

# CITY AND COUNTY OF CARDIFF DINAS A SIR CAERDYDD

**STANDARDS & ETHICS COMMITTEE:**

**12 January 2006**

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**REPORT OF THE MONITORING OFFICER      AGENDA ITEM: 5**

**COUNCIL MEETING – 17 NOVEMBER 2005**

## **Reason for this Report**

1. To provide the Committee with information on the cancellation of the Council Meeting on 17 November 2005

## **Background**

2. The Council Meeting of the 17 November 2005 was cancelled. This engendered considerable debate in the media, and members of the Standards & Ethics Committee requested a report on the matter to enable them to consider whether there were any ethical governance issues that they would wish to raise with the Council. A brief chronology is attached at **Appendix 1** which sets out the timescale of events and decisions.

## **Constitutional Provisions**

3. The relevant Council procedure rules are set out at **Appendix 2**.

## **Response to Councillor concerns**

4. A number of Members wrote to the Chief Executive to express their concerns about the cancellation of the meeting and the subsequent request for an Extraordinary Meeting of Council. The Chief Executive's response is attached at **Appendix 3**.

## **The role of Council**

5. The Local Authority's Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2001 sets out the specific functions of the meeting of Full Council which is:-

- to appoint the Leader of the Council and the Executive, and appoint other Council bodies and their Members
- delegate or retain responsibility for Council and local choice functions
- decide the Constitution and Codes of Conduct
- decide the Policy framework within which the Executive will operate
- consider reports from the Executives, Scrutiny and Overview Committees, and Statutory Officers
- act as a possible Debating Forum
- provide Councillors with an opportunity to raise issues, make proposals and present petitions
- provide members of the public with an opportunity to raise issues and concerns by questions.

The role of Full Council has received scant attention compared to that given to the Executive and Overview and Scrutiny functions. Many other Local Authorities are currently experimenting with differing formats and structures. The Constitution Committee has authorised the Monitoring Officer to commence a review of the role of function of Council, following on from some of the comments and recommendations made by the Corporate Governance Commission. The Commission identified a number of specific roles for the meeting which had linkages to the statutory functions set out above. In particular the Commission suggested that Council should:-

- hold the Executive or any group or individual within the Council to account
- to be a real debating chamber to improve major policy initiatives
- to be a genuine forum for opinion
- to provide leadership for Overview and Scrutiny
- to receive nominations for Executive membership and Scrutiny Chairs
- to lead in the development of a long term vision for the Council.

6. Members of the Committee have themselves expressed concern in the past about the functioning of the Council meeting and may wish to contribute to the debate on the proper role of Council.

## **ADVICE**

This report has been prepared by the Monitoring Officer. It contains all the information necessary to allow Members to arrive at a reasonable view, taking into account the advice contained in this section.

### Legal Implications

There are none arising from this report.

### Financial Implications

There are none arising from this report.

## **RECOMMENDATION**

Members are asked to consider the contents of this report and make any comments and or recommendations as they consider appropriate to Council.

### **Kate Berry**

Monitoring Officer and Chief Legal & Democratic Services Officer

14 November 2005

### Appendices

- Appendix 1 - Chronology
- Appendix 2 - Council Procedure Rules
- Appendix 3 - Chief Executive's Response



## Appendix 1

### CHRONOLOGY

DATE	EVENT
7 November 2005	Informal Leader's Forum attended by all Political Groups. The Chair of Council noted that there was very limited business for the November Council Meeting and proposed that the meeting should not go ahead. There was no dissent at the meeting, however at the request of the Labour Group Leader was agreed to allow a further period of consultation with Members up to the 9 November 2005 before any final decision was made.
8 November 2005	The time limit for receipt of further motions expired at 5.00 pm on the 8 November 2005.
9 November 2005	<p>Representations came from the Labour Group asking that the November Council Meeting proceed. No further items of business had been notified. The Proper Officer (Chief Executive) took the decision to cancel the meeting on the 17 November 2005. All business items were rescheduled to the December meeting, namely:-</p> <ul style="list-style-type: none"><li>• 1 public question</li><li>• 1 Report relating to an Ombudsman enquiry</li><li>• 2 motions</li></ul> <p>Arrangements were made in respect of Council questions to provide written answers to all Members.</p>
16 November 2005	A request was submitted to the Lord Mayor for an Extraordinary Council Meeting which was considered by the Lord Mayor and refused.
25 November 2005	A further requisition received for an Extraordinary Council Meeting.
30 November 2005	All Members e-mailed to establish availability for such a meeting for the week commencing 12 December 2005.

15 December 2005

Extraordinary Council Meeting convened prior to the Full Council Meeting that evening (Members notified on the 5 December 2005)

## **Council Procedure Rules**

### **Time and Place of Meetings**

- 4.2 The Proper Officer may in the case of urgency, or at the request of the Chairman vary the date, time and place of meetings subject to proper notice of the change being given.

### **Ordinary Meetings**

- 2 Ordinary meetings of the Council will take place in accordance with the programme decided at the Council's Annual Meeting. Ordinary meetings will:-
- (h) deal with any business from the last Council Meeting.





## Appendix 3

Letter to:

Councillors Austin, Cook, Cowan, Goodway, Howe, Michael, Norman, Owens, Priday and Sheppard

Copy to:

Monitoring Officer, Finance (Section 151) Officer and Clerk to the Council

My ref CEx/BD

23 December 2006

Dear Councillor,

### **November /Extraordinary Council Meetings**

As previously indicated I am writing to you as Members who have expressed what I consider you to have been genuinely held concerns regarding the circumstances surrounding the above meetings. Whilst I have previously indicated to you my views on matters I believed your concerns merited a further and full examination of the circumstances in consultation with statutory officers. I trust that the information collated in this letter, which provides our collective officer view, will clarify matters and remove any remaining concerns you may have.

### **November Council Meeting**

Concern was expressed by some Members that proper procedures may not have been followed with regards to the cancellation of the date of the November Council meeting. That is not the case and of course having taken advice at each stage of the process I can confirm that the decision was made in accordance with Council Procedure Rule 4.2:

*“the Proper Officer may, in case of urgency , or at the request of the Chairman, vary the date time and place of meetings subject to proper notice of the change being given”*

In addition, Procedure Rule 2h allows for business from a previous Council meeting to be considered at any ordinary meeting of the Council. On consideration of the agenda for the 17 November Council meeting, it was clear that the proposed business was very limited and consisted of only the following items:

- One public question,
- One report relating to an Ombudsman enquiry,
- Two motions (Procedure Rule 10 1b provides that any motion must be delivered to the Proper Officer not later than 5pm at least 8 clear days before the date of the meeting and therefore for the purpose of the November Council meeting this would have been 5pm on the 8 November)

The decision in Procedure Rule 4.2 is for me as the Proper Officer. There is no provision for the decision to be vetoed by either an individual or an individual group.

Nevertheless, the Lord Mayor and I sought, as a matter of good practice, to consult all of the Political Groups at a meeting of the Informal Leaders' Forum. At that meeting, there was no dissent to the proposal that the meeting would not go ahead. However at the request of the Leader of the Labour Group, an opportunity was given to further consult with Members of that Group. A response was received from that Group on 9 November which, in consultation with statutory officers, I carefully considered. As part of my decision-making process I took into consideration that no further items of business had been notified to me or to the Clerk to the Council and decided not to hold the Council meeting on 17 November.

Some Members have noted that the Council's Procedure Rules do not allow for Council meetings to be cancelled, but this is not, in fact, what happened. In view of the limited business, all of the items set out above were carried forward and considered at the recent December meeting of Council, including specific arrangements made in respect of Council questions. The business was, therefore, effectively rescheduled.

My decision was, in fact, to cancel the date of the meeting, which I am advised is well within the power of the Proper Officer as set out in paragraph 4.2 of the Council Procedure Rules.

#### Requisition for an Extraordinary Council Meeting

On 16 November 2005, a request was submitted to the Lord Mayor for an Extraordinary Council meeting, under rule 3.1 of the Council Procedure Rules. The reason provided for the requisition of the meeting was 'to consider a report from officers on the current situation, including full details of any proposals for school closures currently being considered by the Executive and/or Officers of the LEA'.

The key document for consideration of the above issues was a report entitled 'Schools for the Future: Schools Organisation Planning – The Next Steps', which was to be made available to Members at the two Education & Lifelong Learning Portfolio meetings on 23 November 2005. Having carefully considered the matter, the Lord Mayor decided not to accede to this request, mainly on the basis that, as the report recommended referral to Council, all Members would have an opportunity to debate the matter at the Council meeting on 15 December 2005.

In accordance with Standing Order 3.1.a iii, further correspondence was subsequently received, on 25 November 2005, requisitioning an Extraordinary Council meeting.

As you will recall, on 29 November 2005 I responded to the above request, indicating I was disappointed that Members considered it appropriate to call an additional meeting which would incur resources to discuss Council business that was proceeding through the normal business cycle of the Council, and I set out some of the practical difficulties of calling such a meeting and asked the requisitioning Members to reflect on their request.

Notwithstanding my concerns, I requested the Clerk to the Council to consult with Members regarding their availability and preferred date and time for a potential Extraordinary Council Meeting for week commencing 12 December. At the time of the original requisition it was not entirely clear as to the nature of the request, in that it

sought an Extraordinary Council Meeting to consider a report which did not exist in a form that I was prepared for Members to consider. However, due to the Report being considered at the Executive meeting on 1 December, a letter was emailed to Members on 30 November 2005 to establish availability for an Extraordinary Council meeting for week commencing 12 December.

Following the consultation exercise, it was established that the majority of Members were available for an Extraordinary Council Meeting on 15 December 2005, prior to the Council meeting. Notification of this was conveyed by email to Members on 5 December 2005.

The statutory officers are therefore agreed that correct procedures were followed in the arranging of the Extraordinary Council Meeting. When it became clear as to the nature of the request, and the relevant reports becoming available, appropriate consultation took place to determine the most available date for Members.

#### Consultation

Some Members have questioned whether it was procedurally correct for Members to have been consulted on the date of the Extraordinary Council Meeting. Members generally decide on the dates of Council meetings when the Calendar of meetings is considered by Council. In addition, it is custom and practice to consult Members of Committees, wherever possible, on the dates of any additional meetings. I can confirm that if another extraordinary meeting of Council is called in the future, I would envisage similar arrangements being put in place.

In conclusion I can confirm that, at all stages of this process, I discussed the approach with the statutory officers and, having examined the matter again in the light of the concerns that some Members have expressed we are agreed that from an administrative perspective, the correct procedures were considered and adhered to at all times. I am satisfied, after consulting with statutory officers that within my role as Proper Officer, I have acted in accordance with the relevant Council Procedure Rule in arriving at the decision not to hold the Council meeting on 17 November. Further after consulting with the statutory officers the Extraordinary Council Meeting was arranged within the guidelines set out in the Council's Constitution.

As indicated earlier I believe that your concerns were genuinely held ones and as such I wished to respond to you fully on these matters after full consideration and consulting with the statutory officers. In that respect I trust that you will accept this letter in its entirety and agree with me that the matter is now closed.

Finally I would like to wish you all a happy Christmas and a peaceful New Year and look forward to working with you all again in 2006.

Yours sincerely,

Byron Davies,  
Chief Executive