

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO COUNCIL

2 SEPTEMBER 2015

REPORT OF THE MONITORING OFFICER

AMENDMENT TO THE CONSTITUTION

1. Purpose of Report.

- 1.1 The purpose of the report is to seek Council's approval of proposed amendments to the Constitution which reflect changes to the Council Procedure Rules.

2. Connection to Corporate Improvement Plan / Other Corporate Priority.

- 2.1 The Constitution governs the operation of the Authority and thereby connects to the Corporate Improvement Plan and all Corporate Priorities.

3. Background.

- 3.1 A new Model Constitution has been developed supported by an ICT system to aid its amendment. The new model whilst different in presentation is not significantly different in content with the exception of call-in provisions. Bridgend has enabled a call-in to be referred to Council due to the original advice provided by Welsh Government. Bridgend is now in isolation in enabling this to take place and it is the one area where the new Model Constitution differs significantly from Bridgend's Constitution.

- 3.2 The legal background is set out in the Local Government Act 2000 which gives scrutiny the power to review and scrutinise Executive decisions made but not yet implemented.

4. Current situation / proposal.

- 4.1 The Council's current call-in arrangements are attached as **Appendix 1** as an extract from the Constitution. A significant review of the original Constitution was undertaken some years ago however the call-in provisions have been in place largely unchanged since the Leader and Cabinet arrangements were first introduced by the Local Government Act 2000.

- 4.2 Under the current call-in procedure, Scrutiny can make any one of three decisions regarding a called-in item:

- do nothing and let the decision stand without review;
- refer the matter back to the decision making person or body with a recommendation that the decision be reconsidered;
- refer the matter to Council.

- 4.3 It is proposed that the power of Scrutiny to refer called-in items to Council be removed and the Council Procedure Rules amended accordingly as set out in

Appendix 2. In practice only one referral has been made to Council and the view of the Monitoring Officer is that it is inappropriate for such a referral to take place. Full Council has no power to make decisions in respect of an Executive decision unless it is contrary to the Policy Framework or contrary to or not wholly consistent with the Budget Framework and the Constitution already deals with such events. The Monitoring Officer's view is that effective decision making must be made by those with the responsibility to undertake it and it must be undertaken in a timely environment. It is the role of Scrutiny to support and challenge Cabinet where appropriate, it is not the role of Council to do so and a referral to Council simply delays the decision making process.

- 4.4 The present drafting of the Constitution has also given rise to differences of interpretation particularly in relation to the speed at which a call-in should be dealt with. The proposed changes clarifies that call-in should be dealt with in priority to ensure that the concerns of Scrutiny and the decision making processes of the Authority are dealt with appropriately.

5. Effect upon Policy Framework & Procedure Rules.

- 5.1 The Constitution governs the operation of the Authority and thereby has an effect upon the operation of the Policy Framework.
- 5.2 The Scrutiny procedures form part of the Council's Executive arrangements and should be endorsed by the Council in terms of any necessary amendments to the Constitution.

6. Equality Impact Assessment.

- 6.1 Although there are no direct impacts, the Constitution as the key governance framework document for the Authority is critical in demonstrating commitment to the Authority's duties under the Equality Act 2010.

7. Financial Implications.

- 7.1 None.

8. Recommendations.

- 8.1 Council is recommended to approve the amendments to the Constitution as set out in **Appendix 2** of the report.

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Background documents:
Council's Constitution