

MEETING	COUNCIL
DATE	9 OCTOBER 2014
TITLE	AMENDING THE CONSTITUTION
PWRPAS	To amend the Constitution in response to the re-structuring of the Legal and Democratic Services, the coming into force of the Local Authorities (Standing Orders)(Wales) (Amendment) Regulations 2014, and the to address the chairing of the Licencing Committees and remote attendance at meetings.
RECOMMENDATION	That the Council amends the Constitution in accordance with the recommendation.
CABINET MEMBER	Cllr. Dyfed Edwards, Council Leader
AUTHOR	Iwan G D Evans – Head of Legal Services – Monitoring Officer.

1. Introduction

The Council adopted the amended Constitution on the 17th of July 2014. On the 1st of September 2014 a new structure came into effect as a result of the reorganisation of the Legal and Democratic Services Department. As a result it is necessary to amend the delegation arrangements in order to ensure certainty in relation to responsibilities for decisions. In addition on the 1st of July 2014 the Local Authorities (Standing Orders)(Wales) (Amendment) Regulations 2014 came into force and these require amendment of the Constitution in order to comply with statute., The report also makes recommendations as to remote access to meetings using video technology. Finally it also deals with the Chairing of the Central and General Licencing Committees.

2. Delegated Functions

Appendix 1 sets out a table of the amendments which are proposed following the re-structuring. Some of the changes fall within the responsibility of the Executive

and these are reported for information. The table does not propose changes to the decisions which are delegated but statutory references which have changed or been revoked have been up-dated.

3. Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2014

These Regulations came into force on the 1st of July and it is a statutory requirement that they are adopted. The Regulations amend the Local Authorities (Standing Orders)(Wales) Regulations 2006 which set out statutory requirements in relation to the contents of Standing Orders in relation to matters including voting, signature of minutes, staff and appointment of Chief Officers

The changes brought about by the Regulations can be summarised:

- i. Revoke all reference to the Mayor and Council Manager and Alternative arrangement governance structures;
- ii. Provide the Head of Democratic Services with the same status in relation to the process of investigating and taking disciplinary action against them as that given to the Head of the Paid Service, Monitoring Officer and Chief Finance Officer;
- iii. Amend Regulation 9 which relates to the process for investigating allegations of misconduct against the above officers;
- iv. Extend the above protection to officers who did, but no longer hold the said offices where the allegations which form the basis of the investigation arose during their period in office.
- v. Imposing a statutory requirement to publicly advertise Chief Officer posts where the annual remuneration for the job is £100,000 or more saving temporary appointments for fixed terms of up to 12 month;
- vi. Adding the posts of the Head of Democratic Services and Monitoring Officer to the posts which are not subject to appointment or dismissal by the Head of Paid Services;
- vii. That any decision to set or amend the remuneration of a Chief Officer is a decision of the Full Council.

The amendments to the Constitution which are required in order to comply are set out in Appendix 2.

4. Licencing Committees

The Central Licensing Committee's role is to consider matters under the Licensing Act 2003 and the Gambling Act 2005. It is a statutory requirement to establish this committee, but it cannot consider anything else .Consequently, the Council has established the General Licensing Committee to decide on other licensing matters.

Constitutionally therefore these are two separate committees that meet separately. However the Council has also decided that the same members should serve on both committees, and this is provided for in the Constitution.

The Council's Constitution also provides that a member cannot chair more than one committee. Under the present Constitution different members must be appointed to chair the Committees

The Committee consider these matters in the meeting on 9th September 2014 and resolved:

“ To unanimously recommend to the Full Council at its next meeting (9.10.2014) that it approves the request that the Councils Constitution (Part 4 / standing order / 10 para 1,2 and 5 is amended for the two Licencing Committees only”

5. Remote Attendance

The Democratic Services Committee has discussed remote attendance at committees. During those discussions, there has been agreement about allowing remote attendance at committees from the other Council office locations at Dolgellau and Pwllheli.

There are, of course, some possible complications related to such a development with issues such as the quorum for meetings and what happens should the equipment fail at any time. The technology for enabling that access including the provision of translation services through the equipment is now in place and is being tested prior to its formal use.

A draft copy of a Council Procedural Order to deal with such eventualities is Attached as Appendix 4

On the issue of the quorum given that the Democratic Services Committee has on the basis of the committees recommendation failure in the link could mean that a committee becomes inquorate.

Committees Recommendation

It was RESOLVED to make the following observations on the draft Standing Order so that it may be processed to be included in the Councils Constitution , in due course:-

- **4.17.1 – Agreed that video conferencing facilities should be provided in the Councils offices at Dolgellau and Pwllheli and Siambr Dafydd Orwig and Hyweld Dda in Caernarfon in order to allow members to have remote access to committees..**
- **4.17.2 – That the scrutinee , Democratic Services Committee and Language Committees should be listed as being the only ones permitted to have remote access as they do not take operational decision.**

- **4.17.3** – That any member who wishes to take advantage of remote access should give at least 4 days notice to the Head of Democratic Services. A note should be included on the front of the agenda advising the members to contact the Member and Scrutiny Support Officer if they wish to attend remotely and also including the same instruction in the e-mail of the link to the agenda.
- **4.17.4** – It is considered that this rule is unnecessary. The inclusion of this rule and rule 4.17.5 (which is statutory) complicates committee administration without significantly adding to its management. In addition because rule 4.17.4 excludes remotely attending members from contributing to the quorum it would be necessary to have at least a quarter of the committee members in the committee room and this might be impracticable at times.
- **4.17.5** – That the number of members who attend in the meeting room where the meeting is held should be 30% of the membership who are attending (whether in the meeting room or remotely).
- **4.17.6** – If the connection is lost it will be a matter for the Chairman whether the meeting is adjourned or not , but out of courtesy every effort should be made to contact the members in Pwllheli or Dolgellau to advise them of the decision. .

Recommended

That the Council approves the amendments of the Constitution in accordance with the report.

Appendix 1A

Amendments for decision by the Council

Current	Amendment
<p data-bbox="236 416 571 450">Section 5 – The Cabinet</p> <p data-bbox="236 483 1145 517">5.8.3 <u><i>The Council’s Scheme of Delegation and Executive Functions</i></u></p> <ul data-bbox="352 591 1153 987" style="list-style-type: none"><li data-bbox="352 591 1153 987">• The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Head of Democratic Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Head of Legal and Democratic Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.	<p data-bbox="1185 483 1342 667">Delete “Head of Democratic and Legal Services “</p> <p data-bbox="1185 707 1342 808">Include “Monitoring Officer”</p>

Section 13 – Full Council

13. Duty to declare vacancy in office in certain cases	Section 86 of the Local Government Act 1972.	Head of Democracy and Legal Department	Delete Head of Democracy and Legal Department Include Head of Democratic Services
14. Duty to give public notice of a casual vacancy	Section 87 of the Local Government Act 1972.	Head of Democracy and Legal Department	Delete Head of Democracy and Legal Department Include Head of Democratic Services
16. Power to determine fees and conditions for supply of, or extracts from, election documents.	Rule 48(3) of the Local Elections (Principle Areas) Rules 1986 (S.I.1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S.I. 1986/2215).	Head of Democracy and Legal Department	Delete
18. Miscellaneous electoral functions under Part II, S.I. 2003/284	National Assembly for Wales (Representation of the People) Order 1999, S.I. 1999/450.	Delegate functions of the returning officer to the Head of Democracy and Legal Department.	Delete

32. Power to approve premises for the solemnisation of marriages.	Section 46A of the Marriage Act 1949 (c.76) and the Marriages (Approved Premises) Regulations 1995 (S.I. 1995/510).	Head of Democracy and Legal	Delete Head of Democracy and Legal Department Include Head of Adult Health and Welfare
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<p>33. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to -</p> <p>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981(c.67) or</p> <p>(b) an order under section 147 of the Inclosure Act 1845 (c.8 & 9 Vict.c 118).</p>	<p>Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).</p>	<p>Head of Democracy and Legal</p>	<p>Delete Head of Democracy and Legal Department</p> <p>Include Head of Regulatory Services</p>
<p>34. Power to register variation of rights of common.</p>	<p>Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).</p>	<p>Head of Democracy and Legal</p>	<p>Delete Head of Democracy and Legal Department</p> <p>Include Head of Regulatory Services</p>

Section 13 Appendix 3 Part 6 Scheme of Delegation to Officers

		Current	Amendment
6.	Head of Democracy and Legal Department		Head of Legal Services
	<i>In the "Scheme of Delegation to Committees" in Appendix 3 to Section 13 of the Constitution, it is noted where functions that are not the responsibility of the Executive have been delegated to Chief Officers. Where no chief officer has been named in that document, the power has not been delegated rather it has been reserved by the committee.</i>		
	<u>Functions Delegated by Council.</u>		
	6.1 Act as the Council's Monitoring Officer under Section 5 Local Government and Housing Act 1989.	Head of Democracy and Legal	Head of Legal Services
	6.2 Act as the Council's Proper Officer apart from where there is legal preparation, this scheme or other parts of the Constitution giving the functions to other officers.	Head of Democracy and Legal	Head of Legal Services
	6.3 Operate all of the Council's powers as a common land authority.	Head of Democracy and Legal	Head of Regulatory Services
	6.4 Authority to approve a property for the administration of marriages and registering civil partnerships.	Head of Democracy and Legal	Head of Adult Health and Welfare
	6.5 Decide on stage 2 appeals to resolve disputes under the Local Government Pension Scheme.	Head of Democracy and Legal	Head of Legal Services

Annex 1B

Amendments by Cabinet

	<u>Functions Delegated by Cabinet.</u>			
	6.6	To act on a day to day basis and within the scheme in the following areas:-		
		<ul style="list-style-type: none"> • Legal 	Head of Democracy and Legal	Head of Legal Services
		<ul style="list-style-type: none"> • Complaints 	Head of Democracy and Legal	Head of Legal Services
		<ul style="list-style-type: none"> • Elections 	Head of Democracy and Legal	Head of Legal Services
		<ul style="list-style-type: none"> • Print room 	Head of Democracy and Legal	Head of Human Resources
		<ul style="list-style-type: none"> • Translation 	Head of Democracy and Legal	Head of Strategy and Improvement
		<ul style="list-style-type: none"> • Cabinet Support 	Head of Democracy and Legal	Chief Executive
		<ul style="list-style-type: none"> • Registration of births, deaths and marriages 	Head of Democracy and Legal	Head of Adult Health and Welfare
		<ul style="list-style-type: none"> • Searches, land charges and common land 	Head of Democracy and Legal	Head of Regulatory Services
		<ul style="list-style-type: none"> • Coroner Support 	Head of Democracy and Legal	Head of Legal Services
	6.7	To instigate, defend or settle legal proceedings (either in the name of the Council or in the name	Head of Democracy and	Head of Legal

		of a specific officer of the Council) under common law or under any legislation, secondary legislation, or the by-law which either grants functions to the Council or which relates to functions discharged by the Council and to appeal against any legal judgement. For the avoidance of doubt this authority includes the authority to take all procedural measures including the serving of statutory or non-statutory notices or counter notices and eviction notices.	Legal	Services
	6.8	To authorise a Council officer to act under paragraph 6.2 in the same manner as himself/herself and to prosecute, defend or appear in any legal proceedings under the provisions of Section 223 of the Local Government Act 1972 or any other relevant legislation that may be in force from time to time. The Head of Democracy and Legal Department must keep a list of all the authorisations granted when exercising powers under the sub-clause.	Head of Democracy and Legal	Head of Legal Services
	6.9	To be the proper officer for the purposes of the registrations of births, deaths and marriages.	Head of Democracy and Legal	Head of Adult Health and Welfare
	6.10	To exercise the Council's powers under the Marriage Act 1994 and the Civil Partnership Act 2004.	Head of Democracy and Legal	Head of Regulatory Services
	6.11	Authority to sign certificates for H.M. Land Registration and registration of any land charges on behalf of the Council.	Head of Democracy and Legal	Head of Regulatory Services
	6.12	Authority to create orders under the Town Police Clauses Act 1847.	Head of Democracy and Legal	Head of Legal Services
	6.13	Authority to affix the Common Seal of the Council to documents following a valid decision by the Council, Cabinet, Committee, Portfolio Leader or officer exercising delegated powers, and to authorise other officers to do likewise.	Head of Democracy and Legal	Head of Legal Services
	6.14	Authority to give certificates regarding the political duties of posts under section 3 of the Housing and Local Government Act 1989.	Head of Democracy and Legal	Head of Legal Services

6.15	To act on reports from the Public Services Ombudsman for Wales under Section 21 of the Public Services Ombudsman (Wales) Act 2005.	Head of Democracy and Legal	Head of Legal Services
6.16	In consultation with the relevant head, to authorise payments in cases of maladministration, under Section 92 of the Local Government Act 2000 or in cases of complaints under Section 34 of the Public Services Ombudsman (Wales) Act 2005 (provided that there is also consultation with the Chairman of the Audit Committee in the case of any payment in excess of £10,000).	Head of Democracy and Legal	Head of Legal Services
6.17	To give an opinion as a qualified person under Section 36 of the Freedom of Information Act 2000.	Head of Democracy and Legal	Head of Legal Services
6.18	To undertake reviews of freedom of information requests.	Head of Democracy and Legal	Head of Legal Services
6.19	To be the Authorising Officer for the purposes of the Regulation of Investigatory Powers Act 2000 and may authorise other officers within their service similarly to be an Authorised Officer.	Head of Democracy and Legal	Head of Legal Services

SECTION 11

11. OFFICERS

11.1 Management Structure

11.1.1 General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

11.1.2 Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Head of Legal Services	Monitoring Officer
Head of Finance	Chief Finance Officer
Head of Strategy and Improvement	Head of Democratic Services

Such posts will have the functions described in Sections 0 to 0.

11.1.3 In this Section reference to "Chief Officer" means a Chief Officer within the meaning of the Local Authorities (Standing Orders)(Wales) Regulations 2006

11.2 Functions of the Head of Paid Service

11.2.1 Discharge of Functions by the Council

Section 4 of the Local Government and Housing Act 1989 imposes a duty on authorities to designate one of their officers as Head of Paid Service. 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 Staff required for the discharge of functions, the organisation of the authority's staff and the appointment and proper management of the authority's staff.

11.2.2 Restrictions on Functions

The Head of Paid Service may not be the Monitoring Officer or the Head of Democratic Services but may hold the post of Chief Finance Officer if a qualified accountant.

11.3 Functions of the Monitoring Officer

These are set out in section 5 of the Local Government and Housing Act 1989 as amended.

11.3.1 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.

11.3.2 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 Cabinet in relation to any 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.

11.3.3 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.

11.3.4 Receiving Reports

The Monitoring Officer will receive and act on reports made by the Ombudsman and decisions of the case tribunals.

11.3.5 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.

11.3.6 Proper Officer for Access to Information

The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

11.3.7 Advising whether decisions of the Cabinet are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Cabinet – are in accordance with the Budget and Policy Framework.

11.3.8 Providing Advice

The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to the Councillors.

11.3.9 Restrictions on Posts

The Monitoring Officer cannot be the Chief Finance Officer, the Head of Paid Service or the Head of Democratic Services.

11.4 Functions of the Chief Finance Officer

These are set out in section 151 of the Local Government Act 1972.

11.4.1 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 Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

11.4.2 Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

11.4.3 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.

11.4.4 Providing Advice

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.

11.4.5 Give Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

11.4.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

11.4.7 Restrictions on Posts

The Chief Finance Officer cannot be the monitoring officer or the Head of Democratic Services.

11.5 Functions of the Head of Democratic Services

These are set out in section 9 of The Measure. The functions of the Head of Democratic Services are:

- 11.5.1 to provide support and advice to the authority in relation to its meetings, subject paragraph 0;

- 11.5.2 to provide support and advice to committees of the authority (other than the committees mentioned in paragraph 0) and the members of those committees, subject to paragraph 0;
- 11.5.3 to provide support and advice to any joint committee which a local authority is responsible for organising and the members of that committee, subject to paragraph 0;
- 11.5.4 to promote the role of the authority's Scrutiny Committees ;
- 11.5.5 to provide support and advice to:
- (a) the authority's Scrutiny Committees and the members of those Scrutiny Committees; and
 - (b) the authority's Democratic Services Committee and the members of that committee;
 - (c) to provide support and advice in relation to the functions of the authority's Scrutiny Committees to each of the following:
 - (i) members of the authority;
 - (ii) members of the executive of the authority;
 - (iii) officers of the authority;
- 11.5.6 to provide support and advice to each member of the authority in carrying out the role of member of the authority, subject to paragraph 0;
- 11.5.7 to make reports and recommendations in respect of any of the following:
- (a) the number and grades of staff required to discharge democratic services functions;
 - (b) the appointment of staff to discharge democratic services functions;
 - (c) the organisation and proper management of staff discharging democratic services functions;
- 11.5.8 such other functions as may be prescribed by law.
- 11.5.9 Restrictions on Posts
- The Head of Democratic Services cannot be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer.
- 11.5.10 The function of providing advice about whether or how the authority's functions should be, or should have been exercised, only applies to advice concerning the functions of the Scrutiny Committees and Democratic Services Committee.
- 11.5.11 Advice to a Member does not include advice in connection with their role as an executive Member and does not include advice about a matter being or to be considered at a meeting (other than a meeting of an Scrutiny Committees or Democratic Services Committee.

11.6 Duty to Provide Sufficient Resources to the Head of Paid Service, Monitoring Officer, Chief Finance Officer and Head of Democratic Services

The Council will provide the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer and the Head of Democratic Services with such Officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

11.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Sections 21 and 22 of this Constitution.

11.8 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules set out below.

11.9 Remuneration of Chief Officers

The Full Council will determine the level and any change in the level of the remuneration to be paid to Chief Officers. Remuneration is defined in accordance with Section 43(3) of the Localism Act 2006>

11.10 Officer Employment Procedure Rules

11.10.1 Recruitment and Appointment

(a) Declarations

- (i) The Council has drawn up procedures which include a requirement that any candidate for an appointment as an Officer must state in writing whether they have any relationship with any councillor or Officer of the Council.
- (ii) No candidate so related to a Councillor or a senior Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by him.

(b) Seeking Support for Appointment

- (i) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) No Councillor or employee of the Council will seek support for any person for any appointment with the Council.

11.10.2 Recruitment of Chief Officers

Where the Council proposes to appoint a Chief Officer (within the meaning of the Local Authorities (Standing Orders) (Wales) Regulations 2006) and, subject to the requirement in (b)(ii) below it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement including the following:
 - (i) the duties of the Officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b)(i) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
 - (ii) in cases where the annual remuneration for the post is £100,000 or more the post must be publically advertised save where the appointment is for a fixed term of no more than 12 months.
- (c) The steps mentioned in paragraph 1 shall be delegated to the Chief Executive.
- (d) make arrangements for a copy of the procedures mentioned in paragraph a (a) to be sent to any person on request.
- (e) Where a post has been advertised as provided in paragraph 1(b), the relevant authority must either:
 - (i) interview all qualified applicants for the post, or
 - (ii) select a short list of such qualified applicants and interview those included on the short list.
- (f) Where no qualified person has applied, or if the Council decide to re-advertise the appointment, the Council may make further arrangements for advertisement in accordance with paragraph 1(b).
- (g) The steps mentioned in paragraph (e) and (f) shall be delegated to the relevant committee in accordance with the Council's Delegation Scheme for Committees and Sub-committees.
- (d) Where the duties of a chief officer include the discharge of functions of two or more relevant authorities in pursuance of section 101(5) of the Local Government Act 1972 -
 - (i) the steps taken under paragraph (a)(b) or (c) above may be taken by a joint committee of those

relevant authorities, a sub-committee of that committee, or a chief officer of any of the relevant authorities concerned; and

- (ii) any chief officer may be appointed by such a joint committee, a subcommittee of that committee or a committee or sub-committee of any of those relevant authorities.

11.10.3 Appointment of Chief Executive

The Full Council will approve the appointment of the Chief Executive, following the recommendation of such appointment by a committee or sub-committee of the Council. That committee or sub-committee must include at least one Member of the Cabinet.

11.10.4 Appointments and Dismissals of Chief Officers

- (a) In this paragraph:

“the Committee” means the Chief Officers' Appointments Committee; and

“the Proper Officer” means the Head of Democratic Services.

- (b) The appointment and dismissal of the Chief Executive and Chief Officers is the responsibility of the Committee.
- (c) At least one Member of the Cabinet must be a Member of the Committee and not more than half the Members of that Committee should be Members of the Cabinet (Schedule 3 of the Local Authorities (Standing Orders) (Wales) Regulations 2006).
- (d) Where the Committee is proposing to appoint or dismiss the Chief Executive, the Full Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.

11.10.5 Other Officers

- (a) Appointment and dismissal of Officers below Chief Officer is the responsibility of the Chief Executive or his nominee, and may not be undertaken by councillors.
- (b) Councillors will not be involved in disciplinary action against any Officer below Chief Officer except where such involvement is necessary for any investigation or inquiry into alleged misconduct or where the Council's disciplinary, capability and related procedures, as

adopted from time to time, allow a right of appeal to Members.

- (c) Paragraphs (a) and (b) will not apply to :
- (i) the officer designated as the head of the authority's paid service;
 - (ii) a statutory chief officer within the meaning of section 2(6) of the 1989 Act ² (politically restricted posts);
 - (iii) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;
 - (iv) a deputy chief officer within the meaning of section 2(8) of the 1989 Act;
 - (v) the monitoring officer;
 - (vi) the head of democratic services
 - (vii) a person appointed in pursuance of section 9 of the 1989 Act ³ (assistants for political groups); or
 - (ix) a person to whom regulations made under section 35(4) and (5) (provision with respect to the appointment, discipline, suspension and dismissal of teachers and other staff of schools employed by the local authority) of the Education Act 2002 apply

11.10.6. Appointment of assistants to political groups

- (a) Political group assistants will be appointed in accordance with the wishes of that political group
- (b) The Head of Democratic Services will be invited to observe any interview for the appointment of a political group assistant.

11.10.7 Disciplinary Action

- (a) In this paragraph “disciplinary action” includes proposed dismissal for any reason other than redundancy, permanent ill health or failure to renew a fixed term contract, planned retirement and early retirement and unsatisfactory probationary periods.

(b) *Written Procedures*

Disciplinary action against the Head of Paid Service, the Monitoring Officer the Chief Finance Officer and the Head of Democratic Services will be taken in accordance with the Council's Chief Officer Procedures (this includes an officer who was employed in one of the above posts at the time of the alleged misconduct, but at the time of the proposed disciplinary action is no longer in that post)

(i) If it becomes apparent that an allegation of misconduct which could lead to disciplinary action has been made against an officer listed in (s) above then the Council will appoint an Investigation Committee to investigate the allegations in accordance with Regulation 9 of the Local Authorities (Standing Orders) (Wales) Regulations 2006.

(ii) Disciplinary action against all other Officers will be taken in accordance with the Local Conditions of Service.

(c) *Independent Person*

No disciplinary action may be taken under paragraph (b) above except in accordance with a recommendation in a report made by a designated independent person under Rule 9 of the Local Authorities (Standing Orders)(Wales) Regulationis 2006.

(d) *Suspension*

An Officer named in (b) above may be suspended whilst an investigation takes place into alleged misconduct. The suspension will be on full pay and the suspension period shall not exceed two months from the date it comes into effect..

11.10.8 Appeals

None of the above shall prevent a Councillor serving as a Member of an appeals committee or body established to consider an appeal by:

- (a) any person against any decision relating to the appointment of that person as a Member of staff of the authority; or
- (b) a Member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that Member of staff unless the dismissal relates to a capability issue, misconduct, some other substantial reason, some other statutory enactment or planned

retirement where the Member of staff has less than six months' notice. In these instances the appeal shall be conducted by a senior Officer.

CHIEF OFFICER APPOINTMENT COMMITTEE

- Details of the composition of this committee can be found in Section 9 of the Constitution.
- The table below lists the specific functions that have been delegated to the committee. The third column notes whether or not the function has been delegated onwards to a principal officer. Further details on the rights of the principal officer, including any restriction on the right to act are to be found in the Scheme of Delegation to Officers in Appendix 3 of Section 13 of the Constitution.

Function	Provision of Act or Statutory Instrument	Delegation (<i>subject to any restrictions in the Scheme for Delegation to Officers</i>)
1. To give preliminary interviews to candidates for the post of Chief Executive and present recommendations to the Council;		
2. To appoint Strategic Directors		
3. To appoint Heads of Service		
<u>4. To appoint the Head of Democratic Services</u>		
<u>5. To appoint the Monitoring Officer</u>		
6. To draw up shortlists for the purposes of 1 to 5 above		

Function	Provision of Act or Statutory Instrument	Delegation (<i>subject to any restrictions in the Scheme for Delegation to Officers</i>)
7. To decide on disciplinary action against members of staff in the posts listed in 1 to 3 above.		
8. To review the sustainability of the pay policy and make recommendations to full Council.		

Appendix 3

PROCEDURAL ORDER 9.12.3

- (5) No member shall serve as a chairman on more than one committee. This provision shall not prevent a member who is a chairman of a committee from taking the chair of a committee under paragraph (2) ~~nor from serving as the chairman of the Central Licencing Committee and the General Licencing Committee at the same time.~~

Appendix 4

PROCEDURAL ORDER 4.17 REMOTE ATTENDANCE

4.17.1 Video-conferencing facilities are provided at the Council Offices in Dolgellau and Pwllheli and in the Dafydd Orwig Chamber and Hywel Dda Chamber in Caernarfon to allow members to attend meetings without being present in the meeting room (“remote attendance”), under the following conditions.

4.17.2 Members will only be able to attend remotely at meetings of the [scrutiny committees, the Democratic Services Committee and Language Committee].

4.17.3 Members wishing to attend remotely must give at least [~~5~~ 4 days’] notice of their wish to the Head of Democratic Services. On receiving such a notice, the Head of Democratic Services will make the necessary arrangements (including the provision of translation) to allow the member to attend remotely

~~4.17.4 No member attending remotely will count towards the quorum of the meeting.~~

4.17.5 At any time, there will be no quorum at the meeting if the number of members in the room where the meeting is held is less than [30%] of all the members attending the meeting (whether in the room or attending remotely)

4.17.6 The failure of any technological provision whether that leads to a partial or complete loss of contact shall not invalidate any part of the deliberations or any vote taken. The Chairman may postpone the meeting if they deem that appropriate.