

CONSTITUTION COMMITTEE

13 DECEMBER 2021

Present: Councillor Goodway(Chairperson)
Councillors Berman, Burke-Davies, Carter, K Jones, Goddard,
Jones-Pritchard, Lister, Keith Parry, Mia Rees and Wong

55 : APOLOGIES

Apologies for absence were received Councillor Kelloway

56 : DECLARATIONS OF INTEREST

Councillor Jones-Pritchard declared a personal interest in relation to the discussion in the previous meeting regarding planning applications and agents.

57 : MINUTES

The minutes of the meeting held on 21 June 2021 were approved as a correct record.

58 : MULTI-LOCATION MEETING ARRANGEMENTS

The Committee was provided with an update on the development of multi-location meeting arrangements and an early draft of a Multi-Location Meeting Arrangements Policy for its consideration and direction.

The Committee was advised that the draft had been prepared in accordance with legislation and Welsh Government guidance.

The Committee discussed the possibility that Councillors might be absent from the city for long periods but would still be able to attend meetings remotely. Members considered whether there should be a commitment to attend a minimum number of meetings face-to-face. Members were advised that the role of political groups in the selection of candidates and what was expected of candidates was important in this regard. It is within the legislation for groups to express a preference for Councillors to be present at a certain number of meetings, although it is not permissible to insist that they are physically present.

Some members expressed the view that the encouragement of members to physically attend meetings should be strengthened to a requirement to attend at least 1 a year. Other members pointed out that there might be legitimate reasons for members to be unable or unwilling to attend. The view was expressed that the draft policy ought to be amended to indicate that it was desirable for Councillors to attend at least 1 meeting per year in person. Members were advised that it was open to them to increase the number of meetings Councillors were encouraged to attend in person, however it was not possible to make it a requirement.

Members were concerned that Councillors might log on virtually to a meeting but not remain in front of their laptop, in fact being elsewhere while appearing to be still attending. Members were advised that it was difficult to ascertain whether someone had moved away from their device for a legitimate reason, or their connection had failed. People could be given the benefit of the doubt in the first instance, but if it happened again or for an extended period it might be considered a breach of the Code of Conduct. It could also be a matter for the political groups to make Councillors aware that their absence would be noticed.

Members also considered whether there might be a technological alternative to roll call voting in virtual or multi-location meetings, as roll call votes take considerable time. Members were advised that the Council had procured software that would allow both members who were physically present and those attending a multi-location virtually to vote, and for the votes to be collated and displayed on screen. It would also be possible for members to vote using MS Teams as an interim solution, although that might not be possible for a full Council meeting.

Members drew attention to the fact that Democratic Services was not listed among the committees to be webcast. Members were advised that the Council's contract only allowed for 200 hours of webcasting and there was no budget to request more. In the circumstances it was considered important to prioritise committees in which there was more public interest.

Members were advised that the draft policy was intended for the post-pandemic period and that there would be a review after an agreed interval.

Members noted that at Planning Committee meetings it was a requirement for Councillors to keep their cameras turned on and remain visible.

Members sought clarification on whether it was expected that Councillors would be able to use Zoom for video meetings with constituents.

Members discussed whether the guidance for video meetings should contain a recommendation for a 5-minute break every hour in line with HSE advice, or whether the frequency and duration of breaks should be at the discretion of committee chairs. It was considered that a requirement for hourly breaks might prove disruptive in some meetings where discussions were lengthy.

RESOLVED:

The Committee agreed to:

- a. Note the content of the report and the draft Multi-Location Meetings Policy;
- b. Agree that the views expressed should be reflected in the development of the policy, and to receive a further report on this matter at its next meeting.

59 : CONSTITUTION UPDATE

The Committee was presented with a report to enable it to give further consideration to the Council Meeting Procedure Rules in relation to Ordinary Motions; and officer

delegations in respect of any regrading application submitted by an Operational Manager, to ensure the Constitution remains up to date and fit for purpose.

The Committee was requested to give further consideration to the rules in relation to:

- (i) the maximum number of Ordinary Motions which may be considered at each Council meeting
- (ii) the scope of Ordinary Motions; and
- (iii) amendments to Ordinary Motions.

Maximum number of motions

The Committee was requested to give further consideration to the factors to be considered in selecting Motions, specifically, 'the number of Motions from the relevant group which have already been considered by full Council during that municipal year'. It has been submitted that, in considering the number of Motions previously taken by a relevant group, account should also be taken of the number allocated to that group. It is understood that this means that it should be the proportion of a group's allocated number of Motions which should be considered, rather than simply the number. The Committee was invited to consider amending Rule 22(i) to this effect.

Other factors which are, in practice, considered if more than the maximum number of Motions are submitted, include the order in which the Motions are submitted and whether a Motion has been put back at the previous Council meeting. The Committee was recommended to add these factors to the list set out in Rule 22(i).

Under Rule 7(b) "The Chair shall have discretion to conduct the meeting to secure proper full and effective debate of business items". The Monitoring Officer has advised that this rule, and the wide discretion given to the Chair of a meeting under the common law, allows the Chair the discretion to increase the maximum number of Motions at a particular Council meeting, if the Chair considers it appropriate to do so in all the circumstances, having particular regard to the factors set out and following consultation with party groups. It was recommended that the Chair's discretion in this regard should be explicitly set out within Rule 22(i) for the avoidance of any doubt.

Members expressed the view that in deciding the number of Motions to go before Council the Chair should pay heed to the Procedure Rules. There was doubt expressed that the Chair had discretion to change the agreed Council Procedure Rules. Members were advised that the Chair had the discretion to ensure that proceedings were fair. Officers would not advise the Chair to use that discretion frequently or lightly, but only in specific circumstances where there was otherwise a risk of unfairness.

Members debated whether the 2-motion cap per meeting should be replaced with a 12-motion cap across the year, to allow greater flexibility in the number of motions coming before meetings. There was discussion about the possibility of allocating motions at particular meetings to each party group. The view was expressed that this might deny party groups the opportunity to bring forward topical motions, and that party groups might miss their allocated slot through the cancellation of meetings.

Members discussed the ability of Councillors to require their vote to be recorded in the minutes, and expressed concern that this ability might be open to abuse if members were able to retrospectively disassociate themselves from a decision that they had not opposed at the time it was taken. Members were advised that it would be possible to record individual Councillors' votes in minutes.

Scope of Ordinary Motions

The Committee was invited to consider suggested amendments to the definitions of Relevant Business and Inappropriate Business in Rule 35, to allow the permitted scope of Motions to be widened in recognition of the Council's legitimate role in lobbying national government and other bodies in relation to matters within their respective competence.

Members expressed the view that the scope of motions should not be widened so far as to permit the criticism of national government and other bodies on matters that did not fall within the Council's responsibility. It was argued that where matters fell within the Council's responsibility but the Council did not possess the power to address them adequately, then it would be appropriate for the Council to lobby government for an enhancement of its powers.

Amendments to Ordinary Motions

Members were invited to consider inserting an additional rule after Rule 22(u) as follows:

'(ua) If the proposer of a Motion accepts a proposed amendment (of which notice has been duly given in accordance with Rule 22(r)), the amendment shall become part of the substantive Motion, unless the Chair rules that the amendment is fundamentally inconsistent with the Motion, in which case, the amendment shall be put to the vote.'

Members were advised that the purpose of the rule change was to clarify procedure and avoid confusion such as had arisen at a recent meeting of Council, where a proposer had orally accepted an amendment and there had then followed confusion as to whether the accepted amendment formed part of the substantive motion, following the substantive motion being amended upon the passing by vote of a further amendment which did not incorporate the previously accepted amendment.

Members discussed the necessity for the rule change. It was proposed that the new wording should be along the following lines: If a party group accepts an amendment, then any further amendment is amending the motion as amended. The view was expressed that either all amendments should be voted on, or if amendments from different party groups are not compatible, then if one group's amendment is accepted other groups' amendments should be ruled out.

Members were advised that a motion is the property of the party group that proposed and seconded it until a decision is made upon it by Council, at which point it becomes the property of the Council if approved. A decision does not necessarily require a full vote.

Members accepted that the risk of confusion could be mitigated if the Lord Mayor clarified that an amendment that had been orally accepted by the proposer would then form part of the substantive motion, as amended by further amendments. It was then open to party groups to withdraw or vote against their own amendments if they did not wish to accept the amendment.

Regrading Applications of Operational Managers – Monitoring and Oversight of Chief Executive’s delegated powers

The Committee was advised that further consideration had been given to the appropriate monitoring and oversight arrangements, and the recommendation of the Monitoring Officer, in consultation with the chair of this Committee and the Chief HR Officer, is that this may be achieved by providing for the regrading of any Operational Manager deemed as a Deputy Chief Officer to be reported in the Pay Policy Statement (required under section 38 of the Localism Act 2011) which is reported annually to both Cabinet and Council.

RESOLVED:

The Committee agreed to:

- a. Recommend that any regrading applications of Operational Managers who fall within the statutory definition of a Deputy Chief Officer are to be reported within the annual Pay Policy Statement considered by Cabinet and approved by full Council;
- b. Agree the Constitution amendments set out in paragraphs 15, 22 and 35 of the report and recommend the same to full Council for approval; and
- c. To make no change to the current Council Meeting Procedure Rules on Amendments to Motions, but to keep this issue under review.

60 : FORWARD WORK PLAN

The Committee received and was asked to consider and approve the Constitution Committee Forward Work Plan for 2021-22 as detailed in Appendix A to this report.

RESOLVED:

The Committee considered and approved the Forward Work Plan 2021-22, and the areas considered as priorities as set out in Appendix A.

61 : URGENT ITEMS (IF ANY)

There was no urgent business.

The meeting terminated at 6.30 pm