

Report



Democratic Services Committee

Part 1

Date: September 2022

Subject **Guide to the Constitution**

Purpose To agree the Guide to the Constitution and recommend to Council that it be adopted and published on the website.

Author Head of Law & Standards

Ward City wide

Summary In accordance with section 37 of the Local Government Act 2000 (as amended by section 45 of the Local Government and Elections (Wales) Act 2021) the Council is required to publish electronically and keep up to date a guide which explains, in ordinary language, the content of the Constitution. The requirement for a separate guide to the Council's corporate governance arrangements forms part of the wider strategy of greater transparency and encouraging wider public engagement and participation in decision-making

A draft guide to the constitution is attached at Appendix 1 to this report. It is based on the model guide produced by the Welsh Local Government Association and Lawyers in Local Government and, therefore, complies with the requirements of the legislation and the draft statutory guidance.

In accordance with the legislation, councils are required to adopt and publish the guide as soon as possible after May 2022. Therefore, it is proposed that Democratic Services Committee agree an initial guide and recommend it's adoption to full Council, but the effectiveness of the guide is then monitored and reviewed as part of the wider Participation and Engagement Strategy.

Proposal (1) **To agree the Guide to the Constitution and recommend to Council that it be adopted and published on the website.**

 (2) **To monitor and review the effectiveness of the Guide as part of the Participation and Engagement Strategy.**

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 People, Policy & Transformation

Background

1. In accordance with section 37 of the Local Government Act 2000 (as amended by section 45 of the Local Government and Elections (Wales) Act 2021) the Council is required to publish electronically and keep up to date a guide which explains, in ordinary language, the content of the Constitution.
2. In producing such a guide, the Council must have regard to statutory guidance issued by the Welsh Government under section 38 of the Local Government Act 2000. The Welsh Government has produced draft statutory guidance in relation to corporate governance arrangements generally as a result of the legislative changes introduced by the 2021 Act, but the final guidance has not yet been issued. However, the Welsh Local Government Association and Lawyers in Local Government have produced a model guide to the constitution which councils are able to use and adapt in order to meet the requirements of the legislation and the final guidance.
3. The requirement for a separate guide to the Council's corporate governance arrangements forms part of the wider strategy of greater transparency and encouraging wider public engagement and participation in decision-making. As such, the guide is an integral part of the Council's statutory duty to encourage public participation in decision-making in accordance with section 39 of the 2021 Act and is intended to complement and integrate with the Council's Participation and Engagement Strategy under section 40.
4. Therefore, the guide is intended to be distinct from the Constitution itself and is not simply an annotated index to the various sections within the Constitution. The guide is designed to help members of the public understand how the Council makes decisions and delivers services and how they can get involved. It is intended to provide an overview of the Council's Constitution, explaining key sections of the Constitution in clear and simple language, and includes links to other strategic plans and documents. It explains the functions of the Council, Cabinet, Committees, and officers and identifies who is responsible and accountable for particular policies and decisions.
5. In particular, the guide should focus on the different interactions that local people are likely to have with the Council, and with local democratic systems. Therefore, there is specific reference within the guide to:-
 - The rights of the public to access information about the council (including the right to inspect accounts, and other formal documents);
 - Rights of access to meetings, and public speaking rights;
 - Arrangements for petitions.
6. Ideally, the Council would undertake extensive consultation before finalising and publishing the guide, to ensure that it reflected the views of local people, that it was easy understood and provided an effective means by which the public could engage with the Council. However, in accordance with the legislation, councils are required to adopt and publish the guide as soon as possible after May 2022. Therefore, it is proposed that Democratic Services Committee agree an initial guide and recommend its adoption to full Council, but the effectiveness of the guide is then monitored and reviewed as part of the wider Participation and Engagement Strategy.

Public consultation can then be undertaken in due course to determine whether the guide could usefully be amended to make it more helpful and easier to understand. As part of this consultation, the Committee could also engage with a wide range of people and groups from diverse backgrounds to ensure compliance with statutory duties in respect of equalities, Welsh language and the Well-being of Future Generations (Wales) Act 2015. The guide should be seen as a dynamic document, which can be refined and updated periodically in the light of public consultation.

7. A draft guide to the constitution is attached at Appendix 1 to this report. It is based on the model guide produced by the Welsh Local Government Association and Lawyers in Local Government and, therefore, complies with the requirements of the legislation and the draft statutory guidance. The model guide has been amended and adapted, where necessary, to reflect the Council's specific corporate governance arrangements and there are cross-references to the relevant parts of the Constitution. The guide is set out in 5 parts:-

Part 1 - explains why the Council has a written Constitution and how it is reviewed and updated;

Part 2 - sets out the Council's governance structure, its Cabinet and various Committees and their terms of reference

Part 3 - explains the roles and responsibilities of specific Councillors and officers

Part 4 - provides a summary of key policies and procedures and contains links to the relevant documents

Part 5 - explains how the public can engage with the Council and individual members and officers and how people can get involved in decision-making.

Financial Summary

8. 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 agreeing and publishing the guide to the Constitution	H	M		Failure to agree and publish the guide would be contrary to the requirements of Section 37 of the Local Government Act 2000, would be	Head of Law & Standards Democratic and Electoral Services Manager

				contrary to the principles of transparent and accountable decision-making and public participation in decision-making. It could leave the Council open to legal challenge.	
Agreeing and publishing the guide to the Constitution, reviewing and consulting about the effectiveness of the guide	L	L		The Council will have complied with its statutory duty to agree and publish the guide and to keep it up to date. Public consultation as part of the wider participation strategy will assist in ensuring that the Council meets its duty to encourage greater involvement in decision-making	Head of Law & Standards Democratic and Electoral Services Manager

*Taking account of proposed mitigation measures.

Links to Council Policies and Priorities

The proposed guide to the constitution is consistent with the strategic objectives set out on the Corporate Plan and also the sustainability duty under the Well-Being of Future Generations (Wales) Act and the well-being goals of a more equal Wales and a Wales of cohesive communities. The guide will encourage the public to be more involved in decision-making, ensure that those decisions reflect their diverse needs and help people to feel connected to the place that they live. The guide will also evolve over time, meeting the short-term needs required to support participation now, but also looking towards the long-term development of better engagement and involvement of residents over time so that it continues to meet the changing needs of local people.

Options Available and Considered

- (a) Approve the guide to the Constitution and recommend to Council that it is adopted and published. To monitor and review the effectiveness of the guide as part of the Participation and Engagement Strategy.

- (b) Do not approve the guide and make further amendments at this stage. This would mean a delay in meeting the requirements of the legislation to publish the guide as soon as reasonably possible after 5th May 2022.

Preferred Option and Why

Option (a) - Approve the guide to the Constitution and recommend to Council that it is adopted and published. To monitor and review the effectiveness of the guide as part of the Participation and Engagement Strategy.

By agreeing and publishing the guide, the Council will have complied with its statutory duty. Public consultation as part of the wider participation strategy will assist in ensuring that the Council meets its duty to encourage greater involvement in decision-making

Comments of Chief Financial Officer

There are no financial implications.

Comments of Monitoring Officer

Set out in the report.

Comments of Head of People Policy & Transformation

The proposed amendments to the constitution are consistent with the principles of the Well-Being of Future Generations (Wales) Act.

There are no HR implications arising from the proposal.

Fairness and Equality Impact Assessment:

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

An FEIA has not been completed as the Guide to the Constitution is a legislative requirement. However Welsh Government have undertaken extensive consultation and a regulatory impact assessment before they introduced the legislation.

- Welsh Government have engaged with relevant stakeholders as part of the consultation on the legislation. The guide will encourage the public to be more involved in decision-making, ensure that those decisions reflect their diverse needs and help people to feel connected to the place that they live.
- As such, there are no negative impacts associated with the legislation in terms of equalities or social disadvantage.
- In terms of the sustainable development principle and 5 ways of working

Long-term – The guide will also evolve over time, meeting the short-term needs required to support participation now, but also looking towards the long-term development of better engagement and involvement of residents over time so that it continues to meet the changing needs of local people

Prevention – The guide will help to ensure that decision-making reflects the views and needs of local people.

Integration – The provisions are consistent with the well-being goal of a More Equal Wales and a Wales of cohesive communities

Collaboration – The guide will enable people to understand how the Council operates and to engage and interact with the Council, in a more collaborative way.

Involvement – The guide will encourage public participation and involvement in decision-making

Background Papers

Dated: 31st August 2022