

REPORT OF THE MONITORING OFFICER

COMMUNITY COUNCILS CHARTER

Reason for this Report

1. To allow the Committee to consider the current position in relation to the Community Councils Charter (“the Charter”) and agree the way forward.

Background

2. The Executive adopted a Community Councils Charter (“the Charter”) in March 2012, following consultation with relevant stakeholders, including the six Community Councils within the Council’s area and the Standards and Ethics Committee. The Charter reflects the model Charter issued by the Welsh Government under section 130-133 of the Local Government (Wales) Measure 2011.
3. The aim of the Charter is to support structured, regular engagement and communication between the County Council and the six Community Councils in Cardiff, based on the key principle of equality of partnership between the two tiers of local government.
4. The Monitoring and Review section of the Charter states that the ‘Standards & Ethics Committee will review progress towards achieving the measures and actions set out in the Charter [and Charter Action Plan respectively] on an annual basis.’
5. The Standards and Ethics Committee has statutory responsibility for the promotion and maintenance of high standards of conduct within the Community Councils in its area (paragraph (g) of the Committee’s terms of reference); to consider ethical issues arising from complaints (Terms of Reference, paragraph (e)); and to recommend to Council and the Cabinet any additional guidance on issues of probity (Terms of Reference, paragraph h).
6. In response to concerns about the implementation of the Charter, the Standards and Ethics Committee reviewed the Charter. The views of the Community Councils were conveyed by the Community Council representative on the Committee. The Committee noted that most of the Charter is still relevant and an important recognition of the role of Community Councils in representing their local areas. However, a few sections of the Charter were not being implemented and needed to be updated in the light of the reduced resources available to the Council. Accordingly, in January 2015 the Committee recommended to Cabinet a number of amendments to the Charter.

7. The Cabinet considered the Standards and Ethics Committee's recommendations in June 2015. It reaffirmed a commitment to the aims of the Charter; delegated authority to the Monitoring Officer (in consultation with the relevant Cabinet Member, the Standards and Ethics Committee and the six Community Councils), to update the Charter; and authorised the relevant Cabinet Member to sign off the updated Charter on behalf of the City of Cardiff Council.
8. Following discussions and correspondence with the Community Council Clerks, the Standards and Ethics Committee received a progress report in December 2015 and a verbal update at its last Committee meeting, in July 2016.

Issues

9. A revised draft Charter was circulated to the Community Councils through their Clerks in March 2016. The revised draft incorporated a number of agreed amendments and an explanation was given for those amendments which were not agreed. The revised draft Charter is attached as **Appendix A**, and the covering explanatory email (dated 21/03/16) is attached as **Appendix B**.
10. As noted at the last Committee meeting (in July 2016), there remains one unresolved issue which relates to the planning section of the Charter. A number of Community Councils have requested additional specific commitments from the Council to involve the Community Councils in Section 106 and Community Infrastructure Levy (CIL) negotiations affecting their communities, and to consult with Community Councils on the application of Section 106 / Community Infrastructure Levy funds arising from developments within their areas.
11. The advice of the Council's Head of Planning, however, is that such amendment of the Charter is not appropriate. His professional advice is that *"measures are already in place to satisfactorily address this matter, in that Community Councils have the opportunity to identify considered local priorities for S106/CIL (when in place) through their role in providing responses on planning applications, which is already referenced in the Charter. More strategically, considered priorities for S106/CIL local spend can be addressed as part of the new Place Plan process. Through these channels, Community Councils can effectively feed views into the decision-making process with regard to S106/CIL local spend. It must be noted that S106 agreements are signed between the Council and landowners, so the primary negotiation must be between these two parties, taking account of a wide range of factors, including all potential priorities for eligible spend and viability factors. However, Community Councils can feed through their considered priorities for local spend as part of the Development Management process, and this feedback will help inform the Council's position in terms of potential scope for local spend."*
12. The Monitoring Officer has conveyed the above response from the Head of Planning to the Community Council Clerks, and explained that the Council must have regard to the professional advice of its Head of Planning in relation to planning issues. The Head of Planning has provided the Community Councils the opportunity to further discuss these issues at a bespoke workshop held in August 2016 for Community Councillors on the Community Infrastructure Levy provisions, as well as offering individual briefings or meetings, all of which were understood to be well received.

Way Forward

13. The Monitoring Officer's view is that all reasonable efforts have now been made to resolve the planning concerns raised by the Community Councils. Accordingly, the Community Councils should be asked whether they are now willing to agree the revised Charter. If the Community Councils remain concerned about the planning provisions, we may wish to remove the planning section and seek agreement of the remaining sections of the Charter. However, if the Community Councils are unwilling to agree the Charter in either alternative, then it is suggested that the Council should revisit this issue after the local elections in May 2017.

Legal Implications

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

Financial Implications

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

RECOMMENDATIONS

The Committee is recommended to:

1. note the information set out in the report; and
2. agree the proposed way forward in respect of seeking agreement of the revised draft Charter (**Appendix A**), as set out in paragraph 13 of the report; or
3. instruct the Monitoring Officer on how it wishes to progress this matter.

Davina Fiore

Director Governance and Legal Services, and Monitoring Officer

22nd November 2016

Appendices

Appendix A Revised draft 'A Shared Community – Charter between Cardiff Council and Community Councils in Cardiff'

Appendix B Email to Community Council Clerks dated 21/03/16

Background Papers

Cabinet report 'Community Council Charter', 11th June 2015; and minutes thereof;

Standards & Ethics Committee reports 'Community Council Charter', 27th January 2015 and 15 December 2015; and minutes thereof;

Executive report 'A Shared Community – Charter Between Cardiff Council and Community Councils in Cardiff', 8th March 2012; and minutes thereof;