

Barry Davies LL.B (Hons)
Solicitor/Cyfreithiwr
County Legal and Democratic Services
Officer
Swyddog Gwasanaethau Cyfreithiol a
Democrataidd y Sir



TO: Councillor: Robin Guest (Chairman)

Councillors: Klaus Armstrong-Braun, Bernie Attridge,
David Barratt, Chris Bithell, Carolyn Cattermoul, Glenys
Diskin JP, Quentin Dodd, Veronica Gay, Alison Halford,
George Hardcastle, Patrick Heesom, Mel Higham, Dennis
Hutchinson, Peter Macfarlane, Peter Pemberton, Neville
Phillips OBE, Tony Sharps, Aaron Shotton, Nigel Steele-
Mortimer, Arnold Woolley

Your Ref /
Eich Cyf
Our Ref / Ein CO
Cyf
Date / Dyddiad 09/10/2008
Ask for /
Gofynner am
Direct Dial /
Rhif Union
Fax / Ffacs

Dear Sir / Madam,

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **CLWYD COMMITTEE ROOM, COUNTY HALL, MOLD** on **MONDAY, 21 JULY 2008** at **10:30** to consider the following items.

Yours faithfully

Assistant Director (Democratic Services)

AGENDA

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
3. **MINUTES**
To confirm as a correct record the minutes of the meeting held on 08/04/2008 (copy enclosed).
4. **PRICEWATERHOUSECOOPER'S REPORT ON THE DEVELOPMENT CONTROL FUNCTION - RECOMMENDATIONS**
Report of Chief Executive and County Legal and Democratic Services Officer enclosed
5. **REVIEW OF THE COUNCIL PROCEDURE RULES**

County Hall, Mold. CH7 6NA
Tel. 01352 702400 DX 708591 Mold 4
www.flintshire.gov.uk
Neuadd y Sir, Yr Wyddgrug. CH7 6NR
Ffôn 01352 702400 DX 708591 Mold 4
www.siryfflint.gov.uk

The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

Report of County Legal and Democratic Services Officer enclosed

6. **FORWARD WORK PROGRAMME**
Report of County Legal and Democratic Services Officer enclosed

CONSTITUTION FORUM
8TH APRIL 2008

Minutes of the meeting of the Constitution Forum of Flintshire County Council held in County Hall, Mold on Tuesday 8th April 2008.

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

Councillors: Mrs. D.S. Banks, D. Barratt, J.G. Beard, D.M.D. Clayton, D.L. Cox, G.D. Diskin, R.P. MacFarlane, N. Phillips, N.R. Steele-Mortimer, Mrs. P.J. Walkden and A. Woolley

SUBSTITUTE: Councillor R. Griffiths for L.A. Aldridge.

APOLOGIES:

Councillor M. Higham and A.P. Shotton.

IN ATTENDANCE:

Chief Executive, County Legal and Democratic Services Officer (Monitoring Officer) and Democratic Services Manager.

1. DECLARATIONS OF INTEREST

None were received.

2. MINUTES

The minutes of the meeting of the Committee held on 28th November 2007 were approved as a correct record.

3. CODE OF CORPORATE GOVERNANCE

The Forum considered the report of the Monitoring Officer, previously circulated, the purpose of which was to consider the Self-Assessment Review 2007 which was set out in Appendix 1 to the report.

The Forum was informed that at the meeting held on 25th September 2006 Members approved the Code of Corporate Governance and recommended its adoption by the County Council. Under the Code, the Chief Executive and Monitoring Officer were responsible for ensuring that it was kept up-to-date by reviewing it in October each year.

The Group of Officers responsible for producing the Code had met on two occasions to initiate their Review and the information subsequently provided by Members of the Group had been collated and fed into the Self-Assessment. The existing Code was drafted on the basis of guidance set out in the CIPFA/SOLACF documents which were fully detailed in the report and whilst it applied equally to England and Wales, guidance on its introduction

and use in Wales had only just been published. Despite this, the Review had been undertaken against the six core principles set out in the new framework.

The Forum was informed that the Self-Assessment reflected the work of officers and the decisions of the Council, the Executive and the Council's Committees during the course of the year. The Self-Assessment Review had been considered by the Council's Corporate Management Team and if it was approved by this Forum it could be sent to the Council's Internal Audit Manager for audit, as part of the Council's annual Audit Programme.

Significant work had already commenced in relation to a number of the action points set out in the Review and each of the actions would be tracked at quarterly intervals during the course of the year. If approved the Self-Assessment Review would assist in the preparation and publication of the Council's annual Governance Statement.

The Monitoring Officer took the Forum through the key points of the review for 2007 and indicated that since the appointment of the Chief Executive, a number of the key areas had been strengthened.

A Member indicated that through postal difficulties, he had only recently received his Agenda and therefore had not been able to read the report fully. The Chief Executive indicated that if the Member concerned, or any other Member, needed to comment on the report and the information contained in it, that they could do so and their comments would be taken into account. The Chief Executive confirmed that it would not delay the process and he was keen for any appropriate input to be given due consideration.

The Chairman felt that this was a good suggestion and confirmed that it was not his intention to consider this item in another meeting of the forum but agreed that it would be in order for the Member to make comments directly to the Chief Executive or the Monitoring Officer.

RESOLVED:

- (1) That the Self-Assessment Review 2007, be approved; and
- (2) That it forms the basis of the Council's Annual Governance Statement.

4. MEMBER DEVELOPMENT WORKING GROUP

The Forum considered the report of the Assistant Director (Democratic Services) which was presented by the County Legal and Democratic Services Officer, the purpose of which was to consider a recommendation from the Member Development Working Group; that when it had concluded its current work, it be reconstituted to include officer representation with the Chair of that Working Group being designated Member "Champion".

At its meeting held on 5th April 2007, a report was considered which gave details of the Welsh Local Government Assembly (WLGA) Charter for

Member Support and Development and a recommendation to constitute a Member/Officer Task and Finish Group to form new proposals on Member training and/or the Charter.

It was agreed that a Working Group be established and it was noted that the Member Development Working Group had subsequently met on a number of occasions, most recently on 19th December 2007. The Working Group had approved proposals for an annual Member Development Programme, Member Induction and a Member Mentorship Programme. It had also progressed various requirements necessary for the Council to obtain the WLGA Charter for Member Support and Development, such requirements included having a Member “Champion” and a Member Development Working Group made up of officers and Members.

At its meeting held on 19th December 2007 the Working Group agreed to recommend to the Constitution Forum, that when the Working Group had concluded its work, it be reconstituted to include officer representation with the Chair of the Working Group being a designated Member Champion. It was confirmed that this Champion would be a Member of the Council.

A report on the WLGA Charter was submitted to the Council meeting on 29th January 2008 which included the above recommendation of the Working Group and was subsequently accepted by the Council. The report detailed the current membership of the Group and it was anticipated the Working Group would have completed its work by the end of the current Council when various initiatives relating to Member Development would be in place ready for the new Council. It was noted that initiatives such as the Membership Programme, the Annual Member Development Programme and the Member Development Strategy would require ongoing consideration.

The Forum was informed that an ongoing Member Development Working Group would also recognise the importance the Council attached to Member Development as well as meeting one of the requirements of the WLGA Charter. The Forum felt that this was an appropriate means to progress this issue.

RESOLVED:

That for the new Council, a Member Development Working Group, be established comprising nine Members and four Officers with the Chair of that Working Group being designated the Member “Champion”.

5. FINAL MEETING OF THE FORUM

The Chairman indicated that this would be the final meeting of the Forum before the forthcoming County Council Elections and thanked the Membership for its support during his tenure. He also wished to record his thanks to the Monitoring Officer for all his guidance during this period. Members shared this view and wished to extend their thanks for the excellent manner in which the Chairman had undertaken his duties.

6. **DURATION OF MEETING**

The meeting commenced at 3.45 and ended at 4.15.

.....

Chairman

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

CONSTITUTION FORUM	DATE: 8TH APRIL 2008
---------------------------	--

MEMBER	ITEM	MIN. NO. REFERS
NO DECLARATIONS WERE MADE		

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: CONSTITUTION COMMITTEE

DATE : 21 JULY 2008

**REPORT BY: CHIEF EXECUTIVE AND COUNTY LEGAL AND
DEMOCRATIC SERVICES OFFICER**

**SUBJECT : PRICEWATERHOUSECOOPER'S REPORT ON THE
DEVELOPMENT CONTROL FUNCTION -
RECOMMENDATIONS**

1.00 PURPOSE OF REPORT

1.01 To consider a request from the Executive held on the 11 December, 2007 to recommend amendments to appropriate Procedure Rules.

2.00 BACKGROUND

2.01 The Council's external auditors, PriceWaterhouseCoopers (PwC) were commissioned by the Council to carry out a review of the Development Control function. Their report dated May 2007 was considered by the Environment and Regeneration Overview & Scrutiny Committee during June 2007. The Committee's responses to the recommendations in the report were subsequently reported to the Executive on the 18 September, 2007. The Executive then invited the Planning Protocol Group to consider a number of the recommendations made in the report.

2.02 One of the recommendations in the PwC report (paragraph 154) was that a protocol should be established, only allowing substitutes to attend the Planning Committee in the case of illness and when agreed with the Chair of the Planning Committee. The Environment and Regeneration Overview & Scrutiny Committee's view on this was that the use of substitutes on the Planning Committee should be tightened up and that this was the responsibility of Group Leaders. Members also made a suggestion for improving the arrangements which was that the Constitution Forum be invited to review the use of substitutes on the Planning Committee. They also considered that it is important for consistency and awareness of local and national planning policy and guidance that planning decisions are taken by "experienced" elected Members.

2.03 At its meeting on the 30 October the Planning Protocol Working Group made the following recommendations to the Executive:-

Recommended:

Date: 21/08/2008

- a. That no substitutes be permitted at Planning and Development Control meetings: and
 - b. A deadline should be imposed for the inclusion of late observations and where observations are received following the deadline which would have a significant impact on the application, the item should be deferred.
- 2.04 In paragraph 128 of the PwC report it was recommended that the Council should consider introducing a system where, should Members wish to depart from policy, the application is automatically deferred either to Council or the next meeting of the Planning Committee. In agreeing this recommendation the Environment and Regeneration Overview & Scrutiny Committee suggested the following amended wording "when Members indicate that they wish to depart from policy, the application is automatically deferred to the next meeting of the Planning Committee, except when a decision has already been taken, then any further return to Committee would be to determine conditions". In the accompanying report on this recommendation it was explained that the ability to defer proposals in this situation already exist in paragraph 11.5 of the Planning Code of Practice. It also indicated that automatic referral to a subsequent Planning Committee or full Council would be in line with an increasing number of Local Planning Authorities which adopt a "cooling off period". This would allow Members to be more fully advised of the implications of the decisions they are minded to take.
- 2.05 At its meeting the Planning Protocol Working Group made the following recommendations to the Executive:-
- Recommended:
- a. That where there is a departure from policy, the application shall be deferred.
 - b. That a determination as to whether there was likely to be departure from policy would be made by the Committee's Legal Adviser: and
 - c. That any items deferred on the basis of departure from policy would be resubmitted to the next Planning and Development Control Committee.
- 2.06 In paragraph 147 of the PwC report there was a recommendation concerning site visits suggesting an alternative approach such as restricting visits further or introducing technology such as the use of video. The Overview & Scrutiny Committee was neither for nor against this recommendation but did express the view that there should be better attendance by Members at site visits. In the Acting Director's report the comments from the Directorate is that all Planning Committee Members should be encouraged to attend site visits which should be solely for their benefit and no external representation should be allowed. The accompanying report referred to the Planning Code of Practice setting out the current guidelines which may be subject to review in the light of the Council agreeing to third party representations at Planning Committee.

- 2.07 At its meeting the Planning Protocol Working Group made the following recommendation to the Executive:-

Recommended

That the report to the Executive recommend that consultees no longer be invited to site visits.

- 2.08 That consultees be no longer invited to site visits.

3.00 CONSIDERATIONS

- 3.01 The new Code of Conduct has reinforced the prudence of adopting the recommendations concerning substitutes. The new description of personal interests in the Code includes a situation where:

"a member of the public might reasonably perceive a conflict between your role in taking a decision, upon the business, on behalf of your authority as a whole and your role in representing the interests of constituents in your ward or electoral division."

- 3.02 If such an interest is declared it would be difficult to argue that it is not also a prejudicial interest requiring the Member concerned to withdraw from the meeting, unless a dispensation has been granted by the Standards Committee. The definition of "prejudicial interest" is one where "the interest is one which a Member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest".

- 3.03 The Third Party Representatives Procedure is in the final stages of development and will be considered at a future meeting.

4.00 RECOMMENDATIONS

- 4.01 That the County Council be requested to agree:
- a. That no substitutes be permitted at Planning and Development Control meetings: and
 - b. A deadline should be imposed for the inclusion of late observations and where observations are received following the deadline which would have a significant impact on the application, the item should be deferred.
 - c. That where there is a departure from policy, the application shall be deferred.
 - d. That a determination as to whether there was likely to be departure from policy would be made by the Committee's Legal Adviser: and
 - e. That any items deferred on the basis of departure from policy would be resubmitted to the next Planning and Development Control Committee.

- f. That the appropriate Procedure Rules be amended accordingly.

5.00 FINANCIAL IMPLICATIONS

5.01 None

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

7.01 None

8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 Environment and Regeneration Overview & Scrutiny Committee
Planning Protocol Working Group

11.00 CONSULTATION UNDERTAKEN

11.01 Environment and Regeneration Overview & Scrutiny Committee
Planning Protocol Working Group

12.00 APPENDICES

12.01 None

**LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS**

None

Contact Officer: Barry Davies
Telephone: 01352 702344
E-Mail: barry_davies@flintshire.gov.uk

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5

REPORT TO: CONSTITUTION COMMITTEE

DATE : 21 JULY 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

SUBJECT : REVIEW OF THE COUNCIL PROCEDURE RULES

1.00 PURPOSE OF REPORT

1.01 To consider constitutional matters referred to the Committee since its last meeting.

2.00 MOTIONS ON NOTICE AND QUESTIONS ON MINUTES

2.01 Council Procedure Rule 11 currently deals with Notices of Motion and the full text of the Rule is set out below:

11. MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rules 12, 13.10 and 13.11, written notice of every motion, signed by the Member giving notice, must be delivered to the proper Officer not later than 10 working days before the date of the meeting. These will be entered in a book open to public inspection.

11.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

11.3 Scope

The County Council cannot alter, but it can express a view, on decisions made by the Executive and cannot require the Executive to follow its recommendations.

Motions must be about matters for which the Council has a responsibility or which affect Flintshire.

A motion which could be perceived as being defamatory in nature shall not be accepted for inclusion on the Council agenda.

Date: 16/07/2008

- 2.02 Following the problems encountered at earlier meetings of the County Council in connection with Notices of Motion, consideration has been given to revising the procedure and the criteria for allowable motions. The Chief Executive wrote to all Group Leaders on the 7 February setting out his suggestions, which are incorporated below:-

Suggested Criteria for Allowable Motions

1. the subject matter of a motion should have a direct connection with the business of the Council or the interests of the County of Flintshire;
2. the text of a motion should be precise and understandable;
3. where the motion makes references to facts, published reports or published statements it should be factually accurate and must give the source of the information upon which it relies (i.e. person/organisation and place/date/publication); the motion should not be defamatory in content; and
4. the motion should make a proposition which is capable of being debated and voted upon with or without amendment.

Suggested Process for Considering Motions

1. motions are to be submitted to the Monitoring Officer by the deadline of 10 working days before the meeting of the Council in question;
 2. the Monitoring Officer and Chief Executive will determine whether the motion is allowable, is able to be allowed with amendment by the proposer or should be refused and will advise the proposer of the motion accordingly;
 3. in the case of an irresolvable disagreement between the proposer of the motion and the Monitoring Officer and the Chief Executive the Chairman of the Council shall arbitrate;
 4. any amendment necessary to the motion submitted or any decision by the Chairman in the case of any disagreement must be agreed or made within 7 working days of the meeting of the Council in question; and
 5. where third parties are named or implicated in an allowable motion they shall be contacted and given the opportunity to provide a statement which will be presented to the council meeting following the proposing and seconding of the motion and before the debate on the motion.
- 2.03 The Chairman of the Council has also suggested that consideration should be given to the possibility of allowing Motions on Notice to be included on the agenda of all meetings of the County Council whether they be Ordinary or Special Meetings and also enabling Members to ask questions on Executive and committee minutes at both Ordinary and Special Meetings.
- 2.04 Members are requested to recommend the amendment of Rule 11 to reflect the suggestions set out in 2.02 above and to consider extending the

opportunity for Members to propose Motions on Notice for Special Meetings of the Council and also ask questions on Executive and committee minutes at both Ordinary and Special Meetings.

3.00 CALL IN PROCEDURE

3.01 It is some time since the Council reviewed the call in procedure for Overview and Scrutiny Committees. It had been intended that the criteria for call ins should be reviewed but unfortunately the meeting of the Constitution Forum scheduled to take place prior to the May elections was cancelled. The present procedure for call ins is set out in paragraph 16 of the Overview and Scrutiny Procedure Rules (Appendix A). It will be noted that the Procedure does not contain any criteria upon which the determination of call in requests can be based.

3.02 Statutory Guidance issued by the National Assembly for Wales came into force on the 31 July, 2006. Paragraph 6.3 of the Guidance states that:

"Authorities' standing orders will need to set out the general circumstances in which overview and scrutiny committees may decide either to refer a decision made but not implemented back to the executive or to ask the council to review it. The reasons for doing so might include:

- a belief, following advice from the monitoring officer, that the decision or action was contrary to the policy framework or budget, or fell outside the functions of the executive;
- a belief that the executive had not followed agreed procedures on consultation (as set out in standing orders or protocols adopted by the council) before reaching its decision; or
- a belief that the executive had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the council's actions, or other guidance adopted by the council."

3.03 Paragraph 6.4 of the Guidance states that:

"This might also include a request from an overview and scrutiny committee that the executive consider an action or decision which it has not taken, but which the committee believes it should have done according to the policy, financial and legal framework and guidance under which it operates. Again, the advice of the monitoring officer should be obtained before the committee decides on such a request."

3.04 The Guidance makes it clear "that a referral remains very much a "back stop" and should be considered only where there are genuine and serious ground for doing so". It goes on to advise that if "executive arrangements are working effectively, there should be plenty of opportunity for the views of overview and scrutiny committees and individual councillors to be taken into account in advance of decisions being made which concern their functions or

their constituents. Equally, executive members should not be taking decisions without the professional advice of officers."

- 3.05 Whilst the Committee is considering criteria for call ins, it would also be helpful to make amendments to clarify other areas of the procedure.
- 3.06 The first suggested alteration concerns paragraph 16(b). The last few words at the end of the paragraph are inaccurate and need to be amended to read; "unless called in pursuant to these Procedure Rules".
- 3.07 Another problem with the existing wording is the ambiguity over dates. Paragraph 16(b) mentions the expiry of 5 working days after the publication of the decision. The decision, however, is published in various ways on different days. The notice can be displayed one day and sent out on the next. Accordingly it is suggested that the word "first" be inserted before the word "publication" so that it becomes clear when the five working days commences, ie. from the date of the earliest publication.
- 3.08 The sub paragraph also needs to be amended so that the decision record is required to bear on it the date on which it is first published. The paragraph should also be amended to require the decision record to state the date the decision is taken.
- 3.09 Members are requested to consider incorporating the above criteria and amendments set out above.

4.00 SUBMISSION OF LATE REPORTS

- 4.01 At its meeting on the 4 March, 2008 the County Council requested the Constitution Forum to examine the procedure for the submission of late reports.
- 4.02 The provisions relating to the availability and public inspection of agendas and reports are set out in Section 100(b) of the Local Government Act 1972. Any documents required to be available for inspection by the public and press must, with exceptions, be available at least three clear days before the meeting. An item of business may not be considered at a meeting unless either:-
- a. a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public for at least three clear days before the meeting or, when the meeting is convened at shorter notice, from the time the meeting is convened: or
 - b. by reason of special circumstances, which will be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency
- 4.03 Accordingly as long as an item is set out on the agenda, the item can still be considered even though the report concerning the item is marked "to follow",

although it is best practice for the report to accompany the agenda and also be available for public inspection for three full days prior to the meeting. It is only in circumstances where the item is not included on the agenda that the Chairman of the meeting is required to satisfy himself that there were special reasons for the introduction of the late item of business with the reasons for doing so being set out in the minutes.

- 4.04 Members are requested to consider the reference from the County Council in the light of the statutory provision set out above.

5.00 LEADER'S SCHEME OF DELEGATION

- 5.01 The Constitution requires that changes to the Leader's Delegation Scheme be reported to the Constitution Committee. The following changes have been made since the last meeting.

- 5.02 In the absence of the Acting Director of Environment & Regeneration, Dave Collier, Charles Hughes, Dave Heggarty and Huw Evans have been given authority to exercise the delegated powers of the Acting Director in their individual service areas. Those delegations are exercisable in consultation with the appropriate Executive Member and where there is an overlap of accountabilities/roles, then the Chief Executive will decide who can exercise the power in question.

- 5.03 The powers given to Chief Officers in relation to the Council's Disciplinary Policy have been extended to read:-

6.10 To take action, including dismissal against an employee in accordance with the Council's Disciplinary, Grievance and Anti-Bullying and Harassment procedures or in accordance with appropriate procedures on grounds of redundancy, ill-health or some other substantial reason and under the Council's Managing Attendance (Sickness Absence) Policy.

6.11 Each Chief Officer/Director and Service Manager has the delegated power to authorise in writing any Senior Officer (or person appointed to cover the responsibilities of such Officer), to be an Authorised Officer, Investigating Officer or any other Officer that needs to be appointed under the procedures referred to in 6.10 above (where appropriate in consultation with that person's Chief Officer/Director or Head of Service) and in the case of an Authorised Officer the authority given shall extend to the taking of actions set out in 6.10 above).

- 5.04 It is also suggested that the Delegation Scheme relating to traffic orders and arrangements be amended to read:-

16. To process proposals for Temporary Traffic Orders and make the necessary Orders.

17. To process proposals for permanent Orders and make the necessary Orders where no objections are received and to decide, after consultation with local Members, not to proceed with a proposal after public advertisement.

18. In respect of Road Humps/Traffic Calming/pedestrian crossings, to process proposals and where no objections are received, to carry out all necessary work to implement the proposals and to decide after consultation with local Members not to proceed with a proposal after public advertisement.

19. In the event of objections being received Permanent Traffic Orders and Road Humps/Traffic Calming/pedestrian crossings proposals be referred to the Executive for decision.

5.05 Presently the Delegation Scheme does not apply to pedestrian crossings so each would need to be reported to the Executive even in circumstances where there are no objections.

5.06 Members are requested to note the changes to the Leader's Delegation Scheme made since the last meeting as recorded in 4.02 and 4.03 above and to approve the amendments suggested in 4.04.

6.00 BOARDS

6.01 The Leader has decided to carry on with or set up the following Boards:-

Waste Strategy
Health & Safety
Single Status
Procurement

The Boards will comprise:

1 x Independent Member
1 x Liberal Democrat
1 x Conservative
2 x Labour

Facilitator

Relevant Officers

Leader will also attend all Board meetings, diary permitting

The Terms of Reference of the Boards will be as follows:-

Terms of Reference for the Waste Strategy Review Board

1. To consider issues relating to Waste Management Strategy and make recommendations to the Executive

Terms of Reference for Health & Safety Board

1. To inform executive decisions and authorise necessary action
2. Raising our profile and development of relationships between all departments
3. Sharing of information eg. topical health & safety issues nationally and corporately
4. Forum for learning from shared experience and ideas
5. Forum for providing advice
6. Forum for establishing mutually agreed standards, policies and practices (encouraging ownership, consistency)
7. Help avoid 'duplication' and reinvention of wheels
8. Forum for monitoring safety standards
9. Forum for benchmarking

Terms of Reference for the Single Status Board

1. Provide strategic direction, guidance and support in the implementation of Single Status and associated matters.

Terms of Reference for the Procurement Board

1. Raise the profile of Procurement at a strategic level
2. Provide strategic direction, guidance and support in the implementation
3. Monitor and develop a Procurement Strategy and Action Plan (inc performance measures and targets)
4. Approve progress reports to Executive
5. Ensure that Procurement Strategy and Action Plan continue to address WAG's agenda and e-procurement taking account of local issues
6. Approve projected plans arising out of the Action Plan
7. Ensure appropriate consultation with outside agencies
8. Receive and consider progress reports from the Central Procurement Unit
9. Receive and consider reports from the Procurement Link Officers
10. Approve reports to WPI Supervisory Board

7.00 RECOMMENDATIONS

- 7.01 That Members consider the recommendations set out in Sections 2, 3 and 4, note the amendments to the Delegation Scheme in Section 5 and the constitution and terms of reference of the Boards in Section 6.

8.00 FINANCIAL IMPLICATIONS

- 8.01 None

9.00 ANTI-POVERTY IMPACT

9.01 None

10.00 ENVIRONMENTAL IMPACT

10.01 None

11.00 EQUALITIES IMPACT

11.01 None

12.00 PERSONNEL IMPLICATIONS

12.01 None

13.00 CONSULTATION REQUIRED

13.01 None

14.00 CONSULTATION UNDERTAKEN

14.01 None

15.00 APPENDICES

15.01 Appendix A - Call In Procedure

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

None

Contact Officer: Barry Davies
Telephone: 01352 702344
E-Mail: barry_davies@flintshire.gov.uk

16. Call-in

(a) When a decision is made by the Executive, an individual Member of the Executive or a Committee of the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the Assistant Director (Democratic Services).

(b) That decision record will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless an Overview and Scrutiny Committee objects to it and calls it in.

(c) During that period, the Assistant Director (Democratic Services) shall call-in a decision for Scrutiny by the Committee if so requested by the Chair, or at least four Members of the Council, and shall then notify the decision-taker of the call-in. All such requests must be in writing and signed individually by those requesting the call-in and stating the reason(s) for the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 7 working days of the decision to call-in. For the purpose of this paragraph the last working day before Christmas and the three working days in-between Christmas and the New Year shall not be counted as working days.

(d) If, having considered the decision, the Overview & Scrutiny Committee is satisfied with the explanation which it has received, it will so indicate to enable the decision to be implemented. Should the Overview & Scrutiny Committee, in receiving the explanations be 'no longer concerned', but not minded to indicate that it is 'satisfied with the explanation', it is in order for that Committee to resolve that 'the explanation be accepted but not endorsed by the Overview & Scrutiny Committee'.

(e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker that decision maker shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision. If referred to the full Council, the Council shall meet to consider the referral within 10 working days unless there is a scheduled meeting of the full Council at which the matter may be considered within the expiry of a further 5 working days.

(f) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further 5 working day period, whichever is the earlier.

(g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

(h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

EXCEPTIONS

(h) Councils have been recommended to consider exceptions to this process in order to ensure that call-in is neither abused nor causes unreasonable delay.

The Council considers that no limitations are to be placed upon the use of the procedure at the outset but rather prefers that the procedure should be monitored and the question of limitations be reconsidered in the light of experience.

CALL-IN AND URGENCY

(i) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairperson, the Vice-Chair's consent shall be

required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 6

REPORT TO: CONSTITUTION COMMITTEE

DATE : 21 JULY 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

SUBJECT : FORWARD WORK PROGRAMME

1.00 PURPOSE OF REPORT

1.01 To consider introducing a Forward Work Programme for the Constitution Committee.

2.00 BACKGROUND

2.01 The Council's Constitution is based on the original model produced by the Welsh Assembly Government in advance of the introduction of Executive arrangements in accordance with the Local Government Act 2000.

2.02 The Council at its Annual Meeting considers certain elements of the Constitution, including the Terms of Reference of Committees and the arrangements for Local Choice Functions where there is an option for decisions to be taken either by the full Council or the Executive. Other parts of the Constitution are reviewed through other means. The Whistleblowing Procedure and the Audit Procedures are reviewed less regularly by the Audit Committee. Financial Procedure Rules have recently been reviewed for the first time and a review of Contract Procedure Rules is underway.

2.03 Prior to it being constituted a Committee, the Constitution Forum has tended to discuss issues referred to it by the County Council, requests by Members or amendments necessary through legislative change or best practice. As an example, the Forum has recently introduced new Standing Orders relating to the Appointment and Dismissal of Officers and approved new Access to Information Rules, Guidance and Protocol.

2.04 The Forum also approved the Code of Corporate Governance and the Self-assessment Review of the Code for 2007/08. It will need to consider an amended Code in the light of the Self-assessment and the new guidance issued by CIPFA and SOLACE later in the year.

3.00 CONSIDERATIONS

3.01 Members may now consider it appropriate to schedule more regular meetings of the Committee to receive reports. It is suggested that the

Committee have four regular meetings during the municipal year with further ad hoc meetings when the necessity arises.

3.02 It is suggested that the Forward Work Programme could comprise the following:-

October Meeting

- First stage review of the Delegation Scheme
- Review of Contract Procedure Rules
- Review of the Code of Corporate Governance

January 2009

- Second stage review of the Delegation Scheme
- Annual Self-assessment review of the Code of Corporate Governance
- Review of Local Choice Functions

April 2009

- Review of the Protocol on Member/Officer Relations
- Review of Terms of Reference of Committees
- Review of Guidance for Members and Officers on Outside Bodies

July 2009

- Review of Guidance on Partnership Arrangements and Constitutions
- Review of the Code of Corporate Governance
- Review of Council Procedure Rules

3.02 Members may prefer more regular meetings of the Committee to enable more time to be allocated to the tentative Forward Work Programme or may wish to suggest additional items that they consider should be dealt with over the next 12 months.

4.00 RECOMMENDATIONS

4.01 That Members give consideration to the frequency of meetings of the Committee and the suggested Forward Work Programme.

5.00 FINANCIAL IMPLICATIONS

5.01 None

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

7.01 None

8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 None

11.00 CONSULTATION UNDERTAKEN

11.01 None

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

None

Contact Officer: Barry Davies
Telephone: 01352 702344
E-Mail: barry_davies@flintshire.gov.uk