

CONSTITUTION COMMITTEE

21 JUNE 2021

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

46 : APPOINTMENT OF CHAIRPERSON

To note that the Council at its Annual meeting held on the 27 May 2021 elected Councillor Goodway as Chair of this Committee for the Municipal Year 2021/2022

47 : APPOINTMENT OF COMMITTEE AND TERMS OF REFERENCE

Membership and Terms of Reference

To note that Council at its Annual Meeting on 27 May 2021 agreed the following Membership and Terms of Reference: -

Membership

Councillors Jennifer Burke-Davies, Rodney Berman, Joe Carter, Susan Goddard, Russell Goodway, Keith Jones, Mike Jones-Pritchard, Kathryn Kelloway, Ashley Lister, Keith Parry, Mia Rees and Peter Wong.

Terms of Reference

To review the Council's Constitution, and to recommend to Council and/or Cabinet 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. This document is available in Welsh / Mae'r ddogfen hon ar gael yn Gymraeg
- b) Updating to reflect legislative changes and matters of record.

Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought)

48 : DECLARATIONS OF INTEREST

No declarations of interest were received.

49 : MINUTES

The minutes of the meeting held on 11 February 2019 were approved as a correct record.

50 : REMOTE / MULTI-LOCATION MEETING ARRANGEMENTS

The report enabled Members to consider new arrangements to be made for remote or multi-location meetings under the Local Government and Elections (Wales) Act 2021.

A report was presented to Annual Council in May 2021, giving an overview of the new legislative provisions regarding local authority meetings and some of the practical issues raised.

As the rules for Council meetings are set out in the Constitution, it was noted that Constitution Committee would be asked to consider what arrangements should be made for 'multi-location meetings' in Cardiff and to make recommendations to full Council for approval.

In the interim, full Council noted that the existing arrangements for remote meetings, agreed by Council in May 2020, would continue, until any revised arrangements are agreed.

The Committee drew attention to IT Platforms, especially voting procedures that were being used.

The Committee was advised that although Microsoft Teams has been used for remote meetings during the pandemic, it was currently unable to effectively support dual language meetings. Microsoft had indicated that a multi-language capability should be available by the end of June 2021, but it was uncertain if this would be delivered. Initial preparations had been made to utilise the Zoom software, now that its security concerns have been addressed and it has proved to be effective for dual language Local Authority meetings.

The current voting procedure in place was a roll call, which did take on some occasions about 20 minutes depending on connectivity. Unfortunately, there was no suitable electronic voting system in place to be used at public meetings.

The Committee discussed issues experienced currently by Councillors when attending remotely and the policies in place to support this. The lack of paper copies could be an issue when IT equipment failed.

Members were of the view that two screens were required as a result of cameras being on permanently, along with the need for access to the specific documents.

The Committee discussed previous face to face meetings when members would leave the Council Chamber, also a distraction, along with further guidance on when screens should be on or off.

Members discussed Hybrid Meetings and how they would operate in the Committee Rooms and Council Chambers. Some members preferred remote meetings as it reduced travel time and benefited time management.

The Committee was informed that Welsh Government had passed legislation The Local Government and Elections (Wales) Act 2021 ('the 2021 Act'), Part 3, Chapter

4, required local authorities to broadcast full Council meetings and to make and publish arrangements to ensure that all Council, Committee and Cabinet meetings may be attended remotely (ie. enabling persons who are not in the same place to attend the meeting) – also referred to as ‘multilocation meetings’. However, final guidance had not yet been issued and the 2 meter rule still applied in Wales.

Smaller meetings had been considered for face to face meeting, but currently the Council Chamber could only accommodate 25 persons under social distancing guidelines. Further entrance and exits also had to be monitored.

The Committee discussed the importance of attendance at meetings, and specific challenges when attending remotely. The requirement of attendance at committee meetings was addressed, along with the need to have the appropriate equipment in place to support this.

RESOLVED:

The Committee agreed to:

1. Note the information set out in the report and the draft statutory guidance, Appendix A;
2. Provide comments on the arrangements and policy to be adopted for multi-location meetings, and the engagement process for seeking the views of Members, other meeting participants and members of the public;
3. Instruct the Director of Governance and Legal Services, in consultation with the Chair, to prepare draft proposals for multi-location meetings, reflecting the views expressed, for further consideration by the Committee; and

Receive a further report on this matter in due course.

51 : COUNCIL MEETING PROCEDURE RULES

The report allowed the Committee to consider potential changes to the procedure rules for meetings of full Council and recommend any agreed changes to full Council for approval.

The Committee discussed White Papers.

By law, full Council must approve the key policies of the authority, referred to as the ‘Policy Framework’, defined in the Constitution (Article 4.2(a)). Under executive arrangements, the approval of all other policies, outside of the Policy Framework, was the responsibility of the Cabinet. Page 423 9. The Council Meeting Procedure Rules currently make provision for Green Papers to be introduced and debated at full Council – Rule 21; but there was no provision for White Papers. Two Green Papers were introduced in 2018 – ‘Building More and Better Jobs’ (January 2018); and ‘Transport and Clean Air’ (June 2018). No other Green Papers have been brought forward since 2018.

Members of the Committee agreed to accept the recommendations of the Standards and Ethics Committee that oral questions should be read orally, so that members of the public may understand the question which is being answered; and the recommended amendments to the rules.

Members also discussed the submission period for questions. Currently Written questions were submitted 9am 9 Working days prior to Council Meetings. Oral questions were submitted 9am 4 Working days prior to Council Meetings. This deadline had changed as a result of the COVID-19 measures in place and to deal with staffing resource issues. The Committee discussed the timescales for questions, and suggested that the deadline for Oral Questions be moved back to the Tuesday before the Council meeting. The Chairperson suggested that cross party agreement was required for changes to Oral Questions deadline and that could be dealt with by the Monitoring Officer.

Members of the Committee discussed the current rules on the scope of Motions in light of some Motions being ruled out of order as they had been deemed not 'relevant business' as defined in the Council's rules. Following debate about the proper scope of Motions, Members agreed that some widening of the rules should be made to recognise the legitimate role of Council to lobby other bodies, such as central government, on matters within their responsibility. It was agreed that the Monitoring Officer should be asked to draft appropriate amendments to the current rules to reflect this, for consideration by Committee.

RESOLVED:

The Committee agreed to:

1. agree the recommended changes to be made to Rule 17 of the Council Meeting Procedure Rules to require oral questions to be read orally at the Council meeting;
2. instruct the Monitoring Officer to draft suitable amendments to the rules on the scope of Ordinary Motions, for consideration and approval by the Committee; and
3. receive a further report at its next meeting.

52 : CONSTITUTION UPDATE

The report was to inform the Committee of various amendments required to ensure the Constitution remains up to date and fit for purpose

The changes were in relation to the following:

- Section 151 Officer Delegation, Reference FS10
- Pensions Board Terms of Reference
- Channel Panel
- Delegations for Appropriation of Land
- Regrading Applications of Operational Managers

- b) to decide requests for re-grading of Chief Officers and Deputy Chief Officers (as defined in the Local Authorities (Standing Orders) (Wales) Regulations 2006), except for Operational Managers deemed to be classed as Deputy Chief Officers, whose applications may be determined under Chief Executive officer delegation within the remuneration framework for Page 807 Operational Managers, together with any other category of employee specified in Regulation from time to time, whether by way of appeal by an employee against a decision to refuse a re-grading application or to decide applications for re-grading which are supported, subject to the approval of Council in respect of any determination or variation of the remuneration of a Chief Officer
- Members' / Senior Officers' Planning Applications

The Committee was informed this was a tidying up exercise and the Trade Unions had been consulted as appropriate and had raised no concerns.

Members of the Committee discussed the regrading of Operational Managers who fall within the statutory definition of a Deputy Chief Officer because they report directly to a Chief Officer. Some Members were concerned that the officer delegation should not be used to change approved staffing structures. The Chairperson was of the view the Chief Executive as Head of Paid Service had the responsibility to authorise the re-grading of staff at this level. The increase in salary was marginal but a report on these actions could be reported to the Audit Committee for transparency if necessary. An alternative suggestion was to require consultation with the Chair of the Employments Condition Committee.

The Committee Agreed that the Chief Executive may exercise delegated powers for Operational Managers re-grading and for transparency provide an update report to the Audit Committee.

The Committee discussed Members/Senior Officers Planning Applications. The Committee noted the following:

Under the Scheme of Delegations (Section 4F), the Head of Planning has delegated authority to determine all planning applications, with the exception of certain specified matters which are reserved for decision by the Planning Committee. The list of matters reserved for decision by the Planning Committee includes:

- (i) Planning applications submitted by current Elected Members of the Council, Directors and Assistant Directors.

The purpose of this exception is to guard against any allegations or appearance of undue influence in the decision making process.

Planning applications may be submitted directly or through an agent. For the avoidance of any doubt, it is recommended that the exception to the Head of Planning's delegated authority should be amended to clarify that this includes any applications submitted on behalf of a Member or Director / Assistant Director. It is also recommended, for the same reasons, that this exception should extend to the Head of Planning. The recommended amendments are as follows:

(i) Planning applications submitted by or on behalf of any current Elected Members of the Council, Directors and Assistant Directors or the Head of Planning.

This would clarify that any planning application submitted by or on behalf of an elected Member, any Director / Assistant Director , or the Head of Planning must be determined by the Planning Committee.

The Committee noted that concerns had been raised about extending this further to include Operational Managers. Therefore, Operational Managers were not to be included in the proposed amendments, as set out in the Amendment Sheet to the Committee's report. The Committee was advised that if the Committee wishes to consider this further, the Monitoring Officer may be asked to consult with staff as necessary and bring a report on this to a future meeting.

The Committee discussed the role of planning officers at committee, along with potential influence that could be perceived, when considering planning applications.

The Committee also noted that this rule applied to all elected members that submitted planning applications.

RESOLVED:

The Committee agreed the Constitution amendments set out in the report, subject to the changes set out in the Amendment Sheet, and agreed to recommend the same to full Council for approval.

53 : FORWARD WORK PLAN 2021/2022

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

54 : URGENT ITEMS (IF ANY)

There was no urgent business.