

## CONSTITUTION COMMITTEE

8 JUNE, 2007

Present: County Councillor Berman (Chair);  
Councillors Austin, Cox, Howells, Montemaggi, Owens,  
Sheppard and Walker

Apologies: Councillors Davies, Gasson, Goodway and Lansdown

### 1 : ELECTION OF CHAIR

The Committee noted that the County Council at its Annual Meeting on 17 May, 2007 had elected County Councillor Berman as Chair of this Committee for the Municipal Year 2007/08.

### 2 : MEMBERSHIP AND TERMS OF REFERENCE

The Committee noted that the County Council at its Annual Meeting on 17 May, 2007 had approved the following membership and terms of reference

#### (i) Membership

County Councillors Austin, Berman, Cox, Davies, Gasson, Goodway, Howells, Lansdown, Montemaggi, Owens, Sheppard and Walker.

#### (ii) Terms of Reference

To review the Council's Constitution and to recommend to Council and/or the 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;

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- (c) amendments to the financial, contracts and land procedure rules, subject to the advice of the Section 151 Officer being sought.

### 3 : MINUTES

The minutes of the meeting held on 1 December 2006 were approved as a correct record.

### 4 : ACCESS TO INFORMATION PROCEDURE RULES

The Monitoring Officer reported that the law relating to access to formal meetings and documents of the Council was contained in section 100 of the Local Government Act 1972. On 1 January 2005 the Freedom of Information Act 2000 came into force, which gave a general right of public access to all information held by the Council subject to certain exemptions. These exemptions were considerably different from those in Schedule 12A of the 1972 Act and from that date there had been the potential for conflict between the two regimes.

With effect from 21 April 2007 the Local Authorities (Access to Information) (Variation) (Wales) Order 2007 amended Schedule 12A of the 1972 Act and replaced the long standing 15 possible categories of exempt information with 7 new, simpler categories, which effectively corresponded with the exemptions available under the Freedom of Information Act.

As a result of these changes to the law, it would be necessary to change the Access to Information Procedure Rules in the Council's Constitution with immediate effect.

The Order referred to above referred only to meetings of the Council and its committees. A separate Order came into effect on the same date to apply an identical access to information regime to the Executive and the Standards Committee. The existing Rules in the Constitution governed all relevant meetings and only one set of changes was required by the Council.

The Monitoring Officer referred to further minor consequential amendments to the Constitution. In addition, since the Rules required to be changed, the opportunity had been taken to bring forward a clear

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protocol to assist the smooth running of business on Members' rights of access to information and documents.

The Monitoring Officer answered Members' questions. In relation to paragraphs 5 and 14 of the draft Access to Information Procedure Rules it was moved that "three clear working days" be amended to read "seven clear working days". The motion was lost.

Further minor changes were proposed and accepted.

RESOLVED – That subject to the approval of Council

- 1 the Access to Information Procedure Rules be replaced by the new set of rules set out in Appendix 1;
- 2 the consequential amendments set out in Appendix 2 be approved;
- 3 the Protocol relating to Members' rights to access documents and information set out in Appendix 3 be approved and it be added to the Constitution;
- 4 the Guidance issued by the Monitoring Officer set out in Appendix 4 be noted.

**5 : THE LOCAL AUTHORITIES EXECUTIVE ARRANGEMENTS  
(FUNCTIONS AND RESPONSIBILITIES) (WALES) REGULATIONS  
2007 – AMENDMENTS TO THE CONSTITUTION**

The Chief Legal and Democratic Services Officer advised Committee that the responsibility for the exercise of the functions of the Authority was governed by Regulation. The Constitution and the Scheme of Delegations were drafted in accordance with such Regulation and currently complied with The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 as amended.

The latter Regulations were revoked on 16 February 2007 and The Local Authorities Executive Arrangements (Functions and Responsibilities) 2007(Wales) Regulations came into force. The new Regulations provided that the Executive shall not have responsibility for the appointment and dismissal of staff. This would mean changes to the terms of reference of the Employment Conditions Committee.

The new Regulations removed responsibility for the determination of the Public Path Orders under the Highways Act 1980 and Definitive Map Modification Orders from being a Council function. The function was now an Executive function.

Members discussed the particular effect upon the Employment Conditions Committee which currently enjoyed cross party representation and the opportunity to receive and hear representations from trade union representatives.

RESOLVED – That the Chief Legal and Democratic Services Officer be asked to prepare a further report examining the future role of the Employment Conditions Committee.

## 6 : PLANNING CODE OF GOOD PRACTICE

The Council had received a report in October 2006 concerning the Wales Audit Office baseline assessment of the planning service. The report had dealt with a number of issues and had made specific recommendations which included that the Council prepare a code of practice for Councillors and officers involved in the planning process, having regard to best practice across Wales.

A draft protocol had been drafted and was submitted. The document was currently the subject of consultation with the planning service and the Chair of the Planning Committee.

It was proposed that this Committee further consider the protocol at its meeting on 6 July and that the Chair express the Committee's views to the Standards & Ethics Committee on 17 July.

RESOLVED – That the report be deferred for further comments at the next meeting of this Committee and the Chair convey the Committee's views to the Standards & Ethics Committee.

## 7 : GOVERNANCE PROGRAMME

The Corporate Governance Commission had published its report in April 2004 and had made a number of recommendations. The Chief Legal and Democratic Services Officer reported that since the publication of the

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report there had been a range of activities within the Council to address the recommendations.

Council had adopted a programme management approach to projects and a programme brief had been approved in May 2007 to create an excellent system of governance. The programme brief had identified elected members, executive members and decision makers as key stakeholders.

The Committee stressed the importance of Members' involvement in the process and the need to ensure that the recommendations of the Lyons report were implemented or were being addressed. The Committee recognised the importance of engaging Members through Working Groups and a Foundation Conference.

The Committee commented that membership of the proposed Programme Panel should have Member involvement.

RESOLVED – That

- (1) the Programme Brief be noted;
- (2) the Chief Legal and Democratic Services Officer further consider the make up of the Programme Panel and report back to this Committee.

## 8 : REVIEW OF CONSTITUTIONAL CHANGES TO COUNCIL PROCEDURE RULES

This Committee had previously undertaken a review of the Council's Scheme of Delegations and Council Procedure Rules. As Council had been working for some six months with the current Council Procedure Rules the Committee was asked to consider whether any further changes were required, particularly in relation to Notices of Motion and Council Questions.

The current allocation of notices of motion, based on rules of proportionality but not including Executive Members in the number of Liberal Democrat Councillors, was as follows:

Liberal Democrat: 7 motions

Labour: 8 motions

Conservative: 3 motions  
Plaid Cymru: 1 motion  
Independent: 1 motion

The Chief Legal and Democratic Services Officer reported that at a meeting of the Standards & Ethics Committee, the fairness, in terms of good governance, of this allocation was raised as a potential item for consideration by that Committee.

Members discussed the appropriateness of the allocation and confirmed the allocation for the forthcoming year. In doing so Members made particular reference to the role of backbenchers. It was noted that Minority Groups always had the opportunity to amend notices of motion submitted by other Groups.

The question of limiting the number of motions per Group per Council meeting was discussed. Whereas it was thought desirable to keep the number to one motion per Group per meeting it was not felt necessary to make any changes to the existing rules at the present time.

The Committee also considered the practical difficulties of answering a high number of “oral” questions at Council but again offered no change to the current practice at the present time.

The Committee recognised the right of individual Councillors to ask questions at Council but noted the submission of a high volume of questions from some Members. The Committee urged Members to not use this time in a frivolous way and to ensure that all avenues were explored to obtain a satisfactory answer to a question before submitting a question to Council.

**RESOLVED – That**

- (1) the allocation of notices of motion to Groups as indicated above be approved;
- (2) no change be made to the procedure for the submission of questions to Council but it be kept under review.

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*(The meeting was concluded at 6.15pm).*