

**Joint Report of the Presiding Member, Monitoring Officer and
Head of Democratic Services**

Council – 25 June 2015

AMENDMENTS TO THE COUNCIL CONSTITUTION

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| Purpose: | To make amendments in order to simplify, improve and / or add to the Council Constitution. |
| Policy Framework: | None. |
| Reason for Decision: | A decision of Council is required to change the Council Constitution. |
| Consultation: | Finance, Legal |
| Recommendation(s): | It is recommended that: 1) The changes to the Council Constitution as outlined in Paragraph 3 together with any further consequential changes be adopted. |
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| Legal Officer: | Tracey Meredith / Chris Allingham |
| Access to Services Officer: | Euros Owen |

1. Introduction

1.1 In compliance with the Local Government Act 2000, the City and County of Swansea has adopted a Council Constitution. A number of issues have arisen since adoption and in order to maintain the aims, principles and procedures set out in Articles 1 and 15 of the Council Constitution, it is proposed that the amendments set out below should be made to the Constitution.

2. Delegated Minor Corrections to the Council Constitution

2.1 There are no delegated minor corrections to the Council Constitution.

3. Amendments to the Council Constitution

3.1 This report outlines a number of suggested amendments to the Council Constitution. The amendments are within the following area of the Council Constitution:

- a) Part 3 - Scheme of Delegation;
- b) Part 4 - Scrutiny Procedure Rules.

3.2 Scheme of Delegation

3.2.1 Paragraph 1.3.13 “Local Choice Functions”. J9 and J10 currently states:

| No | Function | Provision of Act or Statutory Instrument | Delegated To |
|-----|--|--|--------------|
| J9 | Powers related to Public Rights of Way, Commons Registration and Village Greens. | Commons Act 1965; Commons Act 2006; Section 53 Wildlife and Countryside Act 1981. | PC |
| J10 | Powers related to the Diversion, Extinguishment and Creation of public paths where no objections have been received. | Section 25, 26, 118, 119 of the Highways Act 1980; Section 53 Wildlife and Countryside Act 1981 | HoER&P |

3.2.2 Amend J9 and J10 as follows:

| No | Function | Provision of Act or Statutory Instrument | Delegated To |
|-----|--|---|--------------|
| J9 | Powers related to Public Rights of Way, Commons Registration and Village Greens. | Commons Act 1965; Commons Act 2006; Section 53 Wildlife and Countryside Act 1981; Section 26, 118, 119 of the Highways Act 1980. | PC |
| J10 | Powers related to the Diversion, Extinguishment and Creation of public rights of way where no objections have been received, and all other functions relating to public rights of way not delegated to the Planning Committee. | Highways Act 1980; Countryside Act 1968; National Parks and Access to the Countryside Act 1949; Wildlife and Countryside Act 1981; Countryside and Rights of Way Act 2000; Road Traffic Regulation Act 1984. | HoER&P |

- 3.2.3 After paragraph 1.8 “Enforcement Matters”. Add the following and renumber any consequential changes accordingly:

“1.9 Public Rights of Way Matters

The determination of all rights of way matters, other than decisions relating to the following **(which will be reported to the Planning Committee)**:

- 1.9.1 Public Rights of Way creation, diversion and extinguishment orders (under all Acts) that, after public consultation, are likely to be challenged or be contentious;
- 1.9.2 Application to the Magistrates Court to stop up or divert a public right of way;
- 1.9.3 Determination of applications for new rights of way and corrections to the records of existing rights of way (keeping the Definitive Map under continuous review);
- 1.9.4 Traffic Regulation Orders, (other than for temporary closures or restrictions which are needed for safety reasons; to allow works to be carried out; or for the holding of a special event).”

3.3 Scrutiny Procedure Rules

- 3.3.1 The recent Peer Review recommended that *“The Council could consider reducing the time that Cabinet has to respond to scrutiny recommendations (currently 3 months)”*.
- 3.3.2 Following discussions with the Chair of the Scrutiny Programme Committee and the Leader of the Council, it is proposed to reduce the time to 2 months.
- 3.3.3 This proposal will necessitate a change to Scrutiny Procedure Rule 9.6. **Delete** “three months”. **Replace** with “two months”.

4. Equality and Engagement Implications

- 4.1 An Equality Impact Assessment (EIA) screening process took place prior to the consultation period. The outcome indicated that it was low priority and a full report was not required.

5. Financial Implications

- 5.1 There are no specific financial implications associated with this report.

6. Legal Implications

- 6.1 There are no specific legal implications associated with this report. The amended version of the Council Constitution will be available at www.swansea.gov.uk/constitution

Background Papers: None.

Appendices: None