



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

Council – 6 July 2023

Amendments to the Council Constitution Scheme of Delegation

Purpose:	To make amendments in order to provide clarity to the Council Constitution, specifically in relation to the Scheme of Delegation. 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) The amendments as outlined in Section 1.8 of this report are recommended to Council for adoption into the Council Constitution.
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1. Introduction

- 1.1. An amendment has been proposed to the Council Constitution for the reasons explained within this report. In particular, the Constitution Working Group is asked to consider the amendments to the Scheme of Delegation as outlined in Section 1.7.
- 1.2. The existing Scheme of Delegation is included within **Appendix A** of this report, along with a copy of the existing Land Transaction Procedure Rules within **Appendix B**. There are no amendments required to the Land Transaction Procedure Rules but they are included for ease of reference.

- 1.3. The Scheme of Delegation is set out within Council Constitution Part 3.1 and the Land Transaction Procedure Rules are covered under Part 4.7 of the same document.
- 1.4. The principle reason for the proposed amendment is to align the Scheme of Delegation with the Land Transaction Procedure Rules to ensure sufficient Delegation (for the Head of Property and/or his nominees) exists for statutory functions/tasks which are currently exempt from the Land Transaction Procedure Rules.
- 1.5. Within the Land Transaction Procedure Rules, the following tasks/functions do not apply as they are deemed of statutory nature and must therefore follow procedural routes which are set out by the appropriate legislation:-
 - a) To disposals under the Leasehold Reform Act 1967, Leasehold Reform Housing and Urban Development Act 1993, Commonhold and Leasehold Reform Act 2002.
 - b) To the renewal or restructuring of an existing lease or tenancy.
- 1.6. The Scheme of Delegation gives express powers to Responsible Officers in relation to the approvals of disposals, acquisitions and leases but on the basis they are undertaken in accordance with the Land Transaction Procedure Rules. However, the Scheme of Delegation does not specifically mention the tasks/functions which are exempt under the Land Transaction Procedure rules as set out within Section 1.5 above. Historically, there has always been an inference that these tasks/functions are exercised under delegated thresholds as they are of statutory nature and cannot therefore but subject to the conditions as set out within the Land Transaction Procedure Rules. To ensure there is no ambiguity going forward, it is suggested the following wording within Section 1.7 be added to the Scheme of Delegation to ensure a consistent and robust approach.
- 1.7. **Proposed Changes to Scheme of Delegation**

There are three relatively minor amendments proposed which are highlighted in bold within Section 1.8 but summarised as follows:-

- i) The insertion of a new Point b) will be inserted and will read as follows:-

“Delegated Authority will also be given to Responsible Officers for disposals and leases transactions where the Land Transaction Rules do not apply”
- ii) Point b) will be renamed Point c)
- iii) Point c) will be renamed as Point d)

1.8. **Scheme of Delegation - Proposed Amendments (in Bold)**

Responsible Officers can only exercise delegated authority for functions for which they have budgetary and management or operational or statutory responsibility. Decisions taken under delegated authority will be recorded in the register maintained by the Head of Democratic Services.

- 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
- b) Delegated Authority will also be given to Responsible Officers for disposals and leases transactions where the Land Transaction Rules do not apply.**
- c) In cases where the consideration is not straightforward such as involving varying rents or a combination of rental and premium the Head of Property or his nominee shall assess the total capital value of the transaction to establish if such value exceeds the limits of this delegation.
- d) Subject to any limitations imposed by the Leader, all Responsible Officers may authorise another Officer to exercise their delegated functions provided that the Responsible Officer has line management responsibility for that Officer. In those circumstances it is expected that a written “chain of authority” will be maintained.

2. **Financial Implications**

- 2.1 There are no financial implication arising directly from the proposed amendment to the Scheme of Delegation as set out within the Council’s Constitution. Financial implications arising directly from individual property transactions will continue to be undertaken, budgeted and accounted for under the Land Transaction Procedure Rules and Financial Procedure Rules.

3. Legal Implications

- 3.1 The proposed changes to the Scheme of Delegation provide clarity on the decision making process for specific tasks/functions where the Land Transaction Procedure Rules do not apply. These exempt land transactions are outlined in the main body of the report, namely Section 1.5 and are deemed to be of statutory nature. Such land transactions follow procedural routes and must be followed in-line with the given legislation. 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 C**), 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 – Scheme of Delegation (as existing)

Appendix B - Land Transaction Procedure Rules (as existing)

Appendix C - IIA