

**CARDIFF COUNCIL
CYNGOR CAERDYDD**

CONSTITUTION COMMITTEE: 19 DECEMBER 2012

**REPORT OF THE CHIEF OFFICIER, LEGAL & DEMOCRATIC
SERVICES AND MONITORING OFFICER**

**Review of the Council's Constitution – Council Procedure
Rules**

AGENDA ITEM 4

Reason for this Report

1. The purpose of this report is to provide Committee Members with a revised draft of the Council's Procedure Rules for consideration and discussion.

Background

2. On 20th September 2012 Constitution Committee agreed a timetable to review the Constitution and to prioritise the areas for review. The Council Procedure Rules are the first area to be reviewed.
3. On 6 November 2012 Constitution Committee discussed an Options Paper setting out various possible amendments to the Council Procedure Rules. A note of the Constitution Committee's discussions on 6 November is attached at Appendix B.

Issues

4. Since 6 November, the Chair has met with various interested parties and worked with officers to produce a revised draft of the Council Procedure Rules.
5. A copy of the revised rules is at Appendix A for discussion. In light of the significant changes that have been required a version with tracked changes is not considered to be helpful, however officers will be available at the meeting to indicate the elements of the existing rules that have been retained.

6. In addition to those matters raised in the revised Council Procedure Rules, the Committee may also wish to discuss the following issues that have been raised with the Chair by groups during her consultation.
- Should opposition group leaders be allowed to participate in Members Debates or should they be the preserve of other Members?
 - Scrutiny - how can the Rules be used to help ensure that issues discussed at scrutiny are brought forward as appropriate, to full Council?
 - Green papers - some members are keen to see greater use of these - what are the pros and cons of this?
 - Trial period – this should start from March (not February) to avoid the budget debate being the first meeting with new rules.

Legal Implications

7. The Local Government Act 2000 requires the Council to keep its Constitution under review and up to date. Article 14 of the Constitution provides for its review and revision.

Financial Implications

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

RECOMMENDATIONS

Committee is recommended to:

1. Note the contents of this report and contribute to the discussion on the revised draft of the Council Procedure Rules.
2. Agree amendments to the draft Council Procedure Rules and delegate authority to the Monitoring Officer in consultation with the Chair to make any further amendments to reflect the discussions of the Committee and to produce a final draft for submission to Council.
3. Agree to submit the final draft to the January meeting of Council for adoption so that the revised rules can be trialled at the March meeting of Council.

MELANIE CLAY

**Chief Officer, Legal & Democratic Services and Monitoring Officer
13 December 2012**

The following appendixes are attached

Appendix A: Revised Draft Council Procedure Rules

Appendix B: Note of discussions from 6 November 2012

APPENDIX A

Part 1 – Format and Content of Meetings

1 BUSINESS OF COUNCIL MEETINGS

- (a) The agenda and timings for items of business for any Council Meeting shall be considered at a meeting of [the Leader of the Council and the whips of each political group] to be convened at least 6 Business Days prior to the date of the Council meeting.
- (b) Following that meeting the draft agenda shall be submitted to the Chair for approval. The Chair may make any amendments to the draft agenda as they see fit.

2 ANNUAL MEETING OF THE COUNCIL

Timing of the Annual Meeting

- (a) The Annual Meeting will take place within the following periods:
 - (i) in a year when there is an ordinary election of Members, within 21 days following the retirement of the outgoing Members; or
 - (ii) in any other year, the Annual Meeting will take place in March, April or May or as may be required at law.

Business to be transacted at the Annual Meeting

- (b) The Annual Meeting will:
 - (i) elect a person to preside at the meeting if the existing Chair or the Deputy Chair is not present;
 - (ii) elect the new Chair;
 - (iii) appoint the new Deputy Chair;
 - (iv) approve the minutes of the last meeting;
 - (v) receive declarations of interests from Members;
 - (vi) receive from Members the Cardiff Undertaking in years where an ordinary election has taken place;
 - (vii) receive any announcements from the Chair (if any);
 - (viii) elect the Leader (where such election falls due);
 - (ix) appoint members of the Cabinet (where such election falls due); and
 - (x) consider other matters which the Chair has certified urgent.
 - (xi) receive announcements from the Leader (if any) relating to the coming municipal year
 - (xii) decide on any amendment to the standing committees of the Council, including amendments to their size and terms of reference;

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- (xiii) decide on the allocation of seats on committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989;
- (xiv) receive nominations of members to serve on each of the standing committees and make such appointments;
- (xv) receive nominations and make appointments to serve on the outside bodies to which the Council may appoint members (except where doing so has been delegated by the Council or where only the Cabinet has authority to do so);
- (xvi) elect a chair and a deputy chair for each of the committees;
- (xvii) approve a Scheme of Members Allowances
- (xviii) approve a programme of ordinary meetings of the Council for the year;
- (xix) approve a provisional programme of ordinary meetings of committees;
- (xx) agree any changes, amendments or revisions to the Council's scheme of delegation; and
- (xxi) for any year in which an ordinary election has taken place, receive a report from the Returning Officer of the Members elected.

3 ORDINARY MEETINGS

- (a) Ordinary Meetings of the Council will take place in accordance with a programme decided at the Council's Annual Meeting. Ordinary Meetings will:
 - (i) elect a person to preside if the Chair and Deputy Chair are not present (such person not being a member of the Cabinet);
 - (ii) approve the minutes of the last meeting;
 - (iii) receive any declarations of interest (in accordance with the Members Code of Conduct);
 - (iv) if relevant, receive through the Chair from relevant Members the Cardiff Undertaking;
 - (v) receive any petitions;
 - (vi) receive questions from the public and answers in accordance with Rule 18;
 - (vii) receive any announcements from the Chair or Leader;
 - (viii) receive any statements or reports from the Leader and/or Cabinet Members and any observations, questions and answers on them;
 - (ix) receive Member questions and answers raised in accordance with Rules 16 and 17;
 - (x) receive any reports from the Council's Committees introduced by the relevant Committee chairperson, and deal with questions, answers and observations on any of those reports;
 - (xi) receive reports from any of the Council's statutory officers;
 - (xii) receive any reports about and any questions and answers on the business of joint arrangements and external organisations;
 - (xiii) consider Ordinary Motions and Member Debates;

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- (xiv) consider any other business in the summons to the meeting; and
- (xv) such other matter or matters which the Chair considers to be urgent or appropriate.

4 EXTRAORDINARY MEETINGS

- (a) An Extraordinary Meeting of the Council may be called by:
 - (i) the Council by resolution; or
 - (ii) the Chair.
- (b) The following persons may require the Chair to call an Extraordinary Meeting of the Council. If the Chair has not called a meeting (to be held within 10 Business Days of the request) within two Business Days of receipt of such a written request, then they may do so themselves:
 - (i) the Leader;
 - (ii) the Head of Paid Service;
 - (iii) the Monitoring Officer [or section 151 officer?]; or
 - (iv) any five Members of the Council.
- (c) Any request presented in accordance with this Rule must:
 - (i) specify the business to be transacted at the meeting; and
 - (ii) be accompanied by a copy of any report for the meeting.
- (d) Any Extraordinary Meeting will:
 - (i) elect a person to preside if the Chair and Deputy Chair are not present;
 - (ii) receive any declarations of interest from Members;
 - (iii) consider the business specified in the request; and
 - (iv) consider such other matter or matters which the Chair considers to be urgent.

5 TIME AND PLACE OF MEETINGS

- (a) The time and place of meetings will normally be determined by the Council or in the case of an Extraordinary Meeting by the Chair. In the case of meetings called under Rule **Error! Reference source not found.** the time and place shall be set by the Proper Officer and notified in the summons.
- (b) The Proper Officer may in case of urgency or at the request of the Chair vary the date, time and place of meetings, subject to reasonable notice of the change being given.

6 NOTICE OF AND SUMMONS TO MEETINGS

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- (a) The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules.
- (b) At least 5 Business Days before a meeting, the Proper Officer will send a summons (notice of meeting) by email to every Member. Any Member not wishing to receive the summons by email may request in writing to the Proper Officer such other reasonable method of delivery as they may wish.
- (c) The summons will give the date, time and place of each meeting, enclose the agenda and will be accompanied by such reports as are available.

Part 2 – Conduct of Meetings

7 CHAIR OF MEETING

Power of person presiding at meeting

- (a) The person presiding at the meeting may exercise any power or duty of the Chair.

Conduct of meeting by Chair

- (b) The Chair shall have discretion to conduct the meeting to secure a proper, full and effective debate of business items. The steps the Chair may take include:-

- (i) allowing more time to any speaker or item of business;
- (ii) permitting a Member to speak more than once;
- (iii) allowing officers of the Council to advise the meeting as appropriate; and
- (iv) refusing any Member the opportunity to speak or restricting their rights to speak.

- (c) The Chair's discretion provided for by Rule 7(b) shall operate in precedence to any other Rule contained in the Council Procedure Rules.

8 QUORUM

- (a) The quorum of a meeting will be one quarter of the whole number of Members (rounded up to the nearest whole number).
- (b) If fewer than the quorum attend the meeting or if during any meeting the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at the next meeting or a time and date fixed by the Chair.

9 UNOPPOSED BUSINESS

- (a) The Chair may specify in the Agenda any business that they consider to be unlikely to be opposed by any Member. For example this would include reports that deal with administrative matters and on which the various political groups have already reached agreement. All business specified in the Agenda as unopposed may be dealt with at the meeting as one agenda item and passed by one resolution.
- (b) If any Member wishes for any agenda item that is noted as being unopposed to be dealt with in the normal way, then that Member may request the Chair to remove that item from the list of unopposed

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business. In such circumstances the Chair will add that item of business to the agenda.

10 POINT OF ORDER

- (a) A Member may raise a point of order at any time by indicating to the Chair that they wish to speak. The Chair will hear them immediately.
- (b) A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must first state the rule or law to which he/she is referring and then indicate the way in which they consider it has been broken.
- (c) The ruling of the Chair on the matter will be final. Points of order will only be recorded in the minutes if the Democratic Services Manager considers that such an inclusion would provide greater clarity to the minutes.

11 PERSONAL EXPLANATION

- (a) A Member may make a personal explanation at any time by indicating to the Chair that they wish to speak. A personal explanation may only relate to one of the following:
 - (i) some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood;
 - (ii) to reply to an allegation of misconduct made against the Member giving the explanation; or
 - (iii) to make an apology to the Council.
- (b) The ruling of the Chair on the admissibility of a personal explanation will be final.
- (c) Points of personal explanation will only be recorded in the minutes if the Democratic Services Manager considers that such an inclusion would provide greater clarity to the minutes.

12 DECLARATIONS OF INTEREST

- (a) A Member may at any time declare a personal interest under the Members' Code of Conduct and when a Member stands to make a declaration he/she shall be heard immediately and shall be allowed to make the declaration without interruption.

13 MEMBERS' CONDUCT

Members Speaking at Council

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- (a) When a Member speaks at full Council they must address the meeting through the Chair and should stand (if able) when they are speaking. If more than one Member stands or otherwise indicates their desire to speak, the Chair will ask one to speak and the others must be quiet.
- (b) Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation or to declare an interest.

Chair calling the meeting to order

- (c) When the Chair calls the meeting to order or stands any Member speaking at the time must stop and sit down. The meeting must be silent.

Member's to maintain order

- (d) The Chair is to maintain order in meetings and must call to order any Member who:
 - (i) is engaging in conduct which the opinion of the Chair constitutes criminal behaviour or contempt of court;
 - (ii) is obstructing the business of the meeting;
 - (iii) seeks to raise a matter outside the scope of the matter at hand;
 - (iv) acts in a discourteous or unbecoming way;
 - (v) is using disorderly, discriminatory or offensive language;
 - (vi) refuses to conform to any Rule or other requirement for the conduct of Members; or
 - (vii) disregards the authority of the Chair.

Member not to be heard further or to leave the meeting

- (e) If a Member disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further.
- (f) If the Member continues to behave improperly or offensively or deliberately obstructs business after such a motion is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period.

14 GENERAL DISTURBANCE

- (a) If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

15 DISTURBANCE BY PUBLIC

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- (a) Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules or Rule (b) below.

- (b) If a member of the public interrupts or disrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt or causes disruption, the Chair will order their removal from the meeting room.

DRAFT

Part 3 – Procedures and Rules of Debate

16 QUESTIONS BY MEMBERS ON REPORTS

(a) On Reports presented to the Council:

- (i) A Member may ask the person presenting the report any question or comment on the subject matter of the Report without notice upon the contents of a statement made at the meeting or an item in the report that is being received or considered by the Council
- (ii) The person presenting the report shall have [5] minutes to introduce it. A maximum of [3] minutes will be allowed to each Member to speak in relation to the report. [3] minutes will be allowed for the presenter of the report to make their closing remarks in response to points raised by other Members.

17 ORAL AND WRITTEN QUESTIONS BY MEMBERS

Guidance on Oral and Written Questions.¹

Whilst there is no formal distinction between what can form the subject matter of Oral Questions and Written Questions Members should note it is intended that:

Oral Questions be used to raise issues that:

- *Relate to the past or proposed policy or strategy of the Cabinet.*
- *Relate to matters that either have impacted or will impact upon the citizens of the Council as a whole; a significant number of them or a particular group of them (such as children, the disabled or the elderly).*
- *Should properly be dealt with by full Council, rather than another forum (such as through Scrutiny, Standards and Ethics Committee or normal correspondence).*

Written Questions be used to:

- *Seek the provision of factual information.*
- *Relate to the specific circumstances of an individual or a relatively small group of citizens.*

Members are reminded that Written Questions may be dealt with more appropriately through normal correspondence channels.

¹ These guidance notes may not be necessary following the trial period.

General

- (a) In accordance with this Rule 17, a Member may ask questions of:
- (i) the Leader or any member of the Cabinet;
 - (ii) the chair of any committee or sub-committee; or
 - (iii) nominated members of the Police and Crime Panel or the Fire Authority.

Submission of Oral, Urgent Oral and Written Questions

- (b) A Member wishing to ask an Oral Question or a Written Question should provide the question by email to the Council's mailbox for the submission of questions as specified, from time to time, by the Democratic Services Manager. In doing so the Member must specify the person to whom the question is addressed and whether they wish the question to be treated as an "Oral Question" or a "Written Question".
- (c) *[Possible limitation on number of questions to be discussed. For example: "A Member may only submit [one] Oral Question [to each Cabinet Member] in advance of each meeting and [ten] Written Questions in any calendar month"].*
- (d) Questions will be dealt with in accordance with the following procedures.

(i) Oral Questions

Oral Questions will be dealt with in accordance with the following procedure:

Day	Action
9.00am, 10 Business Days prior to Council Meeting	Deadline for the Submission of Oral Questions
By 5.30pm, 10 Business Days prior to Council Meeting	The Chair will arrange for a ballot to be carried out to select the Oral Questions to be dealt with at the Council Meeting. Any Member may observe the ballot. The first [5] ² questions selected addressed to each of:

² This would permit 45 questions. Should this be fewer (perhaps 3 or 4 per Cabinet Member)?

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Day	Action
	<ul style="list-style-type: none"> • the Leader of the Council; • each other Cabinet Member; • the chair of any committee or sub-committee; and • nominated members of the Police or Fire Authorities, <p>drawn from the ballot will be asked at the Council Meeting.</p> <p>If any question selected from the ballot is rejected by the Chair under Rule (e) below, then it shall be replaced by an additional question (being the next drawn from the ballot).</p>
By 12.00 noon, 8 Business Days prior to Council Meeting	Each Member whose question(s) has been selected from the ballot and each person to whom questions will be asked will be notified of the Oral Questions to be dealt with at the Council Meeting.
At Council Meeting	<p>Each Oral Question selected will be asked orally by the Member who submitted the question in the order they were selected from the ballot. A maximum of one minute shall be allowed for the asking of the question.</p> <p>Each question shall be answered orally by the person to whom it was addressed. A maximum of [three] minutes shall be allowed for the answering of the question.</p> <p>The Member who submitted the question shall then be allowed [two] minutes to ask a supplementary question. The Member (if they are not present at the meeting) may nominate another Member to ask the supplementary question on their behalf.</p> <p>The person to whom the question is addressed shall have [three] minutes to answer the supplementary question.</p> <p>The Chair may, at their discretion, call one further Member to ask a further supplementary question relating to the same topic. The Chair may only call on a Member of a different political</p>

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Day	Action
	group than the Member who asked the original question.

(ii) Urgent Oral Questions

At the end of the period allocated for Oral Questions the Chair may allow Members to ask further Oral Question for which notice under Rule (b) above has not been given if:

- (a) the Chair and the person the question is addressed to has been given at least two hours written notice of the question prior to the start of the meeting; and
- (b) the Chair has confirmed to the Member asking the Question and the person it is addressed to that they are satisfied that the question is of urgent public importance and could not be better dealt with under any other Rule or other procedure of the Council.

(iii) Written Questions

Written Questions may be presented at such times and will be dealt with as set out below:

Day	Action/Comment
9.00am on the first Monday following Council Meetings	Window to submit Written Questions opens.
9.00am 8 Business Days prior to Council Meetings	Window to submit Written Questions closes.
5.30pm 6 Business Days prior to Council Meetings	Deadline for written answers to be given by email to each Member who submitted Written Questions during the window for asking them.
9.00am, 4 Business Days prior to Council Meeting	Deadline for the Submission of Supplementary Written Questions. Each Member may ask one Supplementary Written Question in relation to each Written Question they have asked.
5.30pm, 2 Business Days Prior to Council Meeting	Deadline for written answers to be given by email to each Member who submitted the Supplementary Question. ³

³ We have moved back the deadlines for written questions and created a window during which further questions cannot be asked. However, this approach still requires a culture shift if the burden on officers is to be significantly reduced. To be effective, the procedure will require that Members do not wait until the deadline to submit questions. If this does not happen during the trial, further amendments may need to be considered.

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A full copy of each Written Question (together with any Supplementary Written Question and the answers to them) will be attached to the minutes of the next Council Meeting and published in the same way as those minutes.⁴

Rejection of Questions

- (e) The Chair may reject an Oral Question, Urgent Oral Question or a Written Question if in their opinion it:-
- (i) is not in relation to Relevant Business (as defined in Rule 35);
 - (ii) is in relation to Inappropriate Business (as defined in Rule 35);
 - (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given; or
 - (iv) is a statement or otherwise is not a genuine enquiry.

Withdrawal of questions

- (f) A question may not be withdrawn except with the consent of the person it is addressed to.
- (g) If the Chair or 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 Member agrees that the question could be withdrawn.

Written record of Oral Questions and Responses

- (h) A written record of Oral Questions and related supplementary questions that are put at the meeting together with the responses provided, will be circulated by or on behalf of the Democratic Services Manager to all Members and the media noted as having attended the meeting by no later than 5.00pm on the fifth Business Day following the day of the Council meeting.
- (i) Prior to issue the written note of a response to a supplementary question must be checked for accuracy by the responding person.
- (j) No written note of a response to a supplementary question will be provided to the media before being provided to Members.

18 PUBLIC QUESTIONS⁵

⁴ A more sophisticated web based system to ask, answer and publish Written Questions may be implemented if the trial is successful.

⁵ To be reviewed in more detail following public consultation.

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- (a) A period of up to 15 minutes in each meeting shall be allowed for public questions.
- (b) Any person (other than Members) who resides or works in the area of the City and County of Cardiff may ask questions of Cabinet Members or of the chairpersons of committees of the Council at Ordinary Meetings of the Council.
- (c) A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the mailbox set up by the Democratic Services Manager for such purpose no later than 5pm, 5 Business Days before the day of the meeting. Each question must give the name and address of the questioner and must specify the person to whom it is to be put (by name or title).
- (d) At any one meeting no person may submit more than one question and no more than one such question may be asked on behalf of one organisation.
- (e) The number of questions that an individual can ask in a municipal year shall be limited to two, with any further questions being accepted only at the discretion of the Chair.
- (f) The Chair may reject a question if it:
 - (i) is not related to Relevant Business (as defined in Rule 35);
 - (ii) is in relation to Inappropriate Business (as defined in Rule 35);
 - (iii) is substantially the same as a question which has been put at a meeting of the Council in the past six months;
 - (iv) relates to a matter which is the subject of legal or enforcement proceedings or an appeal to a court or tribunal or to a Government Minister or the National Assembly or an investigation by the Local Government Ombudsman;
 - (v) relates to the activities and aims of a political party or organisation;
 - (vi) relates to a Regulatory Decision or a matter which may result in a Regulatory Decision;
 - (vii) is a statement or otherwise is not a genuine enquiry; or
 - (viii) would require the expenditure of a disproportionate amount of time, money or effort to prepare the answer.

The ruling of the Chair in the above matters shall be final.

- (g) The Proper Officer will make a record of each question received and a copy of the questions to be asked at a meeting will be open to public inspection and circulated to Members prior to the meeting.
- (h) Questions will be asked in the order in which notice of them was received, except that the Chair may group together similar questions.

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- (i) If the questioner is absent or fails to identify themselves then the question will be deemed to be withdrawn.
- (j) A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must relate to the original question or the answer given and be limited to one minute. The Chair may reject a supplementary question on any of the grounds set out in (f) above.

Answers

- (k) No more than five minutes will be allowed for a response to any one question.
- (l) Any question which cannot be dealt with during public question time, either because of lack of time or because of the nonattendance of the Member, to whom it was to be put, will be dealt with by a written answer and a copy of the answer will be recorded in the minutes of the meeting.

19 GENERAL PROVISIONS RELATING TO ANSWERS TO MEMBER AND PUBLIC QUESTIONS

- (a) An answer may take the form of:
 - (i) an oral answer given by the person to whom the question is addressed or another person nominated by him or her;
 - (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
 - (iii) where the reply cannot conveniently be given orally, a written answer circulated later to Members of the Council.
- (b) A person to whom a question is addressed may decline to answer provided that they state the reason for declining to answer.

20 PETITIONS

- (a) Where a Member delivers a petition to the Council the Member may outline the request by the petitioners, the reason for the request and the number of the signatories provided that in any event the Member may not speak under this rule for more than one minute.
- (b) Petitions shall be divided into four classes and shall be addressed as follows:
 - (i) [A petition bearing less than 20 signatures shall be dealt with by normal correspondence.

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- (ii) A petition bearing 21-50 signatures shall be noted at the meeting and passed to a relevant officer of the Council for a written response.]⁶
- (iii) A petition bearing 51-500 signatures shall be noted and passed to the relevant Cabinet Member for consideration and a written response.
- (iv) A petition bearing more than 500 signatures shall (subject to the Chair agreeing it appropriate having regard to the subject matter of the petition) be debated at the next Ordinary Meeting of Council following such format as the Chair deems appropriate.

21 MEMBER DEBATES

General

- (a) An opportunity for Member Debates will be given at each Ordinary Meeting of the Council (but not the Annual Meeting or the budget meeting of Council).

Selection of Member Debates

- (b) Each Ordinary Meeting of the Council shall provide the opportunity for [one] Member Debate. Selection of the Members entitled to introduce Member Debates shall be carried out quarterly by ballot.
- (c) Every quarter the Democratic Services Manager will offer each Member (by giving at least 10 Business Day's notice by email) the opportunity to be entered into a ballot to propose Member Debates. The Democratic Services Manager will enter the names of all Members who indicate the desire to be entered into the ballot. Those names drawn first from the ballot shall be allocated the opportunity to introduce Member Debates at the Ordinary Meetings of the Council in each quarter in the order they are drawn.⁷

Procedure for Member Debates

- (d) Any Member selected to introduce a Member Debate must provide the Chair and the Democratic Services Manager with a brief summary of the topic they wish to debate and the Cabinet Member which they would like to respond to the debate at least 10 Business Days prior to the Ordinary Meeting. A copy of the summary shall be attached to the Agenda for the meeting.
- (e) In the debate:

⁶ To be discussed at Committee.

⁷ Should there be a maximum number of times a Member can be selected during the year?

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- (i) The Member proposing the debate shall be given [15] minutes to speak on their chosen topic, but may also choose to allocate a proportion of that time to other Members provided that they:
 - (a) indicate to whom they will allocate time and how much time will be allocated to them at the start of the debate; and
 - (b) in doing so a maximum of [5] Members may speak and this must include the Member proposing the debate.
- (ii) The Cabinet Member identified in the notice of the debate shall be given [10] minutes to respond to the debate. In responding the Cabinet Member may also decide to allocate a proportion of their time to other Members (subject to the same restrictions as referred to above).
- (iii) The Chair may close the debate if, in their view, the speakers have significantly deviated from the summary of the topic of the debate given under Rule (d) above.

22 ORDINARY MOTIONS

General

- (a) No Ordinary Motion moved by notice pursuant to this Rule 22 will be debated at the Annual Meeting of the Council.
- (b) In order to move an Ordinary Motion it must be emailed by the proposer, and seconded by email to the mailbox allocated for that purpose by the Democratic Services Manager by 5.00pm at least [10] Business Days before the date of the meeting.
- (c) Every Ordinary Motion properly delivered will be dated and registered by the Democratic Services Manager in the order in which they were received and open to Members' inspection after the deadline for receipt.
- (d) Ordinary Motions will be listed on the agenda in the order in which the notices were received.

Number and Allocation of Ordinary Motions

- (e) Subject to Rule (f) below, the number of Ordinary Motions shall be limited to a maximum total of [12] motions in each municipal year.
- (f) The allocation of Ordinary Motions will be agreed between the political groups. The allocation will be reviewed annually by the leaders of the political groups in consultation with the Chair. No political group, which is recognised by the Council, shall be allocated less than two Ordinary Motions in a municipal year. If necessary, the maximum number of

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Ordinary Motions in a year may be increased from [12] to accommodate this.

Scope of Ordinary Motions

- (g) Ordinary Motions must be in relation to Relevant Business and must not be Inappropriate Business (as defined in Rule 35).
- (h) Any Ordinary Motion which requires a change in the budgetary framework may only call for a report on the matter to be prepared for consideration by the Executive and or Council as appropriate.
- (i) If any Ordinary Motion appears to the Chair to be unlawful and/or not presently contained within the approved Council Budget for the year in question, it will still be included on the agenda for the meeting. However a statement from the Chair to this effect and stating that the Ordinary Motion shall be deferred to the next ordinary meeting of Council so that written legal and financial advice may be given to Members before the motion is debated.

Urgent Ordinary Motions

- (j) The Chair has the authority to agree to take an urgent Ordinary Motion which is not on the agenda (or to place an urgent Ordinary Motion on the agenda if sufficient notice is received).
- (k) The discretion is entirely that of the Chair who alone needs to be satisfied as to the need for urgency but an urgent Ordinary Motion should not be taken unless the Chair is satisfied that:
 - (i) the proposer of the motion has taken all reasonable steps to notify the Chair and the Monitoring Officer of their desire to raise an Urgent Motion at the earliest opportunity;
 - (ii) and the motion requires an urgent decision in relation to an important public interest matter and it cannot reasonably be dealt with by other means; and
 - (iii) the motion is seconded.
- (l) In all cases, the reason for the urgency shall be clearly stated, and the Chair will explain to the Council the reason why they have accepted an Urgent Ordinary Motion.

Withdrawal or alteration of Ordinary Motions

- (m) No Ordinary Motion can be withdrawn or deferred once it has been delivered except:-
 - (i) if prior to the commencement of the meeting notice of withdrawal in writing signed by the proposer, and seconder has been delivered to the Democratic Services Manager; or

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- (ii) a Member may withdraw an Ordinary Motion of which they have given notice at any time after the meeting has commenced provided that they have not moved the motion or spoken on it and they have the consent of the meeting; or
- (n) A Member may alter their own motion only with the consent of the meeting. Only alterations which could be made as an amendment may be made.

Amendments to Ordinary Motions by other Members

- (o) An amendment to an Ordinary Motion may not be moved unless notice of the amendment has been given to the Democratic Services Manager by email, and seconded by 9.00am [2] Business Days before the meeting.
- (p) An amendment to an Ordinary Motion must be relevant to the motion and will 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.]⁸
- (q) Any amendments to Ordinary Motions will be called by the Chair in an order determined by the Chair, in consultation with the Monitoring Officer. The ordering shall be selected to facilitate coherent debate and to, wherever possible allow each amendment to have the opportunity to be voted upon.
- (r) Each amendment will be proposed and seconded and then put to the vote in the order determined by the Chair. [For the avoidance of doubt this provision will apply even when the mover of the original motion indicated that they are prepared to accept the amendment, so that wherever possible all Council Members have opportunity to vote on all amendments and the substantive motion.]⁹

Right of reply and Voting on the Ordinary Motion

- (s) Once amendments have been put to the vote, the principal motion, amended as appropriate if any amendments have been carried, will then be put to the vote.
- (t) The rights of reply at the close of a debate before the vote on an Ordinary Motion takes place are as follows:

⁸ To be discussed at Committee.

⁹ Is this required?

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- (i) If no amendments are proposed or carried to an Ordinary Motion, then the Member who proposed the motion shall automatically be given the right of reply.
- (ii) If any amendment(s) is carried then:
 - (a) if the original proposer of the motion accepts the amended motion then the original proposer shall have the right of reply; or
 - (b) if the original proposer of the motion does not accept the amended motion then the proposer of the amendment shall have the right of reply (in the event that more than one amendment has been carried then the Chair shall use their discretion to determine which of the proposers of the amendments shall have the right of reply).
- (u) A Member exercising a right of reply will not introduce any new matter and after the reply, a vote shall be taken without further discussion.

23 AMENDMENT TO MINUTES OF COMMITTEE REFERRED FOR DECISION

- (a) An amendment to a minute of a Committee or a Sub-committee before the Council for decision can only be moved in the same way as an Ordinary Motion.

24 AMENDMENTS TO REGULATORY DECISION

- (a) No amendment may be moved to a minute which is a Regulatory Decision.
- (b) No amendment may be moved which would have the effect of disproving the recommendation of a Committee or a Sub-Committee in relation to a Regulatory Decision.
- (c) [For the purposes of this Rule a Regulatory Decision is the determination of an application for planning permission or any decision, determination, action, direction, order, approval, refusal or enforcement action in exercise of the powers of the Council as the local planning authority or those powers specified in section B of Schedule 1 of the Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001.]¹⁰

25 AMENDMENTS TO REPORTS BEFORE COUNCIL

- (a) An amendment to a report before Council may not be moved unless written notice of the amendment has been given to the Proper Officer,

¹⁰ Potentially remove.

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signed by the proposer and seconded, by 9.00am on the last Working Day before the meeting.

26 MOTIONS DURING MEETINGS

- (a) In addition to the rest of these Rules the following motions may be moved without notice by any Member during a meeting:-
- (i) to appoint a Member to Chair the meeting if the Chair of Council or the Deputy Chair of Council is not present;
 - (ii) in relation to the accuracy of minutes of the Council;
 - (iii) to change the order of business in the agenda;
 - (iv) to refer something to an appropriate Committee, body or individual for consideration or reconsideration;
 - (v) to appoint a Committee or Member arising from an item on the Agenda;
 - (vi) to receive reports and/or to adopt recommendations of the Cabinet, committees or officers;
 - (vii) to amend a motion except one to which Rule 22 applies;
 - (viii) to proceed to the next business;
 - (ix) that the question be put to the vote;
 - (x) to adjourn a debate or a meeting;
 - (xi) to extend the time limit for a speech or item of business;
 - (xii) to consider Ordinary Motions submitted under rule 22 in excess of the number specified in Rule 22(e); and
 - (xiii) to exclude the public and media in accordance with the Access to Information Procedure Rules, as set out in Part 4 of the Constitution.

27 GENERAL RULES OF DEBATE¹¹

- (a) Unless matters are otherwise provided for by other procedures contained in these Rules, the following rules of debate shall apply to the conduct of all business of the Council.
- (b) Members may speak in English or Welsh.¹²
- (c) No speeches may be made after the mover has moved a motion until the motion has been seconded. The Chair may allow the mover to explain the purpose of the motion if he/she thinks fit. The proposer of the motion shall have the right to make the first speech in relation to the motion which he/she has moved.

¹¹ Could these largely be replaced by the more general rules used by WAG (see standing order 13) which are much shorter, but as a result place more emphasis on the Chair's discretion to manage debates.

¹² To be discussed.

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- (d) When seconding a motion or amendment, a Member may reserve their speech until later in the debate.
- (e) Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.
- (f) Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- (g) Proposers of motions or movers of reports may speak for up to six minutes. Unless otherwise stated in these Rules, no other speech may exceed three minutes without the consent of the Chair.

[Unless the Chair is of the view that exceptional circumstances exist, a Member who has spoken on a matter may not speak again whilst it is the subject of debate.]

28 [PREVIOUS DECISIONS AND MOTIONS

Motion to rescind a previous decision

- (a) A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least twenty one Members.

Motion similar to one previously rejected

- (b) A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least twenty one Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.]¹³

¹³ Very rarely used, therefore possibly remove to shorten the rules.

Part 5 – General Provisions

29 VOTING

Majority

- (a) Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

Chair's casting vote

- (b) Except in the case of a vote under Rule 16.7, if there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

Method of Voting

- (c) In normal circumstances voting will be carried out electronically and the names of those voting for, against or abstaining from voting will be recorded electronically and entered into the minutes.
- (d) If a matter seems to be uncontroversial (and no objection is received from any Member) the Chair may determine that a vote by a show of hands is sufficient. Where any Member requests it immediately before or after a vote on a show of hands is taken, their vote will be so recorded in the minutes to show whether they voted for or against or abstained from voting.

[Voting on appointments excluding employee appointments

- (e) If there is one position (in a body or organisation) to be filled by a nominee of the Council and more than one person is nominated for that position then the position will be filled by the person with the greatest number of votes.
- (f) If there are two or more positions (in a body or organisation) to be filled by nominees of the Council and the number of nominations exceeds the number of such positions each Member of the Council will be able to exercise one vote for each such position (but may vote only once for each nominee) and the persons to whom more votes have been given than other persons up to the number of positions to be filled, shall be appointed.]¹⁴

[Voting on employee appointments

¹⁴ Potentially remove and leave to discretion of the Chair.

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- (g) In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the Chair will have a casting vote.
- (h) The Chair will have a casting vote only in the circumstances mentioned in the preceding paragraph.]¹⁵

30 MINUTES

Signing the minutes

- (a) The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

No requirement to sign minutes of previous meeting at extraordinary meeting

- (b) Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an Extraordinary Meeting, then the next Ordinary or Annual Meeting will be treated as a suitable meeting for the purposes of signing of minutes.

Form of minutes

- (c) The form of the minutes will be a matter for the Proper Officer but will include:-
- (i) all motions and amendments in the exact form and order the Chair put them;
 - (ii) replies given to Oral Questions; and
 - (iii) written questions and answers (as referred to at Rule 17(d)(iii)).

31 RECORD OF ATTENDANCE

- (a) All Members present during the whole or part of a meeting must accurately record their attendance on the record of attendance provided for that purpose.

32 RECORDINGS OF MEETINGS OF THE COUNCIL

¹⁵ Potentially remove and leave to discretion of the Chair.

- (a) Other than the official recording, no recording shall be made of the proceedings of meetings of the Council whether audio or visual and by whatever method except with the express authorisation of the meeting.
- (b) [If a person records the proceedings of any meeting (or causes such recording to be effected) without authorisation then the Chair will order their removal from the meeting room and shall not permit them to be admitted to a further meeting except on a written undertaking to desist from such recording and on the destruction of such recordings as may have been made and anything derived from them.]¹⁶

33 SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE RULES

Suspension

- (a) All or any of these Council Rules of Procedure except Rule **Error! Reference source not found.** and 30(b) may be suspended by motion on notice or without notice if at least one half of the whole number of Members is present.

[Amendment

- (b) Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.]¹⁷

34 OFFICER ADVICE

- (a) Any report placed for decision before Council should contain all necessary advice to enable Members to take a decision. Reports will be circulated in advance of the meeting and if a Member requires clarification on an issue related to the report, this should be sought prior to the meeting.
- (b) Further officer advice will only be available at the meeting of Council with the consent of the Chair, in consultation with the Head of Paid Service. If there is a need for further detailed legal or financial advice to be provided, the meeting should be adjourned.

35 INTERPRETATION

- (a) In these Rules the following words shall have the following meanings.

“*Relevant Business*” means matters for which the Council has a responsibility and which substantially affect the well-being of the

¹⁶ Does this need to be included? To shorten the rules, this could be left to discretion of the Chair.

¹⁷ Is this required? Essentially it gives some level of “entrenchment” to the Procedure Rules.

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administrative area of the Council and/or the citizens (or a significant group of them) of the Council.

“Inappropriate Business” means matters that:

- (i) are not in relation to a matter for which the Council has a responsibility and which affects the administrative area or citizens of the Council;
 - (ii) are defamatory, frivolous or offensive;
 - (iii) require the disclosure of confidential or exempt information; or
 - (iv) relate to the personal circumstances or conduct of any officer and Member or conditions of service of employees.
- (b) Any reference to “in writing” or “written” shall include email.
- (c) The Chair’s ruling on the interpretation of these terms in relation to the application of these Rules shall be final.

Appendix B
 NOTES OF THE CONSTITUTION COMMITTEE TASK & FINISH GROUP
 6 NOVEMBER 2012

Present: County Councillor Furlong (Chairperson);
 County Councillors Cowan, Goodway, Hyde, Keith Jones,
 Kelloway, Knight, Magill, Marshall & Walker.

Apology: County Councillor De'Ath

1 : REVIEW OF CONSTITUTION – COUNCIL PROCEDURE RULES

The Chairperson referred Members to the last meeting of the full Committee, 20th September 2012 when a timetable to review the Constitution and to prioritise the areas for review was set and it was agreed that the Council Procedure Rules (CPR) be the first area to be reviewed.

An enabling paper had been circulated providing

- an options paper setting out each of the main element of the CPR; detailing the current position; and identifying areas for further discussion and consideration. There were some elements identified for the detailed discussion;
- a note was also provided with references to other local authority constitutions that have elements of good practice or that are worth investigating as part of the review of the CPR.

The Chief Officer Legal & Democratic Services and Monitoring Officer set the context for the review of the CPR. The CPR need to be effective and meaningful, and allow for

- effective challenge to Cabinet; the decision making process; and holding the Cabinet or individual portfolio holders to account;
- allow for greater involvement from back-bench Members in the policy and decision making process;
- providing an opportunity for opposition and back-benchers to bring forward issues that are relevant to communities or constituents;
- give an opportunity for open and transparent debate and discussion; with a clear input into the decision-making processes;
- ensure that Council meetings are managed effectively and Members and Officers time is used efficiently.

The Chair invited discussion and comments on each of the main elements identified in Appendix A.

<u>Issue</u>	<u>Comments</u>
1. Setting of Agenda	<ul style="list-style-type: none"> • Start and finish times – better discipline in planning agendas; • Possibility of setting a maximum length of time for all meetings and any business beyond that

time to fall;

- Look at ordering of business - for example previously Formal Questions had been at the beginning and Notice of Motion at the end;
- Consider what the key business should be:
 - Public Petitions;
 - Portfolio presentations;
 - Short debates;
 - Green Papers;
 - Notice of Motion;
 - Questions on Policy matters;
- Possibility of themed meetings;
- Tighter controls on what can be asked as a formal question;
- Review procedure for receipt; timescales; and processing of Formal Questions;
- In recognition that formal questions are part of the democratic process that consideration of a process for written question and inclusions of written questions and answers either in the formal minutes or a public register;

2. Frequency of Meetings

The following options were discussed:

- Fortnightly themed meetings maximum of 2 hours;
- Monthly meetings with structured agendas;
- Maintain the status quo

3. Timing and place of meetings

As part of the Local Government (Wales) Measure Members had been surveyed at the majority had shown a preference for evening meetings starting at 4.30pm or later.

It was agreed that the status quo should remain.

Opinions of Elected Members on their preferred venue has been varied and since May 2012 meetings had been held at both City & County Hall. County Hall - although a more purpose built Chamber there were issues with the layout – some Members had expressed a dislike of sitting in rows in front of the vast majority of Members and not being able to see Members around the Chamber; insufficient public gallery space; need to transfer key components of the conference system if County Hall was to be a permanent venue for the system to be used fully. It was however agreed that the acoustics in County Hall were much better than City Hall.

City Hall - preferred venue of majority of Elected

Members as seen as the home of democracy in Cardiff; all the conference system components are available; issues with acoustics and accessibility to the public gallery need to be addressed long-term.

4. Duration of Meetings
 - Currently the timings for major items are cleared with Whips, general matters are given set times; and final timings are agreed with the Lord Mayor
 - Need for a bigger timing clock on the display screen;
 - Need for greater consideration of speaking time given to Members as part of major debates – LDP debate was given as an example where the limit was 3 minutes per speaker and Leaders and spokespersons had no additional time and Members in wards which could be significantly affected - all were limited to 3 minutes

5. General Business
 - It was suggested that consideration be given to making available an option for routine general reports (such as the Committee Membership; Outside Body representation; LA Governor appointments) be passed as one quick resolution unless the Chair has received any objection to the report. This would free time to be used to deal with contentious business.

6. Formal Questions
- The Chairperson underlined the importance of achieving a process that provides for:
- constructive questioning and responses that lead to relevant supplementary questions and appropriate exchanges/debate;
 - that questions are relevant and are not more suitably dealt with in a different forum; or have not been answered satisfactorily a different forum; or are matters which are of real concern of citizens, or community groups.
- The process needs to be reviewed as
- considerable officer resource was required to operate the current system;
 - Cabinet Members had expressed a view that the current system was not sustainable with regard to the time period available to answer questions adequately and the number of questions received;
 - consideration needed to be given as to whether questions/answers should be submitted at a much earlier date with written answers prepared and circulated ahead of the meetings; with an option for receipt of urgent questions with more strict criteria for these;
 - the need to address the requirement to transcribe questions into Braille (or translate into Welsh) which was unachievable under the current time frames.
- It was suggested that further consideration be given to:
- limiting the number of questions per Member, Group or portfolio;
 - review supplementary questions;
 - differentiating between policy and factual questions;
 - consider if Full Council was the best forum for formal Questions.
7. Public Questions
- Need for a simplified system and improved information about the procedure to be made available and improve publicity via the Webcast/website and in School Councils;
 - consider who is the public and issues relating to political alliances issues;
 - Public question time to be made available at

- Cabinet meetings;
- Suggested an annual 'State of the County Debate' item.
8. Petitions
- Consider reviewing the process for dealing with petitions in particular how petitions are dealt with; and in particular the weight given to petitions of 20 or 500 signatures.
 - It was suggested that petitions of significant weight could be referred to a Petitions Committee to allow for full consideration and debate; or opportunities for debate on petitions at Council be improved;
 - Suggested that Petitions be logged a week before Council;
 - Cabinet Members response to a petition to be published.
9. Notice of Motion
- Consider best practice from other Local Authorities;
 - The need for clarity was required on rules on what constitutes a Notice of Motion (NOM);
 - Greater weight given to Monitoring Officer to rule out NOM that do not meet the key principles – that is affect Cardiff; are in the remit of the Local Authority;
 - Review the allocation of NOM to opposition Groups.

The Chair indicated as part of the review process a small group of Members could attend National Assembly for Wales to observe their procedures. In addition she referred Members a note that had been prepared and circulated on procedures used by the National Assembly for details of the Individual Member Debate procedure.

10. Quick/Short Debates
- The Chair advised that the Constitution didn't currently include this facility but a number of Members had indicated that this could encourage more interaction from back benchers and members of the opposition. It is envisaged that these would give the opportunity for short debates with no voting on topics. The contents of the debate would then inform but not bind future Cabinet/Council decisions.

Members felt that this opportunity should be

- Primarily for back-benchers and exclude Chairs of Committees;

- be time limited – for example 15 minute for proposal and 10 minutes debate;
- should be on matters outside of the Scrutiny Committee remit/work programmes

11. Voting It was proposed that consideration be given to taking votes at the end of the meeting

In conclusion the Chairperson indicated that there was a need to clearly identify guiding principles for the CPR review and that these should include primarily

- improving public engagement and interaction in Council meetings;
- ensuring inclusivity of all Elected Members in the Council process;
- ensuring efficient use of Elected Members and Officer time.

Way Forward

The Chairperson set out the way forward:

- the Chair to attend each of the Group meetings to discuss the option paper and bring feedback to the next meeting of the Committee on 19 December 2012;
- first draft of revised Council Procedural Rules to 19 December meeting with a view to taking a report to Council in January;
- pilot new CPR at February Full Council;
- the pilot was to run for 3 months;
- evaluation of new CPR begins in April;
- at the Annual Meeting May 2013 agree final CPR and amend Constitution;
- Constitution Committee to start focusing discussion on Public Interaction with the Council in conjunction with the review of the CPR (15 January).