



COUNCIL – 28TH JANUARY 2014

SUBJECT: REVIEW OF COUNCIL'S CONSTITUTION

REPORT BY: INTERIM MONITORING OFFICER

1. PURPOSE OF REPORT

- 1.1 To update Members on the proposals to introduce an All Wales Framework Constitution.
- 1.2 To recommend to Members changes to the Council's Constitution in order to reflect current arrangements.
- 1.3 To seek Members views on a proposed change to the deadline for Call-In of Cabinet decisions.

2. LINKS TO STRATEGY

- 2.1 The review of the constitutional arrangements and approval of the recommendations in this Report supports that Councils objectives to strengthen existing governance arrangements.

3. SUMMARY

- 3.1 The report updates members on the proposals to introduce the All Wales Framework Constitution. This report also outlines the proposed changes to the Council's constitution to reflect current arrangements. In addition Members views are sought on the proposals to amend the deadline to the Call In of Cabinet decisions.

4. THE REPORT

- 4.1 The Council's Constitution 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.
- 4.2 The current Constitution has been reviewed and revised periodically on an ad hoc basis to take into account such matters as changes to secondary legislation, to update protocols and procedures and to review the responsibility of functions.
- 4.3 Members will be aware that the Wales Audit Office published a report in the Public Interest in March 2013. In response to this report Council, at its meeting on 23rd April 2013, approved the implementation of an Action Plan which was prepared to strengthen and improve the Council's governance processes and procedures. One of the requirements identified in the Action Plan is a review of the Council's Constitution.

- 4.4 In order to undertake the review a cross party Constitution Working Group (the Group) was established following the Council meeting on 11th June 2013 to review the Council's Constitution. The Group is utilising the Model Welsh Constitution, which will form the basis of the Council's new Constitution. The Model Constitution is an All Wales Framework document prepared by lawyers in conjunction with the Welsh Local Government Association (WLGA) and the Local Government Group (LGG) with the intention of all Welsh Local Authorities adopting this document as a framework document.
- 4.5 The Group has already commenced detailed consideration of the Model Constitution and several aspects are out to consultation. However, there have been several "teething problems" with the availability of the computer package to support the implementation of the new framework document. The programme is hosted by an external firm of lawyers.
- 4.6 Consequently it was decided by the Group and agreed by the Improving Governance Programme Board that an interim refresh and review of the current version of the Council's Constitution should be undertaken in order to update the document to reflect current working practices and changes to legislation etc.
- 4.7 This report seeks member's approval of the changes highlighted in the track-changed version of the relevant extracts of the Constitution together with a specific proposal to amend the Call-In Procedure.
- 4.8 To assist members the Constitution is divided as follows: -
- Part 1 – Summary and Explanation
 - Part 2 – Articles of the Constitution
 - Part 3 – Responsibility for Functions
 - Part 4 - Rules of Procedure
 - Part 5 – Codes and Protocols
 - Part 6 – members Allowances Scheme
 - Part 7 – Management Structure
- 4.9 The majority of the changes identified in the attached extracts of the Constitution can be summarised as reflecting current arrangements. Members are asked to consider all changes proposed although particular attention is drawn to the following:
- 4.10 **Part 1 - Summary and Explanation**
- 4.10.1 The number of Cabinet Members has been increased to 9 with the number of Scrutiny Committees reduced to 4.
- 4.11 **Part 2 - Articles of the Constitution**
- 4.11.1 Article 2 - Reference has been made to the Crime and Disorder function of the Council generally.
- 4.11.2 Article 4 - The Policy Framework has been updated to take into account the implementation of the Caerphilly Delivers - Single Integrated Plan 2013-2017. Where necessary additional plans have been included and others deleted following consultation with the relevant service areas.
- 4.11.3 Article 6 - Overview and Scrutiny Committees. As mentioned above the Scrutiny arrangements have been thoroughly reviewed. The terms of reference and the responsibilities of each Scrutiny Committee have been updated on a thematic basis and in accordance with individual Directorate responsibilities. The community strategy responsibilities for all Scrutiny Committees have been replaced by the relevant provisions of the Single Integrated Plan. The relevant Cabinet Members have been assigned to the respective Scrutiny Committee.

- 4.11.4 Article 7 - The Executive. Each Cabinet Member's portfolio has been updated and reflect each specific role.
- 4.11.5 Article 8 - Regulatory Committees.
- (a) Planning Committee – The Powers Delegated to the Council's Officers paragraph 1 have been amended to reflect the intentions of the previous review undertaken.
- (b) Licensing Committee – The terms of reference have been updated taking into account changes in legislation.
- (c) Audit Committee – the Terms of Reference for Audit Committee have been revised as set out.
- (d) Democratic Services Committee Terms of Reference have also been included at Article 8.
- 4.11.6 Article 12 Officers -Members will note that the responsibilities of each Head of Service have been updated and correspond with the terms of reference of the various Scrutiny Committees. These changes are based on the substantive roles and do not include temporary arrangements.
- 4.11.7 A further Report will be presented shortly in relation to the processes undertaken in relation to the delivery of Welsh Housing Quality Standards.
- 4.12 **Part 3 - Responsibility for Functions**
- 4.12.1 Members will be aware that the responsibility for functions are divided into four main sections.
- (a) Those functions which the law says only the Council can exercise ("the Council functions").
- (b) The functions which the law says may be dealt with in a way which is chosen by the Council ("Local Choice functions").
- (c) The functions which the law says are functions of the Executive ("Executive functions").
- (d) Other general delegations of functions.
- 4.12.2 Members are asked to note that the basic content of the scheme of delegation follows the same principles adopted in authorities across Wales and is based on the relevant legislation.
- 4.12.3 The Council Functions have been reviewed to take account of changes to legislation and to clarify the roles of the standing committees of the Council (as necessary).
- 4.12.4 The Local Choice functions are largely unchanged save for the removal of the reference to legislation that is no longer in place and to clarify the roles of the appeals committees.
- 4.12.5 The changes proposed in relation to Cabinet functions reflect the division of functions as currently exist. For example Members will be aware that the leisure function is now with the Directorate of the Environment. In addition job titles of officers and legislative lists have also been updated.
- 4.12.6 There are no substantive changes to the general delegation of functions to officers other than to update in terms of officer job titles and clarification of the delegation under the Council's Standing Orders and Financial Regulations as recently approved by Council.

- 4.12.7 Members are also asked to note that as part of the Council's Improving Governance Programme and following the presentation of the earlier reports to Council, additional work streams will be implemented and monitored by the Improving Governance Programme Board to produce and distribute detailed guidance for officers on the processes that are required to be undertaken when exercising delegated decisions.
- 4.12.8 In addition and as part of the implementation of the new Framework document the format of the scheme of delegation will be revised with a view to presenting it in a simplified format.
- 4.13 Proposed revision of the deadline for Call In of Cabinet Decisions
- 4.13.1 During the discussions of the Constitution Review Group an anomaly relating to the deadline to the deadline for Call in of Cabinet decisions was recognised.
- 4.13.2 Under the terms of the current Constitution the Call In deadline for Cabinet decisions is 5pm on the Monday of the week following the day on which a decision is taken in Cabinet. At the time this process for Call In was introduced Cabinet was held on a Tuesday and consequently Members had 3 clear working days within which to call in a decision.
- 4.13.3 Cabinet is now held on a Wednesday, and indeed there may be occasions where a Cabinet meeting will be convened on a Thursday or Friday. It is therefore proposed that the call in period should be referenced to clear days as opposed to a particular day of the week. Members are therefore requested to consider the following options:-
- (a) To adopt the same call in period as applicable to officer delegated decisions namely the end of the 3rd working day following the day on which a decision is taken; or
 - (b) Extend the period to the end of the 5th working day following the day on which a decision is taken.

5. EQUALITIES IMPLICATIONS

- 5.1 The Council's Constitution takes account of all equality related issues.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no financial implications.

7. PERSONNEL IMPLICATIONS

- 7.1 There are no personnel implications.

8. CONSULTATIONS

- 8.1 The views of the consultees have been reflected in the report (where appropriate).

9. RECOMMENDATIONS

- 9.1 Members are asked:-
- 9.1.1 To consider and approve the track changes proposed in the extracts of the Constitution attached at Appendix 1.

9.1.2 To consider the options in relation to the proposed change to the Call In deadline as set out in paragraph and make the appropriate recommendation and to authorise the Monitoring Officer to update the Constitution accordingly.

10. REASONS FOR THE RECOMMENDATIONS

10.1 To ensure the Councils Constitution is updated to reflect current arrangements.

11. STATUTORY POWER

11.1 Local Government Act 1972 and 2000.

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Heads of Service
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Councillor Keith Reynolds
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Appendices:
Appendix 1 Extracts of the Council's Constitution showing track changes in italics