

**MEMBER DEVELOPMENT & TRAINING – CONSTITUTION
PROVISIONS**

**REPORT OF THE DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES AND MONITORING OFFICER**

Reason for this Report

1. To enable the Committee to consider strengthening the constitutional provisions in respect of Members' training requirements, to reflect the training identified as essential for Members to discharge their roles effectively.

Background

2. In the Wales Audit Office (WAO) Corporate Assessment Follow On Report issued in February 2016, one of the proposals for improvement was a recommendation that the Council's arrangements for Member development and learning should be strengthened to enable Members to undertake their roles more effectively (WAO Proposal for Improvement P5).
3. In response to the WAO Follow On Report, the Cabinet (on 21st March 2016) noted that Members of committees discharging a quasi-judicial role in Cardiff, namely, the Public Protection; Licensing and Planning Committees, are required as a matter of practice to attend training before they can participate in these committees. The Cabinet agreed that the Democratic Services Committee would be asked to review the Council's arrangements, identify essential training requirements for Members and agree a new member development & training programme to commence in May 2017.
4. At its meeting in December 2016, the Democratic Services Committee considered a draft Member Induction Programme 2017, which identified various training considered essential for Members to effectively discharge their roles (further information on this is provided in paragraph 11 below). The Programme is currently being finalised for implementation after the May 2017 elections.

Issues

5. This Committee is recommended to consider amending the Council's constitutional provisions to enshrine and support the effectiveness of the Council's arrangements for Member training.

Current Constitution provisions:

6. The Constitution currently contains the following references to Member training:

- (i) Cardiff Undertaking (Constitution, Part 5)

As Members will be aware, all Councillors are asked to annually reaffirm their commitment to the Cardiff Undertaking, which includes the following:

'In order to enable me to carry out my duties, I further undertake that I will commit to appropriate training to equip me to carry out my duties as a Councillor.'

- (ii) Planning Committee Procedure Rules (Constitution, Part 4)

"Rule 20 Member Development Training

All Members of the County Council are expected to undertake a basic level of training on planning matters in their role as local Members. Specific training will be provided to the Chair, Deputy Chair and members of the Planning Committee as part of the Member Development Programme."

- (iii) Planning Code of Good Practice (Constitution, Part 5)

"9 Training

Training on planning matters will be made available at convenient times for all Members of the Council, and in particular those serving on the Planning Committee.

..

Do endeavour to attend any training sessions provided since these will be designed to extend your knowledge and thus assist you in carrying out your role properly and effectively."

7. Members will note that the Constitution currently makes clear that Members are expected to undertake appropriate training to enable them to carry out their duties. However, there is no specific reference to essential training, even though it is the Council's accepted practice that members of quasi-judicial bodies, such as the Public Protection, Licensing and Planning Committees must have attended training before they participate in those committees (as noted in paragraph 3 above); and the Democratic Services Committee is identifying other essential Member training requirements.

Options the Committee may wish to consider:

8. It is recommended that the Committee consider strengthening the Constitution provisions on training in the following respects:

Quasi-Judicial Committees

9. It is recognised that Member training is particularly important for the work of such committees, as they are required to exercise powers and procedures resembling those of a court of law or judge, which may affect the legal rights, duties or privileges of specific parties. For this reason, it is suggested that it would be appropriate to enshrine the essential training requirements for Members of such Committees within the Constitution.
10. Whilst the Constitution does make reference to the training of Planning Committee members (please see paragraph 6(ii) and (iii) above), this provision should be strengthened to reflect the Council's arrangements where Planning Committee members must have undertaken relevant training before they participate in the Committee. It is also suggested that similar provision should be made in the Constitution for all other quasi-judicial committees and bodies, namely the Licensing Committee, Public Protection Committee, Appeals Panel and Standards & Ethics Committee.

Essential Member Training & Development

11. Members may also wish to consider making reference in the Constitution to the requirement for Members to undertake any other training identified as essential in order to properly discharge their roles. In the draft Member Induction Plan 2017 currently being prepared by the Democratic Services Committee, this includes training for all Members on matters such as the Members' Code of Conduct, Council Finance, the Constitution, Information Communication Technology, Data Management and Freedom of Information etc.; and also specific training for members of the Audit Committee and the Appointments Committee. Enshrining the essential training requirements within the Constitution may encourage Member engagement and support the effectiveness of the Council's Member development arrangements.

Decision Making Bodies

12. The decisions of any formal decision making body may be subject to challenge by judicial review if it is shown that the Members making the decision had not received sufficient training to understand the relevant law or issues. Whilst this is particularly important for the quasi-judicial bodies (referred to in paragraph 10 above), the Committee may wish to consider whether Members should give a commitment to attending any relevant training before participating in any Committee or other decision making body. It is expected that Members of most, if not all, Committees (or other decision making bodies) will have essential training identified in relation to the functions of that Committee, and so be covered by any 'essential training' provisions which are agreed under paragraph 11 above. However, for the avoidance of any doubt, Members may wish to consider whether a general

provision should be made regarding training to be undertaken by Members of all decision making bodies.

Proposed Constitution Amendments

13. There are various provisions in the Constitution which may be amended to reflect the Committee's recommendations, specifically:
- (i) Committee Terms of Reference - Some Councils add mandatory training to their constitution as part of the terms of reference of the committee or body. With this approach, if a Committee Member participated in Committee decisions without having undertaken any relevant training, the Committee would be acting outside of its terms of reference and those decisions could be challenged on that basis. Members may consider this approach to be appropriate for the quasi-judicial committees (see paragraph 10 above).
 - (ii) Article 2 'Members of the Council' – a new point 2.6 'Training and Development' could be added below Roles and Functions, Conduct and Allowances, to say that all Members will be required to undertake any training identified as essential for them to discharge their role effectively.
 - (iii) Article 8 'Regulatory and Other Committees'- a new point 8.2 could be added stating that 'All members of committees will be required to attend relevant training before participating in the committee.'
 - (iv) Cardiff Undertaking – the commitment given (set out in paragraph 6(i) above) could be extended to refer to training which has been identified as essential in order to discharge their role.
 - (v) Committee Meeting Procedure Rules – a new rule could be added on Member Development, as in the current Planning Committee Procedure Rules (set out in paragraph 6(ii) above) stating that all Committee members will be required to undertake any training relevant to the functions of the committee.
14. Members are invited to provide any comments on the issues outlined above and agree the proposed Constitution amendments.

Legal Implications

15. In accordance with its terms of reference, the Constitution Committee has responsibility for reviewing, and recommending to Council any changes to the Constitution.
16. Other relevant legal provisions are set out in the body of the report.

Financial Implications

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

Recommendations

The Committee is recommended to:

- (I) Note the information set out in the report and comment as appropriate;
- (II) Agree the proposed Constitution amendments; and
- (III) Instruct the Monitoring Office to draft the proposed amendments to the Constitution for approval by full Council.

Davina Fiore
Director of Governance and Legal Services and Monitoring Officer

6th February 2017

Background papers

Wales Audit Office 'Corporate Assessment Follow On' report, issued February 2016;
Cabinet report, 'Wales Audit Office Corporate Assessment Follow On Report – Statement of Action',
21st March 2016
Democratic Services Committee report, 'Member Development Update', 7th December 2016