

CYFARFOD BLYNYDDOL Y CYNGOR SIR

22 MAI 2024

ADOLYGIAD BLYNYDDOL O'R CYFANSODDIAD

Diweddarau'r Cyfansoddiad i adlewyrchu diwygiadau gan y Gweithgor Adolygu'r Cyfansoddiad a'r gofyniad i adolygu Cyfansoddiad y Cyngor yn flynyddol

YR ARGYMHELLION/PENDERFYNIADAU ALLWEDDOL SYDD EU HANGEN:

- Yn unol â'r penderfyniadau a wnaed gan Banel Annibynnol Cymru ar Gydabyddiaeth Ariannol, mabwysiadu Cynllun Cyflogau a Lwfansau Cyngorwyr ac Aelodau Cyfetholedig 2024-2025, fel y nodir yn Rhan 6.1 o'r Cyfansoddiad.
- Cymeradwyo'r newidiadau cyfansoddiadol, sydd wedi digwydd o ganlyniad i newidiadau deddfwriaethol ac unrhyw argymhellion ychwanegol a gyflwynwyd gan y Gweithgor Adolygu'r Cyfansoddiad, fel y manylir yn yr adroddiad.
- Mabwysiadu Cyfansoddiad y Cyngor ar gyfer 2024-2025.
- Bod y Swyddog Monitro yn cael ei awdurdodi i wneud unrhyw fân newidiadau, cywiro gwallau teipio neu wallau drafftio a sicrhau bod yr holl groesgyfeiriadau yn y Cyfansoddiad yn gywir ac y rhoddir gwybod am y rhain i'r Gweithgor Adolygu'r Cyfansoddiad pan fydd angen.

Y RHESYMAU:

O dan Erthygl 14 o'r Cyfansoddiad mae'n ddyletswydd ar y Swyddog Monitro i fonitro ac adolygu gweithrediad y Cyfansoddiad i sicrhau bod y nodau a'r egwyddorion sydd ynddo yn cael effaith lawn ac er mwyn llunio argymhellion ar gyfer newidiadau. Bydd newidiadau i'r Cyfansoddiad yn cael eu cymeradwyo gan y Cyngor llawn yn unig.

Angen i'r Cabinet wneud penderfyniad

NAC OES

Angen i'r Cyngor wneud penderfyniad

OES

Yr Aelod o'r Cabinet sy'n Gyfrifol am y Portffolio:- Arweinydd y Cyngor

Y Gyfarwyddiaeth

Y Prif Weithredwr

Rhifau ffôn

01267 224012 LRJ

01267 224026 GM

Enw Pennaeth y

Gwasanaeth:

Linda Rees-Jones

Swyddi:

Pennaeth Gweinyddiaeth a'r

Gyfraith

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Awdur yr Adroddiad:

Gaynor Morgan

Pennaeth y Gwasanaethau

Democrataidd

COUNCIL ANNUAL MEETING

COUNCIL CONSTITUTION

Council is required to review its Constitution on an annual basis and has established the Constitutional Review Working Group to present recommendations for constitutional change.

The Constitutional Review Working Group met on the 8th April 2024 to review elements of the Constitution and their recommendations are included in this report.

Scheme of Members' Allowances for 2024-25

The Independent Remuneration Panel for Wales (IRPW) prescribes the amounts to be paid to Councillors for 2024-25. Constitutionally, responsibility for adopting a Scheme of Members' Allowances rests with the Council but the Independent Remuneration Panel for Wales (IRPW) determines the amounts to be paid with a view to providing a consistent national framework for councillor remuneration. The report contains the IRPW determinations for 2024/25 which are payable from 1st April 2024..

Councillors appointed to **new** posts Senior/Civic Salaries at the Annual Meeting will be paid any revised salary from the start of the municipal year (22nd May 2024). It should be noted that the IRPW determines the rate of pay and authorities cannot vary the amounts payable or delay implementation of the panel's determinations.

Performance, performance assessments and intervention

Whilst there have been no legislative changes which are required to be made to the Constitution it has by now been clarified that the "Performance, performance assessments and intervention" provisions introduced by the Local Government and Elections (Wales) Act 2021 are "local choice functions", which means that they may be, but need not be, the responsibility of the executive, at the discretion of the Council.

The 2021 Act introduces a requirement for each Principal Council to undertake an annual review of the extent it is exercising its functions effectively, and whether it is using its resources efficiently. As part of the annual review process, each principal council is required to consult with residents, businesses and council staff about its performance, and to make arrangements for an external panel to assess its performance. A panel performance assessment must take place at least once between two consecutive ordinary local council elections

CRWG recommends that Council be responsible for Performance, performance assessments and intervention" provisions on the recommendation of the Executive.

Questions on notice from the Public and Members.

As part of the annual review of the Constitution, CRWG considered how questions and their answers were currently managed. Having considered the possible introduction of a time limit for both member and public questions.

CRWG recommends :-

- Public questions should mirror the Member question requirement to be concise and in the form of a question not a statement
- A time limit of 1 minute for each question and 2 minutes for each answer (on average 220 - 300 words per minute in a 2 minute speech)
- The time limit for supplementary questions and answers will be 30 seconds for each supplementary question (75-85 words approx.) and no more than 1 minute for each supplementary answer.. Additional detailed information may be provided by form of a written answer.
- No more than 3 public questions on any one topic can be asked at each Council meeting.

Local Flood Risk Management Strategy

In terms of Council functions the Flood and Water Management Act 2010 requires all 22 Lead Local Flood Authorities (LLFAs) in Wales to produce a Local Flood Risk Management Strategy.

CRWG recommends that Article 4 of the Constitution be amended to reflect this requirement

Planning Committee

The Council's Constitution is currently silent on whether members who were not present at an earlier meeting/s on a deferred planning application can vote when the application is finally determined

The Courts have by now confirmed that it is lawful for local authorities to make Standing Orders which restrict the vote to only those members who were present at the earlier meeting/s: R (on the application of Spitalfields Building Trust) v. London Borough of Tower Hamlets and Old Truman Brewery Limited (2023). Paragraph 42 of Schedule 12 to the Local Government Act 1972 empowers local authorities to make standing orders for the regulation of their proceedings and business.

The Court of Appeal held that the phrase "regulation of their proceedings and business" was wide enough to encompass restrictions on voting by members. While Parliament had identified certain circumstances in which members must be prevented from voting (for example, where they had a pecuniary interest), local authorities retained discretion to restrict voting in other circumstances. It was rational and intra vires the Local Government Act, according to the Court to prevent members from voting on deferred planning applications where they had not attended the first meeting and equally to prevent them from voting if they had not been present for the whole presentation and debate at a single meeting.

CRWG recommends that Part 5.2 of the Code of Conduct for Councillors and Planning Matters and Part 4.1 Council Procedure Rules are amended to reflect the ruling.

Licensing - Special Procedures.

A new licensing scheme for 'Special Procedures' will be introduced by Welsh Government in October 2024 (precise date is yet to be confirmed), under Part 4 of the Public Health (Wales) Act 2017. Special Procedures include tattooing, semi-permanent skin colouring, cosmetic piercing, acupuncture, dry needling and electrolysis.

The main requirements of this regime will include:

- Practitioners must be licensed to carry out special procedures. It will be an offence to carry out special procedures without a licence;
 - Business premises or vehicles must be approved. It will be an offence for a practitioner to perform any procedures from premises or vehicles that are not approved
 - A full licence will last for three years, and a temporary licence will last for seven days (to allow for events and conferences);
 - Licence conditions will cover a practitioner's competence, the premises, the equipment and practices used, advice given before and after the special procedure and the records kept.
- Implication of New Mandatory Licensing Scheme

The new regime will mean that local authorities are to be responsible for enforcing the licensing requirement of these practices and for keeping a register of special procedures licences issued by them.

CRWG recommends that Parts 3.1 and 3.2 of the Constitution be amended to reflect the new requirement.

Shadow Cabinet

The terms of Reference of the Shadow Cabinet were discussed at the last Group Leaders and Deputies' meeting, as there was a view that the focus of the meetings had changed since it was originally established back in 2002.

The attached report suggests a revised process for dialogue with the Shadow Cabinet which has been considered by the Constitutional Review Working Group (CRWG).

The Shadow Cabinet was formally established by the Council and any recommendations from CRWG require formal Council approval.

If the recommendation of CRWG is accepted the scheme of allowances will be amended accordingly.

CRWG recommends revised terms of reference for dialogue with Shadow Cabinet Members.

Other than the issues raised and some minor amendments including updated job titles, no other amendments are being put forward.

A copy of the full constitution can be viewed on the Authority's website or via this [link:-](#)

DETAILED REPORT ATTACHED ?	<p>Part 2 Article 4 – The Full Council</p> <p>Part 2 Article 7 – The Cabinet</p> <p>Part 3.1 Responsibility for Functions</p> <p>Part 3.2 General Scheme of Delegation to Officers</p> <p>Part 4.1 Council Procedure Rules</p> <p>Part 5.2 Code of Conduct for Councillors and Officers in Planning matters.</p> <p>Part 6.1 Councillors' & co-opted member's scheme of allowances</p> <p>Shadow Cabinet – Terms of Reference</p>
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IMPLICATIONS

I confirm that other than those implications which have been agreed with the appropriate Directors / Heads of Service and are referred to in detail below, there are no other implications associated with this report :

Signed: **Linda Rees Jones** **Head of Administration & Law**

Policy, Crime & Disorder and Equalities	Legal	Finance	ICT	Risk Management Issues	Staffing Implications	Physical Assets	Bio- diversity & Climate Change
YES	YES	NONE	NONE	NONE	NONE	NONE	NONE

1. Policy, Crime & Disorder and Equalities

Adoption and any amendment to the Constitution is a matter for Full Council

2. Legal

The Council is required to comply with the Local Government Act 2000 and in the drafting and subsequent operation of the Constitution.

CONSULTATIONS

I confirm that the appropriate consultations have taken in place and the outcomes are as detailed below

Signed Linda Rees Jones Head of Administration & Law

1. Scrutiny Committee request for pre-determination	NA
If yes include the following information: -	
Scrutiny Committee	
Date the report was considered:-	
Scrutiny Committee Outcome/Recommendations:-	

2. Local Member(s)

N/A

3. Community / Town Council

N/A

4. Relevant Partners

N/A

5. Staff Side Representatives and other Organisations

N/A

Section 100D Local Government Act, 1972 – Access to Information

List of Background Papers used in the preparation of this report:

Title of Document	File Ref No.	Locations that the papers are available for public inspection
Carmarthenshire Council Constitution		http://www.carmarthenshire.gov.wales/home/council-democracy/the-council/councils-constitution/
Independent Remuneration Panel for Wales Annual Report		https://www.gov.wales/independent-remuneration-panel-wales-annual-report-2024-2025
Local Government & Elections (Wales) Act 2021		https://www.legislation.gov.uk/asc/2021/1/contents/enacted