.

4.24.2 Motion Similar to One Previously Rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 20 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.25 Voting

4.25.1 Majority

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

4.25.2 Chair's Casting Vote

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

4.25.3 Method of Voting

Unless a recorded vote is demanded under Rule 4.25.4 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting

4.25.4 Ballots

The vote will take place by ballot if half of the members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

4.25.5 Recorded Vote

If 1/6th of the Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and

entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

4.25.6 Right to Require Individual Vote to be Recorded

Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

4.25.7 Voting on Appointments

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. In the case of officer appointments to be made by full Council voting shall be by ballot and Rule 4.25.5 shall not apply.

4.26 Minutes

4.26.1 Signing the Minutes

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

4.26.2 No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

4.26.3 Form of Minutes

Minutes will contain all motions and amendments in the form and order the Chair put them.

4.27 Record of Attendance

All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

4.28 Exclusion of Public

Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rule 4.30 (Disturbance by Public).

4.29 Members' Conduct

4.29.1 Speaking at Meetings

When a Member speaks at Full Council he/she must stand and address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

- 4.29.2 **Chair Speaking**
When the Chair speaks during a debate, any Member speaking at the time must stop and sit down.
- 4.29.3 **Member not to be Heard Further**
If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion.
- 4.29.4 **Member to Leave the Meeting**
If the Member continues to behave improperly after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.
- 4.29.5 **General Disturbance**
If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as the Chair thinks necessary.
- 4.30 **Disturbance by Public**
- 4.30.1 **Removal of Member of the Public**
If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.
- 4.30.2 **Clearance of Part of Meeting Room**
If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.
- 4.31 **Filming and Use of Social Media During Meetings**
Filming and use of social media is permitted during meetings so long as there is no disturbance to the conduct of the meeting.
- 4.32 **Suspension and Amendment of Council Procedure Rules**
- 4.32.1 **Suspension**
All of these Council Rules of Procedure except Rule 4.20.5, 4.25.6 and 4.26.2 may be suspended by motion on notice or without notice if at least one half of the whole number of Members of the Council are present. Suspension can only be for the duration of the meeting. Rule 4.20.5 can only be suspended by motion on notice and the motion must have the support of at least two thirds of those Members present and voting.
- 4.32.2 **Amendment**
Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.
- 4.33 **Application to Committees and Sub-Committees**
All of the Council Rules of Procedure apply to meetings of Full Council. None of the rules apply to meetings of the Cabinet. Only Rules 4.13 to 4.16, 4.19 to 4.22, 4.24 to 4.33 (but not Rule 4.29.1) apply to meetings of committees and sub-committees.
- 4.34 **Appointment of Substitute Members on Council Bodies**

There shall be named, trained substitutes for the Adoption and Fostering Panel. Subject to the provisions of this paragraph, a substitute may attend and take part in a meeting if the member for whom he or she is the named substitute is not available.

Substitutes shall not be permitted in the Planning Committee. Substitutes shall be permitted in other standing committees of the Council only if the member of the standing committee is absent for a significant period because of ill health and the Chair of the Council has agreed in advance that a substitute may be appointed.

Except for the Adoption and Fostering Panel any member may attend a meeting of a standing committee subject to the requirements of the Members' Code of Conduct to declare any interest in any matter under consideration and if necessary to leave the meeting where the member has a personal and prejudicial interest in that matter.

A member who is not a member of a standing committee or a substitute for such a member may speak at the meeting of such a committee only if invited to do so by the Chair of the meeting.

SECTION 5

5. THE CABINET

5.1 Introduction

The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

5.2 Form and Composition of the Cabinet

5.2.1 The Cabinet shall be politically balanced.

5.2.2 The rules of political balance in respect of the Cabinet will only apply to political groups which are comprised of 5 or more members of the Council.

5.2.3 The Cabinet will consist of the Leader together with 7 Councillors appointed to the Cabinet by the Leader after consultation with the leaders of the political groups which have 5 or more members.

5.2.4 In the event of a political group with 5 or more members declining, at the time when the Cabinet is being appointed, to take up any or all of its seats on the Cabinet the Leader may appoint councillors to fill the vacancies following further consultation with the Leaders of the other political groups with 5 or more members. The rules of political balance will not apply to the filling of such vacancies.

5.2.5 In the event of a political group which is entitled to a seat or seats in the Cabinet in accordance with paragraph 5.2.1 deciding to take up that seat or those seats (having previously decided not to do so), the Leader shall make such changes to the membership of the Cabinet as to ensure, so far as is reasonably possible, compliance with paragraph 5.2.1 above.

5.3 Leader

5.3.1 Election

The Leader will be a Councillor elected to the position of Leader by the Council in accordance with the provisions of Section 6 of this Constitution.

5.3.2 Term of Office

The Leader will hold office until the next ordinary election of Councillors.

5.3.3 Role of the Leader

The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet. Further information is contained in Section 6.

5.4 Deputy Leader

5.4.1 The Leader will appoint a Deputy Leader to act as Leader in the Leader's absence and may also if he/she thinks fit remove the Deputy Leader from Office at any time.

5.4.2 The Deputy Leader may exercise all of the functions of the Leader where the position is vacant or where the Leader is absent or otherwise unable to act.

5.5 **Other Cabinet Members**

Other Cabinet Members will be Councillors elected to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

- 5.5.1 he/she resigns from that office; or
- 5.5.2 he/she is removed from that office by the Leader upon such notice (if any) as the Leader considers appropriate; or
- 5.5.3 he/she ceases to be a Councillor.

The Leader may at any time appoint a Cabinet Member to fill any vacancies.

5.6 **Delegation of Functions**

The Cabinet may exercise Executive Functions itself or may otherwise make arrangements to delegate responsibility for their discharge. The Cabinet may delegate Executive Functions to:

- 5.6.1 The Leader;
- 5.6.2 a Committee of the Cabinet (comprising executive Members only);
- 5.6.3 an individual Cabinet Member;
- 5.6.4 a joint committee;
- 5.6.5 Another local authority or the executive of another local authority;
- 5.6.6 A delegated Officer.

5.7 **Rules of Procedure and Debate**

The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Section 5.8 below.

5.8 **Cabinet Procedure Rules**

5.8.1 **Meetings**

The Cabinet shall meet at least 12 times a year at such venues dates and times as shall be:

- (a) determined by the Cabinet; or
- (b) determined by the Chief Executive where possible after consultation with the Leader (or in his absence, the Deputy Leader or Deputy Leaders), being within 15 days following receipt of a written requisition signed by at least three members of the Cabinet stating the matter or matters to be considered at that meeting, or
- (c) exceptionally, determined by the Chief Executive where in his opinion, where possible after consultation with the Leader (or in his absence, the Deputy Leader or Deputy Leaders) there is an urgent matter or urgent matters which require the consideration of the Cabinet but no convenient meeting of the Cabinet has been arranged.

The Chief Executive shall maintain a diary of all future meetings of the Cabinet, and shall ensure that the dates of meetings of the Cabinet for the coming months are notified to all members of the Council and made available to the public.

5.8.2 **Quorum**

The quorum at any meeting of the Cabinet shall be 50% of the whole number of members, rounded down.

5.8.3 Access to information

Meetings of the Cabinet shall be convened in accordance with the Access to Information Rules in Section 14 of this Constitution.

5.8.4 Chairing of Cabinet meetings

The Leader shall decide who chairs meetings of the Cabinet except that, in the absence of both the Leader and the Deputy Leader(s), the members of the Cabinet present shall choose a person to chair the meeting.

5.8.5 Public access

The Press and public shall be entitled to attend all meetings of the Cabinet except:

- (a) where the Cabinet resolves that the Press and public be excluded for the consideration of all or part of the consideration of a matter because the discussion of that matter is likely to result in the disclosure of exempt or confidential information, or
- (b) where the person chairing the meeting has ordered their removal in order to prevent disruption of the meeting.

5.8.6 Attendance by members who are not Cabinet members

5.8.6.1 Rights to attend

All Councillors have the right to attend Cabinet and Cabinet Committee meetings - therefore there is no restriction to observers attending except during consideration of any matter where the member would have been required to declare an interest in that matter if it had come before a meeting of the Council at which the member was present.

5.8.6.2 Rights to address meetings

There should be no automatic right for observers to speak on any issue. The right of someone who is not a Cabinet member to speak is solely at the discretion of the chair of the meeting.

Accordingly it would be helpful for any Councillor who is not a Cabinet member to inform the Chair, in advance of the meeting, of that Member's wish to address the meeting, together with an explanation of the reasons behind the request.

Cabinet Members will always be called to speak first on an item. Whilst the Chair has discretion as to who else should be called, it is expected that priority would be given to a request from a Chair of a Scrutiny Committee or the Chair of Corporate Governance Committee to speak on a matter that was of direct concern or interest to that committee.

5.8.6.3 Questions

Members who wish to ask formal questions of the Cabinet that are not related to items on the agenda should give at least three working days' notice of the question(s) upon which answers will be required.

5.8.7 Attendance by officers

The Statutory Officers of the Council, or their nominees, shall be entitled to attend all meetings of the Cabinet and to speak on issues affecting their statutory responsibilities.

Corporate Directors shall be responsible for ensuring that they are present or represented at meetings of the Cabinet when necessary in order to assist the Cabinet in the conduct of its business and enable the efficient discharge of the decisions of the Cabinet

5.8.8 Absence of Cabinet members

Substitutes are not permitted for Cabinet members. The absence of a Cabinet member for any reason shall not prevent consideration and determination of a matter.

5.8.9 Business to be transacted

At each meeting of the Cabinet the following business will be conducted:

- (a) consideration of the minutes of the last meeting;
- (b) declarations of interest, if any;
- (c) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules set out in Part 4 of this Constitution;
- (ch) consideration of reports from Scrutiny Committees; and
- (d) matters set out in the agenda for the meeting including,.

5.8.10 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

Reports to the Cabinet will normally appear in the name of the Cabinet member incorporating advice from appropriate officers. Exceptions will include a report from a Statutory Officer. The originator of a report will ensure that draft reports are the subject of consultation with the Chief Executive and any relevant Corporate Directors and Heads of Service, including in all cases the Chief Finance Officer and the Monitoring Officer.

5.8.11 Cabinet Committees

These rules apply to Cabinet Committees, other than 5.8.1, 5.8.2 and 5.8.4

There are currently no cabinet committees however in the event that there shall be the quorum for a Cabinet Committee shall be two.

SECTION 6

6. THE LEADER

6.1 Election

6.1.1 The Leader will be elected by Full Council.

6.1.2 The Leader will usually be elected at the first Council meeting following the ordinary election of councillors. However, where the post of Leader becomes vacant between Council elections the Leader will be elected at the next meeting of the Full Council.

6.2 Term of Office

The Leader will hold office until the next ordinary election of Councillors

6.3 Resignation, Dismissal, Disqualification and Suspension

6.3.1 The Leader may resign the position of Leader by writing to the Chair.

6.3.2 The Leader and Cabinet can be removed from office by resolution of the Council on receipt of a Notice of Motion signed by at least 10 Councillors after having given at least 10 working days' notice of the same to the Chief Executive.

6.3.3 The Leader shall cease to be Leader if he/she is suspended or disqualified as a Councillor, or, for other such reasons, cannot fulfil the role of Leader.

6.3.4 The Leader shall cease to be Leader if he/she ceases to be a Councillor.

6.4 Deputy Leader

6.4.1 Appointment

The Leader may designate one of the Members of the Cabinet as Deputy Leader.

6.4.2 Duties of the Deputy Leader

The Deputy Leader may exercise all the functions of the Leader where the position is vacant or where the Leader is absent or is otherwise unable to act.

6.4.3 Removal from Office

The Leader may, if he/she thinks fit, remove the Deputy Leader from office at any time.

6.5 Functions and Delegated Authority

6.5.1 Membership of the Cabinet

The Leader appoints and dismisses the Members of the Cabinet subject only to their being a minimum of two, and a maximum of seven, Members of the Cabinet (not counting the Leader) at any time.

6.5.2 Role of the Leader

The Leader will chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

6.5.3 The Cabinet Scheme of Delegations

The Leader will prepare and submit for approval a Cabinet Scheme of Delegations setting out the delegations of Executive Functions, including, where the principle has been approved as part of the Council's Executive Arrangements the delegated authority of each Member of the Cabinet, and thereafter keep this under review and

submit updates to the Scheme as appropriate. In addition, the Leader has powers under s.15(4) of the Local Government Act 2000 to discharge personally or to arrange for discharge under others' delegated powers any Executive functions not covered by the Scheme of Delegations for the time being.

(NB: no Member of the Cabinet may have a Deputy, other than the Leader. This means that no Member of the Cabinet can have responsibilities which mean that they will work to, or under, another Member of the Cabinet, except the Leader).

6.5.4 Meetings of the Cabinet

Subject to the requirement to publish notice of each meeting three clear days before it takes place, and other conditions contained in Section 14, the Leader can call meetings of the Cabinet at such times and places as he/she chooses (NB: the Head of Paid Service, the Section 151 Officer, and the Monitoring Officer can all, should the need arise, call meetings of the Cabinet as well).

6.5.5 Chairing Cabinet Meetings

The Leader shall chair Cabinet meetings. In the Leader's absence the Deputy Leader will chair. If the Deputy Leader is not available the Cabinet will appoint a Member of the Cabinet to Chair the meeting on their behalf.

Delegations to Cabinet Members

As a general rule, matters of corporate policy and high level strategic and **key matters** will be determined by the Cabinet collectively; **non-key** strategic matters which relate to a particular Cabinet member portfolio will be determined by the individual Cabinet member. In other words, if a matter does not fall within the definition of 'key', then it should be presented to the Lead Member responsible and not the full Cabinet. The Cabinet Member portfolios can be found on page [] of the Constitution.

The Cabinet Member to whom a function is allocated may (at his or her discretion) decline to make a decision in connection with the discharge of that function on any particular matter, and may instead refer the matter to the relevant decision making body eg the Cabinet/Joint Committee for example, where the matter is considered to be politically contentious or is likely to have a significant impact on services or is in the public interest to do so.

A key decision is defined as:-

- The Council incurring expenditure or making savings that are significant in its budget for the service or function relating to the decision and/ or
- Having a significant effect on communities living or working in a particular area

Before making a Delegated Decision the Cabinet member shall consider the following:

(a) the basis of the merits of the circumstances involved and the public interest

b) having regard to any relevant advice from Council Officers in particular the Councils Chief Finance Officer and the Councils Financial Regulations and the Councils Monitoring Officer.

(c) compliance with any conditions or restrictions on the exercise of their discretion which have been laid down by Cabinet;

(d) take into consideration the views expressed by Council Members, Council Officers and any other consultees as provided in the Report to the Cabinet Member.

(e) take into account any previous decisions by the Council or the Cabinet relating to any relevant policies or procedures.

All Executive Decisions must be in writing and the Member shall complete the prescribed form and send a copy to the [Democratic Services] to enable them to make the decision available for inspection by Council Members and the Public, subject to any lawful exemption from public disclosure.

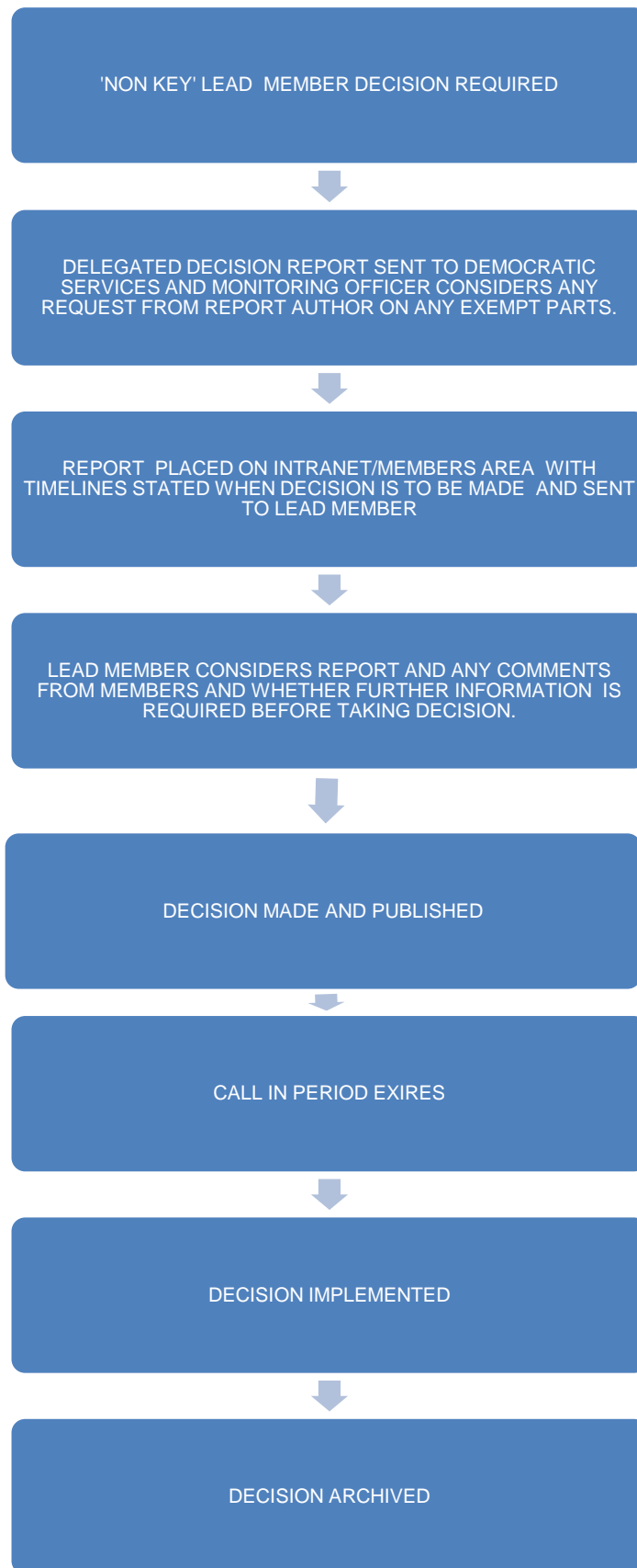
Member Delegated Decisions are subject to the Councils Call In procedures in accordance with Section [] of the Constitution.

Member Delegated Decisions cannot be implemented until the Call In period has expired, (5 working days), unless the decision meets the urgency conditions as set out in Section [] of the Call In Rules.

Individual Cabinet members may consult with the Cabinet or other Cabinet members or the Chairman of the relevant Committee; or ward members on the exercise of any delegated powers or determine not to exercise a delegated power in any particular case.

Where an individual Cabinet member has a personal and prejudicial interest as defined in the Members Code of Conduct in relation to any delegated decision, the Member shall not take the decision but will ask the relevant Officer to refer the matter to the Cabinet for determination.

The following flowchart sets out the process for Member delegated decisions.



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