

CONSTITUTION COMMITTEE

19 MARCH 2014

Present: County Councillor Ralph Cook (Chairman) Councillors
Aubrey, Cowan, Goodway, Knight, Magill, Marshall,
Walker and Woodman

Apologies: Councillors Gordon and Hyde

33: 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.

34: MINUTES

The minutes of the meeting of the Constitution Committee held on 22 January 2014 were approved as a correct and signed by the Chairperson.

35: INTRODUCTION OF THE ROLE OF PRESIDING MEMBER

Members were advised that this report provided an introduction to the newly created role of "Presiding Member" and how it related to the role the Chair of Council and the title "The Right Honourable the Lord Mayor of Cardiff. The reports purpose was to enable the Committee to consider whether it wished to propose to Council the adoption of this new role and structure.

Reference was made to the report of the remuneration panel. Officers stated that the role of the Lord Mayor in Cardiff is very extensive. It was now legally possible to separate the two roles and the Monitoring Officer sought the Committee's views on their advice on Full Council on this issue.

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

- A Member stated that she was not supportive and discussed the need for effective training for chairs of committees and meetings.
- It was noted that there were already 19 paid posts in the Council therefore some adjustments would have to be made. It was also noted that no additional support staff would be required.
- Members discussed whether there would be any cost implications of splitting the roles. It was noted that there would not be any additional costs as the number of Cabinet positions would be reduced. It was also noted that it wouldn't be a complicated process to reverse the decision if it was found not to work.
- Members discussed the Letters Patent and officers stated that Article 5 of the Constitution outlines the duties of the Chair of Council. Members also discussed Ceremonial Roles and it was noted that there were historical ceremonial duties in Cardiff and the year is punctuated by events such as Holocaust Memorial, St David's Day and Freedom of the City Ceremonies.
- Members discussed the importance of ensuring the roles are clearly defined from the start.
- A Member considered that the change was not needed and that it worked well currently. He added that it was inappropriate in times when staff were having to leave the Authority. He also stated that the Lord Mayors allowance should not be reduced.
- A Member considered that they were two very different roles with two specific skill sets needed, with the Lord Mayor being a social ambassador and the Chair of Council having to be the showcase of Cardiff Council, with the meetings being webcast this role needed to be filled by a very efficient Chair. Members went on to discuss groups nominating candidates capable of the role.
- Members discussed the importance of enabling back bench Members to be heard at Full Council.

RESOLVED – To:

- (i) note the amendments made to the Local Government Act 1972 by the Local Government (Democracy) (Wales) Act 2013 as set out in this report; and
- (ii) request the County Clerk and Monitoring Officer, in consultation with the Chair of the Committee, to bring back to Committee a report setting out:
 - how the roles could be separated; and
 - the functions of the Chair of Council that could be allocated to the Presiding Member.

36: FREQUENCY OF COUNCIL & COMMITTEE MEETINGS

Members were advised that the Constitution Committee at its last meeting on 22 January 2014 considered the current Programme of Council meetings and resolved to consult with the Leader and Chairs of the various Council committees on a proposal to reduce the frequency of Council and committee meetings scheduled in the Council's Calendar of Meetings for 2014/15.

Officers explained that the results of a benchmarking exercise had determined Cardiff to be on the upper end of meetings, and with the Neighbourhood Partnership meetings starting soon there would be increased pressure on Members' time. It was further explained that the Welsh Local Government Measure allowed local authorities to determine the number of meetings they held. At the previous Constitution Committee there had been a consensus to reduce the number of Full Council meetings from 11 to 9.

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

- Members noted that some Members comments had not been included on the responses document. It was explained that the responses had been received by email, and officers apologise if some had been missed or received after the document was collated.
- Members considered that Scrutiny Committees with 9 or 10 Members needed more flexibility than a Full Council meeting. It

was also noted that Scrutiny Committees sometimes have to schedule extra meetings due to heavy work programmes.

- Members stated that with reducing staff numbers, staff workload needed to be considered. It was noted that the Council was not in a position to increase staff numbers therefore it had a duty of care to its employees to reduce the amount of work given to them.
- Members discussed family friendly working and it was noted that scheduling of Council meetings should take this into consideration to ensure as many Members as possible can attend. Members also discussed the possibility of a Council recess.
- A Member considered that reducing the amount of Scrutiny Committee meetings may provide the opportunity for Scrutiny to be more specialist and focussed in what they scrutinise. Members considered that a balance was needed and that there should be greater scope for public involvement in Scrutiny Committee meetings.
- It was noted that officers were looking at Individual Cabinet Member delegations and that this may reduce the amount of business going through formal Cabinet.
- Members discussed the possibility of webcasting more meetings in future, start times of committee meetings and the length and detail of the minutes taken at meetings.

RESOLVED – To:

- i) Note the report and the outcome of the consultation exercise and;
- ii) Recommend a change to the current programme of meetings by reducing the number of Full Council meetings by 2, recommending that there are no meetings in April and December;
- iii) Recommend that Committee Clerks produce shorter minutes of meetings.

37: FAMILY ABSENCE FOR ELECTED MEMBERS

Members were advised that this was opportunity for the Committee to consider and approve new constitutional arrangements for discharging the Council's responsibilities in respect of Family Absence for Elected Members.

Members were advised of Part 2 of the Local Government (Wales) Measure 2011 introducing the entitlement to a period of family absence for Members of local authorities. The Committee were also advised that a report on this had been considered by the Democratic Services Committee at its meeting on 11 December 2013.

Information on the Standing Orders, the establishment of an Appeals Panel, specific roles and delegations and Members' allowances were outlined to the Committee.

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

- A Member requested that reference to belonging to a Political group be taken out.
- Members sought clarification on what would happen if it was the Chair of the Council or Presiding Member that needed to take time off. Officers explained they would find out this information and bring it back to Members.
- Members sought clarification on whether it was absence from formal Council meetings or ward work too and whether they would still have access to Council emails. Also clarification was sought on what would happen if a lady Councillor was the sole representative for a Ward and went on Maternity leave.
- Members noted that they were able to take 6 months off currently and that the new rules didn't allow for time off for spouse or grandchild commitments. Officers explained that all 22 Welsh Authorities would need to have this discussion. Officers also explained that there was the issue of remuneration to consider as Members on family absence would still get paid and that it would be up to the Council to decide if a replacement was paid.

RESOLVED – To approve, subject to the approval of Council:

- (i) The adoption of the Family Absence Procedure Rules subject to any amendments, to be added to Part 4 of the Constitution;
- (ii) The establishment of a Panel comprising 3 Members of the Democratic Services Committee as set out in the report, with the terms of reference set out in paragraph 18; and
- (iii) The amendments to the Constitution in respect of the roles and responsibilities of the Lord Mayor (Chair of Council), the Head of Democratic Services and the Monitoring Officer, as set out in paragraphs 21 and 22 of the report.

38: CONSTITUTION AMENDMENTS – PROPERTY & PROCUREMENT DECISION MAKING AND STATUTORY OFFICER DELEGATIONS

Members were advised that this report would enable the Committee to consider and approve the Constitution amendments required to implement the recommendations of the Committee’s Task & Finish Group in respect of property and procurement decision making arrangements; and to confirm the Council’s Statutory Officer delegations.

RESOLVED – To

- (i) Approve the draft amendments to the Land Procedure Rules as set out in **Appendix A**, subject to any further amendments, and authorise the Monitoring Officer, in consultation with the Chair of the Committee, to finalise the revised Rules, to take effect upon Council approval of the associated amendments to the Officer Delegations (Property), subject to review after one year;
- (ii) Agree the draft amendments to the Officer Delegations – Property, as set out in **Appendix B**, subject to any further amendments, and authorise the Monitoring Officer, in consultation with the Chair of the Committee, to finalise and recommend the same to Council for approval, subject to review after one year;
- (iii) Agree the draft amendments to the procurement delegations CD3 and CD4, as set out in paragraph 6.4 of this report, subject to any further amendments, and authorise the Monitoring Officer, in consultation with the Chair of the Committee, to finalise and

recommend the same to Council for approval, with effect from 1st June 2014 and subject to review after one year;

- (iv) Note the proposal to submit a further report to the Committee on the revised Contract Procedure Rules, along with associated procedures and guidance, incorporating all changes in respect of procurement decisions recommended by the Task & Finish Group, in or around the Autumn of 2014;
- (v) Agree the draft amendments to the Statutory Officer delegations, as set out in paragraph 7.1 of this report, subject to any further amendments, and authorise the Monitoring Officer, in consultation with the Chair of the Committee, to finalise and recommend the same to Council for approval;
- (vi) Delegate authority to the Monitoring Officer to review the delegations of the Chief Executive, having regard to his statutory role as Head of Paid Service, and to make any amendments necessary, subject to the approval of Council;

39: INTRODUCTION TO THE WELSH MODEL CONSTITUTION

Members were advised of the issuing of a new Welsh Model Constitution and the Monitoring Officer's proposed review and response to the new Model Constitution.

RESOLVED – To

- (i) note the content of the report; and
- (ii) request that the County Clerk and Monitoring Officer reports to the Committee in due course on the results of her review of the Model Constitution.

40: ACCESS TO INFORMATION RULES

Members were advised that the Council, on the recommendation of the Committee had recently corrected an anomaly in the Council's Access to Information Rules and given enhanced rights to Leaders of Political Groups to access certain exempt information. Upon further investigation however it had become clear that the Access to Information Rules could benefit from a more comprehensive review. Members were provided

with the opportunity to comment on the existing rules generally and to give their views on specific proposals raised by Members.

The County Clerk and Monitoring Officer stated that she was uncomfortable with the Monitoring Officer making decision on yellow pages particularly with scrutiny access to information arrangements and that she would prefer this to be a Member Body/Panel decision.

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

- Members considered that access to exempt information should be presumed as ‘no’ unless the requesting Member could prove a ‘need to know’.
- Members noted that if a Member Panel had to make a decision on this, then the Member who previously wouldn’t have seen the information would have to see it to make a decision, whereby the Monitoring Officer would always have the right to see the information.
- Members discussed decision making Members always having the right to see exempt information, pre decision scrutiny committee members and Group Leaders having access to exempt information and considered that any more access to this information would undermine the confidence of external organisations dealing with the Council, in relation to commercial sensitivity.
- Some Members considered that in times of public accountability all Members should have access to financial information.
- Members considered that this was an opportunity for the Monitoring Officer to outline the access to information rules in an objective way to Members and explain to them how they demonstrate their ‘need to know’.

RESOLVED (with the exception of Councillor Cowan) – To:

- (i) To request that the County Clerk and Monitoring Officer (in consultation with the Chair of the Committee) brings a report to this Committee proposing a revised set of Rules having regard

to the views of this Committee and a review of best practice;
and

- (ii) Once the Rules have been revised, to promote the Rules and offer training to Members to ensure Members have a good understanding of their rights to access information.

41: PILOT OF AMENDMENTS TO THE COUNCIL PROCEDURE RULES

Members were provided with an update on the piloting of the Council Procedure Rules. Members were advised that it was an opportunity to consider whether the pilot Council Procedure Rules should be adopted as part of the Council's Constitution for use at future council meetings.

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

- It was suggested that the term 'have discretion to' on page 5 of Annex A, be removed. Members debated this suggestion with reference being made to the Chair encouraging debate, the old procedure rule which stated 'the Lord Mayor shall' and the relevance of the terminology to opposition members. The committee voted on the amendment and the result was to adopt the pilot procedure rules.
- Members discussed oral questions and a second supplementary question. Members asked that oral questions are monitored to analyse who's questions are being cut off from the largest groups. A Member considered that limiting the number of oral questions stifles debate.

RESOLVED – to recommend to Council that the final draft of the pilot Council Procedure Rules (Annexe A) are adopted for use at future Council meetings.

42: FORWARD PLAN 2014/15

The Committee considered the Forward Plan of matters for consideration by the Constitution Committee in 2014/15. A work plan was emerging for the Committee based on its work to date this year and member's

commitment for the Council and its committee's to be valued as key democratic institutions for Cardiff making accountable, robust and inclusive decisions.

RESOLVED – to agree the Forward Plan 2014/15.