



Cyngor Castell-nedd Port Talbot  
Neath Port Talbot Council

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

### **Council**

**2<sup>nd</sup> December 2020**

### **Report of the Head of Legal Services – Mr Craig Griffiths**

#### **Matter for Decision**

#### **Wards Affected:**

All wards

#### **Review of the Neath Port Talbot County Borough Council Constitution**

#### **Purpose of the Report:**

To seek a decision from Council that the Democratic Services Committee be formally tasked with undertaking a review of the Constitution of Neath Port Talbot County Borough Council and for the Monitoring Officer to prepare an updated version to be placed before Council for approval.

#### **Executive Summary:**

A decision is sought from Council that the Democratic Services Committee be formally tasked with undertaking a review of the Constitution of Neath Port Talbot County Borough Council and for the

Monitoring Officer to prepare an updated version to be placed before Council for approval.

**Background:**

The Council's Monitoring Officer (the Head of Legal Services) has the specific duty to ensure that the Council, its officers and its elected members maintain the highest standard of conduct in all they do. The legal basis for the post is found in section 5 of the Local Government & Housing Act 1989.

The Monitoring Officer has three main roles:

- to report on matters he or she believes are, or are likely to be, illegal or amount to maladministration;
- to be responsible for matters relating to the conduct of Councillors and officers; and
- to be responsible for the operation of the Council's Constitution.

The purpose of the Constitution is to set out the rules that govern how the Council works. It:

- contains rules setting out the processes by which decisions are made;
- states who is responsible for making decisions;
- contains the rules governing the conduct of meetings.

Although the Monitoring Officer has updated the Constitution when decisions are ultimately made by Council and/or Cabinet and when new legislation comes into force, the Monitoring Officer is of the view that it could be updated further and simplified to make the document more user friendly and understandable to members of the public who wish to review. Additional amendments could be made in order to facilitate the democratic process and to take into account the current

way of working electronically, for example allowing items to be submitted electronically instead of hard copy.

The Welsh Government have now introduced the Local Government and Elections (Wales) Bill to the Assembly. The Bill proposes to reform the legislative framework for local government electoral arrangements, democracy, performance and governance. The proposed Bill would require the Council to make a number of changes to its Constitution. For example, although there is an existing duty on councils to prepare and publish a constitution, which includes standing orders and codes of conduct, the Bill places, a duty on councils to keep their constitution “up to date”, and to prepare and publish a constitution guide which “explains the content of their constitution in ordinary language.

Terminology will have to change within the Constitution as well to take into account principles that will be established by the Bill, for example the Head of Paid Service will become the Chief Executive Officer and the Audit Committee will become the Audit and Governance Committee.

### Role of the Democratic Services Committee

Democratic Services Committees were introduced by the Local Government (Wales) Measure 2011. Initially, the terms of reference for such committees were extremely limited by the primary legislation to matters concerned with the appointment of someone to the new statutory role of Head of Democratic Services and consideration of the resourcing of the democratic services functions of the authority. Subsequently, the legal position was amended to enable these committees to undertake wider pieces of work relevant to the support and advice available to elected members and the terms and conditions of office of elected members, provided that such activities were formally approved by full Council (s11A of the Local Government (Democracy) (Wales) Act 2013).

It is suggested that the Democratic Services Committee would be well placed to take forward any work that Council determines it would like to undertake in respect of the Constitution, taking account of developments that may feature in future Welsh Government legislative proposals.

### **Financial Impacts:**

There should be minimal financial impacts from undertaking any research/review work. Any potential financial implications that could arise as part of the Constitution review will be incorporated in any advice provided to Council.

### **Integrated Impact Assessment:**

Any options for amending the Constitution would need to be assessed to ensure the Council's legal obligations in respect of the Welsh language; equalities legislation; Wellbeing of Future Generations (Wales) Act 2015 and the biodiversity duty have been fully considered.

### **Valleys Communities Impacts:**

No impacts though this will be assessed as part of the Constitution review.

### **Workforce Impacts:**

Any potential changes may have impacts on the Council's workforce which would need to be assessed as part of any options appraisal.

### **Legal Impacts:**

The Democratic Services Committee can be commissioned to consider the matters covered in this report using powers contained in s11A of the Local Government (Democracy) (Wales) Act 2013. It

should be noted that whatever proposals are developed by the Democratic Services Committee, a report will need to be brought to Full Council. Any such proposals will require amendment to the Constitution of Neath Port Talbot Council. The Assistant Chief Executive and Chief Digital Officer and the Head of Legal Service will provide advice to the Committee and to Council in this regard.

**Risk Management Impacts:**

The risks associated with each option considered, together with any risks associated with implementing the proposed recommendations and also the risks associated with failing to implement the proposed recommendations will be set out in any advice to Council where appropriate.

**Consultation:**

There will be no requirement for any consultation at this stage.

**Recommendations:**

It is recommended that Council formally tasks the Democratic Services Committee to prepare advice for full Council in respect of a review of the Constitution of Neath Port Talbot County Borough Council to ensure it is fit for purpose and meets all legislative requirements, including, where applicable an analysis of the risks and impacts of progressing/not progressing any options considered.

**Reasons for Proposed Decision:**

To ensure the Constitution of Neath Port Talbot Council is up to date and meets all legislative requirements

**Implementation of Decision:**

The decision is proposed for implementation immediately.

**Appendices:**

None

**List of Background Papers:**

Local Government and Housing Act 1989

Local Government (Wales) Measure 2011

Local Government (Democracy) (Wales) Act 2013

Constitution of Neath Port Talbot County Borough Council

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