

**CONSTITUTION COMMITTEE**  
**10 JANUARY 2011**

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on Monday, 10 January, 2011.

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

Councillors: J.B. Attridge, D. Barratt, R.C. Bithell, J.C. Cattermoul, Q.R.H. Dodd, C.J. Dolphin, V. Gay, F. Gillmore, A.M. Halford, R.G. Hampson, G. Hardcastle, P. G. Heesom, A.P. Shotton and M.G. Wright.

**SUBSTITUTE:** Councillor D.I. Mackie for A. Woolley.

**APOLOGIES:** Councillors R. P. Macfarlane and P.R. Pemberton.

**IN ATTENDANCE:**

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

**15. DECLARATIONS OF INTEREST**

All Members present except Councillors R.C. Bithell and A.M. Halford declared a personal interest in item 4 relating to the Practice of Naming of Schools within a Planning Report and item 6 relating to Panel for the Appointment of LEA Governors.

**16. MINUTES**

The minutes of the meeting of the Committee held on 23 September, 2010, were submitted.

**Matters arising**

In response to a query raised by Councillor D. Barratt concerning Member Champions the Democracy and Governance Manager confirmed that Council had decided there would not be a member champion for member support and development.

**RESOLVED**

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

**17. PRACTICE OF NAMING OF SCHOOLS WITHIN A PLANNING REPORT**

The Democracy and Governance Manager introduced a report dealing with the practice of naming of schools within planning reports where it was

recommended that the school received a financial benefit as part of the recommendation to grant the planning application.

The Democracy and Governance Manager provided background information and referred to the Notice of Motion which had been submitted to the Council and subsequently the Planning Protocol Working Group for consideration concerning the above practice. He drew attention to the consultation process with the Lifelong Learning Directorate on planning applications for residential development which, if granted, could increase the demand for places in one or more schools. Reference was also made to the use of Section 106 Agreements for financial contributions to be made to schools affected by such proposed developments and to the importance of transparency in determining planning applications.

During discussion Members sought clarification on the references in the report to personal and prejudicial interests. The Democracy and Governance referred to the Members' Code of Conduct which made clear that where Members had a prejudicial interest they should not be involved in considering the business in which they had a prejudicial interest unless they obtained dispensation from the Council's Standards Committee. However, regarding the determining of planning applications, he advised that recent guidance issued by the Public Services Ombudsman for Wales indicated that in such circumstances Members with a prejudicial interest should have the same rights to address the Planning Committee as members of the public had.

The Chairman asked Members to consider the recommendation set out in the report and when put to the vote this was carried. Councillor P.G. Heesom asked that it be recorded that he had abstained.

**RESOLVED:**

That there should be no change to the practice of naming schools that will financially benefit from a planning application in Committee reports.

**18. AMENDMENT TO PROTOCOL FOR THIRD PARTY REPRESENTATIONS AT PLANNING & DEVELOPMENT CONTROL COMMITTEE MEETINGS**

The Democracy and Governance Manager introduced a report to consider a recommendation from the Planning Protocol Working Group that the protocol on third party representations be amended.

The Democracy and Governance Manager provided background information and referred to the changes which had been recommended by the Planning Protocol Working Group. He advised that the current process provided that third parties address the Committee before the application was debated and if the Committee then decided to adjourn the application any third party speakers were not allowed when the item was subsequently reconsidered by the Committee. He also referred to the declaration of a prejudicial interest in an application by a member and the guidance from the Ombudsman's office which was issued subsequent to the introduction of the process and therefore not

referred to in the current process. He explained that a review of the existing procedures identified that there had been occasions when a member of the Council had registered to speak as a third party and as a result had denied a member of the public from speaking as the process allows for only one speaker in favour, one against and one from the Town or Community Council.

During discussion a number of concerns were raised by Members and the Democracy and Governance Manager provided clarification on queries regarding adjoining ward members. Councillor D. Barratt suggested that the recommendation put forward in paragraph 2.05 (b) of the report be amended so that any County Councillor who was an adjoining ward member or had a prejudicial interest would have the right to speak for or against the application for 3 minutes but would not be treated as the one speaker allowed to speak for or against the application. The Chairman asked Members to vote on the recommendation as amended by Councillor Barratt.

**RESOLVED:**

That the third party representation process be amended to reflect the following:

- (a) That if during the debate a third party speaker had made their statement and then the application was deferred they would be allowed to speak when the application was considered again;
- (b) That any County Councillor who is an adjoining ward member or has a prejudicial interest will have the right to speak for or against the application for 3 minutes but will not be treated as the one speaker allowed to speak for or against the application; and
- (c) That the Head of Legal and Democratic Services be given delegated authority to amend the code of best practice for planning procedures to reflect the above amendments agreed.

**19. PANEL FOR THE APPOINTMENT OF LEA GOVERNORS**

The Chairman invited Councillor M.J. Peers to join the meeting. Councillor Peers was a signatory of a notice of motion submitted to Council to request that a review be undertaken of the arrangements, powers and responsibilities of the Panel for the appointment of LEA Governors.

The Head of Legal and Democratic Services provided background information and advised that the power of nomination to LEA Governor vacancies was with the Member of the Ward where the school was situated. He referred to the requirement to consult with neighbouring ward members, except for Community Primary Schools, where more than 75% of pupils at the school come from within their ward. He asked Members to consider whether the current arrangements, powers and responsibilities of the Panel for the appointment of LEA governors should be revised.

Councillor Q.R.H. Dodd referred to the terms of reference for the Panel and outlined his concerns that the Panel did not have power to make decisions

or take actions and could only make recommendations to the Executive or Director of Lifelong Learning. He suggested that a meeting be held, as a matter of urgency, with the Panel and the Head of Legal and Democratic Services to discuss the issues raised. A number of further grievances were expressed by Members concerning the need for transparency and for nominees to act in fairness, without prejudice, and in accordance with statutory requirements. Councillor R.C. Bithell suggested that the matter should be referred to the Lifelong Learning Overview and Scrutiny Committee for further consideration.

The Chairman asked Members to vote on the proposal put forward by Councillor Bithell and when put to the vote this was not carried. The Chairman asked Members to vote on the proposal by Councillor Dodd that a meeting be held with the Panel and the Head of Legal and Democratic Services and his team to review the arrangements powers and responsibilities of the Panel and that a report on the outcome be brought back to the Committee. When put to the vote this became the resolution of the Committee.

**RESOLVED:**

That a meeting be held with the Panel and the Head of Legal and Democratic Services, as a matter of urgency, to review the arrangements powers and responsibilities of the Panel and that a report on the outcome be brought back to the Constitution Committee.

**20. LOCAL MEMBER GUIDELINES**

The Democracy and Governance Manager introduced a report the purpose of which was to give further consideration to introducing guidelines to address situations where an elected Member was approached for assistance on a problem outside that Member's ward.

The Democracy and Governance Manager provided background information and context and referred to the circumstances where it would be appropriate for a Member to engage in activities outside that Member's ward boundary. He also advised that there were many issues that may appear to be of only local interest but could have implications in relation to Council wide policies which all Members had a legitimate interest in. He referred to the situation where a Member was approached by a resident or body from outside his or her ward for assistance and advised that this should be acceptable subject to the Member approached following the guidelines outlined in paragraph 3.05 of the report. He suggested that if the Committee were to agree to the guidance stated in the report this could be covered by a letter being sent to all Members rather than a draft protocol or written guidance being produced.

During an ensuing discussion Councillor P. Heesom proposed that a draft protocol should be established and also referred to the question of enforcement. The Head of Legal and Democratic Services explained that no formal action could be taken to enforce any protocol but statistics could be reported to the Standards Committee annually. Members commented on the local member being informed as a matter of courtesy and suggested points to include in a draft protocol. The Chairman asked Members to consider the proposal put forward by

Councillor Heesom and when put to the vote it was agreed that a draft protocol be produced and brought back to the next meeting of the Committee for further consideration.

**RESOLVED**

That a draft protocol be produced and brought back to the next meeting of the Committee for consideration.

**21. FOOD LAW ENFORCEMENT SERVICE PLAN**

The Chairman informed Members that the purpose of the report was to consider amending the Constitution to remove from the policy framework the food law enforcement service plan. He welcomed and introduced Ms. Sylvia Portbury, Health Protection Manager, to the meeting and invited her to give an overview of the report.

The Health Protection Manager provided background information and advised that in practice the Council does not have a food law enforcement service plan but does have an annual food service plan which covered enforcement. Members were informed that the food service plan covers matters within the responsibility of the portfolio of the Executive Member for Leisure and Public Protection and it was considered that the annual food service plan should be approved by the Executive. Members were asked to consider making a recommendation to Council that the Food Law Enforcement Service Plan be deleted from the Council's policy framework and that the annual Food Service Plan be approved by the Executive. When put to the vote the recommendation was carried.

**RESOLVED:**

That the Committee recommends to the Council:-

- (a) The deletion from the Council's policy framework of the Food Law Enforcement Service Plan; and
- (b) That the annual Food Service Plan is approved by the Executive.

**22. PRESS IN ATTENDANCE**

There were no members of the press in attendance.

**23. DURATION OF MEETING**

The meeting commenced at 10.00 am and finished at 11.55 am.

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Chairman

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

<b>CONSTITUTION COMMITTEE</b>		<b>DATE 10 January 2011</b>
<b>MEMBER</b>	<b>ITEM</b>	<b>MIN. NO. REFERS</b>