

# AGENDA

Committee	CONSTITUTION COMMITTEE
Date and Time of Meeting	THURSDAY, 15 JANUARY 2015, 5.30 PM
Venue	COMMITTEE ROOM 1 - COUNTY HALL, ATLANTIC WHARF
Membership	Councillor De'Ath (Chair) Councillors Aubrey, Cowan, Goodway, Gordon, Hinchey, Hyde, Knight, Magill, Walker and Woodman (1 Vacancy)

## 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 of the committee on 17 September 2014.

## 4 Proposed LEA Governors Appointments Panel *(Pages 9 - 22)*

## 5 Cabinet Member Decision Making Update *(Pages 23 - 26)*

## 6 Scrutiny Call-In *(Pages 27 - 38)*

## 7 Constitution Update - Minor Amendments *(Pages 39 - 42)*

## 8 Petitions Review *(Pages 43 - 62)*

## 9 Written Questions at Council Meetings *(Pages 63 - 70)*

## 10 Council Meeting Dates Review and Programme for 2015 - 2018 *(Pages 71 - 74)*

## 11 Review of Committee Work Plan 2014/2015 *(Pages 75 - 78)*

## 12 Date of Next Meeting

The next scheduled meeting is 18 March 2015 @ 5.00pm in Committee Room 4

**Marie Rosenthal**  
**County Clerk & Monitoring Officer**  
Date: 9 January 2015  
Contact: Gill Nurton, ,

CONSTITUTION COMMITTEE

17 SEPTEMBER 2014

Present: Councillor De'Ath (Chairperson)  
Councillors Aubrey, Cowan, Goodway, Gordon, Hinchey, Hyde,  
Knight, Magill, Walker and Woodman

48 : APOLOGY

An apology for absence was received from Councillor Marshall.

49 : COMMITTEE MEMBERSHIP

It was noted that Council at its meeting on 24 July 2014 approved the nomination of Councillor De'Ath as a Member and Chairperson of the Constitution Committee to replace Councillor Lent.

50 : DECLARATIONS OF INTEREST

The Chairman reminded Members of their responsibility under Article 16 of the Members' Code of Conduct to declare any interest, and to complete a Personal Interest form at the commencement of the item of business.

51 : MINUTES

The minutes of the meeting of the Constitution Committee held on 11 June 2014 were approved as a correct record and signed by the Chairperson subject to the following amendment which was agreed: -

Minute No 46 – Constitution Updates Page 6 recommendation 3

Delete recommendation and replace with the following which was voted upon at the meeting:

3. recommend that the current designation of 'Assistant Cabinet Member' should remain with no changes to the Constitution Article 7.5 heading 'Assistants to Cabinet Members'; and to recommend that assistants to Cabinet Members should not serve on a relevant Scrutiny Committee.

52 : ROLE OF PRESIDING MEMBER

This Committee at its meeting on the 19 March 2014 (Min No 35) requested a further report on the role of a "Presiding Member" in light of the new legislation and how the new role would relate to the current role of Chair of Council and the title "The Right Honourable the Lord Mayor of Cardiff.

The County Clerk and Monitoring Officer reminded Members of the Council's previous decision in 2012 to pursue the separation of the functions traditionally associated with the Lord Mayor with the intention of recognising

the governance and administrative functions of the position to be retained by a "Chair of the Council"; and the ceremonial and civic functions to become a stand alone role to be undertaken by the Lord Mayor. The separation of the roles involved a number of legal hurdles relating to the Letters Patent that created the title "The Right Honourable the Lord Mayor of Cardiff" that prevented this structure from being adopted immediately, and officers were tasked to investigate the possibility of obtaining new Letters Patent in relation to the use of the title to enable the separation. The Letters Patent was signed by the Queen and an honour that is bestowed upon the City.

The County Clerk and Monitoring Officer advised of the Welsh Government's consultation on proposals to amend the Local Government Act 1972 as it relates to the position of Chair of Council and the creation of a position of "Presiding Member", which the Council had responded to. .

The Welsh Government in its Local Government (Democracy) (Wales) Act 2013 had included a provision enabling the separation of the roles. This provision amended those of the Local Government Act 1972 as it relates to the position of Chair of Council. The new Act received Royal Assent on 30 July 2013 and the relevant provision came into force on 30 September 2013.

This new statutory framework allows for Council to determine if it should have a Presiding Member. If it is so determined, then the Presiding Member is elected by Council in addition to the Chair of Council normally at the Annual Meeting of Council. If Council appoints a Presiding Member, it must also elect a Deputy Presiding Member. Neither the Presiding Member nor the Deputy Presiding Member may be a member of the Executive. The role of Presiding Member would receive a Senior Salary however the Deputy role would not be remunerated. The legislation provides for Council to grant the Presiding Member any of the functions of the Chair of Council.

The County Clerk and Monitoring Officer advised that should a Council choose to adopt this structure, only the administrative functions of the Chair of Council as set out in Article 5 of the Constitution involved with chairing Council meetings and upholding and promoting the purposes of the Constitution would be transferred to the Presiding Member. The Presiding Member's only function would be to preside over meetings of the Council and ensure Council meetings were conducted in line with the Council's Constitution. This would leave the Chair of Council free to act as now as the ceremonial head of the Council and to represent the Council at all civic and ceremonial functions and to adopt the "Right Honourable the Lord Mayor of Cardiff" title. If the Council is minded to adopt the separation the Constitution would need to be amended to reflect the changes.

The Committee noted the report and indicated that they did not wish to progress with any proposal for a Presiding Member currently.

RESOLVED – That the legislative position be noted and no further action be taken at this time.

## 53 :: INDIVIDUAL CABINET MEMBER DECISION MAKING

This Committee at its meeting in 22 January 2014 (Min No 28), resolved to further review the option of individual Cabinet Member decision making, in consultation with the Leader and Cabinet.

The County Clerk and Monitoring Officer advised that a key objective of the County Clerk's Directorate Delivery Plan for 2014/15 was to ensure that the Council's decision making was more effective and efficient as part of the governance strategy for the Council, Cabinet and its Committees and to make decision making accountable, robust and inclusive, representing the diverse views of the electorate of Cardiff. In addition the Wales Audit Office latest Corporate Assessment Report to Council found that "some processes intended to ensure good governance had not been implemented and decision making processes are inefficient and lack transparency." The report identified the need for efficient arrangements to support timely decision making with better co-ordination of activity, management of meetings including agendas. The report also commented on the length of cabinet agendas.

The Committee was reminded that under the 'Leader and Cabinet' model executive arrangements adopted by Cardiff (pursuant to the Local Government Act 2000), the Council may allocate responsibility for discharging its Executive Functions (which are prescribed by law) to the full Cabinet; any individual Cabinet Member; a Cabinet Committee or any officers. Any Executive Functions which are not allocated by the Council may, by law, be discharged (or delegated) by the Leader of the Cabinet. This legal position is reflected in the Constitution, Article 7.7 (The Cabinet, Responsibility for Functions).

The Council has discretion over the extent to which it sets out the detailed allocation of Executive Functions in the Scheme of Delegations itself, or leaves scope for the Cabinet (or its Leader, individual Members or Committees) to either discharge or delegate functions as permitted by law. However, the Welsh Government's Statutory Guidance advises that 'Councils should ensure that the scheme of delegations determined by the Council is sufficiently flexible to ensure the executive can discharge functions efficiently and effectively.' (Guidance for County and County Borough Councils in Wales on Executive and Alternative Arrangements 2006, SI 2006/56, paragraph 4.16).

The Council's current allocation of responsibility for Executive Functions is set out in the Scheme of Delegations (in Part 3 of the Constitution), specifically in Section 2 which lists various functions which are reserved to the (full) Cabinet, and Section 4, which delegates all other Executive Functions to the Council's senior officers. No provision is currently made in Cardiff's Constitution for the Leader or any individual Cabinet Members to discharge any Executive Functions, i.e. to exercise decision making powers (rather than the current consultation requirements).

The County Clerk and Monitoring Officer set out the legal requirements and the need for checks and balances for individual Cabinet Member decisions. Decisions taken by an individual Cabinet Member (if allowed under the Council's Constitution) would be subject to the same legal requirements as a full Cabinet decision, in respect of consultation, proper advice, record keeping, call-in and scrutiny.

The Welsh Government's Statutory Guidance sets out the need for appropriate checks and balances, such as:

- Ensuring that individual Cabinet Members are clear what exactly they can and cannot do (having particular regard to the broad well-being powers available to authorities under section 2 of the Local Government Act 2000);
- Ensuring that individual Cabinet Members are not permitted to actually sign contracts (they may approve the award of a contract, but the contract should be signed by the officer/s identified in the Council's Standing Orders, which in Cardiff's case is the City and County Solicitor or officer/s authorised by him);
- The need for protocols to ensure an individual Cabinet Member obtains any necessary advice from relevant officers before taking a decision, in the same way as decisions of the full Cabinet; and
- Ensuring that individual Cabinet Members are aware that any decisions they take will commit the authority to legal liability in the same way as collective Cabinet decisions, and that they are personally accountable for their decisions to any relevant Scrutiny Committee.

Members would recall that in the Delegations Report to this Committee in May 2013, the Scheme of Delegations adopted in Cardiff in or around 2002/03 gave individual Cabinet Members delegated authority, within their areas of responsibility, to make various decisions including:

- i. Agreeing responses to petitions in respect of services within their portfolio;
- ii. Agreeing submission of bids for additional resources;
- iii. Determining responses to reports from Scrutiny Committees;
- iv. Approving acceptance of tenders valued from £1,000,000 to £5,000,000;
- v. Approving the write-off of individual debts up to £50,000; and
- vi. Approving the sale or purchase of land valued £1,000,000 to £5,000,000 (Cabinet member with responsibility for Resources only).

Under Cardiff's current arrangements authority for most of the decisions listed above (with the exception of sub-paragraphs (iii) and (vi)) is delegated to the Council's senior officers (at Director level or above), in consultation with the relevant Cabinet Member/s in some cases. All such decisions are published in the Officer Decision Register and subject to call-in.

The County Clerk and Monitoring Officer set out the case for change which began in September 2012 when the then-Leader of the Council had written to

the Chair of Constitution Committee raising a number of issues for consideration including individual Cabinet Member decision making.

The Committee's attention was drawn to a review of items of Cabinet business undertaken on the period January to July 2014 (inclusive) details of which were set out in Appendix A of the report. It identified those items which, in the effort to improve agenda management and good governance, could potentially be suitable for individual Cabinet Member decision.

Business that was suitable for individual Cabinet Member decision would need to be analysed using a criteria such as:

- Policy impact – does the decision involve a substantive change to a Policy Framework policy with a significant impact?
- Key decision – would the decision be regarded as a 'key decision' under the legislative arrangements which apply in England (defined as an executive decision which is likely to result in significant expenditure or savings, having regard to the budget for that particular service or function; or is likely to be significant in terms of its effect on communities living or working in 2 or more wards of the authority – Regulation 8 of SI 2012/2089);
- Financial value; and or
- Local impact.

A high score on any of the agreed criteria could indicate that the matter was a key decision and should be reserved to full Cabinet, whereas a lower score would indicate that it may be suitable for individual Cabinet Member decision.

It was also suggested that the Leader and or Ward Members could be given the right to require an executive item scheduled for individual decision making to go to full Cabinet on request; and that it would also be open to an individual Cabinet Member to refer up any matter scheduled for their decision to full Cabinet.

Members were advised that various constitution updates would be required in order to reflect legislative and organisational developments.

The Chair invited discussion on the information and suggested approach on the analysis of Cabinet business and the following comments and observations were made:

- Members were assured that the County Clerk and Monitoring Officer would be responsible for applying the criteria for scoring decisions and would have the authority to refer matters to Cabinet should there be any dispute;
- Members identified the need for certainty that there were safeguards in place to ensure matters can be considered by Cabinet if requested;
- Members were keen to avoid the double handling of reports; and the need to not overburden agendas;

- the Committee underlined the need to review the Call-In procedure to Scrutiny Committees of all decisions;
- the importance of traceability; accountability and checks and balances to ensure robust decision making and good governance were underlined by the Committee;
- it was proposed that Party Groups be consulted on any changes to the process so that they can feed into the way forward;
- should the adoption of an individual Cabinet Member decision making scheme be agreed that this be trialled for 12 months and reviewed prior to full implementation.

RESOLVED – That:

1. the information and suggested approach for analysis of the categories of Cabinet business set out in this report be noted and the criteria for scoring of each decision be further developed;
2. the County Clerk and Monitoring Officer consult with the Leader and Cabinet on individual Cabinet Member decision making and bring a further report to the Committee with options for consideration.

#### 54 : PUBLIC ENGAGEMENT WITH SCRUTINY & WIDER DEMOCRACY IN CARDIFF

The Committee received a report on the proposals for changes to the Constitution in the light of additional research commissioned by the Committee at its meeting in 22 January 2014 on recommendations of the Policy Review and Performance (PRAP) Scrutiny Committee's April 2013 Inquiry report titled "Public Engagement with Scrutiny" on the introduction of public questioning at scrutiny committee meetings in line with best practice across the UK.

The Operational Manager, Scrutiny Services drew attention to the two recommendations in the report that were directed at the Constitution Committee. The first recommendation involved the facility for members of the public to ask questions and speak at Scrutiny Committee meetings. The wording of recommendation 13 is:

- *"Recommendation 13: Members recommend that the Council's Constitution Committee arrange to amend the Council's Constitution to allow the public to speak, ask questions and make statements at Scrutiny Committee meetings in line with the Local Government Measure 2011. A detailed protocol should be agreed with Scrutiny Services within six months of the publication of this report to cover a number of issues around the timing, suitability and format for enabling public participation, with the current 'public questions to full Council meetings' providing a useful starting point."*

The Committee was advised of work undertaken to benchmark with other authorities who had successfully introduced scrutiny public question time



arrangements the detailed of which was set out in Appendix 2 of the report. In addition the Scrutiny Research Team had also undertaken analysis of local authorities who have Cabinet public question time procedures.

The results of this review found that the majority of authorities conduct their Cabinet scrutiny in a very similar way to the way Cardiff Scrutiny Services does currently. Most authorities therefore require the relevant Cabinet Member to attend a Scrutiny meeting which is exploring an item/s that are within their portfolio.

There were however, a small number of authorities which used an alternative technique, generally referred to as Cabinet question time. This practice involved Cabinet Members attending a scrutiny committee on a timely cycle to report and answer questions on the whole of their portfolio. It usually involved a written report being produced prior to the meeting detailing certain information which would then be followed by a brief presentation. The Scrutiny Committee would then have the opportunity to question the Cabinet Member on any aspect within their portfolio before writing a letter as a result of their questioning. Each Cabinet Member was therefore held to account once per year by an overarching scrutiny committee whilst the leader would often appear twice. This report is commended to Members of this Committee for information as its implications are potentially wide reaching and might benefit from wider Member consultation, including with Scrutiny Chairs, before any changes to the Council's Constitution would be considered.

The second recommendations targeted towards Constitution Committee was around the potential co-option of people other than Cardiff Councillors onto scrutiny committees and / or task and finish groups, beyond current arrangements (which see the co-option of four co-optees onto scrutiny committees considering schools matters as part of a statutory approach across Wales) as set out in recommendation 14: -

- *“Recommendation 14: Members recommend that the Council’s Constitution Committee arrange to amend the Council’s Constitution to provide for the potential co-option of further non-Councillor Scrutiny Committee members. The possibility of co-opted members and their length of appointment should be considered by each Committee at the first meeting of the Committee following the Council elections. Chairs should be able to draft in members relevant to the agenda item when desired. Apart from existing statutory co-optees, they should not be given a vote. A Person Specification and Job description should be drawn up for each co-optee, and co-optees should sign up to an appropriate code of conduct, based on the existing Code followed by Councillors.”*

It was proposed that this would be the subject of a further report in due course.

The Chair invited discussion on the suggestion of public question time at

Cabinet or Scrutiny Committees and whilst it was considered to be a good step forward in the public engagement at meetings there were a number of concerns about the process including the procedure to be adopted for Cabinet and Scrutiny; the need for questions to be relevant to the business on the agenda; the need for the methodology to be scoped; consideration of the time allocated; the number of questions that can be asked; timing for responses. If a proposal was to be agreed it was proposed that a pilot be introduced so that lessons can be learnt and improvements made prior to full implementation. There was some concern about the lengthening of meetings and the need for greater agenda management control by Chairs and Officers.

RESOLVED – That

- 1 the content and recommendations of the Policy Review and Performance Scrutiny Committee’s report “Public Engagement with Scrutiny” be noted
- 2 further consideration be given in consultation with the Leader and Cabinet on Cabinet public question time and develop a protocol to guide this;
- 3 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;
- 4 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;

54 : SCRUTINY CALL-IN

The Committee received a report on the Council’s current Call-in procedures in light of matters raised at previous meeting by Members on the process; operational experience and best practice.

It was agreed that further work was required particularly in light of the proposed introduction of Individual Cabinet Member decisions, and that it was important that those Members who had raised issues be involved in the review. A number of Members expressed the view that the process need to be simpler to empower individual Members to hold the Cabinet to account and to allow smaller Party Groups to have the option to call decisions in. It was recognised that the legitimate reasons for call in should be detailed.

RESOLVED – That the consideration of the Scrutiny-Call-In procedure be deferred to a future meeting to allow for the commission of further work to review and investigate potential changes to procedures.

55 : DATE OF NEXT MEETING

It was proposed that the next meeting scheduled for 17 December 2014 be brought forward to 19 November 2014 at 5.00pm

Chairperson: \_\_\_\_\_

Date: \_\_\_\_\_

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



**CONSTITUTION COMMITTEE:**

**15 JANUARY 2015**

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**REPORT OF THE COUNTY CLERK & MONITORING OFFICER**

**AGENDA ITEM 4**

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## **LOCAL AUTHORITY GOVERNOR APPOINTMENTS**

### **Reason for the Report**

1. To establish a Local Authority (LA) Governors' Appointment Panel to ensure a strategic approach to the appointment of LA governors in Cardiff schools.

### **Background**

2. The current arrangement for the appointment of LA Governors to Cardiff schools involves potential candidates being nominated by the political groups represented on the council with individual nominations being formally approved at the monthly Council meetings. The current process provides limited scope to widen the pool of potential candidates and no formal process to approve the suitability of candidates. There continues to be a high level of LA Governors vacancies across all schools.
3. In September 2014, political group whips were consulted and agreed with the proposal to widen the pool of candidates to business leaders, staff and interested citizens and to formalise a process to check suitability of potential candidates pending the Scrutiny Committee Review. Events to encourage applications from interested council staff and business partners have also been arranged.
4. In November 2014, the Children & Young People Scrutiny Committee agreed to carry out a Task and Finish Inquiry in to improving the effectiveness of Cardiff's schools governing bodies with an early review of this arrangement. The first report from the Inquiry setting out the key findings and recommendations in relation to LA Governor Appointments is contained in the letter set out at Appendix A to this report. The Cabinet Member (Education) Cllr Julia Magill has confirmed her support for these proposals. Full Council has responsibility for responding to these recommendations.

## **A Local Authority Governors Panel**

5. The Scrutiny Committee Task and Finish Group are recommending that the Council delegate its powers of LA Governor Appointment to a cross party Member Panel. It is also recommended that if agreed this Panel should also deal with LA Governor removals from office. The Director of Education, Monitoring Officer and a representative from the Cardiff Governors Association would act as advisors to the Panel. Governor Services staff would clerk the Panel and facilitate the recruitment of suitable candidates to form a pool of potential appointments. This would enable appointments to be focused on the needs and challenges of the individual school and ensure that Governing Bodies are well supported with specific expertise and experience.
6. The Panel could also maintain an over view relating to the recruitment of governors; criteria for appointment and conduct of LA governors , the potential for payment of expenses to LA governors; the training of governors; and any other matters that may be referred to the Panel by the Cabinet or the Constitution Committee.
7. It is proposed that the Panel would comprise up to seven Cardiff councillors and meet termly or more frequently as required to consider all LA governor applications or renewals. The Panel would also consider any objections to appointments and any applications to remove an LA governor.

## **Legal Implications**

8. LA governors are appointed by the Council. They are subject to the statutory rules regarding qualification and disqualification affecting all governors set out in the relevant regulations: The Government of Maintained Schools (Wales) Regulations 2005. Candidates must be aged 18 or over at the time of their appointment. No person may at any time hold office as governor in more than two schools

## **Financial Implications**

9. None identified

## **RECOMMENDATIONS**

The Committee is recommended to recommend to Council that a Governors Panel be established as part of the Constitution with the following Terms of Reference:

### **Governors Panel**

#### *Terms of reference*

- (i) For School Governing Bodies constituted under The Government of Maintained Schools (Wales) Regulations 2005 to appoint and remove governors to those places allocated to the Local Authority;
- (ii) To consider and make decisions relating to the recruitment of governors; the potential for payment of expenses to LA governors; the training of governors; and any other matters that may be referred to the Panel by the Cabinet or the Constitution Committee.

#### *Membership*

Seven members

**MARIE ROSENTHAL**  
**County Clerk and Monitoring Officer**  
**09 January 2015**

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1<sup>st</sup> December 2014

Councillor Julia Magill,  
Cabinet Member for Education and Skills,  
County Hall,  
Atlantic Wharf,  
Cardiff,  
CF10 4UW.



Dear Councillor Magill,

**Children & Young People Scrutiny Committee Phased Inquiry – High level of Local Authority Governor Vacancies in Cardiff and the Appointment and Effectiveness of Local Authority Governors**

As you will be aware the Children & Young People Scrutiny Committee recently agreed to undertake a phased inquiry into Local Authority School Governors (LASG). The Committee also agreed that the Inquiry Chairman would report directly to you, following each phase, to enable recommendations to be identified and reported to the Cabinet in a timely manner for prompt consideration and implementation.

The first report from the inquiry is contained in this letter, and covers the recruitment and appointment of Local Authority School Governors in Cardiff. The first meeting of the Inquiry was held on 20<sup>th</sup> November 2014 to agree the Scope of the Inquiry and:

- gain an understanding of the role of school governors;
- assess the level of local authority governor vacancies (LASG) across Cardiff's schools;
- receive evidence on the present LASG recruitment and appointment process and to assess this against a selection of other local authorities processes; and
- discuss and agree changes to the current system to improve the effectiveness of Cardiff's schools governing bodies.

The first meeting was arranged for Members to receive, in advance, background information on the role of governors, relevant output from a survey of Cardiff's School Governors, details of the current number of school governor vacancies, and an analysis of other local authorities' processes for the recruitment and appointment of their LASG. The information included:

- A draft scope for the inquiry, as discussed at Committee;
- A copy of a handbook for governors of schools in Wales published by the Welsh Government and Governors Wales. This handbook provided Members an explanation of what a governor is, categories of governors, support and training, how to fulfil their responsibilities and the role of a school governor;
- Details of the numbers and vacancies of each type of governor across Primary Schools, Secondary Schools, Special Schools, Nursery Schools and Welsh medium Schools;
- The Welcome pack for new Governors;
- Comparative information from a number of other Welsh and English Local Authorities on their recruitment, application form, processes and marketing and promotional process for Local Authority Appointed School Governors; and
- Extract from the school governor survey commissioned for this inquiry, covering: what is important for new governors, how easy is it to recruit new governors and what would help the recruitment of new governors.

In attendance for the inquiry meeting were Councillor Richard Cook (Elected Chair of the inquiry), Councillors Boyle, Murphy and Rees.

The Members were briefed at the meeting by the following officers and witnesses:

- Marie Rosenthal; County Clerk and Monitoring Officer
- Paul Jefferies (Secretary to Cardiff Governors Association)
- Julia Ellis, Governor Services Manager



- Ruth Lock, Governor Services Officer

Members were informed that unfortunately, you and Nick Batchelar were not able to attend but other witnesses were fully aware of your views.

On behalf of the Members who attended I would like to thank all of the witnesses who attended the meeting, provided information, advice, answered the questions and contributed to the discussions, Members found their input into the inquiry very helpful.

After the meeting Members considered the background information, answers to Members questions and advice and evidence from witnesses and the Inquiry agreed to highlight a number of key findings and recommendations. This letter, reports the key findings and recommendations on this phase of the inquiry for the Cabinet, Constitution Committee and Officers to consider for implementation.

## **Key Finding 1 – Cardiff’s Recruitment and Appointment process**

- The Members were informed that the current recruitment and appointment process for Local Authority School Governors was not fit for purpose, there was no formal process, and no assessment or checks on applicants ;
- The Group noted from the papers provided that there were around 2,000 school governor places in Cardiff with around 250 vacancies. There was also a ten percent (38) vacancy level for Local Authority appointed Governors.
- The Members learnt that a lack of self assessment of skills, by school governing bodies, did not enable effective appointment of Governors to aid in school improvement;
- Members noted from the analysis of other authorities governor appointment processes, that more formal recruitment, interview, appraisal and transparent systems had been implemented in most Local Authorities;
- Members considered that within any appointment process appropriate checks should be made about each candidate prior to their consideration for appointment;
- Members heard from the Council’s Monitoring Officer that a more formal appointment system should implemented through Constitution Committee and could include:
  - Appointment through a Committee of Council Panel to meet on a regular basis, say six monthly.
  - Chaired by the Cabinet Member for Education with the Director of Education, Monitoring officer and a representative from the Cardiff Governors Association acting as advisors
  - Candidates assessed for suitability, maybe through interview
  - Candidates should be sought from various backgrounds to meet the skill needs of particular schools
- Members were also informed that the current appointment process is supported by the Governors service and this should continue with any new process, including an Appointment Panel.

- Members identified by the analysis of other Local Authority's processes that many encourage people to apply to be a school Governors using specific recruitment campaigns, Members noted that Cardiff does not presently have a campaign.

#### **Recommendation 1 to 4**

1. An Appointment Panel should be formed, as a Committee of Council, with appropriate Terms of Reference, to meet quarterly, Chaired by the Cabinet Member for Education, and politically balanced, perhaps including Group Whips. The Director of Education, Monitoring Officer and a representative from the Cardiff Governors Association must be allowed to act as advisors to the Panel,
2. The Panel should have in its Terms of Reference the implementation and monitoring of a School Governor recruitment campaign.
3. That appointments should be made based around any identified skill gap need within a school.
4. That the Clerking of the meetings should continue to be undertaken by the Governors Service Staff.

## **Key Finding 2 –School Governing Bodies must have the appropriate skills**

- Members were informed that the role of governing bodies has become much more complex over the last few years.
- Members were aware that considerable resources are now delegated directly to schools, requiring schools to undertake many tasks that were previously managed by the local authority;
- Members were informed that Governing Bodies are now actively involved in managing, monitoring and challenging school performance, attendance, exclusions, recruitment and teacher performance; and
- Members were also informed that many school governing bodies do not undertake a skill analysis of their governors, to enable any skill gaps to be identified, to which new governors can be appointed.

### **Recommendation 5 to 7**

5. That all school governing bodies must ensure that they include governors who have the skills and knowledge to ensure that they can work effectively across all aspects of the school.
6. That School Governing Bodies should annually undertake a skills assessment of the Body and inform the Council of any skill gaps, when they have LASG vacancies.
7. That the Director of Education must check annually that the skill mix of each school governing body, meets the needs of the school and its improvement plan.

### **Key Finding 3 – Ward Councillors**

- Members were informed that the current practice is for two Ward Councillors to be automatically appointed to each school in their Ward;
- Members commented that with the changes in the role of Governors this tradition was becoming less relevant to the needs of a school;
- Members also commented that with the increase in Governor meetings and training it was becoming difficult for Councillors to attend all events for the schools that they were governors of; and
- Members were informed that as funding was being delegated directly to schools there was less of a need for the link between each School and the Council that the ward Councillors previously provided.
- Members did raise a concern, that in mixed party wards, there may be a need for both parties to be represented on the Governing Body, unless agreement can be made for only one to be appointed.

#### **Recommendation 8 to 10**

8. That the Cabinet, Party whips and Constitution Committee agrees that the new appointment process will only allow one Ward Councillor to act as LASG on each school, in single party wards.
9. That the appointment of Ward Councillors will follow the same appointment process as other LASG.
10. That in mixed party wards, two Councillors should be appointed unless agreement can be had to appoint one Councillor.

#### **Key Finding 4 – Role of Governors**

- Members were informed that the role of governors was becoming very complex and their appointment to a School Governing Body was a considerable commitment, particularly if they were appointed due to a particular skill that was needed;
- Members noted that there was a considerable amount of mandatory, and discretionary training, as well as the large number of meetings to attend, visits to be made, and the complex decisions that have to be made; and
- Members were surprised to hear that Disclosure and Barring Services (DBS) checks were not routinely undertaken and the Group agreed that this must be compulsory for all appointed LASG, with the Council paying for the basic check for all LASG.

#### **Recommendation 11 and 12**

11..That the Director of Education in consultation with the Cardiff Governors Association should develop a leaflet providing clear guidance and information for prospective Local Authority Governors.

12. That all new LASG have the basic DBS check undertaken prior to their appointment, paid for by the Council.

I would be grateful if you, the Director of Education and Lifelong Learning and Monitoring Officer would consider and respond to the key findings and recommendations reported in this letter. Should you require clarification or have any questions about any of this letter do not hesitate to contact me.

Finally at the meeting the Members agreed to amend the Scope of the Inquiry so that it did not now cover the Clerking of School Governor meetings and that the Effectiveness of Governing Bodies would be considered next.

Regards,

A handwritten signature in black ink, appearing to read 'Richard Cook', with a long horizontal stroke underneath.

Councillor Richard Cook  
Chair of the Children & Young People Scrutiny Committee

Cc to:

Nick Batchelar, Director of Education and Lifelong Learning  
Marie Rosenthal; County Clerk and Monitoring Officer  
Paul Jefferies, Secretary Cardiff Governors Association  
Gareth Newell, Operational Manager  
Joanne Watkins – Cabinet Business Manager  
Cheryl Cornelius, Cabinet Support Manager  
Members of the Children & Young People Scrutiny Committee

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



**CONSTITUTION COMMITTEE:**

**15 JANUARY 2015**

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## **REPORT OF THE COUNTY CLERK & MONITORING OFFICER**

**AGENDA ITEM: 5**

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### **INDIVIDUAL CABINET MEMBER DECISION MAKING**

#### **Reason for this Report**

1. To report back on the consultation with the executive in relation to introducing decision making by individual Cabinet members.

#### **Background**

2. At its last meeting in September 2014, the Committee noted the recent Corporate Assessment by the Wales Audit Office (WAO) and its findings that “some processes intended to ensure good governance have not been implemented and decision making processes are inefficient and lack transparency.” The WAO had commented on the length of cabinet agendas and identified the need for more efficient arrangements to support timely decision making with better co-ordination of activity, swifter consideration of Scrutiny recommendations and improved management of meetings including agenda content.
3. In response to these findings, the Committee considered a Report proposing the introduction of individual executive decision making and subject to any change being implemented on a trial 12 month basis resolved that:
  - The information and suggested approach for analysis of the categories of Cabinet business set out in this report be noted and the criteria for scoring of each decision be further developed;
  - The County Clerk and Monitoring Officer consult with the Leader and Cabinet on individual Cabinet Member decision making and bring a further report to the Committee with options for consideration.
4. Under the ‘Leader and Cabinet’ model executive arrangements adopted by Cardiff (pursuant to the Local Government Act 2000), the Council may allocate responsibility for discharging its Executive Functions (which are prescribed by law) to the full Cabinet; any individual Cabinet Member; a Cabinet Committee or any officers. Any Executive Functions which are not

allocated by the Council may, by law, be discharged (or delegated) by the Leader of the Cabinet. This legal position is reflected in the Constitution, Article 7.7 (The Cabinet, Responsibility for Functions).

5. The Council has discretion over the extent to which it sets out the detailed allocation of Executive Functions in the Scheme of Delegations itself, or leaves scope for the Cabinet (or its Leader, individual Members or Committees) to either discharge or delegate functions as permitted by law. However, the Welsh Government's Statutory Guidance advises that 'Councils should ensure that the scheme of delegations determined by the Council is sufficiently flexible to ensure the executive can discharge functions efficiently and effectively.' (Guidance for County and County Borough Councils in Wales on Executive and Alternative Arrangements 2006, SI 2006/56, paragraph 4.16).
6. The Council's current allocation of responsibility for Executive Functions is set out in the Scheme of Delegations (in Part 3 of the Constitution), specifically in Section 2 which lists various functions which are reserved to the (full) Cabinet, and Section 4, which delegates all other Executive Functions to the Council's senior officers. No provision is currently made in Cardiff's Constitution for the Leader or any individual Cabinet Members to discharge any Executive Functions, i.e. to exercise decision making powers (rather than the current consultation requirements).

#### Legal Requirements for Individual Cabinet Member Decisions

7. Members should note that any decisions taken by an individual Cabinet Member (where allowed under the Council's Constitution) are subject to the same legal requirements as a full Cabinet decision, in respect of consultation, proper advice, record keeping, call-in and scrutiny.
8. The Welsh Government's Statutory Guidance (referred to in paragraph 5 above, specifically, paragraphs 6.23 to 6.27 inclusive) also emphasises the need for appropriate checks and balances, such as:
  - i. Ensuring that individual Cabinet Members are clear what exactly they can and cannot do (having particular regard to the broad well-being powers available to authorities under section 2 of the Local Government Act 2000);
  - ii. Ensuring that individual Cabinet Members are not permitted to actually sign contracts (they may approve the award of a contract, but the contract should be signed by the officer/s identified in the Council's Standing Orders, which in Cardiff's case is the City and County Solicitor or officer/s authorised by him);
  - iii. The need for protocols to ensure an individual Cabinet Member obtains any necessary advice from relevant officers before taking a decision, in the same way as decisions of the full Cabinet; and
  - iv. Ensuring that individual Cabinet Members are aware that any decisions they take will commit the authority to legal liability in the same way as collective Cabinet decisions, and that they are

personally accountable for their decisions to any relevant Scrutiny Committee.

### Benefits and Criteria for Individual Decision making

9. The Leader and Cabinet have been consulted as requested by the Committee on the benefits of introducing this arrangement and potential criteria for individual Cabinet member decisions. Subject to proper, public and efficient process the executive members are very supportive of the proposal. The modern.gov committee management system introduced last year and due to go live on the internet in April will provide a robust and transparent process if the proposal is implemented.
10. Currently all cabinet business is analysed in the Cabinet Forward Plan with a traffic light (RAG) rating. This might provide a useful categorisation allowing individual decision making for green or amber rated matters. The current ratings are as follows:
  - Green- Decision of a non-contentious, day to day nature, unlikely to be the subject of call-in
  - Amber –decisions of a more sensitive nature which could be potentially contentious or not on a routine nature. These would generally flow through to the Cabinet for decision without prior scrutiny, although a judgment will be made in each case regarding scrutiny considerations before decision and the possibility of call-in
  - Red – Decision relating to high level functions primarily relating to policy formulation within the Policy and Budgetary Framework where the cabinet would usually make a proposal.
11. The other approach suggested would be based on English local government and the concept of a 'key decision'. Under the legislative arrangements which apply in England, a key decision is defined as an executive decision which is likely to result in significant expenditure or savings, having regard to the budget for that particular service or function; or is likely to be significant in terms of its effect on communities living or working in 2 or more wards of the authority ( Regulation 8 of SI 2012/2089);
12. Non key or Green/Amber decision would be suitable for individual Cabinet member decision.
13. Members are invited to consider the information and suggested approach for analysis of Cabinet business set out in this report and to make any appropriate comments. If the Committee wishes to take this matter forward, it is recommended that the Monitoring Officer be instructed bring a further report back to this Committee setting out proposed amendments to the Constitution for further consideration.

### **Legal Implications**

14. The relevant legal provisions are set out in the body of the report.

15. Members should note that any decision to allocate decision making powers to Individual Cabinet Members will require amendment of the Scheme of Delegations and the approval of full Council.

### **Financial Implications**

16. There are no financial implications arising from this Report

### **Recommendations**

The Committee is recommended to note the information and suggested approach and If the Committee wishes to take forward the matter of individual Cabinet Member decision making, to instruct the Monitoring Officer to bring a further report back to this Committee setting out proposed amendments to the Constitution for further consideration

**Marie Rosenthal**  
**County Clerk and Monitoring Officer**  
09 January 2015

### **Background papers**

Constitution Committee Reports on the Delegations Review, May 2013, September 2013 & January 2014, and minutes thereof  
Cabinet Agendas and Decision Registers for the period January 2014 to July 2014

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**REPORT OF THE COUNTY CLERK AND MONITORING OFFICER**

**AGENDA ITEM: 6**

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**SCRUTINY CALL-IN**

**Reason for this Report**

1. The Constitution Committee requested a review of the Council's current Call-in procedures as part of its work plan discussion and review of Governance at its June 2014 meeting. A Report was prepared for the December meeting but was deferred for consideration to January 2015.

**Background**

2. Under the Council's Constitution, Scrutiny Committees can exercise the right to 'call-in', for reconsideration, decisions made but not yet implemented by the Cabinet, Cabinet Members and designated senior officers, within their terms of reference. This enables Scrutiny to consider whether the decision is appropriate.
3. Call In is a key mechanism to hold the cabinet to account because a called-in decision cannot be implemented until it has been considered by the relevant Scrutiny committee which can examine the issue and question the decision-taker on the actions taken.
4. There are currently two methods by which this can take place. Where the Committee is of the opinion that a decision is outside the Council's Budget or Policy framework then it may seek advice from the Head of Paid Service, Monitoring Officer and/or Section 151 Officer, who will then report on the matter. Further details as set out in the Constitution are attached at **Appendix A**. No decisions have been called in under this procedure rule during the lifetime of this Council.
5. Alternatively, any non-Cabinet member of the Council, or a co-opted member of the Children and Young People Scrutiny Committee in the case of a decision relating to an education matter, may call in a decision by writing to the Operational Manager of Scrutiny Services within the call-in period (seven clear working days after the publication of the decision). The Scrutiny Procedure Rules in relation to this form of Call-in are attached at **Appendix B**. This form of Call-in is currently progressed via

an electronic form available on the Council's website.<sup>1</sup> Guidance is available for Members considering whether to call in a decision and is attached at **Appendix C**.

6. During the lifetime of this Council the following seven call-ins have taken place:
- **2012 – 13 Municipal Year**
    - Families First Commissioning & Procurement – Officer Decisions CMB/12/007, CMB/12/008 and CMB/12/009 (3 August 2012).
    - Land at Callaghan Square – Cabinet Decision CAB/12/0037 (16 November 2012).
    - Economic Development Arrangements – Cabinet Decision CAB/12/0033 (29 November 2012).
  - **2013 – 14 Municipal Year**
    - Additional Welsh Medium School Places to Service the Canton, Grangetown and Riverside Areas – Cabinet Decision CAB/13/0020 (3 September 2013).
    - Land at Heath Park – Cabinet Decision CAB/13/00125 (8 May 2014).
    - Cardiff Strategic Cycle Network Route 6: Provision Of Segregated Cycle Lanes On Cardiff Bridge - Cabinet Decision Cab/13/0018 (22 July 2013).
  - **2014 – 15 Municipal Year**
    - County Hall Nursery - Cabinet Decision CAB/14/022 (3 September 2014).
7. One of the Call in meetings resulted in a decision being referred back for Cabinet reconsideration, and the Cabinet subsequently developed fresh proposals in response to the referral. At the other six call in meetings the scrutiny committee decided to allow the decision to stand, but subsequently wrote to the Cabinet Member with advice and suggestions on how to improve the implementation of the decision, or expressed concerns that they wished the Cabinet Member to bear in mind to manage risks associated with the decision.
8. A small additional number of provisional Call-in requests were subsequently withdrawn by the Member considering call-in following discussion and clarification from the Operational Manager (Scrutiny Services) and/or Monitoring Officer. A common factor linking these withdrawn requests was that the Member's concern may have related to the implementation of a previously agreed Cabinet or officer decision that was not called in at the time, or wider service delivery or policy concerns that were not directly pertinent to the specific decision that had just been made and published.

## Issues

9. It is important that the call-in process is not abused, not used politically, nor causes unreasonable delay. The Welsh Audit office in its Corporate Assessment in 2014 did

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<sup>1</sup><https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/Scrutiny/Call-in-a-decision/Pages/default.aspx>

find that the council's decision making arrangements were inefficient in relation to co-ordination of business , management of meetings including agenda items and the outcome of meetings and time spent in meetings. Call-In request do require additional meetings to be arranged at short notice. The main tool for scrutiny committees to improve service delivery and policy development should be detailed reviews based on evidence rather than call-ins.

10. Because of the cost and delay implications of call-in, the Constitution needs to specify formal safeguards for the use of call in to prevent abuse or unreasonable delay. These would normally include rules about the number of members who can request a call-in and a restriction that prevents any decision on the matter being called-in on more than one occasion within a six month period. The Constitution should also state that call-in should be reserved for exceptional circumstances where the decision is :
  - Contrary to the normal requirements of decision making, lawful ;reasonable; rational and proportionate
  - Contrary to the council's policy or budgetary frameworks
11. In Cardiff there is particular emphasis on the value of early or pre decision scrutiny which requires all cabinet decisions to be rated Green, Amber or Red. Current practice is that a red rating requires the decision to be considered by Scrutiny before the cabinet recommendation is made. These requirements are set out in the Call In Guidance set out at Appendix C. However they do not currently form part of a written policy within the Cardiff Constitution.
12. The Cardiff Constitution allows any one member to require a call-in and specifies a 6 month safeguard constraint in relation to individual decisions. The operational Manager Scrutiny in consultation with the monitoring officer determines the validity of the Call In request.
13. It is suggested that the Constitution should be reviewed to consider the effectiveness of the current safeguards and to reflect the rating classification of cabinet decisions.
14. The Committee are asked to consider the following suggested amendments:
  - Involving the chair of the relevant Scrutiny committee in considering the validity of a call-in request.
  - Recognising the exceptional nature of a call in by only allowing call-in relation to cabinet decisions rated red
  - Avoiding any party political misuse of the rule by requiring a minimum of 3 members from more than 1 party

### **Legal Implications**

15. There are no direct legal implications arising from the content of this report.

### **Financial Implications**

16. There are no direct financial implications arising from this report.

## **RECOMMENDATION**

The Committee is recommended to decide whether it wishes to commission further work to investigate potential changes to the Scrutiny Call-In procedures to report back to the next meeting of the Constitution Committee in March 2015.

**Marie Rosenthal**  
**County Clerk and Monitoring Officer**  
09 January 2015



## Call-in of decisions outside the Budget or Policy Framework<sup>2</sup>

(a) Where a Scrutiny Committee is of the opinion that an Executive Decision is, or if made would be, contrary to the Policy Framework, or contrary to or not wholly in accordance with the Budget, then it shall seek advice from the Head of Paid Service, Monitoring Officer and/or Section 151 Officer, who will report on the matter.

(b) In respect of functions which are the responsibility of the Cabinet, the report of the Head of Paid Service, Monitoring Officer and/or Section 151 Officer shall be to the Cabinet with a copy to every Councillor. Regardless of whether the decision is delegated, the Cabinet must meet to decide what action to take in respect of the report and to prepare a report to Council in the event that the Head of Paid Service, Monitoring Officer or the Corporate Director with Section 151 Responsibilities conclude that the decision was a departure from the Budget or Policy Framework, and to the Scrutiny Committees if the Head of Paid Service, Monitoring Officer or the Section 151 Officer conclude that the decision was not a departure.

(c) If the decision has yet to be made, or has been made but not yet implemented, and the advice from the Head of Paid Service, Monitoring Officer and/or Section 151 Officer is that the decision is or would be contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget or ultra vires the power of the Cabinet, the Cabinet or the relevant Scrutiny Committee may refer the matter to the Council. In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter. The Council shall meet within ten clear working days of the request by the Cabinet or the Scrutiny Committee. At the meeting it will receive a report of the decision or proposals and the advice of the Chief Executive, Monitoring Officer and/or the Section 151 Officer. The Council may either:-

- (i) endorse a decision or proposal as falling within the existing Budget and Policy Framework. In this case no further action is required, save that the decision of the Council be minuted and circulated to all Councillors in the normal way; or
- (ii) amend the Authority's financial procedures or Policy Framework to encompass the decision or and agree to the decision with immediate effect. In this case, no further action is required save that the decision of the Council be minuted and circulated to all councillors in the normal way; or
- (iii) where the Council accepts that the decision or proposal is contrary to the Policy Framework or contrary to or not wholly in accordance with the Budget or ultra vires the power of the Cabinet, and does not amend the existing Policy Framework to accommodate it or ratify the ultra vires decision., the decision will be a nullity but the Council may require the Cabinet to reconsider the matter in accordance with the advice of either the Chief Executive, Monitoring Officer or Section 151 Officer.

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<sup>2</sup> Cardiff Council Constitution 18 August 2014, Budget And Policy Framework Procedure Rules, Rule 7 (page 141)



**Call-in Procedure<sup>3</sup>**

- (a) When an Executive Decision is made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief Executive, a Corporate Director or a Director exercising a Corporate Director or a Director delegation, the decision shall be published on the Council's Intranet Site, and shall be available at the main offices of the Council, normally within two days of being made. Members of those Committees who request it (in respect of decisions falling within their Committee's terms of reference) and Chairpersons of all Scrutiny Committees will also be sent copies of the records of all such decisions within the same timescale by the proper officer.
- (b) The notice will bear the date on which it is published and will specify that the decision will be implemented on the expiry of seven clear working days after the publication of the decision ("the call-in period"), unless the decision is called in as set out below.
- (c) Any non Cabinet member of the Council (or a co-opted member of the Children and Young People Scrutiny Committee, in the case of a decision relating to an education matter) may call-in a decision of which notice has been given as set out above, by giving notice in writing to the Operational Manager of Scrutiny Services within the call-in period. The Operational Manager of Scrutiny Services shall then notify the Cabinet Office of the call-in. He/she shall call a meeting of the relevant committee on such date as he/she may determine, where possible after consultation with the Chairperson of the Committee, and in any case within five clear working days of the decision to call-in ("the scrutiny period"). At its meeting, the Scrutiny Committee may consider the called-in decision itself or decide to refer the issue to the Council for scrutiny, if the matter is of general significance and importance to the Council as a whole. A Council meeting to consider this issue must take place within ten clear working days of this referral ("the Council scrutiny period") unless otherwise agreed between the Leader and the Chairperson of the relevant Scrutiny Committee.
- (d) Having considered the decision, the Scrutiny Committee or the Council (if the decision has been referred to Council) may refer it back to the Cabinet or the decision maker for reconsideration, setting out in writing the nature of its concerns. The Cabinet or decision maker shall then reconsider the matter before adopting a final decision, arranging for the decision to be changed to reflect points made by the Scrutiny Committee, or formally deferring the matter for further consideration. The relevant Scrutiny Committee or Council as appropriate will be advised of the outcome at its next meeting.
- (e) If following a call-in, the matter is not referred back to the Cabinet or decision maker, the decision shall take effect on the date of the relevant Scrutiny Committee or Council meeting which considers the issue, or the expiry of the scrutiny period or the Council scrutiny period as appropriate, whichever is the later.
- (f) The role of Scrutiny Committees calling in a decision is:

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<sup>3</sup> Cardiff Council Constitution 18 August 2014, Scrutiny Procedure Rules, Rules 12 and 13 (page 151- 52)

- (i) To test the merits of the decision
  - (ii) To consider the process by which the decision has been formulated.
  - (iii) To make recommendations (to support the decision, change aspects of the decision, or to invite the decision making body to reconsider).
  - (iv) To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision making body).
  - (v) To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.
- (g) In calling in a decision it is not sufficient for the Member requesting the call in to state that they wish to test the merits of the decision. A member requesting a call in shall specify precisely which aspects of the decision they wish to question or challenge.
- (h) The Operational Manager of Scrutiny Services may, in consultation with the Monitoring Officer, rule that a call in is not valid if:
- (i) The call in request has not been made within the seven working days allowed for call in;
  - (ii) It is not clear which Executive Decision is being called in;
  - (iii) The decision is exempt from call in on account of urgency provisions;
  - (iv) The call in request provides too little information to enable Committee members or the decision taker to adequately prepare for the call in meeting.
  - (v) The decision being called in, or broadly the same decision, has been called in during the last six months.

### **13. Exceptions: Call-in and Urgency**

(a) The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if either the Head of Paid Service, the Monitoring Officer or the S151 Officer certifies that any delay likely to be caused by the call-in process could seriously prejudice the Council, or the public interest, and the Chair of the relevant scrutiny committee or, in his/her absence, the Chair of the Council, or in both their absences, the Vice-Chair of the Council, agrees that the matter is urgent. The record of the decision and notice by which it is made public shall state whether the decision is an urgent one, and therefore not be subject to call-in. Decisions taken as a matter of urgency must be reported for information to the next available meeting of the Council, together with the reasons for urgency.

(b) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.



## CALL IN - GUIDANCE FOR COUNCILLORS August 2014

### Introduction

This short guidance note sets out some advice for non-Executive Councillors who may be considering “calling-in” a decision made by the Council’s Cabinet or by senior managers under delegated authority.

If – having read this document – you still have questions about Call-in, please contact Paul Keeping (Operational Manager, Scrutiny Services) on Cardiff 2087 2953, or at [p.keeping@cardiff.gov.uk](mailto:p.keeping@cardiff.gov.uk). Scrutiny Services will be pleased to advise and clarify any questions you might have about the Call-in process.

### What is a Call-in?

A Call-in is a process by which a non-Executive Councillor of Cardiff Council can request that a recent official decision made by the Council’s Cabinet or by a senior officer under delegated authority is reconsidered.

### What can be Called-in?

Any Executive Decision made by the Cabinet, a Committee of the Cabinet, the Leader, a Cabinet Member, the Chief Executive, Chief Operating Officer or any Corporate Chief Officer exercising a Corporate Chief Officer (or Corporate Director) delegation can be called-in, provided that the grounds for the call-in (please see below) are valid, and that the call-in request is submitted before seven clear working days have lapsed since the decision was formally published (known as the “Call-in Period”).

The Council Constitution sets out arrangements for publishing planned Cabinet decisions on the Cabinet Forward Plan. Each planned decision will carry a traffic light (RAG) rating, as follows:

- Green = Decisions of a non-contentious, day to day nature, unlikely to be the subject of call-in
- Amber = Decisions of a more sensitive nature, which could be potentially contentious or not of a routine nature. These would generally flow through to the Cabinet for

decision, without prior scrutiny, although a judgement will be made in each case regarding scrutiny consideration before decision, and the possibility of call-in.

- Red = Decisions relating to high level functions primarily relating to policy formulation within the Policy and Budgetary Framework where the Cabinet would usually make a proposal to Council. For such decisions, the engagement of scrutiny is required before the Cabinet recommendation is made.

Decisions made by officers do not bear the same RAG status.

### **Who can Call-in a decision?**

Any non Cabinet member of the Council (or a co-opted member of the Children and Young People Scrutiny Committee, in the case of a decision relating to an education matter) may call-in a decision of the kind detailed above.

### **How do you Call-in a decision?**

You can submit a Call-in Request by using the “Call in a Decision” form on the scrutiny section of the Council’s website (<https://www.cardiff.gov.uk/ENG/Your-Council/Councillors-and-meetings/Scrutiny/Call-in-a-decision/Pages/default.aspx>).

The form will ask you to specify the decision number that you are calling in. This number can be found on the official “Decision Register” that is published on the Council website after decisions have been made.

If the decision was made by Cabinet, it will bear the prefix ‘*CAB/14/*’ followed by a three digit number. If the decision was made by a Senior Officer under delegated authority, it will bear the prefix ‘*SMT/14/*’ followed by a three digit number.

The form will also ask you to specify the reasons for which you are calling-in the decision.

If you have any questions before filling in the form, it is advised that you contact the Operational Manager of Scrutiny Services (contact details at the foot of this document). Most call-ins that have been submitted in recent years have followed discussion with the Operational Manager (Scrutiny Services) and the Council’s Monitoring Officer.

### **What criteria does a Call-in Request have to satisfy?**

The Council’s Constitution states that the Operational Manager of Scrutiny Services may, in consultation with the Monitoring Officer, rule that a call in is not valid if:

- The call in request has not been made within the seven working days allowed for call in
- It is not clear which Executive Decision is being called in
- The decision is exempt from call in on account of urgency provisions (specified in the Constitution – but summarised below).

- The call in request provides too little information to enable Committee members or the decision taker to adequately prepare for the call in meeting
- The decision being called in, or broadly the same decision, has been called in during the last six months.

The Council Constitution states that in calling in a decision it is not sufficient for the Member requesting the call in to state that they wish to test the merits of the decision. A member requesting a call in shall specify precisely which aspects of the decision they wish to question or challenge.

### **Call-in and Urgency**

The call-in procedure will not apply where the decision being taken is urgent. A decision will be urgent if either the Head of Paid Service, the Monitoring Officer or the S151 Officer certifies that any delay likely to be caused by the call-in process could seriously prejudice the Council, or the public interest, and the Chair of the relevant scrutiny committee or, in his/her absence, the Chair of the Council, or in both their absences, the Vice-Chair of the Council, agrees that the matter is urgent.

The record of the decision and notice by which it is made public shall state whether the decision is an urgent one, and therefore not be subject to call-in.

### **What happens after you have submitted a Call-in Request?**

You will receive an e-mail confirming that you have submitted a request to “Call-in” the decision in question.

The Operational Manager, Scrutiny Services will discuss as appropriate with officers and respond to you as quickly as possible.

If your Call-in request is agreed, Scrutiny Services will liaise with you and arrange a Call-in Committee meeting. The date of that Committee meeting will need to be published within five working days of the date that you submitted your call-in request. The actual meeting will be held as soon as can be arranged.

### **What happens at a Call-in?**

The Council Constitution states that the role of Scrutiny Committees calling in a decision is:

- To test the merits of the decision
- To consider the process by which the decision has been formulated.
- To make recommendations (to support the decision, change aspects of the decision, or to invite the decision making body to reconsider)
- To suggest further steps before a decision is made (but not to try to carry out those steps in place of the decision making body)
- To come to a view in a relatively short time scale, so as not to compromise the speed and efficiency of the decision-making process.

A Call-in Committee meeting is similar to a standard Scrutiny Committee meeting, with a few exceptions.

The layout of the room will be familiar to people who have attended scrutiny meetings, with tables for Committee Members and a witness table. The meeting will be held in public, with a public gallery. Members of the public may under rare circumstances be asked to leave the room for a period of time during the meeting should matters deemed “exempt from publication” (“yellow paper”) be considered.

At the start of the meeting, the Committee Chair will establish whether the Members of the Committee wish to consider this matter themselves, or if there are any compelling grounds why the matter should be considered at a wider platform (ie Full Council) – for instance if the issues are deemed so significant that a wider view is needed. This step is rarely taken, but provision is made for it in the Constitution.

Assuming that Committee wish to consider the matter, you will be invited at the start of the meeting to join the Members’ tables to outline your reasons for calling-in the decision.

The Members of the appropriate Scrutiny Committee will then hear verbal evidence from the decision maker and other appropriate witnesses, and consider any appropriate written evidence.

At the end of the evidence session, you will be invited back to the Members’ tables to briefly comment on what you have heard.

The Members of the Committee will decide from one of two options what they wish to do next. They can either:

- refer the decision back to the decision maker, asking them to reconsider the decision (and setting out the grounds by which they feel the decision should be reconsidered, or
- allow the decision to stand.

If they take the first option, a meeting will be convened as quickly as possible to reconsider the decision. The decision maker may wish to amend the decision to take account of the points made at the Call-in. If the decision maker decides to stand by their decision, the decision will be published again, and will be implemented soon after. It will not be possible to call this decision in again for six months. The decision maker will inform the Committee of their decision as soon as possible, but by the time of the next Committee meeting at the latest.

If they take the second option, the decision will be upheld, and will be implemented as soon as possible after the meeting.

### **For Further Information**

Please contact Paul Keeping (Operational Manager, Scrutiny Services) on Cardiff 2087 2953, or at [p.keeping@cardiff.gov.uk](mailto:p.keeping@cardiff.gov.uk).





**CONSTITUTION COMMITTEE:**

**15 JANUARY 2015**

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**REPORT OF THE COUNTY CLERK & MONITORING OFFICER**

**AGENDA ITEM: 7**

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**CONSTITUTION UPDATE – MINOR AMENDMENTS**

**Reason for this Report**

1. To inform the Committee of various minor 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. A number of minor Constitution amendments are required to reflect the Council's current senior management structure and responsibilities, current legislation and matters of record, and to improve clarity, remove anomalies and correct typographical errors. Specifically to:
  - i. Remove references to out of date officer post titles in the Officer Delegations (Scheme of Delegations, Section 4), such as the 'Head of Cabinet Office'.
  - ii. Reflect the separate responsibilities of the Monitoring Officer and the City and County Solicitor in the Officer Delegations (Scheme of Delegations, Section 4E), by assigning the 'LD delegations' to either the Monitoring Officer and or the City and County Solicitor, as appropriate.
  - iii. Confirm that the general Constitution interpretation clause in Article 15.2(i) (which provides that 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) applies to all Officer Delegations. Specifically, to confirm that this includes any delegated power which may be granted to an officer by the Cabinet, Council or a Committee. For example, delegations given by the former Executive to the 'Corporate Director, Social' in respect of routine schools administration matters (such as approving changes to governing instruments), which now need to be exercised by the Director for Education.
  - iv. Update references to legislation on Members' pecuniary interests (in delegations reference LD8 and LD9, in Section 4E of the Scheme of Delegations)
  - v. Correct an anomaly in respect of the designation of 'Proper Officer' for the Council in default of specific designation, which is defined in Article 15.2 as the Chief Executive, but assigned to the City and County Solicitor / Monitoring Officer in delegation reference LD2.
  - vi. Amend the officer delegation in respect of Compulsory Purchase Orders (Scheme of Delegations, Section F delegation to the Director for Communities) to reflect the relevant legislation (Part II of the Housing Act 1985 and the Acquisition of Land Act 1981), that is, reference to 'single houses' to be replaced with 'single dwellings', so as to remove any uncertainty in respect of flats, maisonettes etc.
  - vii. Record the designation of the Director of Education as the Council's Statutory 'Chief Education Officer'.
  - viii. Update the record of the Joint Committees to which the Council has delegated functions (in Section 5 of the Scheme of Delegations).
  - ix. Correct various minor typographical errors.

5. The above amendments may be made by the Monitoring Officer under her delegated authority for minor constitution amendments (set out in paragraph 3 above), and are reported here for Members' information only. For the avoidance of doubt, none of these amendments reflect any substantive changes to the Constitution.

### **Legal Implications**

6. The Local Government Act 2000 and the Local Authority Constitution (Wales) Direction 2002 requires the authority to keep its constitution up to date.

### **Financial Implications**

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

### **Recommendations**

The Committee is recommended to note the minor Constitution amendments which are to be made under the Monitoring Officer's delegated authority, and invite the Monitoring Officer to report back to the next Committee meeting to confirm the amendments have been duly made.

**Marie Rosenthal**  
**County Clerk and Monitoring Officer**  
**Date: 9 January 2015**

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**REPORT OF COUNTY CLERK & MONITORING OFFICER**

**AGENDA ITEM: 8**

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**PETITIONS REVIEW**

**Reason for this Report**

1. To consider an administrative change to the Council Procedure Rules for Petitions (Rule 20).
2. To consider 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. This would support the streamlining and provide clearer guidance to Elected Members, the public and officers on how petitions are dealt with by the Council.

**Background**

3. The Council on 27 March 2014, following a review undertaken by the Constitution Committee and a pilot period, adopted new Council Procedure Rules.
4. 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.

**Issues**

Correction to Council Procedure Rule 20: Petitions

5. The Committee is requested to approve an administrative error in the Council Procedure Rules Rule 20 (b) Petitions as follows:

Deletion of the word 'four' to be corrected to three as addressed in sub paragraphs (i) – (iii) that follow

- (b) Petitions shall be divided into ~~four~~ *three* classes and shall be addressed as follows:

- (i) A petition bearing less than 20 signatures shall be dealt with by normal correspondence.
- (ii) A petition bearing 21-50 signatures shall be noted at the meeting and passed to a relevant officer of the Council for a written response.
- (iii) A petition bearing 51 or more signatures shall be noted and passed to the relevant Cabinet Member for consideration and a written response.

### Review of Petitions Procedure and consideration of Petitions Scheme

- 6. The Council encourages public engagement with the democratic process and petitions are one avenue where the public can make the Council aware of specific concerns.
- 7. The Council's Regulatory Committees – Planning Committee and Licensing Committee have procedure rules which work well for the statutory requirements for consultation on planning and licensing matters.
- 8. Members have raised concerns about petitions that are submitted to Full Council meetings by Elected Members or ad hoc petitions from the public received directly by Cabinet Members; and there is no provision for Full Council debate on a major petition or referral to Scrutiny Committees; and with no public involvement in presenting petitions to Full Council.
- 9. At recent meetings of the Economy and Culture Scrutiny Committee the Chair has used his discretion under the Committee Procedure Rules to receive petitions at Committee where the subject matter of the petition directly relates to the topic under discussion.
- 10. The launch in March of Modern.Gov Committee Management System will provide the facilities for e-petitions. This would allow petitions and supporting information to be made available to a potentially wider audience than a traditional paper based petition.

### **Reasons for Recommendations**

- 11. To amend the Constitution Council Procedure Rules to correct an administrative error.
- 12. To allow the Committee to consider the model Petition Scheme and whether they would wish further work to be undertaken on the introduction of such a scheme with the provision of e-petitions within the new Committee Management System.

### **Legal Implications**

- 13. 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.

14. The requirement of the Local Democracy, Economic Development and Construction Act 2009 was removed by Chapter 10 of the Localism Act 2011, but many authorities have chosen to maintain the Petition Scheme as good practice.

### **Financial Implications**

15. 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. note the minor amendment to Rule 20 on Petitions which will be actioned under the Monitoring Officer's delegated authority;
2. give consideration as to whether the Committee would wish further work to be undertaken on a Petition Scheme with the provision for e-petitions.

**MARIE ROSENTHAL**  
**COUNTY CLERK AND MONITORING OFFICER**  
**9 January 2015**

*The following Appendix is attached:*

App A – Extracts from Cardiff Constitution 8 December 2014 – Committee Procedure Rules & Planning Procedure Rules (Rules respectively) on Petitions

Appendix B – Model Petitions Scheme

*The following Background Documents have been taken into account:*

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**EXTRACT FROM COMMITTEE PROCEDURE RULES & PLANNING COMMITTEE PROCEDURE RULES**

**Rule 14: Members of the Public**

**14. 2. Right of Petitioners to address Committee**

- (a) When a petition contains signatures of not less than fifty Cardiff electors with their addresses, a substantial proportion of whom could reasonably be expected to be affected by the matter to which the petition relates, one person from amongst those signing the petition may address a committee to which the petition has been referred on the subject matter of the petition for up to three minutes.
- (b) In any case where the petitioners object to an application which is to be considered by the Planning Committee or the Licensing Committee the applicant will also be given an opportunity to be heard.
- (c) Any petition presented direct to a committee shall be delivered to the relevant Chief Officer at least seven clear days prior to the date of the meeting of the committee at which it is to be presented, to enable the applicant to be notified if appropriate and to be present at the meeting of the committee if the applicant so wishes.
- (d) When a petitioner has been heard by a committee under this Committee Meeting Procedure Rule no further petition on the same item shall be considered and no further address shall be heard on that item, within six months of the committee meeting at which the petition was first considered or the petitioner heard.

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# **MODEL PETITION SCHEME**

Democratic Services  
Version Draft No Status v0.2

City of Cardiff Council  
Democratic Services, County Hall, Atlantic Wharf, Cardiff. CF10 4UW  
Email: [democraticservices@cardiff.gov.uk](mailto:democraticservices@cardiff.gov.uk)  
Tel No: 029 2087 2432

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## 1. Introduction

- 1.1. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the Council will receive an acknowledgement from the Council within **xx** working days of receipt. The acknowledgement will set out what the Council intends to do with the petition.
- 1.2. Petitions can be presented to a meeting of the Full Council. These meetings take place every month with the exception of April/, August and December all dates and times can be found at [\[http://www. address \]](http://www. address ])
- 1.3. If you would wish your petition presented to the Full Council meeting please contact your Local Councillor to present it on your behalf, or contact Democratic Services on (029) 2087 **xxxx** at least **xx** working days before the meeting for guidance on the process.
- 1.4. If your petition has received **xxxx** signatories or more from people who live or work in Cardiff this can then trigger a Full Council debate and if this is the case contact will be made with the lead petitioner to discuss options for enabling this to take place.
- 1.5. You can also submit petitions to the **Cabinet** and Committees (including Scrutiny Committees). Details of when these meetings take place can also be found on the Council's website.
- 1.6. Paper petitions can be sent to:  
  
**Head of Democratic Services**  
**City of Cardiff Council,**  
**County Hall**  
**Atlantic Wharf**  
**Cardiff CF10 4 UW**  
**Email:** [democraticservices@cardiff.gov.uk](mailto:democraticservices@cardiff.gov.uk)  
**Telephone:** 029 2087 2432
- 1.7. E petitions after **[Date] [Month] 2015** can be created, signed and submitted online by following this link: **[http/www address]**

A petition template is available at Appendix 1 and this will help you to see what information we need in order to consider your petition under the terms of the Council scheme.

## 2. Petitions that cannot be dealt with through this Scheme – Planning and Licensing decisions

2.1 The following matters are excluded from this petitions scheme:

- Any matter relating to a **planning** decision, including about a development plan document or community infrastructure levy;
- Any matter relating to an alcohol, gambling or sex establishment **licensing** decision.
- Any matter where there is an **appeals procedure** in place.

However, a petition that alleges a systematic failure to deliver services in the above areas is within the scope of this Scheme (e.g. while a petition on an individual planning application could not be taken, a petition about the council's failure to deliver an effective service for planning applications would be within the scope of this scheme).

2.2 If you wish to submit a petition on a planning or licensing matter, the arrangements are as follows :

- Petitions relating to **licensing decisions** should be e-mailed or sent to **xxxxxxx**

Further information on how to submit a review to a licensed premises is available through this link [\[http://www address\]](http://www address)

- Petitions relating to **planning decisions** should be e-mailed or sent to **Xxxxxx**

Further information on how to have your say on planning applications is available through following this link [\[http://www address\]](http://www address)

### 3. Guidelines for submitting a petition

- 3.1. Petitions may be submitted to the Full Council, **Cabinet** or Committees of the Council. Under the terms of this scheme they must include:
- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the Council to take;
  - The name and address and signature of any person supporting the petition (*you are deemed to have 'signed' the petition if you have added your name and address to it*);
  - A minimum of **xx** signatures of people who live or work in the Cardiff local authority area.
- 3.2. Petitions should be accompanied by contact details, including an address, for the petition organiser who must also live or work in the Cardiff local authority area. This is the person that will be contacted to explain how the Council will respond to the petition. ***The contact details of the petition organiser will not be placed on the website.***
- 3.3. If the petition does not identify a petition organiser, contact will be made with signatories to the petition to agree who should act as the petition organiser.
- 3.4. If your petition does not reach the minimum requirement of **xx** signatures, particularly where the issue relates to a small locality, the Council will advise the petitioners of other ways in which these views could be considered. A petition with fewer than **xx** names will be considered if the signatories comprise a majority of the residents and/or stakeholders affected by the issue raised.
- 3.5. A form is available as Appendix 1, which sets out the main summary information required when submitting a petition.
- 3.6. If you want to submit a petition to a specific meeting of the Council, **Cabinet** or any Committee meeting (including Scrutiny Committees) then you need to ensure that we receive a completed petition with details of the petition subject matter, number of signatures and your contact details by no later than **[Time]** on the **xx** working day before that meeting to enable it to be submitted.
- 3.7. Please note petitions submitted by the petitioner to meetings of the Full Council will not be discussed in detail at that point, unless there is an agenda item specifically relating to that issue. Petitions received in this way will be passed to the appropriate Member and / or Officer for proper consideration.
- 3.8. Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted. We will explain the reasons for this in our acknowledgement of the petition.

- 3.9. In the period immediately before an election or referendum the Council may need to deal with petitions in a different way – if this is the case an explanation of the reasons will be provided with a revised timescale which will apply.
- 3.10. If a petition does not follow the guidelines as set out, the Council may decide not to do anything further with it. In that case, you will receive a written explanation of the reasons.

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#### **4. What will the Council do when it receives my petition?**

- 4.1. An acknowledgement will be sent to the petition organiser within **xx** working days of receiving the petition. It will let them know what the Council plans to do with the petition and when they can expect to hear from the Council again.
- 4.2. The petition will be published on the Council's Petitions Register on the website.
- 4.3. If the Council considers it can meet what the petition asks for, the acknowledgement may confirm what action has been taken on the request and the petition will be closed.
- 4.4. If some other action is proposed or intended, the acknowledgement will explain this. If the petition has enough signatories to trigger a debate at Full Council, then the acknowledgment will confirm this and advise when and where the meeting will take place. If the petition needs more investigation, you will be advise of the Council's next steps.
- 4.5. The Council reserves the right to verify signatories as required. Petitioners should ensure that a valid address and postcode is included for all petitioners that relates to a home address (if living in Cardiff) or work address (if working or run a business in Cardiff). These details will be taken into account when identifying if there are enough signatories from people who live or work in Cardiff to trigger a Full Council debate.
- 4.6. Any petition that is a duplicate or near duplicate of another petition that the Council has already received will not normally be considered within a **xx** month period although officers will exercise their discretion in individual cases. It is advised that details of previous petitions are checked on the website or contact Democratic Services for advice at the start of your petition.
- 4.7. To ensure that people know what the Council are doing in response to the petitions received, the details of all the petitions submitted, including those pending action will be published on the Council's website, except in cases where this would be inappropriate.

## 5. Full council debates

- 5.1. If a petition contains more than **xxxx** signatures from people who live or work in the city it will trigger the right to be debated by the Full Council. This means that the issue raised in the petition will be discussed at a meeting which all Councillors can attend.
- 5.2. If the petition organiser wishes to take up this opportunity, they will be given 3 minutes to present the petition at the next available meeting of the Full Council. The petition will then be discussed by Councillors for up to 15 minutes. *(NB: The Lord Mayor may, with the consent of Council, increase this time limit).* Full Council will decide how to respond to the petition at this meeting.
- 5.3. The petition organiser will receive written confirmation of the outcome of the Full Council debate and of the Council's decision and any explanation in the event of Council not being able to take the action which had been requested. This information will also be published on the website.

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## 6. E-petitions

- 6.1. The Council welcomes e-petitions being created and submitted through its website
- 6.2. E-petitions must follow the same guidelines as for paper petitions and in addition:
  - Petition organisers and subscribers must provide a valid email address as well as their name and address; and
  - The period for which the petition shall be open to subscription must be determined at the outset..
- 6.3. The petition organiser will need to provide their name, postal address and email address, and will need to decide how long the petition is to be open for signatories. It maybe that the ending of the petition would coincide with a relevant meeting or decision. It may be helpful to discuss this with Democratic Services. If so, please contact us via email at [democraticservices@cardiff.gov.uk](mailto:democraticservices@cardiff.gov.uk)
- 6.4. When an e-petition has been submitted on the Council's website, the petitions will be acknowledge within **xx** working days and this will include a link to the petition. Upon the e-petition reaching its end date, it will be closed to further subscription and will then be dealt with as explained in Section 4.
- 6.5. When you create an e-petition, it may take **xx** working days before it is published online. This is because we have to check that the content of your petition is suitable before it is made available for signature.
- 6.6. If it is considered that your petition cannot be published for any reason, the Council will contact you within this time to explain. You will be able to change and resubmit your petition if you wish. If you do not do this within **xx** working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.
- 6.7. When an e-petition has closed for signature, it will automatically be submitted to Democratic Services. In the same way as a paper petition, you will receive an acknowledgement within **xx** working days.
- 6.8. E-petitions that have been created through websites other than the Council's can be submitted to the Council but will still need to meet the criteria as set out.
- 6.9. If you would like to present an e-petition to a meeting of the Full Council, please contact the Democratic Services Team within **xx** working days of your receipt of the acknowledgement. The acknowledgment and response will also be published on this website.

**7. What can I do if I feel my petition has not been dealt with properly?**

- 7.1 If you feel that we have not dealt with your petition properly, please contact the County Clerk and Monitoring Officer who will review your complaint and will advise you of the action which is intended. Please provide a short explanation of the reasons in your communication with us.

County Clerk & Monitoring Officer  
City of Cardiff Council  
Room 286A  
County Hall  
Cardiff  
CF10 4UW

Tel No: 029 2087 3905

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**City of Cardiff Council  
Petition Template**

**Guidance notes:**

Please use this suggested template additional pages should also include the petition subject at the top of the page.

The petition organiser must live, work or own a business in Cardiff.

If you wish to sign this petition, please put down your Cardiff address if you live, work or own a business in the City as this will count towards any threshold for debate at full Council meetings (where all Councillors attend).

Signatories from outside Cardiff will be taken into consideration in respect of the issue being raised, but will not count towards the numbers required for formal debates under the scheme.

Please also refer to the petitions scheme available at [www.cardiff.gov.uk](http://www.cardiff.gov.uk) for further information about how we deal with petitions at the Council.

**Contact Details of the Lead Petitioner**

(the person the Council will contact with responses to the petition)

<b>Full Name:</b>	
<b>Address for Correspondence:</b>	<b>1<sup>st</sup> Line:</b> _____ <b>2<sup>nd</sup> Line:</b> _____ <b>3<sup>rd</sup> Line:</b> _____ <b>Post code:</b> _____
<b>Home Telephone No:</b>	
<b>Mobile Number No; :</b>	
<b>Email address:</b>	
<b>Live/Work/Service user</b> (please indicate all that apply)	

<b>Signature</b>	
------------------	--

**PETITION**

**Petition subject:**

**We the undersigned petition the Council to:**

**Summary of action already taken (if applicable)**

Name	Address (including postcode if possible)	Signature	Email address (if possible)

**Petition subject:**

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**REPORT OF THE COUNTY CLERK & MONITORING OFFICER**

**AGENDA ITEM: 9**

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**COUNCIL PROCEDURE RULES – MEMBERS’ QUESTIONS**

**Reason for this Report**

1. To enable the Committee to consider the effectiveness of the current rules regarding Members’ questions at Council meetings.

**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 Constitution Committee has reviewed the procedures for dealing with Members’ questions at Council on a number of previous occasions. The current rules were approved by Council on 27 March 2014, following the introduction of a pilot exercise in 2013 during which time various amendments were made. It was agreed that the operation of the new Rules should be monitored and reviewed.

**Issues**

4. It is generally recognised that questions at Council are an important means by which minority parties and backbench councillors may obtain information and call the majority party to account.

5. The current rules on Members questions at Council are appended as **Appendix A**. The rules make provision for two types of Members' Questions, 'Oral' and 'Written'. When this model was introduced, the stated intention was that:

*Oral Questions be used to raise issues that:*

- *Relate to the past or proposed policy or strategy of the Cabinet.*
- *Relate to matters that either have impacted or will impact upon the citizens of the Council as a whole; a significant number of them or a particular group of them (such as children, the disabled or the elderly).*
- *Should properly be dealt with by full Council, rather than another forum (such as through Scrutiny, Standards and Ethics Committee or normal correspondence).*

*Written Questions be used to:*

- *Seek the provision of factual information.*
- *Relate to the specific circumstances of an individual or a relatively small group of citizens.*

*Members are reminded that Written Questions may be dealt with more appropriately through normal correspondence channels.*

[Report to Constitution Committee, 19th December 2012, Appendix A, Draft Guidance on Oral and Written Questions].

6. When the current rules were adopted, the majority view accepted that the number of Oral questions should be limited, but no limit was placed on Written questions. The number of Oral questions is calculated by a formula which reflects the political representation of the Council and a maximum of 90 minutes is allowed.
7. The number of questions submitted since the adoption of the new Rules is shown below:

<b>Month</b>	<b>Oral questions</b>	<b>Written questions</b>
April 2014	28	19
May 2014 (AGM)	-	-
June 2014	26	15
July 2014	27	4
September 2014	21	28
October 2014	28	9
November 2014	24	141

8. Members will note the very high number of Written questions submitted at the last Council meeting, and will appreciate the significant administrative burden this placed upon the organisation.
9. Members are invited to consider whether to review the current procedures for Questions at Council, taking into account the practice of other Welsh authorities and Core Cities and the provisions of the model Constitution for Welsh Authorities. Any such review could include consideration of:
  - a) Whether provision for Written questions is necessary;
  - b) the appropriateness of potentially limiting Written questions, either by number or by applying criteria (for example, with reference to the Guidance set out in paragraph 5 above);
  - c) the effectiveness of the current system for Oral questions; and
  - d) timescales for the submission of, and publication of responses to, questions (having regard also to Welsh translation requirements)

### **Legal Implications**

10. There are no direct legal implications arising from the recommendations of the report.

### **Financial Implications**

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

### **Recommendations**

The Committee is recommended to:

1. Note the information set out in this report;
2. Consider whether to review the current procedures for Members' Questions at Council; and
3. If a review is to be undertaken, to instruct the Monitoring Officer on the parameters and timescale for the review.

**Marie Rosenthal**  
**County Clerk and Monitoring Officer**

7<sup>th</sup> January 2015

## **Appendices**

Appendix A            Council Procedure Rules (extract), Rules 16 and 17

### **Background papers**

Constitution Committee report, 19<sup>th</sup> December 2012 'Council Procedure Rules' (and also reports and minutes from September 2013, November 2013 and March 2014)  
Council report, 27 March 2014, 'Constitution Committee'

**CARDIFF CONSTITUTION - 8 DECEMBER 2014  
COUNCIL PROCEDURE RULES (EXTRACT ) RULES 16 AND 17**

**16 QUESTIONS AND DEBATE ON REPORTS AND CABINET STATEMENTS**

- (a) On Cabinet Member Statements presented to the Council:
- (i) A Member may ask the person presenting the report any question or otherwise comment on the subject matter of the statement without notice. Following the Cabinet Members response to such questions, the Member asking the original question shall be allowed to ask a supplementary question to clarify the response to the question.
  - (ii) One minute shall be allowed for each of the question, answer, supplementary question and supplementary answer.
- (b) On Reports presented to the Council
- (i) The person presenting the report shall have 6 minutes to introduce it. A maximum of 3 minutes will be allowed to each Member to speak in relation to the report. 3 minutes will be allowed for the presenter of the report to make their closing remarks in response to points raised by other Members.

**17 ORAL AND WRITTEN QUESTIONS BY MEMBERS**

**General**

- (a) In accordance with this Rule 17, a Member may ask questions of:
- (i) the Leader or any Cabinet Member;
  - (ii) the chair of any committee or sub-committee; or
  - (iii) nominated members of the Fire Authority.

**Submission of Questions**

- (b) A Member wishing to ask a Written Question should provide the question by email to the Council's mailbox for the submission of questions (as specified by the Democratic Services Manager). In doing so the Member must specify the person to whom the question is addressed.
- (c) Oral Questions shall be submitted by (or on behalf of):
- (i) each of the spokespersons for each opposition political group recognised by the Council (or such other Member as the leader of that group may nominate); and
  - (ii) a backbench Member of the ruling group(s) nominated to the Democratic Services Manager for such purpose;

by email to the Council's mailbox for the submission of questions (as specified by the Democratic Services Manager). In doing so the Member must specify:

- (i) the name of the Member asking each question; and

- (ii) the order in which the group wishes to ask its questions.

Each such person shall be entitled to submit a maximum of the number of questions that are allocated to their political group calculated in accordance with the following rules:

- (i) Each political group recognised by the Council shall automatically be entitled to 3 Oral Questions; and  
(ii) In addition, a further 15 Oral Questions shall be allocated amongst the political groups in proportion to their representation on the Council.

In addition any Members who are not members of any political group recognised by the Council shall be entitled to submit one Oral Question each. Unless those Members agree otherwise, the order in which they shall be entitled to submit questions shall be determined by rotation.

- (d) Questions will be dealt with in accordance with the following procedures.

### Oral Questions

Oral Questions will be dealt with in accordance with the following procedure:

<b>Day</b>	<b>Action</b>
12.00 noon, 2 Working Days prior to Council Meeting	Deadline for the Submission of Oral Questions
At Council Meeting questions shall be made available in writing and online at least 30 minutes prior to the start of the meeting and dealt with as set out opposite.	<p>A maximum of 90 minutes shall be allowed for Oral Questions, any questions that are not dealt with in this time limit shall fall.</p> <p>Each Oral Question will be made available in writing and online at the start of the meeting and dealt with in the following order:</p> <ul style="list-style-type: none"> <li>- Oral Questions shall not be read orally, but will be dealt with in rounds. In the first three rounds each political group shall each be entitled to ask one question. In subsequent rounds, only political groups with remaining Oral Questions shall be entitled to ask questions.</li> <li>- In each round the questions ordering of the questions shall be determined by the size of each of the political groups (with the largest going first) except that the ruling group(s) shall go last.</li> <li>- Questions from Members who are not members of a political group recognised by the council shall be asked at the start of the fourth round.</li> </ul> <p>Each question shall be answered orally by the Cabinet Member that the Cabinet deem most</p>

	<p>suitable to respond (or by the relevant chair of a committee or nominated member of the fire authority if the question was so addressed). A maximum of one minute shall be allowed for the answering of the question.</p> <p>The Member who submitted the question shall then be allowed one minute to ask a supplementary question.</p> <p>The person to whom the question is addressed shall have one minute to answer the supplementary question.</p> <p>One further supplementary question may be asked by another Member provided that the asker is not a member of the same political group as the Member who submitted the original question. The Member asking the further supplementary question shall be allowed one minute to ask it, and the response shall also be limited to one minute.</p>
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#### **Urgent Oral Questions**

- (e) At the end of the period allocated for Oral Questions the Chair may allow Members to ask further Oral Question for which notice under Rule (b) above has not been given if:
- (a) the Chair and the person to whom the question is addressed has been given at least two hours written notice of the question prior to the start of the meeting; and
  - (b) the Chair has confirmed to the Member asking the Question and the person to whom it is addressed that they are satisfied that the question is of urgent public importance and could not be better dealt with under any other Rule or other procedure of the Council.

#### **Written Questions**

- (f) Written Questions may be asked at any time and will be dealt with as set out below:

<b>Day</b>	<b>Action/Comment</b>
9.00am 9 Working Days prior to Council Meetings	<p>Deadline for the submission of Written Questions to ensure an answer is received at the next Council Meeting.</p> <p>If a question is submitted after this deadline it will be answered at the next Council Meeting.</p>
12.00 noon on the day of the Council	Deadline for all answers to Written Questions asked before the deadline referred to above to be

Meeting	circulated by email to all Members.
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A full copy of each Written Question (together with the answers to them) submitted prior to the deadline referred to above will be attached to the minutes of the meeting.

### Rejection of Questions

- (g) The Chair may reject an Oral Question, Urgent Oral Question or a Written Question if in their opinion it:-
- (ii) is not in relation to Relevant Business (as defined in Rule **Error! Reference source not found.**);
  - (iii) is in relation to Inappropriate Business (as defined in Rule **Error! Reference source not found.**);
  - (iv) is substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given; or
  - (v) is a statement or otherwise is not a genuine enquiry.

### Withdrawal of questions

- (h) A question may not be withdrawn except with the consent of the person it is addressed to.
- (i) If the Chair or the Monitoring Officer considers that a response to a question could be provided by a senior officer prior to the relevant Council meeting, then the Monitoring Officer may contact the Member concerned to ascertain whether the Member agrees that the question could be withdrawn.

### Written record of Oral Questions and Responses

- (j) A written record of Oral Questions and related supplementary questions that are put at the meeting together with the responses provided, will be circulated by or on behalf of the Democratic Services Manager to all Members and the media noted as having attended the meeting by no later than 5.00pm five Working Days following the day of the Council meeting.
- (k) Prior to issue the written note of a response to a supplementary question must be checked for accuracy by the responding person.
- (l) No written note of a response to a supplementary question will be provided to the media before being provided to Members.



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



**CONSTITUTION COMMITTEE:**

**15 JANUARY 2015**

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**REPORT OF THE COUNTY CLERK AND MONITORING OFFICER**

**AGENDA ITEM: 10**

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## **PROGRAMME OF FULL COUNCIL MEETINGS 2015 -2018**

### **Reason for the Report**

1. The Constitution Committee at its meeting on 19 March 2014 (Min no 36) reviewed the frequency of Council and Committee meetings following consultation with the Leader and Chairs of the various Council Committees and agreed to reduce the number of Full Council meetings by 2, recommending that there were no meetings in April (depending on Easter period) and December. There is no Council meeting in August.

### **Background**

2. The 2014/15 Calendar was revised to take into account the agreed reduction in Full Council meetings.
3. The reduction in meetings aimed to meet concerns raised in a survey of all Elected Members of increasing time pressures and challenges and the increasing diversity of the role of Elected Members in supporting communities; commitments to the work of the Council, its Committees and Task and Finish groups; and to allow time for participation in training and development sessions as well as ensuring a manageable work life balance.
4. The Council's Constitution and Governance structure is in line with good practice and designed to enable decisions to be taken efficiently and effectively within a framework that holds decision makers to public account.

### **Reasons for Recommendations**

5. To consider an indicative programme of future Full Council meetings from June 2015 – April 2018 to enable a report to be submitted to Council in January 2015.

## **Legal Implications**

6. The statutory guidance issued by the Welsh Government under Section 6(1) of the Local Government (Wales) Measure 2011 requires the Council to survey its Members at the beginning of the administration in respect of times and interval in which meetings of the local authority are held. This exercise was completed in May 2012.
7. The Council Procedure Rules provide that the Council's programme of Council and Committee meetings shall be set by the Council.

## **Financial Implications**

8. There are no direct financial implications arising from this report, however any proposal to change the frequency of meetings would require a review of resources to the Council. These costs can be quantified if a proposal was to be put forward.

## **RECOMMENDATIONS**

The Committee is requested to approve the indicative calendar of Full Council meetings from June 2015 – April 2018 as set out in Appendix A to recommend to Council in January 2015.

### **MARIE ROSENTHAL**

County Clerk and Monitoring Officer  
09 January 2015

Appendix A – Programme of Full Council Meetings 2015 – 2018

APPENDIX 1

**SCHEDULED MEETINGS OF FULL COUNCIL MEETINGS TO MAY 2015**

<b>Current 2015</b>
29 January 2015
26 February (Budget);
26 March
21 May (Annual);

**INDICATIVE DATES FULL COUNCIL FROM JUNE 2015 TO APRIL 2018**

<b>Proposed Dates</b>	<b>Options for change</b>
25 June 2015	
23 July	
24 September	
22 October	
26 November	3 December 2015
28 January; 2016	
25 February (Budget);	<i>Venue County Hall</i>
7 April (alternative to 24 March )	24 March 2016 (Maundy Thursday)
26 May (Annual Council)	
30 June	
28 July	
29 September	
20 October	
24 November	
26 January 2017	
23 February (Budget)	
20 March	
25 May (Annual)	
29 June	
27 July	
28 September	
26 October	
30 November	
25 January 2018	
22 February (Budget)	
19 April 2018.	29 March (Maundy Thursday)

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## **REPORT OF THE COUNTY CLERK AND MONITORING OFFICER**

### **AGENDA ITEM: 11**

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#### **FORWARD PLAN 2014/15**

##### **Reason for this Report**

1. To review the Forward Plan of matters for consideration by the Constitution Committee for the remainder of 2014/15.

##### **Background**

2. The Constitution Committee is responsible for reviewing the Council's Constitution recommending any changes to Council and/or Cabinet. It has 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 work plan was last reviewed by the Committee at its meeting on the 11 June 2015 noting the Organisational Development Programme agreed by Cabinet to achieve the following outcomes:
  - Reduced operating costs, to address rapid fiscal consolidation;
  - Improved outcomes across the Council and in key improvement priorities, to address current performance weakness;
  - Improved demand management & reduced failure demand, to more efficiently address the increasing demand for services;
  - Delivery of key infrastructure projects to accelerate Cardiff's development as a European Capital City.
4. The Committee agreed that improving governance needed to be at the heart of the Programme and the Committee would have a key role to play in supporting this work through its work plan and implementing any required changes to the Constitution.
5. Governance comprises the systems and processes; and culture and values by which the council is directed and controlled and through which it accounts to, engages with

and, where appropriate, leads the community. The Council's ambition is for the governance of the Council to demonstrably improve the quality of policy outcomes, public services, and public spending for Cardiff residents and all who rely on our services. To support this ambition robust governance arrangements are required with opportunities for political, peer and community engagement with the improvement programme.

6. Indicators of success in this area will be improved annual perceptions of Cardiff Citizens, improved performance across of a range of services, seeing the Council move out of the bottom quartile in Wales and more public engagement in the running of the Council.

## **Issues**

7. The Improving Governance work stream sets out a number of actions that are relevant to the terms of reference of the Constitution Committee. These are:
  - Define and document the roles and responsibilities of the executive, non-executive, scrutiny and officer functions, with clear delegation arrangements and protocols for effective communication in respect of the authority and partnership arrangements
  - Research best practice at major UK cities in relation to effective governance structures
  - Respond to the findings of the WAO Corporate Assessment
  - Respond to the Estyn Monitoring Review
  - Review role and status of the Corporate Parenting Panel
  - Improve arrangements for school governance including appointment of LEA Governors
  - Review and begin to implement improvements to current collaborative scrutiny arrangements with partner organisations including a review of the current Local Service Board Scrutiny Panel.
  - Encourage public participation in council meetings by making meeting more welcoming to the public including developing a public question time at cabinet and committees
  - Refine scrutiny arrangements to strengthen focus on organisational development with improved clarity on role of Scrutiny; more strategic view and focus on key information
  - Implement member development programme to facilitate wide, informed engagement with policy development and performance improvement;

- Work with all Committees to review their objectives and work plans for 2014/15 to focus on impact and outcomes
- Develop mechanism to enable Neighbourhood Partnership lead members to provide structured community perspective to policy and performance debate;
- Develop a concise informative annual public report based on the key questions the public are likely to want answered about the council containing key risk and performance information, plus anything else fundamental to council strategy. A web-based annual report could be a live document, updated after the audit of the accounts.

### **Legal Implications**

8. There are no direct legal implications arising from the content of this report.

### **Financial Implications**

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

### **RECOMMENDATION**

The Committee is recommended to:

- 1) consider the Forward Plan 2014/15, as set out in **Appendix A**
- 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.

**Marie Rosenthal**  
**County Clerk and Monitoring Officer**  
 9 January 2015

Appendix A – Constitution Committee Forward Plan 2014-2015

## APPENDIX A

### CONSTITUTION COMMITTEE – FORWARD PLAN 2014/15

The following topics have been prioritised on a Red / Amber/ Green (RAG) basis with Red being the highest priority and include indicative timescales as applicable:

TOPIC	OBJECTIVE/OUTCOME	WHO IS RESPONSIBLE?	PRIORITY
(1) Facilitate greater public participation in council business	Implement recommendations from the Public Engagement with Scrutiny Report April 2013.	Monitoring Officer	<b>AMBER</b> September
(2) Revised Contract procedure Rules	.To ensure Constitution Up to Date with legislation and to align with WLGA Model and best practice	Monitoring Officer , Finance, Procurement and Legal Officers	<b>GREEN</b> September 2015
(3) Facilitate greater public participation in council business	Improve Petition Scheme	Monitoring Officer	<b>AMBER</b> January 2015
(4) Review Corporate Parenting Advisory Committee 1 year after its set up	To ensure new arrangement is contributing to improved outcomes for looked after children	Monitoring officer and Director of Children's services	<b>GREEN</b> September 2015
(5) Review arrangements for appointment of LEA Governors	Improved school performance	Monitoring officer and Director of Education	<b>RED</b> January 2015
(6) Review Scrutiny call in Arrangements	Improved decision making	Monitoring officer	<b>RED</b> January 2015
(7) Review Scrutiny Function and Scrutiny Committees ToR	Refine scrutiny arrangements to strengthen focus on organisational development with improved clarity on role of Scrutiny; more strategic view and focus on key information	Monitoring officer	<b>RED</b> September 2016
(8) Introduce Individual Cabinet member Decision Making	More efficient decision making	Monitoring officer	<b>AMBER</b> March 2015