



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Democratic Services Committee

9th September 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 – Outcome of Task and Finish Group

Purpose of the Report:

To update members of Democratic Services Committee of the work of the Task and Finish Group and seek endorsement of the proposed changes for onward consideration by Full Council

Background:

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.

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.

Accordingly, Democratic Services Committee resolved in January 2021 to establish a Task and Finish Group to work with the Monitoring Officer to review the Constitution at a series of meetings in Spring 2021.

At each of the aforementioned meetings, a presentation was given on a number of documents that make up the Constitution, explaining their purpose and the views of members were sought to see what improvements or suggestions they felt could be made.

Attached at Appendix 1 of this report is a summary of the documents considered, the comments by members and the proposed steps that have been taken to implement these requirements.

As well as considering, these matters, a number of other amendments have been made to the Constitution to reflect changes in legislation. The Welsh Government have now passed Local Government and Elections (Wales) Act 2021. The Act proposes to reform the legislative framework for local government electoral arrangements, democracy, performance and governance. The Act

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 Act 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. The majority of these changes will come into effect in May 2022 and work will be ongoing to prepare for these.

As part of this review, some updates in terminology have also been made to the Constitution. A copy of the revised Constitution incorporated these changes and the changes proposed by the Task and Finish Group is included at Appendix 3, for ease of reference though the changes are:

Document	Amendments Made
Access to Information Rules	Amendments made to reflect references to Data Protection Act 2018 and where information can be accessed on the Council’s website
Articles of the Constitution	<p>Changes considered by Task and Finish Group included.</p> <p>Updated copy of Policy and Budget Framework as approved by Council at Annual General Meeting in March 2021 included.</p> <p>Reference to powers of Scrutiny Committee that are set out in the Scrutiny Procedure Rules.</p> <p>A requirement that where changes are proposed to the</p>

	<p>Executive, Committee Membership there is the specific requirement for them to be considered at Full Council. This was always the case but wording has been updated to consolidate this.</p> <p>Changes made to reflect management structure within Council and areas of responsibility in each directorate.</p> <p>Updated references to officers that hold statutory posts.</p> <p>Reference to the requirements of the Wellbeing of Future Generations Act 2015</p> <p>Updated references to compliance with Council's Standing Orders such as Contract Procedure Rules.</p> <p>Reference to copies of the constitution being made available for those who request it.</p> <p>Inclusion of new legislative changes brought about by Local Government and Elections (Wales) Act 2021 (some of which commence in May 2022)</p> <ul style="list-style-type: none">• Reference to changes to electoral voting methods
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	<ul style="list-style-type: none"> • Reference to Job Sharing • Reference to the ability to appoint Member Champions • Audit Committee references replaced with Governance and Audit Committee. • Creation of Corporate Joint Committees references • Reference to power of competence • Head of Democratic Services role provided Chief Officer Status.
Audit Committee Procedure Rules	References changes to Governance and Audit Committee <i>NB Changes will be made to reflect membership following approval by Council</i>
Cabinet Portfolios	Updated changes following portfolios agreed in AGM at March 2021
Officer Delegations	<p>Changes were agreed in March 2020 (following the commencement of the Covid-19 pandemic) allowing the Chief Executive and Corporate Directors to have delegation for urgent decisions where members could not be contacted in order to protect the Council's interests. This element is now included in the Constitution</p> <p>The legislative responsibilities of the Chief Executive set out in the</p>

	<p>Local Government and Elections (Wales) Act 2021 are now included.</p> <p>Updated references are made to the conduct of legal proceedings to ensure the executive members are made aware of any proposed settlement of proceedings.</p> <p>The identity of all proper officers are included.</p> <p>Updated references to the Data Protection Act 2018 are made.</p> <p>Included is the ability to make minor amendments to the Constitution to comply with changes in law.</p> <p>Changes are made to reflect the structural changes where Legal Services and HR moved to the Chief Executives Directorate</p>
Democratic Service Committee Functions	Update made to reflect the working on the role of the Democratic Services Committee from the Local Government (Wales) Measure 2011
Democratic Service Committee Procedure Rules	Update made to reflect the working on the role of the Democratic Services Committee from the Local Government (Wales) Measure 2011
Executive Procedure Rules	Inclusion of new legislative

	changes brought about by Local Government and Elections (Wales) Act 2021 which allow for job sharing and the voting arrangements associated there in i.e. job share cabinet members have one vote between them.
Financial Procedure Rules	Reference to Governance and Audit Committee inserted
Governance and Audit Committee	Updated changes made following the creation of this committee pursuant to the Local Government and Elections (Wales) Act 2021 as approved by Members at the AGM in March 2021
Joint Arrangements	Inclusion of Local Government and Elections (Wales) Act 2021 powers in respect of Joint Committee (i.e. creation of Corporate of Joint Committees)
Management Structure	Updated management structure now provided
Officer Employment Rules	Reference made to changes in job titles of Chief Officers where applicable
Council Procedure Rules	Updated to reflect discussions of Task and Finish Group and to include remote attendance provisions as agreed by Members in July 2021
Personnel Committee	Reference to changes agreed by Personnel Committee in June 2019 concerning officer delegations now included
Proper Officer Designation	Updated references to list of

	<p>Proper Officers (as agreed by Council) now included.</p> <p>Changes in Chief Officer job titles now included.</p> <p>Inclusion of delegated powers in respect of grants agreed by Cabinet in 2019 now included.</p>
Officer/Member Protocol	<p>Reference made to the need to declare interests by members when liaising with officers</p> <p>Reference made to the need for extra caution where officers are in politically restricted posts.</p>
Responsibility of Functions	References to Governance and Audit Committee now made

Members should note that some changes will be made in forthcoming months to reflect some additional areas:

- Changes to the number of Governance and Audit Committee membership given the need to ensure that one third of members are lay members
- Changes to Council Procedure Rules to facilitate public speaking at meetings and petition schemes to comply with the Local Government and Elections (Wales) Act 2021

Financial Impacts:

No financial impacts.

Integrated Impact Assessment:

An Integrated Impact Assessment Screening Assessment has been completed 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. As this report impacts solely on governance related issues, the screening assessment has concluded that a full integrated impact assessment is not required.

Valleys Communities Impacts:

No impacts.

Workforce Impacts:

There are no immediate workforce impacts. Where some possible modernisation matters (i.e. digital forms for completion) will be utilised this will be considered in line with other work priorities for officers.

Legal Impacts:

The Local Government Act 2000 and Local Government Elections (Wales) Act 2021 requires the constitution to reflect decision making in the Council and ensure that the document is kept up to date.

Risk Management Impacts:

Failure to ensure compliance with the legislative requirements could render the Council open to challenge.

Consultation:

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

Recommendations:

It is recommended that having due regard to the Integrated Impact Screening Assessment that Members:

- (a) Endorse the findings of the Task and Finish Group enclosed at Appendix 1 of this report
- (b) Note the changes made to the Constitution to reflect legal requirements as set out in this report; and
- (c) commend this report and the proposed changes to Full Council for final consideration and adoption.

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 – Comments of Task and Finish Group
Appendix 2- Integrated Impact Screening Assessment
Appendix 3 – Updated Constitution (changes shown highlighted red)

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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