



COUNCIL – 13TH DECEMBER 2018

SUBJECT: PROPOSED CHANGES TO THE CONSTITUTION

REPORT BY: HEAD OF LEGAL SERVICES AND MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To ask Council to note and endorse the proposed changes to Part 4, Rules of Procedure with regard to Questions by Members as attached at Appendix 1.
- 1.2 To note and endorse the changes to the Report Template at Appendix 2.
- 1.3 To ask Council to delegate authority to the Head of Legal Services and Monitoring Officer to make the necessary changes to the council's Constitution to give effect to the changes referred to in the Report.

2. SUMMARY

- 2.1 This report proposed changes to the Constitution at Part 4 – Rules of Procedure in terms of Questions by Members and changes to the Report Template which is also set out in Part 4 within the Executive Procedure Rules.

3. LINKS TO STRATEGY

- 3.1 The requirement to establish and maintain the Council's Constitution is set out in the Local Government Act 2000 and contributes the following Well-Being Goals within the Well-Being of Future Generations Act (Wales) 2015 as it sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. It sets the framework for the decision making roles and responsibilities which will impact on future generations.
 - A prosperous Wales
 - A resilient Wales
 - A healthier Wales
 - A more equal Wales
 - A globally responsible Wales
 - A Wales of cohesive communities
 - A Wales of vibrant culture and thriving Welsh language

4.0 BACKGROUND

- 4.1 The Council's Constitution was initially formally adopted by the Council in May 2002. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that the decision making processes are efficient, transparent and available

to local people. The Constitution is a ‘living document’ in that it is constantly being updated and revised to reflect new government legislation and improvements and changes in procedures gained in light of experience.

5.0 THE REPORT

5.1 CHANGES TO QUESTIONS BY MEMBERS

The main proposed changes to the process which allows members to ask questions of the cabinet members and the Leader is that council will be allowed to ask cabinet members and the Leader 3 questions each: 3 for the cabinet members and 3 for the Leader; in respect of questions to the Leader, the questioner will be able to ask a supplementary question; a member from each political group will be able to ask the cabinet member and the Leader one question each, up to a maximum of 6 questions each council meeting, and the questions will be asked and answered at the council meeting rather than the written response tabled at the meeting. It is felt that with the council meetings being webcast, viewers from home will be better informed by seeing and hearing the question being asked and answered.

5.2 CHANGES TO THE REPORT TEMPLATE

- 5.3 Members will recall that at its Annual Meeting in May this year, Council endorsed changes proposed to the Report Template to include reference to the Corporate Plan within the section headed “Links to Strategy”. In conjunction with this change Council noted that officers would develop guidance to sit alongside the new paragraphs with the intention of trialling the new report for a period of three months prior to full implementation. In addition a conclusion paragraph would also be incorporated into the template.
- 5.4 In the intervening period further consideration has been given to the structure and format of the Report Template with the Leadership Group which has resulted in further changes being proposed to complement the introduction of the relevant cabinet member introducing reports at cabinet and council and moving the recommendation(s) set out in the report. The changes include the recommendations section of the report appearing on the first page of the report at section 3; and changes to the guidance on Well-being of Future Generations (Wales) Act 2015 in section 7 and the equalities implications in section 8.
- 5.5 Members are asked to endorse the changes to the Report Template at Appendix 2 and to delegate authority to the Head of Legal Services and Monitoring Officer to amend the Council’s Constitution accordingly.

6. WELL-BEING OF FUTURE GENERATIONS

- 6.1 This report contributes to the Well-Being Goals as set out in Links to Strategy above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that the Constitution sets out a clear framework for how the Council operates in particular the decision making responsibilities which will consider the positive and negative impacts on future generations, long term resilience, economic, environmental and social capital.

7. EQUALITIES IMPLICATIONS

- 7.1 There are no equalities impacts arising from the contents of the Report.

8. FINANCIAL IMPLICATIONS

- 8.1 There are none arising from the contents of the Report.

9. PERSONNEL IMPLICATIONS

- 9.1 None arising from the content of this Report.

10. RECOMMENDATIONS

Council is asked to:-

- 10.1 Endorse the changes to Questions by Members as set out in Appendix 1 to this report and authorise the Head of Legal Services and Monitoring Officer to make the necessary changes to the Constitution
- 10.1 Endorse the changes to the Report Template as set out in Appendix 2 and to authorise the Head of Legal Services and Monitoring Officer to make the necessary changes to the Constitution.

11. REASONS FOR THE RECOMMENDATIONS

- 11.1 To review and revise the Council's constitution.

12. STATUTORY POWERS

Local Government Act 2000

Author: Robert Tranter, Head of Legal Services and Monitoring Officer

Consultees: Christina Harrhy, Interim Chief Executive
Dave Street, Director of Social Services
Mark S. Williams, Interim Director of Communities
Ed Edmunds, Corporate Director for Education and Corporate Services
Lisa Lane, Interim Deputy Monitoring Officer

Appendices:

Appendix 1 Questions by Members
Appendix 2 Updated Report Template

Background Papers Report to the AGM 10th May 2018 – Constitutional Matters
The Constitution is available on the Council's website

APPENDIX 1

10. QUESTIONS BY MEMBERS

- (1) A member of the Council may ask the Leader or the appropriate Cabinet member any question upon an item of the report of a committee when that item is under consideration by Council.
- (2) A member of the Council may ask **the Leader** any question on any matter in relation to which the Council has powers or duties or which affects the area of the council or any part of it or the inhabitants of the area or any part of it if at least five clear working days' notice in writing of the question has been given to the Chief Executive.
- (3) One member of each political group will be entitled to ask the Leader one question at a meeting of Council with those members not part of a political group being deemed part of the Independent Group for the purpose of this rule.
- (4) A member of the Council may ask **a Cabinet member** any question on any matter within their portfolio if at least five clear working days' notice in writing of the question has been given to the Chief Executive.
- (5) One member of each political group will be entitled to ask a Cabinet member one question at a meeting of Council with those members not part of a political group being deemed part of the Independent Group for the purpose of this rule.
- (6) With the permission of the Mayor, a member of the Council may put to the Leader or a member of the Cabinet any question relating to urgent business of which such notice in writing of the question has been given to the Chief Executive not later than 9.00 am on the day of the meeting.
- (7) The Chief Executive in consultation with the Monitoring Officer may reject a question if:-
 - (a) it does not meet the criteria set out in 10(2) or 10(4).
 - (b) it is defamatory frivolous or offensive.
 - (c) it repeats a question which has been put at a meeting of the Council in the past six months.
 - (d) it requires the disclosure of confidential or exempt information.
 - (e) it relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a court or tribunal or to a Government Minister or the Welsh Assembly or an ongoing investigation by the Public Services Ombudsman for Wales or relates to a decision which has been made by the Council in exercise of its regulatory functions in respect of which there are legal rights of redress.
 - (f) it relates to the personal circumstances or conduct of an officer or Councillor or to the conditions of service of individual employees.
 - (g) it seeks to promote a political party or organisation.

- (h) it is a statement and not a genuine enquiry.
- (i) the preparation of the answer would require the expenditure of a disproportionate amount of time, public money or effort.
- (j) it relates to information that is readily available in a report submitted to Council, Cabinet or Scrutiny Committee previously in which case the Member will be advised of the date of the relevant Report.

The decision of the Chief Executive in the above matter shall be final and the reasons for rejection will be provided to the relevant Member, in writing.

- (8) Questions of which notice has been given under 10(2) and/or 10(4) will be listed on the agenda in the order received by the Chief Executive. A maximum of 3 questions to the Leader will be considered at each meeting of Council. In addition a maximum of 3 questions to members of the Cabinet will be considered at each meeting of Council.
- (9) Every question shall be put and answered without discussion.
- (10) A Member asking a question under 10(2) may ask one supplementary question without notice to the Leader. The supplementary question must arise directly out of the original question or the reply.
- (11) The Leader or Cabinet member in answering each question may speak for no longer than three minutes.
- (12) An answer may take the form of:
 - (a) a direct oral answer; or
 - (b) where the desired information is contained in a publication of the Council, a reference to that publication; or
 - (c) where the reply to the question cannot conveniently be given orally a written answer circulated to members of the Council.
- (13) The questions and answers to questions will be incorporated within the minutes of the meeting.



NAME OF COMMITTEE – DATE – ARIAL 15

**NOT FOR PUBLICATION BY VIRTUE OF PARAGRAPH OF PART 4,
SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972**

Above paragraph to be included if report is to be exempt

PAGE SET UP 0.7 TOP, BOTTOM, LEFT AND RIGHT

FONT FOR REPORT - ARIEL 11

SUBJECT: ARIEL 12

REPORT BY: ARIEL 12

1. PURPOSE OF REPORT - HEADINGS ARIEL 11

- 1.1 This section should contain a brief statement as to the purpose of the report (e.g. to recommend to Members that they decide to). If this is a report for a scrutiny committee that is to be referred to Cabinet for decision, there must be included within this section a sentence which explains that the report is seeking the views of Members prior to its presentation to Cabinet.

2. SUMMARY

- 2.1 All reports **must** include a short summary of the report. With the expectation the relevant cabinet member will present the report at cabinet or council, the cabinet member will use this section to explain the report.

3. RECOMMENDATIONS

- 3.1 This section would set out the recommendations of the Director concerned.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 The minutes record the reasons for making any decisions reached. It is therefore essential that reports set out clear "reasons" for making the decision as recommended.

5. THE REPORT

5.1 The precise nature of this part of the report will vary from one issue to another and according to the background info which needs to be provided. The section should set out what options are available to the decision maker and why the option recommended for approval has been chosen.

5.2 Conclusion

Pulls together any themes running through the report/rounding up the issues referenced in the main body of the report section and which option is recommended for approval.

6 LINKS TO RELEVANT COUNCIL POLICIES

6.1 Set out here which of the council's policies are relevant to the decision being requested.

6.2 Corporate Plan 2018-2023.

This section shows how the report content (project, proposal, information or decision) contributes towards or impacts the Corporate Well-being Objectives, which are:

Objective 1 - Improve education opportunities for all

Objective 2 - Enabling employment

Objective 3 - Address the availability, condition and sustainability of homes throughout the county borough and provide advice, assistance or support to help improve people's well-being

Objective 4 - Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment

Objective 5 - Creating a county borough that supports a healthy lifestyle in accordance with the sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015,

Objective 6 - Support citizens to remain independent and improve their well-being
The objectives are high level themes and each have several outcomes that sit underneath them, (36 in total) so it may benefit the author to look at the outcomes within the plan to understand the cross-cutting nature of the Council's priorities with regard to any impact the report may have on the Corporate Plan.

The Corporate Plan can be found on the intranet on the Policy portal, within the performance management section. See link below

<http://sc-aptdken1/KENTICO/getattachment/ab780120-3a2b-47f9-bff0-f383462fbb98/Corporate-Plan-2018-23.aspx>

7. WELL-BEING OF FUTURE GENERATIONS

7.1 This section should explain how the report contributes to the Well-being Goals which are:-

- A prosperous Wales*
- A resilient Wales*
- A healthier Wales*
- A more equal Wales*
- A Wales of cohesive communities*

- A Wales of vibrant culture and thriving Welsh Language*
- A globally responsible Wales*

**delete as appropriate*

The report should also state how it is consistent with the five ways of working as defined within the sustainable development principle in the Act. The five ways of working of the sustainable development principle, listed in the Act are:

- Long Term – The importance of balancing short-term needs with the need to safeguard the ability of future generations to meet their long-term needs
- Prevention - How acting to prevent problems occurring, or getting worse, may help public bodies meet their objectives
- Integration – Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies
- Collaboration – Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives
- Involvement – The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.

The Well-being of Future Generations (Wales) Act became law in April 2015. The Act is about improving the social, economic, environmental and cultural well-being of Wales. It makes public bodies listed in the Act think more about the long term, work better with people and communities and each other, look to prevent problems and take a more joined-up approach. It has a significant impact on all Council policies and priorities and has the potential to significantly affect the way we plan and deliver services and how we engage with individuals and communities within the Caerphilly county borough.

This section should highlight how the recommended course of action contributes to meeting the seven well-being goals (listed above) within the Well-being of Future Generations Act (Wales) 2015. Although you may look at each goal in turn, the well-being goals must be considered as an integrated set of seven. This ensures that the fundamental relationship between improving the economic, social, environmental and cultural well-being is recognised.

The report needs to consider the long term outcome of the decision and account for the positive and negative impacts on future generations, long term community resilience and economic, environmental and social capital.

This section needs to consider how the five ways of working have been addressed in applying the sustainable development principle, this needs to be challenging and **considered at the outset of a project/proposal and not a tick box exercise concluded at the end.**

For more information about the Well-being of Future Generations (Wales) 2015 Act, the seven well-being goals and the five ways of working, please see the Corporate Policy Unit Portal Guidance for Well-being of Future Generations and/ or visit the CCBC Well-being of Future Generations website and/ or the Public Services Board website.

8. EQUALITIES IMPLICATIONS

- 8.1 In this section, outline any potential equalities implications of the report and its recommendations on groups or individuals who fall under the categories identified in Section 6 of the Council's Strategic Equality Plan. These equalities implications should have been identified during the consultation stage and/or by undertaking an equality impact assessment **early in the development process**. These implications can be positive as well as negative.

Note: The Equalities Implications in Committee Reports Guidance (Section 3) will help you to determine whether a full Equality Impact Assessment **is** required. If it is established that a full Equality Impact Assessment is required, then an Equality Impact Assessment Form must be completed.

If there are no equalities implications in the report you can use the relevant standard paragraph provided in the guidance, however this would have to be evidenced if challenged during the internal approval process, or during any legal challenge at a later date.

If you require advice please contact Anwen Cullinane, Ext. 4404 or email equalities@caerphilly.gov.uk.

9. FINANCIAL IMPLICATIONS

- 9.1 There must be a section outlining the financial implications of the report/recommendations and a clear statement as to how these implications (immediate and long term) will be funded – the Head of Corporate Finance/Section 151 Officer must be consulted. Where there are no financial implications the report can simply state that there are none. If there are assumptions being made about funding, then they need to be stated here.

10. PERSONNEL IMPLICATIONS

- 10.1 There must be a section outlining any personnel implications of the report. The Head of People Services must be consulted. If there are no implications the report can state that there are none.
- 10.2 If the subject of the report relates to a restructure of a Service Area, a Welsh Assessment on the vacant posts, after any ring fencing exercise has been undertaken, will be required. Guidance on undertaking a Welsh Assessment can be found in Guidance On Assessing The Welsh Needs Within Posts.

11. CONSULTATIONS

- 11.1 If any consultee expresses views which differ from the recommendations, the author must include them in this section and as part of the main body of the report state whether the author is of the view that they have been addressed satisfactorily in the report, whether they can/should be incorporated in the recommendation and if not incorporated into the recommendation then why not.

12. STATUTORY POWER

- 12.1 This is to identify the enabling statutory power(s) for the decision under consideration. It should also state whether the power(s) are the responsibility of full Council or Cabinet and if it has been delegated to officers. If you have any queries on powers, please consult the Monitoring Officer/Head of Legal Services.

13. URGENCY (CABINET ITEMS ONLY)

- 13.1 All Cabinet decisions will be subject to a “call-in” procedure whereby the relevant Scrutiny Committee can ask for the implementation of the decision to be delayed until it has considered the matter and, if the Scrutiny Committee is so inclined, to ask Cabinet to reconsider its decision. The only exceptions will be items where the call-in request is not in accordance with the call-in procedure or the decision needs to be implemented urgently. If this is the case the report should state that this is so, and explain why. The Chairman of the

Council must agree both that the decision proposed is reasonable in all circumstances and to it being treated as a matter of urgency.

Author: name, title and email address

Consultees: Insert names and titles and email address, one under the other. Consultees will be the Chief Executive, , relevant Directors, Head of Legal Services and Monitoring Officer, Head of People Services, Head of Corporate Finance/s.151 officer, other relevant Heads of Service, Cabinet Member(s), Chairman and Vice Chairman of the relevant Scrutiny Committee and local ward Members. Any consultee comments should be incorporated in the report with the view of the officer whether the comments are accepted or not.

Background Papers:

This section should set out a list of the background papers available for inspection which disclose any facts or matters on which, in the opinion of the report author, the report or an important part of the report is based and have in his/her opinion been relied on to a material extent in preparing the report but do not include published works. A telephone number of a person to contact if you wish to inspect those papers should be included. In the case of exempt background papers a sentence to the effect that "Background papers are exempt" is sufficient.

Appendices:

- Appendix 1 Title of Appendix 1 if used
- Appendix 2 Title of Appendix 2 if used
- Appendix 3 Title of Appendix 3 if used