

## CONSTITUTION COMMITTEE

12 MARCH 2010

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

Apology: County Councillor Keith Parry

20 : MINUTES

The minutes of the meeting held on 15 January, 2010 were approved as a correct record and signed by the Chairperson.

### 21 : WELSH ASSEMBLY GOVERNMENT CONSULTATION ON SCRUTINY AND POLITICAL STRUCTURES

The Local Democracy, Economic Development and Construction Act 2009 received Royal Assent in November 2009 and provided the National Assembly for Wales with legislative competence in respect of scrutiny and governance matters, including political structures within local government. As a result, the Welsh Assembly Government (WAG) is currently seeking views on a number of policy proposals that would be included in a future Assembly Measure to be introduced by the WAG later this year.

The Committee was advised that the consultation period was due to close on 17 March, 2010. A draft response to the policy proposals had been prepared by officers for discussion, and it was proposed that, should the Committee agree that the Council should formally respond, then this could be used as the basis of a draft response to the WAG by 17 March 2010, which could then be confirmed or amended accordingly, following consideration by Council on 25 March 2010.

The Committee considered the policy proposals and the content of the draft response under the following headings:

Future development of scrutiny

- (1) Joint scrutiny committees  
Cardiff Council has successfully undertaken joint scrutiny committees. Members were concerned that any related legislation or guidance that emerged from the proposals should not be too prescriptive. It was considered that greater clarity was also needed in relation to accountability and whether joint scrutiny committees will be expected to be established on an ad hoc or permanent basis.
- (2) Co-option of persons other than Councillors  
Members strongly opposed any proposals to extend powers to co-optees as there is a need to maintain a clear distinction between the role of co-optees and the role of democratically elected members of the Council.
- (3) Scrutiny beyond the functions of a local authority  
Members felt that there was a need for clarity on what organisations are included in the definition of '*deliverers of devolved public services*' and had concerns on the resource implications for Councils.
- (4) Health scrutiny  
Members noted that these powers had been implemented in England and were content with further exploratory work being undertaken in this area. It was felt however that this proposal would potentially increase the pressure on existing workloads of elected members and scrutiny committees.
- (5) Imposition of group discipline in scrutiny committees  
This was not considered to be common practice as part of the scrutiny function in Cardiff.
- (6) Allocation of scrutiny chairs  
This proposal has been an established practice in Cardiff. The convention in Cardiff is for groups to nominate Chairs which are then ratified by the County Council.
- (7) Forward planning  
Each scrutiny committee in Cardiff develops a work programme on an annual basis.
- (8) Officer support for scrutiny  
Whilst Members supported the principle of independent officer support for scrutiny and separation of the Executive and scrutiny function, it was considered that any policy proposals should not be prescriptive, and therefore suggested the deletion of the second paragraph of the draft response.

Members had a discussion around officer responsibility for the scrutiny function and the need for this to sit at a senior level.

- (9) Reference back of executive decisions  
Members supported this proposal.

#### Review of political structures and council organisation

- (10) Options for political structures  
The proposal was supported and the draft response was agreed
- (11) Functions and responsibilities  
The proposal was supported and the draft response was agreed
- (12) Delegation of functions  
The proposal was supported and the draft response was agreed
- (13) Forward planning  
The proposal was supported and the draft response was agreed
- (14) Audit committees  
The Council has an Independent Audit Panel in line with good governance arrangements, and based on the Standards and Ethics Committee model, and would wish to maintain this model.
- (15) Welsh Ministers' powers  
This proposal was seen as a last resort option only and Members considered that any intervention should be evidence based and that 'peer' assistance from other Local Authorities and the WLGA should be explored in the first instance.

#### Strengthening the links with the Community

- (16) Duty to consult  
Members considered that there was a need for greater clarification on how this proposal would work in practice. There were specific concerns about the obligation that could be placed on scrutiny committees and the impact on resources.
- (17) Councillor/community calls for action  
Members considered that the guidance for this policy proposal needs to be strong and detailed to ensure that any calls for action can be demonstrable and outcomes achieved. It was felt that the any future guidance should clearly emphasise that this course of action should only be used when other appropriate courses of action have been exhausted.

(18) Promotion of democracy and petitions

In principle Members welcomed the proposals for e-petitions, subject to the provision of the technology.

RESOLVED – That

- (1) a final draft response be prepared and circulated to the Committee for approval prior to submission to WAG by 17 March 2010;
- (2) the response be submitted to the County Council 25 March 2010 for formal ratification;

22 : INFORMATION REPORT – COUNCIL PROCEDURE RULES-  
ANOMALY RELATING TO NOTICES OF MOTION

The City and County Solicitor briefed the Committee on the proposed use of delegated powers to address an anomaly from the Constitution relating to notices of motion, which had been drawn to her attention by a Member subsequent to the change made in July 2005. Whilst debates on Motions at Council since 2005 have been carried out in accordance with the spirit of the above decision, the Constitution had not been correctly amended at that time to reflect all of these changes. Consequently an anomaly exists, in regard of the right of reply at the end of a debate that needs to be corrected. The current procedure rules incorrectly infer, in paragraph 14.9(a) (ii), that the mover of a Motion has the right of reply at the close of the debate on an amendment. This is not the case, unless such an amendment is lost or accepted by the mover of the original Motion, and it is necessary to amend the rules to rectify this anomaly.

The Committee discussed the matter of the right of reply during notices of motion at Council and agreed that the way these debates are conducted provides for sufficient opportunity for the mover to reply and that the anomaly should be removed, and the procedure amended in accordance with the current protocols. The Committee considered, however, that it would be appropriate for the mover of a motion to have one opportunity, after the conclusion of the debate, to respond to amendments prior to any such amendments being voted upon.

RESOLVED – That the draft revised Council procedural rule, relating to paragraph 14(a) the right of reply at the close of a debate, be brought back for consideration by the next meeting of this Committee for approval.

### 23 : BUDGET COUNCIL PROCEDURE RULES

The Business Committee at its meeting 16 February 2010 agreed that procedure rules based on the agreed protocol for the Budget Council be prepared for consideration by a future meeting of this Committee.

RESOLVED – That the Clerk to the Council and Head of Democratic Services prepare draft Council Budget Procedure rules for future consideration by this Committee.

### 24 : FUTURE MEETINGS

It was agreed that the next meeting scheduled for 9 April, 2010 be cancelled and that the May meeting be rearranged if required.