



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Democratic Services Committee

25th January 2021

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 outline a proposed project plan for the above work

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

On the 2nd December 2020, Council received a report on the Review of the Neath Port Talbot County Borough Council Constitution and it was resolved that the Democratic Services Committee be tasked with preparing advice for Council on the Constitution 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.

It was concluded that a Project Plan would be necessary to ensure that the discussions can be focussed and amendments made in a measured way.

To enable the preparation of the advice for Council, it is proposed to establish a task and finish group. Three workshop style meetings of the Group will be arranged.

The establishment of a task and finish group will enable the committee to progress the work on an informal basis outside of the main committee meetings and will enable the committee's forward work programme to remain focused on other business the committee is scheduled to consider.

The proposed project plan is attached at Appendix 1

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:

An Integrated Impact Assessment will be completed as the options for introducing webcasting of meetings and increasing public participation in the democratic process are being developed 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 are thought at this stage 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 has been commissioned to undertake this work using powers contained in s11A of the Local Government (Democracy) (Wales) Act 2013.

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:

That members agree:

- (a) the establishment of a task and finish group to undertake the proposed work outlined within this report to enable the preparation of advice to Council;
- (b) the membership of the task and finish group; and
- (c) the proposed project plan outlined within this report.

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 after the three day call in period.

Appendices:

Appendix 1 – Proposed Project Plan

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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Appendix 1
Task and Finish Group – Proposed Project Plan

Date of Meeting	Objective	Action	Output (where identifiable)
February 2021	<p>Implementation of the Local Government and Elections (Wales) Bill and how it will impact Constitution</p> <p>Review of Articles of the Constitution and information on How the Council Operates</p>	<p>An update will be provided by the Head of Legal Services on the impact of the Local Government and Elections (Wales) Bill and how it will impact the work of the Task and Finish Group concerning the Constitution</p> <p>A copy of the Articles of the Constitution will be issued to members of the task and finish group prior to the meeting with proposed amendments highlighted and a discussion will take place on the provisions included.</p>	<p>Identification of the options where more information is required for further discussion at next workshop.</p> <p>Preparation of advice to Council on proposed amendments</p>
March 2021	<p>Review of Codes and Protocols in respect of Members</p>	<p>A copy of the Codes and Protocols that concern member involvement will be issued to members of</p>	<p>Preparation of advice to Council on proposed amendments</p>

	<ul style="list-style-type: none"> • AM and MP Protocol • Members Code of Conduct • Members Gifts/Hospitality • Members Travelling and Subsistent Allowance • Protocol on Member and Officer Relations • Role of Members <p>Local Resolution Processes</p>	<p>the task and finish group prior to the meeting with proposed amendments highlighted and a discussion will take place on the provisions included.</p>	
April 2021	<p>Review of Rules of Procedure</p> <ul style="list-style-type: none"> • Council Procedure Rules • Executive Procedure Rules • Scrutiny Procedure Rules 	<p>A copy of the Rules of Procedure will be forwarded to members of the task and finish group with proposed amendments highlighted and a discussion will take place on the provisions included.</p> <p>The Head of Legal Services will collate</p>	<p>Consideration of other local authorities approaches completed</p> <p>Preparation of advice to Council on proposed amendments and agreement of a user friendly guide</p>

	<ul style="list-style-type: none"> • Democratic Committee Procedure Rules • Family Absence Regulations for Members <p>User Friendly Guide to Constitution</p>	<p>information on other local authorities approaches to Rules of Procedure</p>	
May 2021	<p>Review of Responsibility of Functions</p> <ul style="list-style-type: none"> • Role of Council • Role of Cabinet • Role of Scrutiny • Role of Various Committees • Officer Delegations 	<p>A copy of the Responsibility for Functions will be forwarded to members of the task and finish group with proposed amendments highlighted and a discussion will take place on the provisions included.</p> <p>The Head of Legal Services will collate information on other local authorities approaches to responsibility of functions</p>	<p>Preparation of advice to Council on proposed amendments</p>