

Meeting of:	Council
Date of Meeting:	Wednesday, 06 March 2024
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 26 - Officer Delegations
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:	This report does not require consultation to be undertaken.
Policy Framework:	This is a matter for decision by Full Council
<p>Executive Summary:</p> <p>To obtain Council's approval to:</p> <ul style="list-style-type: none"> • Include an additional delegation under the Chief Executive; • Include additional delegations under the Director of Corporate Resources, Section 151 Officer and Deputy Section 151 Officer • Include additional delegations under the Head of Legal and Democratic Services and Operational Manger (Legal Services); • Include additional delegations under the Head of Neighbourhood Services and Transport and Operational Manager – Engineering • Include additional delegations under Business Management and Innovation – Director of Social Services – Head of Resources Management and Safeguarding, Operational Manager (Safeguarding and Service Outcomes) and Operational Manager (Commissioning and Finance) [<i>previously Operational Manager (Commissioning and Information)</i>] • To include an additional officer delegation relating to the Council's Sanction Panel. Cabinet, on 25th January, 2024, approved a Corporate Fraud Enforcement Policy; within the Policy it stated that “the decision to refer cases for prosecution or to recommend another form of sanction as an alternative to prosecution, where permitted by certain legislation, will be taken by the Council's Sanction Panel. The Sanction Panel will consist of the Head of Finance, the Monitoring Officer / Head of Legal and Democratic Services and the Head of Human Resources supported by the Head of the Regional Internal Audit Service (or nominated representatives). The Sanction Panel may refer cases to the Police for investigation, who may then refer matters to the Crown Prosecution Service. This can occur in cases of staff fraud or where 	

the fraud is complex and / or of a very serious nature or linked to Safeguarding issues.

Recommendations

1. T H A T the changes to the relevant officer delegations as set out in paragraphs 2.2 to 2.6 of this report be approved and that Section 26 of the Constitution be amended accordingly.
2. T H A T the change to the relevant delegation as set out in paragraph 2.7 be approved subject to the reference at item 13(b) Corporate Fraud Enforcement Policy on the Council agenda being agreed.

Reason for Recommendations

1&2 To update the Officer Delegation Scheme 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 / Head of Legal and Democratic Services 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 / Head of Legal and Democratic Services 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 Section 26 – Officer Delegations as below.

2.2 Officer Delegations – Chief Executive, or in his absence, the nominated deputy

Current Page No	Paragraph No	Amendments
324	New 15	At the request of the relevant political group leader to approve amendments to their group representation on Council committees following the Annual Meeting of the Council in each Municipal Year.

2.3 Officer Delegations – Director of Corporate Resources, Section 151 Officer and Deputy Section 151 Officer

Current Page No	Paragraph No	Amendments
330	3(b)	To add at the end of the sentence the words in bold “... relevant departments the appropriate Operational Manager to undertake negotiations. ”
Following requests from the Section 151 Officer, the following paragraphs in the Constitution be amended to read as below, to include the thresholds:		
Current Page No	Paragraph No and Current Wording	Amendments
330	3(c) The writing off of irrecoverable Council Tax and Non Domestic Rates.	Amend to read: “With other nominated officers; the writing off of irrecoverable Council Tax and Non Domestic Rates: Up to £5,000 – Operational Manager Exchequer Up to £2,500 – Exchequer Manager Up to £1,000 – Deputy Exchequer Manager / Court and Recovery Officer Up to £50 – Senior Revenues Assistants / Training and Technical Officer.”
331	3(d) The writing off of irrecoverable debts in relation to bankruptcy, receivership and liquidation.	Amend to read: “With other nominated officers, the writing off of irrecoverable debts in relation to bankruptcy, receivership and liquidation: Up to £5,000 – Operational Manager Exchequer Up to £2,500 – Exchequer Manager Up to £1,000 – Deputy Exchequer Manager / Court and Recovery Officer Up to £50 – Senior Revenues Assistants / Training and Technical Officer Up to £100 Community Care debt – Head of Resources Management and Safeguarding / Operational Manager (Commissioning and Finance).”
331	3(e) The writing off of other irrecoverable debts up to £10,000 in each case.	Amend to read: “The writing off of other irrecoverable debts up to £10,000 in each case with other nominated officers: Up to £5,000 – Operational Manager Exchequer Up to £2,500 – Exchequer Manager Up to £1,000 – Deputy Exchequer Manager / Court and Recovery Officer

		Up to £50 – Senior Revenues Assistants / Training and Technical Officer Up to £100 Community Care debt – Head of Resources Management and Safeguarding / Operational Manager (Commissioning and Finance).”
331	5 Authority to implement the provisions of the Housing Benefit and Council Tax Reduction schemes, including the backdating of claims and the acceptance of late claims in appropriate cases.	Amend to read: “With other nominated officers, authority to implement the provisions of the Housing Benefit and Council Tax Reduction schemes, including the backdating of claims and the acceptance of late claims in appropriate cases: Operational Manager Exchequer Benefits and Payments Manager Deputy Benefits and Payments Manager Senior Benefits Assistants.”
331	6 Authority to write off any Housing Benefit and / or Council Tax Reduction overpayments which are irrecoverable.	Amend to read: “With other nominated officers, authority to write off any Housing Benefit and / or Council Tax Reduction overpayments which are irrecoverable: Up to £5,000 – Operational Manager Exchequer Up to £2,500 – Benefits and Payments Manager Up to £1,000 – Deputy Benefits and Payments Manager Up to £50 – Senior Benefits Assistants.”
331	7 Waive recovery of overpayment of cases above whose balance do not exceed £10,000.	Amend to read: “Waive recovery of overpayment of cases above whose balance does not exceed £10,000 with other nominated officers: Up to £5,000 – Operational Manager Exchequer Up to £2,500 – Benefits and Payments Manager / Exchequer Manager Up to £1,000 – Deputy Benefits and Payments Manager Up to £50 – Senior Benefits Assistants.”
331	8 To write back un-refundable credits up to a maximum of £10,000 in each case.	Amend to read: “To write back un-refundable credits up to a maximum of £10,000 in each case with other nominated officers: Up to £5,000 – Operational Manager Exchequer / Benefits and Payments Manager / Exchequer Manager Up to £2,500 – Deputy Benefits and Payments Manager Up to £1,000 – Senior Benefits Assistants / Senior Revenues Assistants / Training and Technical Officer.”

2.4 Officer Delegations – Head of Legal and Democratic Services and Operational Manager (Legal Services)

Current Page No	Paragraph No	Amendments
343	New 59	Upon the instruction of the Head of Neighbourhood Services or Operational Manager – Engineering or Engineering Manager – Environment, to issue Temporary Stop Notices under The Flood Water Management Act 2010 and The Sustainable Drainage (Enforcement) (Wales) Order 2018, and if appropriate, to pursue a prosecution in respect of any failure to comply with the terms of a Temporary Stop Notice issued.
344	New 60	Issue Enforcement Notices and Stop Notices under The Flood Water Management Act 2010 and The Sustainable Drainage (Enforcement) (Wales) Order 2018 upon the instruction of the Head of Neighbourhood Services or Operational Manager – Engineering or Engineering Manager – Environment.
344	New 61	Upon the instruction of the Head of Neighbourhood Services or Operational Manager – Engineering or Engineering Manager – Environment, to give notice of the variation or withdrawal of a previously issued Enforcement Notice or Stop Notice to correct a defect or error or make such other minor variation as deemed necessary.

2.5 Officer Delegations – Head of Neighbourhood Services and Transport and Operational Manager – Engineering and, only where indicated, Engineering Manager – Environment

Current Page No	Paragraph No	Amendments
354	New 5	In consultation with the Head of Legal and Democratic Services, to authorise the preparation of Enforcement and Stop Notices under The Flood Water Management Act 2010 and The Sustainable Drainage (Enforcement) (Wales) Order 2018 and to instruct the Head of Legal and Democratic Services to issue such notices, if appropriate, and to pursue a prosecution in respect of any failure to comply with the terms of the Notice issued.
355	New 6	In consultation with the Head of Legal and Democratic Services, to authorise the variation or withdrawal of a previously issued Enforcement Notice or Stop Notice to correct a defect or error or make such other minor variation as deemed necessary and to instruct the Head of Legal and Democratic Services to issue such amended Notices, if appropriate.

355	New 7	In consultation with the Head of Legal and Democratic Services, to authorise the preparation of Temporary Stop Notices under The Flood Water Management Act 2010 and The Sustainable Drainage (Enforcement) (Wales) Order 2018 and to instruct the Head of Legal and Democratic Services to issue such Notices, if appropriate. Also, to exercise the Council’s power of enforcement and to instruct Legal Services to pursue a prosecution in respect of any failure to comply with the terms of a Temporary Stop Notice issued.
-----	-------	---

2.6 Officer Delegations – Business Management and Innovation – Director of Social Services – Head of Resources Management and Safeguarding, Operational Manager (Safeguarding and Service Outcomes) and Operational Manager (Commissioning and Finance) [*previously Operational Manager (Commissioning and Information)*]

Current Page No	Paragraph No	Amendments
381	4	Add additional wording in bold at end of sentence: “..... from time to time be in force, and a charge s.71 of the Social Services (Well-being) Wales Act 2014, as appropriate. ”
381	New 7	Upon instruction to the Head of Legal and Democratic Services to take such action in relation to the recovery of monies owed to the Local Authority in respect of the assessed charge for Part III accommodation, where no charge is in place under s.22, on being satisfied on making reasonable enquiries that there is no relative, executor/ administrator or any other person who could make appropriate arrangements, authority to act on behalf of the council in respect of an application under s.116 of the Senior Courts Act 1981, to the Probate Registry for England and Wales, for a grant of representation.

2.7 Officer Delegations – Director of Corporate Resources, Section 151 Officer and Deputy Section 151 Officer

Council’s Sanctions Panel – Corporate Fraud Enforcement Policy approved by Cabinet on 25th January, 2024, with a delegation to the Council’s Sanction Panel. The Council’s Sanction Panel consists of the Head of Finance / Section 151 Officer, the Monitoring Officer / Head of Legal and Democratic Services and the Head of Human Resources supported by the Head of Regional Internal Audit Service (or nominated representatives) to refer cases for prosecution or to recommend another form of sanction as an alternative to prosecution, where permitted by certain legislation.

The Corporate Fraud Enforcement Policy is also on the Council’s agenda for consideration later in the agenda, the delegation being to request for approval subject to the report being approved later in the agenda.

Current Page No	Paragraph No	Amendments
333	New 36	Delegated authority to the Council’s Sanctions Panel consisting of the Council’s Head of Finance / Section 151 Officer, Monitoring Officer / Head of Legal and Democratic Services and the Head of Human Resources supported by the Head of the Regional Internal Audit Service (or nominated representatives) to refer cases for prosecution or to recommend another form of sanction as an alternative to prosecution, where permitted by certain legislation.

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.