



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

COUNCIL ANNUAL GENERAL MEETING

25th MAY 2022

PROPOSED AMENDMENTS TO THE CONSTITUTION

JOINT REPORT OF THE DIRECTOR OF LEGAL SERVICES AND SERVICE DIRECTOR OF DEMOCRATIC SERVICES & COMMUNICATION.

1. PURPOSE OF THE REPORT

To seek Members' approval to amend the Constitution to reflect further legislative changes (including consequential changes) required as a result of relevant provisions in the Local Government and Elections (Wales) Act 2021 (the 'LGEW Act'), the majority of which came into force on 5th May 2022.

2. RECOMMENDATION

It is recommended Council:

- 2.1 Approves the proposed amendments to the Constitution as set out in Appendices A, B, C and D to the report, to reflect legislative changes including consequential changes required as a result of relevant provisions in the Local Government and Elections (Wales) Act 2021 the majority of which came into force on 5th May 2022.

3. BACKGROUND

- 3.1 The LGEW Act introduced amendments to various pieces of legislation and new provisions in some areas to take effect at various times. The provisions that have already been introduced have been reported to Full Council and the Council's Constitution updated as appropriate. However, some provisions took effect from 5th May 2022 and today's meeting provides the earliest opportunity to seek Members' approval to make the necessary amendments to the Constitution.

4. REASONS FOR RECOMMENDATIONS

- 4.1 The Council's Constitution was adopted in May 2002 and sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that they are efficient, transparent and available to local people. The Constitution is a 'living document' in that it is constantly being updated and revised to reflect new Government legislation, guidance and improvements in procedures gained in light of experience.

- 4.2 The LGEW Act introduced amendments to various pieces of legislation and new provisions in some areas to take effect at various times, the most recent of which came into force on 5th May 2022. These amendments now need to be reflected in required changes to the Council's Constitution.

5. **PROPOSED AMENDMENTS TO THE CONSTITUTION**

- 5.1 A summary of the LGEW Acts provisions which took effect from 5th May 2022 are summarised below:

- Amend the term of office for Elected Members' from four to five years (Section 14)

- Restrictions on the Appointment of Officers as Members (Section 21)

- Petition Scheme – The duty for approving, reviewing and amending the Council's Petition scheme to be included in the Constitution under Functions of the Full Council (Section 42)

- Broadcasting of meetings – Further Welsh Government Guidance is awaited as to which meetings the Council should consider broadcasting from May 2022. The section under the Act requires that where meetings are broadcast speakers must be able to speak to and be heard by each other and to see and be seen by each other. (Sections 46 and 47).

- Code of Conduct for Employees – - qualifying employee who holds the post of Chief Executive of a county borough council in Wales is disqualified from becoming or remaining a member of a relevant authority (Schedule 5 of the Act).

- Head of Paid Service – delete reference to Head of Paid Service throughout the Constitution due to the provision that from 5th May 2022 the Head of Paid Service title is to be replaced with the title of Chief Executive (Section 54).

- Assistants to the Executive – The Act provides that Council's Cabinet arrangements may make provision for Councillors of the Authority to be appointed to assist the Cabinet in discharging functions which are the responsibility of Cabinet. (Section 57)

- Job Sharing by Executive Leaders and Executive Members – The provision requires Local Authorities to include in their Cabinet arrangements provision enabling two or more Councillors to share office on a Cabinet including the office of Leader. This to also include details of the maximum numbers of a Cabinet when Cabinet offices are shared together with the details about quorum and voting (Section 58)

- Leaders of Political Groups in relation to standards of conduct – duty to promote and maintain high standards of conduct and must co-operate with the Standards Committee in the exercise of the Standards Committee's functions (Section 62)
- Standards Committee – Terms of Reference and Role and Function (respectively) to include - duty to monitor compliance by Political Leaders and provide advice, training or arrange to train Leaders of political groups (Section 62) - duty to produce an Annual Report as soon as reasonably practicable at the end of the financial year (i.e. 31st March) to the Authority in respect of the year which must describe how the Committee's functions have been discharged during the financial year (Section 63)
- Joint Scrutiny Committees – power amended to include the words “or require” two or more Local Authorities to appoint a Joint Scrutiny Committee. This power sits with Welsh Ministers (Section 66 (2))
- Corporate Joint Committee – the Act provides provision for the establishment of Corporate Joint Committees. This requires a whole new section to be included within the Council's Constitution. (Sections 76 - 88)
- Governance and Audit Committee – Full Council approved that the membership of the Governance and Audit Committee provisionally consist of 6 Elected Members and 3 lay members (subject to agreement at the AGM) and that the Terms of Reference of the Committee be amended to reflect the membership and the below from 5th May 2022 (Sections 115 – 118): - One third of the Membership of a Governance and Audit Committee are lay members - The Chair of a Governance and Audit Committee must be a Lay Member - The Vice-Chair of a Governance and Audit Committee must not be a Member of the Cabinet or an assistant to the Cabinet.
- Functions of the Full Council – the following to be added - approving, reviewing and amending the Council's Petition scheme (Section 42) ; considering Chief Executive reports prepared pursuant to section 54(2)(b) of the Act, within 3 months of them being made (Section 54) ; considering annual reports received from the Standards Committee ; keeping under review the extent to which a) it is exercising its functions effectively, b) using its resources economically, efficiently and effectively and c) its Governance arrangements are effective for securing matters set out in a) and b) above (Section 63) ; -performing the Corporate Joint Committee functions set out in the Constitution including the making of a Corporate Joint Committee application and the giving of consent to Corporate Joint Committee regulations being made (Section 87); consulting local people other persons carrying on a business in the Council's area, the officers of the Council and every Trade Union which is recognised by the Council about the extent to which the Council is meeting its performance requirements (Section

90); preparing an Annual Report on the extent to which the Council has met its performance requirements (Section 91) ; making arrangements for a panel performance assessment and responding to the panel's report (Sections 92 and 93).

- 5.2 Annexed to the report are the following parts of the Constitution where amendments are necessary to reflect the required legislative changes the summary of which is set out in paragraph 5.1 above.

These are:

Appendix A (Part 1 – Summary Guide & Explanation);
Appendix B (Part 2 – Articles of the Constitution);
Appendix C (Part 3 – Responsibility for Functions - extract); and
Appendix D (Part 4 - Rules of Procedure- extract)

- 5.3 The proposed changes to the existing text are shown with tracked changes.

6. **CONSTITUTION GUIDE**

- 6.1 Section 45 of the LGEW Act requires that a Model Guide to the Constitution is prepared which explains in ordinary language the content of the Constitution. A Model Guide to the Constitution has been commissioned by the Monitoring Officers' All-Wales Group of the 22 Local Authorities in Wales.

- 6.2 It is anticipated a draft Constitution Guide will be presented to Members at the July Full Council meeting for their consideration.

7. **LEGAL AND EQUALITY IMPLICATIONS**

- 7.1 The Council is required to comply with relevant legislation requirements which are outlined in the body of this report.

8. **FINANCIAL IMPLICATIONS**

- 8.1 None as a direct result of this report.

9. **CONCLUSION**

- 9.1 The LGEW Act introduced amendments to various pieces of legislation and new provisions in some areas to take effect at various times. The provisions that have already been introduced have been reported to Full Council and the Council's Constitution updated as appropriate. However, some provisions are to be take effect from 5th May 2022 and this report sets out those provisions and seeks authority to make the required changes to the Constitution.

LOCAL GOVERNMENT ACT 1972

as amended by

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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LIST OF BACKGROUND PAPERS

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REPORT

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Background Papers

Council Constitution

Local Government and Elections (Wales) Act 2021