

<b>MEETING:</b>	<b>THE COUNCIL</b>
<b>DATE:</b>	<b>17, MAY, 2012</b>
<b>TOPIC:</b>	<b>THE CONSTITUTION.</b>
<b>AUTHOR:</b>	<b>DILYS PHILLIPS, MONITORING OFFICER.</b>

1. In accordance with the Council's decision in October, 2011 and the requirements of the Local Government (Wales) Measure 2011 the Council is required to adopt a new Constitution which introduces executive arrangements (cabinet arrangements).
2. The main change to the Council's arrangements is that decision making powers and the implementation of the vast majority of the authority's functions transfer from the Council to the Executive.
3. The Council will decide on the budget and the policy framework (which includes the Three Year Plan and a number of specific strategies listed in article 4 of the Constitution). Also the Council retains the power to appoint the leader, to adopt or amend the Constitution, to set the chief officer's pay policy, and to make bye-laws.
4. Development control matters will be the responsibility of the Planning Committee, licensing matters will be the responsibility of the Licensing Committee, matters relating to the pension fund will be the responsibility of the Pensions Committee and any appeals by the Council's staff will be the responsibility of the Employment Appeals Committee.
5. Everything else will be the responsibility of the Executive. There will be no power of reference up to the Full Council.
6. The Leader will decide on the number of members of the Executive and their portfolios and will inform the full Council of his decision. Individual members of the Executive will have decision making powers in relation to matters within their portfolios subject to certain restrictions. Any decision made by an individual member will be subject to the same arrangements as other Executive decisions namely, a full written report, the publication of a decision notice and the power of a call-in to a Scrutiny Committee.
7. The three scrutiny committees, and to an extent the Audit Committee, will have the role of calling the Executive and individual members of the Executive, to account. The scrutiny committees will have the power of call-in in respect of the decisions of the Executive or individual members of the Executive under certain circumstances (see the Overview and Scrutiny and Overview Procedure Rules below).
8. The scrutiny committees will also have the vital duty of adding value to the Council's activities and the results for the county's residents, by holding studies of the effect of various policies on the residents, monitoring the performance of various services and holding investigations into relevant subjects in order to present recommendations to the Executive.

9. A discussion was held in the last Council about the future of the area committees and it was decided that the move to area forums should be considered further. With the change to Executive arrangements the area committees will no longer have any decision making role. In March the observations of the three areas on the arrangements were taken but there was no opportunity to discuss them and come to a conclusion. The discussion therefore remains on the exact role and purpose of the area committees and how best to incorporate them into the Council's constitution. For that reason the version of the Constitution presented here does not include area committees and it is recommended that a further report be placed before the Council in June dealing specifically with the area committees.
10. The tables which follow summarise the main changes to the Constitution.

#### **PART 1 - SUMMARY AND EXPLANATION.**

The purpose of this document is to provide an introduction to the rest of the Constitution. Any changes have been noted in the relevant parts below.

#### **PART 2 - THE ARTICLES**

No amendments of substance to articles 1, 2, 3, 4 or 5.

##### Article 6 - Scrutiny Committees.

There are amendments to the number, constitution and remit of the scrutiny committees. Three scrutiny committees will be established (Corporate, Communities and Services) each with 18 members and each with the power to call in the Cabinet decisions.

##### Articles 7 - The Executive.

This article introduces executive arrangements (Cabinet) to the authority. A Cabinet of up to ten members will be established to be appointed by the Leader and with extensive executive powers.

##### Article 8 - Regulatory and Other Committees.

The number of members on the Audit Committee is increased to 18 and the number of members on Licensing Committees increased to 15. A Democratic Services Committee is established to oversee services for members (in accordance with the requirements of the Local Government (Wales) Measure 2011) together with a Language Committee of 15 members to replace the old Language Sub-Committee.

Since the Constitution does not establish area committees for the time being, duties involving taxi licensing are given to the Licensing Committee.

No changes of substance to Articles 9, 10, 11 (except for the introduction of the statutory post of Head of Democratic Services), 13, 14 nor 15.

#### **PART 3 - RESPONSIBILITY FOR FUNCTIONS.**

This is the part of the Constitution which delegates functions to committees, members and officers. The format of this part of the Constitution has been completely changed. As regards contents, there is no change of substance to the powers and functions of the employment appeals committee, the pensions committee or the central licensing committee.

#### Democratic Services Committee

This is a new committee to fulfil statutory duties involving member support and to consider whether the provision for them is sufficient.

#### Audit Committee

In addition to its usual function of overseeing financial matters and receiving reports from internal audit, the Audit Committee receives new duties of reviewing and assessing the Council's arrangements for corporate governance and the scrutiny of financial matters.

#### The General Licensing Committee.

This is the same as the Central Licensing Committee and is given the functions of dealing with taxi licensing and markets.

#### Planning Committee.

In addition to its planning duties, the committee is given, temporarily, rights to decide on traffic and footpath orders.

#### Scheme of Delegation for Officers.

There are no changes of substance to the delegated powers to officers.

### **PART 4 - RULES OF PROCEDURE.**

This part of the Constitution contains the rules which regulates the way the Council and its committees operate. Changes are introduced to four of them.

#### Council Procedure Rules.

##### Rule 13:

The right is introduced for the first time for members of the public to present a petition to the Council. The petition has to be relevant to the Council's functions or affect its area, have at least 50 signatures on it and 10 days notice must be given. The person presenting the petition has 3 minutes to address the meeting.

##### Rule 14:

The Constitution also introduces the right for members of the public to ask questions at meetings of the full Council. The procedure involves ten days notice, the question has to meet a number of conditions regarding its contents, two minutes will be allowed to ask the question and the right will be given to one supplementary question. Only two questions by members of the public will be placed on the agenda of any Council meeting.

##### Rule 16:

A new power is introduced to hold a debate in meetings of the full Council on a specific subject proposed by a member of the Council. The debate will be limited to 30 minutes. Notice of the subject must be given ten days in advance and there will be no power to make a formal motion in connection with the debate. The Chairman will decide whether the subject is suitable for discussion.

### Executive Procedure Rules.

Since Executive arrangements are introduced for the first time, these procedure rules are totally new. They explain the way in which the Executive (or Cabinet) meets. The procedure rules deal with the following matters :

- The way in which the Executive will delegate its functions – to a committee, to individual members or to officers.
- The procedure for holding meetings of the Executive – whether public meetings or in camera.

### Overview and Scrutiny Procedure Rules.

The only changes of substances to these procedure rules are the call-in procedure which enables every scrutiny committee to call in any decision of the Executive or an individual member of the Executive. The call-in procedure involves a notice by the committee Chairman and any two members and reasons must be provided which show that the decision is outside the policy framework or budget, that the consultation arrangements with the scrutiny committees have not been followed or that insufficient attention has been given to legal considerations. The effect of call-in is that the decision cannot be implemented until the scrutiny committee has considered it (unless it is an urgent decision).

After considering the decision the scrutiny committee can either refer the matter back to the Executive (or the individual member of the Executive) for re-consideration, or to refer it to the full Council for debate. However, the Council cannot change the decision, and if it objects to it, it must refer it back to the Executive for re-consideration.

### Access to Information Procedure Rules.

The main change is the need to create a work programme for the Executive, the scrutiny committees and the Council, and to publish them 14 days in advance. A period must be allowed for consultation with the scrutiny committees before the Executive considers matters on its work programme.

## **RECOMMENDATION**

The Council is asked to :-

- (a) Adopt the attached parts of the Constitution to replace the corresponding parts in the old Constitution.
- (b) Request a further report on the area committees in June.