

Meeting of:	Council
Date of Meeting:	Monday, 20 September 2021
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Review of the Council's Constitution
Purpose of Report:	To obtain Council approval for the following: Amend the Council's Constitution in regard to broadening the Terms of Reference of the Senior Management Appointment Committee and to amend Sections 9 and 13 of the Council's Constitution relating to the future composition of the Governance and Audit Committee
Report Owner:	Debbie Marles, Monitoring Officer / Head of Legal and Democratic Services
Responsible Officer:	Jeff Rees, Head of Democratic Services
Elected Member and Officer Consultation:	This report does not require consultation to be undertaken
Policy Framework:	This is a matter for decision by Full Council
Executive Summary:	<ul style="list-style-type: none"> • To seek Council approval: <ul style="list-style-type: none"> (i) To broaden the Terms of Reference of the Senior Management Appointment Committee to provide delegated authority to appoint more than one Lay Member on the Governance and Audit Committee when the Local Government and Elections (Wales) Act 2021 comes into force on 5th May, 2022; (ii) To amend Sections 9 and 13 of the Council's Constitution to reflect the requirements at S116-S118 of the Local Government and Elections (Wales) Act 2021 so that it refers to the Committee composition being two thirds Members and one third lay members and that the Committee must be Chaired by a lay member and that the Vice-Chair must not be a member of the Executive (Cabinet) or an assistant to the Executive.

Recommendations

1. T H A T the Terms of Reference of the Senior Management Appointment Committee be amended to reflect the requirement to appoint more than one Lay Member on the Audit and Governance Committee with effect from 5th May 2022 and Section 13 of the Council's Constitution be amended accordingly.
2. T H A T Section 9 and Section 13 (Governance and Audit Committee) of the Council's Constitution and the Terms of Reference of the Governance and Audit Committee be amended to reflect the requirements of Sections 116-118 of the Local Government and Elections (Wales) Act 2021 to provide for the following:
 - The Committee Chair must be a lay person;
 - The Vice-Chair must not be a member of the Council's Executive or an assistant to its Executive;
 - The composition of the Committee must be two thirds Members and one third lay members.

Reasons for Recommendations

1. The Local Government and Election (Wales) Act 2021, Section 116 requires the composition of the Governance and Audit Committee to be two thirds and one third Members and Lay Members from 5th May 2022.
2. To comply with the requirements of Sections 116-118 of the Local Government and Elections (Wales) Act 2021.

1. Background

- 1.1 The Constitution remains under review on an ongoing basis. Under Section 2.4 of the Constitution the Monitoring Officer has a duty to monitor and review the operation of the Constitution to ensure that the aims and principles contained therein are given full effect.
- 1.2 Section 2.62 of the Constitution provides for any changes considered by the Monitoring Officer to be required to be made to remove any inconsistency, ambiguity or typographical correct to be made in a report to the next Full Council meeting for information.

2. Key Issues for Consideration

- 2.1 Under Section 13 of the Constitution – Responsibility for Functions – Summary:
Currently under (q) Senior Management Appointment Committee, the Terms of Reference state
“With delegated powers to select for and to interview and appoint to the Management Structure and to appoint the lay member to the Governance and Audit Committee”.

- 2.2 It is proposed to amend the wording to “lay members” in order that the Senior Management Appointment Committee may begin the interview process in advance of the Local Government and Elections (Wales) Act coming into force on 5th May, 2022.
- 2.3 Council is therefore requested to approve the amendment to the Terms of Reference of the Senior Management Committee and that Section 13 of the Council’s Constitution be amended accordingly.
- 2.4 In addition to the above matter Local Government and Elections (Wales) Act comes into force on 5th May 2022. S.116 amends Section 82 of the Local Government Measure 2011 in order to increase the number of lay members on a Governance and Audit Committee. After amendment the situation is that two thirds of the members of a Governance and Audit Committee must be Members of the Council and one third must be lay persons.
- 2.5 In addition, three subsections ((5A), (5B) and (5C)) are added to the section of the Local Government Measure 2011. These provide that a Governance and Audit Committee must appoint a Committee Chair and Vice-Chair. The Committee Chair must be a lay person and the Vice-Chair must not be a member of the Council’s Executive or an assistant to its Executive.
- 2.6 Therefore Section 9 of the Constitution – 9.2 Governance and Audit Committee – will need amending from 5th May 2022 to refer to the Local Government and Elections (Wales) Act 2021 and relevant provisions – S.116 – S.118 and 9.2.2 which references the composition of the Committee – two thirds and one third Members and lay members.
- 2.7 Section 13 and Schedule 6 -13.16(o) Composition of the Governance and Audit Committee of the Council’s Constitution will need to be amended when the Local Government and Elections (Wales) Act comes into force on 5th May 2022, with reference to the Chairing to be amended.
- 2.8 Council approval is also sought to make the necessary amendments to the Council’s Constitution as indicated above in advance of the 5th May, 2022.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 The Officer Delegation directly contributes to the long term future by ensuring that the Council’s Constitution continues to operate with full effect.
- 3.2 The Officer Delegation also contributes to the prevention of the Constitution becoming obsolete or non-effective in achieving its aims and principles.
- 3.3 By increasing the current adoption absence allowance from 2 weeks to 26 weeks, it is envisaged that this will reduce an obstacle which might otherwise deter an individual from seeking elected office.

4. Resources and Legal Considerations

Financial

4.1 There are no financial implications as a direct result of this report.

Employment

4.2 There are no employment implications as a direct result of this report.

Legal (Including Equalities)

4.3 The Council is required to comply with the Local Government Act 2000 and subordinate legislation in the drawing up and subsequent operation of the Constitution.

4.4 To comply with the requirements of the Local Government and Elections (Wales) Act 2021 and the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021.

4.5 The Welsh Government has made the changes as part of its commitment to increasing diversity across all aspects of public life.

5. Background Papers

Council's Constitution.