

CONSTITUTION COMMITTEE
23 SEPTEMBER 2010

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on Thursday, 23 September, 2010.

PRESENT: Councillor R.J.T. Guest (Chairman)

Councillors: D. Barratt, R.C. Bithell, Q.R.H. Dodd, P. G. Heesom, R. P. Macfarlane, P.R. Pemberton, A.P. Shotton, N.R. Steele-Mortimer and A. Woolley.

SUBSTITUTE: Councillors D.I. Mackie for F. Gillmore and C.A. Thomas for L.A. Sharps.

ALSO PRESENT: Councillor Eng. K. Armstrong-Braun.

APOLOGIES: Councillors: J.B. Attridge, J.C. Cattermoul, R.G. Hampson and M.G. Wright.

IN ATTENDANCE:

Head of Legal and Democratic Services, Democracy and Governance Manager, Member Engagement Manager and Committee Officer.

6. DECLARATIONS OF INTEREST

Councillor C.A. Thomas declared a personal interest in item 5 relating to Member Champions.

7. MINUTES

The minutes of the meeting of the Committee held on 14 July, 2010, were submitted.

Accuracy

Councillor P. Heesom referred to the item 3 on Member Champions and expressed disappointment that some of the comments made by himself and Councillor J.C. Cattermoul had not been included in the minutes.

RESOLVED

That the minutes be received, approved and signed by the Chairman as a correct record.

8. LOCAL MEMBER GUIDELINES

The Chairman referred to the approval at the last meeting of the County Council, of the Notice of Motion as set out in the agenda papers and invited the

Head of Legal and Democratic Services to give a verbal report to Members on the item.

The Head of Legal and Democratic Services advised that County Council had resolved that a report be submitted to the Constitution Committee to enable it to consider issuing guidelines to address situations where an elected Member was approached by a resident or body from outside his or her ward for assistance with any problems they may have. He commented that it was the intention that if the Notice of Motion was to be passed and adopted in the constitution that Members should be asked in writing to express their individual views on the proposal. The Head of Legal and Democratic Services referred to some of the circumstances where Members may need to engage constituents outside their own wards, for example if they were prospective Assembly or Parliamentary candidates or if they had roles on other public bodies and organisations. He suggested that a letter be sent to all Members to ascertain what difficulties they envisaged concerning the proposal. Feedback would then inform a comprehensive report which would be submitted to a future meeting of the Constitution Committee to determine if the proposal was feasible and to provide guidance on any issues that might arise.

Councillor R.C. Bithell commented that he had understood that procedures already existed within the Authority to address this matter and as this was not the case he proposed a protocol should be established. He expressed the view that Members already applied the principles of the protocol out of respect for their fellow Members. He continued that if a Member was not able to address a particular matter then it would be appropriate for another Member to deal with that issue on their behalf providing proper consultation and agreement was undertaken with the Member for the Ward. In his response the Democracy and Governance Manager referred to the provision under the Flintshire Planning Code of Best Practice whereby a Member should out of courtesy inform the local member in cases where they are involved in planning matters in the local member's ward.

Councillor P. Heesom expressed the view that there was a moral and ethical duty to safeguard the well being of Local Members. He proposed that consultation took place with all Members on the proposal and that the outcome be brought back to the Constitution Committee for further consideration.

Councillor Q.R.H. Dodd said that any changes made would affect all elected Members and he did not think there was a need to alter existing arrangements. He commented that Members were elected to campaign on behalf of their constituents and should have the same rights as the general public to campaign on issues which were of concern to them. Councillor A.P. Shotton referred to the need to exercise caution where there were strategic issues in a ward as it might be that other Members wished to campaign on a specific issue.

Councillor C.A. Thomas emphasised the need for Members who were involved in matters outside their own Wards to consider the local views and provide feedback to the Member for the Ward.

The Chairman asked Members to vote on the proposal put forward by Councillor P. Heesom and seconded by Councillor R.C. Bithell, that consultation should take place with all Members on the proposal and that a report be submitted to the Constitution Committee for further consideration of the matter. When put to the vote this became the resolution of the Committee.

RESOLVED:

That the Head of Legal and Democratic Services would write to all Elected Members to ask for their views on the proposal and submit a report on the outcome to the Constitution Committee for further consideration.

9. MEMBER CHAMPIONS

The Chairman referred to the purpose of the report which was to give further consideration to the different types of Member Champions.

Councillor R.C. Bithell expressed the view that there were other ways of dealing with the matters raised in the report rather than through the role of Member Champions. In his response to the observations made by Members the Democracy and Governance Manager explained that the item had been considered by the County Council and the decision had been made to refer it back to the Constitution Committee for further consideration.

Councillor C.A. Thomas queried whether it was a statutory requirement to have a Member Biodiversity Champion. The Chairman commented that there was an understanding that it was not a statutory responsibility. The Democracy and Governance Manager advised that it was a requirement of the Welsh Local Government Association (WLGA) to have a Member Support and Development Champion and if at the end of the three year period the Authority no longer had such a Member Champion it may mean that the Charter would not be renewed.

Councillor P. Heesom proposed that the report be noted. In conclusion it was agreed by the Committee that the report be noted and the Committee's views on Member Champions be reaffirmed.

RESOLVED:

That the report be noted and the Committee's views on Member Champions be reaffirmed.

10. PROPOSED LOCAL GOVERNMENT (WALES) MEASURE

Members were informed that the purpose of the report was to notify the Committee of the proposed Local Government (Wales) Measure and of the opportunity to respond to consultation on it.

The Chairman asked Members to consider the general principles of the proposed Measure and referred to the consultation questions which were attached as an appendix to the report.

Members referred to the considerations in the report and made the following observations:

- **Parts 1 and 2 of the proposed Measure relating to Strengthening Local Democracy.**

Regarding the first bullet point, Members agreed it would be more meaningful to ask those who had not put themselves forward for election rather than the candidates.

Referring to the second bullet point, Members had no objection to the proposal.

Regarding the third bullet point, Members felt that this was not necessary and that it was up to individual Members to be accountable to the electorate.

On the fourth bullet point, Members agreed with the proposal.

Considering the fifth bullet point, Members did not think that it was necessary to appoint a democratic services committee as the work could be dealt with by existing committees or groups.

Members were against the proposal in the sixth bullet point as it tried to treat Members as employees.

- **Parts 3, 4 and 5 of the proposed Measure relating to governance arrangements, Executive arrangements and the discharge of functions by committees and councillors.**

The first and second bullet points were endorsed by Members.

With regard to the last bullet point Members were against this.

- **Part 6 of the proposed Measure containing proposals relating to overview and scrutiny.**

With regard to all of the bullet points in section 3.03 the Committee acknowledged and endorsed the views of the Coordinating Committee. Members felt that the Assembly needed to address the issue of political balance of Regional Partnership Boards and to carry out further work on scrutiny of Local Service Boards and Regional Partnership Boards.

- **Part 7 of the proposed Measure relating to communities and community councils.**

Members were in favour of most of the proposals in paragraph 3.04 of the report and in response to the fourth bullet point observed that the review should be of both community areas and community wards. Members were, however, against requesting the Boundary Commission to conduct community reviews on behalf of the Council.

- **Part 8 of the proposed Measure relating to Members payments and pensions.**

Members supported the proposal in the third bullet point but opposed the remainder as it was deemed that those matters should remain matters of local choice for individual councils.

- **Part 9 of the proposed Measure relating to various miscellaneous provisions.**

The Head of Legal and Democratic Services referred to concerns Monitoring Officers had that guidance on collaboration was proposed to be statutory guidance rather than ordinary guidance. Members shared this concern.

RESOLVED

- (a) That the provisions in the proposed Measure be noted; and
- (b) That a response to consultation on the Proposed Measure incorporates the Committee's views.

11. STRUCTURE AND TERMS OF REFERENCE FOR OVERVIEW AND SCRUTINY COMMITTEES

The Chairman informed Members that the purpose of the report was to enable the Committee to recommend to Council amendments to the Constitution to reflect amended terms of reference for the Overview and Scrutiny committees.

Members considered the Terms of Reference for the Overview and Scrutiny Committees which were attached to the report. In response to a query from Councillor A.P. Shotton regarding the title Community Profile and Partnerships the Member Engagement Manager explained that the term was used to differentiate from the other committees and had been approved by the Coordinating Committee. He confirmed that there were still six overview and scrutiny committees as well as the Coordinating Committee.

RESOLVED:

That the Committee recommends that the Council amends the Constitution to reflect the amended terms of reference in the report for the Overview and Scrutiny committees.

12. OVERVIEW AND SCRUTINY PROCEDURE RULES

The Democracy and Governance Manager introduced a report the purpose of which was to consider a recommendation to amend Rule 16 (e) of the Overview and Scrutiny procedure rules by deleting the words "Within a further 5 working days" where they first appeared in paragraph (e).

The Democracy and Governance Manager provided background information and referred to a recent situation when a Scrutiny Committee had called in a decision of the Executive and had referred it back to the Executive for further consideration. He advised that in such circumstances the Executive's original decision could not be implemented until the Executive had met to reconsider the decision and reaffirmed it. He explained that the present requirement for the Executive to urgently reconvene to reconsider their original decision went against the Executive having time to thoroughly consider the objections that were raised by the Overview and Scrutiny Committee. He continued that as a result of the concerns of the Overview and Scrutiny Committee there may be the need for further work to be undertaken before the Executive reconsidered its initial decision.

The Democracy and Governance Manager advised that at present the Constitution required the original decision to always be urgently reconsidered by the Executive which could lead to special meetings being convened as the next scheduled Executive meeting fell outside the 5 working day limit. By removing the words "Within a further 5 working days" the Executive would have flexibility as to when it reconsidered its original decision.

Members expressed concerns regarding a change that would have no timeframe. Councillor P. Heesom commented that the Executive was accountable to Members through the scrutiny process. Councillor R.C. Bithell suggested that the Executive be given a timeframe of a month and an explanation be provided if more time was required for further consideration.

During an ensuing discussion Members discussed a number of options for an appropriate timeframe.

RESOLVED

To recommend to Council that paragraph (e) of rule 16 be amended to replace the first reference to "Within a further 5 working days" to "at the earliest scheduled Executive meeting".

13. PRESS IN ATTENDANCE

There was one member of the press in attendance.

14. DURATION OF MEETING

The meeting commenced at 2.00 pm and finished at 4.00 pm.

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Chairman

SUMMARY OF DECLARATIONS MADE BY MEMBERS
IN ACCORDANCE WITH FLINTSHIRE COUNTY COUNCIL'S
CODE OF CONDUCT

CONSTITUTION COMMITTEE		DATE 23 September 2010
MEMBER	ITEM	MIN. NO. REFERS
Councillor C.A. Thomas	Member Champions	5