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AGENDA

Committee	CONSTITUTION COMMITTEE
Date and Time of Meeting	THURSDAY, 19 NOVEMBER 2015, 5.00 PM
Venue	COMMITTEE ROOM 4 - COUNTY HALL
Membership	Councillor De'Ath (Chair) Councillors Aubrey, Cowan, Goodway, Gordon, Hinchey, Margaret Jones, Knight, Magill, Dianne Rees, White and Woodman

1 **Apologies**

To receive apologies for absence.

2 **Declarations of Interest**

To be made at the start of the agenda item in question, in accordance with the Members' Code of Conduct.

3 **Minutes** (*Pages 1 - 8*)

To approve as a correct record the minutes of the meeting 15 July 2015.

4 **Budget Meeting Procedure Rules** (*Pages 9 - 14*)

Report of the Director, Governance and Legal Services attached

5 **E-Petitions** (*Pages 15 - 20*)

Report of the Director, Governance and Legal Services attached.

6 **Constitution Updates** (*Pages 21 - 26*)

Report of the Director, Governance and Legal Services attached

7 **Review of Questions to Council - Discussion Item**

To review the pilot of Written Questions to Council and to initiate a discussion on the opportunities for questions from Members at Council.

8 **Date of next meeting - 16 March 2016 @ 5.00pm in Committee Room 4**

Marie Rosenthal
Director of Governance & Legal Services
Date: Friday, 13 November 2015
Contact: Andrea Redmond

This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg

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

**CITY & COUNTY OF CARDIFF
DINA A SIR CAERDYDD**



CONSTITUTION COMMITTEE:

19 November 2015

REPORT OF THE COUNTY CLERK AND MONITORING OFFICER

BUDGET MEETING PROCEDURE RULES

Reason for the Report

1. To allow the Committee to review the Procedure Rules which apply to Council Budget Meetings and to consider whether any amendments should be recommended to full Council.

Background

2. The Budget Meeting Procedure Rules were adopted by Council on 27th January 2011, on the recommendations of the Constitution Committee. The Rules were further reviewed and in January 2012 the Council approved various changes, addressing issues such as the maximum number of speakers in the debate, speakers' time allocations and the exclusion of notices of motion and Members' questions to ensure sufficient time can be given to the budget debate.

Issues

3. The current Budget Meeting Procedure Rules are attached at **Appendix A**.
4. Members of the Committee are invited to consider whether the current Rules remain fit for purpose, or whether any amendments should be made. Members may wish to pay particular attention to Rule 5, which relates to the number, order and time allocation for speakers and conduct of debate.
5. One specific issue the Committee may wish to consider is whether the Rules should be amended to incorporate the current convention which requires that Alternative Budget Proposals (moved under Rule 24A of the Council Procedure Rules) must be submitted to the Corporate Director Resources by 9am on the Tuesday before Council for financial and legal advice. Incorporation of the convention within the Rules would reinforce this requirement and avoid any potential doubt.

6. Officers have reviewed the budget timetable more generally and have concluded that the current arrangements are the most workable option.

Legal Implications

7. The Local Government Act 2000 requires the Council to keep its Constitution under review and up to date.
8. There are no direct legal implications arising from the recommendations of this report. Legal advice will be available at the Committee's meeting to deal with any particular queries that may arise.

Financial Implications

9. There are no financial implications arising from this report.

RECOMMENDATIONS

The Committee is recommended to:

- 1) consider and provide comments on any proposed amendments to the Budget Meeting Procedure Rules; and
- 2) if the Committee is minded to make any amendments, to delegate authority to the Monitoring Officer (in consultation with the Chair of the Committee) to draft those amendments for the Chair of the Committee to recommend to full Council on behalf of the Committee.

MARIE ROSENTHAL

Director Governance & Legal Services and Monitoring Officer

11 November 2015

Appendices

Appendix A – Budget Meeting Procedure Rules

Background papers

Council report 'Budget Council Meeting', 26 January 2012 and minutes in respect thereof;
Council report, 'Constitution Committee 14 January 2011', 27 January 2011 and minutes in respect thereof;
Constitution Committee report 'Council Procedure Rules – Budget Council', 14 January 2011

PART 4 – RULES OF PROCEDURE

BUDGET MEETING PROCEDURE RULES

1 BUDGET MEETINGS

Budget meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Budget meetings will be held in accordance with the Council Meeting Procedure Rules, subject to the variations set out in these Budget Meeting Procedure Rules.

2 TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Council or in the case of meetings called under Council Meeting Procedure Rule 4(a)(ii) by the Chair and in the case of meetings called under Rule 4(b) by the Proper Officer and notified in the summons.

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

3 NOTICE OF SUMMONS TO MEETINGS

The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules. At least three clear days before a meeting, the Proper Officer will send a summons (notice of meeting) signed by him or her by post to every Councillor or leave it at their usual place of residence or at some other place specified by notice in writing given by the Councillor to the Proper Officer. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

4 CABINET BUDGET REPORT

The Cabinet Budget report shall enable the Cabinet:-

- (a) to submit to Council their proposal of the estimates of expenditure and income in order to set the Council Tax in accordance with the Local Government Finance Act 1992;
- (b) to recommend to Council on the strategy and plan for the control of the Authority's borrowing and capital expenditure for the forthcoming year (the Annual Treasury Management Strategy);
- (c) to recommend to Council the adoption of CIPFA's Treasury Management Code of Practice 2009 by formal acceptance of the Four Clauses of Treasury Management and Treasury Management Policy Statement as Council policy;

- (d) to recommend to Council the Prudential Code Indicators and the Council's Minimum Revenue Provision Policy;
- (e) to set the rent levels for Housing Revenue Account properties, service charges and management fees for leaseholders; and
- (f) to agree the rates and Charges for Council services.

5 SPEAKING ORDER AND CONDUCT OF DEBATE

A maximum of 45 speakers will be allocated proportionally between political groups. The allocation of speakers will be notified to Whips in advance of the Budget meeting. Any 'independent' Member who is not affiliated to any party or group will also be allowed to speak in the general debate. The speaking order will be as follows:

- (i) Cabinet Proposals (including any alternative proposals as per Rule 25(a)(vi) of the Council Procedure Rules)

Cabinet Member with responsibility for Finance	10 minutes
Leader of the Council	4 minutes
Each Other Cabinet Member	4 minutes

- (ii) Party Group Finance Spokespersons/Movers of alternative proposals (as per Rule 24A or Rule 25(a)(vii) of the Council Procedure Rules, as appropriate.

The Finance Spokesperson of each opposition political group and the seconder of any alternative proposal will then be invited to speak in rotation by reference to each of the political groups in size order (largest group first).

(If more than one amendment is to be moved by one political group then all such amendments will be moved by the relevant Finance Spokesperson at the same time)

Opposition Group spokesperson:	5 minutes
Secunder of any alternative proposal:	3 minutes

- (iii) General Debate on Cabinet proposal and all alternative proposals – including any further alternative proposals moved and seconded. As indicated above the allocation of speakers will be proportionately based per political group and notified to Whips prior to the meeting.

Opposition Group Leaders 4 minutes

Each other speaker 3 minutes

No Councillor, with the exception of the Councillor with the right of reply at the end of the debate, to speak twice during this item.

The debate will be run in accordance with the rules agreed for the consideration of Notices of Motion, and each amendment will be voted on individually.

(iv) Reserving Right to Speak

Any Member, apart from proposers of the Budget or alternative proposals, may reserve the right to speak later in the debate but any such member will only be entitled to speak for 3 minutes during the general debate.

(v) Right of Reply

The Cabinet Member with responsibility for Finance (or the proposer of an approved alternative proposal) will have the right of reply: 5 minutes

6 EXCLUSION OF NOTICES OF MOTION AND FORMAL QUESTIONS

Formal questions from Councillors and Notices of Motion shall not be received and considered and the respective Council Meeting Rules shall accordingly not apply.

For the avoidance of doubt, public questions may be asked (Council Meeting Procedure Rule 18 applies), other reports may be considered and motions during meetings without notice may be moved (Council Procedure Rule 25 applies).

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**CITY & COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**



CONSTITUTION COMMITTEE 19 NOVEMBER 2015

REPORT OF COUNTY CLERK & MONITORING OFFICER

E- PETITIONS

Reason for this Report

1. To approve the introduction of the e-Petitions facility on Modern.Gov Committee Management System to allow for on-line petitions to be received, facilitating wider public engagement than a traditional paper based petition.

Background

2. The Council on 27 March 2014, following a review undertaken by the Constitution Committee and a pilot period, adopted new Council Procedure Rules.
3. The Constitution Committee had as part of the review discussed in detail the rules relating to petitions; petition thresholds and how they would be dealt with. Rule 20 on Petitions was adopted as part of the new Council Procedure Rules.
4. The Constitution Committee on 15 January 2015 considered the model Petition Scheme established by the Local Democracy, Economic Development and Construction Act 2009, which applied to principal authorities in England and Wales – for Wales County Council and County Borough Councils which supported the streamlining and clearer guidance to Elected Members, the public and officers on how petitions are dealt with by the Council.
5. The Committee agreed that following the introduction of the Committee Management System further consideration would be given to the e-Petitions application and the recording and tracking of all petitions.

Issues

6. The Council encourages public engagement with the democratic process and petitions are one avenue through which the public can make the Council aware of specific concerns, and e-Petitions support this aim.

7. The Council's Regulatory Committees – Planning Committee and Licensing Committee have provisions for petitions in their procedure rules which work well for the statutory requirements for consultation on planning and licensing matters.
8. The Council Procedure Rules allow for the receipt of petitions at Council meetings. Other petitions received directly by Cabinet Members or submitted to Scrutiny Committees would be logged on the Petitions Register which will be activated on the Committee Management System.
9. Appendix A sets out guidance on e-Petitions which would be used as a guide on the website and form part of the City of Cardiff Petition Scheme which would be adopted by this Committee following a review of the adoption of e-Petitions facility at its next meeting.

Reasons for Recommendations

10. The Committee is requested to agree the activation of the provision of e-Petitions within the new Committee Management System and the introduction of an online Petition Register to record and track all petitions received.

Legal Implications

11. The Local Democracy, Economic Development and Construction Act 2009 placed a duty on principal local authorities (defined for the purpose of Chapter 2 of the Act as (a) a County Council in England; (b) a District Council in England; (c) a London Borough Council; (d) the Common Council of the City of London in its capacity as a Local Authority; (e) the Council of the Isles of Scilly; (f) a County or County Borough Council in Wales) to have a Petition Scheme agreed by Council, to publish details of the Scheme, and in prescribed circumstances, to take action.
12. The petition provisions of the Local Democracy, Economic Development and Construction Act 2009 were removed by Chapter 10 of the Localism Act 2011, leaving this matter to the discretion of each local authority. Many authorities have chosen to maintain a Petition Scheme as good practice.

Financial Implications

13. There are no direct financial implications at this stage in relation to this report. However, financial implications may arise if and when the matters under review are implemented. Any report with recommendations for decision that would require Full Council approval will set out any financial implications arising from those recommendations.

Recommendation

The Committee is request to

1. approve the activation of the provision for e. Petitions on the Council's Committee Management System;
2. review at its next meeting the Draft model City of Cardiff Petition Scheme in light of the introduction of the e-Petition provision so that the Scheme can be adopted and any necessary changes be made to the Council Procedure Rule 20.

MARIE ROSENTHAL
COUNTY CLERK AND MONITORING OFFICER
10 November 2015

The following Appendix is attached:

Appendix A – Draft e-Petitions Process November 2015

The following Background Documents have been taken into account:

Model Petitions Scheme 15 January 2015

APPENDIX A

City of Cardiff Council Draft Guidance for e-Petition

The e-petitions system allows anybody who lives, works or studies in the City & County of Cardiff area to be able to raise an e-Petition on the internet rather than just on paper. E-Petitions allow for petitions and supporting information to be available to a potentially wider audience.

Petitioner should be at least 18 years of age, although the Council may waive this where younger people have a legitimate interest in the matter, e.g. it's about a school building project or a youth club.

Starting an e-Petition

The Council welcomes e-Petitions which are created and submitted through our website [link]. The petition organiser will need to provide us with their name, address, post code and email address.

e-Petitions must follow the same guidelines as paper petitions and clearly display the following:

- the title/subject of the petition;
- the contact address of the petition organiser (we will use this address to write to you about the petition);
- the name and location of any person supporting the petition;
- the starting and closing date of the petition.

All e-Petitions will run for a maximum of [insert days/months] to ensure that the Council's decision making process is not delayed.

When you create an e-Petition it may take up to 5 working days before it is published online. This is to enable the Council to check that the content of the petition is suitable before it is made available for signing. However, we will make every effort to ensure that your petition is published as soon as possible.

“Rejected” Petitions

If the Council feels that we cannot publish your petition for some reason, we will contact you within 5 days to explain why.

You will be able to amend and re-submit your petition if you wish.

Comment [NG]: 28 days to tie in with monthly Council meetings or 2 months to allow for months when we no longer have a council meeting

Approved Petitions

When an e-Petition has closed for signature, it will automatically be submitted to the Democratic Services and the petition organiser will be contacted to receive acknowledgement of the petition.

The Role of County Councillors

When a e-Petition is received which relates to a local matter affecting a specific ward, Democratic Services will send a copy to each of the relevant Ward Councillors at the same time as acknowledging receipt of the petition to the petition organiser.

If the petition organiser would like the e-Petition to be presented to the next available full Council meeting, the organiser will be advised to contact their Local Ward Councillor who will submit it on their behalf.

The website will be updated to indicate when and which Councillor will present the e-Petition to Full Council.

Privacy Policy

Only the name and area (neighbourhood) of a petitioner will appear on the website. The other details provided are needed by the Council to validate the petition and will not be used for any other purpose. This is the same information required for a paper petition.

Supporting/Signing an Online Petition

All the e-Petitions currently available for signature will be viewable on the website, and accessible for people to sign providing their name, address, postcode and email address. When this information is submitted an email will be sent to the email address that you have provided. This email will include a link which must be click on in order to confirm the email address is valid. Once this step is complete, a "signature" will be added to the petition.

People visiting the e-Petition will be able to see their name in the list of those who have signed it but all contact details will not be visible.

Appealing petition responses

If the petition organiser feels that the Council has not dealt with their petition properly, they can contact their Local Ward Councillor, or go through the Council's complaints procedure.

This guidance is subject to review by the Constitution Committee.

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**CITY & COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**



CONSTITUTION COMMITTEE:

19 NOVEMBER 2015

REPORT OF THE DIRECTOR GOVERNANCE AND LEGAL SERVICES

CONSTITUTION UPDATE

Reason for this Report

1. To inform the Committee of various amendments required to ensure the Constitution remains up to date and fit for purpose.

Background

2. The Constitution Committee's approved Terms of Reference are:

To review the Council's Constitution, and to recommend to Council and/or Executive 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).
3. The Monitoring Officer has delegated authority to make minor amendments to the Constitution, to include:
 - (a) amending typographical and minor drafting errors;
 - (b) updating to reflect legislative changes and matter of record; and
 - (c) drafting improvements to enhance clarity and remove minor anomalies

(delegated by the Constitution Committee on 8th September 2008).

Issues

4. The Council is required to keep its Constitution up to date and fit for purpose, and the Constitution Committee has responsibility for considering any necessary amendments in line with its terms of reference, set out in paragraph 2 above.
5. Constitution provisions in respect of the following matters have been identified as requiring amendment:

Single Licensing Authority functions under Part 1 of the Housing (Wales) Act 2014

6. As Members may be aware, the City of Cardiff Council has been designated by Order of the Welsh Ministers as the Single Licensing Authority (SLA) for the whole of Wales for purposes of Part 1 of the Housing (Wales) Act 2014 ('the Housing Act'). Part 1 of the Housing Act (which is not yet fully in force) introduces a centrally administered scheme of registration and licensing of landlords and agents in Wales, branded as 'Rent Smart Wales' by the Welsh Government.
7. As the designated Licensing Authority, under Part 1 of the Act, Cardiff is responsible for administering and enforcing the scheme, which includes responsibility for the following:
 - To establish and maintain a register of landlords
 - To allow public access to information held on the register
 - To consider an application for registration within a prescribed period and notify a landlord of his registration and assign a number.
 - To revoke a registration in specified circumstances
 - To grant licences to landlords and/or managing agents involved in the letting and management of property.
 - Before granting a licence the SLA must be satisfied that the applicant is "fit and proper" and that the requirements for "training" will or have been fulfilled.
 - To stipulate appropriate licence conditions
 - To amend licence conditions in certain circumstances
 - To refuse or revoke a licence
 - To prosecute or apply other enforcement measures (Fixed Penalty Notices, apply for Rent Stopping Orders, or apply for Rent Repayment Orders)) for offences under Part 1 of the Act.
 - To establish a fee policy and charges for Part 1 provisions
 - To approve and ensure the quality of training providers and courses.
 - To deliver and / or procure training to landlords and agents to support compliance with the legislation.

8. Members may wish to note that local housing authorities (in other Welsh Councils) are also given enforcement powers in respect of alleged offences within their area; and the arrangements between Cardiff Council (as SLA) and the local housing authorities for the operation of the scheme will be set out in a Memorandum of Understanding.
9. The Cabinet considered a report on this matter at its meeting on 19th March 2015. Cabinet agreed to the designation of Cardiff as Licensing Authority and delegated authority to the Corporate Director with responsibility for Environment (in consultation with the Corporate Director Resources, the County Solicitor and the Cabinet Member, Environment), to address the responsibilities of Cardiff, as Single Licensing Authority; and to negotiate and conclude a Memorandum of Understanding with all other Welsh Local Authorities.
10. Cabinet resolved that the Monitoring Officer should be requested to make consequential amendments to the Scheme of Delegations. Accordingly, the Committee is invited to recommend to Council the amendment of the Scheme of Delegations by inserting a new delegation to the Director with responsibility for this matter, as follows:

“To make all necessary arrangements, in consultation with the Cabinet Member, Environment and with advice as necessary from the Corporate Director Resources and the Director Governance and Legal Services, to enable the Council to discharge its functions as Single Licensing Authority under Part 1 of the Housing (Wales) Act 2014.”

Webcasting of Council meetings

11. Members may recall that the Committee considered the matter of webcasting of Council and Committee meetings at its last meeting (in July). At that meeting the Committee noted that the Council Meeting Procedure Rules (Rule 32) do refer to the ‘official recording’ of Council meetings and do not require Members to expressly consent to such recording, but that in practice such consent had been customarily sought as a matter of courtesy. The Committee resolved to continue the webcasting (‘official recording’) of Council meetings without seeking express consent at each meeting, and this was approved by full Council on 23rd July 2015.
12. In order to reflect this position and for the avoidance of any doubt, it is recommended that the Council Meeting Procedure Rules, Rule 32 be amended by inserting text as follows:

“32 RECORDING OF MEETINGS OF THE COUNCIL

- (a) Council meetings shall be webcast (‘the official recording’). Other than the official recording, no recording shall be made of the proceedings of meetings of the Council whether audio or visual and by whatever method except with the express authorisation of the meeting.”

Councillor Resignation and Notice of Vacancy

13. Officers have noted that the Council's administrative arrangements for dealing with a Councillor's resignation and the resultant vacancy (in accordance with Part V of the Local Government Act 1972, 'the LGA 1972') are not correctly reflected in the Scheme of Delegations. Amendments are required to reflect the established arrangements, specifically to provide that a Member's resignation notice is to be delivered to the Chief Executive, as the Proper Officer of the Council for this purpose (pursuant to section 84 of the LGA 1972); and the Returning Officer then has responsibility for issuing the requisite Public Notice of Vacancy (required under section 87(2) of the LGA 1972) and receiving a notice calling for an election (under section 89(1) of the LGA 1972).

Appointments to Committees / Scrutiny Chairs

14. In the Scheme of Delegations (delegation reference LD17), the Council has delegated authority to the Monitoring Officer to make appointments to committee seats allocated to political groups in accordance with the wishes of the political groups. The Monitoring Officer routinely exercises this delegation to fill committee vacancies which arise during the municipal year. However, this delegation was not reflected in Article 4.1(e), which indicated that the function of making appointments to committees is reserved to full Council. This anomaly has been corrected under the Monitoring Officer's delegated authority to make minor amendments (set out in paragraph 3 of this report, paragraph (c) thereof), by amending Article 4.1(e) as follows:

Article 4.1 Functions reserved to Council

....

(e) agreeing and/or amending the terms of reference of committees, deciding on their composition and making appointments to them, ~~except as expressly and lawfully delegated;~~"

15. The Scrutiny Procedure Rules, Rule 6, makes provision regarding the appointment of Scrutiny Chairpersons. This Rule has been amended to refer to the legislative requirements of the Local Government (Wales) Measure 2011 (sections 66 to 75), which provides for a proportional allocation of scrutiny chairs and corresponding appointments to be made by the political groups. This amendment has been made under the Monitoring Officer's delegated authority to update the constitution to reflect legislative changes (paragraph (b) of the Monitoring Officer's delegated authority set out in paragraph 3 of this report), as follows:

"6. Chairperson

Scrutiny Chairpersons will be appointed ~~by the Council on a politically proportionate basis in accordance with the provisions of sections 66 to 75 of the Local Government (Wales) Measure 2011.~~

16. The Committee is invited to note the amendments made by the Monitoring Officer as set out in paragraphs 14 and 15 above.

Legal Implications

17. The Local Government Act 2000 and the Local Authority Constitution (Wales) Direction 2002 requires the authority to keep its constitution up to date.
18. Other relevant legal implications are set out in the body of the report.

Financial Implications

19. There are no direct financial implications arising from the recommendations of the report.

Recommendations

The Committee is recommended to:

1. agree the Constitution amendments set out in paragraphs 10, 12 and 13 of the report and recommend the same to full Council for approval; and
2. note the minor Constitution amendments set out in paragraphs 14 and 15 of the report, which have been made under the Monitoring Officer's delegated authority.

Marie Rosenthal

Director Governance and Legal Services (Monitoring Officer)

10 November 2015

Background papers

Cabinet report 'Cardiff Council Designation as Single Licensing Authority for Powers Contained in Part 1 of the Housing (Wales) Act 2014 - Welsh Agent and Landlord Licensing Scheme', 19 March 2015 and decision in respect thereof;

Constitution Committee report 'Webcasting of Council and Committee meetings', July 2015 and minutes thereof;

Council report, Constitution Committee, 23 July 2015 and minutes thereof

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