

## CONSTITUTION COMMITTEE

22 JANUARY 2014

Present: County Councillors Aubrey, Cowan, Goodway, Gordon,  
Hyde, Knight, Magill, Marshall, Walker and Woodman

Apologies: County Councillor Ralph Cook

### 23: CHAIRPERSON

The Committee agreed to appoint Councillor Russell Goodway as temporary Chair in the absence of Councillor Ralph Cook who was unwell.

### 24: DECLARATIONS OF INTEREST

The Chairperson reminded Members of their responsibilities under Part III of the Members' Code of Conduct, to declare any interests in general terms and complete "personal interest" forms at the start of the meeting and then, prior to the commencement of the discussion of the item in question, specify whether it is a personal or prejudicial interest. If the interest is prejudicial, Members would be asked to leave the meeting, and if the interest is personal, but not prejudicial, Members would be invited to stay, speak and vote.

### 25: MINUTES

The minutes of the meeting of the Constitution Committee held on 6 November 2013 were approved as a correct and signed by the Chairperson.

### 26: PUBLIC ENGAGEMENT WITH SCRUTINY AND WIDER DEMOCRACY IN CARDIFF

Paul Keeping updated Members of progress in implementing the recommendations of the Policy Review and Performance Scrutiny Committee's Inquiry report titled 'Public Engagement with Scrutiny' and

advised of the Committee's next related inquiry topic 'Public Engagement across the Council'.

Support was sought from the Committee to implement 2 recommendations from the April 2013 Inquiry report, which required approval in order to amend the Council's Constitution to enable developments in public involvement in Scrutiny meetings and in the co-option of non-elected Members onto Scrutiny Committees.

Members were provided with the background to the Inquiry report including extracts from the Local Government (Wales) Measure 2011.

It was noted that currently Members of the public are afforded the legal minimum rights of involvement in decision making and that this was an opportunity to redress this and provide more scope for public involvement.

The Chair invited discussion and the following comments and observations were made:

- Members welcomed members of the public addressing scrutiny committees but were also mindful that there should be controls adhered to this such as time constraints, questions seen in advance, security provided at meetings etc.
- Members discussed co-optees' voting rights, remuneration and training. Members also discussed recruitment of co-optees and the benefit of a skills matrix to recruit against.
- A discussion took place about the possible option of having a public question session at the start of Cabinet or Scrutiny Committees.
- Members noted that the report's recommendation was that Officers should explore the possibilities of further public involvement in scrutiny and decision making.

RESOLVED – To:

- (i) Note the PRAP Scrutiny Committee's report "Public Engagement With Scrutiny";

- (ii) Support in principle the two recommendations of the PRAP report outlined in paragraphs 11 and 12 of the report, subject to officers satisfactorily carrying out the research and due diligence set out in those two paragraphs;
- (iii) Invite officers to return to a future Committee meeting with the results of the research and due diligence, so that Committee can consider making specific amendments to the Council's Constitution to enable pilots to be carried out in one or both of the areas in question; and
- (iv) Consider any additional ideas for improving citizen involvement with democracy in Cardiff.

## 27: ACCESS TO INFORMATION RULES

Members made reference to a tabled document that had been received that day, from a Member which asked numerous questions and requested that the item be deferred. The Committee were in agreement that the item be considered as scheduled.

The Chair stated that as the Statutory Officer was clearly concerned about anomalies in the constitution, it was important that the Committee act on this and remove any exposure to the Council.

The County Clerk and Monitoring Officer drew Members attention to Rule 18 and outlined the recommendations of the report.

Members were advised that the 'Cardiff Rule' allowed Scrutiny Chairs access to any exempt information that Cabinet were considering, and have copies of this information. The County Clerk and Monitoring Officer suggested that this be extended to Cardiff Group Leaders, but for all other Members to follow the All Wales Model Constitution.

The Chair invited discussion and the following comments and observations were made:

- Members discussed the Public Interest Test and considered it would be useful to have a briefing session on this at a future date.

- Members discussed the information contained in the tabled document and agreed that the County Clerk and Monitoring Officer take these points to Full Council.
- Members considered the extension of the Cardiff Rule to be acceptable however to exempt information made available to Scrutiny Chairs should not be made available to co-optees.
- Members noted that if there were any changes needed to be made in future, then this matter should be brought back to the Committee.

RESOLVED – To

- (i) Consider and provide comments on the proposed amendments, specifically to bring the position relating to Members access to Exempt Information into line with the Model Constitution; and
- (ii) If the Committee is minded to make any amendments, to delegate authority to the County Clerk and Monitoring Officer (in consultation with the Chair do the Committee) to draft such amendments and to bring a report to Council recommending their adoption on behalf of the Committee.

28: FREQUENCY OF COUNCIL AND COMMITTEE MEETINGS

The Constitution Committee at its meeting 6 November 2013 resolved that a report be brought forward to seek the views of the Committee on whether the frequency of the Council's meetings should be reviewed and whether changes should be made to the Council's Calendar of Meetings for 2014/15.

The County Clerk and Monitoring Officer stated that she was conscious of the pressures on Members time and of the funding gap. She added that Cardiff has a lot of meetings compared to comparator authorities and the Officer core was struggling to keep up. The current schedule of meetings was outlined to Members. In comparison to other local authorities, Cardiff was at the upper end of meeting numbers. In England, local Authorities averaged 8 Full Council meetings per year.

Members were reminded that they had to be mindful of the Local Government Measure guidance, which was strict on timings and notifications of meetings, however Welsh Government had not stated the number of meetings that had to be held on an annual basis.

The benefits such as cost, easier to meet statutory requirements, less mileage claims etc were outlined to Members. Members were provided with the proposed timetable of reduced frequency of meetings.

The Chair invited discussion and the following comments and observations were made:

- A Member considered that it was a reasonable adjustment to make and noted that Constitution committee meets bi-monthly. He also suggested that an extra recess may be best placed at Easter time as this is often a purder period and school holidays.
- Members noted that Full Council meetings are often very lengthy and would not want to lengthen meeting times by reducing the number of meetings and suggested the possibility of more Green papers.
- Members discussed ways in which Council meetings could change to accommodate a reduced frequency of meetings such as an earlier start time and shorter time for questions.
- Members noted the cost of each Full Council meeting and resources required to cover each meetings.
- Members suggested that meetings of the Cabinet could be reduced too, with the possibility of delegating some decisions to Cabinet Members.
- Members were mindful that important business needed to be progressed through Council and considered that reducing to 9 meetings per year was reasonable, and this proposal should taken to the Scrutiny Chairs.

**RESOLVED** – To request that the County Clerk and Monitoring Officer (in consultation with the Chair of the Committee) consults with the Leader and Chairs of the various Council committees and prepares an

updated proposal for consideration by this Committee at its next meeting.  
for recommendation to a future Council meeting.

## 29: PROTOCOL FOR RECORDING ATTENDANCE AT MEETINGS

Members were advised that to ensure that the record is consistent and accurate a draft protocol relating to the recording of attendance at Council and Committee meetings had been drafted. The key points of the protocol were outlined as:

- a. Attendance at Council and Committee meetings will be recorded as either “Full Attendance” or “Partial Attendance” or an “Apology”.
- b. Partial Attendance will be recorded by reference to agenda items (for example the minute might record “Cllr X – Present for Agenda Items 3-8”).
- c. Members will be considered to be present for an agenda item only if they were present for the entirety of the discussion and decision making elements of that agenda item.

The Chair invited discussion and the following comments and observations were made:

- The Committee noted that Members could be having side meetings during Council meetings and therefore shouldn't be marked as a partial attendance.
- It was noted that some Members leave the meeting after whipped items and a sign in/out process would penalise these Members.
- Members considered that it could be a difficult process to clerk, particularly at Full Council meetings.
- Members considered that it may be an issue for the Party Whips to bring to Members attention, or a Code of Conduct issue rather than needing a Protocol.
- Members noted that it could be a Health & Safety issue too and that a sign in/out sheet could be available on reception instead.

RESOLVED – To

- (i) Consider and provide comments on the draft protocol; and
- (ii) Delegate authority to the County Clerk and Monitoring Officer (in consultation with the Chair to the Committee) to email all Members about this matter.

30: CONSTITUTION AMENDMENTS – PROPERTY,  
PROCUREMENT, EMPLOYMENT AND OTHER MATTERS

The report was outlined to Members of the Committee, it was explained that the Peer Review had determined that Officers were making decisions at too high a level and that the thresholds needed to be changed. It was also noted that Member Consultation needed to be addressed in relation to operational and non operational land matters.

The County Clerk and Monitoring Officer also explained that an exercise had been undertaken over the last 6 months, looking at the decisions that had been taken through the Cabinet Meetings, many were routine and going through this decision making route was very expensive. It was stated that potentially they could have been dealt with more efficiently by a Cabinet Member delegation.

Members were advised that the Constitution as it stands doesn't give the Head of Paid Service rights in relation to employment and redundancy matters, which in fact was wrong in law, so this needed to be addressed. Also to be addressed was the fact that not all statutory Officers were included in the constitution, and delegated powers were needed for the County Clerk and Monitoring Officer to address these issues.

RESOLVED – To:

- (i) Note the observations and recommendations made by the Task & Finish Group review of decision making arrangements, as set out in sections 3, 4 & 5 of the report;
- (ii) To further review in consultation with the Leader of the council the option of individual Cabinet Member decision making, as noted in paragraph 3.2 of the report;

- (iii) Agree the revised arrangements in respect of property decision making, subject to any further changes the Committee thinks appropriate, and review after one year, and instruct the Monitoring Officer to draft any necessary amendments to the Land Procedure Rules and the Scheme of Delegations, for the Committee's approval at its next meeting, and subsequent recommendation of the amended Scheme of Delegations to full Council.
  
- (iv) Agree the revised arrangements in respect of procurement decision making, subject to any further changes the Committee thinks appropriate, and review after one year, and:
  - (a) instruct the Monitoring Officer to draft any necessary amendments to the Scheme of Delegations, for the Committee's approval at its next meeting, and subsequent recommendation of the amended Scheme of Delegations to full Council; and
  - (b) instruct the Procurement Officer to incorporate any recommended changes within the revised Contract Rules, procurement procedures and or guidance, as appropriate, for the Committee's approval in or around the summer of 2014.
  
- (v) Agree, subject to the approval of Council, the recommended changes to:
  - (a) the Employment Procedure Rules, as set out in **Appendix B**; and
  - (b) the Scheme of Delegations, Appointments Committee Terms of Reference and HR officer delegations, as set out in **Appendix C**.
  
- (vi) Instruct the Monitoring Officer to amend the Scheme of Delegations to:
  - (a) reflect the allocation of the functions and responsibilities of the Statutory Officers as set out in paragraphs 7.1 & 7.2 ;
  - (b) note the change in responsibility for the licensing of scrap metal dealers as set out in paragraphs 7.3 & 7.4; and
  - (c) allocate responsibility to the Cabinet for local authority approvals and determinations pursuant to sections 51 and 53 respectively of the School Standards and Organisation (Wales) Act 2013.

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31: BUDGET MEETING PROCEDURE RULES

The special Procedure Rules that apply to Council Budget Meetings were adopted two years ago. It was felt appropriate that Constitution Committee be given the opportunity to review those Rules and to propose any amendments it deemed appropriate to Council.

Members discussed the changes required and agreed the small amendment.

RESOLVED – to delegate authority to the County Clerk and Monitoring Officer (in consultation with the Chair of the Committee) to draft those amendments agreed by the Committee and further request that the Chair of the Committee recommends those amendments to Council on behalf of the Committee.

32: DATE OF NEXT MEETING

The next meeting is scheduled for Wednesday 19 March 2014 at 5.00pm.