

Anglesey County Council	
Report to:	Executive Council
Date:	Executive - 24/9/2024 Council - 26/9/2024
Subject / Text:	Changing the Constitution – Concerns and Complaints Policy and Contract Procedure Rules
Portfolio Holder(s):	Carwyn Jones Portfolio Holder - Corporate and Customer Experience Robin Williams Portfolio Holder – Deputy Leader and Finance
Head of Service / Director:	Lynn Ball Director of Function (Council Business) / Monitoring Officer Marc Jones Director of Function (Resources) / Section 151 Officer
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Local Members:	Relevant to all members

A – Recommendation/s and reason/s
<p><u>Recommendations</u></p> <ol style="list-style-type: none"> 1. Remove the following from the Constitution: <ul style="list-style-type: none"> • Concerns and Complaints Policy • Contract Procedure Rules and • delegate authority to the Monitoring Officer to make any consequential amendments arising from these decisions. 2. That the Concerns and Complaints Policy, and the Contract Procedure Rules (together with all supporting documents relevant to each) shall be readily available on the Council's website. 3. Any future amendments to the Concerns and Complaints Policy and the Contract Procedure Rules shall no longer be matters reserved to full Council and shall, instead, be approved by:

- the Executive; or by
- the Monitoring Officer*, under existing delegation, where those changes do not provide for any local choice, or where the changes are minor

*Any changes to the Contract Procedure Rules shall always be subject to consultation with the Director of Function (Resources) / Section 151 Officer.

Background / Current Arrangements in Relation to the Concerns and Complaints Policy

The Council must publish a Concerns and Complaints Policy (CCP) which aligns with the current model provided by the Public Services Ombudsman for Wales (PSOW) and which follows the standards and good practice guidance of the Ombudsman's Complaints Standards Authority.

The Council's CCP complies with the said expectations.

The PSOW is due to review her model policy during 2024/2025. As matters stand, changes arising from that review shall require adoption by full Council after formal consideration by the Executive. Thereafter, any future material amendments must follow the same process.

Background / Current Arrangements in Relation to the Contract Procedure Rules

Significant legislative changes have taken place in the procurement of goods and services by the public sector. The Procurement Act 2023 will shortly be in force in the legal jurisdiction of England and Wales. The Social Partnership and Public Procurement (Wales) Act 2023 and the Procurement (Wales) Regulations 2024 will shortly be in force in the Wales jurisdiction only. Among a range of other documents and processes required to comply with the above legislation a new set of draft Contract Procedure Rules (CPRs) have been drawn up and are currently the subject of internal consultation.

Under the present governance arrangements, the adoption of the new CPRs will require a decision of full Council, after formal consideration by the Executive. All future material amendments shall be required to follow the same approvals process. Given the complexity of this new legislation, it is likely that this will be a developing area of law and practice with a need for further changes as the "real world" meets the legislation.

The Proposed Change

These appear in paragraphs 1 – 3 of the **Recommendations** above but, in summary, the proposal is that both the CCP, and the CPRs, be removed from the Constitution and all material future changes be approved by the Executive. The CCP and the CPRs, as well as supporting documents, shall appear in a prominent position on the Council's website.

Relevant Factors for Consideration

1. There is no legal requirement to include the CCP/CPRs in the Constitution, and nor is there an expectation to do so from the Council's regulators.
2. Whether the Council or Executive undertake the role of amending the CCP/CPRs, the same transparency and accountability applies. So, agendas / reports / meetings in public / decision records / minutes / webcasting, shall apply in the same way to either the Council or Executive. If the role is to be undertaken by the Executive then decisions may be called in by the Corporate Scrutiny Committee, and referred up to Council if the Committee so decides. Additionally, the Corporate Scrutiny Committee may wish to review the proposed changes before a decision is made by the Executive.
3. The current governance arrangements are an impediment to timely review and amendment, as changes to the Constitution are subject to the dual approvals process described above. A more agile process would be beneficial.
4. Amendments to the CCP/CPRs would be more efficient as an Executive function as the Executive meets monthly. It will also be possible for officers to consult informally with the Portfolio Member/s, throughout the process. Council approval does not afford this opportunity.
5. To ensure transparency, and to ensure the CCP/CPRs are up-to-date and readily available it is proposed that they (together with all supporting documents / advices / guidances) be published prominently on the Council's website. This will promote clarity for the public when they wish to pursue the complaints process and for contractors / business wishing to bid for Council contracts. Having all relevant material available in one place will improve the experience for users.
6. There are no risks or disadvantages to the proposal. Once made, the designation of a local choice function may always be revisited by the Council, subject to the usual six month rule.

B – What other options did you consider and what were the reasons for rejecting and/or choosing this option?

To continue with the current arrangements but, largely for the reasons of pragmatism described in paragraph A above, the status quo is not the preferred option.

C – Why is this a decision for the Executive Committee?

Full Council is not permitted to approve changes to the Constitution until the Executive has considered the proposal. (Paragraph 2.15.2 of the Constitution).

CH – Is this decision consistent with the policy approved by the full Council?

Not relevant as this is a decision for Council.

D – Is this resolution within the budget approved by Council?
There are no budgetary implications.

DD – Assess potential impacts (if applicable):	
1	How does this decision affect our long-term needs as an Island?
2	Is this an anticipated decision that will prevent future costs / dependencies on the Authority? If so, how?
3	Have we been collaborating with other organisations to reach this decision? If so, please report with whom.
4	Have the citizens of Anglesey played a part in drafting this way forward, including those who would be directly affected by the decision? Please explain how.
5	Please note any potential impacts this decision would have on the protected groups under the Equality Act 2010.
6	If this is a strategic decision, identify any potential impacts the decision would have on those experiencing socio-economic disadvantage.
7	Please note any potential effects this decision would have on opportunities for people to use Welsh and not treat Welsh less favourably than the English.

E – Who did you consult with? What were their comments?		
1	Chief Executive / Leadership Team (LT) (mandatory)	Supportive of the proposals in the report
2	Finance / Section 151 (mandatory)	Supportive of the proposals in the report
3	Legal Officer / Monitoring (mandatory)	Report Author
4	Human Resources (HR)	Not relevant
5	Property	Not relevant
6	Information Technology (IT)	Supportive of the proposals in the report
7	Procurement	Supportive of the proposals in the report
8	Scrutiny	
9	Local Members	
10	Others	Relevant Portfolio Holders

F - Appendices:

T – Background Papers (please contact the author of the Report for further information):

- Council's Concerns and Complaints Policy at [this link](#)
- Council's current Contract Procedure Rules at [this link](#)