

CONSTITUTION COMMITTEE

15 JULY 2015

Present: County Councillor De'Ath(Chairperson)
County Councillors Aubrey, Cowan, Hinchey, Knight, Magill,
Dianne Rees, White and Woodman

1 : CHAIRPERSON

Noted that Council at its Annual Meeting on 21 May 2015 elected Councillor De'Ath as Chair of this Committee for the Municipal Year 2015/16.

2 : MEMBERSHIP

Noted that Council at its Annual Meeting on 21 May 2015 agreed the following Membership: -
Councillors Aubrey, Cowan, De'Ath, Goodway, Gordon, Hinchey, Margaret Jones, Knight, Magill, Dianne Rees, White, and Woodman.

3 : TERMS OF REFERENCE

The following Terms of Reference were agreed:

To review the Council's Constitution, and to recommend to Council and/or Cabinet any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-

- (a) Drafting improvements to enhance clarity and remove minor anomalies;
- (b) Updating to reflect legislative changes and matters of record;
- (c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).

4 : APOLOGIES FOR ABSENCE

Apologies were received from Councillors Goodway, Gordon and Margaret Jones.

5 : DECLARATIONS OF INTEREST

No declarations of interest were received.

6 : MINUTES

The minutes of the meeting held on 19 March 2015 were agreed as a correct record and signed by the Chairperson subject to a small typographical amendment.

7 : CONSTITUTION UPDATES

Members were informed of various amendments required to ensure the Constitution remains up to date and fit for purpose.

These amendments included:

Business Rates (Discretionary Relief)

Under Part III, Section 47 of the Local Government Finance Act 1988, local authorities are empowered to award discretionary business rates relief to charities and other not-for-profit organisations. Welsh Assembly Guidance (issued in October 2004) notes that many authorities delegate decision making powers in respect of this function to individual officers. In Cardiff, the Cabinet has approved a Scheme for Discretionary Rate Relief (in July 2003) setting out factors which should be taken into account and various cases where relief should normally be granted, as well as the level of relief; and officers are given delegated authority to determine applications and appeals in accordance with the approved Scheme. Historically, the statutory Chief Finance Officer ('the Section 151 Officer') has had responsibility for discretionary business rates relief (and other Business Rates functions under Part III of the Act) and has sub-delegated authority for determining applications to a senior manager, but retained responsibility for determining any appeals. However, following changes in the Council's senior management structure, the Scheme of Delegations requires amendment to reflect the established procedure, specifically, to amend delegation reference FS9 to confirm the Section 151 Officer's responsibility for discretionary business rates relief (and any other Part III Business Rates functions), to be discharged in accordance with the Cabinet's approved Scheme.

Shared Regulatory Service

Cardiff, Bridgend and the Vale of Glamorgan Councils have collaborated to create a new regional service for Trading Standards, Licensing and Environment Health functions, approved by the decisions of the Cabinet and full Council in October 2014. The Shared Regulatory Service adopts a Joint Committee structure, in which certain regulatory services functions of each authority are delegated to the Joint Committee, other functions are reserved to each individual authority, and officers in the shared service are granted any necessary delegations; all of which are set out (amongst other matters) in the 'Joint Working Agreement' concluded by the 3 Councils on 10th April 2015. The delegations to the Shared Regulatory Service Joint Committee need to be reflected in the Scheme of Delegations, Section 5 'Delegations to Joint Committees', and consequential amendments made to the corresponding current delegations. The Monitoring Officer has delegated authority to make such minor Constitution amendments as a matter of record pursuant to the delegations approved by Cabinet and full Council; and the Committee is invited to note that such amendments are to be made.

Revised Senior Management Structure

Cabinet approved a revised senior management structure in February 2015, reflecting a re-modelling of the Tier 1 senior management team. Under the revised structure the number of Directors is reduced from 11 to 7 with associated changes to post titles and areas of responsibility. When these changes take effect they will need to be reflected in the Constitution, in particular in the Scheme of Delegations, by deleting reference to obsolete post titles and replacing them with reference to the new post having responsibility for those functions under the new structure. Article 15.2(i) of the Constitution currently provides that any references to officer post titles

should be understood as referring to any new post title where post titles or responsibilities change due to management restructures. However, for clarity it is recommended that the correct post titles should be substituted for the obsolete titles. The Monitoring Officer has delegated authority to make such minor amendments as a matter of record pursuant to the new management structure as and when it takes effect; and the Committee is invited to note that such amendments are to be made.

RESOLVED: To:

1. agree the amendment of the Scheme of Delegations as set out in paragraph 6 of the report and recommend the same to full Council for approval; and
2. note the minor Constitution amendments set out in paragraphs 7 and 8 of the report, which are to be made under the Monitoring Officer's delegated authority.

8 : WEBCASTING OF COUNCIL COMMITTEE MEETINGS

Members were advised that the Council has been webcasting Full Council meetings at City Hall and County Hall since 2008. The Monitoring officers advised Members that she would provide updated figures with regards to the maximum live audience to date, which was the Full Council meeting that considered Branch Libraries. *(However upon checking the figures after the meeting it was determined that the figures provided in the report were correct.)*

Members were advised of the identifiable benefits that can be achieved from the broadcasting of public meetings. These include:

- More open and transparent governance and accountability
- Improved public engagement in and understanding of decision making.
- Easier public access to meetings minimising travel and allowing more flexible viewing times.
- Enables the Local Government (Wales) Measure 2011 requirement for engaging public in Scrutiny
- Incentive for high standards of member attendance, engagement and conduct at meetings
- Effective means of communicating to the public, officers and other members information and decisions.
- Archived meetings provide important records alongside approved minutes.
- Can be used with social media to further promote public engagement. This is possible through a social media conversation which can run alongside the meeting when it is in progress.
- The public can access the papers and presentations made at the meeting as well as see the meeting footage.
- Provides a true record of the meeting. This helps to supplement minutes and to counteract any misleading use of "edited highlights" by anyone filming the meeting.

The Monitoring Officer advised that if the Council moves from a rolling one year contract to a three year contract with Public Eye, they will kit out a third room for webcasting an extra 60 hours; Committee Room 4 at County Hall was the preferred

option; the cameras would be installed during the last week of July and the microphones in the room would also be updated as part of the upgrade.

The Committee Clerk would manage the webcasting, although initially a second officer would also attend.

Planning Committee had been chosen for the pilot due to the level of public interest in the meetings and the recent relocation of the meeting to Committee Room 4 County Hall. A protocol was needed to guide the pilot, a draft of which had been drawn up from the London Borough of Camden Council and WLGA Guidance. Members were requested to give approval for the 6 month pilot.

The Chairperson invited Councillor Michael, Chairperson of Planning Committee to join the meeting and invited questions and comments from Members:

- Members noted that only 10 months of archived meetings were available to access online and would wish to see this extended. The monitoring officers agreed to investigate the costs for this; however cd's are archived at County Hall for all webcast meetings.
- Members suggested that an approach taken in another local authority be looked into whereby meetings are webcast at zero cost via a YouTube channel, and it was considered this approach could be taken to webcast smaller meetings.
- Members discussed the webcasting notice that would need to appear on agendas and asked for clarification on the wording and whether any equality impact assessments had been carried out. Officers stated that they would look into this and also amend the wording on the webcasting notice for clarity.
- Members sought clarification on what income could be generated and were advised that it would come from hiring out the room and facilitates.
- A discussion took place regarding filming and seeking permission/agreement for filming to take place. Members were advised that if someone attends a webcast meeting then they may be shown in a background shot, however if someone is contributing to the meeting and doesn't want to be filmed then this can be agreed to.
- Further, Members discussed the seeking of agreement for filming at the start of each Full Council meeting and it was considered that this was no longer necessary.
- Members noted that there would be an extra 60 hours of webcasting available and that all these hours should be used, so it may be possible to webcast other committees too; however it was noted that the technology needed to be tested in Committee Room 4 first and foremost.
- Members asked if there had been any consultation with planning partners such as developers regarding the webcasting pilot. Councillor Michael advised that it had not been necessary as the planning meetings were all public, on a planning portal and were quasi-judicial, he added that he had

heard positive remarks from developers regarding the webcasting as they could choose not to attend and see the proceedings.

- Councillor Michael thanked the Chairperson for the invitation to Committee and stated that he welcomed the opportunity for the pilot; he considered Planning Committee was a good starting point as the meetings are well structured with a tried and tested format. He emphasised that it was important to get the process right, with issues such as order of speakers; enabling split screens so that officers and plans could be seen at the same time; acoustics are correct; long shots of officers and being able to stop the recording for comfort breaks and breaks to read documents etc. (Chairpersons rights). He also added that issues such as Members arriving at the meeting and expecting to speak, needed to be addressed and that protocols needed to be followed.
- A Member proposed that the planning committee pilot should be mandatory and that the committee could not change its mind about the pilot.
- Members discussed Members conduct at meetings and considered that this could be an opportunity to refresh Members on protocols.
- Members considered that there should be a request for people to not privately film meetings given at the start of the meetings.

RESOLVED that:

- (1) the Committee noted the contents of the report and approved the Draft Protocol to govern the forthcoming webcasting for Planning Committee with effect from 1 September 2015 for an initial trial period of 6 months.
- (2) the Director of Governance and Legal services be authorised to make any consequential amendments to the Constitution to permit Committee webcasting in line with the draft Protocol, including the removal of requesting permission to film Council and Planning Committee for the duration of the pilot period.

9 : SCRUTINY QUESTION TIME - PILOT PROPOSALS

Committee were advised about proposals to introduce public questions to Scrutiny Committees this autumn by means of a two month pilot, which could be extended to become a regular feature of Scrutiny Committee meetings in Cardiff if the pilot is deemed successful.

The Local Government (Wales) Measure 2011 created a range of new powers and duties for local authorities to strengthen local democracy and increase public awareness of, and involvement in, the local democratic process. The two sections of the Measure that are most pertinent to the report were outlined as:

- a. Section 62, which places a requirement on local authorities to make arrangements that enable all persons who live or work in the area to bring to the attention of the relevant overview and scrutiny committees their views on any matter under consideration by the committee; and

b. Section 76, which relates to co-option of non-Councillors onto scrutiny committees.

The Statutory Guidance published to accompany the Measure in 2012 reinforced Welsh Government's commitment to enabling citizens to raise issues of concern directly at Scrutiny Committee meetings. Their 2015 "Power To Local People" local democracy consultation also extended an expectation that scrutiny committees would seek public views in developing their forward work programmes and calls for evidence.

In response to this new guidance, the Council's Policy Review and Performance Scrutiny Committee published an Inquiry report in April 2013 titled "Public Engagement With Scrutiny". The report contained 15 recommendations, two of which were targeted towards Constitution Committee. The first of these recommendations was with a view to amending the Council's Constitution to support public questioning at Scrutiny Committee meetings: The second recommendation sought the Committee's consent to enable further potential co-option of non-elected Members onto scrutiny Committees and / or task and finish inquiries.

The Constitution Committee reviewed the PRAP report at its meeting on the 14 January 2014, and agreed to :

1. Support in principle the two recommendations of the PRAP report relating to public questions at committee meetings and co-option of independent persons onto committee and task groups, subject to officers satisfactorily carrying out the research and due diligence set out in those two paragraphs;
2. 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.

This Committee received an update report in September 2014 on Public Engagement with Scrutiny which sought to address the two above issues. Following further consideration of PRAP's Inquiry report and two Scrutiny Research reports, the Committee resolved that:

- a. the content and recommendations of the Policy Review and Performance Scrutiny Committee's report "Public Engagement with Scrutiny" be noted;
- b. further consideration be given in consultation with the Leader and Cabinet on Cabinet public question time and develop a protocol to guide this;
- c. further consultation with Members of Policy Review and Performance Scrutiny Committee and the Scrutiny Committee Chairs be undertaken to agree to introduce public question time at Cardiff Scrutiny Committees and develop a protocol to guide this; and that
- d. the County Clerk and Monitoring Officer be authorised to draft a suitable amendment to the Constitution should the introduction of public question time be approved in due course.

Members were advised that Cardiff Third Sector Council (C3SC) were proposed as key partner for the pilot as it was considered a reliable stakeholder to ensure a representative and consistent response across all five committees, however there

was no reason why questions from individual citizens could not be considered at future scrutiny committee meetings, or why Ward Councillors should not attend Committees to voice questions forwarded to them by local electors; subject to positive evaluation of the initial pilot with C3SC.

Members were advised that at the end of the two month pilot, soundings will be taken from Committee and Cabinet Members, Cardiff Council managers, Cardiff Third Sector Council and other interested local organisations to evaluate the benefits emerging from the pilot. In particular, the pilot would seek to assess:

- a. whether the question time enabled productive consideration of citizen views;
- b. the positive impact on scrutiny work programming;
- c. the positive impact on executive outcomes for citizens;
- d. the insight provided to Committee members;
- e. the impact on committee capacity and agenda space;
- f. the value of positive relationships made;
- g. anything that might have been done differently, or appropriate developments to a future programme of scrutiny question time.

The Chairperson invited questions and comments from Members:

- A Member proposed that the pilot goes a step further and suggested that around 6 members of the public be engaged in public questions at scrutiny during the pilot period; with time constraints as happens at Full Council.
- Members noted that third sector involvement would be good for the initial trial but considered that the public should be allowed to participate in a trial as any issues that may arise from this could be addressed.
- Members sought clarity on who the questions would be addressed to; and what function a question to Scrutiny serves and how its taken forward to business items. A discussion took place around questions being directed towards Cabinet Members and that questions would be relevant to items on the agenda, which would be known from the forward plan. Questions would be submitted in advance.
- With regard to members of the public being engaged in the trial, Members considered it imperative to facilitate people with barriers to participate, such as translation, supported people, people with impaired hearing or vision and people with learning disabilities; it would be important to engage the whole community as there would be issues that just involving the third sector would not bring about. It was also considered that there would be no age limit for questions so young people would be engaged; although if meetings were webcast then permissions would need to be sought.
- Members discussed the timing of the trial and officers advised that October and November had been chosen as the work programmes were more flexible then before budget meetings were underway in December and January.
- Members discussed co-optees. Officers advised of current practice; Members noted the value that co-optees bring to other committees.

- Members noted that there was an obvious steer to draw on all cultural and capital in the city and involve the universities and business sector to draw on expertise and use for evidence building. If regional or multi agency approaches were taken then it was noted that there would be need to be clear links between discussion and decision making and the complex governance issues would need to be thought through.

Officers advised that the 'Improving Scrutiny' project would look at these points and that Scrutiny Chairs were not minded to bring in any significant changes in the short term, but instead a gradual evolution towards this such as co-opting for specific inquiries.

RESOLVED to:

1. note the plans being set in place to pilot public questions at scrutiny committees;
2. authorise the Director of Governance and Legal Services to report to Council and/or arrange for any necessary changes to the Constitution to be put in to enable this pilot.

10 : FORWARD PLAN 2015/16

Members were asked to review the Forward Plan of matters for consideration by the Constitution Committee for the remainder of 2015/16.

The Monitoring Officers outlined the key topics for consideration, their objectives and outcomes and their priority level.

Particular attention was drawn to the item on the Elected Mayor and the Monitoring Officers considered it would be useful if Committee received a report on this at its next Committee meeting due to the significant implications for the constitution.

Members considered that an item should be added to the forward plan for October to address the changes needed to the budget amendment process.

RESOLVED to:

- 1) consider the Forward Plan 2015/16, as set out in Appendix A to the report.
- 2) advise officers how it wishes to progress the various items in the Forward Plan and the relevant actions summarised above in the Improving Governance Work stream of the Council's Organisation Development Programme.

11 : DATE OF NEXT MEETING

Members were advised that the next meeting of the Constitution Committee was scheduled for Thursday 8 October at 5.00pm, venue to be confirmed.

The meeting terminated at 6.25 pm