



Report of the Presiding Member, Deputy Monitoring Officer & Head of Democratic Services

Council – 5 September 2024

Amendments to Council Constitution – Article 4 and Budget Policy and Framework

Purpose:	To make amendments to simplify, improve and / or add to the Council Constitution. A decision of Council is required to change the Council Constitution. To amend Article 4 and the Budget Policy and Framework
Policy Framework:	Council Constitution.
Consultation:	Access to Services, Finance, Legal.
Recommendation(s):	It is recommended that Council adopts: 1) the amendments to Article 4 as set out in paragraph 3.1 of this report and the amendments to the Budget Policy and Framework set out in paragraph 4 and that these amendments are made to the Council Constitution.
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1. Introduction

- 1.1 Article 4 of the Constitution details the role and functions of the full meeting of Council. In particular it sets out the functions that must be undertaken by Council as prescribed by legislation; the different types of Council meetings; Council's responsibility to adopt and approve the Budget and to adopt and approve the Policy Framework.

2. The Policy Framework

- 2.1 In accordance with the Local Authority Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 (as amended) certain strategies, policies, and plans must by law be approved by the Full Council. To ensure good governance, Council may also decide to approve other key strategies, policies, plans, and procedures although there is no legislative requirement to do so (local discretion). Together these make up the authority's overarching Policy Framework.
- 2.2 The Article 4 list of policies has not been reviewed for some time. Directors have therefore taken the opportunity of reviewing the current Policy Framework and found that many of the policies and strategies which have been adopted as a result of the exercise of local discretion are now out of date or do not appear appropriate for adoption by Council in terms of their strategic significance. To better assist in determining the relevance of plans, strategies and policies for potential adoption by Council, a strategic framework has been devised to highlight the significant contribution key categories of documents make to the effective governance arrangements of Swansea Council. Each of the documents contained within the Policy Framework is accompanied by information in brackets confirming whether this is a document that can be found within the Council Constitution; whether it has been included as a matter of local discretion or whether its inclusion is prescribed by legislation.

3. Article 4

- 3.1 The current version of Article 4 is attached as Appendix 1 of this report. It is intended that this is deleted in its entirety and replaced with a new Article 4 in red text below.

Article 4 - The Full Council

4.1 Introduction

The Full Council is a formal meeting of all Councillors of the City and County of Swansea.

The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework. It is responsible for all the functions not the responsibility of the Executive. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

4.2 Functions of the Full Council

Only the Council will exercise the following functions:

- Adopting and changing the Authority's executive arrangements and the Constitution.
- Approving or adopting the policy framework, the budget, and any application to the Welsh Ministers in respect of any Housing Land Transfer.
- Electing and removing the Leader.
- Agreeing and/or amending the terms of reference for committees, deciding on their composition, and making appointments unless the appointments have been delegated by the Council.
- Adopting a Schedule of Members' Remuneration under Article 2.5.
- Changing the name of the area, conferring the title of Honorary Alderman or Freedom of the City.
- Making or confirming the appointment of the Chief Executive and Chief Officers.
- Making, amending, revoking, re-enacting, or adopting bylaws and promoting or opposing the making of local legislation or personal Bills.
- Performing the corporate joint committee functions set out in Article 11 of this Constitution, including the making of a corporate joint committee application and the giving of consent to corporate joint committee regulations being made.
- Approving, reviewing, and amending the Council's Petition Scheme.
- 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.
- Preparing an annual report on the extent to which the Council has met its performance requirements.
- Making arrangements for a Panel Performance Assessment and responding to the panel's report.
- Considering Chief Executive reports prepared pursuant to section 54(2)(b) of the Local Government and Elections (Wales) Act 2021, within 3 months of them being made.
- Considering annual reports received from the Standards Committee and the Governance and Audit Committee, within three months of them being made and keeping under review the extent to which:
 - i) The Council is exercising its functions effectively.
 - ii) Using its resources economically, efficiently, and effectively.
 - iii) Its governance arrangements are effective for securing the matters set out in i) and ii) above.
- Making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the Budget where the decision maker is minded to make it in a manner which would be contrary to a policy or beyond the budget virement limits;
- All other matters which, by law, must be reserved to Council.

4.3 Policy Framework

Under certain primary legislation prescribed strategies, policies, and plans must by law be approved by the Full Council. To ensure good governance, other key strategies, policies, plans, and procedures are also subject to approval by the Full Council (local discretion). Together these make up the authority's overarching policy framework. They are set out below:

Transparency and Accountability:

- Access To Information Procedure Rules (Council Constitution)
- Multi Location Meetings Policy (Council Constitution)
- Members Code of Conduct (Council Constitution)
- Officers Code of Conduct (Council Constitution)
- Hospitality Protocol (Council Constitution)
- Freedom of Information Policy (local discretion)

Community Engagement and Participation:

- Public Participation Strategy (Council Constitution)
- Communication and Engagement Strategy (local discretion)
- Customer Service Strategic Framework and Standards (local discretion)
- Corporate Complaints Policy (local discretion)

Corporate Planning, Performance and Risk Management:

- Corporate Plan (Local Government and Elections (Wales) Act 2021)
- Annual Performance Report (Local Government and Elections (Wales) Act 2021)
- Performance Panel Assessment report (Local Government and Elections (Wales) Act 2021)
- Risk Management Framework and Policy (local discretion)
- Corporate Transformation Strategy (local discretion)

Strategic Partnerships:

- Swansea Public Services Board Local Wellbeing Plan (Well-being of Future Generations (Wales) Act 2015)
- Regional Transport Plan (local discretion)

Service Strategies, Policies and Plans:

- Local Development Plan (Planning (Wales) Act 2015 and the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005)
- Local Transport Plan (Transport Act 2000, as amended by the Transport (Wales) Act 2006)
- Statement of Licensing Policy (Licensing Act 2003)

- Alcohol, Entertainment & Late-Night Refreshment Statement of Principles (Gambling Act 2005)
- Violence Against Women, Domestic Abuse & Sexual Violence Strategy (VAWDASV) (VAWDASV (Wales) Act 2015)
- Air Quality Action Plan (Environment Act 1995, Part IV)
- Gambling Policy (Gambling Act 2005)
- Gypsy Traveller Strategy (Housing (Wales) Act 2014)
- Safer Swansea Community Safety Strategy (Crime and Disorder Act 1998)
- Waste Strategy for Swansea (local discretion)
- Local Housing Strategy (local discretion)
- Homelessness Strategy (local discretion)
- Countryside Access Plan (formerly the Rights of Way Improvement Plan) (local discretion)
- The Admission Arrangements for Schools (local discretion)
- The Charging Framework for Home Care and other Non-Residential Social Services (local discretion)

Resource Management:

- Budget and Policy Framework Rules (Council Constitution)
- Financial Procedure Rules (Council Constitution)
- Contract Procedures Rules (Council Constitution)
- Pay Policy (Localism Act 2011)
- Workforce Strategy (local discretion)
- Asset Management Strategy (local discretion)
- Digital Strategy (local discretion)
- Cybersecurity Policy (local discretion)
- Procurement Strategy (local discretion)
- Data Protection Policy (local discretion)
- Approval of Statement of Accounts

Sustainability and Environment:

- Climate Change and Nature recovery Strategy (local discretion)
- Sustainable Development Policy (local discretion)

Human Rights, Equalities, and Inclusion:

- Human Rights and Strategic Equality Plan (local discretion)
- Welsh Language Promotion Strategy (local discretion)

Health and Safety:

- Corporate Safeguarding Policy (Social Services and Well-being (Wales) Act 2014, Children Act 2004 & Safeguarding Vulnerable Groups Act 2006)
- Corporate Health and Safety Policy (local discretion)
- Public Health Enforcement Policy (local discretion)

Additional strategies, policies or plans may also be approved by Full Council but there is no constitutional necessity for this. Strategies, policies, plans and procedures not included in the above list should be referred to Cabinet for approval or be dealt with via the relevant delegated authority in accordance with the provisions of this Constitution.

4.4 Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax Base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. It includes:

- Capital Programme
- Housing Revenue Account
- Revenue Budget
- Statutory Resolution
- Treasury Management, Prudential Indicators, Investment Strategy
- Minimum Revenue Position (MRP) Policy
- Treasury Management Annual Report

4.5 Housing Land Transfer

Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the Welsh Ministers for approval of a programme of disposal of land used for residential purposes where approval is required under Sections 32 or 43 of the Housing Act 1985.

4.6 Types of Council Meetings

The Council will conduct the following types of meetings:

- The First Annual Meeting
- The Annual Meeting
- Ordinary Meeting
- Extraordinary Meeting
- Ceremonial Meeting

These meetings will be conducted in accordance with the Council Procedure Rules in Part 4 of this Constitution.

4.7 Responsibility for Functions

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Executive, ensuring clarity and accountability.

4. Budget Policy and Framework

It is also proposed to amend **Part 4.3 Rules of Procedure (Budget and Policy Framework Rules)** paragraph 5 which deals with the virement between budget heads. The current budget heads align with Cabinet Member portfolios which change over time. It is proposed that the budget heads be amended to align with Directorates as these are less likely to change and the virement principles set out in this paragraph will be easier to monitor.

The current text is set out below with strike through to show deletions and the amendments shown in red

"5 Virement

5.1 The Council shall have the following budget heads:

- ~~Business Improvement & Efficiency~~
- ~~Community Leadership and Democracy~~
- ~~Community Regeneration~~
- ~~Culture, Recreation and Tourism~~
- ~~Economic and Strategic Development~~
- ~~Education~~
- ~~Environment~~
- ~~Finance~~
- ~~Housing~~
- ~~Social Services~~
- Education
- Social Services
- Place
- Financial Services
- Corporate Services

Steps taken by the Cabinet, a Committee of the Cabinet, an individual Member of the Cabinet or Officers, Area Committees or joint arrangements discharging executive functions to implement Council Policy shall not exceed those budgets allocated to each budget head. However, such bodies or individuals shall be entitled to vire across budget heads up to a maximum of 5% of the Council's net revenue budget per year in aggregate. Beyond that limit, approval to any virement across budget heads shall require the approval of the Council Meeting".

5. Financial Implications

5.1 All financial impacts of this report are contained within existing budgets.

6. Legal Implications

6.1 There are no further legal implications other than those set out in the report.

7. Integrated Assessment Implications

7.1 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.

7.2 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'.

7.3 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also considers 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.

7.4 An IIA screening form has been completed and has determined that a full IIA report will not be required as this is an amendment to the Council Constitution which has the objective of improving governance arrangements.

Background Papers: None

Appendices:

Appendix 1 - Article 4 The Council.

Appendix 2 - IIA