

Report

Democratic Services Committee

Part 1

Date: 18th March 2024

Subject **Amendment to Constitution - Scheme of Delegation for Assets**

Purpose To agree an updated and revised Officer Scheme of Delegation for decisions relating to Assets and to recommend to Council that it be adopted within the Constitution.

Author Head of People, Policy & Transformation

Ward N/A

Summary To review the officer Scheme of Delegation for Assets as set out in the Council's constitution updating the schedule for delegated property transactions to ensure that the Council's governance for asset transactions supports effective decision making and better aligns with other delegated decisions contained within the constitution.

Proposal That the committee reviews and proposes the recommendations in this report for a decision by full Council in April 2024

Action by Head of People, Policy and Transformation – prepare report, as appropriate, to full Council taking account of any comments from this committee.

Timetable Full Council – April 2024

This report was prepared after consultation with:

- Strategic Director – Corporate and Transformation
- Head of People, Policy & Transformation
- Head of Asset Management and Valuation, Newport Norse
- Head of Legal / Monitoring Officer
- Cabinet Member – Infrastructure and Assets
- Head of Housing and Communities

Signed

Background

In accordance with the Council's approved scheme of delegation, set out in Part 3, Appendix 10.9 of the Council's Constitution, a number of statutory functions are delegated to Heads of Service who are authorised to discharge these duties on behalf of the Council. The values of certain asset transactions have been in place for some time, are no longer aligned with current assets values, and are out of step with other delegated decisions contained within the constitution.

The developing transformation programme has a number of strategic projects which will place increasing demands on the Councils asset property portfolio and asset transactions and we are currently redeveloping the Strategic Asset Management Plan. To ensure there is effective and efficient decision making when considering assets, there is a need to ensure that decisions are made and recorded at the correct level, by amending the current scheme of delegation for minor property transactions, and diverting the focus, resource and time on major property transactions.

An analysis of a range of other local authorities in Wales has been undertaken and concludes we are currently out of step with other Councils where the focus is on major property transactions, setting financial limits ranging from £100,000 to £1,000,000 as examples. These ranges are more reflective of property values, and more closely aligned to other delegations such as those governed by the Council's Contract Standing Orders (CSO).

Changing the focus as recommended would enable property decisions to be streamlined, with the full democratic process being used more appropriately for major decisions. All assets decisions will align with the Council's Strategic Asset Management Plan.

All decisions, whether Cabinet Member or Head of Service are subject to appropriate reports, recording and relevant legal and financial advice and controls. Officer decisions are also subject to Strategic Asset Management Group review, and Capital Assurance requirements, and the principles set out in the Strategic Asset Management Plan (being redrafted Quarter 4 2023/24) and its supporting policies. The Council's Risk Management Policy also outlines the controls required to protect the Council's finances and assets, and the requirement to deliver best value.

Decisions relating to assets are also subject to internal officer controls, financial and capital monitoring requirements, where appropriate project management oversight, and legal /property services advice as well as the wider constitution and legislative requirements.

Proposal

The current scheme of delegation requires Cabinet and Ward Members to be consulted on a wide range of minor transactions, and formal Cabinet Member reports for a variety of decisions, which can create operational challenges as well as unnecessary delays. The values outlined in the scheme have diminished over time, applying to increasingly minor transactions.

Formal Cabinet Member reports and decisions are currently required for any disposals or acquisitions exceeding 100 square metres, and granting or acquiring interests exceeding £1,000 per annum as well as any lease over 7 years.

Due to the increased property and asset transactions that will arise from key strategic transformation projects, including Asset Rationalisation; changes in Housing requirements and in Childrens Services such as the Eliminate agenda; it is proposed that the scheme of delegation is amended.

Proposed changes to delegated powers

Current officer delegation	Proposed delegation
i. To dispose of and acquire freehold interests or grant and acquire leasehold interests on parcels of land not exceeding 100 square metres in extent	To acquire, purchase and dispose of freehold interests in land and property where the consideration for the transaction does not exceed £100,000. Where the transaction relates to the portfolio of any Cabinet Member(s), the decision shall be taken in consultation with that (those) Cabinet Member(s).
ii. To grant/acquire interests in property with an annual value not exceeding £1,000	To enter into, amend or surrender leases of land and property with an aggregate annual sum payable by the tenant (including rent, insurance rent, service charge/s and all other sums payable pursuant to the lease) not exceeding £100,000. To grant and obtain any consents sought or required in relation to any lease to which the Council is a party.
iii. To grant/acquire easements for services	To enter into, grant, amend or surrender licences, permissions, wayleaves, easements and other legal interests in land or property.
iv. To grant licenses to graze animals and/or mow grass for haymaking	Delete clause (included above).
v. To grant/acquire licenses to use property	Delete clause.
vi. To grant/acquire leases for a period of less than 7 years	Delete clause.
vii. To grant the release or discharge of covenants relating to Council land and property.	No change proposed.
The relevant Cabinet Member(s) and Ward Member(s) shall be consulted before any decisions are taken in relation to minor property transactions that relate to their portfolios or wards	In addition to any other requirement above to consult with Cabinet Members, the relevant Cabinet Member(s) and Ward Member(s) shall be consulted where there is a direct or <u>wider impact</u> on the community or residents within a ward arising from any proposed transaction.

Ward members will continue to be consulted where there is a wider impact or direct interest on the community or residents within a ward.

Decisions regarding dwellings provided to meet the council's statutory homelessness duties are dealt with through the Head of Housing and Communities delegated powers, following the relevant assessment.

All decisions, whether Cabinet Member or Head of Service are subject to appropriate reports, recording and relevant legal and financial advice and controls. Officer decisions are also subject to Strategic Asset Management Group review, financial and budgetary controls, Capital Assurance requirements, and the principles set out in the Strategic Asset Management Plan (being redrafted Quarter 4 2023/24).

Heads of Service to make arrangements for relevant record keeping and sign off within the management structure and property service arrangements based on the values established in contract standing orders and financial regulations.

The Cabinet Member will continue to receive regular reports on progress relating to property matters through portfolio briefings.

Therefore, the **amended scheme of delegation** would be:

Decisions delegated:

- *To **acquire, purchase and dispose** of freehold interests in land and property where the consideration for the transaction does not exceed £100,000. Where the transaction relates to the portfolio of any Cabinet Member(s), the decision shall be taken in consultation with that (those) Cabinet Member(s).*
- *To enter into, amend or surrender **leases** of land and property with an aggregate annual sum payable by the tenant (including rent, insurance rent, service charge/s and all other sums payable pursuant to the lease) not exceeding £100,000.*

To grant and obtain any consents sought or required in relation to any lease to which the Council is a party.

- *To enter into, grant, amend or surrender licences, permissions, wayleaves, easements and other **legal interests** in land or property.*
- *To grant the release or/ discharge of **covenants** relating to Council land and property*

In addition to any other requirement above to consult with Cabinet Members, the relevant Cabinet Member(s) and Ward Member(s) shall be consulted where there is a direct or wider impact on the community or residents within a ward arising from any proposed transaction.

All decisions must be within agreed council policies, Strategic Asset Management policies and within budgets allocation for the service areas affected.

Following the relevant assessment, dwellings provided to meet the council's statutory homelessness duties are dealt with by the Head of Housing and Communities.

Financial Summary (Capital and Revenue)

There are no financial impacts arising from the proposal which is in line with other matters relating to levels of delegation as set out in contract standing orders.

Risks

It is important to identify and manage any project or scheme's exposure to risk and have in place controls to deal with those 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?
That decisions are not effectively scrutinised.	M	L	As set out in the report, proposal to scrutinise at an appropriate level, subject to existing governance arrangements.	Head of People Policy and Transformation.

That decisions are not taken in a timely manner to support Council priorities.	M	M	<p>Currently an increasing number of decisions are taken at Cabinet Member level resulting in delays. This report proposes a more effective way of working.</p> <p>Redevelopment of the Strategic Asset Management plan and policies.</p> <p>Actions as outlined in this report, to clarify roles and processes.</p>	<p>Head of People, Policy and Transformation.</p> <p>Head of Law and Standards.</p>
That opportunities are not maximised, creating, or sustaining budget pressures, for example homelessness	L	M	Actions outlined in this report to ensure that decisions regarding dwellings are taken in a timely manner following appropriate assessment.	Head of Housing and Communities.

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

The effective management of property transactions underpins all of the Council's policies and priorities and the recommended changes in this report ensure that there is effective governance at the appropriate level of transaction.

Options Available and considered

- (i) Agree the recommended changes to go to full Council for review and approval.
- (ii) Not agree the changes and keep the current working practices/policy and Constitution in place.
- (iii) Propose alternative amendments to the scheme of delegation for consideration by full Council.

Preferred Option and Why

Option 1(i) - The amendments recommended are in line with the other parts of the scheme of delegation.

Comments of Chief Financial Officer

Whilst individual property decisions will continue to have financial consequence, this report is specifically about improving the responsiveness and timeliness of operational decision making.

There will still be a need to ensure that any acquisitions, on a case by case basis, are affordable and the necessary authority sought and agreed to add such commitments to the capital programme. Similarly, any disposal over £10,000 continues to be regarded as a capital receipt, to be used/held corporately to support capital expenditure.

Comments of Monitoring Officer

In common with other local authorities, the Council has a scheme of delegation which allows certain decisions to be taken by cabinet members or officers. As set out in the report, the Council's current Scheme of Delegation allows Heads of Service to make decisions regarding minor property transactions, however, this is not consistent with the norm across other authorities, many of which delegate decisions which are of a considerably higher value than is currently the case at this Council. Allowing senior officers to take decisions with regard to property acquisition and disposal within defined parameters and in accordance with Council policy will enable more efficient decision-making and enable members to focus on key, higher value transactions. It is noted, however, that the amended scheme of delegation includes a requirement for consultation with Cabinet members and ward members in certain circumstances which will ensure that members are made aware of transactions which may affect their portfolio or ward.

As the report sets out, officer decisions to acquire, dispose of or otherwise deal with interests in land must be recorded and that record must set out the details of the property and the transaction, the name of the officer taking the decision and the delegated authority under which the decision was taken. It is proposed that a centralised register for such decisions will be set up.

Comments of Head of People, Policy and Transformation

This report seeks the agreement of the Democratic Services Committee on the recommended changes and amendments to the Officer Scheme of Delegation for Assets for full review and approval by Council.

The principles of open and transparent governance are consistent with the Council's Corporate Plan 2022-27 supporting Objective 4 (An inclusive, fair and sustainable council – Newport City Council is an inclusive organisation that places social value, fairness and sustainability at its core). The principles of the Well-being of Future Generations (Wales) Act 2015 and its five ways of working were supported when forming the proposal through working in collaboration and involving officers both across the Council and partners.

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

Scrutiny Committees

None.

Fairness and Equality Impact Assessment:

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

An FEIA is not required at this stage, however, this proposal is considerate of the 5 ways of working within the Wellbeing of Future Generations (Wales) Act.

- Long Term – Ensures that property decisions will be streamlined, with the full democratic process used more appropriately for major decisions over the long term, while ensuring short-term needs are not adversely impacted.
- Prevention – Ensures that the focus for Cabinet and ward members will be on decisions where there is a wider impact or direct interest on the communities they serve. This will ensure there is effective and efficient decision making when considering assets preventing potential delay issues.
- Integration – Supports the Councils Well-being Objectives, the seven Well-being Goals, and will re-align our focus in comparison with other local authorities in Wales.
- Collaboration & Involvement – In forming the proposal officers across the Council have worked in collaboration and involved other partners (e.g. Newport Norse) in its development.

Consultation

Discussion with officers across the Council, Newport Norse and also Cabinet Member for Assets has formed the proposal.

Background Papers

Constitution – scheme of delegation [Officer Scheme of Delegation \(p26\)](#)

Schemes of delegations for other Councils

Dated: 4th March 2024