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GOHEBIAETH YN DILYN CYFARFOD Y PWYLLGOR

Pwyllgor PWYLLGOR CRAFFU ADOLYGU POLISI A CHRAFFU PERFFORMIAD

Dyddiad ac amser y cyfarfod DYDD MERCHER, 13 MAWRTH 2024, 4.30 PM

Gweler isod gohebiaeth anfon gan Gadeirydd y Pwyllgor ar ôl y cyfarfod , ynghyd ag unrhyw ymatebion a gafwyd

Am unrhyw fanylion pellach, cysylltwch â scrutinyviewpoints@caerdydd.gov.uk

9 **Gohebiaeth yn dilyn Cyfarfod y Pwyllgor**(*Tudalennau 3 - 14*)

Mae'r dudalen hon yn wag yn fwriadol

Date: 19 March 2024

Councillor Huw Thomas,
Leader,
Cardiff Council,
County Hall,
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Dear Huw,

PRAP Scrutiny Committee 13 March 2024: Trusts - Governance Arrangements

Thank you for facilitating pre-decision scrutiny of the forthcoming report to Cabinet titled Trusts – Governance Arrangements. I hope you are making a good recovery. We were delighted to welcome the Interim Monitoring Officer, Debbie Marles, Corporate Director, Chris Lee, and Principal Solicitor, Richard Crane for this item. Please pass on my appreciation, particularly to Debbie for her presentation and for answering Members questions at the meeting. I have been asked to pass on Members' observations, recommendations and requests following discussion as follows.

The Committee acknowledges the context for the development of this complex report proposing the future governance arrangements to be adopted for discharging the Council's role as a corporate trustee. The Council has clearly drawn on its experience of addressing the Maindy Park Trust case, the advice of legal counsel provided during that matter, and the experience of other Local Authorities. We acknowledge the recommendation to Cabinet that seeks approval for arrangements to appoint a '*Trusts Cabinet Committee*' comprised of 5 appointed Members of the Council's Cabinet and a '*Trusts Advisory Committee*' comprised of 3 independent members of the Standards and Ethics Committee.

Progress to date

Members explored what progress the Council has made in developing a database of all land held in trust by the Council. We note officers' response that work is ongoing and accept the kind offer to share the list as it stands, understanding the caveat that at this point it is an incomplete piece of work and some areas require further

exploration. We therefore **request** that you share with us the database of land held in trust by the Council as it currently stands.

General issues noted

The following general concerns were clarified and noted by Committee:

- that this process is unlikely to be deployed often, particularly where there are smaller projects, such as those of considerable interest to residents (eg Parks);
- there have been no serious conflicts or concerns other than Maindy Park Trust addressed under the previous arrangements;
- five Cabinet Members will be appointed to the Trusts Cabinet Committee however membership will be kept under review and each case will be reviewed to ensure there is no conflict of interest for appointed members.
- if an issue arises from the Corporate Plan 2024-27 or Budget 2024-25 where all Members, and possibly officers, are seriously conflicted then, as in the case of the Maindy Park Trusts issue, it will revert back to the Charity Commission.

Advice and guidance

The Committee sought assurance that the proposals to Cabinet to address the governance of Council held trusts would stand close inspection by the Charities Commission and legal counsel. We note that the proposals have referred to previous advice and guidance provided in the test case of Maindy Park Trust however not specifically on the proposal to establish a *Trusts Cabinet Committee* and a *Trusts Advisory Committee*. Members were unanimous that they have no wish to delay the process of agreeing the Trusts governance arrangements. We recognise that the Charity Commission can take a long time to respond and are often reluctant to give advice or approval. We therefore **recommend** that when the review is complete, and the process has been agreed by Cabinet the Council shares its trusts governance process arrangements with the Charity Commission and invites observations.

Opportunities for back-bench Members

The Committee observed that a solution that lies with the Cabinet itself automatically precludes back bench Members, perhaps with experience of charity matters, from participating in a trustee role. We understand that the solution necessarily reflects regulations on Executive powers and there will continue to be an opportunity for

engagement via Scrutiny of the *Trust Cabinet Committee* decisions, however the solution appears more complex under a Cabinet style of government versus the old committee system.

Decision-making process

Members sought clarification as to the order decision -making would take if the scheme is agreed by Cabinet. For example, would the Trusts Cabinet Committee or the Cabinet itself consider a matter first? We note the intention that an in-principal decision on a matter of serious conflict would be firstly presented to Cabinet, with prior legal advice and known restrictions already in place. The decision would be made by Cabinet Members *not* sitting on the Trust Cabinet Committee. Where Cabinet identifies a serious conflict, this would trigger activation of the Trusts Cabinet Committee. The approach proposed will be underpinned by a clear distinction between the Cabinet and the Trusts Cabinet Committee.

External Appointments

The Committee examined whether there was a case for the appointment of external independent members on the Cabinet Trusts Committee. We note that officers consider an internal solution is the best way forward and there will need to be regular training provided for those nominated to the Cabinet Trusts Committee. However, some Members view was that there were some inadequacies with the proposed arrangements where there is a serious conflict of interest. Others considered that point 30 of the Cabinet report confirmed it would be addressed on a case-by-case basis. Therefore, the Committee is seeking assurance that a mechanism is in place to enact point 30 of the Cabinet report should there be a serious conflict. We **recommend** that where decision- makers identify serious conflicts of interest they use the appointment of independent trustees and provide the Committee with the occasions where it will consider such appointments.

Access to specialist advice

The Committee highlighted case law (*R v South Somerset County Council 2022*) where incorrect advice by the monitoring officer had resulted in incorrect participation by councillors in a decision had subsequently led to a ruling that the decision was not lawful. Members were keen to ensure that the proposals to Cabinet address this scenario. We note the Interim Monitoring Officers view that this is a specialist area of

law and exactly why the Council has used specialist counsel. Indeed, she is mindful of limitations and the need to preserve access to specialist advice for members.

Historical Disposals

Finally, Members sought assurance that as part of the review of trusts the Council has considered land disposals made in recent years. We note the multidisciplinary team will look forwards but has also reflected on previous decisions and the Interim Monitoring Officer assured us that at this point there are no concerns. The Committee is seeking to establish the Council’s policy intent as to how it will deal with historical disposals unknown to be trust land at the time of disposal and discovered during the review process. We therefore **request** a statement of the general approach that will be taken and not any *specific* approach.

Recommendations following this scrutiny:

To summarise, the Committee makes 2 formal recommendations as set out below. As part of the response to this letter I would be grateful if you could state whether the recommendation is accepted, partially accepted or not accepted and summarise the Cabinet’s response. If the recommendation is accepted or partially accepted, I would also be grateful if you could identify the responsible officer and provide an action date. This will ensure that progress can be monitored as part of the approach agreed by Cabinet.

Recommendation	Accepted, Partially Accepted or Not Accepted	Cabinet Response	Responsible Officer	Action Date
That when the final review and process is complete, and has been agreed by Cabinet, the Council shares its trusts governance process with the Charity Commission and invites observations.				
Where decision- makers identify serious conflicts of interest they use the appointment of independent trustees and provide the Committee with the occasions where it will consider such appointments.				

Requests following this scrutiny:

- That you share the database /list of land held in trust as it currently stands, with the caveat that at this point it is an incomplete piece of work.
- An indication of the general (rather than specific) approach that will be taken in dealing with historical disposals unknown to be trust land at the time of disposal and discovered during the review process.

On behalf of the Committee, thank you for your co-operation on this important issue and I look forward to your response which should address the recommendations and requests listed.

Yours sincerely,



**COUNCILLOR JOEL WILLIAMS
CHAIR, POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE**

cc Members of the Policy Review & Performance Scrutiny Committee
Leaders of Opposition Parties – John Lancaster, Rodney Berman & Andrea Gibson
Chris Lee, Corporate Director, Resources
Debbie Marles, Interim Monitoring Officer
Richard Crane, Principal Solicitor
Mr Gavin McArthur, Chair, Governance & Audit Committee
Chris Pyke, OM Governance & Audit
Tim Gordon, Head of Communications & External Relations
Jeremy Rhys, Assistant Head of Communications and External Affairs
Claire Deguara, Cabinet Business Manager
Debi Said, Cabinet Support Officer
Andrea Redmond, Committees Support Officer

Mae'r dudalen hon yn wag yn fwriadol

Date: 18 March 2024

Councillor Julie Sangani,
Cabinet Member Public Health & Equality,
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Dear Julie,

PRAP Scrutiny Committee 13 March 2024: Equalities Diversity & Inclusion Strategy 2024/28

The Policy Review & Performance Scrutiny Committee was delighted to welcome you last week for policy development scrutiny of the Equalities, Diversity & Inclusion Strategy 2024/28. Please pass on our appreciation to Dylan Owen, Operational Manager Policy & Performance, for leading the officer team and his excellent presentation, and to Babita Parekh and Abbie Streeter in support of the scrutiny.

The Committee welcomed the opportunity to work collaboratively at an early stage in the development of this important strategy. Members fully engaged with the topic area and look forward to the final strategy returning for pre-decision scrutiny in the Autumn, which we will factor into our 2024/25 work programme. I have been asked to pass on comments, observations and recommendations following our discussion at the Way Forward.

Structure of the published Strategy

The Committee acknowledges a great deal of good work has already gone into arriving at the draft strategy you presented. This is a great start; the document is really interesting, and we note the five objectives proposed to address the Council's legal obligations. However, Members unanimously agreed that this Strategy document needs to be meaningful and impactful. As such, we wish to suggest that it currently includes too much information, particularly if we are seeking to share our aspirations and ensure wider understanding. We therefore urge you to strengthen the impact of the strategy by focussing on what it is that the *Equalities, Diversity & Inclusion Strategy 2024/28* will do that no other published Council Plan or Strategy has done. For example, we suggest all references to the Corporate Plan could simply

be signposted, or appended to a stripped back, more sharply equality-focussed, main document.

Intersectionality

Members highlighted the importance of the Strategy stating explicitly, from the outset, that the Council recognises the importance (& impact) of embedding intersectionality as a way of thinking and working. This document is the perfect opportunity and Members were pleased to hear officers commit to taking on board the challenge to create a structure that captures the totality of equality issues whilst consciously embedding intersectionality to ensure that it is explicit in the final document.

Life Expectancy

Members were struck by the starkness of life expectancy differences across Cardiff and offered observations on a number of key issues they feel impacts on inequality. Firstly, the benefits system. Whilst this is largely beyond Council power, we wish to make the point that changes to the benefits system impact the imbalance of life expectancy across the city. We do, however, note that the Council's Child friendly team are working on child poverty.

Secondly, city centre safety at nighttime. We acknowledge that Cardiff is considered a safe city, however Members are concerned as to the lack of variety in nighttime entertainment in an essentially youth orientated city centre. We note that different groups report differing feelings of safety and security and encourage you to use the statistics to analyse this in more depth. We were pleased to hear that work is underway to launch a violence prevention strategy for the city.

Notwithstanding Members suggestions we acknowledge that the fundamental drivers of inequality have been addressed in the Plan and clearly some areas of challenge are beyond Council agency or control. We concur that that the primary focus must be where we have realistic leverage and can make an impact.

Violence against women (CEDAW)

The Committee urges that the strategy gives more thought to a greater emphasis on measuring feelings of safety, particularly in women. This will require thought as to how best to measure the same cohorts over time. We note there is work underway

on a domestic violence strategy and look forward to you sharing the forthcoming action plan. We also welcome officers' suggestion that you consider commissioning focus groups to add weight to the consultation.

Tackling racism in schools

Members applauded the recent progress made in making Equality Impact Assessments (EIA'S) a core feature of policy making and service design. However, they pointed to statistical evidence of economic inactivity in ethnic minorities. Specifically, we are interested in how qualitative data could inform policy development alongside the quantitative data. We welcome your declaration of zero tolerance of bullying, hate crime and racism in schools, and the clear need for embedding equalities in personal education. Members would like to see more information on how we monitor and track the outcomes of school racism, alongside information on ethnic minorities' use of the Council's Intowork services.

Transport & Travel

The Committee encourages you to consider the fundamental role played by travel and transport in accessing work, social and cultural opportunities. Clearly there are parts of the city where public transport connectivity and access to a car is poor. Members feel this is core to meeting objective 2, is currently missing from the Strategy and we would like to see it addressed. Officers agreed to take on board Members concerns and follow up the reference to accessing sustainable transport.

To summarise, the Committee makes 6 policy development recommendations as set out below. As part of the response to this letter I would be grateful if you could, for each recommendation, state whether the recommendation is accepted, partially accepted or not accepted and summarise the Cabinet's response. If the recommendation is accepted or partially accepted, I would also be grateful if you could identify the responsible officer and provide an action date. This will ensure that progress can be monitored as part of the approach agreed by Cabinet.

Recommendation/ for further consideration.	Accepted, Partially Accepted or Not Accepted	Cabinet Response	Responsible Officer	Action Date
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Consider a stripped back, more sharply equality-focussed document, with references to the Corporate Plan signposted or appended to the document.				
Explore further a structure that captures the totality of equality issues whilst consciously embedding intersectionality to ensure that it is explicit in the final document.				
Use the statistics to analyse the variety of nighttime entertainment appeal across all ages in more depth, addressing feelings of safety and security reported by different groups.				
Give more thought to measuring feelings of safety, particularly in women, and how best to measure the same cohorts over time.				
Include more information on how we monitor and track the outcomes of school racism, alongside information on ethnic minorities' use of the Council's Intowork services.				
Consider the fundamental role played by travel and transport in accessing work, social and cultural opportunities. Clearly there are parts of the city where public transport connectivity and access to a car is poor. Members feel this is core to meeting objective 2 and currently missing from the strategy.				

Finally, on behalf of the Committee, thank you once again for the opportunity of pre-decision scrutiny of the Participation Strategy. With your support, I look forward to continuing the Committee's monitoring of this strategy and its aspirations. I have captured our suggestions as recommendations, and I therefore look forward to a response.

Yours sincerely,



COUNCILLOR JOEL WILLIAMS
CHAIR, POLICY REVIEW AND PERFORMANCE SCRUTINY COMMITTEE

cc Members of the Policy Review & Performance Scrutiny Committee;
Leaders of Opposition Parties – John Lancaster, Rodney Berman & Andrea Gibson;
Dylan Owen, Operational Manager Policy & Performance
Abbie Streeter, Planning & Improvement Officer
Babita Parekh, Principal Research Officer
Mr Gavin McArthur, Chair Governance & Audit Committee
Chris Pyke, OM Governance & Audit;
Tim Gordon, Head of Communications
Jeremy Rhys, Assistant Head of Communications and External Affairs
Claire Deguara, Cabinet Business Manager
Heather Warren, Cabinet Support Officer
Andrea Redmond, Committee Support Officer

Mae'r dudalen hon yn wag yn fwriadol