

BRIDGEND COUNTY BOROUGH COUNCIL
REPORT TO THE DEMOCRATIC SERVICES COMMITTEE

17 OCTOBER 2019

REPORT OF THE MONITORING OFFICER

REVIEW OF THE CONSTITUTION

1. Purpose of Report

1.1 The purpose of the report is to present the findings of the Constitution Working Group which has been reviewing elements of the Constitution.

2. Connection to Corporate Improvement Plan / Other Corporate Priorities

2.1 The Constitution governs the operation of the Authority and thereby connects to the Corporate Improvement Plan and all Corporate Priorities:

- **Supporting a successful economy** - taking steps to make the county a good place to do business, for people to live, work, study and visit, and to ensure that our schools are focused on raising the skills, qualifications and ambitions of all the people in the county.
- **Helping people to be more self-reliant** – taking early steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services.
- **Smarter use of resources** – ensuring that all its resources (financial, physical, human, and technological) are used as effectively and efficiently as possible and support the development of resources throughout the community that can help deliver the Council's priorities.

3. Background.

3.1 The Monitoring Officer has received a request from an Elected Member for a review of the Constitution. In accordance with Article 15 of the Constitution, the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. Any changes will need the approval of Council based on the recommendations of the Monitoring Officer.

3.2 The review of the Constitution specifically requested the following to be considered:

- 1) The time period for questions and motions be re-instated at 5 days, now that suitable resources are in place to allow timely translation to Welsh;
- 2) That following the presentations and announcements by Cabinet members, the Leader, and Chief Executive, Members be allowed to ask non tabled questions for a period of 15 minutes;

3) That the three largest opposition groups, be given 3 minutes (taken from Development Control Committee 3-minute rule) to make announcements or presentations to Council;

4) The timing of Council meetings.

4. Current situation / proposal.

4.1 The Council's existing Constitution is largely based on the Model Welsh Constitution version issued by Welsh Government and Welsh Local Government Association, with numerous updates having since been made to the Constitution in respect of specific issues.

4.2 The Constitution Working Group has met on two occasions on 16 July 2019 and 13 September 2019 to consider a review of the Constitution. At these meetings the Working Group considered the issues highlighted at 3.2. Their conclusions are set out below.

4.3 Time period for questions and motions

4.3.1 Research has been undertaken into the time period for the submission of Questions on Notice and Motions amongst Welsh local authorities.

4.3.2 In the case of Gwynedd, Flintshire Newport, Blaenau Gwent, Torfaen, Wrexham and Conwy Councils which require a range of between 1-5 working days for the submission of Questions, none of these Councils publish the Questions in advance on the agenda. The Questions and responses to the Questions are recorded in the minutes of Council.

4.3.3 Caerphilly Council and the Isle of Anglesey Council have internal translation services and require 5 working days for the submission of Questions. Both Councils publish the text for Questions on their Council agendas. Denbighshire Council requires 2 working days for the submission of Questions and publishes the text for Questions on its Council agendas.

4.3.4 Ceredigion Council and Merthyr Tydfil each require 5 working days notice of Questions, they seldom receive Questions from Members.

4.3.5 The Council's neighbouring authorities Neath Port Talbot and the Vale of Glamorgan require 1 and 5 working days respectively for the submission of Questions, but do not publish the Questions on the Council agendas. The Questions and responses to the Questions are recorded in the minutes of Council. Rhondda Cynon Taf Council requires 8 working days notice for the submission of Questions to Council which are listed on the agenda.

4.3.6 The Working Group considered that the questions need to be published on the agendas for Council for reasons of transparency as it could lead to ambiguity if they were not published on the agenda.

4.3.7 In considering the process for questions and motions, the Working Group felt that members of the public attending Council or viewing a webcast would not have access

to the reply of the Cabinet Member and that consideration be given to the Cabinet Member reading the response at Council. The Working Group requested that replies to written Questions be sent electronically to Members on the day prior to Council to give Members sufficient time to prepare supplementary questions. As of the last meeting of Council, the Democratic Services Team now email replies to Council Questions to all Members, in order that they have the opportunity to prepare supplementary questions. Hard copies of the replies to Council Questions are placed in the public gallery for members of the public to peruse.

- 4.3.8 The Working Group, at its previous meeting, questioned whether efficiencies could be made to the Framework in future which could lend itself to the reduction in the number of working days for the submission of Council Questions. The Council operates a National Procurement Service Framework of Welsh translators which became effective from 1 November 2018 and will remain in force until 31 October 2022. There are 30 suppliers available for translation work from English to Welsh on the Framework. No further translators can be added for the duration of the Framework.
- 4.3.9 The Working Group recommended that the time period for the submission of questions and motions remain at 10 clear working days.

4.4 Announcements at Meetings of Council

- 4.4.1 Of the 22 local authorities in Wales, 10 local authorities permit their Leaders to make announcements at Council; 4 local authorities permit their Leader to make a report to Council and 7 local authorities permit Cabinet Members to make announcements. The announcements made are similar to those which are made at this Council and which are topical to those authorities. Of the 4 local authorities who permit their Leader to make a report to Council, Ceredigion and Denbighshire Council have not received reports from the Leader to Council during 2019. In Gwynedd and Wrexham Councils, the Leader and Cabinet Members present reports to Council instead of the reports being presented in the names of Chief Officers.
- 4.4.2 The Working Group in considering announcements made at Council, recommended that an amendment be made to the Constitution to re-title the Leader's Report to that of Leader's Announcements and that the current announcements made by the Cabinet be shortened.

4.5 Replies to Written Questions

- 4.5.1 A request was made by the Constitution Working Group that research be conducted on the practices of other Welsh local authorities as to whether the Leader and Cabinet Members read out replies to written Questions at Council. It has been established that replies to written questions are read out in full and are recorded in the Minutes at the following Councils:

Merthyr
Vale of Glamorgan
Denbighshire
Swansea
Monmouthshire

Torfaen
Conwy
Isle of Anglesey

4.5.2 The practice adopted by Cardiff Council is that a full copy of each Written Question together with the answers to them is attached to the minutes of the meeting.

4.5.3 The Working Group recommended that all Members of Council receive replies to written questions 24 hours prior to the meeting of Council where practicable. The reply will be recorded in the minutes of that meeting of Council.

4.6 Announcements by the 3 Largest Opposition Group Leaders

4.6.1 The Working Group considered that announcements by Opposition Group Leaders could give rise to political statements being made and did not wish to pursue announcements being made by the Leaders of the 3 largest Opposition Groups.

4.7 Timing of Council Meetings

4.7.1 The Working Group considered a proposal to amend the timing of meetings of Council, in that if a certain percentage of Members had voted for a particular start time, then that percentage of Council meetings would start at that time. The Working Group had been advised that holding later meetings particularly in the evening would need to be the subject of consultation with the Trade Unions as it would impact on the cost of keeping the building open in terms of staffing, heating and lighting and the cost of staffing evening meetings.

4.7.2 An electronic vote was conducted on the conclusion of the meeting of Council on 24 July 2019, as to whether or not there was an appetite to explore evening meetings. Of the 45 Members present, 17 Members voted in favour of holding evening meetings. The Working Group recommended that as the vote was lost, the holding of evening meetings be not explored further until the next administration.

4.8 Call-in Process

4.8.1 The Working Group requested that further research be conducted on the Call-in process in place at other local authorities in Wales, with particular regard to who can call-in the decision and who considers the call-in.

4.9 Period of Notice for the Publication of the Cabinet Decision Notice and Call-in

4.9.1 Where a decision is made by Cabinet, an individual Member of the Cabinet, a Committee of the Cabinet, or an Officer, that decision can be Called-in.

4.9.2 Research into the practices adopted by all 22 Welsh local authorities has been conducted in relation to their Call-in processes.

4.9.3 Currently Bridgend's period of notice after publication of a decision is 3 clear working days and it is during this time, a decision can be Called-In. The period of notice for the publication of the Cabinet Decision Notice and Call-in varies from authority to

authority, from between 2 clear working days to 7 clear working days. Two authorities work on the basis of a Call-in period of 2 clear working days and 6 authorities, including Bridgend operate on the basis of a Call-in period of 3 clear working days. By far the largest grouping of authorities operate on the basis of 5 clear working days which number 12 authorities. Two authorities work on the basis of 6 and 7 clear working days respectively.

4.9.4 The Working Group has recommended that the period of notice after publication of a decision be extended from the current 3 clear working days to 5 clear working days in order to have greater transparency and for backbench Members to have a greater opportunity to call-in a decision.

4.10 Time Period for Holding an Overview and Scrutiny Committee

4.10.1 The time period within this Council's Constitution for holding a meeting of an Overview and Scrutiny Committee on receipt of a valid Call-in request is within 5 clear working days of the decision to call-in. The Overview and Scrutiny Committee Chairpersons will collectively determine which Overview and Scrutiny Committee will be allocated the meeting.

4.10.2 Practices vary considerably in local authorities in Wales as to the operation of the Call-in process following a decision being Called-in. This ranges from Councils operating 5, 7, 8, 10, 15, 18 and 20 clear working days for holding an Overview and Scrutiny Committee to consider a Call-in.

4.10.3 The Working Group recommends that the time period for holding an Overview and Scrutiny Committee remains at within 5 clear working days.

4.11 Members Calling in a Decision

4.11.1 This Council's Constitution requires that three Members of an Overview and Scrutiny Committee and a Scrutiny Chair are needed for a decision to be called in.

4.11.2 Practices vary considerably amongst local authorities in Wales on the number of Members required to Call-in a decision.

4.11.3 The Working Group considered that in the event of a Chairperson of an Overview and Scrutiny Committee being a signatory to the Call-in that in order to protect that Chairperson and to avoid impartiality and the risk of pre-determination that the Chairperson not Chair the meeting to consider the Call-in. Additionally, the Working Group considered that the other Members who are signatories to the Call-in should not sit on the Committee considering the Call-in.

4.11.4 The Working Group recommends that any Member including a Chairperson who calls-in a decision is excluded from the decision making at that Committee meeting, but would be invited to give evidence to the Committee in support of the Call-in request.

5. Effect upon Policy Framework and Procedure Rules.

5.1 The Constitution governs the operation of the Authority and thereby has an effect upon the operation of the Policy Framework.

6. Equality Impact Assessment

6.1 Although there are no direct impacts, the Constitution as the key governance framework document for the Authority is critical in demonstrating commitment to the Authority's duties under the Equality Act 2010.

7. Well-being of Future Generations (Wales) Act 2015 Implications

7.1 The well-being goals identified in the Act were considered in the preparation of this report. It is considered that there is no significant or unacceptable impact upon the achievement of well-being goals/objectives as a result of this report.

8. Financial Implications.

8.1 There are no financial implications.

9. Recommendation.

9.1 To note the research and work undertaken by the Working Group

9.2 To note the recommendations of the Working Group

9.3 To determine whether to recommend to Council any changes to the Constitution.

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Background documents: Constitution of the Council