

PART 2

THE ARTICLES OF THE CONSTITUTION

Article 1 The Constitution

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 Carmarthenshire County Council.

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. Put on a formal basis the arrangements introduced under the modernising local government legislation
2. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
3. support the active involvement of citizens in the process of local authority decision-making;
4. help councillors represent their constituents more effectively;
5. enable decisions to be taken efficiently and effectively;
6. create a powerful and effective means of holding decision-makers to public account;
7. ensure that no member will review or scrutinise a decision in which he/she was directly involved;
8. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
9. provide a means of improving the delivery of services to the community.

1.04 Interpretation and Review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always seek to 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 14

Article 2 Members of the Council

2.1 Composition and eligibility

- (a) Composition. The Council comprises 74 members, otherwise called councillors. All councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Local Government Boundary Commission in Wales and approved by the Wales Assembly Government.
- (b) Eligibility. To be elected as a member of the County Council a person must be at least 21 years of age and a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of another Member(s) State of the European Community. And either:-
 - (i) is and continues to be a local government elector for the area of the authority; or
 - (ii) has during the whole of the preceding twelve months occupied as owner or tenant any land or other premises in the area of the authority; or
 - (iii) is a person whose principal or only place of work has been in the area of the authority; or
 - (iv) has resided in the area of the authority during the whole of the preceding twelve months.

2.2 Election and term of office of councillors

Elections for all members of the council normally take place every four 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.

2.3 Roles and functions of all councillors

The Job Profile and Person Specifications for a Councillor can be found in Part 6 of this Constitution within the Councillors' and Co-opted Members' Allowances Scheme

2.4 Rights and Duties – Members' Access to Files

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.

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.

For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of the Constitution.

All such requests for access to documents will be made to the Chief Executive or other appropriate Chief Officer who will decide whether access is necessary for the proper discharge of a member's functions and in accordance with the law. The Monitoring Officer will be consulted by the relevant officer, if so required.

2.5 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.

2.6 Allowances

Councillors will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of the Constitution.

Article 3 Citizens and The Council

3.1 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 Board and its committees as observers 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 Board or Council and which issues the 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 Board; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Participation.** Citizens have the right to participate in the Council's question time, present petitions and participate in the way in which the Council operates in accordance with the rules set out in Part 4 of this Constitution
- (d) **Complaints.** Citizens have the right to complain :
 - (i) to the Council itself under its complaints scheme;
 - (ii) to the Ombudsman about any injustice they consider 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.

3.2 Citizens' responsibilities

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

Article 4 The Full Council

4.1 Meanings

(a) **Budget and Policy Framework.**

The budget and policy framework means the following plans and strategies and other strategies that may from time to time be determined, as being appropriate, for adoption by the Council:-

Improvement Plan

Children and Young People's Plan *

Community Strategy

Crime and Disorder Reduction Strategy

Health, Social care and Well Being Strategy

Local Transport Plan

Plans and alterations which together comprise the Unitary Development Plan

Welsh Language Scheme

Youth Justice Plan

The Corporate Strategy

Housing Strategy

* This plan includes the Single Education Plan, the Young People's Strategic Partnership Plan and the Children and Young People's Framework Partnership

(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 Welsh Assembly Government 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.

4.2 Functions of the full Council

The Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the Budget and Policy Framework, authorisation of the making of an application in respect of Housing Land Transfer under paragraph 4(5) of the Regulations, and setting Housing Rents;
- (c) subject to the urgency procedure contained in the Local Authorities (Executive Arrangements) (Discharge of Functions) and/or (Decisions, Documents and Meetings) (Wales) Regulations 2001 (as amended from time to time), 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;
- (e) to determine which Committees and Advisory Panels etc, shall be established, the terms of reference of each body, the number of members (voting and non-voting) that each consists of and to make the necessary appointments to the bodies;
- (f) agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them;
- (g) appointing representatives to outside bodies unless the appointment is an executive function or has been delegated by the Council;
- (h) adopting a scheme for Members allowances;
- (i) changing the name of the area, conferring the title of honorary alderman or to admit to be an honorary freeman;
- (j) appointment of the Head of Paid Service, and designating the Monitoring Officer and Section 151 Officer;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;
- (l) adopting a Code of Conduct for Members;
- (m) all local choice functions set out in table 2 of Part 3 of the constitution which the Council decides should be undertaken by itself rather than the Executive Board; and not delegated to any of its committees or officers;
- (n) taking decisions in respect of functions which are not the responsibility of the Executive Board and which have not been delegated by the Council to committees or officers. These include:
 - i. Power to submit proposals to the Welsh Assembly Government for an Order under Section 10 of the Representation of the People Act 2000;
 - ii. Power to change the name of a community;
 - iii. Power to make rules of procedure;

- (o) approve delegation of non-executive functions to committees and officers;
- (p) all other matters which, by law, must be reserved to the Council;
- (q) to provide a means whereby Members may ask questions on matters relevant to the Council's purview and to bring forward motions for debate;
- (r) to receive reports from Committees on matters which have been delegated to them and providing an opportunity for Members to ask questions thereon;
- (s) to receive and confirm or otherwise the recommendations of Committees on non-executive functions not within their delegation or which a Committee has referred to the Council for decision, to enable Members to ask questions, propose amendments, or to pass such resolution or resolutions thereon as may be deemed appropriate;
- (t) to approve the annual pay statement.
- (u) to determine the level, and any change in the level, of the remuneration to be paid to a chief officer.

4.3 Council meetings

There are three types of Council meeting:

- the annual meeting;
- ordinary meetings;
- extraordinary meetings;

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

4.4 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 Board.

Article 5 Chairing The Council

5.1 Roles and functions of the Chair and Vice Chair

The Job Profile and Person Specifications for the Chair and Vice Chair of Council can be found in Part 6 of this Constitution within the Councillors' and Co-opted Members' Allowances Scheme.

5.2 Interpretation of the Council's Constitution

The ruling of the Chair of 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.

Article 6 – Scrutiny Committees

6.1 There will be five Scrutiny Committees with the membership as indicated.

TITLE	MEMBERS	RESPONSIBILITIES
Policy and Resources Scrutiny Committee	<u>13 Members</u>	Corporate policy/strategy; Corporate performance monitoring; Communication; Customer Services; Emergency Planning; Cross cutting scrutiny issues; Human Resources; Organisational Development; Financial planning and resources finance; Effective scrutiny of the Treasury Management Strategy and Policies; Audit; Procurement; Physical assets; Non-housing maintenance; Information technology; Sustainable development.

TITLE	MEMBERS	RESPONSIBILITIES
Environmental & Public Protection Scrutiny Committee	<p><u>14 Members</u></p> <p>(The Committee may also co-opt non voting employees, officers or members of Responsible Authorities or Co-operating persons or bodies in respect of its crime and disorder functions, subject to the provisions of the Crime and Disorder (Overview and Scrutiny) Regulations 2009)</p>	<p>Environmental services – Gritting Bridges; Streetscene – Highways, Lighting, Street Cleaning, Refuse Collection; Public Toilets; Environmental Enforcement – Litter, Dog Fouling; Parking services; Planning Enforcement; Trading Standards; Community safety issues identified in the Corporate Community Safety and Crime and Disorder Reduction Strategies, working with the relevant partners in the community including the Police, Fire Brigade and the Local Health Board, crime and disorder functions (to include a power to make a report or recommendations to the County Council and/or the Council’s Executive Board); Environmental Health; Pest Control; Social Inclusion; the community.</p>
Community Scrutiny Committee	<p><u>13 Members</u></p>	<p>Public and private sector housing; Housing services including council housing repairs and maintenance; Regeneration; Planning Policy; Economic Development and Community Regeneration; Recreation and Leisure - Sport, Libraries, Museums; West Wales European Centre.</p>
Social Care and Health Scrutiny Committee	<p><u>14 Members</u></p>	<p>Social Care - adult services; Adult Learning Disabilities; Mental Health; National Health Service; “Wanless” issues.</p>

TITLE	MEMBERS	RESPONSIBILITIES
Education and Children Scrutiny Committee	<u>13 Members</u> + 5 Voting Co-opted Members : (3 elected parent governors 1 representative Church in Wales 1 representative Roman Catholic Church)	Schools; Catering; Inclusion / Special Education Needs; Community Education; Children's Services; Welsh Language (in the community); Building cleaning.

6.2 Generic Terms of Reference for all Scrutiny Committees (except in the case of the Policy & Resources Scrutiny Committee and the Environmental & Public Protection Scrutiny Committee when exercising powers in relation to crime and disorder as referred to below in Paras. 6.3 and 6.4 respectively).

In respect of matters which are relevant to their thematic and other responsibilities:

To develop and publish an annual forward work programme, identifying issues and reports to be considered during the course of a municipal year, taking into account the Council's Forward Work Programme.

To review and/or scrutinise decisions made or actions taken in connection with the discharge by the Executive Board and or the Council of any of their functions and to make reports to the Council and/or the Executive Board in connection with the discharge of any functions.

To exercise the right to call-in decisions as set out in paragraph 6.7 of this Article.

To monitor performance of the Executive Board/Authority in delivering key targets and objectives through the receipt of regular performance monitoring reports.

To scrutinise the development and implementation of service business plans including the monitoring of progress against specified actions and targets.

To monitor progress in the undertaking of WPI reviews including the recommendation of future service options/performance targets to Executive Board/Council and the monitoring of subsequent action plans.

To undertake WPI or other reviews as requested by the Executive Board in response to issues highlighted by the annual risk assessment.

- viii To participate in consideration of the authority's budget-setting process.
- ix To contribute to the Authority's policy development and review process including the proposing of amendments to the Executive Board and/or Council as appropriate.

To receive requests from the Executive Board / Executive Board Members to contribute to the executive's decision making process by undertaking reviews of current policies/service provision and formulating views on proposed new policies or legislation.
- x To undertake independent research through Task and Finish Groups with the aim of supporting improvements in service delivery and contributing to the Council's policy development and reviews.
- xi To undertake further independent research with the aim of supporting improvements in service delivery (to also undertake requests received from the Executive Board in this area).
- xii To refer issues to Executive Board / other Scrutiny Committees for consideration (supported by evidence based reports and proposals).
- xiii To consider any matter affecting the area or its inhabitants with respect to their specific remit.
- xiv To question members of the Executive Board and/or Committees and Chief Officers and partners about their views on issues and proposals affecting the area.
- xv To prepare an Annual Report giving an account of the Committee's activities over the previous year.

6.3 Specific additional Terms of Reference for the Policy and Resources Scrutiny Committee

Where matters fall within the remit of more than one scrutiny committee, to determine the issue following consideration of the Committees' reports and presentations by the appropriate Chairs where the Chief Executive deems this appropriate.

To resolve any issues of dispute between scrutiny committees.

To put in place and maintain a system to ensure that referrals from scrutiny committees to the Executive Board, either by way of report or for reconsideration are managed efficiently.

To contribute to the authority's policy development and review process in respect of corporate and cross-cutting issues.

To contribute to the development and monitoring of the Corporate and Community Strategies.

To scrutinise the Authority's Improvement Plan including specified performance targets.

To scrutinise and monitor the Council's overall performance against a set of key targets and objectives through receipt of regular performance monitoring reports.

To consider and contribute to the Council's response to the Wales Programme for Improvement including the undertaking of cross-cutting reviews and scrutinising progress and issues emerging from annual risk assessment.

To monitor delivery of the Council's efficiency programme.

6.4 Specific additional Terms of Reference where the Environmental & Public Protection Scrutiny Committee is considering the exercise of powers relating to crime and disorder

To review and/or scrutinise decisions made or actions taken in connection with the discharge by the responsible authorities of their crime and disorder functions.

To make reports and recommendations to the Council and/or the Executive Board with respect to the discharge of crime and disorder functions by the responsible authorities.

To consider at a meeting of the committee any local crime and disorder matter referred to the committee by a member of the Council.

To decide whether to make a report or recommendations to Council and/or the Executive Board in respect of a local crime and disorder matter, having regard to any representations made by that member as to why the committee should do so.

To notify the member concerned of its decision and the reasons for its decision in any case where the committee decides not to make a report or recommendations in respect of a local crime and disorder matter.

To provide a copy of any committee report or recommendations to the member concerned (in respect of a local crime and disorder matter) and to such responsible and co-operating persons or bodies, as it thinks appropriate.

To review responses to committee reports and recommendations, and to monitor action taken by responsible and co-operating persons or bodies in relation to the discharge of crime and disorder functions by the responsible authorities.

6.5 Membership

The membership of each Scrutiny Committee will be drawn from amongst those Councillors who are not members of the Executive Board. The number of members for each committee is identified in Paragraph 6.1 of this Article. The Scrutiny Committee responsible for Education matters will include voting co-opted members who are elected parent governor representatives and church representatives as required by the Local Government Act 2000. The Environmental & Public Protection Scrutiny Committee may also co-opt members in relation to crime and disorder matters. The Council may also appoint, on the recommendation of Scrutiny Committees, other non-voting members to serve on those committees.

6.6 Proceedings of Scrutiny Committees

Scrutiny committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules as set out in Part 4 of this Constitution, including where necessary consulting other committees, stakeholders or community groups.

These arrangements require that:

Any member of a Scrutiny Committee may between meetings ensure that any matter relevant to the remit of their Committee is placed on the agenda of that Committee for discussion and decision as to whether the Committee wishes to consider the matter further.

On receipt of such a request the Chief Executive will ensure that it is included on the next appropriate agenda.

Each Scrutiny Committee will be subject to the political balance rules as set out in the Local Government and Housing Act 1989.

Scrutiny Committees will meet in public except in circumstances where the committee decides that confidential or exempt information are to be discussed.

Scrutiny Committees can request members of the executive board to attend their meeting and assist them. (This power does not relate solely to scrutiny of decisions taken and can also be used to ask an Executive Board Member, for example, about forthcoming issues, provided due notice is given.)

6.7 Call-in Procedures

~~A majority of members of a Scrutiny Committee can “call in” an executive decision(s) (a majority comprises more than half of the membership of a scrutiny committee e.g. 6 members of a 11 or 10 member committee).~~

~~A decision can be “called in” provided:~~

- ~~i) that it is not an urgent matter (i.e. where there is a threat to life or where the Council’s financial or other interests, or the rights or interests of others, would be threatened if there were any delay);~~
- ~~ii) that it is not in respect of matters which have previously been called in; or~~
- ~~iii) that it will not result in unlawful delay in the making of the budget.~~

~~Except in cases of urgency, a decision taken by the Executive Board or by an individual Executive Board Member will not take effect until three working days after the decision is published and circulated via E mail to members of the relevant Scrutiny Committee(s).~~

~~This gives a majority of the members of the relevant scrutiny committee the opportunity to exercise the right to call in the decision by requesting the Chief Executive to call a meeting of their committee to consider the decision.~~

~~This is achieved by sending to the Chief Executive or his designated officer (Head of Democratic Services) within the three day stipulated period a requisition / e-mail signed by the requisite number of members asking that the matter be “called in”.~~

~~To exercise the right of “call in”, certain conditions must have been met and the Monitoring Officer has to advise the Chief Executive as to whether these conditions have been satisfied.~~

~~There must be serious and genuine grounds for “call in”. These grounds may include concerns about:~~

- ~~i) Non compliance with the budget and policy framework, or the decision being outside the functions of the Executive;~~
- ~~ii) Failure to carry out adequate consultation i.e. had not followed agreed procedures on consultation (as set out in protocols adopted by the Council) before reaching a decision; or~~
- ~~ii) Failure to take account of legal obligations, including regulations or statutory guidance, or other guidance adopted by the council.~~

~~If the Monitoring Officer decides that there are grounds for calling in a decision then arrangements will be made for a meeting of the relevant scrutiny committee to be convened within 10 working days of receipt of the request to call the matter(s) in.~~

~~Following consideration of the matter(s) called in the scrutiny committee can decide:~~

- ~~i) Not to object to the decision, in which case it takes effect immediately;~~
- ~~ii) To refer the decision back to the Executive Board, relevant Executive Board Member or Officer (whichever is the original decision maker) for further consideration, who may then amend the decision or after re-consideration, implement it without amendment. The decision then takes effect immediately and is not subject to further call in;~~
- ~~ii) ——— Dependent upon the extent to which the scrutiny committee’s concerns relate to the specified circumstances identified above, to refer the decision to the County Council if, for example, the decision appears to represent a departure from a policy agreed by the Council.~~

6.7 Call-in Procedures

Any three Council members can “call in” an executive decision.

A decision can be “called in” provided:

- i. that it is not an urgent matter (i.e. where there is a threat to life or where the Council’s financial or other interests, or the rights or interests of others, would be threatened if there were any delay);
- ii. that it is not in respect of matters which have previously been called in; or
- iii. that it will not result in unlawful delay in the making of the budget.

Except in cases of urgency, a decision taken by the Executive Board or by an individual Executive Board Member will not take effect until five clear working days after the decision is published on the Authority’s website and circulated via E mail to all members.

This gives three members the opportunity to exercise the right to 'call in' the decision by requesting the Chief Executive to call a meeting of the relevant Scrutiny committee to consider the decision.

This is achieved by sending to the Chief Executive or his designated officer (Head of Democratic Services) within the five clear working day stipulated period a requisition / e-mail signed by no less than three members asking that the matter be "called in" and providing their reasons therefore.

Arrangements will then be made for a meeting of the relevant scrutiny committee to be convened within 10 working days of receipt of the request to call the matter(s) in. Members who have exercised the 'call in' may be asked to appear before the Committee to expand on the reasons for the 'call in' and to provide evidence to support their request.

Following consideration of the matter(s) called in the scrutiny committee can decide:

- i. Not to object to the decision, in which case it takes effect immediately;
- ii. To refer the decision back to the Executive Board, relevant Executive Board Member or Officer (whichever is the original decision maker) for further consideration, who may then amend the decision or after re-consideration, implement it without amendment. The decision then takes effect immediately and is not subject to further call-in;
- iii. Dependent upon the extent to which the scrutiny committee's concerns relate to the specified circumstances identified above, to refer the decision to the County Council if, for example, the decision appears to represent a departure from a policy agreed by the Council.

The 'call in' process will be reviewed on an annual basis by the Cross Party Constitutional Review Working Group with any suggested amendments considered at the Annual Meeting of the Council.

6.8 Roles and functions of the Chairs, Vice Chairs and members of Scrutiny Committees

The Job Profile and Person Specifications for the Chair, Vice Chair and members of the Scrutiny Committees can be found in the Councillors and Co-opted Members' Allowances Scheme (Part 6.1 of this Constitution).

Article 7 The Executive Board

7.1 Role The Executive Board will carry out all the local authority's functions which are not the responsibility of the Council whether by law or under these executive arrangements. The Executive Board, in exercising these functions will do so within the Budget and Policy Framework set by the Council in accordance with these arrangements. The Executive Board also has a key role in proposing the Budget and Policy Framework to the Council and in implementing and monitoring its Treasury Management Policies and Practices. In addition, the Executive Board and its members will lead the Community Planning process; the drive for continuous service improvement through the Wales Programme for Improvement; lead the preparation of and subsequently oversee them implementation of the Council's policies; take in-year decisions on resources and priorities subject to the Budget and Policy Framework Procedure Rules; and be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs. The Executive Board will also consider and respond to any recommendations and reports from scrutiny committees, regulatory and other committees, advisory panels and the Standards Committee.

7.2 Roles and functions of the Leader, Deputy Leader(s) and Executive Board Members

The Job Profile and Person Specifications for the Leader, Deputy Leader(s) and Executive Board Members can be found in the Councillors and Co-opted Members' Allowances Scheme (Part 6.1 of this Constitution).

7.3 Form and Composition of the Executive Board

The Council's executive is to be known as the "Executive Board" and will comprise the Leader elected to that position by the Council and up to nine other Councillors appointed by the Leader (including up to two Deputy Leaders). Only Councillors may be appointed to the Executive Board.

(There shall be no co-optees and no deputies or substitutes for Executive Board Members. Neither the Chair nor Vice Chair of the Council may be appointed to the Executive Board and members of the Executive Board may not be members of a Scrutiny Committee.)

A member may be appointed to the Executive Board on a temporary basis to cover an Executive Board Member that has exercised his/her right to a family absence under Part 2 of the Local Government (Wales) Measure 2011.

The Leader of the Council will hold office until the next election of the Council or until whichever of the following (a) – (d) is the earliest:

- (a) s/he resigns from the office; or
- (b) s/he is suspended from being a Councillor under Part 3 of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension); or
- (c) s/he is no longer a councillor;
- (d) s/he is removed from office by resolution of the Council.

Executive Board Councillors will hold office until the next election of the Council or until whichever of the following (a) – (c) is the earliest:

- (a) they resign from office or are removed from office by the Leader;
- (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.

EBM PORTFOLIOS ARE INCLUDED AS PART OF THE LEADER'S JOB PROFILE WITHIN THE COUNCILLORS' & CO-OPTED MEMBERS' ALLOWANCES SCHEME

7.4 PROCEEDINGS OF THE EXECUTIVE BOARD

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

7.5 RESPONSIBILITY FOR FUNCTIONS

Each Executive Board Member shall have delegated authority for the exercise of all powers relating to the functions of the County Council relating to the portfolio they hold, subject to:

- (a) the exercise of powers delegated to Officers;
- (b) those functions not being exercised in a way which would:
 - (1) change approved policies or strategies;
 - (2) create new policies or strategies;
 - (3) take decisions on the withdrawal or modification of a public service;
 - (4) decide on significant new powers or duties arising from new legislation;
- (c) those decisions being taken at Executive Board Member Decision Meetings formally convened and recorded by the Chief Executive.

7.6 SCRAP METAL DEALERS ACT 2013

To undertake oral “Application Hearings” against the refusal of applications by Officers

Article 8 Regulatory and Appeals Committees

8.1 Regulatory and other Committees

The Council will appoint the committees set out in Table 3 of Part 3 of this Constitution to discharge the functions described in column 3 of that table against each of the Committees identified.

8.2 Roles and functions of the Chairs, Vice Chairs, Members of Regulatory and the Chair of the Appeals Committee

The Job Profile and Person Specifications for the Chairs, Vice Chairs, Members of Regulatory Committees and the Chair of the Appeals Committee can be found in the Councillors and Co-opted Members' Allowances Scheme (Part 6.1 of this Constitution).

Article 9 The Standards Committee

9.1 Standards Committee

The Council has a Standards Committee with the following membership, working arrangements and terms of reference.

9.2 Composition

(a) Membership

The Standards Committee has 9 members made up as follows:

- i. 5 'independent' members who are not elected members of the Council;
- ii. 3 County Councillors;
- iii. 1 member of a community council in the area called a 'community committee member.

(b) Terms of Office

- i. Independent members are initially appointed for a period of 4 to 6 years and may be reappointed for a further period of up to 4 years.
- ii. Members of the local authority who are members of the standards committee will serve until the next ordinary local government election following their appointment. They may be re-appointed for 1 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.

(d) Voting

Independent members and community committee members are entitled to vote at meetings.

(e) Community committee member

A community committee member shall not take part in the proceedings of the standards committee when any matter relating to his/her community council is being considered.

(f) Chairing the Committee

- i. Only an independent member of the standards committee may be the chair or vice-chair.
- ii. The chair and vice-chair will be elected by the members of the standards committee for a period of between 4 and 6 years .The chair and the vice chair can be re-appointed for one further period of up to 4 years.

9.3 Role and Function

The Standards Committee has the following functions:

- (a) To promote and maintain high standards of conduct by councillors, co-opted members.
- (b) To assist councillors and co-opted members to observe the Members' Code of Conduct.
- (c) To advise the Council on the adoption or revision of the Members' Code of Conduct.
- (d) To monitor the operation of the Members' Code of Conduct.
- (e) To advise, or arrange training for councillors and co-opted members on matters relating to the Members' Code of Conduct.
- (f) To grant dispensations to councillors and co-opted members where the councillor or co-opted member has a personal and prejudicial interest under the Members' Code of Conduct, subject to legal requirements.
- (g) To deal with any reports from the Adjudication Panel for Wales, a case tribunal or interim case tribunal established by the Adjudication Panel, any report from the monitoring officer on any matter referred to that officer by the Public Services Ombudsman for Wales, or a report from the Public Services Ombudsman for Wales.
- (h) The exercise of (a) to (g) above in relation to the community and town councils wholly or mainly in its area and the members of those community and town councils.
- (i) To receive annual reports on the operation of the Council's complaints procedure and the whistle-blowing policy with a view to incorporating references to those matters in the Committee's Annual Report to Council.

Article 10 – Joint Arrangements

10.1 Arrangements to promote well-being

The Council or the Executive Board in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

10.2 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 Board 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) Except as set out below, the Executive Board may only appoint executive board members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Executive Board 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.

Details of joint arrangements including any delegations to joint committees are as follows:

Local Service Board

South West Wales Integrated Transport Consortium Joint Committee (SWWITCH)

South West Wales Regional Joint Waste Management Committee

10.3 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.

10.4 Delegation to and from other local authorities

- (a) The Council may delegate non-executive 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 such a delegation from another local authority shall be reserved to the Council meeting.

10.5 Contracting out.

The Council and the Executive Board 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

11.1 Management structure

- (a) **General.**
The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.**
The full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service) The functions and areas of responsibility identified opposite will be discharged by the Chief Executive or an officer nominated by him	Overall corporate management and operational responsibility (including overall management responsibility for all staff); The provision of professional and impartial advice to all parties in the decision making process the Executive Board, overview and scrutiny committees, the full council and other committees; Together with the monitoring officer, responsibility for a system of record keeping for all the authority's decisions (executive or otherwise); Representing the authority on partnership and external bodies (as required by statute or the council); and Service to the whole council, on a politically neutral basis. Legal and governance support, customer service centres, central and administrative support services and statutory services. Economic Development, European Policy and External Grants;
Director of Corporate Services	Finance and Information Technology, Audit, Procurement and Risk Management, Corporate Property; Facilities Management.
Director of Regeneration and Leisure	
Director of Community Services	Community Services; Public Protection & Housing; Primary Care & Community Social Care; Mental Health & Learning Disability and Leisure & Sport. Adult Services; Housing Services, Public Protection, Health Co-ordination: Leisure;

Post	Functions and areas of responsibility
Director of Education & Children's Services	Children's Services; Education Services; Learner Programmes School Support; Education Standards and Lifelong Learning; Children and Families Services;
Director of Environment Technical Services	Building Services; Consultancy; Street Scene; Transport; Trunk Road Advisor. Planning Services; Street Scene; Transport & Engineering; Property Maintenance & Construction.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer,**
The Council will designate the following posts as shown. (The designation in respect of the Chief Finance Officer (Section 151 Officer) will be determined upon the appointment of the Director of Corporate Services Resources).

Post	Designation
Chief Executive	Head of Paid Service
Head of Administration and Law	Monitoring Officer
Director of Corporate Services Resources	Chief Finance Officer

Such posts will have the functions described in Articles 11.2–11.4 below.

- (d) **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.

11.2 Functions of the Head of Paid Service

- (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.

11.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.**
The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.**
After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive Board 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 Board 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 Board – are within the budget and policy framework.**
The Monitoring Officer will advise whether decisions of the Executive Board– 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, 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.

11.4 Functions of the Chief Finance Officer

- (a) **Ensuring lawfulness and financial prudence of decision making.**
After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive Board in relation to an Executive Board 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) **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.
- (e) **Give financial information.**
The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.5 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.

11.6 Conduct

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

11.7 Employment

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

Article 11 – Officers

REVISED

11.1 Management structure

- (a) **General.**
The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.**
The full Council will engage persons for the following posts, who will be designated chief officers:

Post	Functions and areas of responsibility
<p>Chief Executive (and Head of Paid Service)</p> <p>The functions and areas of responsibility identified opposite will be discharged by the Chief Executive or an officer nominated by him</p>	<p>Overall corporate management and operational responsibility (including overall management responsibility for all staff);</p> <p>The provision of professional and impartial advice to all parties in the decision making process the Executive Board, overview and scrutiny committees, the full council and other committees;</p> <p>Together with the monitoring officer, responsibility for a system of record keeping for all the authority's decisions (executive or otherwise);</p> <p>Representing the authority on partnership and external bodies (as required by statute or the council); and</p> <p>Service to the whole council, on a politically neutral basis. Legal and governance support, customer service centres, central and administrative support services and statutory services.</p>
<p>Director of Resources</p>	<p>Finance and Information Technology, Audit, Procurement and Risk Management, Corporate Property.</p>
<p>Director of Regeneration and Leisure</p>	<p>Economic Development, European Policy and External Grants; Planning Services; Leisure.</p>
<p>Director of Social Care Health and Housing</p>	<p>Adult Services; Housing Services, Public Protection, Health Co-ordination.</p>

Post	Functions and areas of responsibility
Director of Education & Children's Services	School Support; Education Standards and Lifelong Learning; Children and Families Services, Facilities Management; Support Services Library Services.
Director of Technical Services	Building Services; Consultancy; Street Scene; Transport; Trunk Road Advisor.

- (c) **Head of Paid Service, Monitoring Officer and Chief Financial Officer,**
The Council will designate the following posts as shown. (The designation in respect of the Chief Finance Officer (Section 151 Officer) will be determined upon the appointment of the Director of Resources).

Post	Designation
Chief Executive	Head of Paid Service
Head of Administration and Law	Monitoring Officer
Director of Resources	Chief Finance Officer

Such posts will have the functions described in Articles 11.2–11.4 below.

- (d) **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.

11.2 Functions of the Head of Paid Service

- (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.

11.3 Functions of the Monitoring Officer

- (a) **Maintaining the Constitution.**
The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making.**
After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Executive Board 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 Board 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 Board – are within the budget and policy framework.**
The Monitoring Officer will advise whether decisions of the Executive Board– 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, 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.

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- (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 Board in relation to an Executive Board 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) **Contributing to corporate management.**
The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice.
- (e) **Give financial information.**
The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.5 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.

11.6 Conduct

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

11.7 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

12.1 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.

12.2 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 (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes;
- (f) the reasons for the decision are recorded together with, a record of any personal interest declared, any dispensation to speak granted by the authority's standards committee and details of consultation undertaken.

12.3 Decisions reserved to full Council

Decisions relating to the functions listed in Article 4.2 will be made by the full Council and not delegated unless otherwise indicated.

12.4 Decision making by the full Council

Subject to Article 12.8 below, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.5 Decision making by the Executive Board

Subject to Article 12.8 below, the Executive Board will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.6 Decision making by scrutiny committees

Scrutiny committees will follow the Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

12.7 Decision making by other committees established by the Council

Subject to Article 12.8 below, other Council committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

12.8 Decision making by Council bodies acting as tribunals

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.

Article 13 – Finance, Contracts and Legal Matters

13.1 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 with delegated authority being granted to the Audit Committee to consider and approve amendments to the Financial Procedure Rules.

13.2 Contracts

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

13.3 Legal proceedings

The Head of Administration & Law 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 Administration & Law considers that such action is necessary to protect the Council's interests.

Please also refer to the Scheme of Delegation to Officers in Part 3 of this Constitution for further details.

13.4 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 Administration & Law 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.

Any contract with a value exceeding £50,000 entered into on behalf of the local authority in the course of the discharge of an Executive Board function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made under the common seal of the council attested by at least one officer.

Please also refer to the Scheme of Delegation to Officers in Part 3 of this Constitution for further details.

13.5 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 Administration & Law. 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 Administration & Law should be sealed. The affixing of the Common Seal will be attested by the Head of Administration & Law or some other person authorised by him/her.

Please also refer to the Scheme of Delegation to Officers in Part 3 of this Constitution for further details.

Article 14 – Review and Revision of the Constitution

14.1 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 and to formulate recommendations for changes to better achieve the purposes set out in Article 1.

In undertaking this task the Monitoring Officer will:

observe meetings of different parts of the member and officer structure;
undertake an audit trail of a sample of decisions;

record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and

compare practices in this authority with those in other comparable authorities, or national examples of good practice.

14.2 CHANGES TO THE CONSTITUTION

(a) **Approval.**

Changes to the Constitution will only be approved by the full Council after consideration of the proposal by the Monitoring Officer in consultation with the Leader and the Leaders of the political groups.

(b) **Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa.**

The Council will take reasonable steps to consult with local electors and other interested persons in the area when drawing up proposals for consideration by the National Assembly for Wales.

Article 15 – Suspension, Interpretation and Publication of the Constitution

15.1 Suspension of the Constitution

- (a) Limit to suspension. The articles of this constitution may not be suspended. the rules specified below may be suspended by the full council to the extent permitted within those rules and the law.
- (b) 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 are 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 Article 1.
- (c) Rules capable of suspension. Council Procedure Rules may be suspended in accordance with Article 15.1 to the extent specified in Council Procedure Rule 22.

15.2 Interpretation

The ruling of the Chair of 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.

15.3 Publication

- (a) The Chief Executive will give a printed copy 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 the constitution is available for inspection at council offices, libraries and the Council's website.

Schedule1:Description of Executive Arrangements

The following parts of this Constitution constitute the executive arrangements:

1. Article 6 The Scrutiny Procedure Rules;
2. Article 7 The Executive Board Procedure Rules;
3. Article 10 Joint arrangements;
4. Article 12 Decision making and the Access to Information Procedure Rules;
5. Part 3 Responsibility for Functions.