

Meeting of:	Council
Date of Meeting:	Monday, 06 March 2023
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 additional officer delegations in the Council's Constitution.
Report Owner:	Monitoring Officer / Head of Legal and Democratic Services
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:	<ul style="list-style-type: none"> • To obtain Council's approval to amend the existing Scheme of Officer Delegations as set out in paragraphs 2.2 and 2.3 and Appendix 1 to this report as recommended by the Director of Place to reflect changes to the Council's Chief Officer establishment and subsequent changes in relation to operational responsibilities. • To obtain Council's approval to provide clarification of the words "clear days" within the Constitution where required. • To obtain Council's approval to amend the Terms of Reference of the Public Rights of Way Sub-Committee. • That the Council's Constitution be amended to reflect the above changes.

Recommendations

1. That the change to the relevant officer delegations as set out at point 1 of Appendix 1 to this report be approved and the Constitution amended accordingly.
2. That the references to “clear days” for publication of agendas / reports / notices within the Constitution as set out in the table at point 2 of Appendix 1 to this report be approved and the Constitution amended accordingly.
3. That the Terms of Reference for the Public Rights of Way Sub-Committee be amended as referred to in paragraph 2.5 and point 3 of Appendix 1 to this report, be approved and the Constitution amended accordingly.

Reasons for Recommendations

1. To update the Officer Delegation Scheme and relevant provisions within the current Constitution.
2. To provide clarity.
3. Having regard to the legislation.

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 2.6.2 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 reported to the next Full Council meeting for information.

2. Key Issues for Consideration

- 2.1 Council is requested to consider and approve the following amendments to the Council’s Constitution.
- 2.2 Section 26 of the Constitution – Officer Delegations requires amending following a request received from the Director of Place and having regard to the change of title of Head of Regeneration and Planning to Head of Sustainable Development, amendments to a number of delegations, and three additional delegations as set out within point 1 of Appendix 1 to this report.
- 2.3 In addition, two additional delegations (m) and (n) under Section 3.2 of Planning Applications on page 363 of the Council’s Constitution have been requested to be inserted as below and as referred to at Appendix 1 to this report:

“(m) To determine all time limited applications for prior approval under the Town and Country Planning (General Permitted Development) Order 1995

(or any Order updating or replacing this Order) other than where there is an objection from a ward member in relation to one or more of the relevant technical issues being considered under that application, in which case the application be determined in consultation with the Chair of the Planning Committee to ensure the strict timescales set out in the legislation are adhered to.

- (n) To prepare and submit a Local Impact Report to Planning Environment Decisions Wales (PEDW) in respect of any Development of National Significance pursuant to s.621 of the Town and Country Planning Act 1990.”

- 2.4 The Constitution at paragraph 15.5 sets out that the Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on its website *at* least five clear days before the meeting. In Wales, public notice of the time and place of meetings must be given at the Local Authority’s offices at least three clear days before the meeting, in writing and in an electronic form, as required by s.57 of the Local Government (Democracy) (Wales) Act 2013. The three clear days does not include the day of despatch of an agenda nor the day of the meeting. The Council has historically operated by local arrangement as indicated above as 5 clear days prior to a meeting i.e. 3 clear days as required by the legislation plus an additional 2 clear days of the weekend.
- 2.5 In order to provide further clarification within the Constitution, the sections referring to the use of the words “clear days” it is suggested be amended to read as set out in the table at paragraph 2 of Appendix 1 to this report and be recommended to Council for approval
- 2.6 That the Terms of Reference of the Public Rights of Way Sub-Committee at Section 14.16 (e) page 133 of the Constitution be deleted and be replaced with the Terms of reference as outlined at paragraph 3 of Appendix 1 to this report to reflect more accurately the legislative requirements and provide further clarity.

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.

Amendments to the Council's Constitution for Council's Approval

1. Section 26 of the Constitution – Officer Delegations

Page No.	Section No.	Amendment
332	26	Officer Delegation 23 - Amend Head of Regeneration and Planning to Head of Sustainable Development
337	26	Officer Delegation 27(a) – Amend Head of Regeneration and Planning/ Operational Manager (Development Management) to Head of Sustainable Development or Operational Manager (Planning and Building Control)
337	26	Officer Delegation 27(b) - Amend Head of Regeneration and Planning/ Operational Manager (Development Management) to Head of Sustainable or / Operational Manager (Planning and Building Control)
337	26	Officer Delegation 28(c) – Amend Director Neighbourhood Services and Transport to Director of Environment and Housing
338	26	Officer Delegation 41 – Amend to read To enter into Agreements pursuant to Section 25 of the Highways Act 1980 and seal on behalf of the Authority (Creation of Footpaths, Bridleways and Restricted Byways)
338	26	New Officer Delegation and renumber as 42 – To make and seal such Orders as are necessary pursuant to Section 26 of the Highways Act 1980 (Creation of Footpaths, Bridleways and Restricted Byways)
338	26	New Officer Delegation and renumber as 43 – To make and seal such Orders as are necessary pursuant to Section 118 of the Highways Act 1980 (Extinguishment of Footpaths, Bridleways and Restricted Byways).
338	26	New Officer Delegation and renumber as 45 – To make and seal such Orders as are necessary pursuant to Section 257 of the Town and Country Planning Act 1990 (Stopping Up or Diversion of Footpaths, Bridleways and Restricted Byways).
338	26	Existing Officer Delegation 42 – Amend to read and renumber as 44 - To make and seal such Orders as are necessary pursuant to Section 119 of the Highways Act 1980 (Diversion of

		Footpaths, Bridleways and Restricted Byways)
338	26	Existing Officer Delegation 47 – Amend Head of Regeneration and Planning to Head of Sustainable Development
339	26	Existing Officer Delegation 54 - Amend Head of Regeneration to Head of Sustainable Development
338/339	26	Existing Officer Delegations 43 – 54 – Renumber to 42 – 57 in line with the above
357	26	Amend Director of Place and Head of Regeneration and Planning to Director of Place and Head of Sustainable Development
357	26	Amend delegation title Director of Place, Head of Regeneration and Planning and Operational Manager (Regeneration) to Director of Place, Head of Sustainable Development and Operational Manager (Regeneration)
360	26	Amend delegation title Director of Place, Head of Regeneration and Planning, Operational Manager (Planning and Building Control) and only where indicated Principal Planning Officers to Director of Place, Head of Sustainable Development, Operational Manager (Planning and Building Control) and, only where indicated Principal Planning Officers
369	26	Amend title Director of Place, Head of Regeneration and Planning, Operational Manager (Regeneration), Head of Neighbourhood Services and Transport and Operational Manager (Neighbourhood Services – Healthy Living and Performance) to read “Director of Place, Head of Sustainable Development, Operational Manager (Regeneration), Head of Neighbourhood Services and Transport and Operational Manager (Neighbourhood Services - Healthy Living and Performance.) “

Add two additional delegations (m) and (n) under Section 26 at page 363 paragraph 3.2 of Planning Applications as below:

- “(m) To determine all time limited applications for prior approval under the Town and Country Planning (General Permitted Development) Order 1995 (or any Order updating or replacing this Order) other than where there is an objection from a ward member in relation to one or more of the relevant technical issues being considered under that application, in which case the application be determined in consultation with the Chair of the Planning Committee to ensure the strict timescales set out in the legislation are adhered to.

- (n) To prepare and submit a Local Impact Report to Planning Environment Decisions Wales (PEDW) in respect of any Development of National Significance pursuant to s.621 of the Town and Country Planning Act 1990.”

2. For Clarification Purposes

In order to provide further clarification with regard to the terminology used within the Council’s Constitution relating to the use of the words “Clear Days” and having regard to clarity the sections in the table below be amended to read as follows:

Page No	Section No	Amendment
10	3.1.1(c)	The start of the sentence Five clear days be amended to read “ At least five clear days (which includes weekends) ” before a meeting
14	3.3.2	Ten clear days be amended to read “ Ten clear days (which includes weekends) ”
23	4.14	Five clear days be amended to read “ Five clear days (which includes weekends) ”
25	4.17. 3.4 (a)	The third sentence in the paragraph be amended to read Agenda papers are available at least five clear days (which includes weekends) prior to the meeting.
36	4.17.3.26	First bullet point • Five clear days be amended to read “ Five clear days, which includes weekends, ”
44	4.20.1	Ten clear days be amended to read “ Ten clear days (which includes weekends) ”
147	15.4.1	Five clear days be amended to read “ Five clear days (which includes weekends) ”
147	15.5	Five clear days be amended to read “ Five clear days (which includes weekends) ”
155	15.16.1	Individual decisions made by individual Members of the Cabinet reference to three clear days be amended to read three working days.
236	Section 20.2 - para 14.1	Five clear days be amended to read “ at least five clear days (which includes weekends) ”

3. Delete the two paragraphs of the current Terms of Reference of the Public Rights of Way Sub-Committee at Section 14.16 (e) page 133 of the Constitution and replace with the below to reflect more accurately the legislative requirements and provide further clarity.
 - (1) To consider and determine under delegated powers applications for Footpath, Bridleway and Restricted Byway Agreements made under Section 25 of the Highways Act 1980.
 - (2) To consider and determine under delegated powers applications for Footpath, Bridleway and Restricted Byway Orders made under Sections 26, 118 and 119 of the Highways Act 1980.
 - (3) To consider and determine under delegated powers applications for Footpath, Bridleway and Restricted Byway Orders affected by development under Section 257 of the Town and Country Planning Act 1990 where opposition which has been raised as a result of pre-order consultation remains unresolved.
 - (4) To consider and determine under delegated powers applications for Orders made under Sections 53(3)(b), 53(3)(c) and 54 of the Wildlife and Countryside Act 1981 in respect of modifications of the Definitive Map.