

MEETING	DEMOCRATIC SERVICES COMMITTEE
DATE	18 MARCH 2014
SUBJECT	REVIEWING THE COUNCIL'S CONSTITUTION
AUTHOR	DILYS PHILLIPS, MONITORING OFFICER
PURPOSE	To take the Committee's views on amendments to the Constitution

Introduction

1. In reporting on revisions to the Constitution to the full Council on 2 May 2013, it was explained that work was in progress under the auspices of the association which represents Monitoring Officers in Wales, with the support of the Welsh Local Government Association and the Welsh Government, to draw up a standard constitution for the Welsh unitary authorities.
2. The motivation for this work was the fact that every council in Wales now operates executive arrangements (Leader and Cabinet), and that significant differences are appearing between the legal requirements in Wales compared with those in England as a result of Welsh Government legislation.
3. The standard Constitution is now ready and it is timely to consider adopting it. The Constitution still allows for local variations from council to council, but the hope is that it will provide better consistency in interpretation of the Constitution across Wales and that the format of the document will be easier to understand.
4. The role of reviewing and assessing the Authority's arrangements for corporate governance and making recommendations on the sufficiency and effectiveness of those arrangements rests with the Audit Committee. It is considered that the Council's Constitution and its contents are an integral part of the Council's arrangements for good corporate governance, and that the appropriate committee to consider the constitutional document was therefore the Audit Committee. The right to adopt the Constitution rests with the full Council.
5. The Audit Committee established a Working Group of seven members to undertake the task and the Working Group has met three times with another two meetings programmed. The Working Group adopted a working method which meant that they considered different sections of the Constitution in detail in every meeting, having sought the views of and consulted with relevant stakeholders (e.g. various committees, the Leader).

6. Wherever possible, the Working Group has retained the Council's current governance arrangements and few changes of significance will be recommended although the format of the Constitution is quite different to the present one. Where there are changes which depart significantly from current arrangements, members will need to be informed of these before the Council meeting on 1 May and the Working Group decided that this should be achieved through the area forums.
7. At its next meeting the Working Group will consider the sections of the Constitution which deal with the powers and operation of the full Council together with the rules on members' rights to access to information. To assist it in its deliberations, the Working Group wishes to receive the views of members of this Committee on the following matters.

Matters for consideration

8. Legislation now allows for the separation of the civic role of the Council Chair from the work of presiding at meetings of the Council by creating two posts – the Civic Chair and the Presiding Member. Both posts qualify for a senior salary but both would count towards the quota. What is the Committee's view on including this provision in the Constitution?
9. The new rules of procedure contain a clause imposing a time limit on meetings of the full Council e.g. 3 hours. Does the Committee consider this to be advantageous?
10. Legislation allows members to join committees via video link ("remote attendance") and a procedure rule is required to comply with this. Does the Committee agree that the ability of members to attend remotely should be confined to some committees only and that a failure of technology should not invalidate a vote on any matter?
11. The new rules of procedure require a motion to dismiss the Council Leader to be signed by 15% of members including members from at least two political groups, and that a majority of two thirds is required for the resolution to pass. What is the Committee's view on this?
12. The Committee's view is sought on the new arrangement whereby a Cabinet Member presents a report in front of the Council and responds to questions on it (e.g. the budget report).
13. The new rules of procedure allow questions from members of the public at meetings of the full Council, within strict conditions such as the question to

be submitted in advance, a time limit and a limit on the content of questions. Is the Committee supportive of such arrangements?

14. The new rules of procedure propose a rule allowing filming and the use of social media at meetings of the Council and its committees. What is the Committee's view on this?
15. Legislation now allows members to be absent for family reasons i.e. maternity absence or absence to care for young children. In practical terms this means that periods of family absence will not count towards the 6 month absence period which leads to a member being disqualified, that the salary remains payable and that permission is required for the member to undertake any duties during the family absence. A procedure rule will be required to deal with this situation. Does the Committee have a view on the contents of such a rule?
16. The access to information procedure rules require one forward work programme for the Cabinet, the Scrutiny Committees and the Council. Does the Committee have any comment on the value of such a forward work programme and how it should be created?
17. No changes are proposed to the procedure for decisions by individual Cabinet Members – a procedure which involves consultation with local members on the proposal producing a report or a draft decision notice, allowing a three day period for consultation with the chairs of the scrutiny committees and then publishing the decision notice on the web. Does the Committee have any comment on the suitability of this procedure?
18. Council members have a right of access to information which are in addition to the rights of the public. The arrangements include an appeal process which mean that a member who is dissatisfied with any department's refusal to release information can ask the Monitoring Officer to adjudicate on the matter and, if he/she remains dissatisfied, refer the matter to Cabinet for decision. Is the Committee of the opinion that this procedure remains suitable?

Recommendation

19. The Committee is asked to submit a view on the matters discussed in paragraphs 8 – 18 above together with any other matter it wishes to convey to the Working Group reviewing the Constitution.