

## CONSTITUTION COMMITTEE

20 SEPTEMBER 2012

Present: County Councillor Furlong (Chairperson);  
County Councillors Cowan, De'Ath, Goodway, Hyde,  
Joyce, Kelloway, Magill, Marshall and Walker.

Apology: County Councillor Keith Jones.

### 1 : CHAIRPERSON

The Committee noted that Council at its Annual Meeting on 17 May 2012 elected Councillor Furlong as Chairperson of this Committee for the Municipal Year 2012/13.

### 2 : MEMBERSHIP AND TERMS OF REFERENCE

The Committee noted that Council at its Annual Meeting on 19 May 2011 agreed the following Membership & Terms of Reference:

#### (i) Membership

County Councillors Aubrey, Cowan, De'Ath, Furlong, Goodway,  
Hyde, Keith Jones, Joyce, Kelloway, Magill, Marshall and Walker

The Chairperson advised that Councillor Joyce had resigned from the Committee to allow for greater participation in the Committee from backbench Members. An appointment to this vacancy will be confirmed at Council on 27 September 2012.

#### (ii) Terms of Reference

To review the Council's Constitution, and to recommend to Council and/or the Cabinet 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 Section 151 Officer being sought).

### 3 : DECLARATIONS OF INTEREST

The Chairperson reminded Members of their responsibility under Article 16 of the Members' Code of Conduct to declare any interest, & to complete Personal Interest forms, at the commencement of the item of business.

### 4 : MINUTES

The minutes of the meeting held on 2 March, 2012 were noted.

### 5 : INTRODUCTION

The Chairperson emphasised the importance of the work of this Committee during the coming year, in the reviewing and developing a Constitution to reflect the governance arrangements for the Council moving forward; allowing for engagement with all Elected Members; and participation and engagement with the citizens of Cardiff.

The Chairperson advised that the Leader of the Council had written to her with some suggested areas that could form part of a review of the Constitution to reflect the objectives of the administration. The Chairperson had also written to all Elected Members to ask for feedback and engagement with the Committee in its programme of work moving forward, and in particular the review of the Constitution; decision making processes; enhancing the work of Scrutiny; and work to encourage greater public engagement.

### 6 : TERMS OF REFERENCE AND LINKS TO OTHER COMMITTEES

The Chief Officer, Legal and Democratic Services introduced this item and circulated copies of the Terms of Reference of the other Committees that work in tandem with the Constitution Committee. The current Terms of Reference set the context for the Committee moving forward, it was a living document that could be changed and revisited during the process of review. The administration had set out its objectives to look at the governance arrangements of the Council to ensure that the processes are transparent and accessible; gives clarity to the processes for decision

making and the breadth of delegations; meets the requirements of the Local Government Wales Measure; and involves all Elected Members.

In the discussions a number of Members were keen that the Committee and the Council's Constitution would

- provide a greater degree of participation for Elected Members;
- allows for involvement of Elected Members in policy development through enhancing scrutiny and protocols for Council;
- provides for debate on public policy;
- redress the balance between the roles of Council, Cabinet and Scrutiny to allow for greater discussion and debate;
- evidence and set out the decision making processes and delegations, within the statutory framework;
- consider the framework for Cabinet Members individual decision and ownership of reports with advice being given by officials as part of the process.

In principle Members considered that the Terms of Reference were currently fit for purpose, but that there was a need to review them at a later date in light of any agreed changes to the Constitution; influences arising from the Local Government (Wales) Measure, and requirements of the new administration.

RESOLVED – That the Terms of Reference be noted and reviewed in 6 and 12 months to ensure that they remain fit for purpose.

## 7 : CONSTITUTIONAL AMENDMENTS UNDER THE MONITORING OFFICER'S DELEGATED AUTHORITY

The existing Constitution places a duty on the Monitoring Officer to maintain an up-to-date version of the Constitution and to ensure that it is widely available for consultation by Councillors, employees and the public.

The Constitution Committee on 8 September, 2008 delegated to the Monitoring Officer authority to amend the Constitution, to include:

- (a) amending typographical and minor drafting errors;
- (b) updating to reflect legislative changes and matters of record; and
- (c) drafting improvements to enhance clarity and remove minor anomalies.

The Committee received a report which provided an overview of the amendments made by the Monitoring Officer since the Local Election in May 2012 under her delegated authority. The amendments made included:

- amendments to the text setting out the Council's policy framework to reflect updates (e.g. inclusion of the What Matters; The 10 Year Strategy for Cardiff);
- changes to designations of posts (e.g. Removal of term Corporate Director replaced with Chief Operating Officer or Corporate Chief Officer as appropriate);
- updates to the Senior Management Structure chart following the appointment of the Chief Operating Officer;
- legislative amendments to the Contract Standing Orders and Procurement Rules as a result of changes to European Union Procurement values;
- removal of the term Executive and replaced by Cabinet following the May election; and
- corrections to minor typographical and drafting errors.

RESOLVED – That the amendments to the Constitution as taken within the delegated authority of the Chief Officer, Legal & Democratic Services and Monitoring Officer be noted.

## 8 : REVIEW OF CONSTITUTION

The Council's Constitution sets out the fundamental principles on which the Council is governed. It includes information on how the Council operates, how lawful decisions are made and the procedures to follow to ensure that the Council conducts business efficiently and is transparent and accountable to local people. The current Constitution first came into effect in May 2002 to take account of the requirements of the Local Government Act 2000 which separated the functions of Executive and Scrutiny. Since this time it has been periodically reviewed and amended to enhance clarity, remove minor anomalies, reflect legislative changes or matters of record and make changes required by the administration.

The business of the Council is diverse and the Constitution needs to take account of this to ensure governance arrangements for relevant activities are appropriately covered. It is currently divided into eight parts with fifteen articles, and more detailed procedures and codes of practice.

The new administration has made clear its plans to support a review of the Constitution by the Constitution Committee in order to produce a streamlined, improved document that is more user-friendly for Members, staff and the public. The Leader and Cabinet have given an initial view on the areas they would like the Constitution Committee to consider as part of this review and this will form part of the discussions going forward. Wider benefits will include improved decision making, better engagement of key stakeholders, and better informed decisions.

The Constitution is a detailed and complex document and sufficient time is required to complete this review. It is proposed that the review is divided into manageable stages to ensure that interested parties are able to engage with it, make suggestions for improvements and understand the working constraints.

A proposed outline timetable was set out the report for Committee to consider taking forward the following as priority areas:

- Council Meeting Procedure Rules;
- Scheme of Delegations; and
- Interaction with citizens as part of the democratic process (e.g. Public Questions; petitions).

Other proposed topics that Committee could consider as part of a longer term programme of work include (non exhaustive list):-

- Constitution Summary;
- Cabinet and Scrutiny interaction;
- Scrutiny Procedure Rules;
- Call in Procedures; and
- Role and Function of Council.

It is also intended to achieve improvements to the look and feel of the Constitution document to ensure business is conducted in an open and transparent way. It is important that the revised Constitution will be:

- easy to read and understand;
- kept as simple as possible and easy to navigate via the intranet and internet;
- more interactive, making better use of the website and hyperlinks to live documents;
- able to address any anomalies in the current Constitution;

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- fit for purpose for current requirements;
- able to take account of the needs of residents, all Elected Members, Cabinet and officers;
- accessible to allow all users to interact personally with the web pages, including exploring the opportunity to introduce e - petitions to enable more effective ways of engaging with and contributing to the development of Council policy;
- free of jargon;
- a mechanism for better engagement with back bench members and members of the opposition so that all members feel they have a role to take;
- a more streamlined way of conducting business and decision making; and
- easily available to the public, including those citizens that have been harder to engage such as youth groups, so that they are able to take a more active role in the Council's decision making processes.

The Chairperson advised that the Committee was being asked to consider the detail and any changes to the Council Procedure Rules and the Council Scheme of Delegations over its forthcoming meetings, and would be supported through this process by the Monitoring Officer and other officers.

In addition the Committee was requested to consider whether to establish a Task and Finish Group, from the Committee's Members to take forward the part of the review that considers how citizens interact with the democratic process. The Task and Finish Group would appoint a Chairperson and would make recommendations for the changes required to the full Committee. This Group would be open to all Members of the Constitution Committee and should take account of the views of all stakeholders including the Cabinet and Scrutiny before making any final recommendations for change. Proposed Terms of Reference for this Task Group were set out in the report.

The Chairperson indicated that she had written to all Members of the Council to set the scene and provide Members with the opportunity to input into the review process, and she hoped that all Members would engage either through the Committee or within Party Groups, and she welcomed any direct feedback.

The Chairperson invited comments and observations from the Committee which were as follows:

Engagement:

- the importance of making Council, Cabinet & Committee meeting more accessible and less intimidating;
- the need to facilitate debates on policy and strategy at Council before final decision is taken at Cabinet;
- that Cabinet reports could include a section on how the debates at Council or Scrutiny Committees have contributed to, or influenced the recommendations going forward;
- that consideration be given to emulating processes used in the Welsh Government that encourage short debates on topics raised by individual Elected Members;
- that consideration be given to greater engagement with the public, either through the Citizen Panel or other channels to get their views on how Council meetings could work in the future; and on ways of involving citizens;
- encourage involvement from Youth Council;
- the need to be mindful that there will be times when there will not be time for all decisions to go to Council for debate, and how should the public be engaged in these decisions when the decision is required urgently?

Council Procedural Rules

- some Members felt that Council had lost its purpose and doesn't have the powers that it should and has been constrained by legislation. It was felt that there was a need to revisit the purpose of Council within the legislative framework to ensure that it has the influence required and allows for input from all Elected Members;
- that consideration be given to the allocation of Notice of Motions to allow for a greater opportunity for smaller / opposition groups to bring forward items for debate at Council;
- the need to review the procedure, rules and timescales for formal questions at Council to allow for more meaningful and purposeful debate on issues;
- a review of the Council Procedure Rules (CPR) was required to ensure that it is fit for purpose; is easy to understand; provides clarity on the decision making process; and allows for greater public engagement;

### Role of Scrutiny

- what is the role of Scrutiny, and how does it interface with Cabinet?
- the need for greater Scrutiny involvement in the development of policy and strategies, and hone in on the Cabinet Forward Plan to ensure timely pre-decision scrutiny that can influence and inform policy;
- it was suggested that scrutiny reports could be debated at Council and Cabinet be required to respond in that forum giving greater accountability.

### Contract and Procurement rules

- a Member requested detail on contract and procurement rules, and EU guidelines.

The Chairperson welcomed the comments and these would all be captured and considered as part of the review of the Constitution. Any changes to the procedure rules would be worked up for consideration and testing before recommendations are made to Council. The Chairperson recognised the need for sign-up from Leaders and all Groups and suggested that this Committee would consider timetabling meetings to include an invitation to Leaders and Whips from all Party Groups.

The Chairperson drew attention to the proposed timetable for reviewing the key areas of the Constitution. It was felt that all Members of the Committee should be involved in each of the review stages prior to recommendations coming forward to the full Committee for decision.

### RESOLVED – That

1. the timetable for the review of the Council's Constitution be agreed;
2. the Terms of Reference for each of the review stages of the proposed Constitution Committee Task & Finish Group be agreed;
3. all Committee Members be included in the Task and Finish Group on each of the review stages;
4. proposals be brought forward for decision to the full Committee on each of the review stages included in the timetable;

5. a scoping paper on the options for changes to the Council Procedure Rules be brought to next meeting;
6. a briefing report on the Contract and Procurement Rules, and EU guidelines be included as an item for discussion at a future meeting of the Committee.

## 9 : FREQUENCY & TIMINGS OF FUTURE MEETINGS

The Chairperson sought Members views on the frequency and timings of future meetings. It was recognised that there was considerable work to be undertaken by the Committee and that initially to enable the work programme to progress that meetings be scheduled on a monthly basis, alternating between 4.30pm meetings to be held at City Hall, and 5.00pm meetings and County Hall.

**RESOLVED** - That a programme of meetings be brought to the next meeting of the Committee which was scheduled for Tuesday 6 November 2012 at 4.30pm in City Hall.