

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

MUNICIPAL YEAR 2017 - 2018

**COUNCIL AGM
17 MAY 2017**

Agenda Item No. 6
REPORT OF THE DIRECTOR OF LEGAL AND DEMOCRATIC SERVICES
PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION

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1. PURPOSE OF REPORT

To seek Council's approval of amendments to the Council's Constitution as outlined in the report.

2. RECOMMENDATIONS

It is recommended that Council:-

Allocation of Notices of Motion

- 2.1 Allocates the 20 notices of motion as required by Council Procedure Rule 10.2(a) for Municipal Year 2017-2018.

Proposed amendments to the Council Procedure Rules

- 2.2 For the reasons outlined in paragraph 5.1 of the report amends Council Procedure Rule 9.4 with the addition of a new Procedure Rule 9.4(e) as follows:

- (e) If a Member is not in attendance at a meeting where they have a question submitted by them 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.

- 2.3 For the reasons outlined in paragraph 5.3 - 5.5 of the report amends Council Procedure Rule 10 – Motions on Notice and specifically Rule 10.1 Notice – Protocol as follows (proposed addition to existing rule shown in italics):

Protocol

When Motions are submitted under this Rule 10 and signed by more than two members the first two signatures listed shall be

deemed to be those of the Proposer and Secunder. Seconders to notices of motion under this Rule 10 shall be deemed to have given their consent to their names being used. *The act by a Member of seconding a notice of motion shall not count against the Secunder's Group, or if unallocated his or her's, allocation of motions agreed in accordance with Rule 10.2(a).*

Proposed amendments to the Overview and Scrutiny Procedure Rules

- 2.4 For the reasons outlined in paragraph 6.1 of the report the Overview and Scrutiny Procedure Rules be amended to introduce new Rule 17.1B relating to the procedures for conduct of 'call-in' meetings as follows:

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.
- 2.5 For the reasons outlined in paragraph 6.3 of the report amend the final paragraph of Overview and Scrutiny Procedure Rule 17.2(a) as follows:

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.

Development Control Committee – Proposed amendments

- 2.6 For the reason outlined in paragraph 7 of the report renames the Development Control Committee to Planning and Development Committee.
- 2.7 Notes new legislation which prescribe requirements relating to the size and composition of local authority Planning Committees (and sub-committees) in Wales, specifically that such Committees are to comprise no less than 11 Members and no more than 21 Members of the Authority. In relation to this Council and multi-member wards, only one Member of the ward is eligible for appointment to the Planning Committee (or any sub-committee).
- 2.8 For the reason outlined in paragraph 7.5 of the report amend Council Procedure Rule 7 to reflect new legislative requirements as follows:

Council Procedure Rule 7. – Quorum (amended as shown in italics):

Quorum

Save for meetings of the Development Control/Planning and Development Committee the quorum of a meeting will be one quarter of the whole number of Members.

During any meeting, if the Mayor/*Chair* counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor/*Chair*. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

If a Member is on Family Absence and it would be difficult to replace that Member on a temporary basis, the Mayor can request that Member to attend a meeting if it might otherwise be inquorate.

No business is to be transacted at a meeting of the Development Control/Planning and Development Committee unless at least half of the total number of members of the Committee, rounded to the nearest whole number, are present.

- 2.9 Notes new legislative requirements which explicitly prohibit the use of substitute members in the absence of appointed members on Planning Committees and that this requirement is already incorporated into the Council Procedure Rules by existing Procedure Rule 22. – ‘Appointment of Substitute Members for Certain Committees’.

Lay Member of Audit Committee

- 2.10 For the reason outlined in paragraph 8.2 and 8.3 of the report determines whether or not to reappoint Mr. Roger Hull for a further term of office until the next County Borough Council elections or initiate an appointment process for a new lay member of the Audit Committee.

- 2.11 That the Director of Legal and Democratic Services amend the Council's Constitution to reflect the required amendments detailed in the above recommendations and make any consequential changes.

3. BACKGROUND

- 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.

4. ALLOCATION OF NOTICES OF MOTION

- 4.1 Council Procedure Rule 10.2(a) specifies that motions of which notice must be given be limited to a maximum of 20 in each municipal year and the allocation between political groups for the following municipal year shall be determined at the Annual Meeting.

- 4.2 For the last municipal year the Notices of Motion were allocated on the following basis:

Labour – 11
Plaid Cymru - 5
Independent Group – 2
Democratic Alliance Group - 1
Unallocated Member (1) - 1

- 4.3 The 20 motions need to be allocated for the Municipal Year 2017-2018.

5. PROPOSED AMENDMENTS TO THE COUNCIL PROCEDURE RULES

Member's Questions

- 5.1 At the Council meeting held on 30th November 2017 the previous Director of Legal & Democratic Services, 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.

- 5.2 Accordingly 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 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

- 5.3 During the previous Municipal Year a Member raised a query with the Director of Legal & Democratic Services in relation to the allocation of notices of motion. Their understanding was that where the proposer of a Notice of Motion is seconded by a Member from his/her own Group then only one Notice of Motion from that Group's yearly allocation is used but if the seconder of a Motion comes from another Group, then the act of seconding will count against that Member's Group allocation i.e. there would be two allocation debits.
- 5.4 The Director of Legal & Democratic Services' view is that the Procedure Rules as currently drafted make no mention of this formulation and that a single unallocated member (who is allocated a Notice of Motion) is very unlikely to ever find a seconder to any Notice of Motion he/she may wish to propose if that seconder's support goes against the seconder's Group annual allocation. Further that unallocated Member could find him/herself unable to find a seconder because all other Groups have used up their annual allocations. Whilst the role of seconder is one which is crucial to the Council's Procedure Rules (in so far as the rules of debate are concerned) the seconder's status does not extend to influencing the rules of allocation.
- 5.5 It is acknowledged that this issue is open to debate and therefore it is proposed the Council Rules of Procedure be amended to clarify that the actions of the seconder are not going to prejudice a Group's annual Notice of Motion allocation.
- 5.6 Accordingly it is recommended the following amendment be made to Council Procedure Rule 10 – Motions on Notice and specifically Rule 10.1 Notice – Protocol as follows (proposed addition to existing rule shown in italics):

Protocol

When Motions are submitted under this Rule 10 and signed by more than two members the first two signatures listed shall be deemed to be those of the Proposer and Secunder. Seconders to notices of motion under this Rule 10 shall be deemed to have given their consent to their names being used. *The act by a Member of seconding a notice of motion shall not count against the Secunder's Group, or if unallocated his or her's, allocation of motions agreed in accordance with Rule 10.2(a).*

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

6.1 There is currently no procedure contained in the Overview and Scrutiny Procedure Rules as to the conduct of Overview and Scrutiny 'call-in' meetings and therefore such procedures are agreed at the commencement of each call-in meeting.

6.2 In the interests of expediency it is therefore proposed the following procedures be adopted for all future call-in meetings and the Overview and Scrutiny Procedure Rules be amended to introduce new Rule 17.1B as follows:

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

- (11) Declarations of interest (including whipping declarations).
- (12) Welcome by Chair outlining reason for call-in meeting as per details recorded on the notice of call-in form.
- (13) 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.
- (14) Chair to invite relevant Director(s) to respond.
- (15) Chair to give any Cabinet Member(s) present the opportunity to address the Committee.
- (16) Chair to invite any other Members of the Committee to speak (and with the Chair's permission any non-Committee Members present who wish to do so).
- (17) If necessary the Chair to invite any relevant Director/Cabinet Member present to respond to a Member's question.
- (18) Chair to invite one of the three signatories to the call-in to make a final address to the Committee membership.
- (19) Chair to put the matter to the vote.
- (20) Legal Officer present to summarise the effect of the Committee's decision in accordance with Overview and Scrutiny Procedure Rules 17.1(e) and (f) and thereafter communicate decision to Secretary to the Cabinet.

6.3 In accordance with Overview and Scrutiny Procedure Rule 17.2(a) decisions taken as a matter of urgency must be reported at the next available meeting of the Council, together with the reasons for the urgency. As copies of all urgent decisions (both Cabinet and Key Officer Delegated Decisions) are now sent to all Members at the time the decision is taken (as well as being published on the Council website) and in regards to Key Officer Delegated Decisions reported to the next Cabinet meeting following the decision being made, it is proposed this rule be amended so that such decisions are reported for information every three months to Council.

- 6.4 As such it is proposed to amend the final paragraph of Overview and Scrutiny Procedure Rule 17.2(a) as follows:

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.

7. DEVELOPMENT CONTROL COMMITTEE – PROPOSED AMENDMENTS

- 7.1 As a result of a number of recent legislative changes with regards to planning matters in Wales it is proposed that the existing Development Control Committee be renamed to Planning and Development Committee and accordingly all references to Development Control Committee in the Council's Constitution be replaced with Planning and Development Committee.
- 7.2 Members are asked to note the commencement of the Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017. These regulations prescribe requirements relating to the size and composition of local authority planning committees (and sub-committees) in Wales.
- 7.3 The requirements are that local planning authority committees (and sub-committees) are to comprise no less than 11 members and no more than 21 members of the authority. In relation to this Council and multi-member wards, only one member of the ward is eligible for appointment to the planning committee (or sub-committee).
- 7.4 The Local Authorities (Standing Orders) (Wales) Regulations 2006 require the Council to incorporate into its standing orders certain provisions relating to its staff, meetings and proceedings.
- 7.5 These Regulations have recently been amended and the Council now needs to modify its own standing orders to reflect the required amendments. The new requirements are that the Council must operate its planning committee with a quorum of 50% of the membership, rounded to the nearest whole number, in order to make decisions.
- 7.6 It is therefore recommended that the following Council Procedure Rule be amended to reflect the new requirements set out in paragraph 7.5 above as follows:

Council Procedure Rule 7. – Quorum (amended as shown in italics):

Quorum

Save for meetings of the Development Control/Planning and Development Committee the quorum of a meeting will be one quarter of the whole number of Members.

During any meeting, if the Mayor/*Chair* counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor/*Chair*. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

If a Member is on Family Absence and it would be difficult to replace that Member on a temporary basis, the Mayor can request that Member to attend a meeting if it might otherwise be inquorate.

No business is to be transacted at a meeting of the Development Control/Planning and Development Committee unless at least half of the total number of members of the Committee, rounded to the nearest whole number, are present.

- 7.7 Further the Regulations now explicitly prohibit the use of substitute members in the absence of appointed members on planning committees. However this requirement is already incorporated into the Council Procedure Rules by existing Procedure Rule 22. – ‘Appointment of Substitute Members for Certain Committees’.

8. LAY MEMBER OF AUDIT COMMITTEE

- 8.1 The Local Government (Wales) Measure 2011 (the ‘Measure’) requires the Council to appoint an Audit Committee whose membership shall comprise:
- (a) at least two thirds must be members of the Council;
 - (b) at least one member who is not a member of the authority (lay member); and
 - (c) no more than one member is a member of the executive which executive member must not be the leader.
- 8.2 At its meeting on 25th July 2012 full Council ratified the decision of the Appointments Committee to appoint Mr. Roger Hull to the post of lay member of the Audit Committee following interviews of all applicants. Mr. Hull’s term of office continued until the recent County Borough Council election.
- 8.3 In order to comply with the requirements of the Measure Council will need to determine whether or not to reappoint Mr. Hull for a further term of office until the next County Borough Council elections or initiate an appointment process for a new lay member. Statutory guidance issued by Welsh Government under the Measure recommends that a lay member should not be appointed for more than two full terms of a local authority and therefore any reappointment of Mr. Hull for a further term would be consistent with that guidance.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

COUNCIL

ANNUAL GENERAL MEETING

17th MAY 2017

REPORT OF THE DIRECTOR OF LEGAL & DEMOCRATIC SERVICES

Background Papers

PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION

Freestanding Matter

Report Officer Consultees: -

Christian Hanagan – Director of Cabinet & Public Relations

Simon Gale – Service Director – Planning

Simon Humphreys – Head of Legal – Planning & Environment

