

Meeting of:	Council
Date of Meeting:	Monday, 20 November 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 Sections 4 and 26.
Report Owner:	D. Marles, Monitoring Officer / Head of Legal and Democratic Services
Responsible Officer:	D. Marles, Monitoring Officer / Head of Legal and Democratic Services
Elected Member and Officer Consultation:	Consultation on amendments in relation to officer delegations have taken place with the Director of Learning and Skills and the Section 151 Officer. Discussions have been held with the political Group Leaders of this Council regarding the suggested proposals to amend procedure Rules governing procedure and debate.
Policy Framework:	This is a matter for decision by Full Council
<p>Executive Summary:</p> <ul style="list-style-type: none"> • To obtain Council's approval to amend the existing Scheme of Officer Delegations as set out in: • Paragraph 2.2 to this report as recommended by the Section 151 Officer to provide for a generic delegation to all Directors in relation to the submission of business cases to Welsh Government in relation to Capital schemes that have received previous approval from the Cabinet. • Paragraph 2.3 to this report as recommended by the Director of Learning and Skills a number of amendments, inclusion and deletions. • To consider and approve proposed suggested amendments as set out in Appendices A, B and C to this report. 	

Recommendations

1. THAT the changes to the relevant officer delegations as set out in paragraphs 2.2 and 2.3 of this report be approved and that Section 26 of the Constitution be amended accordingly.
2. THAT the Council approves the proposed amendments to Section 4 of the Council's Constitution as set out in Appendices A to C of the report and that the Council's Constitution be amended accordingly.

Reasons for Recommendations

1. To update the Officer Delegation Scheme and Contract Procedure Rules within the current Constitution.
2. To amend the Council's Constitution in the interests of good governance, consistency and public participation.

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. As part of this, a key role is to make recommendations to Council for ways the Constitution could be amended so that current democratic processes operate effectively and efficiently being mindful of arrangements in other comparable Local Authorities.
- 1.2 Having a Constitution which is reviewed and updated regularly serves a valuable and relevant purpose by striking a fair balance between the interests of the various groups within the Council—e.g. between the largest political group and opposition group, between all Councillors and between Councillors and officers.
- 1.3 Most importantly the Constitution needs to enable the Council to operate effectively. It must deliver:
 - good governance behaviours
 - effective officer/Member relationships
 - clear and effective decision-making
 - strong accountability
 - clarity and consistency.

2. Key Issues for Consideration

- 2.1 The Monitoring Officer has considered various aspects of the Constitution and in the interests of good governance, consistency and public participation recommends to Full Council amendments to some aspects of Sections 4 and 26

i.e. the Procedure for Questions by the Public at Full Council meetings, Questions by Members at Full Council meetings, Motions on Notice and Officer delegations.

Amendments to Section 26, Officer Delegations –

2.2 Officer Delegations – All Directors

Current Page No	Paragraph No	Amendments
322	New 5	Authority to submit business cases in liaison with the Section 151 Officer to Welsh Government to secure grant funding for capital schemes subject to scheme approval by Cabinet.

2.3 Officer Delegations – Director of Learning and Skills

Current Page No	Paragraph No	Amendments
343	1	To determine allocations of pupils to Vale of Glamorgan primary, middle and secondary schools in accordance with the Council's admissions policy and published admission arrangements, subject to parental right of appeal.
343	2	Delete this paragraph
343	3	Re-number this paragraph as 2
343	New 3	To allocate any place(s) that become(s) vacant at secondary, middle or primary schools for the September admission, and later applications that may occur within the year to the next most eligible pupil(s) as defined by the admission criteria.
343	4, 5 and 6	Delete these paragraphs
343	7	Re-number this paragraph as 4 with the following amendment: 4. To approve arrangements relating to the assessment, statement and placement of pupils with special educational needs and to implement ALN reform as set out in the Additional Learning Needs and Tribunal Wales Act from September 2021.
343	8 to 10	Delete these paragraphs
344	11 to 15	Delete these paragraphs
344	16	Re-number this paragraph as 5 with the following amendment: 5. To determine the amount of money to be allocated to the schools' delegated budgets

		and the formula for distribution after consultation with the Schools' Budget Forum.
344	17	Renumber this paragraph as 6
	New 7	Authority to issue fixed penalty notices and prosecutions under Section 444(1)(1a)(z) Education Act 1996 in response to the failure of parents / carers to secure the “ efficient, full-time education ” of children of compulsory school age.
	New 8	Authority to issue a School Attendance Order in accordance with the Education Act 1996 should it appear that a child who is Electively Home Educated is not receiving an efficient, suitable full-time education. In the event of non-compliance, further authority to issue an Education Supervision Order.
	New 9	The issuing of licences and approval of chaperones under the Children and Young Persons Act 1993/63 and the Children (Performances and Activities) (Wales) Regulations 2015 in relation to children engaged in public performances, working in TV, film, paid modelling or sporting activities.
348	New 34	Authority, in consultation with the relevant Cabinet Member, to determine whether or not routes are to be regarded, or continue to be regarded, as safe walking routes to school for school transport purposes.

Amendments to Section 4 – Rules of Procedure and Debate -

- 2.4** The Monitoring Officer met recently with the four Group Leaders of the Council regarding suggested amendments to Section 4 of the Council Constitution with a view to the Monitoring Officer, following the discussions, preparing a report for Full Council's consideration.

Order of business at Ordinary meetings -

- 2.5** Appendix A to this report details suggested proposed amendments for Council's consideration. Section 4. 11 details the rules in relation to the way business is conducted at Ordinary meetings. The ordering of business to be transacted currently places questions received by the public towards the end of the Council Summons. Rule 4.11.10 refers to this matter. The Monitoring Officer, in the spirit of the Council's Public Participation Strategy, recommends that the Rules covering the current order of business under Section 4.11, Ordinary Meetings be amended to allow questions received from the public to be received earlier in the transaction of business at future Council meetings. It is therefore proposed to amend the current Rules to allow public questions to be dealt with following

the receiving of announcements (Rule 4.11.4). The proposed amendment is set out in Appendix A to this report, the effect of which will see public questions becoming Rule 4.11.5 with all subsequent rules being renumbered accordingly in the Council Constitution.

- 2.6** It is also being proposed that the procedure for receipt of public questions to be considered at Council meetings (Rule 4.17.3.12 refers) be amended to introduce a requirement that only one question maybe asked per requester or organisation, per Ordinary Council meetings in the interests of fairness and proportionality.

Questions on Notice by Members

- 2.7** Appendix B to this report details suggested proposed amendments for Council's consideration. These suggested changes relate to the proposed amendments to Rules governing Members' questions (Rule 4.19). The suggested changes / amendments relate to the following matters:

- A change to the period in which notice of a question must be given to the Proper Officer to bring this procedure into alignment with the same period governing Motions on Notice (Rule 4.20.1).
- The introduction of a maximum number of questions to be considered at Council meetings. The maximum number suggested is based on the same political balance calculation used for the allocation of seats on Committees and equates to the following breakdown:
 - Labour 13.43 – 13 (rounded down)
 - Conservative 6.98 – 7 (rounded up)
 - Plaid Cymru 4.30 – 4 (rounded down)
 - Llantwit First Independents 2.15 – 2 (rounded down)
 - Independents x 4 0.54 – 4 (1 each, rounded up)

(The above is for illustrative purposes and can change from time to time. Any changes to allocations will be notified to Group Leaders at that time):

Total 30 (the calculation is actually based on 29, but the mathematical rounding up takes the total to 30).

- The requirement for a Member who is a member of a group to obtain the countersignature of their Group Leader (or in their absence Group Secretary) prior to the submission of a question to the Proper Officer.
- A change to the procedure for dealing with the Order of Questions.
- The introduction of a time period for the consideration of Member Questions on Notice at Council meetings, that time period being 45 minutes.
- Any questions that remain unanswered will be addressed in writing and these will be appended to the minutes of the meeting.

Motions on Notice

2.8 Appendix C to this report details suggested proposed amendments for Council's consideration. These suggested changes relate to the proposed amendments to Rules governing Motions on Notice (Rule 4.20). The suggested changes / amendments relate to the following matters:

- The introduction of a time period for the consideration of Motions on Notice at Council meetings, that time period being thirty minutes for each Motion on Notice.
- The introduction of a maximum number of Motions on Notice to be considered at a Council meeting.
- The introduction of a procedure to be followed if more than the maximum number of Motions submitted for a Council meeting is exceeded.
- The introduction of a procedure to deal with Motions not moved.

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 the relevant legislation requirements

6. Background Papers

None.

Proposals for changes to current Constitutional arrangements relating to Ordinary Meetings and Public Questions at Council

Current Constitutional Arrangements

4.11 Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting unless the Council has previously agreed a programme at an earlier meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the Chair and Vice-Chair are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4 receive any announcements from the Chair, Leader(s), members of the Cabinet or the Chief Executive and to receive petitions;
- 4.11.5 receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- 4.11.6 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.7 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Scrutiny Committees for debate;
- 4.11.8 consider motions; and
- 4.11.9 deal with questions from Members in accordance with **Rule 4.18**;
- 4.11.10 receive questions from, and provide answers to, the public in accordance with the Council's published procedure.

Proposed Amendments –

4.11 Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting unless the Council has previously agreed a programme at an earlier meeting. The order of business at ordinary meetings will be as follows:

- 4.11.1 elect a person to preside if the Chair and Vice-Chair are not present;
- 4.11.2 approve the minutes of the last meeting;
- 4.11.3 receive any declarations of interest from Members;
- 4.11.4** **Move and renumber clause 4.11.10 to 4.11.4** receive questions from, and provide answers to, the public in accordance with the Council's published procedure.

Renumber subsequent clauses

- 4.11.5** receive any announcements from the Chair, Leader(s), members of the Cabinet or the Chief Executive and to receive petitions;
- 4.11.6** receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- 4.11.7** receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.11.8** consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework, Single Integrated Plan and reports of the Scrutiny Committees for debate;
- 4.11.9** consider motions; and
- 4.11.10** deal with questions from Members in accordance with **Rule 4.18**.

Current Constitutional Arrangements

4.17.3.12 Public Questions at Council and Public Speaking Procedures

- (a) Should a member of the public wish to ask a question at Full Council meetings they must give notice in line with the Council's procedure which can be found at (https://www.valeofglamorgan.gov.uk/en/our_council/Council-Structure/Public-Participation-at-Council-Meetings.aspx)
- (b) Public speaking procedures for Committees (where procedures are in place) can also be found at: (https://www.valeofglamorgan.gov.uk/en/our_council/Council-Structure/Public-Participation-at-Council-Meetings.aspx)

Proposed Amendments –

4.17.3.12 Public Questions at Council and Public Speaking Procedures

- (a) Should a member of the public **or an organisation** wish to ask a question at Full Council meetings they must give notice in line with the Council's procedure which can be found at (https://www.valeofglamorgan.gov.uk/en/our_council/Council-Structure/Public-Participation-at-Council-Meetings.aspx)
- (b) **New - Proposed change - A member of the public or an organisation may ask only one question under Rule 4.17.3.12. per Ordinary Council meeting.**
- (c) **(New paragraph number - no change to current wording)** Public speaking procedures for Committees (where procedures are in place) can also be found at: (https://www.valeofglamorgan.gov.uk/en/our_council/Council-Structure/Public-Participation-at-Council-Meetings.aspx)

Proposed Amendments to the Council Constitutional Arrangement – Questions on Notice at Full Council

Current Constitutional Arrangements

4.19.2 Questions on Notice at Full Council

Subject to **Rule 4.19.4**, a Member of the Council may ask:

- (a) the Chair of the Council;
- (b) a Member of the Cabinet;
- (c) the Chair of any Committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the Vale of Glamorgan.

4.19.3 Questions on Notice at Committees and Sub-Committees

Subject to **Rule 4.19.4**, a Member of a Committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Vale of Glamorgan and which falls within the terms of reference of that Committee or sub-committee.

4.19.4 Notice of Questions

A Member may ask a question under **Rule 4.19.2 or 4.19.3** if either:

- (a) they have given notice in writing of the question to the Proper Officer by no later than 12.00 noon on the Wednesday of the week prior to the day of the meeting at which the question is to be asked

(N.B. In the event that an ordinary Council Meeting takes place on a day other than a Wednesday, questions must be submitted no later than 12.00 noon on the equivalent day of the preceding week); or

- (b) the question relates to urgent matters, they have the consent of the Chair or Member to whom the question is to be put and the content of the question is given to the Proper Officer by 12.00 noon on the day of the meeting.

4.19.5 Order of Questions

Questions of which notice has been given under **Rule 4.19.2 or 4.19.3** will be listed on the agenda in the order received, unless determined otherwise by the Chair of the Council. All questions will be included in the Council agenda and will not be read out at the meeting. Replies from Cabinet Members will be read out and the provision for

supplementary questions and replies will then ensue (see **Rule 4.19.7** below).

4.19.6 Response

An answer may take the form of:

- (a) a direct oral answer at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer will be supplied to all Members.

4.19.7 Supplementary Question

A Member asking a question under **Rule 4.19.2 or 4.19.3** may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

(N.B. In the event that an ordinary Council Meeting takes place on a day other than a Wednesday, questions must be submitted no later than 12.00 noon on the equivalent day of the preceding week.)

Proposed Amendments –

4.19.2 **No change to current wording - Questions on Notice at Full Council**

Subject to **Rule 4.19.4**, a Member of the Council may ask:

- (a) the Chair of the Council;
- (b) a Member of the Cabinet;
- (c) the Chair of any Committee or sub-committee;

a question on any matter in relation to which the Council has powers or duties or which affects the Vale of Glamorgan.

4.19.3 **No change to current wording - Questions on Notice at Committees and Sub-Committees**

Subject to **Rule 4.19.4**, a Member of a Committee or sub-committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affects the Vale of Glamorgan and which falls within the terms of reference of that Committee or sub-committee.

4.19.4 **New – proposed changes - Notice of Questions**

A Member may ask a question under Rule 4.19.2 or 4.19.3 if either:

- (a) **they have given at least ten clear days' (which includes weekends) notice in writing to the Proper Officer** prior to the day of the meeting at which the question is to be asked; or
- (b) **if the question relates to urgent matters; they have the consent of the Mayor or Member to whom the question is to be put and the content of the question is given to the Proper Officer by no later than 12.00 noon on the day of the meeting.**

Any question from a Member who is a member of a group shall also be countersigned by that Group Leader or in her/his absence the Group's Secretary prior to the submission to the Proper Officer.

4.19.5 **New – proposed change - Maximum Number of Questions**

The maximum number of questions to be considered at a Council meeting under Rule 4.19. 2 shall not exceed 30. Each political group and Independent members who are not members of a political group recognised by the Council shall have an entitlement and allocation of questions proportionate to their representation on the Council.

4.19.6 **New – proposed change - Order of Questions**

Questions of which notice has been given under Rule 4.19.2 or 4.19.3 will be listed on the agenda in order of political groups in proportion to their representation on the Council followed by those Members who are not members of any political group recognised by the Council. All questions will be included in the Council agenda and will not be read out at the meeting. Replies from Cabinet Members will be provided and provision for supplementary questions and further replies will ensue (see Rule 4.19.5).

Group Leaders will decide in which order their Group questions will be dealt with by notifying the Proper Officer no later than the working day prior to the Council agenda being dispatched.

Questions will be answered as follows:

In the first round, each political group shall be entitled to ask one question. Any Members who are not members of a political group recognised by the Council shall be entitled to ask their question (in the order of receipt).

This order will continue for subsequent rounds subject to Rule 4.19.9.

4.19.7 Paragraph renumber - No change to current wording –

Response

An answer may take the form of:

- (a) a direct oral answer at the meeting;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer will be supplied to all Members.

4.19.8 Paragraph renumber - No change to current wording –

Supplementary Question

A Member asking a question under **Rule 4.19.2 or 4.19.3** may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

4.19.9 New – proposed change - Time Allowed for Questions at Council Meetings

- (a) **The time allowed for consideration of questions submitted under Rule 4.19.2. or 4.19.3 and any resulting supplementary questions arising under Rule 4.19.8 shall not, without the consent of the Council, exceed forty five minutes.**
- (b) **At the conclusion of the answer to the question under consideration at the expiry of forty five minutes, the Mayor shall conclude the time allocated for questions.**
- (c) **Any questions which remain unanswered will be addressed in writing and these will be appended to the Minutes of the meeting.**
- (d) **Any unanswered questions will not be carried over to the next Council meeting.**

Proposals for changes to current Constitutional arrangements relating to Motions on Notice

Current Constitutional Arrangements

4.20 Motions on Notice

4.20.1 Notice

Except for Motions which can be moved without notice under Rule 4.21, written notice of every Motion, signed by at least two Members, must be delivered to the Proper Officer not later than ten clear days (which includes weekends) before the date of the meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

4.20.2 Motion Set Out in Agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

4.20.3 Scope

Motions must be about matters for which the Council has a responsibility, or which affect the wellbeing of the administrative area of the Council.

Proposed Amendments –

4.20 Motions on Notice

General

4.20.1 Notice –

Except for Motions which can be moved without notice under Rule 4.21, written notice of every Motion, signed by at least two Members, must be delivered to the Proper Officer not later than ten clear days (which includes weekends) before the date of the meeting at which it is to be considered. Motions received will be entered in a book open to public inspection.

4.20. 2 New - Proposed change - A maximum of thirty minutes shall be allowed for the debate on each Ordinary Motion, unless one or more amendments are moved, in which case the time allowed shall be extended to forty five minutes.

4.20 .3 New - Proposed change – Regardless of 4.20.2, the Mayor shall have the absolute discretion to extend the time period to no more than forty five minutes.

Motions Set Out in Agenda

4.20.4 (New paragraph number - no change to current wording) Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

Number of Ordinary Motions

4.20.5 New – proposed change - The number of Ordinary Motions shall be limited to a maximum of two Motions at each Council Meeting where Ordinary Motions may be considered.

4.20.6 New – proposed change - If more than the maximum number of Motions permitted under paragraph (4.20.5) above are submitted for a particular Council meeting, the Mayor shall decide which Motions are to be taken, following consultation with the relevant political Group Leaders. Factors to be considered in selecting Motions shall include the urgency of the Motion (whether it may reasonably be taken at a later meeting); the order in which Motions were submitted; whether a Motion has been put back from a previous Council meeting; any policy, budget or other significance to the Council.

Motions not Moved

4.20.7 New – proposed change - If a Motion set out in the summons is not moved either by a Member who gave notice or by some other Member on his/her behalf it shall at the meeting, unless postponed by consent of the Council, be treated as withdrawn and shall not be moved without fresh notice.

Scope

4.20.8 New paragraph number - no change to current wording - Motions must be about matters for which the Council has a responsibility, or which affect the wellbeing of the administrative area of the Council.