



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2018 - 2019

CORPORATE GOVERNANCE AND CONSTITUTION COMMITTEE

2ND MAY 2019

**THE COUNCIL'S CONSTITUTION – PROPOSED AMENDMENTS AND
ANCILLARY MATTERS**

**JOINT REPORT OF THE SERVICE DIRECTOR – DEMOCRATIC
SERVICES & COMMUNICATION AND THE DIRECTOR OF LEGAL
SERVICES**

1. PURPOSE OF REPORT

To receive Members' comments on proposed amendments to the Council's Constitution and ancillary matters as outlined in the report and, if in agreement, commend the adoption of the proposed amendments to full Council for consideration at the Annual General Meeting of the Council being held on 15th May 2019.

2. RECOMMENDATIONS

It is recommended that the Committee considers the following proposed amendments and ancillary matters relating to the Council's Constitution (and if in agreement recommend their adoption to full Council):

Proposed amendments to the Council Procedure Rules

Members' Questions

- 2.1 For the reasons outlined in paragraphs 4.1-4.10 of the report amends Council Procedure Rule 9.2 as follows:

A maximum of 20 minutes shall be allowed for Questions on Notice at Full Council. Any questions that are not dealt with in this time limit shall fall. The order of questions to be asked at each meeting shall be determined by a ballot conducted by the Proper Officer. Any questions on notice not answered will need to be resubmitted to the Proper Officer for the next full Council meeting in accordance with these rules. This rule does not prevent a Member asking an urgent question to which the Mayor has agreed can be put in accordance with Rule 9.4(b). Any such urgent questions shall be put prior to the commencement of the 20 minutes allocated for questions received on notice.

2.2 For the reasons outlined in paragraph 4.12 of the report amends Procedure Rule 9.5(c) as follows:

(c) where the reply cannot conveniently be given orally, a written answer provided subsequently to the questioner, within 10 working days and a copy of the answer circulated to all Members.

Motions on Notice

2.3 For the reasons outlined in paragraphs 4.14-4.15 of the report amends Council Procedure Rule 10.1(b), second bullet point as follows:

- in writing, by fax or e-mail (with the names of the Proposer and Secunder clearly stated) signed by the Proposer; and

Content and length of speeches

2.4 For the reasons outlined in paragraphs 4.17-4.18 of the report amends Council Procedure Rule 12.4 as follows:

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor acknowledging that flexibility shall be given where a speech is being delivered through the medium of Welsh to allow for simultaneous translation.

Substitution

2.5 For the reasons outlined in paragraph 4.20 of the report amends Council Procedure Rule 22.4(iii) as follows:

(iii) after notifying the Proper Officer via e-mail or telephone by 8.30a.m. on the day of the meeting of the intended substitution.

Proposed amendments to the Open Government Council Meeting Procedure Rules

Public Questions

- 2.6 For the reasons outlined at paragraphs 5.1-5.2 of the report to amend Rule 3.2 to stipulate that the Proper Officer will conduct the ballot noting, as is current practice, that all Leaders of Political Groups (or their nominated substitute) and any unallocated Members would be entitled to attend the ballot should they wish to do.
- 2.7 For the reasons outlined in paragraphs 5.3-5.4 of the report Rule 3.3 be amended as follows:

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer not later than 5.00pm at least eight clear working days (not including the date of the meeting) before the date of the meeting. Each question must give the name and address of the questioner and must specify the Member to whom it is to be put.

- 2.8 For the reasons outlined in paragraphs 5.5-5.6 of the report Rule 3.10(c) be amended as follows:

(c) a written answer (with a copy of that answer being circulated to all Members).

Public Presentations

- 2.9 For the reasons outlined in paragraphs 5.8-5.9 of the report Rule 4.1 be amended as follows:

Any resident of or Council taxpayer or non domestic ratepayer in the County Borough may make a presentation to Council on a matter for which the Council has responsibility. Presentations will be selected by a draw to be undertaken by the Mayor or Deputy Mayor which shall take place as soon as possible after the period for submission of presentations has expired. A maximum of two, 5 minute presentations will be permitted per meeting provided that a written submission summarising the presentation(s) is received by the Proper Officer not later than 5.00pm at least eight clear working days (not including the date of the meeting) before the date of the meeting.

Proposed amendments to the Budget and Policy Framework Procedure Rules

- 2.10 For the reasons outlined in paragraphs 6.1-6.2 of the report to amend the second paragraph of Rule 2(b) as follows:

Any amendments to the proposals of the Cabinet to be proposed by Members at Council may not be considered by Council unless notice of the proposed amendment has been given in writing, by fax or via e-mail (with the names of the Proposer and Seconder clearly stated) to the Proper Officer and signed by the Proposer not later than 5:00pm at least 8 clear working days (not including the date of the meeting) before the date of the Council meeting.

Proposed amendments to the Pension Fund Committee terms of reference

2.11 For the reasons outlined in section 7 of the report to amend the terms of reference, specifically Paragraph 14.1(a) by adding a new bullet point 'a (vi)' as follows and renumbering existing bullet points a (vi) and a (vii) accordingly:

vi) Stewardship Code – approving the Fund's Stewardship code to promote best practice in stewardship that is consistent with seeking long – term investment returns;

2.12 For the reasons outlined in section 7 of the report to amend Paragraph 14.1(c) to as follows:

(c) Considering the Fund's financial statements as part of the approval process and to receive the Fund's Annual Report. Receive internal and external audit reports on the same.

'Proper Officer' references

2.13 For the reasons outlined in section 8 of the report to amend relevant 'Proper Officer' references in the Council's Constitution from the Monitoring Officer to the Service Director – Democratic Services and Communications.

Petitions

2.14 For the reasons outlined in section 9 of the report considers the proposal to adopt an agreed set of procedures for the receipt and processing of petitions.

3. REASONS FOR RECOMMENDATIONS

3.1 The Council's Constitution was adopted in May 2002 and sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that they are efficient, transparent and available to local people. The Constitution is a 'living document' in that it is constantly being updated and revised to reflect new Government legislation, guidance and improvements in procedures gained in light of experience.

- 3.2 In accordance with its terms of reference this Committee is being asked to consider a number of proposed changes to the Council's Constitution and determine whether or not to recommend to Council the adoption of the proposed changes prior to consideration by full Council at the Annual General Meeting.
- 3.3 It is considered implementation of the proposed amendments within this report would provide for increased certainty in the interpretation of the Council's Constitution and allow for greater transparency in respect of decision making. The proposed amendments seek to ensure a consistent and robust approach to governance across the Authority.
- 3.4 Any changes to the Council's Constitution need to be agreed by full Council. Article 15.03 of Part 2 of the Constitution stipulates that changes to the Constitution will only be approved by full Council after consideration by a proposal by the Corporate Governance and Constitution Committee, the Monitoring Officer or a recommendation from Cabinet.

4. PROPOSED AMENDMENTS TO THE COUNCIL PROCEDURE RULES

Members' Questions

- 4.1 In accordance with Council Procedure Rule 9.2 a Member of the Council may ask:
- The Mayor of the Council
 - A Member of the Executive
 - The Chair of any Committee or Sub Committee

A question on any matter in relation to which the Council has powers or duties or which affects the County Borough of Rhondda Cynon Taf.

- 4.2 If more than five questions on notice are received then the five questions to be asked at that meeting are to be determined by a ballot.
- 4.3 At the Council meeting on the 10th April 2019, when considering a Notice of Motion (Minute 144 refers) Members discussed increasing the number of questions permitted to be asked from 5 to 8. Members also discussed the proposal of replacing the rule which specifies a specific number of questions can be asked with a rule specifying an allotted amount of time within which questions can be asked.
- 4.4 From looking at other local authority practices, a number of local authorities and the National Assembly for Wales provide a specified period of time within which questions may be asked rather than deal with a specified allocated number of questions.

- 4.5 It is therefore proposed that an allocated time of 20 minutes be provided on each Council agenda for the provision of 'Questions on Notice at Full Council'.
- 4.6 This proposal would mean that Members will still need to submit questions in accordance with the Council Procedure Rules and a ballot would be conducted ahead of every relevant full Council meeting to determine the order of questions to be asked at each meeting, regardless of the number which may be received.
- 4.7 During the Council meeting, the Mayor will set the clock and each question will be asked in turn (plus any supplementary question) in accordance with the results of the ballot. Once the clock reaches the allocated 20 minutes the Mayor will confirm that following receipt of the question being asked or response to the question being answered at the time (together with any supplementary question and answer) Council will then proceed to the next agenda item.
- 4.8 Providing for a time allocation to this agenda item provides the potential for more questions to be asked than the current limit of 5 per meeting. The provision of 20 minutes would ensure that the item provides sufficient time for a number of questions to be put and responses to be received, whilst not impacting on the remainder of Council business at the relevant meeting.
- 4.9 Council Procedure Rule 9.2 currently states that if more than five questions on notice which may be asked at any meeting of the full Council are received by the Proper Officer then the five questions to be asked at that meeting are to be determined by a ballot conducted by the Mayor (and in their absence the Deputy Mayor).
- 4.10 In the interests of efficiency and to avoid having to ask the Mayor (or in their absence the Deputy Mayor) to attend the Council offices to conduct the ballot it is proposed that the Proper Officer conduct the ballot and the final paragraph of Council Procedure Rule 9.2 be amended to reflect this change. As is current practice all Leaders of Political Groups (or their nominated substitute) and any unallocated Members would be entitled to attend the ballot should they wish to do.
- 4.11 To reflect both of the above changes it is proposed to amend Council Procedure Rule 9.2 as follows:

A maximum of 20 minutes shall be allowed for Questions on Notice at Full Council. Any questions that are not dealt with in this time limit shall fall. The order of questions to be asked at each meeting shall be determined by a ballot conducted by the Proper Officer. Any questions on notice not answered will need to be resubmitted to the Proper Officer for the next full Council meeting in accordance with these rules. This rule does not prevent a Member asking an urgent question to which the Mayor has agreed can be put in accordance with Rule 9.4(b).

Any such urgent questions shall be put prior to the commencement of the 20 minutes allocated for questions received on notice.

4.12 A further amendment is proposed to Rule 9.5 concerning the provision of a written answer to a question where the reply cannot be given orally. It is proposed for transparency that where a written answer is provided to a questioner the reply also be circulated to all Members.

4.13 Procedure Rule 9.5(c) would therefore be amended as follows:

(c) where the reply cannot conveniently be given orally, a written answer provided subsequently to the questioner, within 10 working days and a copy of the answer circulated to all Members.

Motions On Notice

4.14 Council Procedure Rule 10.1 outlines the procedures for dealing with Notices of Motion. At 10.1(b), second bullet point, it stipulates

(b) Except for motions which can be moved under Rule 10.5 (urgent motions) or without notice under Rule 11, notice of every motion shall only be properly given if it is:

- in writing, by fax or e-mail (with the names of the Proposer and Secunder clearly stated) signed by the Proposer, and seconded; and

4.15 In the interests of clarity it is proposed ‘,and seconded’ be removed from the current rule to avoid any possible confusion about how the notice should be submitted. This would not remove the requirement for a motion to be seconded but means a notice of motion can be submitted in accordance with that rule providing it is signed by the Proposer with the name of the Secunder clearly stated within the notice itself.

4.16 The amended Council Procedure Rule 10.1(b), second bullet point, would therefore read as follows:

- in writing, by fax or e-mail (with the names of the Proposer and Secunder clearly stated) signed by the Proposer; and

Content and Length of Speeches

4.17 Council Procedure Rule 12.4 states the following:

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor.

4.18 It is recommended this Council Procedure Rule be amended as set out below given the increase in use of the Welsh Language during Council and relevant Committee meetings.

4.19 Council Procedure Rule 12.4 as amended would therefore read as follows:

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Mayor acknowledging that flexibility shall be given where a speech is being delivered through the medium of Welsh to allow for simultaneous translation.

Substitution

4.20 Council Procedure Rule 22 deals with the appointment of Substitute Members for certain committees. Rule 22.4 states that Substitute Members may attend meetings in that capacity only after notifying the Proper Officer by 11.00a.m on the day of the meeting of the intended substitution. As meetings are now scheduled to take place prior to 11.00a.m. it is proposed that the timing be amended to 8.30a.m. and that notification of the intended substitution can be given to the Proper Officer via e-mail or by telephone.

4.21 The amended Council Procedure Rule 22.4(iii) would therefore read as follows:

(iii) after notifying the Proper Officer via e-mail or telephone by 8.30a.m. on the day of the meeting of the intended substitution.

5. PROPOSED AMENDMENTS TO THE OPEN GOVERNMENT COUNCIL MEETING PROCEDURE RULES

Public Question Time

5.1 Rule 3.2 of the Open Government Council Meeting Procedure Rules states the following:

The 6 Questions to be asked will be selected by a draw to be undertaken by the Mayor or Deputy Mayor which shall take place as soon as possible after the period for submission of questions has expired. Similarly themed questions will be grouped together

5.2 In the interests of efficiency and to avoid having to ask the Mayor (or in their absence the Deputy Mayor) to attend the Council offices to conduct the ballot it is proposed that the Proper Officer conduct the ballot and Rule 3.2 of these rules be amended to reflect this change. As is current practice all Leaders of Political Groups (or their nominated substitute) and any unallocated Members would be entitled to attend the ballot should they wish to do so.

- 5.3 Rule 3.3 of the Open Government Council Meeting Procedure Rules states the following:

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Director of Legal Services no later than 14 days before the date of the meeting. Each question must give the name and address of the questioner and must specify the member to whom it is to be put.

- 5.4 In order to regularise the above position with the deadlines for submitting Questions on Notice by Members and Motions on Notice it is proposed Rule 3.3 be amended as follows:

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the Proper Officer not later than 5.00pm at least eight clear working days (not including the date of the meeting) before the date of the meeting. Each question must give the name and address of the questioner and must specify the Member to whom it is to be put.

- 5.5 Rule 3.10 states the following:

(i) Questions and supplementary questions will be answered without discussion and an answer may take the form of:-

- (a) An oral answer given by the Councillor to whom the question is addressed or another Councillor nominated by him or her;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication;
- (c) a written answer.

- 5.6 It is proposed to amend Rule 3.10(i)(c) so that where a written answer is given a copy of that answer is circulated to all Members of the Council.

- 5.7 Rule 3.10(c) would therefore be amended to read as follows:

(c) a written answer (with a copy of that answer being circulated to all Members).

Public Presentations

- 5.8 Rule 4.1 of the Open Government Council Meeting Procedure Rules states the following:

Any resident of or Council taxpayer or non domestic ratepayer in the County Borough may make a presentation to Council on a matter for which the Council has responsibility. Presentations will be selected by a draw to be undertaken by the Mayor or Deputy Mayor which shall take place as soon as possible after the period for submission of presentations has expired. A maximum of two, 5 minute presentations

will be permitted per meeting provided that a written submission summarising the presentation(s) is received by the Director of Legal Services at least 14 days prior to the date of the meeting.

- 5.9 Similar to paragraph 5.4 above in order to regularise the above position with the deadlines for submitting Questions on Notice by Members and Motions on Notice it is proposed Rule 4.1 be amended as follows:

Any resident of or Council taxpayer or non domestic ratepayer in the County Borough may make a presentation to Council on a matter for which the Council has responsibility. Presentations will be selected by a draw to be undertaken by the Mayor or Deputy Mayor which shall take place as soon as possible after the period for submission of presentations has expired. A maximum of two, 5 minute presentations will be permitted per meeting provided that a written submission summarising the presentation(s) is received by the Proper Officer not later than 5.00pm at least eight clear working days (not including the date of the meeting) before the date of the meeting.

6. **PROPOSED AMENDMENT TO BUDGET AND POLICY FRAMEWORK PROCEDURE RULES**

- 6.1 The second paragraph to Rule 2(b) of the Budget and Policy Framework Procedure Rules state the following:

Any amendments to the proposals of the Cabinet to be proposed by Members at Council may not be considered by Council unless notice of the proposed amendment has been given to the Proper Officer in writing and signed by the proposer and seconder not later than 5:00pm at least 8 calendar days (not including the date of the meeting) before the date of the Council meeting.

- 6.2 In order to regularise the above deadline with other deadlines within the Constitution and clarify the requirements of how the amendment should be submitted it is proposed to amend the second paragraph of Rule 2(b) as follows:

Any amendments to the proposals of the Cabinet to be proposed by Members at Council may not be considered by Council unless notice of the proposed amendment has been given in writing, by fax or via e-mail (with the names of the Proposer and Seconder clearly stated) to the Proper Officer and signed by the Proposer not later than 5:00pm at least 8 clear working days (not including the date of the meeting) before the date of the Council meeting.

7. **PROPOSED AMENDMENTS TO THE TERMS OF REFERENCE OF THE PENSION FUND COMMITTEE**

- 7.1 The Pension Fund Committee has the specific roles and functions with regards to the Rhondda Cynon Taff Pension Fund (the 'Fund') as set

out in its terms of reference contained in Part 3 of the Council's Constitution.

7.2 The Committee now has responsibility for approving and acting as a signatory to the Fund's Stewardship Code and promote best practice in stewardship consistent with seeking long-term investment returns. It is therefore proposed to amend its terms of reference, specifically Paragraph 14.1 (a) by adding a new bullet point 'a (vi)' as follows and renumbering existing bullet points a (vi) and a (vii) accordingly:

vi) Stewardship Code – approving the Fund's Stewardship code to promote best practice in stewardship that is consistent with seeking long – term investment returns;

7.3 Paragraph 14.1(c) of the Committee's terms of reference states the following:

(c) Considering the Fund's financial statements as part of the approval process and agreeing the Fund's Annual Report. Receive internal and external audit reports on the same

7.4 There is no requirement and it is not current practice for the Committee to agree the Fund's Annual Report. It is therefore proposed the following amendment to 14.1(c) be made to reflect the appropriate approval processes as follows:

(c) Considering the Fund's financial statements as part of the approval process and to receive the Fund's Annual Report. Receive internal and external audit reports on the same.

8. PROPOSED AMENDMENTS TO 'PROPER OFFICER' REFERENCES IN THE COUNCIL'S CONSTITUTION

8.1 Following the changes to the Senior Management structure of the Council from 1st April 2019 and transfer of the Democratic Services functions from Legal Services to the Service Director – Democratic Services and Communications it is proposed that the relevant 'Proper Officer' references in the Council's Constitution relating to Democratic Services functions be realigned from the Monitoring Officer to the above post.

9. PETITIONS

9.1 At the Council meeting on the 10th April, a Notice of Motion relating to the establishment of a Petitions Committee and changing the current provision in respect of Members questions at Council was considered.

9.2 Although the Notice of Motion was not adopted Members suggested that the content be brought before the Corporate Governance &

Constitution Committee in respect of developing proposals that could be taken forward.

CURRENT PRACTICE

- 9.3 Petitions to the Council are submitted via a number of different methods, i.e. through formal consultation responses and by Local Members presenting petitions to the Mayor at Council meetings.
- 9.4 In respect of the latter, following formal receipt at a Council meeting, notification is sent to the first person on the petition to advise them that the petition has been received. Formal notification is also sent to the relevant Senior Officer(s) together with a copy of the petition. The Local Member who submitted the petition is also copied into the notifications.
- 9.5 The relevant Senior Officer(s) will then deal with the concerns/requests of the petitions as appropriate, providing feedback as and when necessary.

GOING FORWARD

- 9.6 It is proposed that to ensure Local Members and the public receive appropriate information in respect of their concerns/requests as highlighted within a petition the following procedures be adopted via a Petitions Protocol:
 - a) Upon receipt a copy of the petition is provided to both the appropriate Cabinet Member and the relevant Senior Officer for information and consideration.
 - b) A list of petitions which have met set criteria (i.e. Number of signatories to the petition, affects more than ward) would be listed on the Council Website for the public to view.
 - c) The relevant Cabinet Member will respond to the petition, either to the lead petitioner or local member (depending on how the petition has been received).
 - d) Any action taken forward in respect of the petition would also be published on the Council website.
- 9.7 It is anticipated that this process would formalise the current procedures in respect of petitions and provide an opportunity for the Council to publically demonstrate any actions taken forward once petitions are received. This procedure would also allow for the relevant Cabinet Member(s) to be involved.

9.8 If the proposal is to be taken forward set criteria that would lead to publication of petitions would be developed, such as a minimum number of signatories or if a petition affects more than one ward.

10. EQUALITY AND DIVERSITY IMPLICATIONS

10.1 If taken forward the proposed amendments should allow Members greater accessibility in respect of transparency of decision making.

11. CONSULTATION

11.1 In accordance with its terms of reference this Committee is meeting to consider a number of proposed changes to the Council's Constitution and determine whether or not to recommend to Council the adoption of the proposed changes as outlined in this report.

12. FINANCIAL IMPLICATIONS

12.1 There are no financial implications aligned to this report. The proposed improvements seek to streamline decision making and strengthen the current decision making process using existing resources.

13. LEGAL IMPLICATIONS AND LEGISLATION CONSIDERED

- Local Government Act 2000
- Parts 2, 3 and 4 of the Council's Constitution

14. LINKS TO CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT

14.1 The proposals within the report are fundamental to all of the Councils Corporate Plan priorities. As an organisation the Council needs to ensure a consistent and efficient process in respect of decision making to ensure functionality of the Council as well as strengthening the Council's Governance arrangements.

14.2 The proposals also link to the five ways of working within the Well-being of Future Generations Act, as these proposals are looking at the long term sustainability of the Council.

15. CONCLUSION

15.1 Adoption of the processes highlighted within the report will help to illustrate the Council's robust approach to decision making and will strengthen the Council's Governance arrangements.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CORPORATE GOVERNANCE AND CONSTITUTION COMMITTEE

2ND MAY 2019

JOINT REPORT OF THE SERVICE DIRECTOR – DEMOCRATIC SERVICES & COMMUNICATIONS AND DIRECTOR OF LEGAL

PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION AND ANCILLARY MATTERS

Background Papers

Freestanding Matter

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