



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

19TH APRIL 2018

CONSULTATION – PROPOSED AMENDMENTS TO THE COUNCIL’S CONSTITUTION

**JOINT REPORT OF THE SECRETARY OF THE CABINET & DIRECTOR,
LEGAL & DEMOCRATIC SERVICES IN DISCUSSION WITH THE LEADER
OF THE COUNCIL, CLLR A MORGAN AND DEPUTY LEADER CLLR M
WEBBER.**

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1. PURPOSE OF THE REPORT

- To seek Members views as consultees on proposed amendments to the Council’s Constitution, in advance of its consideration by the Corporate Governance & Constitution Committee and Full Council at the Annual General Meeting (‘AGM’) in May 2018.
- To advise Members of the proposed amendments to the Overview & Scrutiny Procedure Rules, to allow streamlining of procedures.
- To advise Members of other practices to be taken forward to ensure consistency of information reporting across the Council’s Committee Structures.
- To commend to Full Council the adoption of the amendments through the Councils constitution, with implementation of the proposals following the Council’s 2018 AGM.

2. RECOMMENDATIONS

It is recommended that Cabinet:

- 2.1 Comments on the proposed amendments to the Overview & Scrutiny Procedure Rules, as outlined within section 5 of the report;
- 2.2 Comments on the adoption of consistent practices across the Committee structures to ensure consistency of information for Members as outlined in section 6 and 7 of the report; and
- 2.3 Subject to Members’ comments in respect of 2.1 - 2.2 above,

- (i) commend the adoption of the proposed amendments in respect of the Council's Constitution to Full Council at its AGM in May 2018; and
- (ii) instruct the Council's Monitoring Officer and Secretary to the Cabinet to compile a joint report to be presented at the Council's 2018 AGM in respect of the proposed amendments.

3. REASONS FOR RECOMMENDATIONS

- 3.1 Implementation of the proposed amendments would allow greater transparency in respect of decision making and would seek to ensure a consistent and robust approach to Governance across the Authority.
- 3.2 Any Changes to the Council's Constitution needs to be agreed by Full Council.

4. BACKGROUND

- 4.1 In 2016 Members agreed to changes to the General Scheme of Delegation with primarily an expansion of the scrutiny call in procedure to include Key Delegated Decisions, to allow for greater transparency of decision making.
- 4.2 Following on from this, it is suggested that further proposed amendments to the Council Constitution be taken forward for consideration to ensure a consistent, efficient and robust approach to governance within the Authority.

5. OVERVIEW & SCRUTINY PROCEDURE RULES – STREAMLINING OF PROCEDURES

- 5.1. The current process for Members calling in Cabinet or Key Delegated Decisions is outlined within paragraph 17 of the Overview & Scrutiny Procedure Rules (Appendix 1).
- 5.2 With the evolving use of technology it is proposed that in future, Call In forms be submitted electronically (via email) to the Council's Monitoring Officer for consideration and acceptance. The Lead member of the Call In should be the Member to send such correspondence.
- 5.3 Members can either attach to the email a completed Call In form (using the standard template) or list the required detail prescribed in the form in the body of the email itself, which primarily includes:-
 - The decision being called in and the Relevant Decision Maker
 - The three members calling in the decision; and
 - The reason(s) for the Call In.
- 5.4 There will no longer be the requirement for Members to physically sign a Call In form.
- 5.5 This proposal should assist Members to call in a decision in a more efficient and quicker manner.
- 5.6 Subject to agreement of the proposal above, it is further proposed that the Call In period be reduced to three clear working days from the existing five clear

working days. With the proposed changes to the method of Call In as outlined above (5.2 – 5.4), it is proposed that the timescales for Call In should reflect this new more efficient approach.

- 5.7 As stipulated in paragraph 17.2 of the Overview & Scrutiny Procedure rules, currently any urgent decision to be taken by the Cabinet / Key Officer Delegated Decision needs the agreement of the Mayor (or in his/her absence the Deputy Mayor) or where both are absent the Head of Paid Service. Such agreement is reflected via the appropriate signature on the decision document following their consideration of the matter.
- 5.8 In light of the proposals mentioned above, it is proposed that in future following discussions with the Mayor / Deputy mayor regarding the need for a decision to be taken urgently, an electronic signature be utilised on any decision document, to prevent any delay with the decision being made and published.
- 5.9 These proposed amendments are not intended to limit Members opportunity to Call In Cabinet/Key Officer Delegated decisions, but reflect a more common sense approach to the overall decision making process of the Cabinet and Council by utilising technology.

6. REPORTING TO MEMBERS

- 6.1 Members will be aware that from November, 2015 a new report template was piloted at Cabinet meetings and agreed to be taken forward in 2016. All Cabinet reports now ensure that authors of reports acknowledge and report on a range of important issues, highlighting to Members potential impacts and implications of a Cabinet Committees decision. The report format with universal sections such as Consultation, Equality & Diversity Implications, Statutory and Financial implications assists with the production of full and timely information when considering the introduction of new policies / service changes.
- 6.2 The report template also ensures that Officers consider the Well-Being of Future Generations Act, for every decision that is taken forward by the Authority.
- 6.3 For consistency, and general good practice, it is suggested that the template is utilised for all Council and Committee reports as well as Key Officer Delegated Decision reports going forward in the future. This will ensure all Members are provided with the same information as Cabinet, when considering an item at Committee meetings.

7. WORK PROGRAMME

- 7.1 Work Programmes are an important tool for Members to assist them in viewing items that are coming forward to Committee and for other Committees to utilise to prevent duplication of work and assist with pre-scrutiny.
- 7.2 Currently Work Programmes are developed for Cabinet and the Council's Scrutiny Committees and all are available through the Council's website for Members and members of the public to access via the relevant pages.

- 7.3 In order to further assist Members, and members of the public, it is proposed Work Programmes also be accessed via a single dedicated page on the Council's website. This would improve ease of access and increase transparency. This would include access to a Work Programme in respect of full Council.

8. EQUALITY AND DIVERSITY IMPLICATIONS

- 8.1 If taken forward the proposed amendments should allow Members greater accessibility in respect of transparency of decision making and a more accessible route to Call In. Taking forward the report template will ensure that all Members are treated equally, with the same level of information provided to all Members.

9. CONSULTATION

- 9.1 Consideration of the report by Cabinet Members will form part of the consultation process, along with Members comments of the Overview & Scrutiny Committee at its meeting on the 18th April. The report and the comments from both Cabinet and O&S will be taken forward to the Council's Corporate Governance & Constitution Committee, whereby a report will then be presented to Full Council at the AGM in May 2018.

10. FINANCIAL IMPLICATIONS

- 10.1 There are no financial implications aligned to this report. The proposed improvements seek to streamline decision making and strengthen the current decision making process.

11. LEGAL IMPLICATIONS AND LEGISLATION CONSIDERED

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

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

- 12.1 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.
- 12.2 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.

13. CONCLUSION

- 13.1 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.
- 13.2 The proposed changes will require an amendment to the Council's Constitution and it is proposed that these amendments be sought through a Joint Report of the Secretary to the Cabinet and the Council's Monitoring Officer, to be considered at the Council's AGM in May 2018, following consultation with the Overview & Scrutiny Committee and the Councils' Constitution Committee.
- 13.3 It is proposed that subject to agreement at the Council's Annual General Meeting, the proposals be implemented with immediate effect.

Other Information:-

Relevant Scrutiny Committee

- Overview & Scrutiny

Contact Officer

- C Hanagan –Secretary to the Cabinet.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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**Item: CONSULTATION – PROPOSED AMENDMENTS TO THE COUNCILS
CONSTITUTION**

Background Papers

- Council Constitution.
- Council AGM 2016

Officer to contact:

- C Hanagan –Secretary to the Cabinet.
01443 424005

17. **Call-In**

17.1 **Rules**

- (a) Where a decision is made by the Cabinet, an individual Member of the Cabinet, a Committee of the Cabinet, an Area Committee, under joint arrangements or a Key Decision is made by an Officer (under the General Scheme of Delegation), it must be published on the Council's website by the responsible proper officer within 2 clear working days of it being made. A copy will also be available at the main offices of the Council. All Members of the Council will be sent copies of the records of all such decisions within the same time scale, by the person responsible for publishing the decision.
- (b) That notice will bear the date on which it is published and will specify that the decision will come into force and may then be implemented, on the expiry of 5 clear working days after the publication of the decision, unless any 3 Non-Executive Members object to it and call it in for review under these procedure rules.
- (c) During that period the Monitoring Officer shall call-in a decision for scrutiny by the Overview and Scrutiny Committee if so requested in the specified format by any 3 Non-Executive Members and, shall then notify the decision taker of the call-in. Following the expiry of the 5 clear working day period in which a decision can be called-in the Monitoring Officer shall convene a meeting of the Overview and Scrutiny Committee on such a date as he/she may determine. Where possible the Monitoring Officer will consult with the Chair or Vice-Chair of the Overview and Scrutiny Committee as to a suitable date and in any case the meeting will be held within 5 clear working days of the expiration of the relevant call-in period (only in exceptional circumstances will the Chair (in his/her absence the Vice-Chair) of the Overview and Scrutiny Committee consider extending this time limit).
- (d) As soon as the Chair of the Overview and Scrutiny Committee signs a call-in form he/she shall cease to be the Chair for all purposes for the duration of the call-in process. If this situation arises then for the purposes of these Overview and Scrutiny Procedure rules references to 'Chair' of the Overview and Scrutiny Committee should be read as a reference to the 'Vice-Chair' of the Overview and Scrutiny Committee. In the situation where both the Chair and Vice Chair of Overview and Scrutiny Committee signs a call in form then the Chair of the meeting in respect of matters relating to the call-in shall be selected from the rest of the Overview and Scrutiny Committee membership by majority vote.
- (e) If, having considered the decision, the Overview and Scrutiny Committee refers it back to the decision making body or person for reconsideration or the matter to full Council, it must set out

in writing the nature of its concerns. If referred to the decision maker they shall then reconsider within a further 5 clear working days, amending the decision or not, before adopting a final decision. This decision shall take effect and be implementable on the date and time immediately following the closure of the relevant meeting

- (f) If following an objection to the decision, the Overview and Scrutiny Committee does not meet within the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date and time immediately following the closure of the Overview and Scrutiny Committee meeting.
- (g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decisions to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Cabinet as a whole, or a Committee of it, a meeting will be convened to reconsider within 5 clear working days of the Council's request. Where the decision was made by an individual, the individual will reconsider within 5 clear working days of the Council's request.
- (h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is earlier.
- (i) In order to ensure the call-in is not abused, nor causes unreasonable delay, certain limitations are to be placed on its use. These are:
 - (i) the Overview and Scrutiny Committee may only call-in a total of 3 decisions per 2 month period;
 - (ii) any 3 Non-Executive Members (from either (i) at least 2 political groups or (ii) in the case of an unallocated Member(s) – that unallocated Member(s) and a Member(s) from a political group) are needed for a decision to be called in;
 - (iii) once a Member has signed a request for call-in under paragraph 17 (call-in) above, he/she may not do so again until the period of 2 months has expired.
 - (iv) No Education Co-opted Members may request a decision be called in.

- (j) The Monitoring Officer may veto any request for call-in if it falls outside the remit of this scheme.
- (k) Save in exceptional circumstances all Members requesting a matter be called in must attend the meeting at which the matter is being considered.

17.1A Reference to a 'clear working day' in these Overview and Scrutiny procedure rules is defined as the following:-

A complete period of 24 hours (excluding weekends and Bank Holidays), beginning and ending at midnight on the day in question.

Therefore, by way of example, for the purposes of these call-in rules it shall exclude the day on which the relevant Cabinet decision notice is published and the day on which the call-in meeting is held.