



Joint Report of the Monitoring Officer, Head of Property & Head of Democratic Services

Council – 7 October 2021

**Amendments to the Council Constitution
– Land Transaction Procedure Rules and the Scheme of Delegation**

Purpose:	To make amendments in order to simplify, improve and / or add to the Council Constitution. A decision of Council is required to change the Council Constitution.
Policy Framework:	Council Constitution.
Consultation:	Access to Services, Finance, Legal.
Recommendation(s):	It is recommended that: 1) Council approves and adopts the amendments as outlined in paragraph 1.6 and Appendix A of this report.
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1. Introduction

1.1 An amendment has been proposed to the Council Constitution. The Constitution Working Group is asked to consider the amendment as outlined in paragraph 1.6 and at **Appendix A** of this report and recommend adoption by Council.

2. Land Transaction Procedure Rules (Council Constitution Part 4.7 Rules of Procedure)

a. On undertaking a recent review of the Council's Land Transaction Procedure Rules (LTPR) the need to clarify certain decision making

processes was highlighted. These include the way in which the Council disposes of Land (as defined within the LTPR), the criteria to be applied when selling Land for less than best consideration and also in circumstances where there has been no marketing of the Land or where there is only one person interested in buying the Land. As the changes to the LTPR are extensive it is not possible to track change the amendments and CWG are being asked to approve the new version LTPR in their entirety as attached at Appendix A.

- b. Please note in particular Rule 3 which clarifies the definition of surplus or under-used Land and Rule 5 which clearly sets out the Council's obligation to achieve the best consideration reasonably obtainable and the circumstances under which the Council can lawfully accept less than best consideration. Rule 5.4 states that any disposal at any undervalue must be approved by Cabinet.
- c. Also note Rule 6.6 which clarifies the circumstances in which the Council can dispose of Land where no marketing exercise has been undertaken or only one person has indicated an interest to purchase the Land. A clear reference to the Council's Community Asset Transfer (CAT) Policy has been included at Rule 6.6(c) and CAT Policy is now formally incorporated within the LTPR and appended at Appendix 2 to the LTPR.
- d. The review of the LTPR has also allowed for the inclusion of the appropriation of Land at Rule 4.5 and 4.6 and the process to be followed to enable officers to authorise the appropriation of Land held for one purpose to another purpose.

3. Part 3.1 – Responsibility for Functions (Introduction – Scheme of Delegation)

- a. The delegated authority limits have been amended at Part 3.1.6 Rule 2 (Officer Delegation) in relation to acquisitions, disposals and leases. Consequently this report is recommending the following changes to the Council Constitution at Part 3.1.6 as follows:-

Sub-paragraph 2 a) is deleted in its entirety as set out below

- a) *The exercise of functions by Responsible Officers in relation to the acquisition or disposal of property shall be limited as follows:*
 - i) *Acquisition of freehold or leasehold property (where a premium only is payable) up to £250,000;*
 - ii) *Acquisition of freehold or leasehold property where a rent is payable – up to £50,000 per annum;*
 - iii) *Disposal of freehold property or leasehold property (where a premium only is payable) up to £500,000 or for anything other than best consideration;*

- iv) *Disposal of leasehold property where a rent is payable – up to £50,000 per annum.*

And replaced with:

a) *The exercise of functions by Responsible Officers in relation to the approvals of disposals, acquisitions and leases shall be undertaken in accordance with the Land Transaction Procedure Rules and shall be limited as follows:-*

- (i) *Acquisition of freehold or leasehold property (where a premium only is payable) up to £1,000,000;*
- (ii) *Acquisition of freehold or leasehold property where a rent is payable – up to £250,000 per annum;*
- (iii) *Disposal of freehold property or leasehold property (where a premium only is payable) up to £1,000,000;*
- (iv) *Disposal of leasehold property where a rent is payable – up to £250,000 per annum.*

3.2 A further amendment is proposed so that sub paragraph 2 b) is amended as follows:

2(b) In cases where the consideration is not straightforward such as involving varying rents or a combination of rental and premium the Director of Place or his nominee shall assess the total capital value of the transaction to establish if such value exceeds the limits of this delegation.

so that the words “*Director of Place*” above are replaced with the “*Head of Property*”

2. Financial Implications

2.1 None arising directly from this clarification and simplification of the LTPRs. Financial implications arising directly from individual property transactions will continue to be undertaken, budgeted and accounted for under extant FPRs.

3. Legal Implications

3.1 The proposed changes to the Land Transaction Procedure Rules together with the associated changes to the Scheme of Delegation provide clarity on the decision making process to be followed when the Council is seeking to acquire or dispose of Land. These changes are compliant with all relevant legislation affecting property transactions.

4. Integrated Assessment Implications

4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.
- Deliver better outcomes for those people who experience socio-economic disadvantage
- Consider opportunities for people to use the Welsh language
- Treat the Welsh language no less favourably than English.
- Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

4.1.1 The Well-being of Future Generations (Wales) Act 2015 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.

4.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.

4.2 An IIA screening form has been completed (appendix B), it determined that a full IIA report will not be required primarily as this is an updating and amendment to the decision making criteria. Each and any proposed disposal will be assessed on its individual merits.

Background Papers: None

Appendices:

Appendix A - Revised Land Transaction Procedure Rules

Appendix B - IIA