

CONSTITUTION COMMITTEE

15 JANUARY 2010

Present: County Councillor Berman (Chairperson);
County Councillors Goodway, Greening, Howells,
Dianne Rees and Walker

Apologies: Councillors Aubrey, Burley, Elgan Morgan, Keith Parry and Walsh

17 : MINUTES

The minutes of the meeting held on 6 November, 2009 were approved as a correct record and signed by the Chairperson.

18 : AMENDMENTS TO SCHEME OF DELEGATIONS – NEW FUNCTIONS AND RESPONSIBILITIES AMENDMENT REGULATIONS 2009; and CORPORATE DIRECTORS DELEGATIONS

The Committee considered proposed amendments to the Scheme of Delegations to reflect the Local Authorities (Executive Arrangements)(Functions and Responsibilities)(Wales)(Amendment) Regulations 2009 (SI 2009/260) ('the New Regulations) and to widen the exercise of Corporate Director delegations under the Council's corporate management arrangements.

The New Regulations came into force on 2 December 2009 with changes to the provisions regarding responsibility for (a) Highways and Public Rights of Way Functions, (b) Policy framework plans and strategies and (c) Gambling Act functions.

Under (a) certain functions under the Highways Act 1980 and the Wildlife and Countryside Act 1981 had been omitted from the previous (2007) Regulations and consequently responsibilities were transferred from the Council to the Executive. Following representations from a number of local authorities, the New Regulations provided that these functions were now ones for local choice. Council had to decide whether these functions should continue to be the responsibility of the Executive or return them to a committee of the full Council.

The New Regulations also included a number of other related functions under the Highways Act as ones for local choice. A full list of the highways and public rights of way functions which were made local choice functions under the New Regulations was set out in Appendix A to the report. Responsibility for these functions must be determined by Council, (except for paragraph (a) of Appendix A relating to the execution of highways works agreements which remained a local choice function, and which this Council had previously determined to be a Council function delegated to the Monitoring Officer and the Chief Officer).

It was proposed that Service Areas be consulted on their views regarding responsibility for the functions listed in Appendix A (save for paragraph(a), to enable this Committee to make properly informed recommendations to Council. Until such time that service areas had been consulted on the above functions and reported back to this Committee it was proposed that they remain the responsibility of the Executive, (with the exception of paragraph (a) of Appendix A referred to above in respect of which no change was recommended).

It was noted that the preparation and publication of Rights of Way Improvement Plans required Council approval and should be added to the Council's Policy Framework.

The Single Education Plan had been replaced by the Children and Young People's Plan and also required Council approval. This would remain part of the Council's Policy Framework.

Under the previous (2007) Regulations, various Gambling Act 2005 functions were made matters for local choice and the Council allocated them to the Licensing Committee. The New Regulations added the following additional Gambling Act functions as local choice functions with responsibility to be by Council. It was recommended that, as the additional functions were considered complementary to the Gambling Act functions currently exercised by the Licensing Committee, the following additional functions should also be the responsibility of the Licensing Committee:

- The duty to comply with a requirement to provide information to the Gambling Commission

- Functions relating to the exchange of information
- The power to exchange information
- The function relating to the registration and regulation of small society lotteries.

The Committee was also asked to consider amending the Corporate Director delegations by delegating the same authority to the City and County Treasurer, City and County Solicitor and Chief People and Organisational Development Officer as that given to Corporate Directors under the Scheme of Delegations.

RESOLVED – That

1. the City and County Solicitor be instructed to consult with the service areas concerned as to the proper allocation of the highways and public rights of way functions listed in Appendix A (save for paragraph (a) thereof), and report back to this Committee with recommendations in this regard;
2. subject to the approval of Council, pending service area consultation and further consideration by the Constitution Committee (as referred to in recommendation 1), the highways and public rights of way functions listed in Appendix A (save for paragraph (a) thereof) remain the responsibility of the Executive;
3. the updates to the Council's Policy Framework set out in paragraphs 8 and 9 of the submitted report, which are to be made under the Monitoring Officer's delegated authority, be noted;
4. subject to the approval of Council, the Gambling Act functions listed in paragraph 12 of the submitted report be determined as Council functions and delegated to the Licensing Committee;
5. the Corporate Director delegations in the Scheme of Delegations as referred to in paragraph 16 of the submitted report be deferred.

19 : COUNCIL MEETING PROCEDURE RULES

Following the ongoing review of the Council Meeting Procedure Rules Members at their meeting on 6 November 2009 offered a number of initial views on particular elements and asked the Monitoring Officer to

come back to this meeting with a report embracing those comments with a view to reporting to Council on 28 January.

Members re-considered proposed changes to the Council Meeting Procedure Rules and debated whether the changes should be implemented and, if so, in what manner. Members were particularly keen to ensure that whatever changes were made would not be too prescriptive and would work for the benefit of Members.

When submitting questions for Council, Members were asked to direct their questions to the appropriate portfolio holder or Chair wherever possible. It was agreed that this would be incorporated in guidance to Members.

At the last meeting of this Committee, Members discussed the matter of prayers at, or before, meetings of Council. The Monitoring Officer set out options for consideration.

The Committee was advised that minutes of Council and Committee meetings were currently included on the Council's website only after they had been approved at the next appropriate meeting. This could sometimes lead to a delay of up to two to three months in some cases, between the meeting itself and the approved minutes being published.

As a result, it was proposed that draft minutes be published on the Council's website within 10 working days of the original meeting but clearly labelled as draft/no-status.

RESOLVED – That

- (1) the issue of saying prayers at Council meetings be deferred for further consideration and comment by the political groups;
- (2) draft minutes of Council and Committee meetings be included on the Council's website within 10 days of the original meeting but clearly labelled as draft/no status;
- (3) Council be asked to approve the following changes shown in italics to the Council Meeting Procedure Rules:

COUNCIL MEETING PROCEDURE RULES

10. QUESTIONS BY COUNCILLORS

10.3 Notice of questions

A Councillor may only ask a question under Rule 10.2 if:

(a) he or she has given notice in writing of the question to the proper officer by 9.00am on the last working day before the meeting;

(b) the question is submitted, within the deadlines set out in 10.3 (a), to:

- *the Council's formal mailbox for the submission of questions as specified, from time to time, by the Clerk to the Council;*
- *the relevant fax number as specified, from time to time, by the Clerk to the Council;*
- *the Clerk to the Council or a nominated member of his staff*

or

(c) the question relates to urgent matters, he or she has the consent of the Councillor to whom the question is to be put and written notice of the question is given to the Proper Officer by 12.00pm on the day of the meeting or at least three hours (which must be within the working day) before the meeting which ever is the earlier.

10.6 Withdrawal of questions

(a) A question of which notice has been given under Rule 10.2 may not be withdrawn except with the consent of the person of whom it is asked.

(b) If the Monitoring Officer considers that a response to a submitted question could be provided by a senior officer prior to the relevant Council meeting, then the Monitoring Officer may contact the Member concerned to ascertain whether the question could be withdrawn.

10.7 Supplementary questions to questions on notice

A Councillor asking a question under Rule 10.2 may ask one supplementary question (without notice) of the Councillor to whom the first question was asked. One further supplementary question may be asked by a Councillor provided that Councillor is neither the original questioner nor a member of the same political group as the original questioner. *Such a supplementary question may be asked even if the original questioner is not present at the meeting.*

11. PUBLIC QUESTIONS

11.1. Any person who resides or works in the area of the City and County of Cardiff may ask questions of members of the Executive or of the chairpersons of committees of the Council at ordinary meetings of the Council. A period of up to 15 minutes at the beginning of each meeting shall be allowed for questions to be put and answered and for any supplementary questions and the answers thereto under these rules. *The Lord Mayor may use his/her discretion to extend this period if the need arises.* No Councillor may ask a question under these procedure rules.

12.2 Number and sequence of motions of which notice has been given

(a) The motions of which notice has been given which may be moved at a meeting shall be limited to a maximum total of 20 motions in each municipal year, *subject to the provisions of procedure Rule 12.2 (b)*, allocated by agreement between the political groups. Such allocation to be reviewed annually by the Council's Business Committee.

(b) No political group, which is recognised by the Council, shall be allocated less than two motions in a municipal year. If necessary, the maximum number of motions in a year may be increased from 20 to accommodate this.

(c) Motions for which notice has been given under Rule 12.1 and which will be considered at the meeting by virtue of the operation of Rule

12.2(a) will be listed on the agenda in the order in which the notices were received.

14. RULES OF DEBATE

14.4 Content and length of speeches

(a) Speeches must be directed to the question under discussion or to a personal explanation or point of order. *Proposers of motions, or movers of reports, may speak for up to six minutes. With the exception of the provisions of Rule 14.4 (b), no other speech, including those of movers of amendments, may exceed three minutes without the consent of the meeting.*

(b) *An Executive Member will, as a rule, be allowed three minutes to sum up and/or respond to questions on a report or statement that they have presented. The Lord Mayor may, however, use his/her discretion to allow a further three minutes to enable the Executive Member to respond to as many matters raised as is possible.*

14.6 Amendments to motions

(a) An amendment to a motion must be relevant to the motion and will either be:-

- (i) to leave out words;
- (ii) to leave out words and insert or add others;
- (iii) to insert or add words; or
- (iv) to substitute another proposition;

(b) Any amendments to motions of which notice has been given under Rule 12 will be called by the Lord Mayor in *an* order determined by the Lord Mayor, *in consultation with the Monitoring Officer*, to facilitate coherent debate *and to, wherever possible allow all amendments to have the opportunity to be voted upon.* Each amendment will be proposed and seconded and then put to the vote in the order *determined by the Lord Mayor.*

14.12 Point of order

A Councillor may raise a point of order at any time. The Lord Mayor will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Councillor must first state the rule or law to which he/she is referring and then commencing with the words 'is it in order for' indicate the way in which he/she considers it has been broken. The ruling of the Lord Mayor on the matter will be final. *Points of order will only be recorded in the minutes if the Clerk to the Council considers that such an inclusion would provide greater clarity to the minutes.*

14.13 Personal explanation

A Councillor may make a personal explanation at any time. A personal explanation may only relate to one of the following:

- (i) some material part of an earlier speech by the Councillor in the present debate which may appear to have been misunderstood;
- (ii) to reply to an allegation of misconduct made against the Councillor giving the explanation; or
- (iii) to make an apology to the Council.

The ruling of the Lord Mayor on the admissibility of a personal explanation will be final.

Points of personal explanation will only be recorded in the minutes if the Clerk to the Council considers that such an inclusion would provide greater clarity to the minutes.

16. VOTING

16.3 Show of hands/Electronic Voting

The Lord Mayor will take the vote by use of an electronic voting system or, if such a system is unavailable, by a show of hands.