

COUNCIL

23 JULY 2015

REPORT OF THE DIRECTOR GOVERNANCE & LEGAL SERVICES

CONSTITUTION COMMITTEE RECOMMENDATIONS – WEBCASTING, PUBLIC QUESTIONS AT SCRUTINY AND MINOR CONSTITUTION AMENDMENTS

Reason for this Report

1. To enable Council to consider the recommendations of the Constitution Committee in respect of:
 - (i) Webcasting of Council and Committee meetings;
 - (ii) Public Questions at Scrutiny Committee meetings; and
 - (iii) Officer delegations for Discretionary Business Rates Relief,

And consequential Constitution amendments.

Background

2. The Constitution Committee is responsible for reviewing the Council's Constitution and making recommendations to Council in respect of amendments required.
3. At its meeting on 15th July 2015, the Constitution Committee considered various proposed constitutional changes; and this report sets out the recommendations made by the Constitution Committee on those matters.

Issues

Webcasting of Council and Committee meetings

4. The Council has been webcasting full Council meetings at City Hall and County Hall since 2008. A webcast is a transmission of audio and video over the Internet, rather like a television programme, enabling the public to watch meetings from any location with internet access in real time. Council webcasting has proved successful with significant numbers of viewers especially in relation to Council budget meetings and key debates of public significance.
5. The maximum live audience to date was for the Council meeting on 26th March 2015 (Notice of Motion re Somaliland) with 3,098 hits. The previous highest was for the Budget Council meeting on 26th February 2015 with 2,106

hits. In 2014/15 the total annual live webcast views was 10, 267 and the total number of archived webcast views was 23,360.

6. Under the Council's Constitution, the official webcasting (recording) of Council meetings is permitted by Rule 32 of the Council Meeting Procedure Rules. No consent is required for the official webcast, although it has been customary for the Chair of Council to seek Members' consent at the start of the Council meeting as a courtesy. The rules do not permit any other person to record full council meetings without the express consent of the meeting. For Committee meetings, the Constitution currently makes no provision for an official webcast, but does allow a committee to expressly authorise the recording of committee meetings (Rule 18 of the Committee Procedure Rules; and Rule 18 of the Planning Committee Procedure Rules).
7. The statutory Code of Practice on Local Authority Publicity issued by the Welsh Government (revised August 2014) contains the following provision:

Filming and broadcasting of council meetings

53. Society now expects to have far greater access to information than in the past, in particular in relation to the decision-making procedures of its elected bodies. This should be embraced by political representatives as providing an opportunity to communicate directly with their electorate. Local authorities are encouraged to make arrangements for their proceedings to be made more accessible to the public by allowing them to be broadcast. This might be achieved through the authority itself carrying a live stream or recordings on the council's website or through some other internet-based medium. The Welsh Government encourages local authorities to use social media to communicate with the public.

54. There have been well-publicised cases of members of the public recording and broadcasting the proceedings of council meetings and the Welsh Government would urge local authorities to look favourably on this, provided those attending the meeting are aware this is taking place and other members of the public are not distracted or disturbed unduly by the process.

55. Clearly, these facilities should not be available at such time as an authority or one of its committees is discussing confidential or exempt business as defined by Schedule 12A to the Local Government Act 1972.

(Members may also wish to note that in England, recent legislation requires third-party filming and recording of council meetings to be permitted.)

8. The Welsh Local Government Association (WLGA) has produced useful guidance for local authorities on webcasting, which is set out at **Appendix 1**. The guidance notes the identifiable benefits that can be achieved from broadcasting public meetings, such as:

- More open and transparent governance and accountability;
 - Improved public engagement in and understanding of decision making;
 - Easier public access to meetings minimising travel and allowing more flexible viewing times;
 - Facilitates compliance with the Local Government (Wales) Measure 2011 requirement for engaging the public in Scrutiny;
 - Incentive for high standards of Member attendance, engagement and conduct at meetings;
 - Effective means of communicating information and decisions to the public, Officers and other Members;
 - Archived meetings provide important records alongside approved minutes;
 - Can be used with social media to further promote public engagement. This is possible through a social media conversation which can run alongside the meeting when it is in progress;
 - The public can access the papers and presentations made at the meeting as well as see the meeting footage;
 - Provides a true record of the meeting. This helps to supplement minutes and to counteract any misleading use of “edited highlights” by anyone filming the meeting.
9. The initial cost of installation and the early provision of webcasting were met from a Welsh Government grant in 2012/13. Since then the Council has agreed an annual contract for webcasting at City Hall and County Hall for up to 60 hours. This provides:
- Near real-time or live streaming of all formal meetings of Council;
 - Archiving facilities for webcast material for up to 12 months online;
 - Detailed statistics in respect of the viewing of webcast material;
 - Minimal officer time to set up and publish broadcasts;
 - Minimal use of additional hardware/software to facilitate broadcasts;
 - Integration of meeting information documents (agenda and reports etc.) with the webcast, optimising the available viewing experience for the public.

Webcasting Committee meetings

10. It has recently been agreed that by moving from the annual to a three year contract, the supplier will at a nominal extra cost provide an additional 60 hours webcasting each year and install suitable cameras in a third meeting room. This will provide additional opportunities to webcast other committee meetings of public interest. Planning Committee meetings are noted as attracting significant public attendance and public interest in its decisions.
11. In discussion with officers, the Scrutiny and Democratic Services Committee Chairs and Cabinet Members, Committee Room 4 has been identified as the best venue especially given the recent relocation of the Planning Committee to meet there earlier this year.
12. The proposal considered by Constitution Committee at its meeting on 15th July 2015 was that webcasting be introduced initially for Planning Committee

on a six-month trial basis, commencing in September, with a report back to Constitution Committee at the end of the trial period. The Committee heard representations from the Chair of Planning Committee, who was fully supportive of the proposal. It was noted that training for the Planning Committee and Officers in line with the WLGA Guidance has been provisionally arranged for 5th August 2015 in preparation for the trial, with a view to testing the arrangements at the August meeting of the Planning Committee and going live from September 2015.

13. The Constitution Committee was supportive of the proposal, but agreed that an equalities assessment should be undertaken alongside the pilot to ensure that webcasting did not inadvertently discriminate against members of the public from minority groups who may not want to be filmed.

Webcasting Protocol

14. A draft Webcasting Protocol (attached at **Appendix 2**) has been prepared to facilitate the conduct of webcast meetings and ensure the Council is compliant with its legal obligations (under the Data Protection Act 1998 and the Human Rights Act 1998). The Constitution Committee suggested amendment to the draft Protocol to clarify that anyone seated in the Council chamber or meeting room may be captured on film (and would be deemed to have consented to that), but anyone addressing the meeting could request in advance that they should not be filmed. It was also suggested that, in view of the availability of the official webcast, the Protocol should make clear that private filming is not allowed without the express consent of the meeting.
15. On the above basis, the Constitution Committee resolved to recommend the trial of webcasting for Planning Committee meetings (together with any consequential constitutional changes) and the draft Webcasting Protocol, for approval by Council.

Public Questions at Scrutiny Committee meetings

16. The Council is legally obliged to make arrangements to facilitate public engagement in the work of its Scrutiny Committees (pursuant to section 62 of the Local Government (Wales) Measure 2011 ('the 2011 Measure') and the accompanying statutory guidance).
17. Under the current Scrutiny Procedure Rules, 'Scrutiny Committees may receive written submissions or call witnesses to assist them in their examination of topics' (Rule 11(a)); and 'may invite anyone whom it believes can make a useful contribution to address it, discuss issues of local concern and / or answer questions. It may, for example, wish to hear from residents, stakeholders and Members and Officers in other parts of the public sector and can invite such people to attend.' (Rule 11(e)). This means that whilst there is no specific provision for 'public question time' as such, the current Rules do allow a Scrutiny Committee to receive questions from members of the public.
18. In response to the legal requirements imposed by the 2011 Measure, the Council's Policy Review and Performance Scrutiny Committee (PRAP) conducted an Inquiry on Public Engagement with Scrutiny. The Inquiry report,

published in April 2013, made 2 recommendations for consideration by the Constitution Committee in this regard:

- (i) to allow the public to speak, ask questions and make statements at Scrutiny Committee meetings, in line with an agreed Protocol; and
- (ii) to provide further opportunities for co-option of non-elected Members to Scrutiny Committees.

19. The PRAP recommendations were considered by the Constitution Committee at its meeting in January 2014, which supported the recommendations in principle and instructed Officers to carry out further research and due diligence. Updates on options and proposals were subsequently received by the Constitution Committee in September 2014 and July 2015.

Proposed Pilot of Public Questions at Scrutiny Meetings

20. At its meeting on 15th July 2015, the Constitution Committee was informed about the Improving Scrutiny Project, as part of which the Scrutiny Committee Chairs have been considering opportunities to introduce questions to Scrutiny Committees and also to develop relationships between Scrutiny and external stakeholders. It was noted that discussions have taken place initially at the Scrutiny Chairs' Liaison Forum and subsequently with the Cardiff Third Sector Council, to plan a two month pilot of questions to Scrutiny Committees in October and November 2015.

21. Cardiff Third Sector Council (C3SC) is the County Voluntary Council for Cardiff – the umbrella infrastructure organisation for the third sector in the City. C3SC's key role is to provide specialist advice, support, and information to local third sector organisations on issues that affect them, including funding and governance. It acts as the voice of the third sector in Cardiff, and facilitates third sector representation on strategic partnerships, including the Cardiff Partnership Board and its Programme Boards and work streams. It is a conduit for policy information, supporting networks around key themes and areas of interest, with the aim of ensuring that policy and decision makers understand the needs of third sector organisations in Cardiff.

22. The pilot proposals involve channelling public questions through C3SC as a key stakeholder, Key points of the proposals include:

- Each Scrutiny Committee would receive at least one public question at each of their public meetings in October and November 2015, totalling ten questions overall;
- Each question session would last for 15 minutes with discretion to the Chair to extend if necessary;
- The questions should relate to an item being considered at that meeting;
- Members of the Scrutiny Committee would respond to the question, and the questioner would be allowed to ask one supplementary question;
- The Committee would then deliberate the issue and decide what steps, if any it would like to take as a result of the question being considered; and
- The Committee would at the very least respond in writing to the questioner with its feedback, but it is possible that the question could also lead to the Committee agreeing to programme a more detailed scrutiny of

the topic with Officers/relevant Cabinet Member, or might agree to write to the Cabinet Member or Officers with recommendations or observations based on the discussion held following the question.

23. A draft Public Speaking at Scrutiny Committee Meetings Protocol has been prepared to provide guidance to members of the public who wish to speak at Scrutiny Committee meetings, and to assist Members and Officers to manage the process. The draft Protocol is attached as **Appendix 3**.
24. It should be noted that, whilst the pilot proposals involve channelling public questions through C3SC to ensure a representative and consistent response across all five Scrutiny Committees for the purposes of the pilot exercise, it is anticipated that questions from individual citizens (or Ward Councillors on behalf of their constituents) could also be accepted after the pilot exercise, subject to positive evaluation of the pilot.
25. In order to evaluate the pilot exercise, it is proposed that at the end of the two month pilot period, soundings will be taken from Scrutiny Committee and Cabinet Members, Officers, Cardiff Third Sector Council and other interested local organisations. Particular consideration to be given to:
 - Whether the question time enabled productive consideration of citizen views;
 - The positive impact on scrutiny work programming;
 - The positive impact on executive outcomes for citizens;
 - The insight provided to Committee Members;
 - The impact on committee capacity and agenda space;
 - The value of positive relationships made; and
 - Anything that should be done differently, or appropriate developments to a future programme of scrutiny question time.
26. If successful, it is proposed that the pilot exercise would be extended in order to 'mainstream' citizen questions at scrutiny meetings.
27. The Constitution Committee welcomed and supported the proposals in general, and made specific comments including:
 - Whilst noting the reasons for third sector involvement for the initial trial period, it was important that the trial should be extended to the general public.
 - There is a need to address accessibility issues, to overcome any barriers to participation, such as translation, people with impaired hearing or vision and people with learning disabilities.
 - It is important to engage with the whole community without age limits (although it was noted that permissions would need to be sought from parents/carers of young people if meetings are webcast).
28. The Constitution Committee also received information on the issue of co-option onto Scrutiny Committees (in response to the recommendation of the PRAP Inquiry, referred to in paragraph 19(ii) above). It was noted that the Improving Scrutiny Project is currently reviewing co-option arrangements and

will report any proposed changes to the Constitution Committee in due course. Members noted the value that co-optees bring to committees; the broad base of expertise available in the capital city (e.g. the universities and business sectors); but emphasised the need to carefully consider the complex governance issues arising from partnership and multi-agency arrangements.

29. On the above basis, the Constitution Committee resolved to recommend the proposed pilot of public questions at scrutiny committees, and any consequential constitutional changes, to full Council for approval.

Officer Delegations for Discretionary Business Rates Relief

30. The Council awards discretionary business rates relief to charities and other not-for-profit organisations pursuant to its powers under Part III, Section 47 of the Local Government Finance Act 1988. The Cabinet has approved a Scheme for Discretionary Rate Relief (in July 2003) providing guidelines on when relief should be granted and the level of relief; and Officers have delegated authority to determine applications and appeals in accordance with this approved Scheme.
31. Under Cardiff's Officer delegations, the statutory Chief Finance Officer ('the Section 151 Officer') has historically had responsibility for discretionary business rates relief (and other Business Rates) functions, and has sub-delegated authority for determining applications to a senior manager, but retained responsibility for determining any appeals.
32. Following changes in the Council's senior management structure, the Scheme of Delegations requires amendment to reflect this established procedure, specifically, to amend delegation reference FS9 to confirm the Section 151 Officer's responsibility for discretionary business rates relief (and any other Part III Business Rates functions), subject always to compliance with the Cabinet's approved Scheme.
33. At its meeting on 15th July, the Constitution Committee recommended Council to approve the amendment of delegation FS9 accordingly.

Legal Implications

34. The Local Government Act 2000 and the Local Authority Constitution (Wales) Direction 2002 requires the authority to keep its constitution up to date. The recommended changes to the Constitution require the approval of full Council, pursuant to Article 14.2(a).
35. In respect of recommendations 1, 2, 3 and 4 (relating to Webcasting), Members will note that the WLGA guidance note (**Appendix 1**) provides a helpful overview of the 'law and protocols relating to webcasting', including issues such as data protection, freedom of information, copyright and consent. To avoid duplication, reference is made to the same. It is, however, important to emphasise that no exempt or confidential agenda items should be broadcast. In the case of exempt items, where the public and press are excluded, the broadcast should be switched off and replaced with a message

explaining why the broadcast has been temporarily suspended. It is noted that the draft Webcasting Protocol (at **Appendix 2**) addresses such matters.

36. Other relevant legal provisions are set out in the body of the report.

Financial Implications

37. There are no direct financial implications arising from this report as the budget currently allocated is sufficient to discharge this duty.

RECOMMENDATIONS

Council is recommended to:

- (1) Agree to continue the official webcasting of full Council meetings, without seeking express consent at the start of each meeting;
- (2) Agree the webcasting of Planning Committee meetings on a 6 month trial basis commencing in September 2015;
- (3) Approve the draft Webcasting Protocol attached as **Appendix 2**, subject to the amendments recommended by the Constitution Committee and set out in paragraph 14 of this report and any other amendments agreed by Council, to govern the webcasting trial (if approved under recommendation (2) above);
- (4) Subject to approval of recommendations (2) and (3), to delegate authority to the Monitoring Officer to make any amendments to the Planning Committee Procedure Rules and any amendments to the draft Webcasting Protocol which are necessary to facilitate the trial;
- (5) Approve the proposed 2 month pilot of public questions at scrutiny committees, as set out in this report and **Appendix 3**, subject to any amendments agreed by Council; and
- (6) Approve the amendment of delegation FS9 in respect of Discretionary Business Rates Relief, as set out in paragraph 33 of the report.

Marie Rosenthal

Director Governance and Legal Services (Monitoring Officer)

17 July 2015

Appendices

- Appendix 1 - WLGA Guidance for Members: Webcasting, August 2014
- Appendix 2 - Webcasting Protocol
- Appendix 3 - Protocol on Public Speaking at Scrutiny Committee Meetings (Draft Guidance Note, July 2015)

Background papers

Constitution Committee report, Webcasting of Council Committee Meetings, 15 July 2015;
Welsh Government, Code of Practice on Local Authority Publicity (August 2014);
Constitution Committee report, Scrutiny Question Time – Pilot Proposals, 15 July 2015;
PRAP Inquiry Report, Public Engagement with Scrutiny, April 2013;
Constitution Committee report, Constitution Updates, 15 July 2015