

Meeting of:	Council
Date of Meeting:	Monday, 24 July 2023
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Amendments to the Council's Constitution
Purpose of Report:	To seek Council approval to amend the Council's Constitution in respect of Section 4 and Section 14 (Schedule 2) of the Council's Constitution in relation to functions of the Full Council and Local Choice Executive Functions and for clarification purposes.
Report Owner:	D. Marles, Monitoring Officer / Head of Legal and Democratic Services
Responsible Officer:	J. 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
<p>Executive Summary:</p> <ul style="list-style-type: none"> • To seek Council approval to amend the current provisions as set out in Section 4, (paragraph 4.6.16) and Section 14 (paragraph 14.11) of the Council's Constitution following the receipt of legal advice from Welsh Government correcting previous advice in relation to Section 92 of the Local Government and Elections (Wales) Act 2021 in regard to who should determine when a Panel Performance Assessment should take place. • To seek Council approval to make further consequential changes, as outlined in paragraphs 2.5 and 2.6 of the report, to the Council's Constitution to reflect changes required as the result of the relevant provisions in the Local Government and Elections (Wales) Act which came into force on 8th May, 2022. • To seek Council approval to amend Section 18, paragraph 18.15.2 (c) to include reference to £300,000 to be in line with the Chief Officers delegation at page 321 of section 26 All Directors or Service Heads paragraph 1. • To seek Council approval to include the Council's agreed threshold for gifts and hospitality for inclusion within the Council's Constitution. 	

Recommendation

1. THAT the Council approves the proposed amendments / addition to the Council's Constitution as set out in paragraphs 2.2 , 2.5, 2.6, 2.7 and 2.9 of this report and that the Council's Constitution be amended accordingly.

Reason for Recommendation

1. To amend the Council's Constitution to reflect changes previously approved by Council, for clarification purposes and to reflect the advice received from Welsh Government in relation to statutory provisions.

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 aims and principles contained therein are given full effect.
- 1.2 Advice has now been received from Welsh Government clarifying the position in relation to statutory provisions affecting performance duties placed on Local Authorities and in particular matters relating to Section 92 of the Local Government and Elections (Wales) Act 2021 in relation to who should determine when a Panel Performance Assessment should take place.
- 1.3 The Council at its meeting held on 7th March, 2022 previously approved that matters relating to the following:

- Making arrangements for a Panel Performance Assessment and responding to Panel reports (Sections 92 and 93)

and were subsequently approved for inclusion in the Council's Constitution under Part IV – Functions of the Full Council.

2. Key Issues for Consideration

- 2.1 The Monitoring Officer has received legal advice from Welsh Government clarifying and amending their previous legal advice in regard to Section 92 of the Local Government and Elections (Wales) Act 2021.
- 2.2 In light of the amended legal advice it is proposed that the Council's Constitution be amended to allow for the duty to arrange the timing of a Panel Performance Assessment be a local choice Executive function and the duty be added to Section 14 Schedule 2 – Local Choice Executive Functions of the Council's Constitution. If Council is in agreement to the above amendment it will necessitate a change to the current wording of paragraph 4.6.16 (Section 4 – 4.6 Functions of Full Council) to read as follows:

“To respond to Independent Panel Performance reports into which the Council is meeting its performance requirements.”

- 2.3** For clarity the duty for a report of the Independent Performance Panel to be submitted to Council for a response will remain a Full Council function.
- 2.4** In addition to the above matters, approval is also being sought to amend the Constitution to include and reflect a legislative change as outlined in 2.5 below having regard to the Local Government and Elections (Wales) Act 2021.
- 2.5** A previous report to Council on 7th March, 2022 which dealt with other associated matters linked to the introduction of the above Act omitted the inclusion in Section 4 paragraph 4.6 – Functions of the Full Council the following Duties:
- Section 96 – the Duty of a principal council to respond to the Auditor General’s recommendations.
 - Section 102 (2) – the Duty that a principal council may ask the Welsh Ministers to consider providing the council with support and assistance under subsection (1). Subsection (1) being - The Welsh Ministers may provide a principal council with such support and assistance as the Welsh Ministers consider appropriate to increase the extent to which the council meets the performance requirements.
- 2.6** If approved, Part 14 paragraph 14.10 – Schedule 1 – Functions not to be the responsibility of an Authority’s Cabinet / Executive will therefore be amended to include the above duties as a Council function.
- 2.7** Council approval is also sought for the following amendment / addition to the Constitution - Section 18, paragraph 18.15.2 (c) be amended to include reference to £300,000 with the paragraph to read “Chief Officers have been granted delegated authority to accept tenders for the supply of goods or materials and services and for the execution of works to **£300,000** subject to
- This amendment is being suggested to clarify current arrangements, the Council’s internal procedure note relating to contract procurement (PCoP) and to align with the Chief Officer’s delegations set out in Section 26 of the Constitution relating to All Directors and Service Heads paragraph 1 page 321.
- 2.8** Following discussions at the All-Wales Standards Committee Forum and in line with the recommendation of the Richard Penn report following his review of the Ethical Standards Framework commissioned by Welsh Government. All Monitoring Officers have also agreed to suggest to their Council’s that the harmonisation of the threshold for gifts and hospitality be agreed as £25.00 for gifts and hospitality.
- 2.9** The above suggestion has been discussed with Political Group Leaders and Independent Members in the Vale Council and agreed by the Standards Committee on 8th June, 2023 who recommended the harmonisation to Cabinet. Cabinet subsequently agreed on 20th June, 2023 that the threshold for Gifts, material benefits or advantages be £25.00 or totalling £100.00 over a year from a single source. The current threshold for the Vale Council for hospitality is £25.00 or totalling £100.00 over a year from a single source and it is therefore recommended to the Council that as a local choice amendment, for clarification

purposes, the threshold for gifts and hospitality be included in Section 19.4.3 of the Council's Constitution.

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

- 3.1** The proposals contained in the report ensure that the Council can continue to meet its statutory obligations, operational service delivery, strategic aims and wellbeing objectives.

4. Climate Change and Nature Implications

- 4.1** None as a direct result of this report.

5. Resources and Legal Considerations

Financial

- 5.1** None as a direct result of this report.

Employment

- 5.2** None as a direct result of this report.

Legal (Including Equalities)

- 5.3** The Council is required to comply with relevant legislation requirements.

6. Background Papers

Council report: 7th March, 2022

Standards Committee report: 8th June, 2023

Cabinet Reference: 20th Jun, 2023