CYNGOR GWYNEDD
DEMOCRATIC SERVICES COMMITTEE

Meeting Date :	**18 February 2025**
Report	**Iwan Evans – Head of Legal Services – Monitoring Officer**
Matter Heading	**Notice of Motion Arrangements**

Introduction

1. The object of this report at the request of the Committee is to provide a summary of the Council's arrangements to deal with Notices of Motion and in particular their propriety . It explains the relevant legal context, the arrangements in place and the guidance available to members.

Full Council and Cabinet Functions.

2. The governance arrangements for unitary local authorities in Wales is based on executive arrangements derived from the Local Government Act 2000. In 2012 this system became mandated for all unitary authorities. Fundamentally it means that there is a statutory framework about the decision-making arrangements of the Council which attributes specific functions to the Full Council on the one hand and the Executive on the other. Central to this is that the Full Council has the responsibility for setting the Budget but also the Policy Framework for the Council. A framework that sets the boundaries for the Cabinet. The arrangements also set out the steps to adopt and change policy. With a few exceptions this is based on the Cabinet having the responsibility and power to recommend the Policy Framework. This is central to the guidance about notices of motion.

3. Currently the following are included in the Policy Framework:

- Gwynedd and Môn Wellbeing Plan
- The Cyngor Gwynedd Plan
- Economic Development Strategy
- Local Transport Plan
- Plans and amendments that together make up the Local Development Plan
- Welsh Language Promotion Scheme and Language Policy
- Youth Justice Scheme
- Housing Strategy

- Young People's Partnership Strategic Plan and Children and Young People's Framework Partnership
- Pay Policy
- Rights of Way Improvement Plan
- Public Participation Strategy
- Petition Scheme
- Council Wellbeing Statement and Objectives (in accordance with the Well-being of Future Generations (Wales) Act 2015)
- Corporate Asset Management Plan.
- Indemnity Policy
- Gambling Policy
- Licensing Policy

4. The essence of the above from the point of view of the Full Council and Notices of motion are four propositions:

- The Council has significant decision-making powers.
- A decision under a notice of motion does not have a different status from any other resolution in which the responsibilities of the Council are under consideration.
- There are broad requirements about taking Council decisions in the same way as any other decision. Issues such as lawfulness, impact assessments, financial implications, consultation etc.
- Requirements have been set out as to how matters can be brought before the Council for decision.

Monitoring Officer

5. As Monitoring Officer I have statutory and constitutional functions over the functions of the Council. Under section 5 of the 1989 Act, I have a statutory duty to intervene if I consider that a motion, decision or inaction by the authority, its committee officers, Cabinet etc. is contrary or is likely to contravene the law or constitute maladministration. Ultimately, I have to formally report either to the Council or Cabinet if the situation is not resolved.

> "(7) The duties of a relevant authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section."

6. In accordance with this I also have certain responsibilities under the Constitution which apply namely advising on the propriety of notices of motion of course but also outside meetings the onus is on me to interpret and apply the Constitution.

Constitution

7. Notice of a motion "must be about matters for which the Council has a responsibility, or which affect the wellbeing of the administrative area of the Council." The following

ordinance was laid down by the Full Council for the provision of a system that was clear about the handling of Notices of Motion. The procedure set out below was adopted by the Full Council to provide a system that was clear about the processing of Notices of Motion.

"4.18..4 Propriety

(i) if notice is given of any motion that is, in the opinion of the Monitoring Officer, unlawful, irregular or improper the Monitoring Officer shall immediately inform the Chairman and the Chief Executive, and it shall not be placed on the agenda without their sanction. In this case the Monitoring Officer shall inform the member giving notice. If the motion can be amended to render it appropriate, then the member giving notice shall be advised of this and given an opportunity to amend the notice of motion.

(ii) Notwithstanding (i) a notice of motion, which in the opinion of the Monitoring Officer on being adopted would mean an unlawful decision or lead to maladministration as defined in Section 5 of The Local Government and Housing Act 1989, shall not be placed on the agenda.

Conclusions

8. In accordance with the Constitution and where the need arises I will work with any member to seek a wording that brings the motion within the bounds of propriety. I have provided guidance (Appendix 1) to assist with this procedure. In most cases the matter is resolved at this stage. Where that is not possible any decision will be supported by a rationale. The decision will be taken in accordance with the Constitution. Nevertheless, the intention is to bring forward notices which can be placed before the Council and are capable of being adopted.

Decision Sought

The Committee is asked to accept the information