



RHONDDA CYNON TAF COUNCIL OVERVIEW AND SCRUTINY COMMITTEE

Minutes of the virtual meeting of the Overview and Scrutiny Committee held on Monday, 5 July 2021
at 5.00 pm.

County Borough Councillors - Overview and Scrutiny Committee Members in attendance:-

Councillor M Adams (Chair)

Councillor W Lewis	Councillor J Bonetto
Councillor G Caple	Councillor M Griffiths
Councillor G Hughes	Councillor P Jarman
Councillor D Owen-Jones	Councillor W Jones
Councillor S Rees	Councillor E Stephens

Officers in attendance:-

Mr C Hanagan, Service Director of Democratic Services & Communication
Mr R Waters, Service Director Frontline Services

The Law Commission for England & Wales

Mr Nicholas Paines QC,
Team Manager Henni Ouahes,
Lawyer, Public Law Team, Lisa Smith

County Borough Councillors in attendance:-

County Borough Councillor T Williams, Vice Chair, Public Service Delivery, Communities &
Prosperity Scrutiny Committee
County Borough Councillor J Edwards, Vice Chair, Children & Young People Scrutiny Committee
County Borough Councillor R Yeo, Chair Health & Wellbeing Scrutiny Committee

9 Apologies

An apology for absence was received from County Borough Councillors J Brencher, J James and A Cox. An apology was also received from Mr J Fish – Voting Parent / Governor Representative.

10 Scrutiny Research Facility

The Chair advised Members of the Committee that the scrutiny research facility is available within the Council Business Unit to support Members' scrutiny responsibilities and their roles as Elected Members. Any requests should be directed to the scrutiny inbox.

11 Declaration of Interest

In accordance with the Council's Code of Conduct, there were no declarations made pertaining to the agenda.

12 Minutes

It was **RESOLVED** to approve the minutes of the Overview & Scrutiny Committee held on the 15th June 2021 as an accurate reflection of the meeting.

13 Consultation Links

Members acknowledged the information provided through the consultation links in respect of open consultations, Welsh Government consultations and those matters being consulted upon by the local authority.

14 CABINET & SCRUTINY WORK PROGRAMMES 2021-22

With the agreement of the Chair, the agenda was considered out of sequence due a technical difficulty which would allow the external stakeholder more time to join the meeting.

The Service Director Democratic Services and Communications presented his report which sought Members' approval on the Committee's draft Work Programme for the 2021/22 Municipal Year and to identify any topics on the Cabinet Work Programme that can undergo pre-scrutiny by this Committee. Members were advised that the Cabinet Member/Scrutiny engagement sessions have been undertaken recently

The Service Director referred to the direction set out within the Local Government & Elections (Wales) Act for a more focused approach for Scrutiny which has been a consideration throughout the Cabinet Engagement sessions recently undertaken with the Scrutiny Chairs and respective Cabinet Members. A few headline points were raised by the Service Director such as undertaking pre-scrutiny of the Mutual Investment Model (MIM) in advance of the Cabinet consideration at a Special Overview & Scrutiny Committee later in July.

Following consideration of the report it was suggested that Committee develop its formal response to the Law Commission's consultation on Regulating Coal Tip Safety in Wales at the Special Overview & Scrutiny Committee on the 16th July, following initial discussions with the Law Commission for England and Wales at today's meeting. This approach would allow a further opportunity to formally consider and adopt Committee's response.

A query was raised in respect of the timing of the Section 19 statutory reports which are to be considered by the Committee in September 2021, on conclusion of the ongoing investigations that the Council is undertaking into the February Floods as the Lead Local Flood Authority (LLFA) under the Flood and Water Management Act 2010. The Chair advised that the reports would be presented to Committee upon completion and considered in sets, with the first to be reported to the Committee on the 21st September 2021.

The Service Director advised that the final reports of the 'Modernisation of

Residential Care and Day Care for Older People' would be brought before the Overview & Scrutiny Committee before the end of the calendar year.

The Chair of the Overview & Scrutiny advised that, with Committee's agreement, he would request the Director of HR to present the Annual Equalities Report to Committee and for it to be added to the forward work programme.

Following consideration of the report it was **RESOLVED** to:

1. To agree the Overview & Scrutiny forward work programme for the 2021/2022 Municipal Year subject to the following amendments/additions:
 - That the formal response to the Law Commission's consultation on Regulating Coal Tip Safety in Wales would be formulated at the Special Overview & Scrutiny Committee on the 16th July 2021 following initial discussions with representatives of the Law Commission;
 - That the Annual Equalities Report is included in the Committee's forward Work Programme for the Municipal Year 2021/22.

15 Law Commission for England & Wales - Proposals to improve the safety of coal tips in Wales

The Service Director Democratic Services and Communication presented his report which advised Committee that representatives from the Law Commission for England and Wales were present at the meeting to outline the consultation proposals on the new coal tip safety regime in Wales.

The Power Point presentation 'Regulating Coal Tip Safety in Wales' was delivered under the following headings:

- Current law and problems with the current law
- Provisional Proposals
- Sample questions for Stakeholders
- Consultation

Representatives from the Law Commission, Mr Nicholas Paines QC and Lisa Smith, Lawyer responded to a number of questions:

- Will the proposed new legislation, to replace the 1969 legislation, will be Primary Legislation that is UK wide or secondary legislation, adding to the 1969 Act;
- Does the brief include consideration of liability of coal tips or will it remain outside the brief?
- Is the current Legislation Primary UK Legislation?
- What happens with absentee Landowners?

Members were advised that Welsh Government had invited the Law Commission to undertake an independent review of coal tip safety legislation with coal tip safety falling within devolved competence. The Senedd has power to construct a new regime and pass it as Primary Legislation, it would be a matter for UK Government should they wish to copy the Welsh regime.

The Law Commission commented that it has no jurisdiction to recommend the extent to which further funding should be released by UK Government. A policy decision would need to be

taken by the Senedd as to whether the cost of tip remediation is derived from public funds or from individual landowners. The current scheme of legislation means the responsibility does fall to the landowner, however the Law Commission will recommend a broad structure enabling funding from public funds where available and giving scope to charge landowners for individual pieces of work or through an annual fee.

The Service Director, Frontline Services provided an overview of the inspection regimes which are undertaken in RCT. Currently the Tip Safety Taskforce, established by Welsh Government in partnership with the Coal Authority, Natural Resources Wales (NRW) and the Local Authorities reviews the tips across the country. The Local Authority continues to undertake risk assessments and inspect its tips, a process which is supported and validated by the Coal Authority.

The Service Director outlined the work to date following the landslip which occurred on the Llanwonno hillside at Tylorstown and through discussions with UK and Welsh Government and the local authority regarding funding of phase two and three (estimated to cost approximately £2.5 million). Up to date information is posted on the Council's website (and local Members kept informed) which includes an overview of Phase 4 and the council's future vision for this area.

Some Members raised concern regarding the lack of information on whether any tips within the local authority require immediate attention. The Service Director advised that over £1M has been spent during 2020/21 financial year on routine tip maintenance to mitigate risks and further investigations are ongoing on a number of sites which may lead to more substantive work. The Coal Authority is intending to undertake some works at Wattstown Standard (privately owned) Tip and remote monitoring measures have been installed in conjunction with the Coal Authority at the RCT owned Wattstown National Tip. Regular inspection regime continues across all tips in order to identify and manage issues. Discussions with the Local Members are taking place in advance of substantive works and information is also shared with the public in advance of substantive works.

Members raised concern that coal tips could spontaneously combust as a result of mountain fires. This matter was further discussed with reference to Craig Y Dyffryn, formerly owned by Lord Aberdare, which spontaneously combusted in 1969 and was a serious incident at the time. Members queried whether the new legislation would capture the Mining legacy. Mr Paines QC advised that spontaneous combustion is referred to within the Law Commission's consultation briefing and advised that the remit of the Local Authority should be extended to the single supervisory authority to cover spontaneous combustion as although a rare incident, can resurface at any time.

Members sought assurance that qualified engineers with expertise in the mining industry are involved in the inspection process following reference to the lack of qualified engineers in this field. The Service Director Frontline Services advised that the benefits of having a single supervisory authority with a duty to supervise the management of all disused tips would mean that skills would be sustained across a specialist body with the opportunity to develop skills through Graduate/Apprenticeship programmes and to establish the appropriate expertise and knowledge of the legislation sustained.

In conclusion, representatives from the Law Commission announced a public event on the 20th July 2021 to further provide information about the consultation which all Members were welcome to attend and details of which had already been circulated by Democratic Services.

Following discussions, it was **RESOLVED** that the draft consultation responses captured from the comments and feedback of Members would be considered and formalised at the special

meeting of the Overview & Scrutiny Committee on the 16th July 2021 at 2pm.

16 Chair's Review and Close

The Chair of the Overview & Scrutiny Committee summarised the key points raised from the earlier discussions on the Overview & Scrutiny forward work programme which Members agreed subject to the inclusion of the Equalities Report. He also added that a formal response would be formulated for the proposals to improve safety of coal tips in Wales at the subsequent meeting of the Overview & Scrutiny Committee on the 16th July 2021.

In conclusion, the Chair thanked Members for their contributions and to the Law Commission for their attendance.

This meeting closed at 6.10 pm

**CLLR M. ADAMS
CHAIR.**