

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Council

31 May 2017

Report of the Head of Legal Services D Michael

Matter for Decision

Wards Affected: All

Amendment to the Constitution of Neath Port Talbot County Borough Council in respect of the size and composition of Planning Committees.

Purpose of the Report

1. To amend The Constitution of Neath Port Talbot County Borough Council to reflect changes to the size and composition of Planning Committees, introduced by new regulations issued by the Welsh Government.

Executive Summary

2. The report seeks authorisation to amend The Constitution of Neath Port Talbot County Borough Council due to new requirements in relation to the size and composition of Planning Committees, introduced through new regulations from the Welsh Government, which came into force on 5th May 2017. The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 and the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017 require the Council to make changes to the manner in which its Planning Committee is structured and operated.

Background

3. The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017

The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 have been made by the Welsh Ministers following the approval of the Regulations by the National Assembly on the 21st March 2017. These Regulations bring into effect and provide the detailed implementation of Section 39 of the Planning (Wales) Act 2015, so far as it relates to the size and composition of Planning Committees discharging functions. The Regulations require Planning Committees in Wales, from the 5th May 2017, to be structured and operated in accordance with the following requirements:

- a) The Planning Committee must contain no fewer than 11 members and no more than 21 members, but no more than 50% of the Council members.
- b) Where wards have more than one elected members, no more than one member from each ward may sit on the Planning Committee in order to allow, so it is said, other ward members to perform the representative role for local community interests

It should be noted that paragraph (a) above has already been incorporated into The Constitution of Neath Port Talbot County Borough Council following a report to Council on the 15th October 2014.

4 The Local Authorities (Standing Orders) (Wales) (Amendment Regulations) 2017

The Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017 have been laid before the National Assembly for Wales and came into force on the 5th May 2017. The Regulations require the following:

- a) Each meeting of the planning committee must have a quorum of 50% of its members present at a meeting to make decisions
- b) The use of substitute members is prohibited.

It should be noted that paragraph (a) above has already been incorporated into The Constitution of Neath Port Talbot County Borough Council following a report to Council on the 15th October 2014.

5. Failure to adhere to the requirements of both sets of Regulations will affect the validity of decisions taken by the Planning Committee. It is therefore necessary for the relevant sections of The Constitution of Neath Port Talbot County Borough Council to be amended in accordance with the requirements of the Regulations and ensure that from here on in, Planning Committees are appointed in accordance with these requirements prior to making decisions

Financial Impact

6. There are no financial impacts associated with this Report

Equality Impact Assessment

7. There is no requirement under the Constitution for an Equality Impact Assessment on this item.

Workforce Impacts

8. There are no workforce impacts associated with this Report.

Legal Impacts

9. The Size and Composition of Local Planning Authority Committees (Wales) Regulations have been made by the Welsh Ministers following the approval of the Regulations by the National Assembly on the 21st March 2017. These Regulations bring into effect and provide the detailed implementation of Section 39 of the Planning (Wales) Act 2015, so far as it relates to the size and composition of committees discharging functions.

10. The Local Authorities (Standing Orders)(Wales) (Amendment) Regulations 2017 amend the Local Authority (Standing Orders) (Wales) Regulation 2006 that require Local Authorities to incorporate into their standing orders certain provisions relating to their staff, meetings and proceedings. The 2017 Amendment Regulations require the Council to make provision about membership and quorum for meetings of its Planning Committee.

11. Failure to comply with each of these Regulations will affect the validity of decisions taken by the planning committee and could expose the Council

to a risk of judicial review of any decisions taken by the Planning Committee.

Risk Management

12. Without the implementation of these amendments the Council would fail to be in compliance with the requirements stipulated in the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 and the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017.

Consultation

13. There is no requirement under the Constitution for external consultation on this item.

Recommendations

14. It is recommended that The Constitution of Neath Port Talbot County Borough Council be amended in line with the amendments set out in Appendix 1 annexed to this Report.

Reasons for Proposed Decision

15. To ensure compliance with the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 and the Local Authorities (Standing Orders) (Wales) (Amendment) Regulations 2017

Appendices

16. Appendix 1 - Amendments to The Constitution of Neath Port Talbot County Borough Council

List of Background Papers

17. Letter from Chief Planner of Department for Economy, Skills and Natural Resources to Local Authority Chief Executive and Chief Planning Officers dated 30th March 2017

18. Report of the Head of Planning to Council dated 15th October 2014

Officer Contact

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Appendix 1 - Amendments to The Constitution of Neath Port Talbot County Borough Council

For the avoidance of doubt all amendments appear in square brackets and bold text.

1. That Part of Paragraph 3 of Part 3 of The Constitution of Neath Port Talbot County Borough Council (Version dated 14 January 2017), which deals with the Planning and Development Control Committee shall be deleted and replaced with the following:

“3. OTHER COMMITTEES OF THE COUNCIL

The Council will appoint the following Committees and each may appoint Sub Committees:-

Planning Committee

[12 Members). For the avoidance of doubt the Planning Committee must contain no fewer than 11 Council members and no more than 21 members, but no more than one half of the Council’s Members rounded up to the nearest whole number.¹

Where wards have more than one elected member, no more than one Member from each ward may sit on the Planning Committee²]

To discharge with delegated authority the functions specified in

Annex A.

With regard to the Planning and Development Control Committee, a member who is not appointed as a voting member may as of right in respect of a particular item (or items) of interest/concern,

¹ In accordance with Regulation 4 of the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017

² In accordance with Regulation 6 of the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017

attend a meeting of that Committee (with prior notification to the Chief Executive and Chair). Such member may then, subject to any provisions of the Members Code of Conduct or any other relevant Code, attend the Committee to speak, but not vote, nor move, second or amend a motion. The attendance here is not meant to relate to attendance and participation for all or most of the items on the agenda, and if such a request is made, the decision on attendance shall rest with the Committee (except that the Leader and Deputy Leader of the Council, and the relevant Cabinet member, if not otherwise voting members of the Committee, may attend for all items on the agenda).

Note: (1) The Cabinet UDP/LDP Member to be invited to attend as a non-voting Member.”

2. Paragraph 4.1 of The Council Procedure Rules as set out in Part 4 – The Rules of Procedure of The Constitution of Neath Port Talbot County Borough Council (version dated 14 January 2017) shall be deleted and replaced with the following:

“4.1 Allocation

As well as allocating seats on committees, the Council may allocate seats in the same manner for substitute members. [**For the avoidance of doubt this shall not apply to the Planning Committee**”³]

3. Paragraph 8 of The Council Procedure Rules as set out in Part 4 – The Rules of Procedure of The Constitution of Neath Port Talbot County Borough Council (version dated 14 January 2017) shall be deleted and replaced with the following:

“8. **QUORUM**

8.1. Subject to the provision set out in paragraph 8.3. below the quorum of a meeting will be one quarter of the whole number of members. During any meeting if the chairman counts the number

³ In accordance with Schedule 2(A)(1) of the Local Authorities (Standing Orders)(Wales) Regulations 2006

of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting. In no case will the quorum of a Council Committee or Sub Committee be less than 3 members entitled to vote.

8.2. Where the Council have made provision for remote attendance at a meeting in conformity with Section 4(4) of the Local Government (Wales) Measure 2011 that there is deemed to be no quorum at any time where the number of Members in remote attendance is equal to, or greater than, the number of Members in actual attendance.

8.3. The quorum for a meeting of the Authority's Planning Committee will be [**one half of**] the whole number of members of that Committee. ⁴ [**For the avoidance of doubt the use of substitute members is prohibited**⁵]

⁴ In accordance with Schedule 2(A)(1) of the Local Authorities (Standing Orders)(Wales) Regulations 2006

⁵ In accordance with Schedule 2(A)(2) of the Local Authorities (Standing Orders)(Wales) Regulations 2006