
**REPORT OF DIRECTOR OF GOVERNANCE AND LEGAL
SERVICES**

SCRUTINY QUESTION TIME – PILOT PROPOSALS

Reason for this Report

1. To advise Committee and seek its feedback about proposals to introduce public questions to Scrutiny Committees this autumn by means of a two month pilot, which could be extended to become a regular feature of Scrutiny Committee meetings in Cardiff if the pilot is deemed successful.
2. To advise Members of related developments to public engagement with Scrutiny within this Committee's terms of reference.

Background

3. The Local Government (Wales) Measure 2011¹ created a range of new powers and duties for local authorities to strengthen local democracy and increase public awareness of, and involvement in, the local democratic process. The two sections of the Measure that are most pertinent to this report are:
4.
 - a. Section 62, which places a requirement on local authorities to make arrangements that enable all persons who live or work in the area to bring to the attention of the relevant overview and scrutiny committees their views on any matter under consideration by the committee; and
 - b. Section 76, which relates to co-option of non-Councillors onto scrutiny committees.
5. Section 62 also provides that an overview and scrutiny committee must take into account any views brought to its attention in accordance with arrangements under this section. The Statutory Guidance published to accompany the Measure in 2012 reinforced Welsh Government's commitment to enabling citizens to raise issues of concern directly at Scrutiny Committee meetings. Their 2015 "Power To Local People" local democracy consultation also extended an expectation that scrutiny

¹ <http://www.legislation.gov.uk/mwa/2011/4/contents/enacted>

committees would seek public views in developing their forward work programmes and calls for evidence.

6. The 2012 statutory guidance on Section 76 stated that, while Welsh Government did not wish to bind local authorities with specific requirements to extend the co-option of lay participants onto scrutiny committees, it could see clear benefits to co-option, and set out a range of options (including short term co-option, co-option for specific types of work, and full time co-option). In its 2015 “Power to Local People” consultation document Welsh Government set out an expectation that consideration should be given to permitting Councils to grant voting rights to co-opted members of Scrutiny Committees in appropriate circumstances. This would make little difference to current arrangements in Cardiff, where voting in Scrutiny is generally limited to the rare Call-in meetings that take place, but it is clearly indicative of Welsh Government’s desire for co-optees to be seen to be taking a more equal stance on committees to elected member counterparts.
7. In response to this new guidance, the Council’s Policy Review and Performance Scrutiny Committee published an Inquiry report in April 2013 titled “Public Engagement With Scrutiny”. The report contained 15 recommendations, two of which were targeted towards Constitution Committee.
8. The first of these recommendations was with a view to amending the Council’s Constitution to support public questioning at Scrutiny Committee meetings:

“Recommendation 14: *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.”*

9. The second recommendation sought the Committee’s consent to enable further potential co-option of non-elected Members onto scrutiny Committees and / or task and finish inquiries.

“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.”*

10. The Constitution Committee reviewed the PRAP report at its meeting on the 14 January 2014, and agreed to :
 1. Support in principle the two recommendations of the PRAP report relating to public questions at committee meetings and co-option of independent persons onto committee and task groups, subject to officers satisfactorily carrying out the research and due diligence set out in those two paragraphs;
 2. Invite officers to return to a future Committee meeting with the results of the research and due diligence, so that Committee can consider making specific amendments to the Council's Constitution to enable pilots to be carried out in one or both of the areas in question.

11. This Committee received an update report in September 2014 on Public Engagement with Scrutiny which sought to address the two above issues. Following further consideration of PRAP's Inquiry report and two Scrutiny Research reports (one demonstrating examples of the way Scrutiny Question Time was managed in other local authorities and the other on the practice of Cabinet Question Time in other local authorities) the Committee resolved that:
 - a. the content and recommendations of the Policy Review and Performance Scrutiny Committee's report "Public Engagement with Scrutiny" be noted;
 - b. further consideration be given in consultation with the Leader and Cabinet on Cabinet public question time and develop a protocol to guide this;
 - c. further consultation with Members of Policy Review and Performance Scrutiny Committee and the Scrutiny Committee Chairs be undertaken to agree to introduce public question time at Cardiff Scrutiny Committees and develop a protocol to guide this; and that
 - d. the County Clerk and Monitoring Officer be authorised to draft a suitable amendment to the Constitution should the introduction of public question time be approved in due course.

Current Issues: Questions to Scrutiny Committees

12. As part of the current *Improving Scrutiny* Project, the Council's Scrutiny Committee Chairs have been considering opportunities to introduce questions to scrutiny committees and also to develop relationships between Scrutiny and external stakeholders. Discussions have taken place initially at the Scrutiny Chairs' Liaison Forum and subsequently with the Cardiff Third Sector Council to plan a two month pilot of questions to scrutiny committees in October and November 2015.

13. Cardiff Third Sector Council (C3SC) is the County Voluntary Council for Cardiff – the umbrella infrastructure organisation for the third sector in the City. C3SC's key role is to provide specialist advice, support, and information to local third sector organisations on issues that affect them, including funding and governance. It acts as the voice of the third sector in Cardiff, and facilitates third sector representation on strategic partnerships, including the Cardiff Partnership Board and its Programme Boards and

Workstreams. It is a conduit for policy information, supporting networks around key themes and areas of interest, with the aim of ensuring that policy and decision makers understand the needs of third sector organisations in Cardiff.

14. The proposals to involve C3SC as a key stakeholder are set out in the report to the Scrutiny Chairs Forum of 26 May 2015 (attached for Members' information at **Appendix A**) which also sets out the approach to scrutiny questions they considered in proposing a framework for involving the Third Sector Council as key stakeholder in this pilot.
15. In short, the arrangement for the pilot would see each of the Council's five scrutiny committees receive at least one public question at each of their October and November 2015 public meetings, entailing ten questions overall during the two month pilot period. It is envisaged that the question session would last for 15 minutes on the agenda of each meeting with discretion to the Chair to extend if needs be.
16. The questions would relate to an item being considered at that meeting. Members of the Committee would respond to the question, and the questioner could ask one supplementary question. The Committee would then deliberate the issue and decide what steps, if any they would like to take as a result of the question being considered.
17. Taking the matter forward, the Committee would at the very least respond in writing to the questioner with its feedback, but it is possible that the question could also lead to the Committee agreeing to programme a more detailed scrutiny of the topic with officers / Cabinet Member, or might agree to write to the Cabinet Member or officers with recommendations or observations based on the discussion held following the question.
18. At **Appendix B** Members will find a draft Protocol to agree as a guide for Members, officers and citizens in managing public questions to scrutiny committees.
19. While the Third Sector Council has been chosen as a partner for this pilot as it was considered a reliable stakeholder to ensure a representative and consistent response across all five committees, there is no reason why questions from individual citizens could not be considered at future scrutiny committee meetings, or why Ward Councillors should not attend Committees to voice questions forwarded to them by local electors. It is proposed that this be enabled, subject to positive evaluation of the pilot.
20. At the end of the two month pilot, soundings will be taken from Committee and Cabinet Members, Cardiff Council managers, Cardiff Third Sector Council and other interested local organisations to evaluate the benefits emerging from the pilot. In particular, the pilot will seek to assess:
 - a. whether the question time enabled productive consideration of citizen views;
 - b. the positive impact on scrutiny work programming;
 - c. the positive impact on executive outcomes for citizens;

- d. the insight provided to Committee members;
 - e. the impact on committee capacity and agenda space;
 - f. the value of positive relationships made;
 - g. anything that might have been done differently, or appropriate developments to a future programme of scrutiny question time.
21. If deemed successful and worthy of continuation, arrangements can be made to learn lessons from the pilot and mainstream citizen questions at scrutiny meetings.

Current Issues: Co-option

22. When this Committee considered the second of the two recommendations in the PRAP Inquiry report on public engagement with scrutiny in September 2014, the Member discussion established a wide spectrum of views on the benefits of co-option onto Scrutiny Committees. Some Members strongly favour the idea of incorporating extra capacity, while others question whether the non-elected nature of co-optees might undermine the democratic process.
23. The Council's recent and current practice regarding co-option in scrutiny has included a number of separate strands:
- a. It has a statutory requirement to co-opt four people onto its Children and Young People Scrutiny Committee – two parent governor representatives, and two faith representatives of the Church in Wales and Roman Catholic dioceses. Over time the grass roots knowledge of these individuals (who have included retired head teachers and practising teachers) has been of considerable perceived benefit to the Committee's public meetings and task and finish inquiries. Although the co-optees are only entitled to vote on education matters, they have in practice participated fully with great commitment across all of the Committee's endeavours.
 - b. The Council has also managed on two separate occasions (each for approximately 18 months) between 2009 and 2012 a multi-agency scrutiny panel for its Local Service Board (LSB), containing non-executive representatives of the LSB key partner organisations, a representative of the Community Health Council, an "equalities" representative from the voluntary sector co-opted alongside the Council's five scrutiny committee chairs. The Panel was chaired by Paul Warren, then Director of Planning at Diverse Cymru. The evaluation of the pilot panel in 2010 pointed to the sector value and expertise added by the co-optees in guiding the panel through the complexities of multi-organisation partnership governance.
 - c. Committees have on a few past occasions formally co-opted a sector expert (for instance a Policy Advisor from Welsh Local Government Association) on a temporary basis as a member of an in-depth task and finish inquiry. When formal co-option has not been undertaken, there have been many occasions when the knowledge and expertise of a third sector or academic witness have been of such assistance to

the Inquiry that their influence has been at least as great as it might have been had they been a co-optee, although clearly they would not have had the same power to actually shape key findings and recommendations as a co-opted member would have.

- d. Other Committees (such as Audit and Standards & Ethics) also have statutory lay independent members.
24. At present the Scrutiny Committee chairs are developing their *Improving Scrutiny* Inquiry report, which will review the current co-option arrangements. If changes are proposed a further Report will be brought to the Constitution Committee as necessary.

Other Current Issues

25. Members who attended the 18 June *Scrutiny in a Changing Landscape* Member workshop asserted a consistent view that they would like to see a greater degree of public engagement with scrutiny meetings than is currently undertaken. The Scrutiny Chairs are evaluating the level of resource that can be found to deliver this aspiration alongside other priorities for action emerging from their current *Improving Scrutiny* task and finish inquiry.
26. The Chairs have, however, considered a number of current improvements to public engagement, including the introduction of a pilot of webcasting of Planning Committee meetings from Committee Room 4 at County Hall.

Reasons for Recommendations

27. To enable this Committee to support the implementation of the recommendations from PRAP's "Public Engagement With Scrutiny" report.
28. To enable Members to consider additional potential improvements in the area of citizen involvement with local democracy in Cardiff.

Legal Implications

29. There are no legal implications arising from the content of this report other than those set out in the body of the report.

Financial Implications

30. 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 with or without any modifications. Any report with recommendations for decision that goes to Cabinet/ Council will set out any financial implications arising from those recommendations.

Recommendations

The Committee is recommended to:

- 1 note the plans being set in place to pilot public questions at scrutiny committees
- 2 authorise the Director of Governance and Legal Services to report to Council and/or arrange for any necessary changes to the Constitution to be put in to enable this pilot.

MARIE ROSENTHAL
DIRECTOR OF GOVERNANCE AND LEGAL SERVICES
9 July 2015
CC/PK/V1.0

The following Appendices are attached:

- Appendix A: Public Questions to Scrutiny report: Cardiff Scrutiny Chairs' Liaison Forum, May 2015.
- Appendix B: Suggested Protocol for Public Questions at Scrutiny.

The following Background Documents have been taken into account:

- Local Government (Wales) Measure 2011
- Welsh Government Statutory Guidance on the Local Government (Wales) Measure 2011, June 2012
- *Public Engagement With Scrutiny: City of Cardiff Council Policy Review and Performance Scrutiny Committee, April 2013*
- Power to Local People Local Democracy white paper consultation document: Welsh Government, March 2015.