

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2017 - 2018

**CORPORATE GOVERNANCE AND
CONSTITUTION COMMITTEE**

14th MAY 2018

**JOINT REPORT OF THE DIRECTOR –
CABINET AND PUBLIC RELATIONS
AND DIRECTOR OF LEGAL AND
DEMOCRATIC SERVICES**

Agenda Item No. 3

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

1. PURPOSE OF REPORT

To receive Members comments on proposed amendments to the Council's Constitution and associated ancillary matters and, if in agreement, commend the adoption of the proposed amendments to full Council for consideration at the Council's Annual General Meeting 2018.

2. RECOMMENDATIONS

It is recommended that the Committee considers the following proposed amendments and ancillary matters relating to the Council's Constitution:

Proposed amendments to the Council Procedure Rules

Notices of Motion

- 2.1 For the reasons outlined in paragraph 4.1 of the report considers the proposed amendment to Council Procedure Rule 9.4 with the addition of a new Procedure Rule 9.4(e) as follows (and if in agreement recommend its adoption to full Council):

(e) If a Member is not in attendance at a meeting where they have a question submitted by them included on the relevant Council meeting agenda the question will not be put and no written response will be required to be made by the Member to whom the question was to be addressed.

- 2.2 For the reasons outlined in paragraphs 4.3-4.6 of the report considers the proposed amendment to Council Procedure Rule 10.1(d) with the addition of new paragraph 10.1(d)(iii) as follows (and if in agreement recommend its adoption to full Council):

(iii) Any notice of motion withdrawn or deferred once it has been delivered and published on the agenda will count against the Proposer's Group allocation, or if unallocated his/hers allocation, of notices of motion agreed in accordance with Rule 10.2(a).

2.3 For the reasons outlined in paragraphs 4.8-4.9 of the report considers the proposed amendment to the Council Procedure Rules as follows (and if in agreement recommend its adoption to full Council):

- Renumber current Council Procedure Rule 10.3.3 to 10.3.4.
- Amend Rule 10.3.3 to read:

10.3.3 Any notice of motion which requires a change in the proposed or existing policy framework of the Council may only call for a report on the matter to be prepared for consideration by the Executive, Council or Overview and Scrutiny Committee/relevant thematic Scrutiny Committee as appropriate.

State of the County Debate

2.4 For the reasons outlined in paragraphs 4.10-4.11 of the report considers the proposed amendment to Council Procedure Rule 13.1 as follows (and if in agreement recommend its adoption to full Council):

The Council Leader will call a state of County Borough debate annually on a date and in a form to be agreed with the Mayor.

2.5 For the reasons outlined in paragraphs 4.13-4.14 of the report considers the proposed amendment to Council Procedure Rule 13.2 as follows (and if in agreement recommend its adoption to full Council):

The Leader will decide the form of the debate, with the aim of enabling the widest possible public involvement, direct participation and publicity. This may include prior engagement with residents, Scrutiny and other relevant stakeholders.

Rules of Debate

2.6 For the reasons outlined in paragraph 4.16 of the report to amend Council Procedure Rule 12 with the addition of new Procedure Rule 12.14 as follows (and if in agreement recommend its adoption to full Council):

12.14 Members may speak in English or Welsh and for the avoidance of doubt may exercise any right they have under these Council Procedure Rules through either medium.

Proposed amendments to the Overview and Scrutiny Procedure Rules

- 2.7 For the reasons outlined in section 5 of the report considers the proposed amendments to the Overview and Scrutiny Procedure Rules as set out in Appendix 1 to this report and if in agreement recommend their adoption to full Council.

Public Engagement in Scrutiny

- 2.8 For the reasons outlined in section 6 of the report considers introducing a protocol in respect of enabling members of the public to speak at meetings of the Scrutiny Committees based on the principles outlined at paragraph 6.9 of the report and if Members are so minded, recommend to full Council that it give delegated authority to the Overview and Scrutiny Committee to agree and adopt the final version of such a protocol for inclusion in the Constitution.

Reporting to Members

- 2.9 For the reasons outlined in section 7 of the report recommends to full Council that the existing Cabinet report template be utilised as the template for all Council and other Committee reports, as well as reports which accompany Key Officer Delegated Decisions, going forward.

Forward Work Programmes

- 2.10 For the reasons outlined in section 8 of the report recommends to full Council that in order to improve ease of access and increase transparency Forward Work Programmes for full Council, the Cabinet and Scrutiny Committees be accessed via a single dedicated page on the Council's website.

Members' Attendance at Meetings

- 2.11 Notes the update in respect of the publication of information relating to Members' attendance at meetings and that in the immediate interim period recommends to full Council that Members' attendance be published using the Council's website via the dedicated 'Councillors' webpage and that this information be updated on a monthly basis until such time as full roll out of Modern.Gov is completed.

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 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 At the Council meeting held on 30th November 2017 the previous Monitoring Officer, in response to a point of order raised by a Member, clarified that as a Member was not in attendance to ask a question as submitted by them the question had not been put and therefore no written responses were required. It was agreed this would be further clarified with a proposed amendment to the Council Constitution at the AGM in May 17. The proposed amendment was presented to Council at the 2017 AGM but deferred for prior consideration by this Committee.
- 4.2 It is recommended Council Procedure Rule 9.4 be amended and a new procedure rule, Procedure Rule 9.4(e), be added to the Council Procedure Rules as follows:
- (e) If a Member is not in attendance at a meeting where they have a question submitted by them included on the relevant Council meeting agenda the question will not be put and no written response will be required to be made by the Member to whom the question was to be addressed.

Notices of Motion

- 4.3 Council Procedure Rule 10.1(d) stipulates the following:
- "No notice of motion can be withdrawn or deferred once it has been delivered except:

- (iv) If prior to the commencement of the meeting, notice of withdrawal in writing signed by the Proposer, and Secunder has been delivered to the Proper Officer; or
 - (v) in accordance with Rule 12.8. [*which concerns withdrawal at the meeting itself*]
- 4.4 During the previous Municipal Year a Notice of Motion was received and accepted by the Proper Officer but withdrawn by the Proposer and Secunder after its publication on the relevant Council meeting agenda but prior to the meeting itself. Currently there is no provision in the Constitution to deal with the consequences such a withdrawal has on any Proposer's group allocation of notices of motion or, if unallocated, any allocation attributed to that unallocated member.
- 4.5 At the time the Monitoring Officer ruled that a withdrawal of a notice of motion in the above circumstance would count against the allocation attributed to the Proposer's political group or, if unallocated any allocation attributed to that unallocated member.
- 4.6 The rationale for this decision being that if the withdrawal meant the allocation remained unaffected it could lead to notices of motion being submitted and then later withdrawn without the possibility of other Members having a chance to submit a notice of motion to the relevant Council meeting as both the deadline for submitting notices of motion would have passed and the agenda published. Members will recall in accordance with Council Procedure Rule 10.2(a) motions of which notice has been given and which may be moved at each Ordinary meeting are limited to 2 and that any motions received after the first two are returned by the Proper Officer to the proposers.
- 4.7 It is therefore proposed Council Procedure Rule 10.1(d) be amended with the addition of new paragraph 10.1(d)(iii) as follows:
- (vi) Any notice of motion withdrawn or deferred once it has been delivered and published on the agenda will count against the Proposer's Group allocation, or if unallocated his/hers allocation, of notices of motion agreed in accordance with Rule 10.2(a).

Scope of Notice of Motion

- 4.8 Within the Constitution there is provision (Rule 10.3.2) that any notice of motion which requires a change in the proposed or existing *budgetary* framework may only call for a report on the matter to be prepared for consideration by the Executive and or Council as appropriate.
- 4.9 There is no similar provision where a notice of motion would require a change in the Council's *policy* framework. Members may therefore wish to consider whether such a provision should be introduced and if so recommend such an amendment of the Council Procedure Rules to full

Council. The following proposed amendments would be required to be made:

- Renumber current Council Procedure Rule 10.3.3 to 10.3.4.
- Amend Rule 10.3.3 to read:

10.3.3 Any notice of motion which requires a change in the proposed or existing policy framework of the Council may only call for a report on the matter to be prepared for consideration by the Executive, Council or Overview and Scrutiny Committee/relevant thematic Scrutiny Committee as appropriate.

State of the County Borough Debate

- 4.10 Rule 13.1 (Calling of Debate) of the Council Procedure Rules states the following:

The Council Leader will call a state of County Borough debate annually on a date and in a form to be agreed with the Mayor. The purpose of the debate will be to review delivery of the agreed Single Integrated Plan for Rhondda Cynon Taff.

- 4.11 The Single Integrated Plan has any now been replaced by the Cwm Taf Well-being Plan.

- 4.12 Therefore it is proposed reference to the Single Integrated Plan be deleted and Council Procedure Rule 13.1 be amended as follows:

The Council Leader will call a state of County Borough debate annually on a date and in a form to be agreed with the Mayor.

- 4.13 Rule 13.2 (Form of Debate) of the Council Procedure Rules states the following:

The Leader will decide the form of the debate, with the aim of enabling the widest possible public involvement, direct participation and publicity. This may include holding workshops and other events prior to or during the debate.

- 4.14 It is proposed the final sentence be clarified to make reference to prior engagement with residents, scrutiny and/or other relevant stakeholders.

- 4.15 Therefore it is proposed Council Procedure Rule 13.2 be amended as follows:

The Leader will decide the form of the debate, with the aim of enabling the widest possible public involvement, direct participation and publicity. This may include prior engagement with residents,

Scrutiny and other relevant stakeholders.

Rules of Debate

- 4.16 Members have the right to speak through the medium of English or Welsh. The Council Procedure Rules however do not presently include any specific provision in this regard.
- 4.17 To address this it is proposed a new rule be added to Council Procedure Rule 12 (Rules of Debate) as follows:

12.14 Members may speak in English or Welsh and for the avoidance of doubt may exercise any right they have under these Council Procedure Rules through either medium.

5. PROPOSED AMENDMENTS TO THE COUNCIL'S OVERVIEW AND SCRUTINY PROCEDURE RULES

- 5.1 The current process for Members calling in Cabinet or Key Officer Delegated Decisions is outlined within paragraph 17 of the Overview & Scrutiny Procedure Rules.
- 5.2 With the evolving use of technology it is proposed that in future, Call In forms also be able to be submitted electronically (via email) to the Council's Monitoring Officer for consideration and acceptance. One of the three signatories to the Call In must email the call in request if that is the chosen submission method.
- 5.3 It is proposed Members could either attach to an email a completed Call In form (using the standard template) or list the required detail prescribed in the Call In 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 would also no longer be the requirement for Members to have to physically sign a Call In form. This proposal should assist Members to call in a decision in a more efficient and quicker manner.
- 5.5 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, it is proposed that the timescales for Call In should reflect this new more efficient approach.
- 5.6 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.

- 5.7 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.
- 5.8 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.
- 5.9 Given the proposed amendments relates to the operating procedures and practices of the Cabinet and Scrutiny both Cabinet and the Overview and Scrutiny Committee were consulted on the proposed changes in advance of their consideration by the Corporate Governance and Constitution Committee and full Council. Both Cabinet and the Overview and Scrutiny Committee resolved to commend to Council the adoption of the proposed amendments.
- 5.10 Should Members be minded to recommend to full Council the adoption of the proposed amendments, changes to the Council's Overview and Scrutiny Procedure Rules would be required to be made. These changes are detailed in Appendix 1 to this report.

6. INCREASING PUBLIC ENGAGEMENT IN SCRUTINY

- 6.1 Members will recall a review was undertaken by the Wales Audit Office during 2016 related to the Council's Scrutiny arrangements feedback from which raised two areas of concern – one concerning the publication of scrutiny work programmes and the second, a lack of engagement with the public in scrutiny.
- 6.2 In order to address these findings the Council, during the previous Municipal Year, put in place a number of measures designed to increase public engagement in the scrutiny process. The Director for Cabinet and Public Relations attended Overview & Scrutiny Committee on two occasions to provide an overview of the measures that have been, or were to be, introduced with the assistance of his corporate communication staff. These included a dedicated Scrutiny page on the Council's website which gives access to the Scrutiny Committee's Work Programmes, a monthly Scrutiny Chair's blog and a social-media presence.

- 6.3 Arrangements have also been established for Cabinet Members and their respective Chief Officers to attend Scrutiny and present relevant information relating to their respective portfolios on a quarterly basis. Such an approach provides Scrutiny Members with the opportunity to further challenge the Executive, as the Cabinet Members can provide details (both verbal and written) relating to the potential challenges facing services, as well as the opportunities and policy changes currently being considered. This approach allows each Cabinet Member the opportunity to update Scrutiny Members on the delivery of their respective areas of the Corporate Plan, reference Key Performance Indicators and important details of policies being considered for decisions which are referenced for future business, or those which have been developed since the last publicised Work Programme.
- 6.4 Scrutiny meetings have also been held in different accessible locations across the County Borough with the aim of increasing public accessibility to, and engagement in, meetings.
- 6.5 It is acknowledged however that additional work is required to further enhance the process. At the Overview and Scrutiny Committee meeting held on 14th February 2018 a member of the public made a request to address the committee on a particular matter. The request was granted but unfortunately the member of public did not attend.
- 6.6 The Director, Legal & Democratic Services reported the request had highlighted that currently there is no protocol in place for a member of the public to speak at meetings of the Scrutiny Committees and that a protocol for use in the future would be reported to the Council's AGM for adoption.
- 6.7 In recognition of this it is proposed that a protocol be developed based on the proposed principles listed below and, if approved, delegated authority be given to the Overview and Scrutiny Committee to agree the detailed content of, and subsequently adopt, the final protocol for its inclusion in the Council's Constitution.
- 6.8 Members are asked to consider whether such a protocol should be introduced based on the principles outlined below and if in agreement recommend the introduction of such a protocol to full Council.
- 6.9 The proposed principles are:
- Members of the public may present their views in two ways. They can request to speak at a Scrutiny Committee or send in written representations.
 - Anyone who lives or works in Rhondda Cynon Taff and who has registered in advance be entitled to speak at a scheduled meeting

- The number of speakers be limited to 2 per agenda item with the discretion for the Chair to increase this limit if he/she feels it appropriate to do so.
- For each agenda item a maximum of 10 minutes speaking time be allocated in total for members of the public to speak. Individual speakers will be limited to 5 minutes in respect of each agenda item.
- The right of the public to speak apply to all items on the agenda with the exception of the following:
 - Apologies; Declarations of Interest; Minutes; If an agenda Item has been withdrawn; Any agenda item that is not accompanied by a written report or agenda item for which the Chair has exercised his or her discretion to withdraw the right of public speaking.
- When confidential/exempt items are under consideration by Scrutiny the Chair will ask all members of the press and public to vacate the meeting room.
- The right does not include the right to ask any questions of any Elected or Co-opted Member, Officer of the Council, invited attendees or any other speaker.
- Chair has discretion to stop the speaker before their allotted time has concluded if in the Chair's view the speaker is making any comments that are, or appear to be, defamatory or offensive or unrelated to the agenda item under discussion.
- In order to for Members to give full consideration to any points made Speakers must provide any supporting information/documentation they intend to refer too in their presentations in advance on registering to speak. No additional information/documentation may be produced at the meeting itself.
- Speakers may be asked to clarify any of the comments they make and asked questions by Members. Speakers must not enter into debate with the Committee Members.
- The Committee will consider the comments made by the Speaker and thereafter determine whether to make any recommendations arising from those comments/issues raised.
- Members of the public wishing to speak must notify Democratic Services by no later than 5.00pm on the penultimate working day preceding the relevant Scrutiny meeting. Requests must include details of the agenda item of the relevant Scrutiny Committee at which they wish to speak. Applications will be dealt with in the order

they are received. All those who have been accepted to speak will be notified via email or through their contact telephone number.

- Anyone wishing to make written representations must do so in the same manner and by no later than 5.00pm on the penultimate working day preceding the relevant Scrutiny committee.

7. REPORTING TO MEMBERS

- 7.1 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, Statutory and Financial implications assists with the production of full and timely information for Members and paying due regard to relevant matters when considering the introduction of new policies / service changes.
- 7.2 The report template also ensures that Officers and Members duly consider the Well-Being of Future Generations Act 2015, for every decision that is taken forward by the Council.
- 7.3 For consistency, and general good practice, it is recommended that the Committee commend to full Council that the template now be utilised for all Council and Committee reports as well as Key Officer Delegated Decision reports going forward. This will ensure all Members are provided with the same types of information as Cabinet, when considering an item at Committee meetings.

8. FORWARD WORK PROGRAMMES

- 8.1 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.
- 8.2 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.
- 8.3 In order to further assist Members, and members of the public, it is proposed the Committee commend to full Council that Work Programmes be accessed via a single dedicated page on the Council's website to improve ease of access and increase transparency and that this include access to a Work Programme in respect of full Council.

9. MEMBERS' ATTENDANCE – UPDATE

- 9.1 Following a review of Members' attendance at meetings by the Council's Standards Committee, the Committee made certain recommendations in respect of recording such attendance. These recommendations were referred by full Council to the Democratic Services Committee for consideration.
- 9.2 At its meeting on 5th October 2016 the Democratic Services Committee agreed that the following data should be recorded in respect of Members' attendance at meetings:
- A Members Attendance /Non-Attendance at a meeting
 - Recording whether apologies were given (or not) for non-attendance by a Member
 - Whether a Member remained for the duration of the meeting or left prior to its conclusion.
- 9.3 Prior to this resolution it should be noted that whilst Members' attendance/non-attendance at meetings was already being recorded by the Legal and Democratic Services directorate, and freely available on request, it was not published. The Democratic Services Committee resolved that systems be put in place for the implementation of the data to be published.
- 9.4 At the time of the above mentioned Democratic Services Committee meeting Officers were engaged in the very early stages of implementing the Modern.Gov committee management system. Modern.Gov provides the ideal platform through which to capture the relevant attendance information, allowing it to be published on the Council's website and accessed by anyone wanting to view that record. The roll out of Modern.Gov across the Council has now expanded and means features such as recording Member attendance are soon to be in a position to be utilised. However, in the immediate interim period it is proposed that Members attendance be published using the Council's website via the dedicated 'Councillors' webpage. It is proposed this information be updated on a monthly basis until such time as full roll out of Modern.Gov is completed. Members are asked to consider whether to commend to full Council the adoption of this approach.

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 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.

11. CONSULTATION

- 11.1 Members of both the Overview & Scrutiny Committee and the Cabinet provided positive feedback on the proposals outlined in sections 5, 7 and 8 of the report at their meetings on the 18th and 19th April 2018 respectively.
- 11.2 Members supported the proposed amendments, agreeing that the proposals in respect of Call In were a common sense approach to the overall decision making process by utilising technology.
- 11.3 Members were conscious that the proforma for capturing the Call In information was still adhered to via the corresponding email.

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.

EXTRACT FROM OVERVIEW AND SCRUTINY PROCEDURE RULES
SHOWING PROPOSED AMENDMENTS

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 5.3 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 5.3 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 acts as a signatorys to 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 act as signatories to s-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~~acted as a signatory to a call-in under paragraph 17 (call-in) above, he/she may not do so again until the period of 2 months has expired; and
- (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.
- (l) A request for call in, made in accordance with these Overview and Scrutiny Procedure Rules, can be submitted either by hand to a Democratic Services officer using the designated call-in form (a copy of which is available on request from Democratic Services) or via electronic mail (email). Any request submitted via email must be sent by one of the three signatories to the call-in and emailed to the following email address – scrutiny@rctcbc.gov.uk. For the purposes of checking compliance with these rules the email will have been deemed to be received at the time it is received into the Scrutiny mailbox. In order to be a valid call in request any request submitted via email must include all of the same information and details as is required to be completed in the designated hardcopy call-in form. Attaching a copy of the call in form to the email is acceptable. The three signatories to the call in request should keep an audit trail of their agreement to collectively submit the call in request. This will only be requested by the Proper Officer in the event of there being any dispute that a member (or members) did not consent to being a signatory to the call in request.

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.

17.1B Procedure at call-in meetings held under Rule 17.1

- (1) Declarations of interest (including whipping declarations).
- (2) Welcome by Chair outlining reason for call-in meeting as per details recorded on the notice of call-in form.
- (3) Chair to invite the three Members who have signed the notice of call-in form to present their submission(s) to the Overview and Scrutiny Committee as to why they consider the relevant decision should be referred back to the decision maker for reconsideration, having regard to the reasons set out in the 'notice of call-in form.
- (4) Chair to invite relevant Director(s) to respond.
- (5) Chair to give any Cabinet Member(s) present the opportunity to address the Committee.
- (6) Chair to invite any other Members of the Committee to speak (and with the Chair's permission any non-Committee Members present, who are eligible to attend, and wish to speak).
- (7) If necessary, the Chair to invite any relevant Director/Cabinet Member present to respond to a Member's question.
- (8) Chair to invite one of the three signatories to the call-in to make a final address to the Committee membership.
- (9) Chair to put the matter to the vote.
- (10) Legal Officer present to summarise the effect of the Committee's decision in accordance with Overview and Scrutiny Procedure Rules 17.1(e) and 17.1(f) and thereafter communicate the Committee's decision to the Secretary to the Cabinet.

17.2 **Call-In and Urgency**

- (a) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet, an individual Cabinet Member or a Key Decision made by an Officer (under the General Scheme of Delegation) is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or other public interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor and the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent should be required. Decisions taken as a matter of urgency must be reported to Council on a three-monthly cycle, together with the reasons for the decision(s) being urgent.
- (b) The operation of the provisions relating to call-in and urgency shall be monitored annually and a report submitted to Council with proposals for review if necessary.

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

14TH MAY 2018

**JOINT REPORT OF THE DIRECTOR - CABINET AND PUBLIC
RELATIONS AND DIRECTOR OF LEGAL & DEMOCRATIC SERVICES**

Background Papers

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

Freestanding Matter

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