

**CONSTITUTION COMMITTEE:**

**11 SEPTEMBER 2009**

**REPORT OF THE MONITORING OFFICER**

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**COUNCILLORS COMMISSION EXPERT PANEL REPORT**

**AGENDA ITEM: 2**

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**Reason for this Report**

1. To enable Members to consider the report and recommendations of the Councillors Commission Expert Panel in Wales.

**Background**

2. In December 2007, the Councillors Commission set up by the UK Government published a report entitled, "*Representing the Future*", which made a total of 61 recommendations. A significant number of those recommendations related to non-devolved matters, but many applied equally to Wales.
3. Further to the report of the Councillors Commission, in March 2008, the Welsh Assembly Government established a panel of experts to consider the report of the Councillors Commission and the position of local government in Wales. The Expert Panel included two current Cardiff Councillors (Cllrs Lansdown and Patel) and was also chaired by a former Cardiff Councillor.
4. The terms of reference for the Councillors Commission Expert Panel were as follows:
  - to consider the recommendations of the Councillors Commission and their appropriateness for implementation in Wales;
  - to consider whether there are any other issues relevant to widening participation in local government in Wales, which have not been considered by the Councillors Commission; and
  - to make recommendations to the Minister by November 2008.
5. As part of its work, the Expert Panel considered the following specific themes that were linked to the themes considered originally by the Councillors Commission:
  - the role of councillors;

- public perception and understanding of councillors and the role of the media;
- balancing working and family life with being a councillor;
- supporting, recognising and rewarding councillors; and
- recruiting and retaining a diverse range of councillors.

### **Issues**

6. The Expert Panel's report, entitled "*Are we being served?*", was published for consultation on 14 August 2009 and is attached as **Appendix A** to this report.
7. The WAG Minister for Social Justice and Local Government is currently seeking views primarily on those recommendations contained within the report that are aimed at the Welsh Assembly Government, but would also welcome views on any of the 35 recommendations made by the Expert Panel, which are set out in **Appendix B** to this report. Any comments should be returned to the Local Government Democracy Team at the Welsh Assembly Government by Friday 6 November 2009.

### **Finance Implications**

8. There are none arising directly out of this report.

### **Legal Implications**

9. There are none arising from the report.

### **Recommendations**

10. The Committee is asked to:
  - i) note the report (Appendix A) and summary of recommendations (Appendix B) of the Councillors Commission Expert Panel in Wales, and;
  - ii) agree that copies of both documents are circulated to all Members, with the request that any comments from individual Members or Groups be submitted to the Clerk to the Council by 12 October 2009.

**KATE BERRY**  
**Monitoring Officer**  
**7 September 2009**

**Appendix A:** Report of the Expert Panel – "*Are we being Served?*"

**Appendix B:** Summary of Recommendations

**CONSTITUTION COMMITTEE:**

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**KATE BERRY**  
**Monitoring Officer**  
**7 September 2009**

**Appendix A:** Report of the Expert Panel – "*Are we being Served?*"

**Appendix B:** Summary of Recommendations

**CONSTITUTION COMMITTEE:**

**11<sup>th</sup> September 2009**

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**REPORT OF THE MONITORING OFFICER**

**AGENDA ITEM: 4**

**AMENDMENTS TO SCHEME OF DELEGATIONS**

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**Reason for this Report**

1. To enable the Committee to consider recommended amendments to the Scheme of Delegations.

**Background**

2. This Committee's approved Terms of Reference are:

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).
3. Following a review of the Council's constitutional arrangements undertaken at the request of the Constitution Committee, and upon the recommendation of the Committee, Council adopted a revised Scheme of Delegations with effect from 1<sup>st</sup> October 2006, and resolved to review the same in light of operational experience.

**Issues**

4. In light of operational experience of the Scheme of Delegations, a number of issues have been identified where minor amendments are considered necessary to improve the efficacy and clarity of the Scheme. The proposed amendments are marked on the Scheme of Delegations appended at **Appendix A**.

5. The Monitoring Officer has delegated authority (confirmed by the Committee at its meeting on 8<sup>th</sup> September 2008) to amend errors, update matters of record, make drafting improvements and remove minor anomalies in the Constitution. The amendments referred to under points (i) and (ii) below are proposed; and may be authorised by the Monitoring Officer under this general authority:

(i) **Officer delegations** (Section 4 of the Scheme)– All delegations to officers are subject to the overall limitations set out in the Scheme of Delegations (paragraph 2 of the Introduction to Section 4 Delegations to Officers), namely that the decision must be: a) within budget; b) in accordance with the Council’s policy framework; c) in accordance with Council’s Financial and Land Procedure Rules and Contracts Procedure Rules; d) in accordance with their Service Area Business Plan; and e) not a matter specifically reserved for Full Council, a Committee of the Council, the Executive or a Statutory Officer. It is suggested that this could be made clearer by the proposed amendments to the beginning of each section of the officer delegations in the Scheme (4B, C, D, E and F). Further minor amendments to Section 4 are also proposed (as shown in Appendix A) in the interests of clarity and ease of reference.

(ii) **Delegations to Joint Committees** – The Council and the Executive may establish joint arrangements with other authorities, and Article 10 of the Constitution makes provision in this regard. Article 10.1(d) requires that details of joint arrangements, including delegations to joint committees shall be set out in the Scheme of Delegations. The delegation to the Welsh Purchasing Consortium is to be added to Section 5 of the Scheme of Delegations.

6. A number of substantive issues identified as requiring amendment are set out below:

(i) **Proper Officer appointments** – The Council is required under various statutes to appoint and or authorise specific officers to discharge specified functions on its behalf – such officers are known as ‘Proper Officers’ or ‘Authorised Officers’. A Proper Officer may or may not be an officer of authority. The Scheme of Delegations currently makes the following provision in this regard:

CE10 The Chief Executive is empowered to make Proper Officer appointments where required by law for the performance of executive functions. This authority is not further delegable.

LD1 The Monitoring Officer is empowered to authorise an officer of the Authority to perform any executive function where statute requires an Authorised Officer for that purpose.

LD2 The Monitoring Officer is authorised to carry out all Proper Officer functions not allocated to other officers.

The appointment of Proper Officers is required for a range of operational matters, such as (public health) communicable disease control, and such appointments need to be kept under constant review and new appointments made from time to time when the need arises. It is considered impractical and unnecessary for such

Proper Officer appointments to be made by the Chief Executive. Accordingly, it is proposed to amend the Scheme of Delegations (LD1) to permit the Monitoring Officer to make Proper Officer appointments (where required by law for the performance of executive functions), which may then be further delegated as appropriate in respect of the particular legislative requirement, for example to the Chief Officer of the relevant service area.

**(ii) Financial assistance** – The authority to determine applications for financial assistance (grants) and assistance in kind, in accordance with any policy or strategy approved by the Executive, is delegated to the relevant Corporate Director (CD9), Chief Officer (CO9) or Operational Manager (OM4), depending upon the value of the assistance. It has been requested that the word ‘(grants)’ be removed from these delegations in recognition of the fact that financial assistance offered by the Council may include other forms of financial assistance, for example, loans. It is submitted that the delegation should apply to all forms of financial assistance (as well as assistance in kind).

**(iii) Discharge of the Council’s role as shareholder (or member) or various bodies** – The Council (as a corporate body) is a shareholder or member of a number of companies and other bodies, such as the Millennium Stadium Plc, Cardiff Bus, Cardiff & Co, and others. This role covers a wide range of matters, including administrative matters (for example attending general meetings, exercising voting rights, requisitioning a general meeting, receiving copies of the accounts of the body, demanding a poll etc), as well as the pursuance of the wider objectives of the Council’s involvement in the particular body in accordance with any Council approved policy or strategy, and ensuring that any concerns in this regard are raised in an appropriate manner. Whilst the Scheme of Delegations currently makes provision for specific matters such as the representation of the Council at Cardiff Bus’ AGM (delegated to the City and County Treasurer under delegation reference FS50), there is no general provision covering the range of decisions potentially required. The authority to exercise the rights and responsibilities of the Council in this regard could properly be delegated to the Corporate Director with responsibility for the matter in question (with the proviso that such authority should not be further delegable to officers below OM1, and subject always to the overall limitations referred to in paragraph 5(i) above). A new delegation reference CD10 has been inserted in Section 4B of the Scheme of Delegations to this end. It should be noted that if such delegation is added to the Scheme of Delegations, the Scheme provides (in Section 4A paragraph 3.4) that a decision may nevertheless always be referred up to the Executive or a Committee wherever appropriate, for instance where a decision is politically significant or has policy implications.

**(iv) Trust funds** – The Council is trustee and administers a number of charitable and other trust funds, in pursuance of its statutory powers and duties. The management of the same is considered to fall within the City and County Treasurer’s delegation (reference FS5), and this delegation has been exercised accordingly. However, it is suggested that the words ‘and trust funds including charitable trust funds where the Council and or its officers are trustees’ should be added for the avoidance of any doubt.

## **Legal Implications**

7. The relevant legal provisions and the implications of these are contained within the body of this report.

## **Financial Implications**

8. There are no financial implications arising from this report.

## **RECOMMENDATIONS**

The Committee is recommended to:

- (i) note the amendments to the Scheme of Delegations set out in paragraph 5 above;
- (ii) consider and approve the amendments to the Scheme of Delegations set out in paragraph 6 above; and
- (iii) recommend to Council the adoption of the revised Scheme of Delegations appended as **Appendix A** to this report.

### **Kate Berry**

Monitoring Officer and City and County Solicitor  
7<sup>th</sup> September 2009

## **Appendices**

- Appendix A - Scheme of Delegations (Part 3 of the Constitution),  
marked up to show proposed amendments