

Report

Council



Part 1

Date: 28 November 2023

Subject Amendment to Council Constitution – ‘Budget Framework procedure rules’

Purpose To update the Constitution regarding the Budget Procedure Rules.

Author Head of Finance

Ward N/A

Summary Following the Council budget setting meeting for 2023/24, the requirement for further clarification of procedures became apparent. The Head of Finance and Monitoring Officer have reviewed the position and prepared a draft update to the Council’s constitution which clarifies the position and ensures that Newport City Council’s procedures better align with the ‘Welsh model’ version regarding this whilst ensuring it is also practicable.

Proposal To approve and adopt amendments to the Council’s Constitution in line with the ‘Welsh Model Constitution’ and support the Council to meet its statutory requirements in terms of decision making concerning the Council’s budget.

Action by Head of Finance and Head of Law and Standards – amendments to be applied to the Constitution.

Timetable Immediate

This report was prepared after consultation with:

- Head of Law and Standards/ Monitoring Officer
- Chief Executive
- Strategic Director - Resources
- Head of People, Policy and Transformation

Background

1. During the 2023/24 budget setting meeting of the full Council in February 2023, a small number of councillors requested that they introduce some changes to the Cabinet's final budget proposals. They were consequently raised at the meeting as a motion to amend the budget proposals, however, the motion failed to achieve sufficient support and the Budget as proposed by Cabinet was approved.
2. This situation highlighted that the constitution requires amendment to clarify the procedures for alternative budget proposals to be submitted in sufficient time for the budget setting process to be completed in time for the statutory deadline in early March. In addition, this section of the constitution required adjustments to ensure it aligns with the Welsh Model constitution. In light of this, the Head of Finance and Monitoring Officer undertook to review the Council's constitution in regard to the budget procedure rules and how they were being interpreted in terms of the procedures and processes followed.
3. That review has now been completed and the findings and recommendations from that include:
 - (i) Whilst the Council's Constitution broadly aligns to the 'Welsh model', clarification is required in relation to procedure rules for alternative budget proposals to be submitted prior to the budget setting full Council meeting, held at the end of February each year.

The recommendation arising from this review is that the Council's Constitution is amended to ensure that it now aligns with the Welsh model but with permitted local variations to suit our own budget setting timescales.

- (ii) The review noted that the following relevant sections of paragraph 4.1.2 of Article 4, Part 2 of Council's Constitution mirrors the Welsh model:

"The Budget

The budget includes the allocation of financial resources to different services, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement.....and the setting of virement limits."

Therefore, no changes are required to provide any further clarity on what defines the Budget however, members may be reminded of the following points as part of the budget setting process:

- The Cabinet, following consultation, makes the final budget recommendation to the Council on the rate of Council Tax and budget investment/pressures and savings in individual services.
 - The Council makes the final decision on the rate of Council Tax and the budget allocated to services i.e. the budget investment/pressures and savings in individual services.
 - In fulfilling this role, the Council receives the Cabinet's final budget proposals and can adopt them, amend them or substitute its own proposals in their place, provided that any alternative proposals are submitted in line with the newly amended version of the process before the Committee today.
- (iii) The model Constitution combines the budget and policy framework procedures. This introduces practical challenges in relation to the budget setting process and the statutory timescales involved. Managing both processes in the same way introduces significant risk of the Council being unable to set a balanced budget within the statutory timeframes.

There is however local discretion for Councils to introduce variances to the model to suit their own budget setting timetable.

Recommended changes to the Council’s Constitution introduce some practical requirements and processes into the changes outlined above via a separation of the processes for the budget from other policy frameworks. These amendments are as follows:

- A strict deadline for Members to give notice and provide any proposed amendments to proposed Budget to the Head of Finance and Monitoring Officer for consideration; and
- that this includes time for consideration of the suitability of any proposed amendments.

These amendments are required to enable the Council to conduct its business in accordance with statutory requirements whilst enabling oversight by statutory officers who have legal duties to ensure that the budget is robust, balanced and is agreed by full Council in sufficient time to meet statutory and billing deadlines for Council Tax purposes.

4. The changes outlined are incorporated into the draft amended Budget and Policy Procedures document attached as Appendix 1. The amendments are proposed to provide clarity on the respective roles of Cabinet and Council as regards setting the Council’s revenue budget and rate of Council Tax. If adopted and agreed by Council at its January 2024 meeting, the amendments will be applied for the 2024/25 budget setting full Council in late February 2024.

The Head of Finance and Monitoring officer will further review other budget related areas of the Constitution such as the Financial Regulations in due course.

Financial Summary (Capital and Revenue)

There are no direct costs in relation to this review and implementation of the changes.

Risks

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
The new arrangements are implemented without the local additions to ensure practical and other issues are addressed	H	L	The practical additions to the Constitution include deadlines for Members to raise proposed amendments and allow Cabinet time to review and consider.	Head of Legal / Monitoring officer and Head of Finance

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The budget underpins all of the Council's policies and priorities and the recommended changes in this report ensure the full Council determines the budget allocation in line with legal requirements which underpin the 'Welsh Model Constitution'.

Options Available and considered

- (i) To approve the recommended changes to the Council's Constitution as recommended by Democratic Services Committee
- (ii) To not approve the changes as recommended by Democratic Services Committee and keep the current working practices/policy and Constitution in place.

Preferred Option and Why

Option 1; the amendments recommended are in line with the 'Welsh Model Constitution' which in turn enables the Council to meet its statutory requirements in terms of decision making concerning the Council's budget.

Comments of Chief Financial Officer

The report deals with procedural matters pertaining to the Cabinet and Council roles in agreeing the Council's revenue budget and rate of Council Tax. There are no direct financial impacts here.

The proposed changes will provide useful clarification to the respective roles of Cabinet and Council and the practical changes are essential to ensure that the changes can be implemented in a way which ensures the Council agrees a budget that meets both statutory and Council Tax billing deadlines.

Comments of Monitoring Officer

The changes recommended are in accordance with the requirements that the Council implements the Welsh Model Constitution as updated in May 2022, with local permitted variations. The Local Government Act 2000 requires every Principal Council to publish a constitution which includes the rules, codes and protocols that govern its business. The Act also gives ministers powers to specify what should be included. The contents of the constitution include provisions that replicate legislation; rules that the Council are required to have but which are not specified; and rules that Council have chosen, to reflect local conventions on how we work.

The current constitution is based on a national model commissioned by the Wales Branch of Lawyers in Local Government ("LLG") and the Welsh Local Government Association ("WLGA") in 2014. The Council made some changes to the national model to reflect local conventions. However, legislation has changed since it was produced and as a result, in 2021 the LLG and the WLGA commissioned a firm of solicitors to produce an updated version. Welsh Government were consulted to ensure that the model conforms to its expectations of what it should contain. The model therefore complies fully with the legislative requirements.

Comments of Head of People, Policy and Transformation

There are no direct HR implications arising from the proposed change.

The principles of open and transparent governance are consistent with the Council's Corporate Plan and objectives under the Well-being of Future Generations (Wales) Act

Scrutiny Committees

N/A

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

All budget proposals which impact on services to the public require an FEIA and this is an established part of the Council's budget setting processes. In formulating final budget proposals, Cabinet and Council are assured and made aware of issues coming out of FEIA's and this will continue

The changes outlined here and included in the Appendix do not give rise to any particular FEIA and arguably, enhances the Council's assessment and approach given the wider range of decision maker's for individual budget proposals

Through ensuring the effectiveness of the Council's corporate governance and decision-making processes, the Council will meet the requirements of the Wellbeing of Future Generations (Wales) Act 2015

Consultation

In their meeting on 20th November 2023, Democratic Services Committee considered the proposed amendments to the Constitution and recommended the option presented to Council for approval.

Background Papers

Welsh Model Constitution

Dated: 21st November 2023