

# Report



## Democratic Services Committee

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### Part 1

Date: 23<sup>rd</sup> June 2022

**Subject** Revised Scheme of Delegation to Officers

**Purpose** To agree an updated and revised Officer Scheme of Delegation and to recommend to Council that it be adopted as Part 3 Appendix 3 of the Constitution.

**Author** Head of Law & Standards

**Ward** City wide

**Summary** At the Annual General Meeting in May 2022, Council agreed and adopted an amended officer scheme of delegation to reflect the new senior management re-structure and the re-alignment of services. There were no substantive changes to the previous scheme of delegation but responsibility was been transferred, where appropriate, to the new Head of Service.

However, it has since come to light that further amendments are required to update the Planning scheme of delegation and to reflect the Chief Executive's powers to discharge specific statutory functions in relation to elections, as the Council's designated Returning Officer. The opportunity has also been taken to make some minor corrections in relation to specific service responsibilities.

**Proposal** To agree an updated and revised Officer Scheme of Delegation and to recommend to Council that it be adopted as Part 3 Appendix 3 of the Constitution

**Action by** Head of Law & Standards

**Timetable** In line with legislative requirements

This report was prepared after consultation with:

- Chief Executive
- Strategic Directors
- Head of Finance
- Heads of Service and Corporate Management Team.

## Background

1. Section 37 of the Local Government Act 2000 requires the Council to keep up-to-date and publish its written Constitution. As part of its terms of reference, Democratic Services Committee has responsibility for monitoring and reviewing the Council's corporate governance arrangements and make recommendation to Council, where necessary, to update the written Constitution. The written Constitution forms part of the Council's Policy Framework and any amendments must, therefore, be formally approved and adopted by full Council.
2. In accordance with the Council's approved scheme of delegation, which is set out at Part 3 Appendix 3 of the Council's Constitution, a number of statutory functions are delegated to Heads of Service who are authorised to discharge these duties in behalf of the Council. .
3. At the Annual General Meeting in May 2022, Council agreed and adopted an amended officer scheme of delegation to reflect the new senior management re-structure and the re-alignment of services. There were no substantive changes to the previous scheme of delegation but responsibility was been transferred, where appropriate, to the new Head of Service.
4. However, it has since come to light that further amendments are required to update the Planning scheme of delegation and to reflect the Chief Executive's powers to discharge specific statutory functions in relation to elections, as the Council's designated Returning Officer. The opportunity has also been taken to make some minor corrections in relation to specific service responsibilities
5. Therefore, these further changes and amendments have been incorporated into a revised and updated scheme of delegation for consideration by democratic services committee and adoption by full Council.

### 6. **Planning scheme of delegation.**

Under the Planning scheme of delegation, the Head of Regeneration and Economic Development is given delegated authority to determine "minor" or straightforward planning applications and only those major applications, with strategic or regional implications, are reserved to full Planning Committee. However, the one exception was in relation to planning applications submitted in relation to Council property or assets, where all applications, of whatever nature, had to be referred to full Planning Committee. This was because the Head of Regeneration and Economic Development was "conflicted" because she was also responsible for corporate assets and property. Therefore, to ensure openness and transparency and to avoid any perception of bias, where the same officer was responsible for both the planning application and its determination, all planning applications in relation to corporate property and assets had to be determined by Planning Committee.

7. However, under the new senior management structure and re-alignment of services, responsibility for corporate property and assets has now been transferred to the Head of People Policy and Transformation. All planning applications in relation to corporate property and assets will, in future, be submitted on behalf of the Head of People Policy and Transformation and, therefore, there is a clear separation of functions in relation to the submission and determination of these planning

applications. Because there is no longer any conflict of interest on the part of the Head of Regeneration and Economic Development and the planning function is entirely independent of the corporate property service, then there is no reason why planning applications in relation to corporate property and assets should not be determined under officer delegated powers in the same way as other external planning applications. This would free-up Planning Committee to deal with the larger, more contentious planning applications and they would not have to consider relatively minor or straightforward corporate applications.

8. Therefore, proposed amendments have been made to the schemes of delegation for both the Head of Regeneration and Economic Development and the Head of People Policy and Transformation to provide a simplified and more streamlined process for the submission and determination of planning applications in relation to corporate property and assets. The new section 1.4 will enable the Head of People Policy and Transformation to arrange for the submission and, subject to approval, the implementation of corporate planning applications. The amendments to the planning scheme of delegation to the Head of Regeneration and Economic Development in section 7.2 will enable her to determine with these corporate planning applications, if they are not matters that would otherwise have to be referred to Planning Committee of full Council.
9. The scheme of delegation still provides for planning applications to be determined by Planning Committee where an elected member is an applicant or statutory consultee or where any officer involved in the application is closely connected or associated with the Development Control service, to maintain independence and transparency. There is also the facility for individual elected members to refer a proposed delegated decision to Planning Committee, where they are dissatisfied with the outcome and there are genuine planning reasons for the referral, as with external planning applications.
10. **Chief Executive's delegated powers as Returning Officer**

It has also come to light, following the local elections, that the section in the officer scheme of delegation in relation to the Chief Executive's delegated powers as Returning Officer for elections is incomplete. There are a number of statutory powers in relation to the conduct of elections that are delegated by Council to the Chief Executive, under the section of the Constitution that refers to the allocation of functions and responsibilities. In accordance with the Functions and Responsibilities (Wales) Regulations, these are non-executive functions which the Council arranges to discharge through the Returning Officer. These functions include the power to declare and give notice of a casual vacancy, in the event of the resignation or disqualification of a Councillor and also the power to appoint temporary community council members where a community council is inquorate and, therefore, unable to co-opt additional members.
11. Therefore, an additional section 2.3 has been added to the Chief Executive's scheme of delegation to refer to these specific power in relation to elections. These are not new or additional powers, as they are already allocated to the Chief Executive under the Constitution, but they are now incorporated in the officer scheme of delegation, for consistency and ease of reference.

12. **Minor amendments.**

The opportunity has also been taken to make some minor corrections in relation to specific service responsibilities. For example, sections 7.7 and 7.8 have been revised to update the delegated powers of the Head of Regeneration and Economic Development in relation to grant approvals and events and marketing. Responsibility for City Centre management has been transferred from the Head of City Services to the Head of Regeneration and Economic Development and delegated powers for footpath diversions, graffiti and ASBO notices have been transferred to the Head of environment & Public Protection. Delegated powers in relation to Empty Dwelling Management orders, Gypsy and traveller assessments and Social Housing grant have been transferred to the Head of Housing and communities.

**Financial Summary**

13. There are no financial implications

**Risks**

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)		What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Not updating and revising the officer scheme of delegation	H	M		Failure to update the scheme of delegation would be contrary to the requirements of Section 37 of the Local Government Act 2000, would be contrary to the principles of transparent and accountable decision-making and could lead to decisions being legally challenged.	Head of Law & Regulation
Updating and revising the officer scheme of delegation	L	L		There would be a clear allocation of functions within the Constitution and transparent and lawful decision-making.	Head of Law & Regulation

\*Taking account of proposed mitigation measures.

## **Links to Council Policies and Priorities**

Clear and transparent decision-making is fundamental to the work of the Council and the delivery of the Corporate Plan. Ensuring that the appropriate governance arrangements are in place is also consistent with the sustainability duty under the Future Generations and Well-Being Act and the well-being goals of a more equal Wales and a Wales of cohesive communities.

## **Proposal**

To agree an updated and revised Officer Scheme of Delegation and to recommend to Council that it be adopted as Part 3 Appendix 3 of the Constitution

## **Comments of Chief Financial Officer**

There are no financial implications

Clear responsibilities and delegation is important to facilitate good financial management and planning. This document also links with other key documents such as Council Contract Standing Orders and Financial Regulations which govern the framework under which these delegations should be exercised in relation to financial matters.

## **Comments of Monitoring Officer**

Set out in the Report.

## **Comments of Head of People Policy & Transformation**

As outlined in the report clear and transparent decision-making is fundamental to the work of the Council and the delivery of the Corporate Plan. Ensuring that the appropriate governance arrangements are in place is also consistent with the sustainability duty under the Well-Being of Future Generations Act.

There are no direct HR implications arising from the report, and the responsibilities are in line with current staffing structures as agreed by Council.

## **Background Papers**

Part 3 Appendix 3 of the Council's Constitution

Dated: 10<sup>th</sup> June 2022