

**ATODIAD / ENCLOSURE E**

**A New Draft Constitution for  
Isle of Anglesey County Council**



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## PART 1

### Introduction

#### Part 1

#### 1.1 Introduction

(a) About the Isle of Anglesey County Council

The County Council's main strategic aim is to 'promote and protect the interests of the Island - locally, regionally and nationally.'

#### **Anglesey Strategic Context**

The Isle of Anglesey is located on the North West Wales coast. The Island has a population of 68, 800, which has recently stabilised following a period of decline during the 1990's, and is sparsely distributed between small, scattered rural communities and the larger urban areas of Holyhead, Llangefni, Menai Bridge, Amlwch and Llanfairpwllgwyngyll.

The Island, of 278 square miles, is renowned for the quality and diversity of its natural environment, which has established the Island as one of the most favoured Welsh tourism destinations. The growth in the area's tourism sector, as a result of the unique coast and countryside, underpins many key economic, social and environmental attributes which significantly impacts upon the well being and quality of life within the Island's communities.

The area has long suffered from a declining economy and pockets of significant socio-economic deprivation. In contrast to the growth of the tourism sector, the decline in the agricultural industry and global economic downturn has resulted in the closure of a number of the Island's key employers, with the decommissioning of Wylfa Nuclear Power Station only further exacerbating the Island's precarious economic vitality.

Key to instigating a positive change in the Island's long term economic fortune is the IACC Energy Island Programme (EIP), which aims to establish Anglesey as a world renowned centre of excellence for demonstrating, producing and servicing low carbon energy. The EIP will provide a sound base to encourage economic diversification, to manage transition and deliver positive benefits over the long term.

#### **The Council is responsible for providing the following services**

- Benefits
- Education
- Environmental Health
- Housing
- Highways
- Leisure & Recreation
- Libraries
- Licensing
- Planning Applications



- Revenue Collection
- Social Services
- Strategic Planning
- Tourism
- Trading Standards
- Transport Planning
- Waste Collection
- Waste Disposal

(b) How we work

The Council is governed by 40 Councillors elected by local people. Many decisions are taken by the Leader of the Council and their Cabinet. The Leader of the Council is elected by the Councillors. The Leader and the Cabinet work with the Managing Director and the staff of the Council.

Most Councillors belong to political groups. Information regarding political groups are to be found on the Council's website along with details of the Councillors, the Council's Leader, Deputy Leader and Cabinet Members..

Those Council staff who work at the Council's Head Office are assigned to one of five directorates. We have a Constitution which sets out how we work and what we can do.

(c) Our Constitution

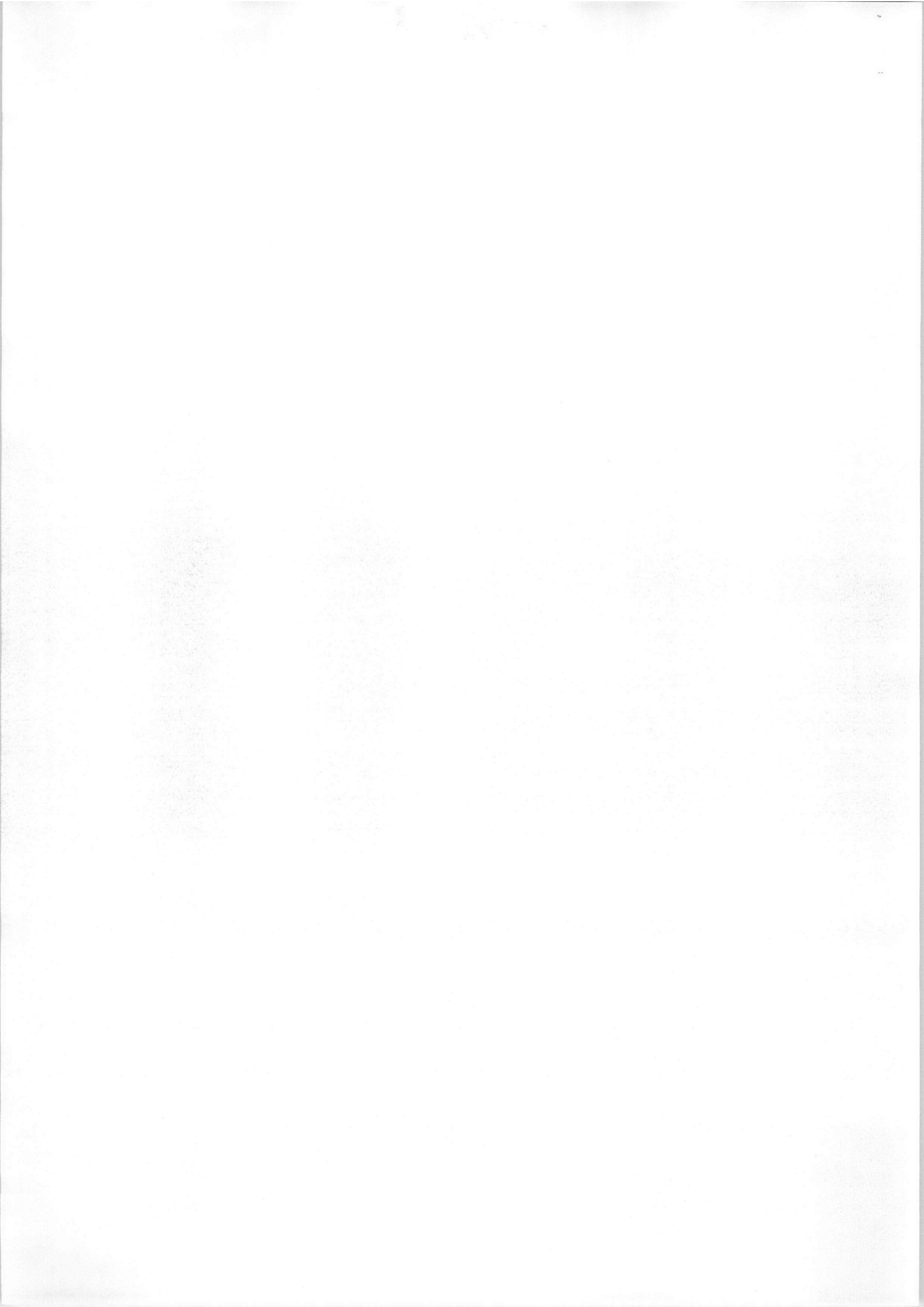
We have adopted a Constitution which sets out how we operate and how we make decisions.

Our Constitution is in several different parts:-

This Introduction and Summary is Part 1 of the Constitution

- In Part 2 there are 12 articles which explain how key parts of the Council work
  - In Part 3 there are details about who can do what in the Council
  - In Part 4 there are detailed rules about how particular things operate
  - In Part 5 there are codes and protocols about how Councillors and staff should behave and details of what Councillors can be paid
  - In Part 6 there is an A – Z of the Constitution where the meanings of particular words are given.
-





**This summary gives a short description of how the Council is run and the key bodies and people who take decisions**

**1.2 Summary**

(a) Councillors

Your Council is governed by 40 Councillors who are elected every four years. Each Councillor represents people and businesses in a ward. The job of your Councillor is to represent you even if you did not vote for them.

Councillors have a Code of Conduct to make sure they follow high standards in the way that they carry out their role. There is a Standards Committee which ensures what Members are trained on the Code of Conduct. Complaints about Councillors are investigated by the Public Services Ombudsman for Wales. The Standards Committee can hear complaints against Councillors at the request of the Ombudsman

(b) The Council Meeting

All Councillors meet together at least four times a year in the Council Meeting. The Council Meeting decides high level policies and sets the Budget each year. The Council Meeting also appoints the Leader of the Council, the Deputy Leader and the Chairperson of the Council.

(c) The Leader of the Council and the Cabinet

The Leader of the Council chairs meetings of the Cabinet. The Cabinet is made up of 9 Councillors who each have responsibility for special areas of the Council's work. Members of the Cabinet are appointed by the Leader, with the exception of the Deputy Leader who is also a member of the Cabinet but is appointed by the Council Meeting. The Cabinet can only make decisions within the scope of the overall Budget and Policy Framework set by the Council Meeting. If the Cabinet wants to make a decision outside the Budget or Policy Framework then it has to get the Council Meeting to agree.

(d) The Chairperson of the Council

The Chairperson of the Council is the non political and ceremonial representative of the Council and is in charge of the Council Meeting.

(e) Scrutiny

There are 5 Scrutiny Committees which oversee the work of the Cabinet, and the Council as a whole, and may also hold public enquiries into issues of local concern. In some cases, they can call in a decision of the Cabinet which has been made but not yet carried out.

(f) Planning and Licensing

The Council's planning and licensing functions are overseen by a Planning and Orders Committee and a Licensing Committee.



(g) The Council's Staff (called Officers)

The Managing Director and their staff run the day to day work of the Council, working with the Leader of the Council and the Cabinet.

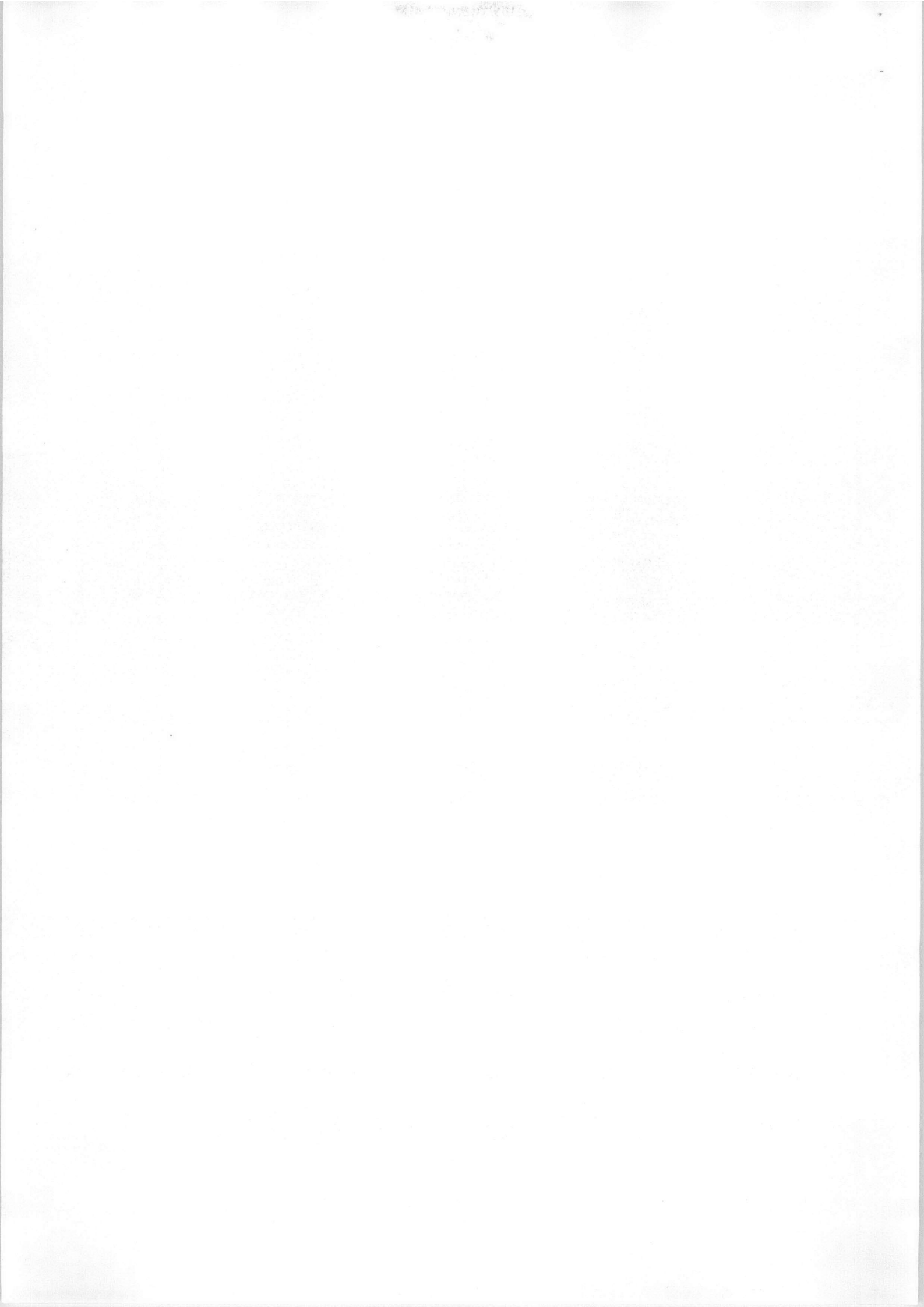
Along with the Managing Director, two other members of staff have special roles to help make sure the Council follows the law and manages its finances well. These are the Monitoring Officer and the Chief Finance Officer.

There is a Protocol for Member / Officer Relations.

(h) Citizen's Rights

Citizens have a number of rights when dealing with the Council. These are explained in more detail in Article 2.3 of the Constitution, but are the right to:-

- Vote at local elections if they are registered
- Contact their local Councillor about matters of concern
- Get a copy of the Constitution on payment of a reasonable copying fee
- Come to meetings of the Council, its committees and the Cabinet (except when confidential information is being discussed)
- Sign a petition to ask for a referendum to change to an elected mayor for the Council
- Find out from the Forward Work Programme what decisions are due to be taken by the Council in the future
- See and copy reports, background papers and records of decisions (except when these contain confidential information)
- Make a complaint about the quality of Council services or the conduct of a Councillor or an Officer
- Inspect the Council's accounts during the due inspection period and make comments on them to the external auditor.



## PART 2 OF THE CONSTITUTION

### Articles

#### Article 1 – The Council and the Constitution

**This article explains how this Constitution is used by the Council and what its purpose is**

##### 2.1.1 Powers of the Council

The Council must follow the law and this Constitution when it carries out its powers and duties.

##### 2.1.2. The Constitution

This Constitution and all its appendices is the Constitution of the Isle of Anglesey County Council.

##### 2.1.3 Purpose of the Constitution

The purpose of the Constitution is to:-

- (a) help the Council lead the Island of Anglesey working together with citizens, business and other organisations;
- (b) help citizens be involved in decision making;
- (c) help *Councillors* represent citizens effectively;
- (d) make sure decisions are taken efficiently, appropriately and effectively;
- (e) make sure those who take the decisions can be held to account;
- (f) make sure that no one reviews or scrutinises a decision that they have been directly involved in;
- (g) make sure that citizens know who in the Council takes decisions and why they have taken them; and
- (h) provide a way of improving the delivery of services to the community.

##### 2.1.4 Meaning of the Constitution

- (a) If the Constitution gives the Council a choice about what to do, the Council must choose the option that it thinks is closest to the purposes of the Constitution in Article 2.1.3.
- (b) The decision of the *Chairperson of the Council* on the meaning of the Constitution or on any proceedings of the Council cannot be challenged by

anyone at a *Council Meeting*. The *Chairperson of Council* must have regard to the purposes of the Constitution when making a decision.

- (c) The meanings of words and phrases in italics are given in the *A – Z of the Constitution*

#### **2.1.5 Review of the Constitution**

The *Monitoring Officer* will monitor and review how the Constitution is working to make sure it gives full effect to the purposes in Article 2.1.3.

#### **2.1.6 Changes to the Constitution**

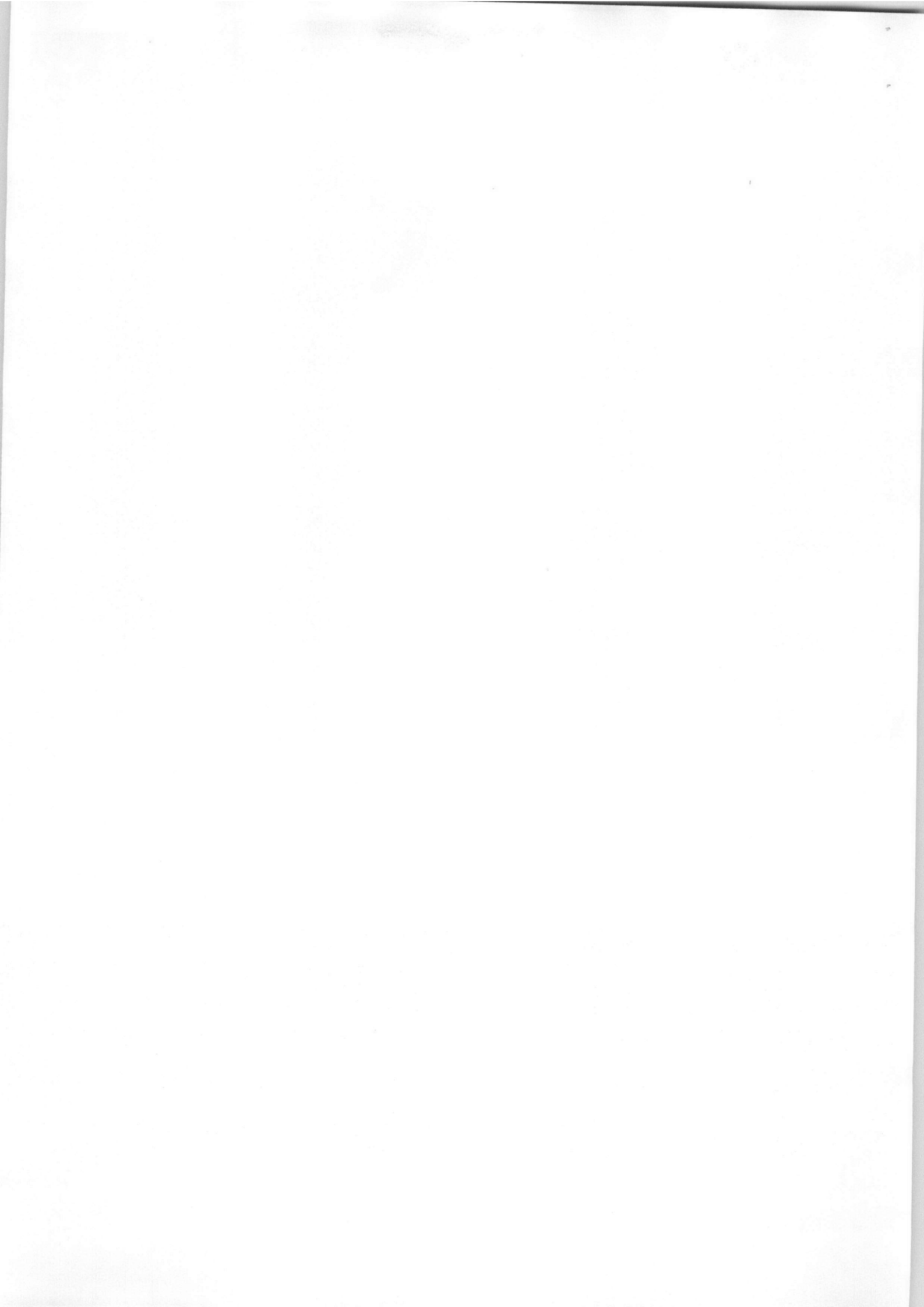
Changes to the Constitution can only be approved by the *Council Meeting*. The *Monitoring Officer* may make any associated changes to the Constitution to reflect what the *Council Meeting* has agreed.

#### **2.1.7 Suspension of the Constitution**

The *Articles* cannot be suspended. The *Council Meeting* may suspend the operation of most of the Council Procedure Rules.

#### **2.1.8 Publication**

The *Monitoring Officer* will make sure that every *Councillor* has access to the *Constitution* and that it is made widely available to staff and citizens.





## Article 2 – Councillors

This article explains who *Councillors* are, what they must do and how long they serve as *Councillors*. You can find out who your *Councillor* is here and also find out information on how to stand for election as a *Councillor*.

### 2.2.1 Number of Councillors and areas they represent

The Council will have 40 members called *Councillors*. The voters of each *Ward* may elect one *Councillor* to represent them.

### 2.2.2 Who can be a Councillor

Anybody aged 21 years or over who:-

- (a) is a citizen of the European Union, and
- (b) is registered to vote in local government elections in Anglesey, or who has lived or worked there in the last 12 months, and
- (c) is not stopped by law from holding office as a *Councillor*

may stand for election as a *Councillor*.

### 2.2.3 When elections happen and how long Councillors are elected for

Elections for all *Wards* will take place on the first Thursday in May every four years from 2004. People elected as *Councillors* start being *Councillors* on the fourth day after being elected and finish on the fourth day after the next regular election.

### 2.2.4 Roles and functions of all Councillors

All *Councillors* must;

- (a) together be the makers of high level policies
- (b) represent, and speak up for their communities
- (c) deal with individual casework and speak up for citizens
- (d) balance different interests within their *Ward* and represent it as a whole
- (e) be involved in Council decision making in the best interests of all the citizens of Anglesey
- (f) be available to represent the Council on other bodies; and
- (g) maintain the highest standards of conduct and ethics



### **2.2.5 Rights**

*Councillors* will have rights of access to Council documents, information, land, buildings and information technology necessary to allow them to carry out their functions.

### **2.2.6 Responsibilities**

*Councillors* must follow the *Councillors' Code of Conduct* and any *Protocols*.

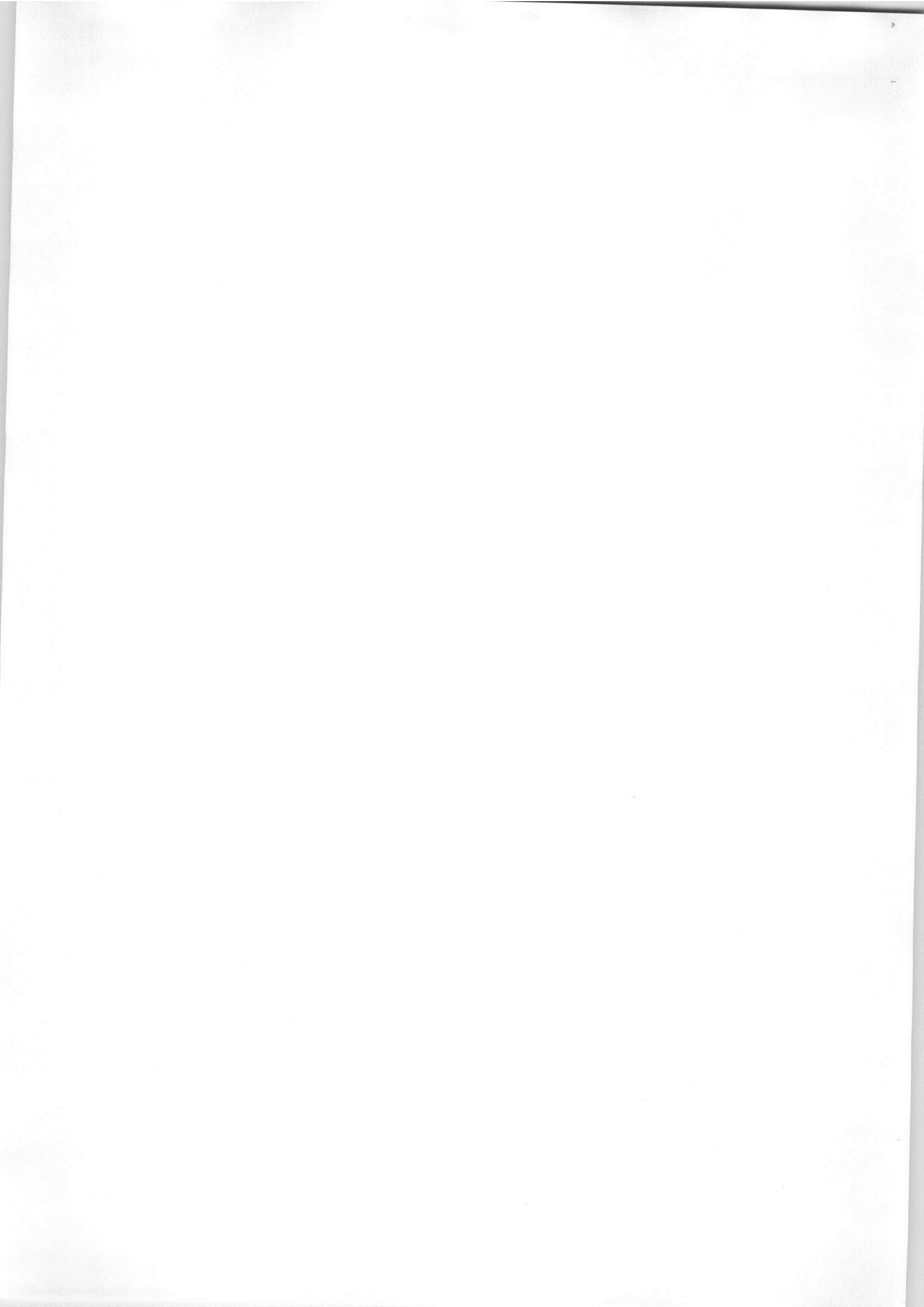
### **2.2.7 Allowances**

*Councillors* will be entitled to receive allowances in accordance with the *Members' Allowances Scheme*

### **2.2.8 Stopping being a Councillor**

A *Councillor* will stop being a *Councillor* if:-

- (a) they resign by giving written notice, or
- (b) they fail to attend meetings of the Council for a period of six months without the prior agreement of the *Council Meeting*, or
- (c) if they are stopped by law from holding office, or
- (d) the period for which they were elected has come to an end, as set out in Article 2.2.3 and they have not been re-elected.



## Article 3 – Citizens and the Council

This article explains what rights citizens have to take part in decision making by the Council and also what they must do in return.

### 2.3.1 Citizens' rights

(a) Voting and Petitions

Under the *Council Procedure Rules*, citizens have the right to sign and present a *Petition* to the *Council Meeting* and to address the meeting in support of the *Petition*.

(b) Information

Under to the *Access to Information Rules*, citizens have the right to:

- (i) attend public parts of meetings of the *Council Meeting*, the *Cabinet* and committees;
- (ii) find out from the *Forward Work Programme* what *decisions* will be taken by the Cabinet and when;
- (iv) see public reports and background papers, and any records of decisions made by the *Council Meeting*, the *Cabinet*, and committees;
- (v) inspect the Council's accounts and make their views known to the external auditor.

(c) Taking part

Citizens have the right to take part in meetings of the *Council Meeting* question time, speak during public speaking time at meetings of the *Planning and Orders Committee* and contribute to investigations by *Scrutiny Committees*.

(d) Complaints

Citizens have the right to complain to:

- (i) the Council under its complaints procedure;
- (ii) the *Ombudsman* after using the Council's own complaints scheme or about the conduct of a *Councillor*,

### 2.3.2 Citizens' Responsibilities

- (a) Citizens must not be violent, abusive or threatening to *Councillors* or *Officers* and must not deliberately damage items owned by the Council, *Councillors* or *Officers*.

- (b) When attending meetings citizens must not behave improperly, be offensive or interrupt the business of the meeting. If they do, they will be removed and excluded from the meeting.

## Article 4 – The Council Meeting

This article explains and gives links to the role of the *Council Meeting* which is when all *Councillors* attend a formal meeting in the Council Chamber in the Council's Offices. This is different from other meetings involving *Councillors* which may be committee meetings, working groups or meetings of partnerships in which the Council is involved.

It also sets out the special role of the *Chairperson of Council* who not only runs *Council Meetings* but also has an important position as the non political representative of the Council on ceremonial and other occasions.

### 2.4.1 Council Meetings

#### (a) Types of Council Meetings

There are three types of Council Meetings:-

- (i) Annual meetings
- (ii) Ordinary meetings
- (iii) Extraordinary meetings

#### (b) Rules applying to Council Meetings

The *Council Procedure Rules* will apply to *Council Meetings*.

### 2.4.2 Functions of the Council Meeting and Functions Scheme

The *Council Meeting* will have the functions set out in the *Functions Scheme*.

### 2.4.3 Chairperson of Council

#### (a) Election

The *Chairperson of Council* and the Vice-Chairperson will be elected annually by the *Council Meeting*.

#### (b) Functions

The *Chairperson of the Council* and, in their absence, the Vice-Chairperson will have the following roles and functions:

- (i) to uphold and promote the purposes of the Constitution;
- (ii) to decide what the Constitution means if there is a dispute;

- (ii) to chair *Council Meetings* so that decisions can be taken efficiently, with regard to the rights of *Councillors* and the interests of the community;
- (iii) to make sure that *Council Meetings* are a place for debating matters of concern to the local community and the place at which members who are not on the *Cabinet* are able to hold the *Cabinet* to account;
- (iv) to promote public involvement in the Council's activities and in the democratic process;
- (v) to be the conscience of the Council;
- (vi) to attend those civic and ceremonial functions which they or the Council consider appropriate; and
- (vii) to approve as urgent, decisions which will not be subject to call in.



## Article 5 – The *Leader of the Council* and the *Cabinet*

This article explains how the *Leader of the Council* is appointed and what they do. The *Leader of the Council* is the *Councillor* who is the political head of the Council.

It also explains and provides links to how the *Cabinet* works and what it does.

The *Cabinet* is a group of *Councillors* who work with Council staff to run the Council and take most decisions except those about major policy issues or setting the annual budget (which only the *Council Meeting* can do) or decisions on whether to give planning permissions or licenses which only special regulatory committees can do. There is also a *Corporate Scrutiny Committee* (like a select committee in Parliament) which helps oversee the decisions taken by the *Cabinet*.

### 2.5.1 *Leader of the Council*

#### (a) Appointment

Every two years, the *Annual Council Meeting* will elect a *Councillor* to be the *Leader of the Council*. (If the post becomes vacant, then a new *Leader* will be elected at an ordinary or extraordinary Meeting of the Council)

#### (b) Role

The *Leader of the Council* will normally chair meetings of the *Cabinet*, will lead in the formulation, co-ordination and presentation of the *Cabinet's* policies and liaise with the *Managing Director* on the carrying out of policies by the Council. The *Leader* will appoint their *Cabinet*, except for the *Deputy Leader* who shall be appointed by the *Council Meeting*.

#### (c) Stopping being *Leader of the Council*

The *Leader of the Council* will stay as the *Leader of the Council* until:

- (i) their two years tenure ends although they may stand for re-election;
- (ii) they resign from office;
- (iii) they are suspended from being a *Councillor* although they may resume office at the end of the period of suspension;
- (iv) they are no longer a *Councillor*, or
- (v) they are removed from office by resolution of the *Council Meeting* on a *two thirds majority*

## 2.5.2 The Deputy Leader of the Council

(a) Appointment

Every two years the Annual Council Meeting will elect a *Councillor* to be the *Deputy Leader of the Council*. (If the post becomes vacant, then a new Deputy Leader will be elected at an ordinary or extraordinary Meeting of the Council)

(b) Role

The *Deputy Leader of the Council* will exercise the functions of the *Leader of the Council* in the absence of the *Leader of the Council* and such shall be a member of the cabinet with a portfolio allocated by the *Leader of the Council*.

(c) Stopping being Deputy Leader of the Council

The *Deputy Leader of the Council* will stay as the *Deputy Leader of the Council* until:

- (i) their two years tenure ends although they may stand for re-election;
- (ii) they resign from office;
- (iii) they are suspended from being a *Councillor* although they may resume office at the end of the period of suspension;
- (iv) they are no longer a *Councillor*, or
- (v) they are removed from office by resolution of the *Council Meeting* on a two thirds majority.

## 2.5.3 The Cabinet

(a) Role

The *Cabinet* will carry out all functions of the Council which are not the responsibility of another part of the Council, whether by law or under the *Functions Scheme*.

(b) Membership

The *Cabinet* will consist of the *Leader of the Council*, the *Deputy Leader of the Council* and 7 or 8 other *Councillors* appointed by the *Leader*.

(c) Functions of individual members of the Cabinet

The *Leader of the Council* will decide what functions will be carried out by individual members of the *Cabinet*. The *Leader of the Council* will notify the *Managing Director* and the *Monitoring Officer* of these functions in writing. The *Monitoring Officer* will make sure that they are set out on the Council's website.

(d) Meetings of the Cabinet

Meetings of the *Cabinet* must follow the *Cabinet Rules*.

## Article 6 – Scrutiny

This article sets out that there will be five scrutiny committees and a board to co-ordinate their work. It gives links to the functions each committee carries out and what rules they operate under.

Scrutiny committees are similar to select committees in Parliament. They can look at areas of policy or performance and make recommendations to the *Cabinet* or the *Council Meeting*. They can also look at proposed decisions and examine a decision of the *Cabinet* which has been taken but called in for review before it was carried out.

### 2.6.1 Scrutiny Committees

The *Council Meeting* will set up the following *Scrutiny Committees*:-

- (a) Corporate Scrutiny Committee
- (b) Housing and Social Services Scrutiny Committee
- (c) Education and Leisure Scrutiny Committee
- (d) Environment and Technical Services Scrutiny Committee
- (e) Economic Development, Tourism and Property Scrutiny Committee

### 2.6.2 Membership of Scrutiny Committees

No member of the Cabinet may be a member of a Scrutiny Committee.

### 2.6.3 Appointment of Chairpersons of Scrutiny Committees

Each *Scrutiny Committee* will appoint a chairperson from the members of that committee. Whenever possible no chairperson may be a member of a *Political Group* which is represented on the *Cabinet*. The arrangements for allocation of chairs shall follow the Political Management Protocols.

### 2.6.4 Functions

The *Scrutiny Committees* will have the functions set out in the *Functions Scheme*.

### 2.6.5 Rules

The *Scrutiny Committees* will follow the *Scrutiny Rules*.

## Article 7 – The Standards Committee and the Audit Committee

This article sets out that there will be *Standards Committee* and an *Audit Committee*.

The *Standards Committee* is a committee of independent people and *Councillors* which makes sure that *Councillors* have high standards of ethical conduct and follow a national *code of conduct*. It may also deal with complaints about *Councillors* if asked to do so by the Ombudsman.

The *Audit Committee* is responsible for overseeing the work of the Council's internal and external auditors, making sure the Council is well run and has good arrangements for managing money and risks.

### 2.7.1 Standards Committee

#### (a) Composition

There will be a *Standards Committee* of 10 members comprising:-

- (i) 3 *Councillors* other than the *Leader of the Council*
- (ii) 5 *Independent Lay Members*
- (iii) 2 *Community Council Members*

#### (b) Term of Office

- (i) The *Independent Lay Members* in office on 1<sup>st</sup> January 2011 will hold office until 17<sup>th</sup> December 2011. *Independent Lay Members* appointed for periods of office after that will hold office for a single term of four years.
- (ii) The *Community Council Member* in office on 1<sup>st</sup> January 2011 will hold office until 17<sup>th</sup> December 2011 or until they cease to be a member of a community council in Anglesey, whichever comes first.
- (iii) The *Councillor Members* will hold office for no more than four years or until the next ordinary local government election following their appointment, whichever comes first.

#### (c) Proceedings

- (i) All Members of the committee present at a meeting will be entitled to vote at that meeting.
- (ii) The *Community Council Members* must be present when matters relating to *Community Councils* or their Members are being

considered (but will not take part when any matter relating to the Community Council of which they are a member is being considered).

- (iii) The Community Council Members will not take part in any hearings relating to County Councillors.
- (iv) An *Independent Lay Member* will be Chairperson and Vice Chairperson of the Committee and any sub-committees.
- (v) A meeting of the *Standards Committee* will be quorate only when at least three members including the Chairperson or Vice Chairperson is present and at least half the members present are *Independent Lay Members*.

(d) Role

The *Standards Committee* will have the roles and functions set out in the *Functions Scheme*.

### 2.7.2 Audit Committee

(a) Composition

There will be an *Audit Committee* of 9 members.

(b) Role

The *Audit Committee* will have the roles and functions set out in the *Functions Scheme*.

### 2.7.3 Joint Working of Committees

The *Standards Committee* and the *Audit Committee* will co-operate on governance matters and will have the right to report directly to the *Council Meeting* on those matters.

## Article 8 – Planning, Licensing and other Committees

This article sets out that the Council will have a Planning and Orders Committee, a Licensing Committee, two Appeals Committees and an Appointments Committee. The article provides links to what these committees do.

The Planning and Orders Committee decides whether to grant planning permission in more complex or controversial cases. More straightforward cases are delegated to Officers.

The Licensing Committee decides whether to give licences for things like operating a taxicab, a club or pub serving alcohol or with slot machines.

The main Appeals Committee deals mostly with a range of employee related appeals. The Schools Admissions and Exclusions Appeal Committee considers appeals by parents or guardians against a decision either not to admit, or to exclude, their child from a particular school.

### 2.8.1 Planning and Orders Committee

(a) Composition

There will be a *Planning and Orders Committee* of 14 Councillors.

(b) Role

The *Planning and Orders Committee* will have the roles and functions set out in the *Functions Scheme*.

### 2.8.2 Licensing Committee

(a) Composition

There will be a *Licensing Committee* of 14 Councillors.

(b) Role

The *Licensing Committee* will have the roles and functions set out in the *Functions Scheme*.

### 2.8.3 Appeals Committee

(a) Composition

There will be an *Appeals Committee* of 10 Councillors.

(b) Role

The *Appeals Committee* will have the roles and functions set out in the *Functions Scheme*.

**2.8.4 Schools Exclusions and Admissions Appeals Committee**

(a) Composition

There will be a *Schools Exclusions and Admissions Appeals Committee*.

(b) Role

The *Schools Exclusions and Admissions Appeals Committee* will have the roles and functions set out in the *Functions Scheme*.

## Article 9 – Working with Local Communities and Other Organisations

Working in partnership with local communities and other organisations is an important way that the Council tries to carry out its aims.

This article sets out how the Council can enter into joint arrangements with partners to provide a range of services.

The article sets out arrangements for joint committees and area committees. It gives details of who can appoint members of these committees and how rules dealing with access to information apply to the committees.

The article also sets out and links to arrangements for Community Partnerships across the Island and also arrangements for contracting out work.

### 2.9.1 Arrangements to promote well-being

The Council may work with other councils, other public bodies, commercial and voluntary organisations to promote the economic, social or environmental well-being of the Island.

### 2.9.2 Joint Arrangements

#### (a) Joint arrangements for Council Functions

The Council may establish joint arrangements with one or more local authorities and/or their *Executives* to exercise *Council Functions* in any of the participating authorities, or advise the Council on any matter. Such arrangements may involve the appointment of (a) joint committee(s) with these other local authorities.

#### (b) Joint arrangements for Executive Functions

The *Cabinet* may establish joint arrangements with one or more local authorities to exercise functions which are *Executive Functions*. Such arrangements may involve the appointment of (a) joint committee(s) with these other local authorities.

### 2.9.3 Joint Committees

#### (a) Local Service Board and other joint committees

The Council has established a *Local Service Board* with partners and other joint committees, Special Educational Needs Joint Committee (SEN) and Joint Planning Policy Committee with Gwynedd Council.



(b) Functions

Joint committees will have the functions set out in the *Functions Scheme*

(c) Appointments to joint committees

- (i) Except as below, the *Cabinet* may only appoint members of the *Cabinet* or another Councillor, as appropriate, or Officer, as appropriate, to a joint committee and those members need not reflect the political composition of the Council as a whole.
- (ii) The *Cabinet* may appoint *Councillors* who are not members of the *Cabinet* if the joint committee has functions for a part of the Authority smaller than two-fifths of the Authority by area or population. In such cases, the *Cabinet* may appoint a *Councillor* who represents a ward wholly or partly in the area covered by the joint committee.

(d) Access to information

- (i) If all the members of any joint committee are members of the *Executive* in each of the participating authorities then the same rules on access to information will apply as those that apply to the *Cabinet*.
- (ii) If the joint committee contains members who are not on the *Executive* of any participating authority, then the same rules on access to information will apply as those that apply to *Council Meetings*.

#### 2.9.4 Area Committees

- (a) The Council may establish *Area Committees* covering geographical areas of the Island, if it is satisfied that to do so will ensure improved service delivery and more efficient, transparent and accountable decision making. The Council will consult with relevant Community and Town Councils and the Chairpersons of relevant community meetings when considering whether and how to establish *Area Committees*.

- (b) An *Area Committee* will have the functions set out in the *Functions Scheme*.

#### 2.9.5 Delegation to and from other Local Authorities

- (a) The *Council Meeting* or the *Cabinet* may delegate their powers and functions to another local authority or, in certain circumstances, the *Executive* of another local authority.
- (b) The decision whether or not to accept such delegation from another local authority will only be taken by the *Council Meeting*.

#### 2.9.6 Contracting Out

The Council, for functions which are not executive functions, and the *Cabinet*, for executive functions, may contract out to another body or organisation functions which may be carried out by an *Officer* and which are:-

- (a) subject to an order under Section 70 of the Deregulation and Contracting Out Act 1994, or

(b) under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles,

providing there is no delegation of the Council's discretionary decision making.

## Article 10 – The Managing Director and other staff

This article sets out that the Council will have a *Managing Director* (also undertaking the role of Head of Paid Service) who is in charge of the Council's staff (called *Officers*) and works with *Councillors*, especially the *Leader of the Council*, to carry out the aims and objectives of the Council.

The article also sets out other senior staff posts, including those who have additional statutory roles as the Monitoring Officer and the Chief Finance Officer. The article provides links to the functions of these roles which, together with the Head of Paid Service, are three roles which must exist in every county council.

The *Head of Paid Service* (carried out by the *Managing Director*) is responsible for reporting to the Council on how staff are organised and deployed in the Council.

The *Monitoring Officer* (carried out by the Director of Legal and Committee Services) is responsible for reporting serious breaches or potential breaches of legal requirements to the *Council Meeting* or to the *Cabinet* and for providing legal advice and guidance to the Standards Committee and Councillors on compliance with the Councillors' Code of Conduct.

The *Chief Finance Officer* (carried out by the *Director of Finance*) is responsible for reporting the actual or potential misspending of money to the *Council Meeting* or to the *Cabinet*.

### 2.10.1 *Managing Director*

The Council will employ a *Managing Director*. In addition to the functions set out in the *Functions Scheme*, the *Managing Director* will be responsible to all *Councillors* for the efficient and effective management of *Officers* and the discharge of the Council's functions.

### 2.10.2 Management structure

#### (a) General

The Council may employ such *Officers* as it considers necessary to carry out its functions.

#### (b) Senior Officers

The Council will employ persons in the following posts who will have the functions set out in the *Functions Scheme*:-

- (i) *Managing Director and Head of Paid Service*
- (ii) *Director of Finance and Chief Finance Officer*
- (iii) *Director of Environment and Technical Services*
- (iv) *Director of Housing and Social Services*
- (v) *Director of Education and Leisure*
- (vi) *Director of Legal and Committee Services and Monitoring Officer*

(c) Head of Paid Service, Monitoring Officer and Chief Finance Officer

- (i) *The Head of Paid Service, Chief Finance Officer and Monitoring Officer will have the functions set out in the Functions Scheme.*
- (ii) *The Head of Paid Service may not be the Monitoring Officer, but may be the Chief Finance Officer if a qualified accountant.*
- (iii) *The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such Officers, accommodation and other resources as are in the opinion of those Officers are sufficient to allow their duties to be performed.*

(d) Structure

The *Managing Director* will decide the overall staff structure of the Council and will ensure that an up-to-date structure chart is available on the Council's website.

### **2.10.3 Conduct**

*Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations.*

### **2.10.4 Employment**

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

## Article 11 – Decision making

**This article sets out how the Council will take decisions and gives links to particular rules applying to decision making by the *Council Meeting*, the *Cabinet* and committees of the Council.**

### 2.11.1 Principles of Decision Making

When the Council takes a decision it will:

- (a) make sure the action is proportionate to what the Council wants to happen;
- (b) consult properly and take professional advice from *Officers*;
- (c) consider equality, diversity and respect for human rights;
- (d) make the decision public unless there are good reasons for it not to be;
- (e) be clear about what the Council wants to happen and how it will be achieved;  
and
- (f) explain what options were considered and give the reasons for the decision.

### 2.11.2 Responsibility for Decision Making

The Council will prepare and keep up to date a *Functions Scheme*. The *Functions Scheme* will show what sorts of decisions can be made and by whom.

### 2.11.3 Decision making by the Council Meeting

Subject to Article 2.11.7, the *Council Meeting* will follow the *Council Procedure Rules* when considering any matter.

### 2.11.4 Decision Making by the *Cabinet*

Subject to Article 2.11.7, the *Cabinet* will follow the *Cabinet Rules* when considering any matter.

### 2.11.5 Decision making by Scrutiny Committees

Scrutiny Committees will follow the *Scrutiny Rules* and the *Committee Procedure Rules* when considering any matter.

### 2.11.6 Decision making by other committees and sub committees

Subject to Article 2.11.7, other Council committees and sub committees will follow the *Committee Procedure Rules*.

**2.11.7 Decision Making by Council Bodies acting as tribunals (also sometimes described as quasi judicial or regulatory)**

If any decision maker acts as a tribunal or in judgment on an issue in a way that might affect the rights or interests of any person, as well as taking professional and/or legal advice, they must also follow the rules of natural justice as required by Article 6 of the European Convention on Human Rights

## Article 12 – Finance, contracts and legal matters

This article sets out that the management of the Council's money and the making of contracts by it (especially when buying services and supplies) must follow special rules.

The article gives special authority to the *Monitoring Officer* and also to its Legal Services Manager to take legal action on the Council's behalf. It also deals with how legal documents should be signed and how the official seal of the Council is to be used.

### 2.12.1 Financial Management

The management of the Council's financial affairs will comply with the *Finance Rules*.

### 2.12.2 Contracts

Every contract made by the Council will comply with the *Contracts Rules*.

### 2.12.3 Legal Proceedings

- (a) The *Monitoring Officer* and or the Legal Services Manager can institute, defend or take part in any legal proceedings where such action is necessary to give effect to decisions of the Council or where they consider that such action is necessary to protect the Council's interests.
- (b) The *Monitoring Officer* and or the Legal Services Manager can designate nominated officers to carry out all or any part of this function on their behalf.

### 2.12.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings, it will be signed by the Legal Services Manager or by some other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given authority to some other person.

### 2.12.5 Common Seal of the Council

- (a) The Common Seal of the Council will be kept in a secure place in the custody of the Legal Services Manager.
- (b) A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
- (c) The Common Seal will be affixed to those documents which in the opinion of the Legal Services Manager should be sealed or as required by the *Contracts Rules*. The affixing of the Common Seal will be attested by the Legal Services Manager or in their absence, the *Monitoring Officer*, *Managing Director* or another Solicitor together with the *Chairperson of the Council*, or in

their absence, another *Councillor*. An entry of every sealing shall be made and consecutively numbered in a book kept for the purpose.



## **Schedule to the Articles - Description of Executive arrangements**

The following parts of the Constitution make up the *Executive Arrangements*:-

1. Article 5 – the Leader of the Council and the *Cabinet*, and the *Cabinet Rules*
2. Article 6 – Scrutiny, and the Scrutiny Rules
3. Article 9 – Working with other organisations
4. Article 11 – Decision making, and the Access to Information Rules
5. The Functions Scheme and the Cabinet Members' Portfolio Scheme.