

**REPORT OF THE DIRECTOR GOVERNANCE AND LEGAL
SERVICES**

CONSTITUTION UPDATE

Reason for this Report

1. To inform the Committee of various amendments required to ensure the Constitution remains up to date and fit for purpose.

Background

2. The Constitution Committee's approved Terms of Reference are:

To review the Council's Constitution, and to recommend to Council and/or Executive any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-

- (a) Drafting improvements to enhance clarity and remove minor anomalies.
 - (b) Updating to reflect legislative changes and matters of record.
 - (c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).
3. The Monitoring Officer has delegated authority to make minor amendments to the Constitution, to include:
 - (a) amending typographical and minor drafting errors;
 - (b) updating to reflect legislative changes and matter of record; and
 - (c) drafting improvements to enhance clarity and remove minor anomalies

(delegated by the Constitution Committee on 8th September 2008).

Issues

4. The Council is required to keep its Constitution up to date and fit for purpose, and the Constitution Committee has responsibility for considering any necessary amendments in line with its terms of reference, set out in paragraph 2 above.
5. The following Constitution provisions have been identified as requiring amendment:

Business Rates (Discretionary Relief)

6. Under Part III, Section 47 of the Local Government Finance Act 1988, local authorities are empowered to award discretionary business rates relief to charities and other not-for-profit organisations. Welsh Assembly Guidance (issued in October 2004) notes that many authorities delegate decision making powers in respect of this function to individual officers. In Cardiff, the Cabinet has approved a Scheme for Discretionary Rate Relief (in July 2003) setting out factors which should be taken into account and various cases where relief should normally be granted, as well as the level of relief; and officers are given delegated authority to determine applications and appeals in accordance with the approved Scheme. Historically, the statutory Chief Finance Officer ('the Section 151 Officer') has had responsibility for discretionary business rates relief (and other Business Rates functions under Part III of the Act) and has sub-delegated authority for determining applications to a senior manager, but retained responsibility for determining any appeals. However, following changes in the Council's senior management structure, the Scheme of Delegations requires amendment to reflect the established procedure, specifically, to amend delegation reference FS9 to confirm the Section 151 Officer's responsibility for discretionary business rates relief (and any other Part III Business Rates functions), to be discharged in accordance with the Cabinet's approved Scheme.

Shared Regulatory Service

7. As Members will be aware, Cardiff, Bridgend and the Vale of Glamorgan Councils have collaborated to create a new regional service for Trading Standards, Licensing and Environment Health functions, approved by the decisions of the Cabinet and full Council in October 2014. The Shared Regulatory Service adopts a Joint Committee structure, in which certain regulatory services functions of each authority are delegated to the Joint Committee, other functions are reserved to each individual authority, and officers in the shared service are granted any necessary delegations; all of which are set out (amongst other matters) in the 'Joint Working Agreement' concluded by the 3 Councils on 10th April 2015. The delegations to the Shared Regulatory Service Joint Committee need to be reflected in the Scheme of Delegations, Section 5 'Delegations to Joint Committees', and consequential amendments made to the corresponding current delegations. The Monitoring Officer has delegated authority to make such minor Constitution amendments as a matter of record pursuant to the delegations

approved by Cabinet and full Council; and the Committee is invited to note that such amendments are to be made.

Revised Senior Management Structure

8. As Members will be aware, the Cabinet approved a revised senior management structure in February 2015, reflecting a re-modelling of the Tier 1 senior management team. Under the revised structure the number of Directors is reduced from 11 to 7 with associated changes to post titles and areas of responsibility. When these changes take effect they will need to be reflected in the Constitution, in particular in the Scheme of Delegations, by deleting reference to obsolete post titles and replacing them with reference to the new post having responsibility for those functions under the new structure. Article 15.2(i) of the Constitution currently provides that any references to officer post titles should be understood as referring to any new post title where post titles or responsibilities change due to management restructures. However, for clarity it is recommended that the correct post titles should be substituted for the obsolete titles. The Monitoring Officer has delegated authority to make such minor amendments as a matter of record pursuant to the new management structure as and when it takes effect; and the Committee is invited to note that such amendments are to be made.

Legal Implications

9. The Local Government Act 2000 and the Local Authority Constitution (Wales) Direction 2002 requires the authority to keep its constitution up to date.

Financial Implications

10. There are no direct financial implications arising from the recommendations of the report.

Recommendations

The Committee is recommended to:

1. agree the amendment of the Scheme of Delegations as set out in paragraph 6 of the report and recommend the same to full Council for approval; and
2. note the minor Constitution amendments set out in paragraphs 7 and 8 of the report, which are to be made under the Monitoring Officer's delegated authority.

Marie Rosenthal

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Date: 8th July 2015

CC/KA/V1.0

Background papers

Cabinet report 'Discretionary Rate Relief Scheme', 10 July 2003 and decision in respect thereof;
Welsh Assembly Government, 'Non-Domestic Rates, Guidance on Rate Relief for Charities and Other Non-Profit Making Organisations' issued October 2004;
Cabinet report 'Regionalising Regulatory Services Project' 9 October 2014 and minutes thereof;
Council report 'Regionalising Regulatory Services Project' 23 October 2014 and minutes thereof;
Shared Regulatory Service Collaboration, 'Joint Working Agreement' dated 10th April 2015
Cabinet report 'Senior Management Review', 19 February 2015 and decision in respect thereof