

CONSTITUTION COMMITTEE

27 JULY 2009

Present: County Councillor Berman (Chairperson);
County Councillors Aubrey, Burley, Goodway,
Greening, Howells, Elgan Morgan, Dianne Rees,
Walker and Walsh

1 : CHAIRPERSON

The County Council at its Annual Meeting on 14 May, 2009 elected Councillor Berman as Chairperson of this Committee for the Municipal Year 2009/2010.

2 : MEMBERSHIP AND TERMS OF REFERENCE

The Committee noted that the County Council at its meeting on 14 May, 2009 appointed the Committee with the following Membership and Terms of Reference:

Membership

County Councillors Aubrey, Berman, Burley, Goodway, Greening, Howells, Elgan Morgan, Keith Parry, Piper, Dianne Rees, Walker and Walsh

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;
- (c) amendment 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 13 February, 2009 were approved as a correct record and signed by the Chairperson.

4 : REVIEW OF CONSTITUTIONAL ARRANGEMENTS: PLANNING COMMITTEE MEETINGS

This Committee at its meeting on 17 October, 2008, agreed to undertake a review of the Constitutional procedure and arrangements for the Council's Planning Committee. As part of this review, it was agreed that all Members should be consulted on potential changes to the role of, and arrangement for, meetings of Planning Committee. The Committee received a report detailing the results of this consultation exercise and were requested to consider potential changes to the existing procedure to be included in a report being prepared by the Monitoring Officer on revised Planning Procedures Rules.

A 31% response rate was received to the survey, with questionnaires being returned by 23 of the Council's 75 Members. This was considered a disappointing return rate, and analysis of the responses had found an even split of views with no obvious majority to inform any recommendations on the way forward.

Members were taken through the summarised analysis of the key findings and considered each of the options and proposals as follows:-

Time Limits and Timing of Meetings

1. Implementation of a Time Limit

Members discussed the feasibility of introducing a time limit to manage the business of the Committee. Overall it was concluded that it would be difficult to set a time limit on meetings, however, it was felt that the implementation of some of the key outcomes from the questionnaire would improve the management of meetings.

2. Four Weekly Meetings

This proposal was agreed.

3. *Indicative Timings for each agenda item.*

This was agreed as a guideline only, with the Chair having the discretion to extend the time if necessary. To support the introduction of indicative timings it was proposed that local Members requiring a site visit should in accordance with the Planning Code of Guidance criteria notify the Chair of the request and the reason for the request in writing prior to the meeting. In addition, any Member proposing to attend the meeting should notify officers in advance of the meeting. It was suggested that a contact number be provided to Members for this purpose.

Room Layout Access

The proposals set out below were agreed.

4. *Development of an action plan to improve the accessibility of the Ferrier Hall.*
5. *Improve the microphone and speaker system provided at the Ferrier Hall.*
6. *The provision of a projector and screen to assist with the presentation of detailed information.*

Petitions

7. The proposal to allow open access to the meeting for objectors by removing the requirement for 50 signatures on petitions to allow for the public to speak at Planning Committees and allow one member of the public to speak on each application was discussed and rejected. It was agreed that the current rule on petitions should remain and that Councillors' rights to speak independently should remain. Members were particularly keen that there was a mechanism for verifying petitions and in particular that petitioners are on the Electoral Register and would be significantly affected by the proposed development.

Local Member Representation

8. *Local Ward Members be allowed to speak for 3 minutes per ward.*

It was recognised that multi Member wards would be disadvantaged if the time was limited to 3 minutes per ward. It was proposed that this be extended to 5 minutes per Local Member.

Order of Speakers

9. *Revised order of speakers.*

The Committee discussed the proposed order of speakers and made some revisions as follows:

- application to be presented by Officers (to deal with only issues not included in the cover report, for example those issues on the late representation sheet) (3 minutes);
- petitioner/public objector to speak (3 minutes);
- applicant to speak (3 minutes);
- Local Ward Member(s) to speak (5 minutes per Member);
- Planning Committee open debate and make decision (15 minutes) the Chair to keep a limit on general debate and draw questions to a close unless in exceptional circumstances there is a need for further debate.

10. *The time limit for each agenda item/application is 20 minutes but this would be extended at the discretion of the Chair.*

In view of the revised timings for the order of speakers this would need to be extended to at least 25 minutes but the Chair to manage this within the allotted time limits.

Late Representation Sheet

The proposals set out below were agreed.

11. *The cut off time for late representations to be 24 hours prior to the schedule start of the meeting.*

12. *All late representations to be made available at the meeting for Members of the Committee and local ward Members and the public to consider prior to the meeting and any comments on the late representations will be made in the Officer's presentation.*

Member Representations

13. *Local Members should only be able to make representations to the Planning Committee on applications which are within their ward or would have a direct impact on their own wards as the proposed development is in an adjoining ward.*

This proposal was agreed subject to the Member requesting to speak on a matter not within their ward formally requesting the Chair, in writing, in advance of the meeting, providing details of the reasons, on planning grounds for the request to speak.

Officer Attendance/Representation

14. *Officer attendance at the meeting to be at the discretion of the Chief Planning Officer and be applicable in the context of the agenda item. Other Officers will be available to provide answers to specific questions from the Committee Members only in order to assist in their decision making process.*

The Committee following discussions on this matter, proposed that an 'Advocate' Planning Officer for the Council for each planning area would deal with any issues relating to that planning application and that no other Officers should be in attendance at the meeting. It was felt that Members of the Committee should be encouraged to seek clarification on any planning issues arising from reports in advance of the meeting.

Site Visits

15. *Retain the existing informal arrangements for site visits.*

This proposal was accepted.

It was agreed that attendance of Committee Members at site visits be monitored and the information provided to Party Whips.

16. *Formally constitute a Site Visit Sub Committee of the Planning Committee.*

This proposal was rejected.

Community Engagement/Public Information

17. *Information leaflets written in plain language to be made available at Planning Committee meetings.*
18. *The Chair to provide an explanation of the role, procedures and protocol of the Planning Committee for the benefit of the public at the start of the meeting.*
19. *Consider the introduction of web casting of Planning Committee meetings.*
20. *Improve the provision of public information on the Council's website relating to the Planning Committee and planning applications.*

These proposals were all agreed.

Format of Reports and Minutes

21. *Planning Committee reports to be printed on different coloured paper according to which part of the City they relate to (for example central, east and west).*
22. *Clear maps, plans or diagrams to be provided at Planning Committees in support of planning applications (in line with option proposal number 6 i.e., to be projected onto a screen).*

These proposals were all agreed.

The Committee considered a request for the recording and availability for public inspection of votes of Members of the Planning Committee to ensure clarity and to avoid allegations of political bias. The Committee agreed that the current procedure should remain.

Scheme of Delegations

23. *No change to the current practice.*

Member Development

24. *A basic level of training on planning matters to be provided to all Members on a mandatory basis and in accordance with their respective needs.*

This matter was discussed and it was agreed that all Members would be expected to undertake a basic level of training on planning matters in their role as a Councillor, but that this would not be made mandatory.

It was noted that specific training for Chairs and Vice Chairs was to be undertaken in the autumn as part of the Member Development Programme.

Other matters

In addition, Members briefly discussed options for the start time of meetings and the number of Members that should sit on the Committee. No changes were recommended to the current position.

RESOLVED – That

- (1) the outcomes of the consultation exercise and comments made by the Committee on potential changes to the existing Constitution be noted;
- (2) the Monitoring Officer, taking into account the agreed proposals, be requested to prepare a further report on proposed changes to the Constitution relating to the Planning Committee for consideration by this Committee at its meeting on 11 September, 2009.

5 : COUNCIL MEETING PROCEDURE RULES

Following a cross party informal discussion on the current Council Meeting Procedure Rules, a copy of the rules were circulated to all Members and political groups. As part of the process, Members were invited to raise any concerns or comments on the current rules at their political group meetings and for those comments to be forwarded to this Committee for consideration. The Committee was advised that, to date, comments had only been received from one of the political groups and these were circulated at the meeting for Members' information.

The Committee received a report setting out the issues that had been identified which required consideration or clarification which had arisen in the course of the last 12 months.

Members were advised that Party Whips had asked for further time to discuss these matters within their political groups. It was noted that group meetings would not now be held until the beginning of September and it would therefore not be feasible for further discussion on this item until the October meeting of this Committee. It was proposed that all comments and revisions from the political groups and individual Members should be circulated to the Committee in advance of the October meeting, to allow for full consideration of all suggestions.

RESOLVED – That

- (1) the content of the report be noted;
- (2) the report be referred to the political groups for consideration, and comments;
- (3) a further report be submitted to the October meeting of the Committee to allow adequate time to consult the political groups;
- (4) any comments received from political groups and individual Members be circulated to the Committee in advance of the October meeting to enable them to fully consider all the proposals.

6 : REVISED PROCESS FOR DELEGATED DECISION MAKING IN RELATION TO COUNCIL LAND AND PROPERTY

The Committee received a report on proposed amendments to the Council's Constitution in respect of a revised process for declaring Council land and property surplus to operational requirements. Following the call-in by the Policy Review & Performance Scrutiny Committee in May 2009 of the decision in relation to Hywel Dda Junior School in Cambria Road, Ely, it was considered that there were areas of the process that could be strengthened and clarified. Details of the proposed changes were set out in the report which aimed to achieve a more robust process and greater engagement with Ward Members.

Members discussed the revised process and proposed a number of amendments.

RESOLVED – That the Committee delete Delegation CE13 and approve a new Delegation FS52 together with the following revised reporting and consultation process:

- a Service area will prepare documentary evidence approved by the relevant Corporate Director in consultation with the Executive Member that operational land/property is surplus to the requirements of the Service area prior to that land/property being categorised as surplus, and Ward Members be advised that consideration is being given to declaring the identified operational land/property as surplus;
- once land/property is categorised as surplus to Service operational requirements it will be deemed Corporate land/property and the City & County Treasurer will prepare a detailed report that sets out the merits of a disposal or retention based on the requirements of best value; and will consult with Service areas and the Ward Members regarding the recommendations in the report;
- if the consultation results in objections from Ward Members these will be indicated in the report which will be referred to the Executive for a decision. If there are no Ward Member objections a decision will be taken by the City & County Treasurer in consultation with Executive Member for Finance & Service Delivery;

- to ensure that Ward Members have sufficient time to respond to consultation on disposal of surplus land/property the existing 5 working day period will be extended to 21 working days;
- the process whereby Ward Members' views relating to consultation are deposited with the Council will be made secure through a process whereby consultation with Ward Members will be conducted through the Council's electronic mail system and more Members will be requested to respond with any views through e-mail replies. This will provide a clear and detailed trail of the Ward Members consultation process. However responses will be accepted in letter or fax formats;
- the existing Delegation CE13 will be deleted and a new FS52 will be added to the Constitution which reads: "To declare operational land and property as surplus to the Council's requirements, subject to consultation with Service areas and ward Members, and subject to no objections being received from ward Members. Receipt of a ward Member objection will require the report to be referred to the Executive for decision".

7 : CRIME AND DISORDER SCRUTINY COMMITTEE

The Committee was advised that from 1 October 2009 all County and County Borough Councils in Wales will be required to establish a committee to review or scrutinise crime and disorder functions. The report set out the legislative requirement and powers governing such a committee. Members were advised that the committee may, but does not have to be, a separate committee of the Council. The function could be allocated to an existing Committee.

RESOLVED – That the Constitution Committee recommends to Council that:

- (1) the Community & Adult Services Scrutiny Committee be given the powers of a Crime and Disorder Committee;
- (2) the City & County Solicitor be authorised to make such amendments to the Constitution as are required to enable the Community & Adult Services Scrutiny Committee to carry out the duties of Crime and Disorder Committee.

8 : INDEPENDENT REMUNERATION PANEL FOR WALES: WAY FORWARD POLICY CONSULTATION

As part of the second phase of the Policy Consultation with all Councils in Wales during 2009, the Independent Remuneration Panel had issued a further consultation paper, which was intended to inform the Panel's evidence gathering process and to seek consensus where possible on the Panel's emerging thoughts regarding the way forward on Members' Allowances. The consultation paper focused more specifically on a set of principles and policy position in respect of the Remuneration Framework which the Panel has arrived at, and on which it intends to rely, when making its determinations and recommendations for 2010/11 and in future years. A questionnaire/response form had also been issued by the Independent Remuneration Panel to accompany the consultation paper for response to the Independent Remuneration Panel Secretarial by Friday 4 September 2009.

RESOLVED – That

- (1) the consultation issued by the Independent Remuneration Panel for Wales be noted;
- (2) the consultation paper be circulated to all Members to enable individual Members or groups to make representation to the Independent Remuneration Panel for Wales as appropriate.