

Joint Report of the Monitoring Officer and Head of Democratic Services

Annual Meeting of Council – 25 May 2017

CONSTITUTIONAL MATTERS 2017-2018

Purpose:	To inform Council of all necessary Constitutional matters in order to enable the efficient and lawful operation of Council.
Policy Framework:	Council Constitution.
Consultation:	Access to Services, Legal, Finance.
Recommendation(s)	It is recommended that:
1)	The Council Bodies and the Number of Allocated Seats as listed in Appendix E be appointed for the Municipal Year 2017-2018;
2)	The “ Leader and Deputy Leader of the Council ” be paid a Band 1, Group A, Senior Salary : <ul style="list-style-type: none"> • Leader of the Council (£53,100); • Deputy Leader of the Council (£37,100).
3)	The “ Executive Members ” be paid a Band 2, Group A, Level 1, Senior Salary (£32,100): <ul style="list-style-type: none"> • Cabinet Members x 8.
4)	The “ Committee Chairs ” be paid a Band 3, Group A, Level 1, Senior Salary (£22,100): <ul style="list-style-type: none"> • Chair of General Licensing Committee; • Chair of Planning Committee; • Chair of Policy Development and Delivery Committee 1; • Chair of Policy Development and Delivery Committee 2; • Chair of Policy Development and Delivery Committee 3; • Chair of Policy Development and Delivery Committee 4; • Chair of Policy Development and Delivery Committee 5; • Chair of Scrutiny Programme Committee.
5)	The Independent Remuneration Panel for Wales (IRP) determination that the “ Leader of the Largest Opposition Political Group ” must be paid a Band 4, Senior Salary (subject to the 10% rule) (£22,100) be noted;
6)	The following positions be paid a Level 1, Civic Salary (subject to them not already being in receipt of a Senior Salary): <ul style="list-style-type: none"> • Lord Mayor (£24,100); • Deputy Lord Mayor (£18,100).
7)	A Presiding Member and Deputy Presiding Member be re-established

	and that they Chair Meetings of Council. These posts will not receive a Senior Salary;
8)	The Committees listed in Appendix C be exempted by Council from the Local Government (Committees and Political Groups) Regulations 1990 for the Municipal Year 2017-2018 in order to allow greater representation on these Committees by the Opposition Political Groups;
9)	Councillors be allocated to serve on Council Bodies in line with the nominations received from the Political Groups;
10)	The Leader of the Council' decision to allocate Councillors to sit on Outside Bodies be noted;
11)	The adoption of the Council Constitution which may be viewed at www.swansea.gov.uk/constitution be reaffirmed including those relating to the terms of reference of the 5 x Policy Development and Delivery Committee and any amendments made at this meeting;
12)	The Council Bodies Diary 2017-2018 as listed in Appendix E be confirmed and adopted;
13)	A Chair of the Democratic Services Committee be elected;
14)	Those Co-opted Members eligible for Co-opted Member payments be paid a maximum of 20 full days per Municipal Year;
15)	The Councillors Handbook which may be viewed at www.swansea.gov.uk/CllrsHandbook be reaffirmed;
16)	The list of Member Champion Area and Responsible Councillor be noted;
17)	The new mileage distances take effect immediately;
18)	Any consequential amendments to the Council Constitution and / or Councillors as a result of this report be carried out.
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1. Introduction

- 1.1 In dealing with the discharge of its business the Council operates within a legal framework established by the Local Government Act 1972, the Local Government and Housing Act 1989, the Local Government Act 2000, the Local Authorities (Executive Arrangements) (Functions and Responsibilities) (Wales) Regulations 2007, the Local Government (Wales) Measure 2011 and other relevant legislation ("the legislation"). Additionally, the Independent

Remuneration Panel for Wales (IRP) determines the remuneration available to Councillors and Co-opted Members.

- 1.2 This report seeks to address the requirements of the legislation and the Council Constitution in one report.

2. Independent Remuneration Panel for Wales (IRP)

- 2.1 The IRP Annual Report of February 2017 sets out the new framework for Councillor and Co-opted Member remuneration. The IRP determinations are included in this report. Nineteen (19) of the 72 City and County of Swansea Councillors are eligible to receive a Senior Salary payment.
- 2.2 The IRP have prescribed payment levels for Basic Salary, Civic Salary, Senior Salary (**Appendix A**) and the Fees for Co-opted Member (with Voting Rights) of Local Authorities (**Appendix B**).
- 2.3 A Council **must** pay a Senior Salary to the **Leader of the Largest Opposition Political Group** subject to them having 10% or more of the total number of Council seats in their Political Group.
- 2.4 A Council can consider whether to pay a Senior Salary to **Leaders of the Other Political Groups** if they have 10% or more of the total number of Council seats in their Political Group. However, if Council resolve to make such a payment, it would be taken from the nineteen Senior Salaries permitted within the Authority.
- 2.5 Under Section 154 of the Local Government (Wales) Measure 2011, any Councillor or Co-opted Member may elect to forego any part of their entitlement to a salary, allowance or fee by giving notice in writing to the Monitoring Officer.

3. Senior Salaries

- 3.1 The Senior Salary includes the Basic Salary.
- 3.2 The IRP state that each Council should decide whether to pay Senior Salaries. It is proposed that the following be paid Senior Salaries:

1)	Leader of the Council;
2)	Deputy Leader of the Council;
3)	Cabinet Members x 8 ;
4)	Chair of General Licensing Committee;
5)	Chair of Planning Committee;
6)	Chair of Policy Development and Delivery Committee 1;
7)	Chair of Policy Development and Delivery Committee 2;
8)	Chair of Policy Development and Delivery Committee 3;
9)	Chair of Policy Development and Delivery Committee 4;
10)	Chair of Policy Development and Delivery Committee 5;
11)	Chair of Scrutiny Programme Committee.

- 3.3 The IRP have determined that each Individual Authority must decide if there is any variation in the level of responsibility and workload stemming from each Cabinet Portfolio. Council must decide whether to pay a Cabinet Member and if payable should it be at Level 1 or Level 2.

Remuneration of Executive (Cabinet) Members (Inclusive of Basic Salaries)		
	Level 1	Level 2
Group A	£32,100	£28,900

- 3.4 The Leader of the Council sets the Cabinet Portfolios and appoints the Cabinet. He has stated that he has created each Cabinet Portfolio so that they have the same level of responsibility, importance and workload.
- 3.5 The IRP have determined that each Individual Authority must decide if there is any variation in the level of responsibility and workload stemming from the work of a Committee Chair. Council must decide whether to pay a Chair of Committee and if payable should it be at Level 1 or Level 2.

Remuneration of Chair of Committees (Inclusive of Basic Salaries)		
	Level 1	Level 2
Group A	£22,100	£20,100

- 3.6 The terms of reference of the Committees that will attract Senior Salaries have been drafted to ensure that they have the same level of responsibility, importance and workload.

4. Civic Salary

- 4.1 The Civic Salary includes the Basic Salary.
- 4.2 The IRP determined that Authorities are permitted to pay a Civic Salary to the Civic Head & Deputy Civic Head (Lord Mayor and Deputy Lord Mayor). These payments do not count towards the 19 permitted Senior Salaries. A Councillor may not be in receipt of both a Senior Salary and Civic Salary payment.
- 4.3 Council must decide whether to remunerate the Civic Head and the Deputy Civic Head. If Council agrees to remunerate them, then it must consider at what Level they should be remunerated as set out below:

Remuneration of Civic Heads and Deputy Civic Heads (Inclusive of Basic Salaries)		
	Civic Heads	Deputy Civic Heads
Level 1	£24,100	£18,100
Level 2	£21,600	£16,100
Level 3	£19,100	£14,100

- 4.4 Prior to deciding whether or not and / or at what level the Civic Heads should be remunerated, the question ‘Who should Chair Council?’ needs to be addressed. This question is considered up the “Presiding Member” section of the report.
- 4.5 The IRP state that each Council should decide whether to pay Civic Salaries. It is proposed that the following be paid Civic Salaries:

1)	Lord Mayor;
2)	Deputy Lord Mayor.

5. Presiding Member

- 5.1 The Local Government (Democracy) (Wales) Act 2013 allows Councils to appoint an additional post of Presiding Member whose role it will be to Chair meetings of the whole Council. Where appointed, there would be a consequential reduction in the responsibilities of the respective Civic Head.
- 5.2 As such the Authority must decide whether to appoint a Presiding Member to Chair Council or to allow the Civic Head to do so. This decision may affect the level that the remuneration of the Civic Head / Deputy Civic Head is set.
- 5.3 If a Presiding Member is appointed, and if Council resolves to remunerate the post then the position would be paid at a Band 3, Senior Salary Level in line with the Committee Chairs. If remunerated, this would count towards the maximum allowed of 19 Senior Salaries.
- 5.4 The Authority may also appoint a Deputy Presiding Member; however this post would not be remunerated.
- 5.5 Previous Annual Meetings of Council have resolved to appoint a Presiding Member and a Deputy Presiding Member. Council is asked to review its latest decision and to determine whether to continue with a Presiding Member or not.

6. Annual Meeting of Council

- 6.1 The Authority’s Council Constitution which is based on legislation outlines what needs to be considered at the Annual Meeting of Council (Council Procedure Rule 8). This report seeks to address those requirements.

7. Political Balance / Committee Proportionality

- 7.1 Council is required to decide the allocation of seats to Political Groups in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 (SI 1553/90) as amended. A simple explanation of these rules was presented to the Annual Meeting of Council on 24 May 2012.

7.2 The Standards Committee is exempt from the above legislation as outlined in Section 12 “Allocation of seats to Political Groups” of the Standards Committee (Wales) Regulations 2001.

7.3 The Ruling Group have liaised with the Head of Democratic Services in order to outline its view on the structure and size of Council Bodies. Based on this guidance, relevant proportional calculations have been made by the Head of Democratic Services and those calculations have been shared with all Political Groups. This process culminates with this report to Council seeking approval to the structure and size of Council Bodies.

8. Appointment of Committees and Other Council Bodies and their Sizes

8.1 The Council Bodies and the Number of Allocated Seats (in accordance with Political Balance Rules contained in the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 (SI 1553/90) as amended are listed in **Appendix D**. It is proposed that these Council Bodies be established.

8.2 In the event of any changes made to the size of these Council Bodies then it will necessitate the recalculation of Political Balance.

8.3 A number of Committees are exempted from the Local Government (Committees and Political Groups) Regulations 1990 as they are covered by separate legislation. Council also has the right to exempt a Committee from the legislation providing that it has the unanimous backing of all Councillors voting at the meeting. A list outlining such bodies is shown at **Appendix C**.

9. Terms of Reference of the 5 x Policy Development and Delivery Committees

9.1 It is proposed that the Terms of Reference for the 5 x Policy Development and Delivery Committees be as follows:

“Terms of Reference

- 1) To drive the development of the Council’s main Corporate Policies for consideration and adoption by Cabinet and or Council as appropriate.

Notes:

- i) PD&D Committees may co-opt others on to the Committee either for a topic or for a term if the Committee consider that will assist their role.”

10. Allocation of Councillors to the Council Bodies

10.1 Councillors be allocated to serve on Council Bodies in line with the nominations received from the Political Groups.

10.2 The list showing the allocation of Councillors will be included in the minutes of the Annual Meeting of Council.

11. Allocation of Councillors to Outside Bodies

11.1 The Leader of the Council has allocated Councillors to sit on Outside Bodies.

11.2 The list showing Councillors and their allocation to Outside Bodies will be included in the minutes of the Annual Meeting of Council.

12. Democratic Services Committee

12.1 The Local Government (Wales) Measure 2011 states that a Democratic Services Committee and Chair must be appointed by Council. The Committee Chair must be an Opposition Member.

12.2 The Leader of the Council shall not sit on this Committee. No more than one Cabinet Member shall sit on this Committee. Co-opted Members are not permitted to sit on this Committee.

12.3 Council will need to determine who to elect as Chair of the Democratic Services Committee.

13. Council Bodies Diary 2017-2018

13.1 Section 6 "Timing of Council Meetings" of the Local Government (Wales) Measure 2011 places a duty on Authorities to conduct a survey of its Councillors in relation to the timing of its Meetings. The Measure states that such a survey should be undertaken at least once in each Council term.

13.2 Council at its meeting on 23 March 2017 resolved that the "Timing of Council Meeting Survey" be conducted in Autumn / Winter 2017. The intention being to allow all newly elected Councillors an opportunity to get a feel for life as a Councillor and for them to understand its associated time pressures prior to asking them to complete the survey.

13.3 The previous Councillors Survey was considered in preparing the Council Bodies Diary. The Council Bodies Diary 2017-2018 is shown as **Appendix E**.

14. Co-opted Members

14.1 The IRP has confirmed that reasonable time for pre meeting preparation is eligible to be included in claims made by co-opted members the extent of which can be determined by the appropriate officer in advance of the meeting.

14.2 Travelling time to and from the place of the meeting can be included in the claims for payments to Co-opted Members (up to the maximum of the daily rate).

- 14.3 The Head of Democratic Services can determine in advance whether a meeting is programmed for a full day and the fee will be paid on the basis of this determination even if the meeting finishes before four hours has elapsed.
- 14.4 Meetings eligible for the payment of the fee include other Committees and Working Groups (including task and finish groups), pre-meetings with Officers, training and attendance at conferences or any other formal meeting to which Co-opted Members are requested to attend by the Head of Democratic Services.
- 14.5 It is proposed to maintain payments to Co-opted Members at a maximum of 20 full days' payments per Municipal Year.

15. Councillors Handbook

- 15.1 The Councillors Handbook www.swansea.gov.uk/CllrsHandbook provides a one stop guidance document for Councillors containing sections on Financial Information, Support Services, Protocols and Role Descriptions.

16. Appointment of Chairs & Vice Chairs of Committees

- 16.1 Following the close of the Annual Meeting of Council, a number of Committees shall meet in order to elect Chairs and Vice Chairs to those Committees.

17. Member Champions

- 17.1 Member Champions exist to provide a voice for traditionally underrepresented groups, or issues which need to be kept at the forefront of Council business although they may not be the responsibility of any individual or Committee.
- 17.2 Member Champions, (sometimes called Lead Members or Councillor Champions) in addition to their other Council responsibilities make sure that the issue or group that they are championing are taken into account when Council policy is being developed and decisions are made. Further information relating to Member Champions may be found within the 'Member Champions' report (Council on 17 January 2013).
- 17.3 Member Champions are appointed by the Leader of the Council. The Leader of the Council informs Council of whom he has appointed to the Member Champion roles. The Leader of Council has appointed as follows:

Member Champion Area	Responsible Councillor
Access to Services	To be confirmed
Armed Forces	June E Burtonshaw
Biodiversity & Renewables	To be confirmed
Carers	To be confirmed
Children and Young People (Lead Member for Children and Young People's Services – As defined by the Children Act 2004)	To be confirmed

Diversity	To be confirmed
Domestic Abuse	To be confirmed
Health and Wellbeing	To be confirmed
Healthy Cities	To be confirmed
Language (including Welsh)	To be confirmed
LGBT+ (Lesbian, Gay, Bisexual and Transgender +)	To be confirmed
Local Business and Enterprise	To be confirmed
Older People	To be confirmed
Race, Religion, Belief and Heritage	To be confirmed
United Nations Convention on the Rights of the Child (UNCRC)	To be confirmed

19. Review of Councillors Mileage Distances

- 19.1 Council, at its meeting on 3 December 2009 resolved to conduct a review of Councillors home to Civic Centre, single and return journeys using the RAC website (RAC Route Planner). Appendix E sets out the Councillors Mileage Distances to be used for the new Council term 2017-2022.

18. Equality and Engagement Implications

- 18.1 An Equality Impact Assessment (EIA) screening process took place prior to the consultation period. The outcome indicated that it was low priority and a full report was not required.

19. Financial Implications

- 19.1 All financial impacts of this report are contained within existing budgets.

20. Legal Implications

- 20.1 There are no legal implications associated with this report other than those identified within it.

Background Papers: None

Appendices:

Appendix A	Basic Salary, Civic Salary and Senior Salary Payments. (Group A Councils) as Prescribed by IRP - February 2017
Appendix B	Fees for Co-opted Member (with Voting Rights) of Local Authorities as Prescribed by the IRP - February 2017.
Appendix C	Proposed Exemption from Committee Balance Rules.
Appendix D	Council Bodies & Number of Allocated Seats 2017-2018.
Appendix E	Councillors Mileage Distances
Appendix F	Council Bodies Diary 2017-2018.

Appendix A

Basic Salary, Civic Salary and Senior Salary Payments (Group A Councils) as Prescribed by IRP - February 2017

Basic Salary	£13,400
Senior Salaries (inclusive of Basic Salary)	
Band 1	
Leader of the Council	£53,100
Deputy Leader of the Council	£37,100
Band 2	
Executive Member (Cabinet Member) Level 1	£32,100
Executive Member (Cabinet Member) Level 2	£28,900
Band 3	
Committee Chairs Level 1	£22,100
Committee Chairs Level 2	£20,100
Band 4	
Leader of the Largest Opposition Political Group *1	£22,100
Band 5	
Leader of Other Political Groups *2	£17,100
Civic Salaries (inclusive of Basic Salary)	
Civic Head (Mayor / Chair of Council) Level 1	£24,100
Civic Head (Mayor / Chair of Council) Level 2	£21,600
Civic Head (Mayor / Chair of Council) Level 3	£19,100
Deputy Civic Head (Deputy Mayor / Vice Chair of Council) Level 1	£18,100
Deputy Civic Head (Deputy Mayor / Vice Chair of Council) Level 2	£16,100
Deputy Civic Head (Deputy Mayor / Vice Chair of Council) Level 3	£14,100

Note:

- *1 Leader of the Largest Opposition Political Groups** – They are only entitled to a Senior Salary if they have 10% or more of the total number of Council seats in their Political Group. If the 10% rule is achieved then the payment is automatic.
- *2 Leaders of the Other Political Groups** – They are only entitled to a Senior Salary if they have 10% or more of the total number of Council seats in their Political Group and Council resolve to remunerate them.

Appendix B

Fees for Co-opted Member (with Voting Rights) of Local Authorities As Prescribed by the IRP – February 2017

Chair of Standards Committee and Chair of Audit Committee	4 Hours and Over	£256
	Up to 4 Hours	£128
Ordinary Members of Standards Committee; Education Scrutiny Committee; Crime and Disorder Scrutiny Committee and Audit Committee	4 Hours and Over	£198
	Up to 4 Hours	£99
Community / Town Councillors sitting on Principal Council Committees	4 Hours and Over	£198
	Up to 4 Hours	£99

Appendix C

Proposed Exemption from Committee Balance Rules

1. A number of Committees are exempt from the Local Government (Committees and Political Groups) Regulations 1990 as they are covered by other separate legislation. Council also has the right to exempt a Committee from the legislation providing that it has the unanimous backing of all Councillors voting at the meeting. The following is a list of the Committees covered by separate legislation together with a reference to that legislation and those proposed to be exempted by Council.
 - 1.1 **Chief Executive's Appraisal and Remuneration Committee.** Council is asked to exempt this from the Committee Balance Rules in order to allow the following membership: Leader & Deputy Leader of the Ruling Group and Largest Opposition Group, Leader only of other Political Groups and 3 other Labour Councillors.
 - 1.2 **Standards Committee.** This is made up of 5 Independent Members, 3 Councillors and 1 Community / Town Councillor. By virtue of Section 53 (10) of the Local Government Act 2000 a Standards Committee and the Standards Committees (Wales) Regulations 2001, the Standards Committee is not required to comply with Section 15 of the Local Government and Housing Act 1989 (duty to allocate seats to Political Groups).
 - 1.3 **Community / Town Councils Forum.** Council is asked to exempt this from the Committee Balance Rules in order to ensure that only the Cabinet Members and Chairs of Planning Committee and General Licensing Committee are represented on it.
 - 1.3 **Corporate Parenting Board.** Council is asked to exempt this from the Committee Balance Rules in order to allow the following membership: 5 Ruling Group Cllrs (Labour), 2 Largest Opposition Group Cllrs (Lib Dem & Ind Opposition), 1 Representative from each other Political Group (Conservative and Uplands).
 - 1.4 **Student Liaison Forum.** Council is asked to exempt this from the Committee Balance Rules in order to ensure that the Relevant Cabinet Member and the Councillors from Castle, Gorseinon, Killay North, Kingsbridge, Loughor Lower, Loughor Upper, Oystermouth, Sketty, St. Thomas, Townhill and Uplands Electoral Wards are represented on it.
 - 1.7 **Constitution Working Group.** Council is asked to exempt this from the Committee Balance Rules in order to allow the following membership and representation by each Political Group: Presiding Member, Deputy Presiding Member, Leader & Deputy Leader of Ruling Group & Largest Opposition Group, Leader of other Political Groups & Cabinet Member with responsibility for Constitutional Matters.

Council Bodies & Number of Allocated Seats 2017-2018

Appendix D

Body	Seats	Comments	Status
Council	72	Automatically Proportional	
Cabinet	10	Not Part of PR Calculations	SS
Committees			
Appeals & Awards	7		
Appointments	13		
Audit	13	Chaired by an Independent Person. 1 Ind Person & 13 Cllrs.	
Chief Exec Appraisal & Remuneration	9	Leader & Deputy Leader of Ruling Group and Largest Opposition Group, Leader only of other Political Groups and 3 other Labour.	XPR
Chief Officers Disciplinary	13	At least 1 member of Cabinet must sit on this Cttee but no more than 50% of the Cttee are permitted to be Cabinet Members	
Chief Officers Disciplinary Appeals	13	At least 1 member of Cabinet must sit on this Cttee but no more than 50% of the Cttee are permitted to be Cabinet Members	
Democratic Services	17	Chair must be an Opposition Councillor and appointed by Council.	
Family Absence Complaints		As per Council of 12 August 2014	
Policy Development and Delivery 1	13		SS
Policy Development and Delivery 2	13		SS
Policy Development and Delivery 3	13		SS
Policy Development and Delivery 4	13		SS
Policy Development and Delivery 5	13		SS
JCC	7		
General Licensing	12		SS
<i>General Licensing Sub</i>	3	Drawn proportionally from General Licensing Cttee.	
Statutory Licensing	12		
<i>Statutory Licensing Sub</i>	3	Drawn proportionally from Statutory Licensing Cttee.	
Pension Fund	6	Chaired by the Cabinet Member with responsibility for Finance.	
Planning	12	1. Membership between 11 & 21. 2. Quorum is 50%. 3. Only 1 Cllr from an Electoral Ward may sit on the Cttee. 4. Use of Substitute Members prohibited.	SS
Scrutiny Programme	17		SS
Standards	9	Standards Committee (Wales) Regulations 2001. 5 Ind, 3 CCS Cllrs & 1 C/T Cllr	XPR
West Glamorgan Archives	5	Independent Chair	
Panels, Forums, Groups etc			
Admissions Panel	6		
Armed Forces Community Covenant Signatories Panel	1	Armed Forces Member Champion	XPR
Challenge Panel	13	Must contain Leader of Largest Opposition Political Group (Chair) and Leader of the Second Largest Political Group (Vice Chair).	
Community / Town Councils Forum	12	All Cabinet Members, Chair of Planning and Chair of General Licensing.	XPR
Corporate Parenting Board	9	5 Ruling Group Cllrs , 2 Largest Opposition Group Cllrs, 1 Representative from each other Political Group.	XPR
Constitution Working Group	9	Presiding Member, Deputy Presiding Member, Leader & Deputy Leader of Ruling Group & Largest Opposition Group, Leader of other Political Groups & Cabinet Member with responsibility for Constitutional Matters.	XPR
Development Advisory Group (DAG)	3	This is a Cabinet Body.	XPR
External Funding Panel	10	This is a Cabinet Body. All Cabinet Members to have a vote.	XPR
Gower AONB Partnership Group	6	Chaired by Chair of Planning Committee	
<i>Sustainable Development Fund Panel</i>	2	Chaired by Chair of Planning Committee	
<i>Sustainable Development Fund Appeal Panel</i>	1		
LA Governor Panel	13	Independent Chair. 1 Ind Person & 13 Cllrs.	
Local Pension Board	1		
Social Services Rota Visits Group	13		
Standards Cttee Vacancy Panel	3		
Swansea Student Liaison Forum (SSLF)	23	Relevant Cabinet Member & Cllrs with student issues within their Electoral Ward.	XPR
Trustees Panel	17		
West Wales Valuation Tribunal Joint Appointments Panel	2		

SS - Committees that attract Senior Salary

XPR - Bodies exempt from Proportionality.