



Joint Report of the Presiding Member, Monitoring Officer, Head of Democratic Services & Constitution Working Group

Council - 26 July 2018

Amendments to the Council Constitution

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, Constitution Working Group.
Recommendation(s):	It is recommended that: 1) The changes to the Council Constitution as outlined in Paragraph 4 together with any further consequential changes be recommended to Council for approval.
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1. Introduction

- 1.1 In compliance with the Local Government Act 2000, the City and County of Swansea has adopted a Council Constitution. From time to time it is necessary to review the Council Constitution in line with legislative requirements and to ensure good governance arrangements.
- 1.2 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.

1.3 The terms of reference of the Constitution Working Group includes keeping under review the Council Constitution and to make appropriate recommendations for change.

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 4 - Cabinet Procedure Rules - Call In Procedure.

4. Part 4 - Cabinet Procedure Rules - Call In Procedure.

4.1 The Call-In Procedure is currently found within the Cabinet Procedure Rules in Part 4, Paragraph 18 of the Council Constitution. The Call-In Procedure set out at paragraphs 18.1 to 18.13 involve 5% of any councillors being able to call-in any decision of Cabinet within 3 clear working days of publication of that decision. It is for the Presiding Member to decide whether the call-in is valid.

4.2 Paragraph 18.4 sets out the exhaustive list of criteria which needs to be satisfied for a valid call-in. If valid, the called in decision will be referred to a Challenge Panel who will consider and make recommendations or refer to another body i.e. Scrutiny.

4.3 The Monitoring Officer has reviewed the Council's Call-In Procedure. Swansea Council would appear to be unique in having a valid Call-in referred to a Challenge Panel. The majority, if not all, councils have Scrutiny Committees considering a called in decision. This would be in line with the limitation on Cabinet members being unable to sit on Scrutiny Committees.

4.4 It is therefore proposed to change the current call-in procedure so that it reflects the practice across Wales and also that the exhaustive criteria for a valid call-in is changed to that set out at paragraph 3.1 of the new procedure, namely, urgency provision, that the decision is broadly the same as a decision called in previously, the decision has been subject of pre-decision scrutiny and the call-in reasons provide too little detail. The proposed new Call-In Procedure is found at **Appendix A** of this report together with a flowchart outlining the procedure at **Appendix B**.

4.5 Discussions have taken place with Group Leaders and the Chair of the Scrutiny Programme Committee and all are agreed with the proposed changes.

5. Financial Implications

5.1 There are no financial implications associated with this report.

6. Legal Implications

6.1 There are no legal implications associated with this report.

7. Equality and Engagement Implications

7.1 There are none associated with this report.

Background Papers: None

Appendices:

Appendix A Proposed - Call-in Procedure

Appendix B Call-in Procedure Flowchart

Appendix A

Proposed - Call In Procedure

1. Executive Decisions

- 1.1 Where a decision is made by Cabinet, the minutes of the decision shall be published electronically and made available at the Guildhall within 2 clear working days of the decision being made by the Head of Democratic Services.
- 1.2 The Chair and Vice Chair of the Scrutiny Programme Committee shall also be sent electronic copies of the minutes of all such decisions.
- 1.3 The minutes shall:
 - i) Bear the date on which they are published; and
 - ii) Specify that the decision will come into force and may then be implemented on the expiry of 3 clear working days (the Call In period) after the publication of the decision, unless called in pursuant to these Procedure Rules.

2. How to Call In an Executive Decision?

- 2.1 The Chair and / or Vice Chair of the Scrutiny Programme Committee or any 4 Councillors may Call In a decision by giving notice and stating the reason(s) for a Call In, in writing (preferably via e-mail) to the Head of Democratic Services within the Call In period. The Head of Democratic Services will then notify the decision taker of the Call In via e-mail.

3. Validity of Call In

- 3.1 The Head of Democratic Services upon consultation with the Monitoring Officer and Presiding Member may rule that a Call In is not valid if:
 - a) It is not made by midnight on the 3rd clear working day of the publication of the decision;
 - b) The decision is exempt from Call In on account of urgency provisions as set out below and also where:
 - i) The decision being called in is the same, or broadly the same, as a previous Call In within the last six months;
 - ii) The decision has been subject to pre-decision scrutiny and there is no material change in relevant information/evidence;

- iii) The Call In does not specify precisely which aspects of the decision is to be challenged or provides too little information.

4. Role of the Scrutiny Programme Committee

4.1 The Head of Democratic Services shall call a meeting of the Scrutiny Programme Committee on such date as s/he may determine, where possible after consultation with the Chair of the Scrutiny Programme Committee, and in any case within 7 clear working days of the decision to Call In.

Note: For the purpose of this paragraph, the last working day before Christmas and the working days between Christmas and the New Year shall not be counted as working days.

4.2 At its meeting, the Scrutiny Programme Committee will consider the called in decision.

4.3 The Scrutiny Programme Committee shall consider the reasons for the Call In and the decision and:

- i) If satisfied with the explanation it will so indicate to enable the decision to be implemented;
- ii) If 'no longer concerned', but not minded to indicate that it is 'satisfied with the explanation', it is in order for the Committee to resolve that 'the explanation be accepted but not endorsed by the Committee';
- iii) If still concerned about the decision, then it may refer it back to Cabinet or the relevant decision maker / body for reconsideration, setting out in writing the nature of its concerns. The Cabinet, decision maker / body shall then reconsider its decision before making a final decision.

5. Call In and Urgency

5.1 The Call In procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if either the Head of Paid Service, the Section 151 Officer or the Monitoring Officer certifies that any delay likely to be caused by the Call In procedure could seriously prejudice the Council or the public interest including failure to comply with statutory requirements;

- 5.2 The record of the decision, and notice by which it is made public, shall state whether the decision is an urgent one, and therefore not subject to Call In.
- 5.3 The operation of the provisions relating to Call In and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

Call In Procedure Flowchart

