



ANNUAL MEETING OF COUNCIL – 11TH MAY 2023

SUBJECT: REFINEMENTS TO THE COUNCILS CONSTITUTION

REPORT BY: CORPORATE DIRECTOR EDUCATION AND CORPORATE SERVICES

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1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to recommend to Council to approve a number of changes to the Constitution.

2. SUMMARY

- 2.1 The Council's Constitution sets out how the organisation operates, how decisions are made and the procedures that are followed to ensure that these decisions are efficient, transparent and accountable to local people.
- 2.2 Although the law requires some of these procedures to be in place, Council does have the ability to amend and refine elements of the Constitution in the interests of efficiency and effectiveness.
- 2.3 This report seeks to amend some of the procedures that underpin the Council's decision-making process with a view to further improving the process.

3. RECOMMENDATIONS

- 3.1 That Council agree to:

- 1) Reduce the number of Scrutiny Committees from 5 to 3 in accordance with the naming conventions set out in para 5.3 with the new arrangements coming in to being in September 2023

And, beyond the Annual General Meeting 2023, agree to:

- 2) Scrutiny Committees only receiving a single Notice of Motion per meeting
- 3) Notices of Motion requiring support from the relevant Scrutiny Committee for onwards consideration by Cabinet or Council
- 4) Limit the number of questions that can be asked verbally at Council to three.

- 5) The introduction of a protocol for Members who are asked to represent residents outside of their own elected Wards as set out in Appendix 2
- 6) Decommission the Partnerships Scrutiny Committee and allocate local delivery matters to the relevant Scrutiny Committees.
- 7) Remove the ABUHB Co-opted Member Position on the relevant Scrutiny Committee with social services responsibility.
- 8) Remove one User and Carer Co-opted position on the relevant Scrutiny Committee with social services responsibility.
- 9) Remove the Requirement for Task and Finish Groups to Operate as Formal Sub Committees
- 10) Disband the Grants to the Voluntary Sector Advisory Panel and transfer its remaining functions to the Voluntary Sector Liaison Committee sitting as the Voluntary Section Liaison Sub Committee comprising Caerphilly County Borough Councillors only
- 11) Note that a new set of terms of reference will be agreed at the next available Voluntary Sector Liaison Sub Committee to bring the new functions into effect.
- 12) Replace the Health and Safety Committee with a Health and Safety Working Group
- 13) Endorse the changes to the Scheme of Delegation set out in Appendix 3 to this report
- 14) Authorise the Head of Legal Services and Monitoring Officer to amend the Constitution accordingly

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 A number of amendments are being proposed to the processes that underpin the Council's Scrutiny and decision-making arrangements. The refinements are intended to make the Council's decision-making processes more efficient and effective.

5. THE REPORT

- 5.1 The following sections set out a number of proposed changes to the Constitution that are intended to ensure that the democratic process becomes more efficient and effective.
- 5.2 The proposals set out in sections 5.3 through 5.6 are supported by the analysis of the composition of the Council and Scrutiny Agendas since the AGM 2021 which is attached at Appendix 1.
- 5.3 **Reduce the Number of Scrutiny Committees from 5 to 3**

This proposal seeks to reduce the number of Scrutiny Committees to three and these are as follows:

- Education And Social Services Scrutiny
- Housing and Environment Scrutiny
- Corporate and Regeneration Scrutiny

It is also proposed that the Council continue the process of convening a meeting of all Scrutiny Committees meeting when considering cross-cutting matters such as Finance, Performance, Transformation or other matters of significance. This meeting would be chaired by one of the three Chairs of Scrutiny and determined by the nature of the items under consideration.

The proposal does not seek to adjust the frequency of Scrutiny Meetings, which would remain at six weekly. Committee Membership will, however, need to be adjusted upwards to 18 members.

The new Education and Social Services Scrutiny Committee would retain the existing three statutory co-opted members. In addition, there are two additional non-statutory Education co-opted members representing the Caerphilly Governors Association and the National Education Union and it is proposed that these are retained. There are also currently three non-statutory co-opted member positions on social services representing User and Carer Groups that are nominated through co-operation with GAVO. However, these positions have been vacant since May 2022 and despite two attempts to seek nominations and a current third effort underway there has been limited interest (one expression of interest). It is suggested therefore, that the user and carer positions are reduced to two places. This would give an overall membership of 18 councillors and 7 co-opted members for Education and Social Services Scrutiny Committee.

At present, there are currently 80 scrutiny committee places (available to 59 non-executive Councillors). These positions are, however, occupied by 53 members with 27 Councillors sitting on 2 scrutiny committees. The new model would enable 54 seats to be available, reducing the burden on non executive members.

The political balance for a scrutiny committee of 18 based on current arrangements would provide 12 seats for Labour, 5 for Plaid Cymru and 1 for the Independents Group.

Any reduction in the number of Scrutiny Committee meetings would provide members with the opportunity for members to have a broader view of the organisation, raise the strategic nature of the items being considered as well as providing much needed additional capacity within the Democratic Services Team.

Should Council be minded to support the recommendation to reduce the number of Scrutiny Committees from five to three, both the Labour and Plaid Cymru Groups would need to forgo one Scrutiny Chair each.

5.4 **Scrutiny Committees to Receive a Single Notice of Motion per Meeting**

There is currently no limit on the number of Notices of Motion proposed for consideration by Scrutiny Committees.

Notices of Motion, when proposed, typically include the need for one or more stakeholders to speak to the Notice with each speech running to a maximum of five minutes.

The time spent discussing Notices of Motion can adversely impact the time available to debate the main items selected for review by Scrutiny Members, i.e. those agreed by the Committee as part of their Forward Work Programme.

This proposal, specifically combined with the proposal to reduce the number of Scrutiny Committees from five to three, seeks to place a limit of one Notice of Motion being considered by each Scrutiny Committee per ordinary meeting.

It is proposed that any combined meetings of the Scrutiny Committees would not receive Notices of Motion and nor would special Scrutiny Committee meetings.

5.5 **Scrutiny Committee Support for Notices of Motion will be required for onwards consideration by Cabinet or Council**

At present, Notices of Motion go on for consideration by either Cabinet or Council whether they are supported at the relevant Scrutiny Committee or not.

When this occurs, the wider membership considers, debates and hears from typically the same contributors that made representations to the Scrutiny Committee, even when the Notice of Motion was not initially supported by the Committee.

This proposal seeks to limit Notices of Motion from proceeding to Cabinet or Council for consideration, without first having received the support of the relevant Scrutiny Committee.

5.6 **Limit the number of questions that can be asked at Full Council.**

The Rules of Procedure in relation to asking questions at full Council were updated in May 2022. Currently, at each such meeting, all 3 political groups can ask the Leader one question and one supplementary question as well as asking one question to a member of the Cabinet.

This has the potential for 9 questions to be asked in total at every meeting of Council which can significantly impact the amount of time dedicated to the main agenda items.

The proposal seeks to reduce the maximum number of questions that can be asked verbally at any full Council to one question of the Leader plus a supplementary and one question of a Cabinet Member.

Questions will be managed according to the order in which they have been received, with any subsequent questions listed within the agenda in accordance with current practice but responded to in writing following the meeting.

Members can, of course, continue to seek information and responses to questions from officers as part of the ordinary operation of the Council.

5.7 **The introduction of a protocol for members who are asked to represent residents outside of their own elected wards**

Members are democratically elected to represent a particular electoral ward. There may be occasions where a resident wishes an elected member from another ward to represent them on a particular matter.

This should of course be by exception, but does have the potential to cause conflict, particularly among elected members and, as such, a revised protocol has been developed that clarifies the roles and responsibilities in such cases and sets out the clear steps that should be followed.

The revised protocol is attached at Appendix 2.

5.8 **Decommission the Partnerships Scrutiny Committee and allocate local delivery matters to the relevant Scrutiny Committee**

In May 2016 Council agreed that Policy and Resources Scrutiny Committee (when sitting as Crime and Disorder Scrutiny Committee) would be re-designated as the Partnerships Scrutiny Committee.

This change was made to comply with the requirements of the Wellbeing of Future Generations Act (Wales) 2015, which required the Council to designate a scrutiny committee to scrutinise the work of the Caerphilly Public Services Board.

Council noted the creation of the Gwent PSB at the meeting on the 27th July 2021 and the requirement to establish Regional Scrutiny. This report explained that a Local Delivery Group will be set up to continue the delivery of the existing Caerphilly well-being plan, until 2023. Thereafter, the Local Delivery Group will be responsible for any local activity and actions under the Gwent well-being plan and any contribution to regional PSB activity.

The Partnerships Scrutiny Committee were informed of the development of a regional scrutiny committee for the Gwent Public Services Board at the meeting held on the 1st November 2022. The regional scrutiny committee is hosted by Blaenau Gwent County Borough Council and there are ten Councillors with each of the five Gwent local authorities nominating two Members, in accordance with its own political balance.

The Gwent PSB Scrutiny Committee has now been established with Members receiving training on 3rd February 2023 and the first formal meeting was held on 29th March 2023.

Therefore, Council is asked to consider whether there is a need to continue to hold meetings of the Partnerships Scrutiny Committee, when its purpose to hold the Caerphilly PSB is no longer required.

It should be noted that there will be some local activity projects undertaken by the Local Delivery Group that will require local scrutiny but the proposal suggests that this work is referred to the most relevant Scrutiny Committee.

Partnerships Scrutiny Committee did not make a recommendation on the options but noted its reduced role. Members discussed how Policy and Resources Scrutiny Committee could be kept informed (should Partnerships Scrutiny Committee be decommissioned) by receiving the minutes of the Regional PSB Scrutiny Committee as an Information item. The scrutiny committee also noted that reports on local delivery projects could be reported to each respective scrutiny committee dependent on the subject matter.

The former Crime and Disorder Scrutiny Committee was previously responsible for the scrutiny of the Caerphilly Community Safety Partnership as required under the Police and Justice Act 2006. This is currently the responsibility of Partnerships

Scrutiny Committee and if Partnerships Scrutiny Committee is de-commissioned, scrutiny of the Community Safety Partnership could become the responsibility of Environment and Sustainability Scrutiny Committee

5.9 Remove the ABUHB Co-opted Member Position on Social Services Scrutiny Committee

This position was created on the former Health Social Care and Wellbeing Scrutiny Committee which was named to align it to the former Community Strategy. In May 2017 Council agreed to retain the ABUHB co-opted position and allow for flexibility to take in account for changes on personnel from ABUHB who would sit on the committee.

Council agreed in April 2019 to change the scrutiny committee structure and agreed to re-name the Health Social Care and Wellbeing Scrutiny Committee as Social Services Scrutiny Committee.

However, although there is a nominated ABUHB representative, they have not attended for several years. Members are therefore asked if they wish to recommend to Council that this position is terminated. The ABUHB representative has been contacted to seek views and no objection has been given to the position being removed.

This suggestion was considered by Social Services Scrutiny Committee at their meeting on 22nd November 2022 and the Committee resolved by the majority present to recommend to Council AGM that the ABUHB Co-opted position on Social Services Scrutiny Committee is removed.

5.10 Remove the Requirement for Task and Finish Groups to Operate as Formal Sub Committees

Scrutiny Chairs and Vice Chairs attended a feedback session on 8th December 2022 to consider the findings of the Member scrutiny self-evaluation survey. The Member survey was carried out in March 2022.

The self-evaluation included statements on the effectiveness of task and finish reviews and the survey showed that there is some room for improvement in the way that task and finish groups are run.

The results for 2022 were compared with the previous survey in 2018 showed there were 17% who disagreed that task and finish groups incorporated a wide range of evidence and perspectives, compared to 10% who disagreed in 2018. The results were:

Statement	Agree/Disagree	Disagree/Strongly Disagree
Scrutiny inquiries (Task & Finish Group) are non- political	89% strongly agree or agreed	11% strongly disagree or disagree
Scrutiny inquiries (Task & Finish Group) are methodologically sound	94% strongly agree or agreed	6% disagreed.
Scrutiny inquiries (Task & Finish Group) incorporate a wide range of evidence and perspectives	83% strongly agree or agreed	17% disagreed

The Scrutiny Chairs and Vice Chairs discussed how to improve the range of evidence and perspectives to task and finish groups and agreed that a more informal approach would probably encourage more participation from external contributors and a recommendation should be made to Council.

Scrutiny Committees run a small number of Task and Finish groups every year, these are run as formal sub-committees staffed by members who volunteer, with some informal elements such as workshops and site visits. A review can take several months to complete and will result in a report to the Scrutiny Committee with its findings and any recommendations.

The Centre for Governance and Scrutiny (CfGS) in its publication “The Good Scrutiny Guide” describes these reviews as: “more informal approaches to scrutiny, which involve a small group of councillors being commissioned by a formal committee to go and investigate a topic in detail, before reporting back with recommendations.”

The CfGS methodology on how to run a task and finish group inquiry shows the Members of a Task and Finish Group will meet once at the beginning to establish its terms of reference and then at the end to settle the report findings and recommendations. In between there will then be a number of evidence gathering sessions using a number of methods, which may include:

- Public Meetings
- Surveys and Focus Groups
- Round table discussions involving a range of experts
- Site Visits
- Publicising reviews and inviting public comment
- Desktop research carried out by officers
- Desktop (or other) research carried out by individual councillors, who can investigate smaller elements of an issue and report back to the larger group with their findings

It is therefore suggested that Council agrees that Scrutiny Committee Task and Finish Groups change the way they are run to adopt this more informal approach going forward.

5.11 Disbanding of the Grants to the Voluntary Sector Committee

In response to calls from the voluntary sector to review the operation of grants provided from the Council under the Welsh Church Act Fund, and through the small grants scheme known as the Grants to the Voluntary Sector, a review was undertaken by the Grants to the Voluntary Sector Advisory Panel in conjunction with representatives from the sector. A number of positive changes were agreed that will be reported through the Councils Cabinet under the guidance of the Section 151 Officer. These changes will streamline processes and make it easier for the sector to make applications.

An opportunity was taken to consider the respective roles of the Grants to the Voluntary Sector Advisory Panel and the Voluntary Sector Liaison Committee, and further to consider the interrelationship between the Council and the sector. Both the Panel and Committee have been in place since local government reorganisation in 1996, and, over time, their roles have become overlapped. Both the Panel and Committee have comprised 15 cross-party elected members, however the Voluntary Sector Liaison Committee is a committee that sits with members of the voluntary sector alongside Caerphilly Council elected members. The role of the Grants to the

Voluntary Sector Panel has become limited, over the years, to receiving retrospective reports on grants agreed under delegated powers, considering a relatively few applications that fall outside criteria and, in addition, considering applications from 'exceptional' individuals for financial support.

The review has concluded that it would be an opportune time to disband the Grants to the Voluntary Sector Advisory Panel and transfer its activities to the Voluntary Sector Liaison Committee. The primary reasons are that the sector will be more closely sighted on the process of grants and awards by the Council under the two schemes. In order to ensure that the functions of the Panel were restricted to democratically elected members of Caerphilly Council it is proposed that a meeting, of elected members only (a Voluntary Sector Liaison Sub Committee) which would sit immediately after the Voluntary Sector Liaison Committee) and, would consider exceptional individuals and grants awarded outside criteria after each Voluntary Sector Liaison Committee, as required. All reports on grants awarded would be reported to the main meeting. Caerphilly County Borough Council would retain the governance over grant processes.

As such Council is asked to endorse the recommendations set out at 3.1 (10) and (11) to bring into effect the above proposals.

5.12 Create a Health and Safety Working Group to replace the Health and Safety Committee

Members of the Health and Safety Committee have indicated in recent meetings their desire to review the terms of reference for the Committee as they did not believe it is capable of fulfilling its core role in its current guise.

This proposal recommends that A Health and Safety Working Group is established in place of the existing Committee.

The Working Group will be established under Section 2(7) of the Health and Safety at Work Act 1974 and is not a statutory committee under the Local Government Act 1972.

The Group will consist of the Head of People Services, the Health & Safety Manager, relevant Health & Safety Officers, Senior Managers from each Directorate, Trade Unions and Elected Members. The terms of reference will be agreed by the Group.

5.13 Changes to Part 3 of the Constitution – Scheme of Delegation

Council is asked to note and endorse the changes highlighted in Appendix 3 of this report which identifies updated in legislation in terms of functions undertaken within the Scheme of Delegation.

5.14 **Conclusion**

The proposals set out within paragraphs 5.3-5.13 are intended to make a number of proposed amendments to the Council's Constitution and the underlying decision-making processes with a view to making them more efficient and effective.

Should Members be minded to agree the recommendations, either in full or in part, the Monitoring Officer will make the necessary amendments as soon as is practically possible.

6. ASSUMPTIONS

6.1 Not Applicable.

7. SUMMARY OF INTEGRATED IMPACT ASSESSMENT

7.1 Due to the nature of this report, there is no requirement for an IIA to be undertaken

8. FINANCIAL IMPLICATIONS

8.1 Should Council be minded to reduce the number of Scrutiny Chairs by two and not reuse the senior salaries there will be a modest saving of £17,600.

9. PERSONNEL IMPLICATIONS

9.1 None.

10. CONSULTATIONS

10.1 The views of the consultees have been incorporated into the report.

11. STATUTORY POWER

11.1 Local Government Act (2000)

Author: Richard Edmunds, Corporate Director Education and Corporate Services

Consultees: Christina Harray, Chief Executive
Dave Street, Corporate Director Social Services and Housing
Mark S Williams, Corporate Director Economy and Environment
Robert Tranter, Head of Legal Services and Monitoring Officer
Lynne Donovan, Head of People Services
Steve Harris, Head of Corporate Finance/s.151 officer
Councillor S. Morgan, Leader of Council

Appendices:

Appendix 1 Analysis of Agenda Composition since AGM 2021
Appendix 2 Member Protocol on Involvement in Other Wards
Appendix 3 Constitution Part 3

Appendix 1 – Analysis of Agenda Composition since AGM 2021

The Council's current Scrutiny Committee make up is as follows:

- Education Scrutiny Committee
- Environment and Sustainability Scrutiny Committee
- Housing and Regeneration Scrutiny Committee
- Policy and Resources Scrutiny Committee (also sits as Partnership Scrutiny Committee)
- Social Services Scrutiny Committee

The Constitution requires Scrutiny Committees to have no more than four substantive items on their Agendas.

A review of Scrutiny Committee business since 2021 AGM shows the following averages for substantive items on their respective Agendas:

Education Scrutiny	– Average 2.72 Items per Agenda
Social Services Scrutiny	– Average 3.00 Items per Agenda
Policy and Resources Scrutiny	– Average 2.41 Items per Agenda
Environment and Sustainability Scrutiny	– Average 1.84 Items per Agenda
Housing and Regeneration Scrutiny	– Average 2.33 Items per Agenda

Removing cross cutting performance and financial reporting from this analysis reduces the numbers further:

Education Scrutiny	– Average 2.54 Items per Agenda
Social Services Scrutiny	– Average 2.41 Items per Agenda
Policy and Resources Scrutiny	– Average 1.91 Items per Agenda
Environment and Sustainability Scrutiny	– Average 1.53 Items per Agenda
Housing and Regeneration Scrutiny	– Average 1.58 Items per Agenda

Notices of Motion Received by Scrutiny Committees since 2021 AGM are as follows:

Education Scrutiny	– 0 NoMs
Social Services Scrutiny	– 2 NoMs
Policy and Resources Scrutiny	– 2 NoMs
Environment and Sustainability Scrutiny	– 8 NoMs
Housing and Regeneration Scrutiny	– 0 NoMs

Questions received by Full Council During the 2022/23 Civic Year across 5 ordinary meetings:

Questions to Leader	– 2 (+1 supplementary)
Questions to Cabinet Members	– 6

Appendix 2 – Member Protocol on Involvement in Other Wards

MEMBER PROTOCOL ON INVOLVEMENT IN OTHER WARDS

1. Introduction

- 1.1 Sometimes as a Member, you might become involved in a ward other than your own. If this is at the invitation of the local Member, this shouldn't be an issue, for example, you could be approached to act by the local member because they have a conflict of interest, and there is no other member in the ward.
- 1.2 However, if the involvement in another ward is because of a direct approach by a resident, this is potentially contentious. This protocol has been written to help you. "Local Member" means the Councillor(s) who represent the ward. "Local issue" means within a ward and not wider.

2. Exceptions to the protocol

- 2.1. The following are not seen as local issues for the ward member(s) alone:-
 - a) Pursuing something as a prospective Senedd or Parliamentary candidate.
 - b) Involvement because of a role you have on other public bodies or organisations rather than as a member of Caerphilly CBC.
 - c) Acting because of your role as a Cabinet Member or as Mayor or as Deputy Mayor.
 - d) Canvassing at election times.
 - e) Pursuing a county borough-wide issue or a council-wide policy.
 - f) Where you have been contacted because of an item to be considered at a meeting of the County Council or of a Committee which you sit on.

3. Procedure to be followed:-

- 3.1 Where you have been approached by a resident about a local issue not in your ward, you should:-
 - a) Explain that you are not the local Member and refer them to the local Member(s) to deal with the issue.
 - b) If the resident still wants you to pursue the matter, you should inform the local Member(s) as a matter of courtesy of the approach that has been received and your intended involvement. If an officer will be involved with the issue, you must provide a signed authority from the resident to the relevant Director or Head of Service that they wish you to act on their behalf.
- 3.2 Particular care should be taken when commenting on issues on social media relating to other Member's wards.

4. Monitoring

- 4.1. If you do need to act outside your own ward, please notify the Monitoring Officer of the local issue so that a record is kept of all such occasions. Where Members are acting contrary to this protocol, the issue will be flagged up with their Group Leader for discussion. Repeated breaches of the protocol may lead to a complaint to the Standards Committee.

4.2 Breaches of the protocol will be reported annually to the Standards Committee as part of a report monitoring compliance.