

**Report To:** Corporate Governance Committee

**Date of Meeting:** 27<sup>th</sup> July 2015

**Lead Member / Officer:** Gary Williams, Monitoring Officer/Head of Legal, HR and Democratic Services.

**Report Author:** Lisa Jones/Gary Williams

**Title:** Council Constitution

**1. What is the report about?**

1.1 To provide the Committee with an update on the future adoption of a new model constitution for Wales.

**2. What is the reason for making this report?**

2.1 The Corporate Governance Committee terms of reference require any intended changes to the Council Constitution to be considered first before formal adoption by the Full Council.

**3. What are the Recommendations?**

3.1 That the Corporate Governance Committee note the contents of the report and consider steps to consult the wider membership of the Council on the proposed changes

**4. Report details.**

**4.1 Articles of the Constitution**

Appendix 1 (to follow) are the proposed Articles following consultation with the Constitution Working Group. These Articles reflect changes made to the Welsh Model Constitution.

**4.2 Delegated Decision making**

Appendix 2 (to follow) are the proposed draft key changes in approach in respect of those decisions delegated to officers or members.

**4.2.1 Cabinet Delegated Decisions**

The current Scheme for Cabinet Members is prescriptive, but is limited. The majority of delegated decisions made by portfolio holders solely mainly relate to contract awards and appointments to outside bodies or low value land transactions. The essence of the new approach is that the default position is that all 'non-key' decisions will be made by individual portfolio holders, not the full Cabinet (with discretion to refer to Cabinet if they felt it necessary) but with a pre-decision 'fanfare'

of publicity internally. Currently a Member who disagrees with an executive decision has to call it in in line with scrutiny rules, once the decision has been made. The proposed approach is that the report and information will be held accessible to all Members in a 'Members Library Area' or similar so that decisions that are due to be made within 5 working days will be available for inspection.

This then leaves the full Cabinet to make decisions in respect of 'key' decisions only and to focus on these rather than non-key matters. This is not suggesting that non key matters are less important, but that a Lead Member, with professional and appropriate relationships with his or her relevant senior officers, should be able to take more of the day to day decisions, more efficiently than listing the matter before Cabinet and also freeing up Cabinet time.

The Constitution Working Group consisting of cross party representatives have contributed to the definition of what is a 'key decision'.

#### 4.2.2 Officer Delegated Decisions

Currently the Officer Scheme of Delegation is contained in Part 9 of the Council Constitution and it is very comprehensive. Given the amount of new legislation and powers issued by the Welsh Government in addition to central Government and European Directives, keeping the current scheme up to date is becoming an increasing burden. The alternative view to maintaining this scheme is that it sets out expressly who is responsible for which area.

The debate therefore is whether from a governance perspective Members feel that the current scheme should be retained in its current form, or whether the Council adopts a more generic flexible scheme which essentially states that officer delegated decisions can be made providing they fall within the purview of the responsibilities of a particular Head of Service.

Practices vary from one authority to another, some have significantly detailed schemes, whereas others are no more than descriptive.

- Key Decisions

The second element is whether there should be publication of 'key' decisions made by Heads of Service.

A further debate is needed with regard to the publication of such decisions once they are made and SLT have given an indication that they are happy to work up a process that can identify these decisions that could be published following the actual making of the decision.

#### 4.3 **New Standing Order Regulations**

At its meeting on 4<sup>th</sup> November 2014 Council delegated authority to the Monitoring Officer to make the necessary changes to the Constitution as a consequence of the provisions of the Local Authorities (Standing Orders)(Wales)(Amendment) Regulations 2014. The relevant changes are shown on Appendix 3.

#### **4.4 Schedule of Member Remuneration**

At its meeting on 7<sup>th</sup> July 2015 Council endorsed a motion that travel expenses would not be paid to Members attending at meetings in the capacity of observer. An amended Schedule of Remuneration is attached as Appendix 4 to reflect this change.

#### **5. How does the decision contribute to the Corporate Priorities?**

- 5.1 A fit for purpose modern constitution will contribute to the priority of becoming a high performing Council providing assurances on governance and decision making, ethical behaviour, robust contracting and partnership rules and allowing the public and third parties to see who is the responsible decision maker on issues affecting them.

#### **6. What will it cost and how will it affect other services?**

- 6.1 The proposals for change regarding Officer and Member Delegated Decisions will make certain decisions more transparent to all council members, therefore this has the potential to directly affect services. It is not possible to predict if this will result in service delivery delays and officer time or resources in dealing with Members who have concerns about particular decisions. On the other hand open government is good government and Members would be able to access certain proposed delegated decisions in advance of the actual decision being made.

#### **7. What consultations have been carried out?**

- 7.1 To date only the Councils Constitution Working Group and SLT has been involved in the debate on the key proposals in the new constitution.

#### **8. Chief Finance Officer Statement**

- 8.1 Not required.

#### **9. What risks are there and is there anything we can do to reduce them?**

- 9.1 Other than the comments in section 6 above there are no identified risks at this moment in time. The current Constitution's scheme of delegation needs reviewing following senior officer restructuring but it remains a fit for purpose document.

#### **10. Power to make the Decision**

- 10.1 The Local Government Act 2000 requires all council to have a constitution.