

**CONSTITUTION COMMITTEE: 9 NOVEMBER 2022**

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**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL  
SERVICES AND MONITORING OFFICER**

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**REVIEW OF THE RULES RELATING TO COUNCIL AND CABINET  
MEETINGS AND THE CONSTITUTION**

**Reason for this Report**

1. To provide an opportunity for the Committee to consider potential areas of change to the rules for meetings of full Council and Cabinet, and other areas of the Constitution.

**Background**

2. The Council's Constitution sets out the fundamental principles on which the Council is governed. It includes information on how the Council operates, how lawful decisions are made and the procedures to follow to ensure that the Council conducts its business efficiently and is transparent and accountable to local people.
3. The current Constitution first came into effect in May 2002 to take account of the requirements of the Local Government Act 2000, which separated the functions of Executive and Scrutiny from Council functions. Since this time it has been periodically reviewed and amended to reflect changes agreed by Council, legislative updates and other minor amendments.
4. The business of the Council is diverse and the Constitution needs to take account of this, to ensure governance arrangements for relevant activities are appropriately covered. It is currently divided into eight parts with fifteen articles, and more detailed procedures and codes of practice.
5. The Constitution Committee has responsibility, in accordance with its approved terms of reference, for reviewing the Constitution and recommending any changes to full Council for approval.
6. The arrangements for meetings of the full Council are governed by the Council Meeting Procedure Rules set out in Part 4 of the Constitution. A substantial review of the Council Meeting Procedure Rules was completed in 2018, in full consultation with party groups, and introduced a number of changes, which took effect from May 2018. Since then, a number of specific further changes have been made, in relation to public questions

(March 2019); and the scope, number, selection process and amendments in respect of Ordinary Motions (January 2022 and March 2022).

7. A whole raft of constitution amendments have also been made in response to new legislative requirements introduced by the Local Government and Elections (Wales) Act 2021, in particular, in relation to multi-location meeting arrangements, petition schemes, assistants to the Cabinet, job-sharing for Cabinet members and a guide to the Constitution.
8. The Committee considers a regular Constitution Update report at each meeting, setting out specific proposed changes to ensure the Constitution is kept up to date and fit for purpose. Members will note that there is a separate Constitution Update report under agenda item 8.

## Issues

### Full Council Meetings

9. The Committee is invited to consider whether it wishes to recommend any changes to the Council Meeting Procedure Rules or other constitution provisions, in order to make full Council meetings more effective. For Members' reference, the current Council Meeting Procedure Rules, found in Part 4 of the Constitution, are attached as **Appendix A**.
10. In considering this matter, the Committee may wish to note, by way of comparison, the arrangements for full Council meetings in a couple of other core cities (based on information shared between officers earlier this year), as set out in the table in **Appendix B**.
11. Specific options the Committee may wish to consider include the following:
  - (i) **Cabinet member questions** or **Oral Questions** to be dealt with in a separate meeting.
  - (ii) **Shorter time limits**, for example, for Cabinet statements (currently 45 minutes), Oral Questions (currently 90 minutes) and or Ordinary Motions (currently 30 minutes maximum if there are no amendments, and 45 minutes if there are one or more amendments).
  - (iii) **A guillotine time** when the Council meeting will end and any business remaining to be put to the vote without debate.
  - (iv) A requirement for a certain **number of Members in support of a Motion** (current rules require just a proposer and a seconder).
  - (v) To review the limit on the **number of Ordinary Motions** (currently 2 Motions per meeting at which Ordinary Motions may be considered, equating to 14 Motions per municipal year), specifically, the discounting of Urgent Motions and

Motions at Extraordinary Council Meetings for the purposes of the limit.

- (vi) To consider whether there should be restrictions on Cabinet members speaking in the **debate on Ordinary Motions**, in order to increase opportunities for opposition and backbench Members to speak and potentially reduce the time spent on Motions, for example, to provide that only the relevant Cabinet member may speak on a Motion which relates to their portfolio.
- (vii) To introduce a requirement that for **accepted amendments to Motions**, the amended Motion must be submitted to the Committee and Member Services Manager for publication by 12 noon on the day of the Council meeting, so that all Members and members of the public are clear on the exact wording of the Motion being voted upon.
- (viii) To reduce the number and timescales for submission of **Written Questions** in order to alleviate pressures on limited staff resources in the lead up to the Council meeting. Currently, there is no set limit on the number, but if a Member submits more than 5 Written Questions, only 5 will be answered at the Council meeting, with any remaining Questions answered at the following Council meeting. If each Member asked the allowed 5 Written Questions, there would be 395 questions to be answered in a tight time frame, which is not manageable for officers alongside the provision of services. The deadline for submission of Written Questions is 9am 9 Working Days prior to the Council meeting (with any questions submitted after this deadline being answered at the following Council meeting). Members are invited to consider whether:
  - (a) the number of Written Questions should be limited to one per Member for each Council meeting; and or
  - (b) the deadline for submission should be removed and replaced with a 21 day period for providing a written answer, with a list of Written Questions answered during the period between each Council meeting attached to the minutes of the meeting.
- (ix) It is suggested that consideration be given to tightening up the rules on **Oral Questions**, to make clear that if the Member asking the Oral Question is not present when their question is called, no answer shall be provided at the Council meeting or subsequently. In such circumstances, it is suggested that the rules should provide that the question shall be deemed to be withdrawn (which reflects the current rules in relation to Public Questions, under Rule 18(i)). It is

also suggested that the rules should provide that another Member may only ask a question on behalf of the Member asking the Question ('the Questioner') if the Questioner is present at the meeting, but unable to speak. Members are invited to give their views on this.

12. The Chair has asked that consideration also be given to introducing arrangements for Cabinet members to also issue **Written Statements** outside of the Council meeting (in addition to Cabinet Statements at the Council meeting). It is suggested that such arrangements could allow Cabinet members to explain proposals, their purpose and planned scrutiny consideration, and facilitate good internal communication between Members. Any questions on Cabinet statements issued in between Council meetings may be submitted as Oral Questions at the next suitable Council meeting. Members are invited to consider whether this may reduce the time required for Cabinet statements at the full Council meeting.

### Cabinet Meetings

13. The Committee is requested to consider clarifying **Group Leaders' speaking rights at Cabinet meetings** (set out in the Cabinet Procedure Rules, Rule 1.6(e)), to specifically state that their speaking rights are on 'related policy matters' and clarify that ward issues are not to be raised, by amending Cabinet Procedure Rule 1.6(e) as follows:

'A Councillor being the Leader of a political group in accordance with the Local Government (Committees and Political Groups) Regulations 1990 shall have the right (such right to be exercised reasonably and not so as to interfere with the proper conduct of business) to speak on a related policy matter at any meeting of the Cabinet or a committee of the Cabinet even though he/she is not a member of the Cabinet or Cabinet committee as the case may be. In the absence of the Leader of such political group the Councillor designated as the Leader's deputy may exercise this right. This right may not be exercised in the following cases:

- (i) where the Councillor is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;
- (ii) where the Cabinet or any committee of the Cabinet exercising a quasi judicial function have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;
- (iii) where the Monitoring Officer or his/her representative advises that as a matter of law or to protect the Council's interest non-members of the Cabinet or the committee of the Cabinet (as the case may be) should withdraw;'

14. Further, in relation to **Cabinet members and ward issues**, the Committee may wish to note that the statutory model Code of Conduct for Members was amended by the Welsh Government in 2016 to clarify that a member

of a relevant authority is not to be regarded as having a personal interest in a matter when making, or participating in, decisions on behalf of the authority simply for the reason that the business being considered at the meeting affects that Member's ward. However, Members are advised to consider whether their ward interests may constitute a personal / prejudicial interest under the Members' Code of Conduct, and to be mindful of their duty to reach decisions based on the merits of the circumstances and the public interest (Members' Code paragraph 8(a)). The Committee may wish to consider clarifying this point within the Cabinet Procedure Rules.

15. Members are also invited to provide their views on any other potential changes to be made to the Council Meeting Procedure Rules, the Cabinet Meeting Procedure Rules or associated matters and, if appropriate, instruct the Monitoring Officer to prepare specific proposals for further consideration at a future meeting of the Committee.
16. In considering any proposals for change, the Committee's views are also requested in relation to the extent and form of any consultation to be carried out with individual councillors and or party groups.

#### Other Constitutional Issues

17. The Welsh Government draft Statutory Guidance for Principal Councils: Local Government Guidance for Principal Council Consultation document - (Final version), which is the subject of the separate report to Committee under agenda item 6, includes revised guidance on constitutions and a draft revised Constitution Direction setting out the prescribed contents of council constitutions (Guidance Annex 3).
18. The Committee will be pleased to note that the Council's Constitution largely complies with the draft revised Guidance and Constitution Direction. However, Members may wish to give further consideration to the following:
  - (a) Within the list of matters which Councils should consider including in their constitution (draft Guidance, Annex 3 paragraph 1.11) there is reference to 'The working arrangements and relationship with community and town councils in the council's area'. In January 2019, in accordance with Welsh Government guidance, 'A Shared Community: Charter between Cardiff Council and Community Councils in Cardiff' was signed, setting out how the councils would work together for the benefit of their communities. The Committee may wish to consider whether this Community Councils Charter should be incorporated within the Constitution.
  - (b) Within the draft Direction's list of 'specified information' which must be included in a council's constitution, paragraph 14, is: 'The confidential reporting procedure with references to the authority's codes of conduct for members and employees respectively.' The Committee is invited to note that the Council's Whistleblowing Policy is currently being revised and updated, under the remit of the Standards and Ethics

Committee. However, the Committee may wish to recommend that the revised Whistleblowing Policy should be incorporated within the Constitution in due course.

19. Members are invited to provide views on any other areas of the Constitution they would like the Constitution Committee to review. This work will need to be programmed into the Committee's Forward Plan by the Monitoring Officer, allowing sufficient time for proposals to be developed, approved and implemented, having regard to time and resources available.

### **Legal Implications**

20. By virtue of article 14 of the Constitution, the making of amendments to the Constitution is reserved to Council unless otherwise delegated. The Committee's terms of reference set out the Committee's delegated authority:

*To review the Council's Constitution, and to recommend to Council and/or Executive any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-*

- (a) *Drafting improvements to enhance clarity and remove minor anomalies.*
  - (b) *Updating to reflect legislative changes and matters of record.*
  - (c) *Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).*
21. Any amendments to the Constitution that may be proposed as a result of the review and which do not fall within the above remit will require the approval of full Council.

### **Financial Implications**

22. There are no direct financial implications arising from this report.

### **RECOMMENDATIONS**

The Committee is recommended to:

1. Provide views on the constitutional rules governing meetings of the full Council and the Cabinet which the Committee wishes to amend or review, having regard to the specific suggestions set out in the report, and the extent and form of any consultation they wish to carry out with individual councillors and /or political groups on this;
2. Delegate authority to the Monitoring Officer, in consultation with the Chair, to carry out consultation as agreed by the Committee and either to bring a

report back to this committee or submit any agreed changes to the Constitution to full Council for approval, as appropriate;

3. Provide views on any other areas of the Constitution, which the Committee wishes to amend or review; and
4. Request the Monitoring Officer to prepare further reports on any other potential changes, with reference to the issues identified under Recommendations 1 and 3 above, if appropriate, for consideration by the Committee at a suitable future meeting.

**DAVINA FIORE**  
**DIRECTOR OF GOVERNANCE AND LEGAL SERVICES AND MONITORING OFFICER**

3 November 2022

**APPENDICES:**

APPENDIX A: Council Meeting Procedure Rules

APPENDIX B: Full Council Meetings - Comparison

Background papers

Council reports:

1. 'Constitution Committee – Recommendations on Council Procedure Rules and Scrutiny Procedure Rules', 25 January 2018
2. 'Constitution Amendments', 28 March 2019
3. 'Constitution Amendments', 27 January 2022
4. 'Constitution Update', 17 March 2022

Cabinet report, 'Community Councils Charter', 13 December 2018

Standards and Ethics Committee, 'Forward Work Plan', 25 October 2022