

**NEATH PORT TALBOT COUNTY BOROUGH COUNCIL**  
**COUNCIL**

**25 January 2017**

**Report of the Head of Legal Services**

**Matter for Decision**

**Wards affected:** All

**Amendments to the Authority's Constitution**

**Purpose of the Report**

1. To seek Members' approval to update the Authority's Constitution

**Executive Summary**

- 2.1 Various amendments have been made by the Council's Committees and Cabinet to Officer Delegation Arrangements which have been put into effect. However, approval of Council is now required in order to update the Constitution.
- 2.2 In addition due to the recent retirement of the Principal Solicitor – Property there is a need for Council to authorise his successor to have the same delegated powers that have previously been delegated to him.

**Background**

- 3.1 From time to time there is a necessity to make amendments to the Council's Constitution as a result of various legislative changes made by Central Government and/or decisions to amend officer delegation arrangements made by the Authority, Council Committees, Cabinet or Cabinet Boards. Appendix 1 to this report contains proposed amendments to the Constitution for the purposes of updating the Constitution; in order that it accurately reflects changes in legislation and changes to the Authority's officer delegation arrangements. Set out in each proposed amendment is a brief summary of the reason for the amendment.

- 3.2 Part 3 of the Constitution (version: 14.01.17) contains a set of Proper Officer Provisions applicable to the Head of Legal Services. Contained within those provisions are specific provisions (i.e. provisions 9 and 10 on pages 3.109 and 3.110) which authorise Mr. Aled Roderick Principal Solicitor – Property to carry out certain functions on behalf of the Authority. Mr. Roderick has now retired and consequently there is a need for Council to now authorise his successor Mr. Gareth Griffiths to carry out those functions in his place.

### **Financial Impact**

4. No financial effects will flow from this report.

### **Equality Impact Assessment**

5. It is not considered that an equality impact assessment is required for this decision.

### **Workforce Impacts**

6. None

### **Legal Impacts**

7. The amendment of the Constitution is a statutory requirement.

### **Risk Management**

8. No risks will arise out of the implementation of the proposed recommendation.

### **Consultation**

9. Consultation is not required.

### **Recommendation**

- 10.1 That the Head of Legal Services be authorised to amend the Council's Constitutional (*version dated 14.01.17*) in accordance with the proposals set out in Appendix 1.

10.2 That Mr. Gareth Griffiths the newly appointed Principal Solicitor – Property be authorised to carry out those functions which were previously carried out by his predecessor Mr. Aled Roderick: i.e. provisions 9 and 10 of the Head of Legal Services Proper Officer Provisions (Pages 3.109 and 3.110 of the Constitution (version 14.01.17)).

10.3 That the Head of Legal Services be authorised to undertake any reordering and renumbering of the Constitution that he considers is necessary, in order to improve the format and layout of that document so that it becomes a more user friendly document for readers.

### **Reason for proposed decision**

11. In order to update the Constitution so that it accurately reflects current delegation arrangements made to officers.

### **Appendices**

12. Appendix 1 – Proposed Amendments to Constitution.

### **List of Background Papers**

13. Council Constitution (version 14.01.17)

### **Officer Contact**

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## APPENDIX 1

### Proposed Amendments to Council Constitution

#### 1. PART 3 – CHIEF EXECUTIVE DELEGATION ARRANGEMENTS

Page 3.67 – Baglan Bay Company Limited

Replace the existing wording with:-

“Mr. Steven Phillips and Mr. Gareth Nutt are to act as Directors of the Baglan Bay Company Limited.”

**Reason:** Decision made by Cabinet.

#### 2. PART 3 – DIRECTOR OF EDUCATION, LEISURE AND LIFELONG LEARNING DELEGATION ARRANGEMENTS

Page 3.71 – Authority to Prosecute for Non-attendance, School Attendance Order and Education Supervision Order

Add in the following provision:

“(iii) The Manager of the School and Family Support Team and the Senior Education Welfare Officer be authorised to issue and withdraw penalty notices in relation to non-attendance.”

**Reason:** Children, Young People and Education Cabinet Board decision.

#### 3. PART 3 – DIRECTOR OF EDUCATION, LEISURE AND LIFELONG LEARNING DELEGATION ARRANGEMENTS

Page 3.71 – Education

Add in the following provision:-

“6. Childcare Facilities within Schools

The Head of Participation be authorised to develop childcare facilities on School sites and to report back to Members on an annual basis.”

**Reason:** Children, Young People and Education Cabinet Board decision.

#### **4. PART 3 – DIRECTOR OF SOCIAL SERVICES HEALTH AND HOUSING DELEGATION ARRANGEMENTS**

Page 3.115 – Housing Services

6. The Housing Grants, Construction, Regeneration Act 1996 as amended.....

Add in the following words:-

“The administration and approval of loan assistance under the 1996 Act (as amended).”

**Reason:** Social Care, Health and Housing Cabinet Board decision.

#### **5. PART 3 – DIRECTOR OF SOCIAL SERVICES, HEALTH AND HOUSING DELEGATION ARRANGEMENTS**

Page 3.117 – Environmental Health and Trading Standards Schedule 1

- (A) Add the following statutory provisions to the list of legislation set out in the schedule:-

- (1) Animal By-products (Enforcement) (No. 2) (Wales) Regulations 2011.
- (2) Official Feed and Food Control (Wales) Regulations 2009.
- (3) Trade in Animals and Related Products (Wales) Regulations 2011.
- (4) Food Information (Wales) Regulations 2014.
- (5) Food Supplements (Wales) Regulations 2003.

- (6) Nutrition and Health Claims (Wales) Regulations 2007.
- (7) Animal By-products (Enforcement) (Wales) Regulations 2014.
- (8) Control of Horses (Wales) Act 2014.
- (9) Mobile Homes (Wales) Act 2013
- (10) Housing (Wales) Act 2014.
- (11) Consumer Rights Act 2015.

**Reasons:** Social Care Health & Housing and Environment & Highways Cabinet Board decisions.

(B) The entries in Schedule 1 for the following statutory pieces of legislation should add in the words “and any Regulations made thereunder.”

- (1) Agriculture Act 1970
- (2) Consumer Protection Act 1987.
- (3) Food Safety Act 1990.
- (4) Weights and Measures Acts 1976 and 1985.

**Reason:** Social Care, Health and Housing Cabinet Board decision.

## **6. PART 3 – DIRECTOR OF ENVIRONMENT DELEGATION ARRANGEMENTS**

Page 3.137 – 2(b) Highways Act 1980.

Add in the following provision:-

“Under Section 291, having due regard to the equalities impact assessment, authority is delegated to the Director of Environment, Head of Engineering and Transport and the Head of Streetcare (and other

named officers) to sign and serve notice to enter land in accordance with the section, where required to undertake the Council's statutory duties."

**Reason:** Environment and Highways Cabinet Board decision.

## **7. PART 3 – DIRECTOR OF ENVIRONMENT DELEGATION ARRANGEMENTS**

Page 3.146 – 9. Land Drainage Issues

Replace the provision "The Head of Streetcare be granted delegated authority to exercise the powers available under Section 64 of the Land Drainage Act 1991, if deemed necessary" with the following provision:

"Authority is delegated to the Director of Environment, Head of Engineering and Transport, Head of Streetcare (and the Officers listed in Appendix A of the circulated report) to enter land in accordance with Section 64 of the Land Drainage Act 1991 where required, to fulfil the Council's statutory functions."

**Reason:** Environment and Highways Cabinet Board decisions.

## **8. PART 3 – DIRECTOR OF FINANCE AND CORPORATE SERVICES DELEGATION ARRANGEMENTS**

Page 3.92 – Licensing  
(iv) Licensing Authorisations

Add the following authorisations to those under "1.0 Hackney Carriage and Private Hire Licensing"

(A) "1.2 Suspension of Hackney Carriage and Private Hire Drivers Licences.

- (1) Delegated authority is granted to both the Head of Legal Services and the Licensing Manager, to lift the suspensions imposed on a hackney carriage or private hire vehicle driver licence, where the licence has previously been suspended for a medical reason;

- (2) that the power to lift the suspension be subject to consultation with the legal adviser and the Chair or Vice Chair of the Committee and that the matter be reported to the Registration and Licensing Committee.”

(B) 1.3 Suspension of Vehicle Licences

“The power to suspend a Hackney Carriage or Private Hire Vehicle Licence, under Section 60 of the Local Government (Miscellaneous Provisions) Act 1976 is delegated to the Director of Finance and Corporate Services, the Head of Legal Services and the Licensing Manager, as detailed in the circulated report.”

**Reasons:** Registration and Licensing Committee decisions.

## 9. PART 3 – DIRECTOR OF FINANCE AND CORPORATE SERVICES DELEGATION ARRANGEMENTS

Page 3.93 – Licensing  
(iv) Licensing Arrangements

The following provisions are added to the current provisions set out in the “Other Licence/Registrations provisions:-

“The power to grant a licence and impose conditions on a licence under the following legislation be delegated to each of the following, the Director of Finance and Corporate Services, Head of Legal Services and the Licensing Manager:

- Animal Boarding Establishments Act 1963
- Riding Establishments Act 1964
- Dangerous Wild Animals Act 1976
- Pet Animals Act 1951
- Performing Animals (Regulation) Act 1925
- Zoo Licensing Act 1981

The power to grant the above licence would be subject to the following:-

- All new licence applications that are premises based to be notified to local members



- Consultation on licence applications to be sought in accordance with legal or policy requirements
- That there are no objections to the application.”

**Reason:** Registration and Licensing Committee decision

## **10. PART 3 – DIRECTOR OF FINANCE AND CORPORATE SERVICES DELEGATION ARRANGEMENTS**

Page 3.93 – Licensing

Add in a new provision as follows:-

“(xii) Breeding of Dogs (Wales) Regulations 2014

The following powers contained in the Breeding of Dogs (Wales) Regulations 2014 be delegated to both the Head of Legal Services and the Licensing Manager

- Power to grant a licence
- Power to refuse a licence
- Power to renew a licence
- Power to vary a licence
- Power to vary a licence with immediate effect
- Power to impose conditions
- Power to suspend a licence
- Power to suspend a licence with immediate effect
- Power to reinstate a suspended licence
- Power to revoke a licence

**Reason:** Registration and Licensing Committee decision

## **11. PART 3 – DIRECTOR OF FINANCE AND CORPORATE SERVICES DELEGATION ARRANGEMENTS**

Pages 3.102 to 3.107 – Head of Legal Services – Proper Officer provisions.

9. Mr. Iwan Davies, Principal Solicitor – Litigation and Mr. Aled Roderick – Principal Solicitor Property..... authorised signatories and Proper Officers.

10. Deputising for Head of Legal Services.

Replace the authorisations in provisions 9 and 10 above to “Mr. Aled Roderick – Principal Solicitor Property” with authorisations to Mr. Gareth Griffiths – Principal Solicitor Property

**Reason:** Mr. Roderick has retired from the Authority and his post as Principal Solicitor – Property has now been filled by Mr. Griffiths.

**12. PART 4 – FINANCIAL PROCEDURE RULES – RISK MANAGEMENT AND CONTROL OF RESOURCES**

Page 4.142 – Audit Requirements – Key Controls

Replace the current paragraph 4.9.7 with the following provision:-

“The internal auditors comply with the Public Sector Internal Audit Standards (PSIAS) which were adopted by the Relevant Internal Audit Standards Setters (RIASS) from 1<sup>st</sup> April 2013. The PSIAS encompasses the mandatory elements of the Institute of Internal Auditors (IIA) International Professional Practises Framework (IPPF).”

**Reason:** Audit Committee were advised of this change at their meeting in March 2014; but the provision in the Constitution has not been updated to reflect this change.

**13. PART 3 – DIRECTOR OF SOCIAL SERVICE, HEALTH AND HOUSING DELEGATION ARRANGEMENTS**

Page 3.115 to 3.134

(C) Environmental Health and Trading Standards

Remove all the delegations listed under “(C) Environmental Health and Trading Standards” from the Director of Social Services, Health and Housing Delegation Arrangements and insert them all into the “Director of Environment Delegation Arrangements” in Part 3 of the Constitution.

**Reason:** Due to a restructuring of the responsibility of functions of Cabinet Boards in the Authority, a responsibility for Environmental Health and Trading Standards matters now rest with the Environment &

Highways Cabinet Board. Environmental Health & Trading Standards officers have now been transferred to the Environment Directorate. Accordingly, the executive have rescinded the previous delegations to the Director of Social Services and have in 2016 made new delegations to the Director of Environment.