



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

Council - 9 November 2023

Amendments to the Council Constitution – Planning Matters

Purpose:	To note the Monitoring Officer amendments to the Council Constitution following changes in legislation
Policy Framework:	Council Constitution.
Consultation:	Access to Services, Finance, Legal
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For Information	

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.

2. Delegated Minor Corrections to the Council Constitution

- 2.1 Article 15 “Review and Revision of the Constitution” allows the Monitoring Officer to make changes / updates to the Council Constitution in relation to: a) Legislation; b) Changes to the Officer structure or changes of responsibility within the Officer Structure; c) The need to correct any administrative or typing errors.

- 2.2 Changes to the Council Constitution which fall under the sub paragraphs above may be made solely by the Monitoring Officer.
- 2.3 The Monitoring Officer has amended the Constitution as set out in paragraphs 3.1.4, 3.2 and 4 of this report.
3. **Part 3.1 Introduction - Scheme of Delegation (Responsibility for Functions) Paragraph 7 - Functions Relating to Town & Council Planning & Development Control.** Amendments made to correct a typographical error, remove inconsistencies and to reflect changes in relevant legislation.
- 3.1 Part 3.1 of the Constitution sets out details of the Scheme of Delegation. Paragraph 7 details the “Functions relating to Town & Council Planning & Development Control (Note ‘Council’ should be ‘Country’). In particular A15 states that the power to issue an enforcement notice or an enforcement warning notice pursuant to sections 172 and 173ZA Town and Country Planning Act 1990 is delegated to the Planning Committee or the Head of Planning and City Regeneration.
- 3.1.1 Further detail is provided by Paragraph 19 which states “Enforcement Matters - The implementation of all enforcement powers shall be delegated to the Director of Place or Head of Planning & City Regeneration, except where the proposed action would lead to the loss of a residentially occupied unit.”
- 3.1.2 The purpose of drafting was to ensure that any enforcement action that would result in the loss of someone’s dwelling would first be considered by Planning Committee.
- 3.1.3 In October 2022, an amendment was made to the Town and Country Planning Use Classes Order 1987 which introduced new use classes for dwelling houses, namely ‘Dwelling houses, used as sole or main residences’ (Class C3), ‘Dwelling houses, used otherwise than as sole or main residences’ (Class C5) and ‘Short-term Lets’ (Class C6).
- 3.1.4 As a result of the amendment to the legislation set out in paragraph 3.1.3 of this report, it is considered that the Constitution should be amended. The Monitoring Officer has amended this by making some deletions and additions. The deletions are shown as ~~striketrough~~ and the additions in red as set out below:

Part 3.1 Introduction - Scheme of Delegation (Responsibility for Functions) “7. Functions Relating to Town & ~~Council~~ **Country** Planning & Development Control.”

“19. Enforcement Matters.

The implementation of all enforcement powers shall be delegated to the ~~Director of Place~~ or Head of Planning & City Regeneration, except where the proposed action would lead to the loss of a residentially occupied unit (**Planning Use Class C3**).”

3.1.5 This would distinguish between a dwelling house used as a sole or main residence and those that are not. Reference to the Director of Place has been removed as this was inconsistent with the content of A15.

3.2 A further amendment was required to **Part 3.1 Introduction - Scheme of Delegation (Responsibility for Functions) Paragraph 7 - Functions Relating to Town & Country Planning & Development Control**. Following a change to the regulations in relation to applications for Listed Buildings, an amendment was required to A20a to ensure that applications for listed building consent made by the Council are considered at Planning Committee. The Monitoring Officer has amended this by making the additions in **red**:

A20a	Power to determine applications for listed building consent, and related powers.	Section 16(1), (2) & 17 of the Planning (Listed Building and Conservation Areas) Act 1990	PC / HoP&CR PC only where applicant is the Council
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4. **Part 3.2 - Responsibility for Functions: Terms of Reference, Section 2 (Committees) Paragraph 14 a) i) and ii)**. Amendments have been made to reflect a change in legislation and terminology.

4.1 Reference to the Unitary Development Plan should be changed to the Local Development Plan. The Monitoring Officer has amended this by making some deletions and additions. The deletions are shown as ~~strikethrough~~ and the additions in **red** as set out below:

a) To discharge the functions of the Council with regard to planning control services except:

i) Where the Planning Committee is minded to approve an application for development which the Head of Planning & City Regeneration has recommended for refusal because it is contrary to the ~~Unitary Development Plan~~ **Local Development Plan**, or any other relevant policies adopted by the Council, other than:

ii) The following policies of the ~~Unitary Development Plan~~ **Local Development Plan**:

5. Integrated Assessment Implications

- 5.1 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.
- 5.2 The Well-being of Future Generations (Wales) Act 2005 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'.
- 5.3 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.
- 5.4 An IIA Screening Form has been completed and no adverse implications have been noted.

6. Financial Implications

- 6.1 There are no financial implications associated with this report.

7. Legal Implications

- 7.1 There are no legal implications associated with this report.

Background Papers: None

Appendices: None