

MEETING	AUDIT COMMITTEE
DATE	6 MAY, 2014
TITLE	REVIEWING THE COUNCIL'S CONSTITUTION.
PURPOSE OF THE REPORT	REPORT TO THE COMMITTEE ON THE WORK OF THE WORKING GROUP.
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1. The Working Group submitted an interim report to the Committee on 20 February which provided an explanation of its work. At the time, it was anticipated that the review of the Constitution would be submitted to the Full Council on 1 May; therefore, the Working Group was authorised to report directly to the Council.
2. Since then it has become apparent that there will not be enough time available at the Council meeting on 1 May to discuss the Constitution and therefore it will be submitted to the subsequent Full Council meeting on 17 July. This gives the Working Group time to report to the Committee on its work and obtain the Committee's approval to its recommendations.
3. The Working Group was established to undertake the detailed work of reviewing the Constitution and seven members of the Committee were appointed to it, namely Councillors Michael Sol Owen, Trefor Edwards, John Pughe Roberts, Gethin Glyn Williams, Dafydd Meurig, Dilwyn Morgan and Robert Wright.
4. The Constitution is being reviewed in an attempt to introduce a Constitution that is in a standard format for all Welsh councils and which is simpler to read than the current version. Some changes need to be made because legislation in Wales is very different by now to legislation in England and there is an opportunity to obtain a standard Constitution since each Council in Wales now operates a Leader and Cabinet system. It is expected that each Council in turn will adopt a new standard Constitution.

5. Although the Constitution is in a standard format and is consistent across all Welsh Councils, there is an opportunity to include some local variations within the document. The Working Group has attempted to adhere to the Council's existing governance arrangements wherever possible and keep the scale of the changes to a minimum. The format of the new Constitution is very different to the current format;; however, not many substantive changes are made.
6. When undertaking the task of reviewing the Constitution, the Working Group considered specific sections in detail, e.g. the section relating to the Full Council, the section relating to the Cabinet, etc., and consulted the relevant bodies regarding any changes. Therefore, for example, when discussing the section relating to Scrutiny Committees, consultation was undertaken with the Scrutiny Chairs Forum; when the section relating to the Cabinet was reviewed, the Cabinet itself was consulted, etc. In addition, an effort was made to raise awareness amongst all Council members of the review by means of presentations at the Area Forums. A summary of the main changes was sent to all members along with an invitation to submit any observations and an oral report will be given to the committee on any observations received.
7. A summary of the main changes is available in the appendix. It can be seen that it focuses on six specific sections of the Constitution, namely Section 4 - The Council; Section 5 - The Cabinet; Section 7 - The Scrutiny Committees; Section 15 - Budget and Policy Framework Procedural Rules; Section 19 - Planning Protocol and Section 21 - Protocol for Member-Officer Relations. The complete sections are also attached to the report.
8. In addition, the summary contains two additional matters which the Working Group has addressed. The first is the new legislative procedure to decide on proposals to reorganise schools. Under the former legal procedure, the Cabinet, following a statutory consultation, made a decision regarding schools reorganisation and it would then publish a public notice, and if an objection was raised to the proposal within a specific period the matter would be referred to the Welsh Government for a final decision. Under the new arrangements, the final decision will return to the local authority and the Working Group's recommendation is that the Cabinet is the appropriate body to make this decision, rather than the Full Council or Local Review Panel. This places full responsibility on the Cabinet, rather than divide the responsibility between two bodies.

9. The second matter is the role of the Employment Appeals Committee. Following a discussion at the committee, it was concluded that there was a need to introduce changes to the way that staff appeals are dealt with; but that it was important to retain the elected member's role in the process. In order to ensure that the best use is made of resources and that the most flexible and responsive arrangements are obtained, the Working Group's recommendation is that the responsibility for staff appeals is delegated to a panel which would include one member of the Employment Appeals Committee, a Corporate Director and a Human Resources Advisor. It is recommended that the committee is retained in order to take on a strategic overview role and disseminate good practice in matters relating to staff conduct. The proposed changes have been approved by the Trade Unions.

10. The Committee is asked to:

(a) approve the Working Group's recommendations regarding the changes to the Constitution in accordance with the recommendations in the appendix;

(b) recommend the new Constitution to the Full Council on 17 July.

Reviewing the Constitution – Summary of the main changes.

The main difference between the new Constitution and the present one is its style. As a result comparing clauses is impossible. Below is a summary of the main changes to the Constitution by reference to the relevant section in the new Constitution.

Section of the Constitution	The new Constitution	The present Constitution.
Section 4	The Council	
4.13.2	The duration of the Full Council meetings are restricted to 4 hours, with discretion to the Chairman to allow more time.	There is no similar provision in the present Constitution.
4.18	Questions from the public are allowed in Full Council meetings subject to conditions.	There is a similar provision in the present Constitution, but it has not been implemented.
4.20	If relevant notice has been given to the Full Council motion can be discussed on the day.	The rule that motions stand referred to committee unless the Council vote for discussion is being abolished.
4.20.4	A proposal to dismiss the Leader must be signed by 20% of the Council members.	There is no similar provision in the present Constitution.
4.23	The Leader can call a general discussion on the state of the county.	The rule enabling a specific subject to be discussed in all Council meetings to be abolished.
Section 5	The Cabinet	
5.4	Specific functions for the deputy Leader are noted.	There is no provision for the deputy Leader in the present Constitution.
5.9.5	Powers are given to statutory officers to ensure that matters are discussed by the Cabinet.	There is no similar provision in the present Constitution.

Section 7	Scrutiny Committees	
7.7	Up to 2 co-opted members can be appointed, without a vote, on all scrutiny committees.	The number of possible co-opted members has not been specified in the present Constitution.
7.18	There is a need for members who wish to include items on the Scrutiny Committee programme to give at least 7 days' notice.	The present Constitution does not indicate what length of notice is required.
7.25	A limit is placed on how many decisions from the Cabinet a committee or member has the right to call in to scrutinize within a specified period. (Call In means the formal process which prevents the Cabinet implementing a decision until the Scrutiny Committee has considered the matter).	The call in rule in the present Constitution that a matter cannot be called in unless it is against the law or procedure is abolished.
7.28	The Chairmen will decide which committee deals with a matter which falls within the terms of reference of more than one committee.	The present Constitution notes that matters within the terms of reference of more than one committee will be discussed in both committees.
7.29 and appendices 1-3	Give detailed guidelines to councillors on how to operate the "councillor call for action" which allows a member to bring a matter relating to his/her ward to the attention of the scrutiny committee if they are unable to be resolved in any other way.	There is no similar provision in the present Constitution.
Section 15	Financial Rules of Procedure and Policy Framework.	
15.1	The purpose of these rules is to explain the relationship between the Council's responsibilities in establishing a budget and adopting some plans within the policy framework (e.g. the Strategic Plan) and the Cabinet's rights to operate and prioritize within the budget and the policy framework.	These rules are not included in the present Constitution.

15.2	The process for developing a policy framework is for the Cabinet to present recommendations to the Council; if a member wishes to submit an amendment to it in the Council a day's notice must be given; if the Council refuses the Cabinet's recommendation the Leader has the right to object and refer it back to the Council for a final decision.	See above.
15.3	The process for establishing the budget is for the Cabinet to consult on the initial proposals (with the Audit Committee amongst others) and at the end of the consultation that it present the proposals to the Council for decision.	See above.
15.4 – 15.8	The remaining rules deal with the process to follow should the Cabinet's decision be in contravention of the Budget or the policy Framework.	See above.
Section 19	Planning Protocol	
(19).3.5	A clause has been added to make clear that a member with an interest does not have the right to act as a local member but can ask another member to take the role of representing the area's electors.	This was unclear in the present Constitution.
(19).6	The new clause follows the Ombudsman's guidelines on pre-determination following the change in the law.	The present Constitution is based on the law as it was.
Section 21	Member – Officer Protocol	
21.5 and 21.7	Description of the members and officers roles included.	No similar description on the present Constitution.
21.14	Explanation of the restriction on the officers' political activities.	Detailed explanation not included in the present Constitution.

Additional matters

<p>Proposals for school reorganisation</p>	<p>Give the Cabinet the responsibility for the final decision on proposals to reorganise schools. This is the decision that needs to be made at the end of the process when the objection period following the publication of a formal notice has expired.</p>	<p>This is a new requirement because of a change in legislation. Previously the final decision lay with the relevant Minister if there were objections and with the Cabinet if there were no objections.</p>
<p>Staff appeals and the role of the Employment Appeals Committee</p>	<p>Delegate the decision on staff appeals to a panel consisting of one elected member (from the Employment Appeals Committee), a Corporate Director and a Human Resources consultant.</p> <p>Change the remit of the Employment Appeals Committee to one of strategic overview of standards of conduct amongst staff and promoting good practice amongst managers.</p>	<p>At present every appeal goes before the Employment Appeals Committee of 7 elected members. The strategic role of disseminating good practice is not currently undertaken.</p>