

Meeting of:	Council
Date of Meeting:	Monday, 26 September 2022
Relevant Scrutiny Committee:	All Scrutiny Committees
Report Title:	Amendments to the Council's Constitution
Purpose of Report:	To seek Council approval to amend the current Scheme of Officer Delegations to include an additional officer delegation in the Council's Constitution. To seek Council approval to amend the Council's Financial Procedural Rules. To undertake necessary "housekeeping" to the Council's Constitution following the Leader's decision to amend certain Cabinet Portfolios as notified at the Annual Meeting of Council.
Report Owner:	The Leader
Responsible Officer:	Ms. D. Marles, Monitoring Officer / Head of Legal and Democratic Services
Elected Member and Officer Consultation:	This report does not require consultation to be undertaken.
Policy Framework:	The adoption and subsequent changing of the Constitution is a matter for Full Council
Executive Summary:	<p>To obtain Council's approval in respect of the following matters:</p> <ul style="list-style-type: none"> - to amend the existing Scheme of Officer Delegations as set out in paragraph 2.2 as recommended by the Section 151 Officer / Head of Finance; - to amend the Council's Financial Procedure Rules as recommended by the Section 151 Officer / Head of Finance to reflect recent changes to the Council's Chief Officer establishment and subsequent changes in relation to operational responsibilities; - to amend certain Cabinet Member portfolio titles following the Annual Meeting of Council in May. <p>That the Council's Constitution be amended to reflect the above changes.</p>

Recommendations

1. That the change to the relevant officer delegations as set out below in paragraph 2.2 be approved and the Constitution amended accordingly.
2. That the amendment of the Council's Financial Procedure Rules as set out below in paragraph 2.3 be noted and the Constitution amended accordingly.
3. That the amendment to various Cabinet portfolio titles as set out below in paragraph 2.4 be noted and the Constitution amended accordingly.

Reasons for Recommendations

1. To update the Officer Delegation Scheme and relevant provisions within the current Constitution.
2. To amend the Council's Financial Procedure Rules within the current Constitution.
3. To update the Cabinet portfolio titles within the current Constitution.

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 correction to be made in a report to the next Full Council meeting for information.

2. Key Issues for Consideration

- 2.1 Section 26 of the Constitution – Officer Delegations – requires amending following a request received from the Head of Finance (Section 151 Officer);
- 2.2 The proposed change relates to the following matter and to take immediate effect:

To amend the current Property Delegations found at page 327 to page 330 from the Chief Executive, Section 151 Officer and Deputy Section 151 Officer to **“Chief Executive, Section 151 Officer and Operational Manager Property”**.

To amend the current Property Delegation number 12 (page 327) powers to deal with minor property transactions up to a capital value of £35,000 and an annual rental value of £3,000 to a capital value of **£75,000** and annual rental value of **£7,500**.

To amend Property Delegation number 31 (page 329) from £2,500 to **£15,000**.

- 2.3** Following a review by the Section 151 Officer / Head of Finance of the Council's current Financial Procedure Rules as set out in Section 17 of the Council's Constitution, he is recommending the following amendments to reflect recent changes to the Chief Officers establishment and the appointment to the Director of Corporate Resources position (sections relating to Data Protection and Risk Management) an amendment to the Council's Section 151 Officer responsibilities, the inclusion of a new section relating to Grants; updating the Audit and Money Laundering sections to reflect regulatory changes and an amendment to the Treasury Management section as set out below.

Page 164 – **17.2.4.2 (a) Section 151 Officer** –

- (a) No changes to agreed procedures should be implemented without the prior approval of the Section 151 Officer.

To be amended to read

- (a) No changes to agreed procedures **or financial systems** should be implemented without the prior approval of the Section 151 Officer.

Insertion of a new section at paragraph **17.6 Grants** and renumbering of the subsequent paragraphs.

17.6 Grants

- 17.6.1 Acceptance of all offers of grant, both revenue and capital, from Welsh Government or other external grant awarding bodies shall be authorised by the Section 151 Officer.
- 17.6.2 Sign off and audit of grant returns will be in full compliance with the directions of the grant awarding body but in all cases with the final sign off of the Section 151 Officer or Deputy Section 151 Officer.
- 17.6.3 Full provisions of the acceptance of, accounting for and sign off of grants is set out in a specific Financial Procedure Note.

Page 170 – Updating of renumbered paragraph **17.8 Audit** (previously 17.7) to take account of regulatory changes.

17.8 Audit

- 17.8.1 Section 151 of The Local Government Act 1972 requires that authorities "make arrangements for the proper administration of their financial affairs and shall ensure that one of their officers has responsibility for the administration of those affairs". In the Vale of Glamorgan Council, that Officer is the Head of Finance.
- 17.8.2 Part 3 of The Accounts and Audit (Wales) Regulations 2014 (as amended from time to time) concerns financial management and internal control. Regulation 5 directs that:

“The relevant body must ensure that there is a sound system of internal control which facilitates the effective exercise of that body’s functions and which includes:

(a) Arrangements for the management of risk, and

(b) Adequate and effective financial management.”

17.8.3 Regulation 7 of the Accounts and Audit (Wales) Regulations 2014 (as amended from time to time) states that "A relevant body (i.e. Council) must maintain an adequate and effective system of internal audit of its accounting records and of its system of internal control". Any officer or member of that body shall, if the body requires;

(a) Make available such documents of the body which relate to its accounting or other records as appear to that body to be necessary for the purpose of audit; and

(b) Shall supply the body with such information and explanation as the body considers necessary for that purpose".

17.8.4 Internal Audit in Local Government is required to comply with the Public Sector Internal Audit Standards (PSIAS). Conformance with the Standards, the Definition of Internal Auditing and Code of Ethics is mandatory. The Regional Internal Audit Service (RIAS) which delivers Internal Audit for the Council is committed to meeting the standards laid down in the Public Sector Internal Audit Standards Framework and any significant deviations from the Standards will be reported to the Governance and Audit Committee.

17.8.5 The scope for Internal Audit work includes the control environment comprising risk management, control and governance.

17.8.6 This effectively means that Internal Audit has the remit to independently review all the Council’s operations, resources, services and processes in place to:

- Establish and monitor the achievement of Council objectives;
- Identify, assess and manage the risks to achieving the Council’s objectives;
- Facilitate policy and decision making;
- Ensure the economical, effective and efficient use of resources;
- Ensure compliance with established policies, procedures, laws and regulations;
- Safeguard assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption; and
- Ensure the integrity and reliability of information, accounts and data, including internal and external reporting.

- 17.8.7 All the Council's activities, funded from whatever source, and indeed the entire control environment fall within the remit of Internal Audit.
- 17.8.8 Internal Audit will consider the adequacy of controls necessary to secure propriety, economy, efficiency and effectiveness in all areas. It will seek to confirm that management have taken all necessary steps to achieve these objectives.
- 17.8.9 The scope of Internal Audit work should cover all operational and management controls and should not be restricted to the audit of systems and controls necessary to form an opinion on the financial statements. This does not imply that all systems will necessarily be reviewed, but that all will be included in the audit needs assessment and hence considered for review following the assessment of risk. The Internal Audit activity is free from interference in determining the scope of internal auditing, performing work and communicating results.
- 17.8.10 The PSIAS require that an Internal Audit Charter (which is a formal document that defines the purpose, authority and responsibility of Internal Audit activities.) is considered and approved by the Governance and Audit Committee of the Council annually. The Charter is split into the following sections;
- Purpose, Authority and Responsibility;
 - Independence and objectivity;
 - Proficiency and due professional care;
 - Quality assurance and improvement programme.
- 17.8.11 Internal Audit, the Section 151 Officer, or his/her authorised representative has right of access to all of the Council's records, information and assets that it considers necessary to fulfil their responsibilities, including those of partner organisations. Internal Audit staff shall have unrestricted access to all Council activities and records (whether manual or computerised systems), personnel, Members, cash, stores, other assets and premises, including those of partner organisations and have authority to obtain such information and explanations as considered necessary to fulfil Internal Audit's responsibilities.
- 17.8.12 Whenever any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or any suspected irregularity in the exercise of the functions of the Council, the Chief Officer, or any other Officer, concerned shall forthwith notify the Head of Finance and Internal Audit.
- 17.8.13 All Directors, Heads of Service, Managers and staff have responsibilities in relation to Audit matters as follows:
- To ensure that Auditors are given access at all reasonable times to premises, personnel, documents and assets that the Auditors

consider necessary for the purposes of their work.

- To ensure that Auditors are provided with any information and explanations that they seek in the course of their work.
- To consider and respond promptly to recommendations in audit reports.
- To ensure that any agreed actions arising from audit recommendations are carried out in a timely and efficient fashion.
- To notify the Head of Finance and Internal Audit immediately of any suspected fraud, theft, irregularity, improper use or misappropriation of the authority's property or resources. Pending investigation and reporting, management should take all necessary steps to prevent further loss and to secure records and documentation against removal or alteration.
- To ensure that new systems for maintaining financial records, or records of assets, or changes to such systems, are discussed with and agreed by Head of Finance prior to implementation.

Page 173 – Updating of renumbered paragraph **17.12 Money Laundering** (previously 17.11) to reflect regulatory changes.

17.12 **Money Laundering**

17.12.1 Money laundering is the process of concealing sources of money. Money evidently gained through crime is 'dirty' money, and money that has been 'laundered' to appear as if it came from a legitimate source is 'clean' money. Money can be laundered by many methods, which vary in complexity and sophistication. Money Laundering is covered by a number of different pieces of legislation which are referred to in the Council's Anti Money laundering Policy which is available on Staffnet.

17.12.2 Money laundering is the process of channelling 'bad' money into 'good' money to hide the fact that the money originated from criminal activity, and often involves three steps:

- **Placement** - cash is introduced into the financial system by some means;
- **Layering** - a financial transaction to camouflage the illegal source;
- **Integration** - acquisition of financial wealth from the transaction of the illicit funds.

There are two types of offences, which may be committed:

- Money laundering offences;
- Failure to report money-laundering offences.

The main types of money laundering offences are:

- Acquiring, using or possessing criminal property,
- Handling the proceeds of crimes such as theft, fraud and tax evasion,
- Being knowingly involved in any way with criminal or terrorist property,
 - Entering into arrangements to facilitate laundering criminal or terrorist property,
- Investing the proceeds of crime in other financial products,
- Investing the proceeds of crimes through the acquisition of property/assets,
- Transferring criminal property.

Obligations of the Council

17.12.3 The law requires those organisations in the regulated sector and conducting relevant business to:

- Appoint a Money Laundering Reporting Officer (MLRO) to receive Suspicious Activity Reports from employees of suspected money laundering activity (see paragraph 17.12.7),
- Implement risk sensitive policies and procedures relating to customer due diligence, reporting, record keeping, internal control, risk assessment and management, the monitoring and management of compliance and the internal communication of such policies and procedures.

17.12.4 Not all the Council's business is 'relevant' for these purposes, it is mainly the accountancy and audit services carried out by the Finance Department and certain financial, company and property transactions carried out by the Legal Department. However, the safest way to ensure compliance with the law is to apply it to all areas of work undertaken by the Council.

17.12.5 Therefore, all employees are required to comply with the Council's Anti Money Laundering Policy in terms of reporting concerns about possible money laundering.

17.12.6 It is extremely important that all members and employees are familiar with their legal responsibilities and are vigilant at all times. Serious criminal sanctions may be imposed for breaches of the legislation. The key requirement on employees is to promptly report any suspected money laundering activity to the Money Laundering Reporting Officer (MLRO).

17.12.7 The key message of the Policy is that if you suspect that money-laundering activity may be taking place or proposed, in relation to anything you are dealing with, you should immediately disclose those suspicions to the Council's MLRO, who is the Head of Finance / Section 151 Officer. The designated Deputy MLRO is the Council's Deputy Section 151 Officer

(Operational Manager – Accountancy). They can be contacted using a confidential email address MLRO@valeofglamorgan.gov.uk.

Page 176 – paragraph **17.17.1 Data Protection** (previously 17.16.1)

(a) The Head of Finance shall have overall responsibility for data protection assuming the role of the Council’s Senior Information Risk Owner (SIRO).

To be amended to read

(a) The **Director of Corporate Resources** shall have overall responsibility for data protection assuming the role of the Council’s Senior Information Risk Owner (SIRO). **The Section 151 Officer / Head of Finance will act as Deputy SIRO.**

and

(c) The Head of Finance shall be responsible for maintaining the Council’s Data Protection notification. Chief Officers shall promptly notify him/her of any additions, amendments or deletions to the Council’s Data Protection notification for all personal data held in their areas of responsibility.

To be amended to read

(c) The **Director of Corporate Resources** shall be responsible for maintaining the Council’s Data Protection notification. Chief Officers shall promptly notify him/her of any additions, amendments or deletions to the Council’s Data Protection notification for all personal data held in their areas of responsibility.

Page 177 – paragraph **17.18 Risk Management** (was paragraph 17.17)

17.17.1 The Chief Executive shall be responsible for putting into place and ensuring that there are effective arrangements for risk management in accordance with Section 4 of the Accounts and Audit (Wales) Regulations 2014 (as amended from time to time).

To be amended to read

17.18.1 The **Director of Corporate Resources** shall be responsible for putting into place and ensuring that there are effective arrangements for risk management in accordance with Section 4 of the Accounts and Audit (Wales) Regulations 2014 (as amended from time to time).

and

17.17.3 The Chief Executive shall ensure that arrangements are in place for measuring the effectiveness of the risk management process, and that all findings from monitoring arrangements are fed back into the risk management cycle.

To be amended to read

17.18.3 The **Director of Corporate Resources** shall ensure that arrangements are in place for measuring the effectiveness of the risk management process, and that all findings from monitoring arrangements are fed back into the risk management cycle.

Page 179 – paragraph **17.21 Treasury Management** (was paragraph 17.20)

17.20.5 The Council’s Treasury Management Prudential Indicators will be determined each year for the forthcoming three years.

To be amended to read

17.21.5 The Council’s Treasury Management Prudential Indicators will be determined each year for **a minimum of** the forthcoming three years.

- 2.4** Following the Local Government Elections in May and formation of a new Administration, the Leader (as notified to Council Members) at the Annual Meeting amended a number of the Cabinet portfolios and titles. The various references to the former portfolio titles currently contained in the Constitution will require updating to reflect the Leader’s decision. The proposed changes are as follows:

Page 344 – In relation to Traffic Regulation Orders, to amend the reference to the Cabinet Member for Neighbourhood Services and Transport in the first line to the **“Cabinet Member for Neighbourhood and Building Services”**;

Page 354 – In relation to fees/charges, terms and conditions for new commercial (leisure, tourism and retail) activities in respect of the Country Parks and Medieval Village, to amend the reference to the Cabinet Member for Education and Regeneration to the **“Cabinet Member for Sustainable Places”**.

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.

4. Climate Change and Nature Implications

- 4.1** There are no direct climate change and nature related implications associated with this report.

5. Resources and Legal Considerations

Financial

- 5.1** There are no financial implications as a direct result of this report.

Employment

- 5.2** There are no employment implications as a direct result of this report.

Legal (Including Equalities)

- 5.3** 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.

6. Background Papers

The Council's Constitution.