

Barry Davies LL.B (Hons)
Solicitor/Cyfreithiwr
Head of Legal and Democratic Services
Pennaeth Gwasanaethau Cyfreithiol a
Democrataidd



TO: Councillor: Robin Guest (Chairman)

Councillors: Bernie Attridge, David Barratt, Chris Bithell,
Carolyn Cattermoul, Glenys Diskin JP, Quentin Dodd,
Chris Dolphin, Veronica Gay, Fred Gillmore, Alison
Halford, Ron Hampson, George Hardcastle, Patrick
Heesom, Dennis Hutchinson, Peter Macfarlane, Peter
Pemberton, Aaron Shotton, Nigel Steele-Mortimer, Arnold
Woolley, Matt Wright

Your Ref /
Eich Cyf

Our Ref / Ein Cyf

Date / Dyddiad 30/12/2010

Ask for /
Gofynner am Maureen Potter

Direct Dial /
Rhif Union 01352 702322

Fax / Ffacs

Dear Sir / Madam,

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD** on **MONDAY, 10 JANUARY 2011** at **10:00** to consider the following items.

Yours faithfully

Democracy and Governance Manager

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 the 23rd September, 2010 (copy enclosed).
4. **PRACTICE OF NAMING OF SCHOOLS WITHIN A PLANNING REPORT**
Report of Democracy and Governance Manager enclosed
5. **AMENDMENT TO PROTOCOL FOR THIRD PARTY REPRESENTATIONS AT PLANNING & DEVELOPMENT CONTROL COMMITTEE MEETINGS**
Report of Democracy and Governance Manager enclosed

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

6. **PANEL FOR THE APPOINTMENT OF LEA GOVERNORS**
Report of Head of Legal and Democratic Services enclosed
7. **LOCAL MEMBER GUIDELINES**
Report of Head of Legal and Democratic Services enclosed
8. **FOOD LAW ENFORCEMENT SERVICE PLAN**
Report of Director of Environment enclosed

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

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **10 JANUARY 2011**
REPORT BY: **DEMOCRACY AND GOVERNANCE MANAGER**
SUBJECT : **PRACTICE OF NAMING OF SCHOOLS WITHIN A PLANNING REPORT**

1.00 PURPOSE OF REPORT

- 1.01 To consider the practice of the naming of schools within planning reports where it is recommended the school receives a financial benefit as part of the recommendation to grant the planning application.

2.00 BACKGROUND

- 2.01 The following Notice of Motion was submitted to County Council by Councillor C. A. Ellis, H. Brown, G. Hardcastle, M.G. Wright and W.O. Thomas :-

"That the practice of naming schools within the planning agenda that will financially benefit from a planning application be reviewed.

Currently schools are named thus prohibiting the relevant school governors, who may be on the Planning Committee or third party speakers (including community councils), from speaking. We feel this is undermining the democratic process and needs reviewing urgently."

At the Council meeting on the 11th November it was resolved that the Notice of Motion be submitted to the next meeting of the Planning Protocol Working Group for its consideration.

- 2.02 At the meeting of the Planning Protocol Working Group on the 19th of November consideration was given to the Notice of Motion and it was resolved that it be referred to the Constitution Committee meeting on the 10th of January 2011 for consideration with a request that the matter then be referred back to the next meeting of the Planning Protocol Working Group scheduled for the 28th of January.
- 2.03 In processing a Planning Application for residential development the Planning Department consult with the Lifelong Learning Directorate where the application, if granted, could increase the demand for places on one or more schools. Recently the Lifelong Learning Directorate have responded to such consultation by sometimes seeking a financial contribution to meet the extra demand created by the development on the local school or schools in the event of the application being granted.

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- 2.04 Planning Authorities may legitimately seek such financial contributions under Section 106 of the Town & Country Planning Act wherever this is in accordance with the guidance contained in circular 13/97. Where the Head of Planning is recommending the grant of planning permission subject to a Section 106 obligation to make a financial contribution to the school or schools affected by the proposed development the report identifies the relevant schools.
- 2.05 If the recommendation is agreed by the Planning and Development Control Committee the subsequent legal document under Section 106 will also identify the school or schools affected by the development and to benefit from the financial payment. Circular 13/97 would not be satisfied unless there was this link between the development and the specific school or schools affected by the proposed development.
- 2.06 The Members' Code of Conduct includes provisions relating to personal and prejudicial interests of Members. It is for each individual member to decide in each case whether or not they have a personal or prejudicial interest.
- 2.07 Normally being a Governor of a school affected by a committee report would amount to a personal interest rather than a prejudicial interest. This is because in paragraph 12 (2) of the Members Code there is a provision which normally exempts the role of school governor from being a prejudicial interest. However paragraph 12 (3) of the Members Code makes clear that this exemption does not apply in relation to the determination of any approval, consent, licence, permission or registration. Therefore the exemption does not apply in relation to planning applications and a member who is a school governor may well decide that they have a prejudicial interest not just a personal interest.
- 2.08 Unless a member obtains a dispensation from the Council's Standards Committee where a member has a prejudicial interest the Members Code of Conduct makes clear that they should not be involved in considering the business in which they have a prejudicial interest. The recently issued guidance from the Public Services Ombudsman for Wales does however indicate that in such circumstances a member with a prejudicial interest should have the same rights to address the planning committee as members of the public have.

3.00 CONSIDERATIONS

- 3.01 When determining planning applications transparency is important. Where planning applications are being reported to the Planning & Development Control Committee it is also important that the report contains all relevant information. Circular 13/97 requires that in order to obtain a section 106 financial contribution for a school that school must be directly affected by the proposed development. For all of these reasons it is important that reports to

Planning & Development Control Committee continue to name the schools that are recommended to receive financial benefit from a planning application.

- 3.02 Even if in future Committee reports did not name the schools this information would be publically available from the Lifelong Learning Directorate's response to consultation which would be a background paper to the Committee report. If the school to benefit from the financial contribution is not named in the planning report this can lead to difficulties in subsequently completing the section 106 legal obligation where the Committee decide permission should be granted subject to such an obligation. Even if the school is not identified in the report, the school governors well may well be aware that the proposed development will have an affect on the school and therefore have a prejudicial interest anyway.
- 3.03 It is not the naming of the relevant school in the Committee report that prevents members of the Committee who are school governors from voting on the application. This is a consequence of the member abiding by the Members' Code of Conduct. It is particularly important when determining planning applications that Members do so in the public interest rather than the decision appearing to be tainted by any prejudicial interest. As a result of the recent guidance from the Public Services Ombudsman, such members are not prevented from speaking and may address the Committee in the same way as members of the public but must leave the room once they have spoken.

4.00 RECOMMENDATIONS

- 4.01 Having reviewed the practice of naming schools that will financially benefit from a planning application in Committee reports it is recommended that there be no change to this practice.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 With the Planning Protocol Working Group.

11.00 CONSULTATION UNDERTAKEN

11.01 Consider that the Planning Protocol Working Group meeting on the 19 November 2010.

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

Notice of Motion that went to the Council meeting on the 11 November 2010

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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5

REPORT TO: CONSTITUTION COMMITTEE
DATE : 10 JANUARY 2011
REPORT BY: DEMOCRACY AND GOVERNANCE MANAGER
SUBJECT : AMENDMENT TO PROTOCOL FOR THIRD PARTY REPRESENTATIONS AT PLANNING & DEVELOPMENT CONTROL COMMITTEE MEETINGS

1.00 PURPOSE OF REPORT

1.01 To consider a recommendation from the Planning Protocol Working Group meeting of the 19 November 2010 that the protocol on third party representations be amended.

2.00 BACKGROUND

2.01 Pursuant to a recommendation from the Planning Protocol Working Group the Constitution Committee at its meeting on the 28 July 2009 agreed a protocol on third party representations at Planning Committee meetings and the Head of Legal & Democratic Services was given delegated authority to amend the code of best practice for planning procedures appropriately.

2.02 The report to the Constitution Committee attached the report that had been considered by the Planning Protocol Working Group and that report made clear that if approved the third party process would be trialed and thereafter reviewed to consider whether or not there would be benefit in making any changes.

2.03 The new process allowing third party representations at Planning & Development Control Committee meetings was introduced in January 2010. At its meeting on the 19 November 2010 the Planning Protocol Working Group received a report reviewing the workings of the third party representations process.

2.04 The review was informed by responses to questionnaires completed by those who had made use of the third party representations process. The questionnaire responses were generally favourable and a detailed analysis was reported to the Planning Protocol Working Group.

2.05 Following consideration of the report the Working Group decided that the following changes should be recommended:-

- a) An amendment to reflect that if during the debate a third party speaker had made their statement and then the application was

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deferred they would be allowed to speak when the application is considered again.

- b) An amendment that any County Councillor who is not the local member can speak at the discretion of the Chair but will not be treated as the one speaker allowed to speak for or against the application.

3.00 CONSIDERATIONS

- 3.01 The current process provides that the third parties address the Committee before the application is debated and if the Committee then decides to adjourn the application any third party speakers are not allowed when the item is subsequently reconsidered by the Committee. This is clearly frustrating for the third parties who have often taken time off to attend Committee and then have not had the opportunity to address the Committee at the meeting when the substantive decision is made. In his report to the Planning Protocol Working Group meeting on the 19 November 2010 the Head of Planning recommended that any third party speaker should be given the opportunity to speak again at the subsequent Committee meeting and this was agreed by the Working Group.
- 3.02 Where a member has declared a prejudicial interest in an application, guidance from the Ombudsman's office says that the member can address the Committee where the public have such a right to address it. The guidance goes on to indicate that the member must however, leave the room prior to the subsequent debate on the application. This guidance was issued by the Ombudsman subsequent to the introduction of the process and therefore is not referred to in the current process.
- 3.03 The review of the existing process identified that there have been occasions when a member of the Council has registered to speak as a third party and as a result denied a member of the public from speaking as the process has a limit of one speaker in favour of the application, one against and a speaker from the Town or Community Council. This runs counter to the intention behind the process which was to enable the public and Town or Community Council representatives to address the Committee.
- 3.04 In order to deal with the issues identified in paragraphs 3.02 and 3.03 above the Planning Protocol Working Group therefore recommended that the process be amended to allow for a County Councillor to speak at the discretion of the Chair but that any such Councillor will not be treated as the one speaker allowed from the public.
- 3.05 If the Committee agree to the recommended changes from the Planning Protocol Working Group the code of best practice for planning procedures will need amending to reflect such changes to the process.

4.00 RECOMMENDATIONS

4.01 To amend the third party representation process in accordance with the recommendations of the Planning Protocol Working Group.

4.02 That the Head of Legal & Democratic Services be given delegated authority to amend the code of best practice for planning procedures to reflect any amendments agreed.

5.00 FINANCIAL IMPLICATIONS

5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 None as a result of this report.

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

The report of the Head of Planning to the Planning Protocol Working Group meeting of the 19 November 2010.

The action sheet from the Planning Protocol Working Group meeting of the 19 November 2010.

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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 6

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **10 JANUARY 2011**
REPORT BY: **HEAD OF LEGAL AND DEMOCRATIC SERVICES**
SUBJECT : **PANEL FOR THE APPOINTMENT OF LEA GOVERNORS**

1.00 PURPOSE OF REPORT

1.01 To review the arrangements, powers and responsibilities of the Panel for the appointment of LEA Governors.

2.00 BACKGROUND

2.01 At its meeting on the 19 October, 2010 the County Council considered a notice of motion submitted by Councillors Q R Dodd, P G Heesom, J B Attridge and M J Peers and resolved to request this Committee to undertake a review of the arrangements, powers and responsibilities of the Panel.

2.02 The Panel was set up by the Executive at its meeting on the 18 November, 2008 comprising 5 Members nominated by Group Leaders. The terms of reference given to the Panel were:

- to ratify nominations to vacancies for LEA Governors.
- to consider disputes concerning nominations, and
- to consider requests to remove LEA Governors in accordance with paragraph 27 of the Government of Maintained Schools (Wales) Regulations 2005.

2.03 The Panel was created due to a desire for transparency in decision making and to assist in the determination of disputed nominations and make recommendations in circumstances where a request for the removal of an LEA Governor is received. The Panel does not have power to make decisions and can only make recommendations to the Executive or Director of Lifelong Learning.

2.04 In all schools, the power of nomination to LEA Governor vacancies is with the Member of the Ward where the school is situated as confirmed by County Council policy (November 2008).

2.05 The Ward Member is asked to consider the following attributes when choosing his/her nomination:-

- nominee has a commitment to raising standards in the school to ensure the best possible education for its pupils;

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- nominee understands accountability for the use of funding to ensure value for money;

- nominee has an attitude of fairness and an ability to act without prejudice and in accordance with statutory requirements;

- nominees have a commitment to attend regularly and to update their skills and knowledge on all aspects relating to their role.

2.06 For Church Aided, Welsh Medium and Secondary Schools consultation by the Ward Member with neighbouring ward members is carried out prior to ratification by the Panel. The LEA provides administrative support for this consultation process.

2.07 For Community Primary Schools the requirement to consult neighbouring ward members is removed where more than 75% of pupils at the school come from within their ward.

3.00 CONSIDERATIONS

3.01 Consideration has been given in the past to amending the nomination process to reflect representation on Governing Bodies of Secondary Schools from those wards where the greater proportion of children come rather than just the ward in which the school is located. However due to the complexity that this would create in relation to some secondary schools, the matter has not been considered formally by the Executive. If Members consider that the process needs revision then it is recommended that the Director of Lifelong Learning be requested to produce suggestions for consideration at a future meeting.

3.02 The appointment of LEA Governors is an Executive function and any proposals to review the current procedure would need the endorsement of the Executive.

4.00 RECOMMENDATIONS

4.01 To consider whether the arrangements, powers and responsibilities of the Panel for the appointment of LEA Governors should be revised, and if so, request the Director of Lifelong Learning to submit a report incorporating suggestions for further consideration.

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 Executive

11.00 CONSULTATION UNDERTAKEN

11.01 None

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

As referred to in the report.

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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 7

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **10 JANUARY 2011**
REPORT BY: **HEAD OF LEGAL AND DEMOCRATIC SERVICES**
SUBJECT : **LOCAL MEMBER GUIDELINES**

1.00 PURPOSE OF REPORT

- 1.01 To give further consideration to introducing guidelines to address situations where the elected Member is approached for assistance on a problem outside that Member's ward.

2.00 BACKGROUND

- 2.01 At the County Council meeting on the 7 September 2010 consideration was given to the following Notice of Motion submitted by Councillor D McFarlane:-

"That the Monitoring Officer be requested to submit a report to the Constitution Committee to enable it to consider issuing guidelines to address situations where the elected Member of this Council is approached by a resident or body from outside his or her ward for assistance with any problems they may have. Such guidelines might include a provision (except in situations identified) for the Member who has been approached to:-

- Inform the relevant Member or Members of that ward of the approach;
- Allow that Member or Members to take up that approach as it is a responsibility relating to their ward;
- If those ward Member or Members cannot or will not take on the issue then the approached Member must inform them, in writing, that he or she is dealing with the issue on the resident's or body's behalf".

- 2.02 Following a debate on the Notice of Motion the County Council resolved that the report be submitted to the Constitution Committee to enable it to consider issuing guidelines to address situations where an elected Member of this Council is approached by a resident or body from outside his or her ward for assistance with any problems they may have.

- 2.03 At the meeting of the Constitution Committee on the 23 September 2010 the Head of Legal & Democratic Services gave a verbal report on the matter. In doing so he referred to circumstances where Members may need to engage constituents outside their own wards, for example, if they are a prospective Assembly or Parliamentary candidate or if they had roles on other public bodies or organisations. He suggested that a letter be sent to all Members to

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ascertain their observations and feedback from such a letter would then inform a report to a future meeting of the Constitution Committee. Following discussion this was agreed by the Constitution Committee.

- 2.04 By letter dated the 21 October 2010 the Head of Legal & Democratic Services wrote to all Members pursuant to the decision of the Constitution Committee. A copy of that letter is attached as Appendix 1 to this report. Two responses were received to the letter from Councillors T Howorth and R Jones, both making the point that if the Boundary Commission was to change ward boundaries it should be legitimate to canvass potential voters in the new enlarged ward.

3.00 CONSIDERATIONS

- 3.01 At the Constitution Committee meeting on the 23 September 2010 and in the letter of the 21 October 2010 the following circumstances were identified where it would be appropriate for a Member to engage in activities outside that Member's ward boundary:-

- Where the Member was a prospective Assembly or Parliamentary candidate;
- Where the Member had roles on other public bodies or organisations;
- To fulfil a Civic or Executive role of that Member;
- Because of a legitimate County wide issue;
- Where requested for assistance by a constituent who is unable or does not wish to approach the local ward Member;
- Because of the existence of a conflict of interest or a prejudicial interest.

- 3.02 In response to the letter of the 21 October 2010 only two Members responded and both identified:-

- Where ward boundaries are to change canvassing potential voters in the new ward.

The Notice of Motion is not aimed at restricting political canvassing at election times.

- 3.03 It can be seen from the above that there are a wide range of circumstance in which it is appropriate for a Member to engage in activities outside of that Member's ward boundary. Preparing a comprehensive list of such situations and then enforcing it would both be difficult in practice. It also has to be recognised that many issues that at first appear to be of only local interest can have implications in relation to Council wide policies which all Members have a legitimate interest in.

- 3.04 The Notice of Motion is considering a situation where an elected Member is approached by a resident or body from outside his or her ward seeking

assistance with any problems they may have. There may be a range of reasons why the approach has been made to a Member who is not the local Member. These include not being aware of who the local Member is or preferring to deal with a Member that they know.

3.05 It is suggested that if a resident or body has chosen to approach an individual Member that should be acceptable subject to:-

- a) The Member approached explaining who the local Member or Members are, and
- b) The resident or body not wanting to approach a local Member, and
- c) The Member approached informing the local Member(s) as a matter of courtesy.

3.06 If the Committee were to agree to the suggestion in paragraph 3.05 this could be covered by a letter being sent to all Members rather than the need to draft a protocol or written guidance.

4.00 RECOMMENDATIONS

4.01 That a letter be sent to all Members as suggested in paragraph 3.05 of the report.

5.00 FINANCIAL IMPLICATIONS

5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 All Members have been consulted by letter dated 21 October 2010.

11.00 CONSULTATION UNDERTAKEN

11.01 All Members have been consulted by letter dated 21 October 2010.

12.00 APPENDICES

12.01 Appendix 1 - Letter sent to all Members dated 21 October 2010.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

Notice of Motion from Councillor D McFarlane
Draft minutes of Constitution Committee meeting of 23 September 2010

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

APPENDIX 1

To: All Members of the Council

BCD/AEH

21 October 2010

Barry Davies

01352 702344

01352 702494

E Mail : barry.davies@flintshire.gov.uk

Dear Councillor

Members' Involvement in Activities Outside their Own Ward Boundaries

At its last meeting the Constitution Committee considered the following Notice of Motion referred to it by the County Council at its meeting on the 23 September, 2010.

“That the Monitoring Officer be requested to submit a report to the Constitution Committee to enable it to consider issuing guidelines to address situations where an elected Member of this Council is approached by a resident or body from outside his or her ward for assistance with any problems they may have. Such guidelines might include a provision (except in situations identified) for the Member who has been approached to:-

- Inform the relevant Member or Members of that ward of the approach;
- Allow that Member or Members to take up that approach as it is a responsibility relating to their ward;
- If the ward Member(s) cannot or will not take on the issue then the approached Member must inform them, in writing, that he or she is dealing with the issue on the resident's or body's behalf.”

The Constitution Committee has requested that I write to all Members before preparing a report so that the report can make reference to any circumstances in which Members believe that it would be appropriate to engage in activities outside their ward boundaries. Those circumstances might include:-

- For a Member to fulfil a Civic or Executive role;
- Because of a legitimate County wide issue;
- Where requested for assistance by a constituent who is unable to or does not wish to approach the ward Member;
- Because of the existence of a conflict of interest.

I should be grateful for any examples you may have or any comments or observations you would like to make in relation to procedures suggested in the Notice of Motion.

Yours sincerely

Barry Davies
Head of Legal & Democratic Services

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 8

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **10 JANUARY 2011**
REPORT BY: **DIRECTOR OF ENVIRONMENT**
SUBJECT : **FOOD LAW ENFORCEMENT SERVICE PLAN**

1.00 PURPOSE OF REPORT

- 1.01 To consider amending the Constitution to remove from the policy framework the food law enforcement service plan.

2.00 BACKGROUND

- 2.01 Article 4 of the Council's Constitution lists those plans and strategies that form the Council's policy framework requiring consideration by the County Council. There are two parts to the policy framework namely, those policies and strategies that are legally required to be part of the policy framework and secondly, those plans and strategies that the Council itself has chosen to include in its policy framework. The food law enforcement service plan is in the second category whereby the Council chose to reserve to itself its adoption or approval.
- 2.02 With effect from 1st April 2001 Local Authorities throughout the U.K. have been directed by the Food Standards Agency to take the necessary action to implement the new Framework Agreement on Local Authority Food Law Enforcement. The Framework has been developed to ensure a consistent food law enforcement service throughout the country. It was obligatory that such service plans received Member approval.
- 2.03 From 1st April 2009, Local Authorities now have the flexibility to decide locally whether or not service plans should be approved at Member level. There is however a need to show that service plans have received appropriate approval whether this is at a Member, Member forum or suitably delegated senior officer level. There is also a need to make local service plans publicly available.

3.00 CONSIDERATIONS

- 3.01 In practice the Council does not have a food law enforcement service plan but does have an annual food service plan which covers enforcement. The food service plan covers matters within the responsibility of the portfolio of the Executive Member for Leisure and Public Protection. It is considered that the annual food service plan should be approved by the Executive.

4.00 RECOMMENDATIONS

Date: 30/12/2010

4.01 That the Committee recommends to Council:-

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

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 Political Group Leaders meeting on the 3 November 2010.

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

Food Standards Agency Framework Agreement on Local Authority Food Law Enforcement

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