

# Public Document Pack

Gareth Owens LL.B Barrister/Bargyfreithiwr  
Head of Legal and Democratic Services  
Pennaeth Gwasanaethau Cyfreithiol a Democraidd



To: Cllr Robin Guest (Chairman)

CS/NG

Councillors: Chris Bithell, Derek Butler,  
Clive Carver, David Cox, Glenys Diskin,  
Ian Dunbar, David Evans, Veronica Gay,  
George Hardcastle, Patrick Heesom, Joe Johnson,  
Rita Johnson, Tim Newhouse, Neville Phillips,  
Ian Roberts, Tony Sharps, Paul Shotton,  
Nigel Steele-Mortimer, Owen Thomas and  
Arnold Woolley

24 January 2013

Maureen Potter 01352 702322  
maureen.potter@flintshire.gov.uk

Dear Sir / Madam

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 30TH JANUARY, 2013** at **2.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

## **AGENDA**

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
- 3 **MINUTES** (Pages 1 - 8)  
To confirm as a correct record the minutes of the last meeting.

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

- 4 **REVIEW OF INTERNAL MEMBER FORA** (Pages 9 - 18)  
To progress the review of internal informal fora such as panels and working groups.
- 5 **LOCAL GOVERNMENT (DEMOCRACY) (WALES) BILL** (Pages 19 - 38)  
To inform the committee of the contents of the Local Government (Democracy) (Wales) Bill that was published at the end of November 2012
- 6 **FOUR PROTOCOLS FOR PUBLIC ENGAGEMENT WITH OVERVIEW & SCRUTINY** (Pages 39 - 50)  
To agree for public engagement protocols for Overview & Scrutiny pursuant to Section 62 of the Local Government (Wales) Measure 2011 and Paragraph 5.26 of the Statutory Guidance from the Local Government
- 7 **UPDATING THE CONSTITUTION** (Pages 51 - 96)  
To consider further updating changes to the council's constitution pursuant to the 3 year programme agreed at the committee's meeting on the 24 July 2012.
- 8 **LOCAL GOVERNMENT (WALES) MEASURE 2011** (Pages 97 - 104)  
For the committee to consider the implementation of those parts of the Local Government (Wales) Measure 2011.

## **CONSTITUTION COMMITTEE** **24 OCTOBER 2012**

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on 24 October, 2012

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

Councillors: R.C. Bithell, C. Carver, D.L. Cox, A.I. Dunbar, D. Evans, V. Gay, G. Hardcastle, P.G. Heesom, J.M. Johnson, N. Phillips, W.P. Shotton, N.R. Steele-Mortimer and A. Woolley

**SUBSTITUTION:** Councillor D. Wisinger for Councillor G. Diskin, Councillor J.B. Attridge for Councillor I.B. Roberts, Councillor J. Falshaw for Councillor O. Thomas

**APOLOGIES:** Chief Executive, Councillors L.A. Sharps, R. Johnson, D. Butler

### **IN ATTENDANCE:**

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

## **13. DECLARATIONS OF INTEREST**

There were no declarations of interest

## **14. MINUTES**

The minutes of the meeting of the Committee held on 24 July 2012, were submitted.

### **Matters arising**

Page 3 – the Democracy and Governance Manager reported that the response to the consultation has been sent.

Page 5 – Overview and Scrutiny annual report would go to council meeting on 13 November.

### **RESOLVED:**

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

## **15. UPDATING THE CONSTITUTION**

The Democracy and Governance Manager introduced the report and explained that a 3 year programme to update the Constitution was now in place. Six areas of the Constitution had been identified for review in year one. This report introduced suggested changes to Part 1, Part 2 and Part 8. Changes to Part 1 were shown as tracked changes in Appendix 1 and Part 2 in Appendix 2. Appendices 3 and 4 referred to changes in the table showing the Senior Management team to include Heads of Service. Appendix 5 referred to the

Review and Revision of the Constitution and the Democracy and Governance Manager pointed out a further change to Appendix 5, whereby the sentence in the underlined paragraph should read “Where the changes are consequential” rather than “Where the changes consequential.

The Democracy and Governance Manager explained that the guiding principles of the review were to update current arrangements and to avoid ambiguity. He also informed the Committee that the Welsh Government were currently in the process of preparing a model constitution for all local Welsh Authorities.

Councillor R. C. Bithell referred to page 16 of the report and asked if the Appeals Committee could deal with all types of appeals, such as transport services and social care. The Democracy and Governance Manager said that the Committee dealt with those appeals which our policies or procedures gave an appeal to it. Councillor Bithell asked whether response times to customer queries should be included under Citizen’s Rights on page 16. The Democracy and Governance Manager in response said that the section dealt with legal rights, although if the Committee wished, the Constitution could be expanded to include procedures for Corporate Communication. Councillor Bithell asked if the Democracy and Governance Manager could investigate this further.

Councillor J.B. Attridge questioned the use of a protocol in the Constitution when responsibility with it lay with the Chief Executive. He asked for clarification about corporate service standards in terms of customer communications. It was agreed that the Democracy and Governance Manager research the matter and submit a report to a future meeting.

Councillor R.C. Bithell asked if the Overview and Scrutiny function was affected by delegation to and from other local authorities on page 49. He was concerned about powers being taken away from Flintshire County Council. The Chair said this matter would be dealt with under Agenda Item 6. The Head of Legal and Democratic Services advised that a report went to Executive in February 2012 setting out in detail the scrutiny arrangements for regional collaboration projects.

Councillor C. Carver asked about page 4 of Appendix 1, with reference to Citizens Rights and asked if this meant citizens had the right to contact their local councillor about any matters of concern to them, even if it concerned matters outside of their ward or even Flintshire. The Chair said that it was expected that members referred cases outside their ward to the relevant member for that ward for them to pursue. The Head of Legal and Democratic Services said that a local councillor would then refer a matter in their ward to a relevant officer of the council or to the portfolio holder. The Democracy and Governance Manager said that this could be re-phrased to clarify the matter. Councillor C. Carver referred to Article 19 – Review and Revision of the Constitution in Appendix 5 and observed that Cabinet could make decisions that could not be called in which would then amend the constitution. The Democracy and Governance Manager said that the procedure was rarely used and did involve consultation with the Chair of the Council and only applied in the

case of urgent decisions. The Head of Legal and Democratic Services said that that it was unlikely that Cabinet would need to amend the consultation urgently.

Councillor R. C. Bithell asked if the Member development and training referred to Democratic Services Committee (Appendix 1, page 4) was applicable to all Members. The Head of Legal and Democratic Services said that every Member would be supported.

**RESOLVED:**

- (a) That the proposed changes be recommended to Council subject to rephrasing to address the point made by Councillor C. Carver
- (b) That the Democracy and Governance Manager bring a report to a future meeting on Corporate Service Standards for responses to communications.

**16. REVIEW OF INTERNAL MEMBER FORA**

The Democracy and Governance Manager explained that the review had developed from a decision at the annual council meeting on 15 May 2012. The purpose of the review was to establish whether there was still a need to retain all of the internal member bodies. At the Constitution Committee meeting of 24 July 2012, it was agreed that further information be obtained and further consultation with Group Leaders prior to a report back to Constitution Committee.

The Democracy and Governance Manager reported that at the Group Leaders meeting on 19 October it had been unanimously agreed that there was no longer a need for the Member Development Working Group (paragraph 3.04). It had similarly been agreed that the Development Plans Panel and Planning Protocol Working Group be merged into one group (paragraph 3.05). It was also similarly agreed that the Social Services Representation and Complaints Review Panel be dissolved (paragraph 3.08). The Democracy and Governance Manager drew Members attention to the amendment to paragraph 3.07 on the original report, whereby it now stated that at Land Disposal Panel, the local member to be consulted on the principle of disposal and their observations/comments noted in the report.

The Democracy and Governance Manager then asked the Committee if they agreed with the recommendations of the Group Leaders in respect of paragraphs 3.04, 3.05 and 3.08.

It was agreed by the Committee to accept the recommendations of the Group Leaders in relation to paragraphs 3.04, 3.05 and 3.08.

The Democracy and Governance Manager then asked Members to consider paragraph 3.06 and to refer to the additional sheet which contained further information on Chairman's/Delegation panel meetings that had been requested at the Group Leaders Meeting. The Head of Legal and Democratic Services reported that over four years, the Chairman's Delegated Panel had considered 423 applications and referred on 11 applications to Planning and

Development Control committee for consideration and of those referred on 3 had subsequently been refused against officer recommendations. He added that this represented a poor use of resources and that the 423 applications could safely have been left to officers to determine. The panel also lacked transparency because applicants/objectors were not able to determine from the outset whether an application would need to be considered at committee. Further more the meetings were neither open to the public nor minuted.

Councillor P. Heesom said that the Chairman's/Delegation Panel meetings were not transparent because they were conducted under closed conditions without minutes. He added that he wanted to see a clear set of criteria as to what could be dealt with by officers. The Head of Legal and Democratic Services said that the group could be made into a sub committee that would meet in public, but this would involve more time and bureaucracy. Councillor Heesom said that he wanted the discussion referred back to Group Leaders.

Councillor D. Wisinger referred to point 3.06 and said that he had agreed to look at the panel, to see if it needed modification, but did not agree to its abolition.

Councillor I.A. Dunbar agreed with Councillor D. Wisinger.

Councillor J.B. Attridge questioned the need for the Panel given the very small amount of cases referred to Planning and Development Control Committee. Councillor R. C. Bithell concurred with Councillor Attridge and said that there were no sound reasons to retain the panel.

Councillor C. Carver asked if the time scale for planning applications could be clarified. Councillor I. A. Dunbar said that he was the new vice chair of Planning and Development Control committee and said that the policy protocols were followed.

Councillor V. Gay asked if applications by current or ex council staff had to go to committee. The Democracy and Governance Manager said that only planning officers' and some highway officers' applications should be referred.

It was agreed by members that paragraph 3.06 be taken back to the Group Leaders for further discussion.

The Chair commenced discussions about paragraph 3.07, Land Disposal Panel by saying that he would like to see the Portfolio Holder involved in the sign off of land to the value of £1-£100,000 and said that political responsibility should be taken. The Head of Legal and Democratic Services advised that currently, officers could authorise the sale of property up to £2 million, but in future all sales of £500k and over would go to Cabinet as a Part 2 item. The Cabinet Member for Environment said that he agreed with all suggestions contained within paragraph 3.07.

Councillor C. Carver asked about sales of land that fell between two wards and asked if both Councillors would have input into discussions. The

Chair said that a member should inform a neighbouring member of any such cases.

The Committee approved paragraphs 3.07 and 3.09.

**RESOLVED:**

- (a) That Committee recommends to Council and for Executive functions to Cabinet the proposals in paragraphs 3.04, 3.05, 3.08 and those in paragraph 3.07 and 3.09 subject to the incorporation of the point made by the chair.
- (b) That paragraph 3.06 be referred back to the Group Leaders for further discussion.

**17. WALES AUDIT OFFICE SCRUTINY IMPROVEMENT STUDY**

The Member Engagement Manager introduced the report to advise the Committee of the all Wales Audit Office Scrutiny Improvement Study which commenced in September 2012. He explained that there were 6 phases to the study which were 1) Collaborative Scoping, 2) Initial Self Evaluation, 3) Regional Workshop, 4) Peer Learning Exchange Field Work, 5) Second Regional Workshop and 6) Reporting.

The Member Engagement Manager informed the Committee that he had completed the self evaluation and had identified a lead officer for the Learning Exchange Team, Margaret Parry Jones, Overview and Scrutiny Facilitator. He now sought nominations for further team members: one cabinet member, one overview and scrutiny chair, two Overview and Scrutiny members. The Member Engagement Manager would also be included in the team. Phase 3 would include regional workshops and a reciprocal arrangement of two North Wales groups had been agreed with Wrexham, Denbighshire and Flintshire in one group and Gwynedd, Anglesey and Conwy in the other. The Member Engagement Manager said that the Peer Learning Exchange Field Work would involve scrutiny teams from the various councils attending and observing at two meetings of neighbouring councils. The Second Regional Workshop would involve feedback from the Peer Learning Exchange teams. The final phase would involve the dissemination of information and was likely to take place in June or July 2013.

The Member Engagement Manager asked for nominations for the team. Councillor J.B. Attridge nominated Councillor B. Mullin as the appropriate Cabinet Member. Councillors C. Carver and C.A. Thomas were also nominated.

**RESOLVED:**

- (a) That the Committee notes the arrangements which have already been made for Flintshire's participation in the study;
- (b) That Councillors B Mullin, C. Carver and C.A. Thomas be members of the Peer Learning Exchange Team.

- (c) That the Member Engagement Manager identify an Overview and Scrutiny Chair to be a member of the Peer Learning Exchange Team.

**18. PRESS IN ATTENDANCE**

There were no members of the press in attendance.

**19. DURATION OF MEETING**

The meeting commenced at 2.00 pm and finished at 3.30 pm.

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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</b> 24.10.2012
<b>MEMBER</b>	<b>ITEM</b>	<b>MIN. NO. REFERS</b>
There were no declarations of interest made.		

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** CONSTITUTION COMMITTEE

**DATE:** WEDNESDAY, 30 JANUARY 2013

**REPORT BY:** DEMOCRACY & GOVERNANCE MANAGER

**SUBJECT:** REVIEW OF INTERNAL MEMBER FORA

### **1.00 PURPOSE OF REPORT**

1.01 To progress the review of internal member informal fora such as panels and working groups.

### **2.00 BACKGROUND**

2.01 At the Annual Council meeting on the 15 May the Head of Legal & Democratic Services' report on constitutional matters included a section on internal Member bodies. It explained that in the light of the recent implementation of the Local Government (Wales) Measure 2011 and at the start of a new Council it was an opportune time to review the various internal member bodies. The Council agreed to the recommendation that the review be undertaken by the Head of Legal & Democratic Services in consultation with Group Leaders and a report submitted to the Constitution Committee and Council. It also agreed that pending the outcome of the review the existing internal bodies be retained.

2.02 The review covers those internal member fora that have been established for an indefinite period rather than those set up to deal with a specific task which automatically ends once that task has been completed. The review therefore does not include any task and finish working groups set up by Overview and Scrutiny.

2.03 Most of the internal member fora are undertaking or advising upon executive functions which are the responsibility of Flintshire's Cabinet. In relation to such member fora, any Council decision can only be a recommendation to the Cabinet, who have the final decision on whether such member fora should continue or not.

2.04 At its meeting on 24 July the Constitution Committee agreed that the further information listed below should be obtained for each internal body:

- a) the membership
- b) the terms of reference or function

- c) the frequency of meetings
- d) the view of the relevant senior officer as to whether the body should continue or not and the reason for this view
- e) for those internal bodies that relate to executive functions, to obtain a view as to whether the body should continue from the appropriate Cabinet member
- f) the view of the chair of each forum

2.05 At the last meeting of the Constitution Committee on 24 October it considered a number of member fora for which the above information had been obtained and made recommendations to either Council or Cabinet as appropriate. Attached to this report as Appendix 1 is a list of the remaining member fora within the review together with the information that has been obtained in relation to them and a column indicating whether or not each forum is discharging an executive or a council function.

2.06 Group Leaders are being consulted on this report at the Group Leaders meeting on the 29 January 2013 and there will be verbal feedback on it at the Committee meeting.

### **3.00 CONSIDERATIONS**

3.01 All internal member fora require resources from both members and officers in terms of preparation, attendance and actioning outcomes. The review may identify that whilst a member forum is discharging a valuable function there is a more efficient way of doing so that is less resource intensive.

3.02 Whilst some internal fora served a valuable role when they were initially established, with the passage of time the need of that role may have diminished. There may for instance have been a change in legislation or policy that reduced the need for a particular member forum. Whilst new member fora are created to meet new legislation or new policies, there needs to be a specific review of existing fora to ensure that they are still needed and are an efficient way of discharging their role.

3.03 The Joint Consultative Committee in the view of the Head of HR and OD should continue. It is required as part of the national agreement with the recognised unions and assists the Council in meeting its statutory requirements as an employer. Both the current Chair of the Committee and appropriate Cabinet Member agree that this should continue.

3.04 Flintshire currently has two separate fora entitled 'Teachers Consultative Committee' and 'the Flintshire County Council Teachers Consultative Committee'. It is the view of the Director of Lifelong Learning that these two fora can be combined and for the combined body to cover all education staff, not just teachers. The Chairs of the

bodies and the appropriate Cabinet Member agree with the view of the Director of Lifelong Learning.

- 3.05 The School Performance Monitoring Group has recently been reviewed and the Director of Lifelong Learning is of the view that it should remain. This view is shared by the Chair of the Group and the appropriate Cabinet Member.
- 3.06 The Planning Delegations Body meets every 2 weeks. The Head of Planning is of the view that despite recent improvements this is still not a transparent process and that the body should not continue. This view is supported by the appropriate Cabinet Member.
- 3.07 The Member/Officer Tenant Working Group meets up to 6 times a year to implement and review the Customer Involvement Strategy and action plan. The Head of Housing believes that it is important that the group continues as it is a partnership between tenants, staff and elected Members and shows true partnership in delivering a quality service and enables tenants to play an active role in monitoring the delivery of the housing service. This view is supported by the appropriate Cabinet Member and the current Chair of the body.
- 3.08 The Voluntary Sector Grants Panel provides recommendations to the Chief Executive on payments from the Council's community chest to third sector organisations. The appropriate senior officer together with the Chair of the body and the appropriate Cabinet Member are of the view that the Panel should continue. The Panel plays an important role in that it enables elected Members to maintain an understanding of the types of grass roots organisations seeking funding plus the trends and difficulties faced by local organisations.
- 3.09 The Inclusion Service Steering Group meets once a term to review and monitor service policy, provision, delivery and efficiency. The Director of Lifelong Learning is of the view that it should continue as it provides a valuable forum ensuring that Members and other stakeholders maintain their knowledge of inclusion services, challenge policy and have the opportunity to impact on service change. This view is shared by the appropriate Cabinet Member and the Chair of the body.
- 3.10 The Welsh in Education Strategic Forum meets approximately 6 times a year to agree, implement and review a coordinated approach that best delivers the requirements of the WG's Welsh-medium Education Strategy. The Director of Lifelong Learning believes it should continue as it is the key vehicle for the delivery and monitoring of the Welsh Education Strategic Plan. This view is shared by the appropriate Cabinet Member and the Chair of the body.
- 3.11 The Foster Care Panel is required under the Fostering Services

(Wales) Regulations 2003. Its function is to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent. It is the view of the relevant senior officer, the Chair of the body and the appropriate Cabinet Member that the Panel should continue.

- 3.12 The Children's Forum ensures that the Chief Executive and Cabinet Members are well informed about the progress and well-being of vulnerable children for whom the Authority holds significant responsibility. The view of the relevant senior officer is that it should be retained. This view is shared by the appropriate Cabinet Member and the Chair of the body.
- 3.13 The Adoption Panel meets monthly and ensures that vital elements for the planning of children and young people can occur, that resources are available for them and to provide an integrated service for Flintshire children. The appropriate senior officer together with the Chair of the body and the appropriate Cabinet Member agree that this should continue.
- 3.14 The Waste Strategy Review Board was set up to consider issues relating to waste management strategy and make recommendations to the Cabinet. The Council's Waste Strategy was approved by Executive in June 2010 and will be reviewed by Cabinet in 2013. The strategy document defines Council policy on all waste management issues and therefore the member fora is no longer required. The Director of Environment is of the view that there is no longer a need for this body and his view is supported by the appropriate Cabinet Member. There is presently no chair of this body.
- 3.15 The Health & Safety Board exists to facilitate and monitor the strategic development and progress of health and safety practice and to raise the profile of health and safety so it becomes embedded in the culture of the Authority. The relevant senior officer believes that it is an extremely valuable group that should continue and this view is supported by the Chair of the body and the appropriate Cabinet Member.
- 3.16 The Procurement Board was created to raise the profile of procurement at a strategic level. It has not met for some time. The view of the relevant senior officer is that procurement is now a full programme within Flintshire Futures, whose governance arrangements replaced the need for this Board. He therefore recommends that it be discontinued and this view is shared by the appropriate Cabinet Member. The Board has no chair at the present time.
- 3.17 The ICT Panel's functions include championing the development and implementation of ICT initiatives across the Council. Whilst the Panel has not met for some time and currently does not have chair, the

relevant senior officer and Cabinet Member believe there should be such a body but revisiting its terms of reference and membership. A recent good report from the Wales Audit Office recommended some form of member forum to consider ICT investment and priorities. The Head of ICT believes that the reconstituted Panel should have high level officer/elected Member representation with terms of reference to shape the direction of the service and help direct resource allocation and investment to support the organisation as a whole.

#### **4.00 RECOMMENDATIONS**

- 4.01 For the committee to make a recommendation to Council regarding the future of the Planning Delegations Forum (numbered 5 in appendix 1).
- 4.02 For the committee to report to Council and make appropriate recommendations to Cabinet for the remaining fora in appendix 1 which relate to Executive functions.

#### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 A reduction in member fora will result in some savings that are difficult to quantify.

#### **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 A reduction in member fora may lead to some reallocation of duties.

#### **10.00 CONSULTATION REQUIRED**

- 10.01 Group Leaders

#### **11.00 CONSULTATION UNDERTAKEN**

- 11.01 Group Leaders

#### **12.00 APPENDICES**

Appendix 1 – List of Internal Member Fora

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

- Report of the Head of Legal & Democratic Service on Constitutional Matters to the Council meeting 15 May 2012
- Minute of Council meeting 15 May 2012 relating to internal bodies
- Report to Group Leaders dated 9 July 2012
- Report to Constitution Committee 24 October 2012

**Contact Officer:** Peter Evans  
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	Name of Body	Current Membership	Summary of Terms of Reference or Function of the Body	Frequency of Meetings	Whether the Body should continue or not and the reason for that view			
					View of relevant Snr. Officer	The Chair of the Body	Appropriate Cabinet Member	Executive or Council Function
1.	Joint Consultative Committee	18 Members: 9 Members - Employer Representative & 9 Members - Employee Representatives	Foster good industrial relations and facilitate communications within the Council through a Forum for consultation on corporate issues between representatives of elected Members of the Council and Trade Union representatives from each of the main recognised Trade Unions represented at Flintshire	As and when required but scheduled to be held quarterly	Should continue as required as part of the national agreement with the recognised unions and assists the Council or Executive in meeting its statutory requirements as employer.	Agrees with senior officer	Agrees with senior officer	Executive
2.	Teachers' Consultative Committee (TCC)	8 Teachers (Union reps) Directorate Advisors	The group covers the same ground as the FCCTCC	3 times a year	Ian Budd commented that there is no need for two separate teacher bodies and for it to cover all education staff.	Agrees with Ian Budd	Agrees with Ian Budd	Executive
3.	Flintshire County Council Teachers' Consultative Committee (FCCTCC)	8 Members from the LEA 8 Teachers (Union reps) Directorate Advisors	The function of the group is to provide consultations between FCC and Teachers regarding staff issues and any other relevant matters and to make recommendations to the Council	3 times a year				Executive
4.	School Performance Monitoring Group	Cabinet Member for Education, Chair of Lifelong Learning Scrutiny, Volunteer Members of Lifelong Learning Scrutiny, Director of Lifelong Learning, Principal School Improvement Officers and appropriate School Improvement Officer	Monitor school improvement and performance detailed terms of reference agreed by Cabinet at its 18 September 2012 meeting. - Key stage results - Other attainment information, including outcomes for "vulnerable" learners - Estyn reports - Welsh Government banding information - Attendance - Exclusions - School contexts and contextualised performance	As required	This has recently been reviewed and should remain	Agrees with officer view	Agrees with officer view	Executive
5.	Planning Delegations	3 Members + relevant officers	1. To consider the recommendation of the Head of Planning to grant planning permission for development where objections have been received from members of the public or consultees, but the development is of such a scale that it need not be determined by Committee. 2. To agree with the Head of Planning's recommendation, or 3. To agree with the Head of Planning's recommendation subject to the imposition of additional conditions, or 4. To require that the matter be determined at the next available Planning & Development Control Committee. 5. Either the Chairman or Vice Chairman can request that the actions 2 to 4 are undertaken.	Every 2 weeks	No, despite recent improvements this is still not a transparent process. Either we operate the scheme of delegation, or we don't. This does little to assist with transparency.	Favours retention of existing arrangements	Supportive of loss of the meeting and would like this to move forward quickly. He has asked for a briefing note to address this.	Council
6.	Member/Officer Tenant Working Group	4 Members to include the cabinet member for Housing, Chair of Tenant Federation + 3 other tenants and relevant officers	To implement the Customer Involvement Strategy and action plan, receive progress reports and to annually review the Customer Involvement Strategy.	Meets up to a maximum of 6 times a year	I believe it is important that the group continues as the group is a partnership between Tenants, Staff and Elected members to oversee the implementation of the customer involvement strategy and action plan. It is a group that shows true partnership in delivering a quality service and enables tenants to play an active role in monitoring the delivery of the housing service, and is a 'Best practice' model as identified in the Welsh Government guidelines for the authorities customer involvement processes.	We have developed a good working relationship as a joint monitoring group. As changes in service are made there is a better understanding of how customer involvement will be implemented and that we are working with councillors reinforces the commitment from the council. Mavis Crofts - Chair of the Flintshire Tenant Federation	Cllr Helen Brown confirms that this group should continue	Executive

	Name of Body	Current Membership	Summary of Terms of Reference or Function of the Body	Frequency of Meetings	Whether the Body should continue or not and the reason for that view			
					View of relevant Snr. Officer	The Chair of the Body	Appropriate Cabinet Member	Executive or Council Function
7.	Voluntary Sector Grants Panel	8 Members + relevant officers	To provide recommendations to the Chief Executive on Council funding from the £21K available in the community chest fund to third sector organisations	The Panel meets 3 times a year in order to review and make recommendations on the allocation of the Community Chest Grant which is approx. £21K p.a.	Yes, this body should continue until it decides on alternative mechanisms for funding allocations. The Panel plays an important role in that it enables elected members to maintain an understanding of the types of grassroots organisations seeking funding plus the trends and difficulties faced by local organisations	This body should continue	Believes this body should continue.	Executive
8.	Inclusion Service Steering Group	2 Members, Inclusion Service Management Team, Primary, Secondary & Special School headteachers, Primary & Secondary ALNCoS, Parent Partnership representative	To review and monitor Service policy, provision, delivery and efficiency.	Termly	Yes this should continue as it provides a valuable forum ensuring members and other stakeholders maintain their knowledge of Inclusion Services, challenge policy and have the opportunity to impact on service	This body should continue	Agrees with officer view. This must remain.	Executive
9.	Welsh in Education Strategic Forum	Menter Iaith, Mudiad Ysgol Meithrin, parent representative, Children & Young People's Partnership, Athrawon Bro, 2 Head teachers, 3 Principal Learning Advisers, Head of Dev & Resources, Governor representative, Pupil Support Manager, Trade Unions, College Representative & Council	To agree, implement and review a coordinated approach that best delivers the requirements of the WG's Welsh-medium Education Strategy. To be responsible for the delivery of the action plan incorporating seven key outcomes. To monitor, evaluate and consider the impact of the delivery of the action plan in raising standards in Welsh first and second language. Forum representatives are expected to consult with and feedback to their respective associate stakeholders.	It meets approx. 6 times year	The Welsh in Education Strategic Forum should continue as it is the key vehicle for the delivery and monitoring of the Welsh Education Strategic Plan.	This body should continue	Agrees with officer view that it should continue.	Executive
10.	Foster Care Panel	FCC x 5 BCU x 3 Independent Members x 4	The foster care panel is required under The Fostering Services (Wales) Regulations 2003. The function of the fostering panel is to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent. Where the panel recommends approval of an application, to recommend the terms on which the approval is given. To recommend whether or not a person remains suitable to act as a foster parent and whether or not the terms of the person's approval remain appropriate	Monthly	Should continue.	Craig Wilkinson - It is a statutory requirement to have a Fostering Panel so I can not understand how the service could function without the Panel meeting. The consequences of not meeting statutory requirements with regard to fostering will result in the authority having to place children with external carers at considerable expense to the authority and disruption to the children.	Confirmed that the Fostering Panel should continue	Executive

	Name of Body	Current Membership	Summary of Terms of Reference or Function of the Body	Frequency of Meetings	Whether the Body should continue or not and the reason for that view			
					View of relevant Snr. Officer	The Chair of the Body	Appropriate Cabinet Member	Executive or Council Function
11.	Children's Forum	FCC x 2 WCBC x 12 BCUHB x 3 Public Health x 1 CAFCASS x 1 NSPCC x 1 Police x 1 Cabinet members for Education, Social Services, Housing and Corporate Management with one member from each political group and other persons as determined by Cabinet at its meetings of the 01.08.06 and 13.12.11	1. Ensuring that the Chief Executive and Cabinet Members are involved in setting priorities and strategic direction for vulnerable children, specifically children on the Child Protection Register and children looked after. 2. Ensuring that the Chief Executive and Cabinet Members are well informed about the progress and well-being of vulnerable children for whom the Authority holds significant responsibility. 3. Overseeing the Authority's development of a robust approach to corporate parenting.	4-6 weeks	The Children's Forum has been reviewed and recommend it be retained without review or amendment.	Councillor Chris Bithell confirmed the Children's Services Forum should continue.	Cllr Christine Jones agrees with the Chair that the Forum should continue	Executive
12.	Adoption Panel	FCC x 2 WCBC x 2 BCU x 2 Independent Members x 4	Enshrined in regulation	Monthly	Yes to continue	David Beard - The Adoption Panel are vital elements of ensuring that planning for children and young people can occur, that resources available for them are safe and reviewed and provide an essential part of an integrated service for	Cllr Christine Jones agrees that the Adoption Panel should continue	Executive
13.	Waste Strategy Review Board	No current membership	To consider issues relating to Waste Management Strategy and make recommendations to the Cabinet.	Not met for some time.	The Council's Waste Strategy was approved by Executive in June 2010 and will be reviewed by Cabinet in 2013.  The document defines Council Policy on all waste management issues and therefore the Member Fora is not required	None at present	Cllr Kevin Jones agrees with officer	Executive

	Name of Body	Current Membership	Summary of Terms of Reference or Function of the Body	Frequency of Meetings	Whether the Body should continue or not and the reason for that view			
					View of relevant Snr. Officer	The Chair of the Body	Appropriate Cabinet Member	Executive or Council Function
14.	Health & Safety Board	Chief Executive The Leader of the Council Cabinet Member for Corporate Management Members from each political group Directors Head of Public Protection Corporate Health and Safety Team Leader Union Representatives	<p><b>Aim of the Group</b> To facilitate and monitor the strategic development and progress of health and safety practice and raise the profile of health and safety so it becomes embedded in the culture of the Authority. To take the lead in ensuring the effective communication of health and safety duties and the benefits throughout the organisation</p> <p><b>Purpose of the Group</b></p> <ul style="list-style-type: none"> <li>• To act as the forum to maintain a positive health and safety culture throughout the Authority, a culture that strives to continually improve health and safety practice and performance</li> <li>• To act as a forum to monitor the Authority's Health and Safety Management System (SMS) and the supporting operating manual of Corporate Standards</li> <li>• To act as a forum to ensure health and safety information is disseminated and used throughout the Authority</li> <li>• To act as a forum for monitoring health and safety performance and the effectiveness of health and safety arrangements within the Authority</li> <li>• To maintain an oversight of legal changes in health and safety legislation and its interpretation</li> <li>• To ensure the group are made aware of the significant risks faced</li> </ul>	Three monthly	This is an extremely valuable group that monitor and keep abreast of health and safety issues across the authority. We have a legal obligation to ensure dissemination of health and safety information and this is the only overarching group with representation from all areas of the authority including Members.	Colin Everett is of the opinion that this group must continue with member participation in order for them to take ownership as part of their responsibilities, particularly in light of the recent Flintshire Corporate self-assessment which highlighted the health and safety evidence under governance and corporate alignment. He feels that it is too high risk to remove and will therefore discuss with Aaron to ensure this group continues.	Should continue	Executive
15.	Procurement Board	4 Members and 4 officers	<ol style="list-style-type: none"> <li>1. Raise the profile of Procurement at a strategic level</li> <li>2. Provide strategic direction, guidance and support in the implementation</li> <li>3. Monitor and develop a Procurement Strategy and Action Plan (inc performance measures and targets)</li> <li>4. Approve progress reports to Cabinet</li> <li>5. Ensure that Procurement Strategy and Action Plan continue to address WAG's agenda and e-procurement taking account of local issues</li> <li>6. Approve projected plans arising out of the Action Plan</li> <li>7. Ensure appropriate consultation with outside agencies</li> <li>8. Receive and consider progress reports from the Central Procurement Unit</li> <li>9. Receive and consider reports from the Procurement Link Officers</li> <li>10. Approve reports to WPI Supervisory Board</li> </ol>	Every 4 - 6 months	Meets infrequently and with limited effectiveness. Procurement is now a full programme within Flintshire Futures whose governance arrangements replace the need for this Board. Recommend withdrawal.	No Chair at present	Agrees this should be discontinued.	Executive
16.	ICT Panel	5 members	<ol style="list-style-type: none"> <li>1. To review and monitor progress in the implementation of the Corporate ICT Strategy.</li> <li>2. To champion the development and implementation of ICT initiatives across the County Council and monitor the outcomes and benefits of such initiatives.</li> <li>3. To advise the Executive of solutions to overcome obstacles which may impede progress in the development and implementation of ICT within the Council.</li> <li>4. To ensure ICT development and investment is aligned to council and service priorities.</li> <li>5. To review and monitor Information Security and receive reports of security incidents and where appropriate approve corrective action.</li> </ol>	Every 4 - 6 months	The Panel should continue but with a different set of ToR with high level officer/elected Member representation with the role being to shape the direction of the service and help direct resource allocation and investment to support the organisation as a whole.	Cllr Robin Baker was Chair of the ICT Panel and it has not met since the election.	Councillor Mullin - retain this but revisit membership and terms of reference. We have just had a good report back from the Wales Audit Office and they recommend some form of member forum to consider ICT investment and priorities.	Executive

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** CONSTITUTION COMMITTEE

**DATE:** WEDNESDAY, 30 JANUARY 2013

**REPORT BY:** DEMOCRACY & GOVERNANCE MANAGER

**SUBJECT:** LOCAL GOVERNMENT (DEMOCRACY) (WALES)  
BILL

### **1.00 PURPOSE OF REPORT**

1.01 To inform the committee of the contents of the Local Government (Democracy) (Wales) Bill that was published at the end of November 2012 and agree any response to consultation on it.

### **2.00 BACKGROUND**

2.01 On the 17 May 2012 the Welsh Government issued a White Paper entitled "Promoting Local Democracy" for consultation purposes. This was the subject of a report to the Constitution Committee meeting on the 24 July 2012.

2.02 The White Paper covered the following areas:-

- Local Government Boundary Commission Wales
- Amendments to the Local Government (Wales) Measure 2011
- Access to Information Town & Community Councils
- Electoral issues
- Local Government Ethical Framework
- Local Government Scrutiny
- Councillor Training & Development

The first three of the above issues were the only ones requiring legislation and these are now covered in the recently published Bill.

2.03 At its meeting on the 24 July the Constitution Committee agreed its response to consultation on the White Paper which was subsequently submitted to the Welsh Government. A copy of that response is attached as appendix 1.

2.04 On the 26 November the Bill was published by the Welsh Government with a consultation response form for return by 31 January 2013. A copy of the Bill, its accompanying explanatory memorandum and the consultation response form have been deposited in Member Services and group rooms.

### **3.00 CONSIDERATIONS**

- 3.01 The Bill is primarily dealing with provisions concerning the Boundary Commission for Wales and various types of Local Government Boundary reviews. It also contains proposals relating to Town & Community Council information, the Independent Remuneration Panel for Wales and some miscellaneous issues including amendments to the Local Government (Wales) Measure 2011.
- 3.02 Part 2 of the Bill renames the Local Government Boundary Commission for Wales as the Local Democracy and Boundary Commission for Wales and reforms its constitution and functions. These provisions broadly reflect the proposals in the White Paper. The Council's response to consultation largely supported the proposals that are now reflected in the Bill. In relation to question 2 of the previous consultation, the quorum in the Bill is three with the membership of the Commission being up to five rather than the four indicated in the White Paper or the six which Flintshire indicated in its response to consultation.
- 3.03 Part 3 of the Bill makes provision about:-
- a) The duties of the Boundary Commission to monitor the arrangements for Local Government and to conduct reviews where appropriate and the duties of principal Councils to monitor the arrangements for the communities in their area and to conduct reviews of them.
  - b) The types of reviews that can be conducted, the considerations to be taken into account by the reviewing body and the changes that can be recommended in relation to each type of review.
  - c) The procedure for conducting reviews.
  - d) The implementation of recommendations following a review.
- 3.04 These provisions in Part 3 are more extensive than those in the White Paper and previously consulted on. The Bill proposes to repeal the existing legislation contained in the Local Government Act 1972 governing the way Councils, such as Flintshire, conduct community reviews and replace those provisions with provisions in the Bill. The provisions in the Bill replicate the 1972 Act provisions but add detail about how the review process should be conducted. The Council was on the point of commencing such a community review. Fortunately the Bill was received prior to letters being despatched to Town & Community Councils. Consideration is being given as to how and when best to progress the community review in the light of the proposals in the Bill.
- 3.05 The provisions in the Bill concerning community reviews do not give the Commission the powers envisaged in the White Paper. In its answers to questions to 8, 9 and 10 the Council did not agree with those powers being given to the Commission.

- 3.06 Part 4 of the Bill empowers the Boundary Commission to conduct reviews of public bodies other than local authorities. The Council welcomed this proposal in its answer to question 23 of the consultation process.
- 3.07 Part 5 of the Bill includes provisions relating to the Independent Remuneration Panel for Wales and reflects proposals that the Council was in favour of when responding to questions 24, 26, 27 & 28 of the previous consultation. Unfortunately it also includes empowering the panel to require local authorities to publish information relating to all payments made to Members by other public bodies which the Council did not agree to in answering question 29. It also requires Town & Community Councils to make certain information available electronically, notwithstanding the view the Council took in response to consultation that this should be left to the local choice of the Town & Community Council themselves.
- 3.08 Part 5 also contains provisions in section 51 so as to allow County Councils to appoint a "Presiding Member". This is to enable Councils who wish to do so to separate the ceremonial and civic functions associated with the Council Chairman from those of presiding over meetings of the Council. This was not referred to in the White Paper or previous consultation. Amendments need to be made to the way the Bill has presently been drafted so that the new concept of 'Civic Chair' has the same meaning as is given to the Chairman in the Local Government Act 1972. It is also believed that the Presiding Member's term of office should continue until their successor is appointed so they can chair the start of the Council meeting following local government elections.
- 3.09 Part 5 also makes some changes to the Local Government (Wales) Measure 2011. These include section 56 which broadens the scope of the Democratic Services Committee so that it can review anything connected with the support and advice made available to elected Members. It also contains in section 57 a requirement that political balance applies to Audit Committees. As indicated in answer to question 32 of the previous consultation, this is already required under the Local Government Act 1972 as amended by the Local Government and Housing Act 1989.
- 3.10 Section 63 of the Bill enables local authorities to establish joint Standards Committees. It does not seem to go as far as proposals in the White Paper proposing regional Standards Committees. The explanatory memorandum recognises this will lead to a potential increase in travel and subsistence costs but believes some savings should accrue because fewer members of Standards Committees will be needed overall. It is not clear how this assumption of fewer members has been arrived at. Councils may continue to have their own Standards Committees. Even for those who decide to have a joint committee the number of members on it are not limited.

3.11 Attached as appendix 2 is a draft completed consultation response form incorporating the points in paragraphs 3.02, 3.04 to 3.10 above for the committee to approve or amend as it sees fit.

**4.00 RECOMMENDATIONS**

4.01 For the committee to note the proposals in the Bill.

4.02 For the committee to agree any response to consultation.

**5.00 FINANCIAL IMPLICATIONS**

5.01 It is not believed there will be significant financial implications arising from the Bill.

**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 Appendix 1 – copy of the previous response form  
Appendix 2 – copy of a draft consultation response form

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

Local Government (Democracy) Wales Bill



Explanatory Memorandum on the Bill

**Contact Officer:** Peter Evans  
**Telephone:** 01352 702304  
**Email:** [peter.j.evans@flintshire.gov.uk](mailto:peter.j.evans@flintshire.gov.uk)

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## Promoting Local Democracy Consultation Response Form

Please return this form to reach the Welsh Government no later than **3 August 2012**

The email address for responses or queries is: [LGDTMailbox@wales.gsi.gov.uk](mailto:LGDTMailbox@wales.gsi.gov.uk)

Postal responses should be sent to:

Scrutiny, Democracy and Participation Team  
Welsh Government  
Cathays Park  
Cardiff  
CF10 3NQ

Telephone contact for enquiries: 029 2082 3094

Alternatively, responses can be submitted via an online response form available at:

English:

Welsh:

Your name:

Organisation (if applicable):

Email address:

Telephone number:

Your address:

Question 1: Do you agree with the Commission being renamed as the Local Democracy and Boundary Commission for Wales?			
Yes	<input type="checkbox"/>	✓	No <input type="checkbox"/>
Please expand on your answer			

Question 2: Do you agree with the Commission's quorum being increased to three, with the appointment of a Chair, Deputy Chair and two other members becoming the norm?			
Yes	<input type="checkbox"/>	✓	No <input type="checkbox"/>
Please expand on your answer			

Question 3: What are your views on the appointment of a reserve member?

Agree to having a reserve member.

Question 4: Do you agree that the provisions set out at section 7.3 of the Welsh Government's Welsh language scheme are appropriate with regard to appointing members to the Commission?

Yes

✓

No

Please expand on your answer

Question 5: What are your views on the Commission having the power to appoint persons to provide expert advice, together with the power to pay any such persons?

Agree, sensible.

Question 6: Do you agree that the Commission should consider consequential changes to electoral arrangements (the numbers and distribution of councillors) when recommending changes to local government areas?

Yes

✓

No

Please expand on your answer

Question 7: Do you agree that the Commission should inform the Home Secretary of any recommendations which affect the boundaries of a police area?

Yes

✓

No

Please expand on your answer

Question 8: Once notified of a forthcoming electoral review, should a principal council be required to ensure that its communities have been recently reviewed to the satisfaction of the Commission?

Yes

No

✓

Please expand on your answer

There is already a statutory duty to keep under review which is sufficient.

Question 9: If a principal council does not follow the guidance, should the Commission be empowered to carry out the review and charge the principal council for doing so?			
Yes	<input type="checkbox"/>	No	<input type="checkbox"/> ✓
Please expand on your answer			
This would change guidance so that it in effect became mandatory.			

Question 10: What are your views on the Commission being empowered to issue guidance to the principal council on the timing and process of community reviews together with the principles to be followed?			
As long as it is only guidance and principal Councils are able to choose the extent to which it is followed.			

Question 11: Should the Commission be granted order-making powers in relation to community reviews carried out by principal councils?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			
Only where the Commission agrees with the Council proposals so as to make the process more efficient but not where it takes a different view to principal Councils.			

Question 12: What are your views on the Commission operating a continual cycle of electoral reviews, commencing in 2014, with a timetable for a ten year cycle of reviews being produced?			
No objection.			

Question 13: When fixing boundaries should local community ties have equal importance to achieving a target ratio of electors to councillors?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			
For practical proposals community ties are equally important as a target ratio of electors to councillors.			

Question 14: Should the Commission be able to propose electoral divisions which straddle community boundaries?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			
Freedom to make more practical proposals than if tied to community boundaries.			

Question 15: Should the Commission be able to propose changes to community boundaries as part of an electoral review?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			
To make proposals more efficient.			

Question 16: Should the Commission identify and publish, as part of its consultation prior to an electoral review, the number of councillors it considers appropriate for each principal council?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			

Question 17: Should Welsh Ministers be required to consult with the Commission before Minister directions are issued?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			

Question 18: Should the Commission and principal authorities be empowered to require the council for the local government area under review to provide them with information relevant to the review?			
Yes	<input type="checkbox"/> ✓	No	<input type="checkbox"/>
Please expand on your answer			

Question 19: Do you agree with the Commission being able to provide draft proposals or orders in electronic format only?

Yes

No

✓

Please expand on your answer

Many people do not use electronic communications.

Question 20: Do you agree that the Commission, or principal council, should describe within their proposals, the steps they took to consult and how they responded to the representations received?

Yes

✓

No

Please expand on your answer

Question 21: Should an organisation that conducted a review of any kind which resulted in a change to local authority areas be placed under a duty to inform Ordnance Survey, and any other persons or organisations which may be prescribed, once the changes have been made?

Yes

✓

No

Please expand on your answer

Question 22: Do you agree with the proposal to remove the regulatory power within section 60(6) of the 1972 Act to prescribe the procedure for reviews?

Yes

✓

No

Please expand on your answer

Question 23: Should Welsh Ministers have the power to make other public bodies whose membership includes elected councillors (e.g. fire and rescue authorities, local health boards), subject to review by the Commission?

Yes

✓

No

Please expand on your answer

Question 24: Should the Panel be able to prescribe a numeric limit on the posts or duties which may receive a particular payment without having to specify it as a proportion of the authority?			
Yes	<input type="checkbox"/>	✓	No
	<input type="checkbox"/>		<input type="checkbox"/>
Please expand on your answer			

Question 25: Should Welsh Ministers be enabled to add other public bodies to the remit of the Panel?			
Yes	<input type="checkbox"/>	✓	No
	<input type="checkbox"/>		<input type="checkbox"/>
Please expand on your answer			

Question 26: Should the Panel have the discretion to choose any date for the coming into force of their determinations, with the additional option of backdating any of their determinations for a period of up to three months prior to the publication of a report?			
Yes	<input type="checkbox"/>	✓	No
	<input type="checkbox"/>		<input type="checkbox"/>
Please expand on your answer			

Question 27: Do you agree with the publication date for the Panel's annual report being altered to 28 February of each year rather than 31 December?			
Yes	<input type="checkbox"/>	✓	No
	<input type="checkbox"/>		<input type="checkbox"/>
Please expand on your answer			

Question 28: Do you agree to the consultation period for <u>supplementary</u> reports being reduced to between four and eight weeks?			
Yes	<input type="checkbox"/>	✓	No
	<input type="checkbox"/>		<input type="checkbox"/>
Please expand on your answer			



Question 29: Should the Panel be empowered to require local authorities to publish information relating to all remuneration received by individual councillors in connection with the performance of public duties?

Yes

No

✓

Please expand on your answer

This would create more bureaucracy and wrongly give the impression that these payments are made by principal councils. The public bodies themselves should publish the payments they made to their members.

Question 30: Do you agree that area committees responsible for non-executive functions should be made up of all the councillors elected for that area who wish to be members?

Yes

No

✓

Please expand on your answer

This should be left to the local choice of the councils concerned.

Question 31: Should it be a legal requirement for councillor membership of audit committees to be politically balanced?

Yes

✓

No

Please expand on your answer

It is already required under the Local Government & Housing Act 1989.

Question 32: Should audit and newly-created democratic services committees fall under the normal access to information rules?

Yes

✓

No

Please expand on your answer

It is already required under the Local Government Act 1972 (As Amended in 1985).

Question 33: What are your views on town and community councils being required to ensure their contact and membership details, together with records of their proceedings are accessible via the Internet?

This is a matter that should be left to the local choice of the Town & Community Councils themselves.

Question 34: Can you suggest any other communication channels that should be explored to improve individuals' access to information about their town and community councils?

This is a matter that should be left to the local choice of the Town & Community Councils themselves.

Question 35: Do you agree that a local government officer should not receive payment under the terms of a returning Officers' fees and changes order whilst also receiving remuneration for the same period of time from their local authority?

Yes

No

✓

Please expand on your answer

The returning officers and many other local government officers involved in the election process have a lot of responsibility for ensuring elections are properly run. This proposal could lead to those who have experience being unwilling to continue which would adversely affect the efficient running of future elections. There is not a simple answer to this issue. It is best addressed by the relevant interested parties meeting and drawing up a protocol for Welsh elections.

Question 36: What are your views on the potential use of funding mechanisms to reward efforts to improve registration levels?

This is welcomed.

Question 37: Do you think that legislative competence in relation to electoral registration and the conduct of local and Assembly elections should be conferred on the Assembly?

Yes

No

Please expand on your answer

Question 38: What are the practical barriers to extending the local resolution process to community and town councils and how might they be overcome?

Question 39: To what extent is it desirable or necessary to modify the current statutory framework or model code of conduct to facilitate local resolution of complaints?

--

Question 40: Should the ethical framework in Wales be more radically modified (e.g. to introduce local assessment and investigation of all alleged breaches of the code of conduct) and, if so, how?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Please expand on your answer

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Question 41: Are the “call-in” arrangements sufficient, or should cases which fall just short of the Ombudsman’s current criteria be routinely referred for local investigation and determination?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Please expand on your answer

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Question 42: Is the voluntary cap on indemnities provided for this purpose appropriate and sufficient?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Please expand on your answer

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Question 43: Should the Welsh Government introduce a statutory limit on indemnities through subordinate legislation?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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Please expand on your answer

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Question 44: What are the perceived barriers, if any, to the establishment of regional standards committees?

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**LOCAL GOVERNMENT (DEMOCRACY) (WALES) BILL**

Your Name: Flintshire County Council

Organisation (if applicable):

Email address: [peter.j.evans@flintshire.gov.uk](mailto:peter.j.evans@flintshire.gov.uk)

Telephone number: 01352 702304

Your address: Flintshire County Council, County Hall, Mold,  
Flintshire, CH7 6NR

**The Local Government Boundary Commission**

Question 1: Is there a need for a Bill to make changes to the constitution and functions of the Local Government Boundary Commission for Wales (“the Commission”) and to make various provisions relating to local government?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
In order to implement the proposed changes			

Question 2: Do you think the Bill will improve the delivery of the statutory roles and functions of the Commission? (paragraph 3.1 of the explanatory memorandum)			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
In order to implement some of the recommendations in the Mathias review			

Question 3: Do you think the changes being made to the Commission are appropriate? (Part 2 of the Bill)			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
It reflects the White Paper which the council largely supported in its response to consultation on it.			

**Local Government arrangements**

Question 4: Do you think the provisions relating to procedures for local government reviews are appropriate? (Chapter 4 and 5)			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
The provisions are very complex and there is a need for clearer guidance on them. Where a County Council has commenced a community review before the Bill comes into effect, transitional arrangements should enable any such review to be completed on the basis of the 1972 Act provisions.			

Question 5: Do you think the arrangements for local government in relation to:

- Duties of the Commission
- Duties of a principal council

are appropriate? (Chapter 1)

Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
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The provisions are very complex and there is a need for clearer guidance on them.

Question 6: Do you think the arrangements for local government in relation to:

- Democratic Services Committees (Section 56)
- Audit Committees (Section 57)
- Standards Committees

Are appropriate?

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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The council does not believe there is a need for Section 57 as it believes political balance has always been required since the 1989 Act. As long as joint standards committees are in addition to the existing arrangements rather than a replacement for them there is no objection to this.

**Independent Remuneration Panel for Wales**

Question 7: Do you think the provisions relating to the Independent Remuneration Panel for Wales are appropriate? (Chapter 5, Sections 58-62)

Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
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The council broadly agreed with these provisions. It does not however agree with the proposed requirement for councils to publish information relating to all payments made to Members by other public bodies. It should be for each public body to publicise the payments it makes.

**Access to information (Town and Community Councils)**

Question 8: Do you think the provisions relating to improving access to information (Town and Community Councils) are appropriate?

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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It should be left to the individual choice of the Town or Community Council

## Chairing of Principal Councils (Chairs and Mayors of Principal Councils)

Question 9: Do you think the provisions relating to the Chairing of Principal Councils (Chairs and Mayors of Principal Councils) are appropriate?			
Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
It gives councils another option if they wish to use it. There will however, have to be drafting changes to the Bill so that the civic chair has the same meaning as is given to the chairman in the Local Government Act 1972. It is also believed that the presiding member's term of office should continue until their successor is appointed so that they can chair the start of the Council meeting following elections.			

## General Provisions of the Bill

Question 10: What are the potential barriers to implementing the provisions of the Bill (if any) and does the Bill take account of them?			
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
The provisions dealing with the various types of review need to be explained more clearly.			

Question 11: What are the financial implications of the Bill, if any? In answering this question you may wish to consider Part 2 of the Explanatory Memorandum (the Impact Assessment), which estimates the costs and benefits of implementation of the Bill.			
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
It is not understood how the option of joint standards committees will lead to fewer members of standards committees overall which is referred to as a saving. A council may decide to continue with its own standards committee. Even for those who decide to have a joint committee the number of members on it are not limited.			

Question 12: What are your views on powers in the Bill for Welsh Ministers to make subordinate legislation (i.e statutory instruments including regulations and orders) (section 5 of the Explanatory Memorandum)?			
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
An inevitable requirement			

Question 13: Are there any other comments you wish to make about specific sections of the Bill?			
Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** CONSTITUTION COMMITTEE

**DATE:** WEDNESDAY, 30 JANUARY 2013

**REPORT BY:** MEMBER ENGAGEMENT MANAGER

**SUBJECT:** FOUR PROTOCOLS FOR PUBLIC ENGAGEMENT WITH OVERVIEW & SCRUTINY

### **1.00 PURPOSE OF REPORT**

1.01 To enable the committee to consider and agree the four draft public engagement protocols for Overview & Scrutiny which have been produced pursuant to Section 62 of the Local Government (Wales) Measure 2011 and Paragraph 5.26 of the Statutory Guidance from the Local Government Measure 2011.

### **2.00 BACKGROUND**

2.01 From the outset, public engagement has been recognised as an essential for effective Overview & Scrutiny. It was identified as being one of the 6 conditions for effective scrutiny in the 2002 report which was produced by the then Office of the Deputy Prime Minister.

2.02 Subsequently, despite the best efforts of the majority of Local Authorities, the Welsh Government, the Welsh Local Government Association (WLGA) and the Centre of Public Scrutiny (CfPS), public engagement with Overview & Scrutiny and visa versa has not been successful as hoped.

2.03 Flintshire has had a number of initiatives for public engagement, including a facility on our website since 2003 to enable members of the public to suggest topics for Overview & Scrutiny, together with attending meetings of town and community councils, school VIth forms and the Over-50s forum. However, it is reasonable to say that the response received has not justified the amount of resource which we have put into this.

2.04 The Local Government (Wales) Measure 2011 and the Guidance arising from that have recommended that Local Authorities develop Four Protocols to assist in the consistent application of public engagement practices. This report deals with the draft protocols which have been prepared.

### **3.00 CONSIDERATIONS**

3.01 The Four Protocols are :-

- Public speaking arrangements at Scrutiny Committee / joint Overview & Scrutiny Committees (to include call in)
- Public involvement in sub-committee and all Task & Finish Group meetings
- Managing a request for Scrutiny (including Petitions)
- Dealing with requests for public co-option.

3.02 The “Four Protocols document” is attached as appendix one for the committee’s consideration. Appendix two is a list of topics which have previously been considered by Overview & Scrutiny: it is intended that this will be included, for illustrative purposes, on the website. ([www.flintshire.gov.uk/scrutiny](http://www.flintshire.gov.uk/scrutiny))

### **4.00 RECOMMENDATIONS**

4.01 That the Committee considers and comments on the Four draft Public Engagement Protocols for Overview & Scrutiny

4.02 That having regard to the above, the Committee approves the Protocols for use in our engaging with the public.

### **5.00 FINANCIAL IMPLICATIONS**

5.01 There are no financial implications arising directly out of this report

### **6.00 ANTI POVERTY IMPACT**

6.01 None as result of this report.

### **7.00 ENVIRONMENTAL IMPACT**

7.01 None as a result of this report.

### **8.00 EQUALITIES IMPACT**

8.01 The Four Protocols are intended to make Overview & Scrutiny more accessible to members of the public and as such would be published in both English and Welsh.

### **9.00 PERSONNEL IMPLICATIONS**

9.01 The public engagement protocols may result in an increase in the workload for the Overview & Scrutiny Team

### **10.00 CONSULTATION REQUIRED**

10.01 Publication of this report constitutes consultation

**11.00 CONSULTATION UNDERTAKEN**

11.01 Publication of this report constitutes consultation

**12.00 APPENDICES**

12.01 (1) Four Protocols for Public Engagement  
(2) List of previous topics considered by Overview & Scrutiny.

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

None other than those identified in the report.

**Contact Officer: Robert Robins**  
**Telephone: 01352 702320**  
**Email: Robert.Robins@flintshire.gov.uk**

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## **Flintshire County Council Overview & Scrutiny Public Engagement Protocols**

### **1.0 Introduction and background**

1.1 The four Public Engagement protocols are produced pursuant to section 62 of the Local Government (Wales) Measure 2011 and paragraph 5.26 of *the Statutory Guidance from the Local Government Measure 2011* published by the Welsh Government in June 2012 (WG 15736)

1.2 In order to manage the differing ways in which members of the public may engage with the work of overview & scrutiny, the statutory guidance recommends that 4 protocols be developed to assist in the consistent application of practices. The aim of the protocols is to manage public expectations in terms of setting out how any information submitted to the relevant Overview & Scrutiny committees will be used and detailing how and when feedback will be provided.

1.3 The protocols are:

- Public Speaking Arrangements at Scrutiny Committee/Joint Overview & Scrutiny Committees meetings (to include call in );
- Public involvement in Sub-committee and/or Task & Finish Group Meetings;
- Managing a request for scrutiny (including petitions);
- Dealing with requests for public co-option.

The 4 protocols will be published on the website and thus be easily available for public reference.

1.4 The County Council currently has six Overview & Scrutiny committees, which are

- Community Profile & Partnerships
- Corporate Resources
- Environment
- Housing
- Lifelong Learning
- Social & Healthcare

Together, these committees cover all of the County Council's functions and also those services provided by other public service providers in the county.

### **2.0 Public speaking arrangements at Overview & Scrutiny Committees**

2.1 The forward work programme for all of our Overview & Scrutiny committees is published on the Council's website and is thus readily

accessible to members of the public. Similarly, the agendas for Overview & Scrutiny Committee meetings are published on our website at least three clear working days before the meeting is due to take place.

2.2 If a member of the public wishes to speak at a meeting to make a contribution to an Overview & scrutiny committee, in the first instance they should contact the committee's facilitator at least 24 hours before the meeting. (The facilitator is the dedicated support officer for the committee and advises the Chair on Council policy and procedure and on the conduct of meetings - details are available on the website or by phoning 01352 702301) They should then explain the nature of their interest and the contribution which they think that they could make. The facilitator will then discuss the approach with the committee's chair and/or vice-chair explaining the nature of the contribution. If the Chair is of the opinion that a member of the public in such circumstances could make a valid contribution to the committee's understanding of the issue, s/he will give their assent. Bearing in mind that there are likely to be other items on the agenda which should also be afforded an appropriate amount of time for discussion, the Chair is advised to limit the number of public contributors to two. Members of the public who attend a committee meeting to speak will be limited to five minutes.

2.3 There is also a facility for a member of the public to make a written contribution if they are unable to attend in person. At the Chair's discretion, such contributions can be circulated to members of the committee at the start of the meeting.

2.4 It may be that circumstances have caused a member of the public to attend an Overview & scrutiny committee without having given prior notice. If s/he then wishes to contribute to the meeting by speaking on a particular item, they should approach the Chair or the Chair's adviser or committee officer prior to the start of the meeting, explaining why they wish to speak. If the Chair is of the opinion that a member of the public in such circumstances could make a valid contribution to the committee's understanding of the issue, s/he will give their assent.

2.5 At the appropriate juncture, the member of the public will be called to speak and be afforded the opportunity so to do for five minutes.

2.6 The Chair's decision as to whether or not a member of the public is able to make a contribution is final: the Chair will always apply a test of reasonableness in making this decision and will be guided by the officers.

2.7 A member of the public attending and speaking at an overview & scrutiny meeting will be bound by the rules of conduct and procedure contained within the Council's Constitution and will be expected to respect the rulings of the Chair.

2.8 Potential contributors should be aware that the Council cannot accept topics which relate to the following: judicial or quasi-judicial matters or which are currently being investigated; individual planning, licensing or grant

applications or appeals; named members or employees of the Council; confidential or exempt information (as described in the Council's Access to Information procedure rules) or which requires its disclosure; party political matters or defamatory material.

### **3.0 Public involvement in Sub-committee and/or Task & Finish Group Meetings**

3.1 Whilst Flintshire does not currently have sub-committees, some of the work of the Overview & Scrutiny committee is from time delegated to a task and finish group. The provisions in this protocol will apply to any sub-committee which Overview & Scrutiny forms in the future.

3.2 Task and finish groups are generally given broad terms of reference, recognising that the knowledge of a topic increases during a review. Sometimes, elements of the terms of reference can be quite specific, depending on the nature of the topic. The Chair (usually the chair or vice-chair of the parent committee) will have the latitude to allow a necessary degree of flexibility to allow the group to operate effectively and with due expedition.

3.3 It is recognised that members of the public may be invaluable in adding to a task group's understanding of an issue and thus may be asked to become involved, as a contributor or 'expert witness' for an aspect of the task and finish group's work.

3.4 A member of the public who believes that they would be able to make a valid contribution to the work of a task and finish group should contact the parent committee's facilitator, details of whom are to be found on the Council's website, [www.flintshire.gov.uk/scrutiny](http://www.flintshire.gov.uk/scrutiny) or by phoning 01352 702301.

3.5 Any such contributions by members of the public would be summarised in the minutes of the task group and views appropriately attributed in the final report prepared by the task and finish group for submission to the parent committee.

3.6 Any contributor would be invited to attend the meeting of the parent committee to which the final report was submitted and accorded the same right to speak at the meeting as a member of the committee.

### **4.0 Managing a request for scrutiny (including petitions)**

4.1 Anyone who lives, works or studies in Flintshire is able to submit suggestions for future topics for consideration by our committees. This can be done by completing the [Overview and Scrutiny suggestion form \(PDF.doc 71KB new window\)](#) on the website or alternatively, you can [submit an enquiry \(will open an e-form\)](#).

4.2 The Member Engagement Manager in consultation with appropriate Overview & Scrutiny Committee Chairs will decide whether the issue suggested is suitable to be referred to one of the six functional committees. If it is decided that an issue is not appropriate for discussion, or is too similar to a topic which has recently been considered, the Member Engagement Manager will contact the member of the public to explain why it has not been accepted.

4.3 A list of the sort of topics which Overview & Scrutiny committee have considered in the past is available on our website to give an understanding of our work. [www.flintshire.gov.uk/scrutiny](http://www.flintshire.gov.uk/scrutiny)

4.3 We cannot accept topics which relate to the following: judicial or quasi-judicial matters or which are currently being investigated; individual planning, licensing or grant applications or appeals; named members or employees of the Council; confidential or exempt information (as described in the Council's Access to Information procedure rules) or which requires its disclosure; party political matters or defamatory material.

4.4 Topics for consideration should be submitted in writing to:

Member Engagement Manager  
Flintshire County Council  
FREEPOST  
NWW 15332  
Mold CH7 6ZY Or by e-mail to [scrutiny@flintshire.gov.uk](mailto:scrutiny@flintshire.gov.uk)

or by fax to 01352 702494

## **5. Dealing with requests for public co-option**

5.1 The Council has carefully considered the issue of co-option of members of the public to Overview & Scrutiny on a number of occasions.

5.2 There are currently five statutory co-optees on the Lifelong Learning Overview & Scrutiny Committee. Two are diocesan representatives, representing the Church in Wales' Diocese of St Asaph and the Roman Catholic Diocese of Wrexham respectfully. There are also three parent governor representatives who jointly represent the interests of parents of children in Flintshire's schools. The statutory co-optees can vote on all education matters considered by the committee. When the committee is considering another issue (Culture & Leisure issues are also within its remit) the co-optees can participate but not vote.

5.3 Experience has shown us that the involvement of the public as contributors rather than as committee members is likely to be the most effective way of managing participation. The role of members of the public as contributors, or speaking at committee is covered in sections 2 and 3, above.



5.4 It is important that an element of flexibility is retained: the current decision to involve the public as contributors or expert witnesses does not preclude the reconsideration of the public as co-optees as the need arises.

5.5 If a member of the public believes that they would be able to make a more effective contribution to a review as a co-opted member, rather than as a contributor or expert witness, they are able to make representations to that effect. In such circumstances, the member of the public should contact the Member Engagement Manager, in writing, setting out their reasons.

Member Engagement Manager  
Flintshire County Council  
FREEPOST  
NWW 15332  
Mold CH7 6ZY Or by e-mail to [scrutiny@flintshire.gov.uk](mailto:scrutiny@flintshire.gov.uk)

or by fax to 01352 702494

5.6 The Member Engagement Manager will consult the Chair and Vice –Chair of the Constitution Committee and of the appropriate Overview & Scrutiny committee will be consulted and asked for their opinions as to the appropriateness of the contribution. The Member Engagement Manager will then make a decision and inform the member of the public accordingly.

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Topics which have been considered by Overview and Scrutiny previously include the following:

<p>A compact for change between the Welsh Government and the Welsh Local Government</p> <p>Agricultural Estates and Asset management</p> <p>Allocations Policy</p> <p>Annual Improvement Report by the Auditor General for Wales</p> <p>Arson, vandalism and burglaries in Flintshire Schools</p> <p>Asset Management Strategy</p> <p>Attainment of Looked after Children</p> <p>Budget Monitoring and Capital Programme</p> <p>Children and Young People's Plan</p> <p>Civil Contingencies and Emergency Planning</p> <p>Climate Change adaptation and Resilience Planning</p> <p>Common Access Routes to Housing</p> <p>Community Based Warden Support Service</p> <p>Corporate Health and Safety</p> <p>Corporate Parenting Activity</p> <p>Council Household Recycling Centres</p> <p>Deeside College</p> <p>Dog Fouling Enforcement</p> <p>Estate Management</p> <p>Estyn Inspections</p> <p>Exclusions from Schools</p> <p>First Time Buyers to Access Home Ownership</p> <p>Grass cutting Policy</p> <p>Groundwork Wrexham and Flintshire</p> <p>Improving Empty Property</p>	<p>Leisure Centres redevelopment</p> <p>Local Housing Strategy</p> <p>Local Service Board &amp; Strategic Partnership Update</p> <p>Managed Agency Staff Solution</p> <p>Medium Term Financial Strategy</p> <p>North Wales Residual Waste Treatment Project</p> <p>People Strategy and Workforce Information Reporting</p> <p>Performance issues and Service Plans</p> <p>Play Areas</p> <p>Private Sector Housing Renewal</p> <p>Regional School Effectiveness and Improvement Service Project</p> <p>Repairs and Maintenance</p> <p>Rural Development Plan for Wales</p> <p>Schools Admission Arrangements</p> <p>School Balances</p> <p>Schools Modernisation</p> <p>Sheltered Housing Improvement</p> <p>Streetscene</p> <p>Streetlighting</p> <p>Wales Audit of Mental Health Services and the Mental Health Measure</p> <p>Welfare Reforms – Managing the Impact</p> <p>Welsh in Education Strategic Plan</p> <p>Winter Maintenance Service</p> <p>14 – 19 Educational provision</p>
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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** CONSTITUTION COMMITTEE  
**DATE:** WEDNESDAY, 30 JANUARY 2013  
**REPORT BY:** DEMOCRACY & GOVERNANCE MANAGER  
**SUBJECT:** UPDATING THE CONSTITUTION

### **1.00 PURPOSE OF REPORT**

1.01 To consider further updating changes to the Council's Constitution pursuant to the three year programme agreed at the committee's meeting on the 24 July 2012.

### **2.00 BACKGROUND**

2.01 Section 37 of the Local Government Act 2000 requires a local authority such as Flintshire to keep up-to-date a Constitution containing information prescribed by the Welsh Government and for that to be available for inspection by members of the public. Section 38 requires the authority to have regard to guidance issued by the Welsh Government and the subsequent guidance required the Constitutions to be in the modular format that Flintshire has.

2.02 At its meeting on the 24 July 2012 the committee considered a report recommending a programmed review of the Constitution over a three year period and resolved to endorse that programmed review. Six areas of the Constitution were identified for review in year one. The first three of those were reported to the 24 October 2012 meeting and the remaining three are being reported to this meeting. These are:-

1. Council Procedure Rules
2. Cabinet Procedure Rules
3. Overview & Scrutiny Procedure Rules

All the above are contained in Part 4 of the Constitution.

2.03 An updating review of the above three procedure rules has been undertaken by the Democracy & Governance Manager and there has been consultation with relevant Members and the Chief Executive and the Head of Legal & Democratic Services. Tracking changes have been made to show the proposed changes and the reasons for them and these are attached as appendices 1, 2 and 3 to this report.

### **3.00 CONSIDERATIONS**

- 3.01 In undertaking the review the guiding principles have been to update to reflect current arrangements, avoid unnecessary bureaucracy and avoid ambiguity of wording. The extent to which changes can be made is limited by the requirement to follow the Welsh Government guidance and to include the information the Welsh Government requires to be included in Constitutions.
- 3.02 One consideration Members need to be aware of is that the Welsh Government have commissioned Dickinson Dee Solicitors to prepare a draft model Constitution which will be relevant to the Council's own review but at the present time there is a lack of clarity as to what may emerge from this. It is considered that the Council should continue with its own three year programme of updating the Constitution bearing in mind the draft model Constitution may lead to further substantive changes.
- 3.03 The updating review of the Council Procedure Rules includes the following proposed changes:-
- Clarification that the annual meeting will be chaired by the vice chair in the absence of the Council's chair (rule 1.1).
  - To clarify the matters dealt with at ordinary meetings (rule 2).
  - That written answers to questions will be circulated to all Members (rule 9.5).
  - Updates to reflect current legislation (rules 22.1 and 22.3).
- 3.04 The updating review of the Cabinet Procedure Rules include the following proposed changes:-
- To add paragraph (d) to rule 1.4 to reflect the change agreed by County Council at its November 2012 meeting.
  - To clarify the wording in rule 1.5 (c) in relation to interests of Members or officers so that they comply with the appropriate code of conduct.
  - To delete the reference in rule 2.5 to every Cabinet agenda having an item for matters referred by Overview & Scrutiny Committees as there is not always a matter referred to the Cabinet by Overview & Scrutiny and to reflect current practice.
- 3.05 The review and updating of the Overview & Scrutiny procedure rules includes the following proposed changes:-
- To clarify and update the terms of reference of the Overview & Scrutiny Committees in rule 1 so that they are consistent with those in article 6 of the Constitution.
  - To amend rule 7 concerning who chairs Overview & Scrutiny Committee meetings to reflect the legislation that came into effect in April 2012.

- The protocol referred to in rule 9 and attached as annex A is in the course of being updated to reflect Councillor Calls for Action introduced by the Local Government (Wales) Measure 2011. When that protocol has been separately agreed by Members it will replace the annex to the Overview & Scrutiny procedure rules.
- To remove certain sub paragraphs of rule 16 relating to call-ins as they are not necessary and merely add confusion (existing paragraphs f, g and i have been deleted).
- To update rule 17 concerning the party whip to reflect section 78 of the Local Government (Wales) Measure 2011.
- To replace reference to the Co-ordinating Committee with reference to the Constitution Committee (rules 19 and 20).

3.06 Any alterations that the committee agrees to as a result of this report will need to be reported to County Council for its approval.

#### **4.00 RECOMMENDATIONS**

4.01 For the committee to consider the recommended changes to the Council, Cabinet and Overview & Scrutiny procedure rules and recommend accordingly to Council.

#### **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 With Council chair and vice chair on council procedure rules. With Leader and Deputy Leader on Cabinet procedure rules. With

Overview & Scrutiny chairs on Overview & Scrutiny procedure rules.  
With Chief Executive and Head of Legal & Democratic Services on all  
proposed changes.

**12.00 APPENDICES**

- 12.01 Appendix 1 - Council procedure rules.  
Appendix 2 - Cabinet procedure rules.  
Appendix 3 - Overview & Scrutiny procedure rules.

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

None

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**PART 4 - RULES OF PROCEDURE**

**Council Procedure Rules**

**CONTENTS**

**Rule**

- 1. Annual meeting of the Council
- 2. Ordinary meetings
- 3. Special meetings
- 4. Time and place of meetings
- 5. Notice of and summons to meetings
- 6. Chair of meeting
- 7. Quorum
- 8. Duration of meeting
- 9. Questions by members
- 10. Public Question Time
- 11. Motions on notice
- 12. Motions without notice
- 13. Rules of debate
- 14. Previous decisions and motions
- 15. Voting
- 16. Minutes
- 17. Record of attendance
- 18. Exclusion of public
- 19. Members' conduct
- 20. Disturbance by public
- 21. Suspension and amendment of Council Procedure Rules
- 22. Attendance at Committees and Sub-Committees
- 23. Application to Committees and Sub-Committees
- 24. Overview and Scrutiny Committees
- 25. Substitutes

**1. ANNUAL MEETING OF THE COUNCIL**

**1.1 Timing and business**

In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in May.

The annual meeting will:

- (i) elect a person to preside if the Chair and Vice-Chair of Council are not present;

**Comment:** Annual Meetings are held during May

**Deleted:** March, April or

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**Comment:** It is only when both the Chair and Vice-Chair are not present that there is the need to elect a person to preside.

- (ii) elect the Chair of Council;
- (iii) elect the Vice Chair of Council;
- (iv) receive any announcements from the Chair and/or Head of the Paid service;
- (v) elect the Leader;
- (vi) receive and note the Leader's choice of Councillors to serve upon the Cabinet;
- (vii) appoint at least one Overview and Scrutiny Committee, a Standards Committee, a Democratic Services Committee, an Audit Committee, [a Planning & Development Control Committee](#), a Licensing Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Part 3, Table 1 of this Constitution);
- (viii) decide the size and terms of reference for those Committees;
- (ix) decide the allocation of seats to political groups in accordance with the political balance rules; and appoint to Committees those Members, if any, who are not Members of any political group. It will be noted that Group Leaders appoint Members from within their Groups to fill the seats available to their respective Groups on Committees.
- (x) appoint the chairs of the standing Committees appointed under (vii) above with the exception of the Standards Committee, the Overview & Scrutiny Committee(s) and the Audit Committee;
- (xi) determine which political group shall nominate the Chair of each Overview & Scrutiny Committee appointed under (vii) above, having regard ~~the~~ guidance issued under the Local Government (Wales) Measure 2011.
- (xii) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 Table 3 of this Constitution);
- (xiii) approve a programme of ordinary meetings of the Council for the year; and
- (xiv) appoint to those outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the Cabinet.

**Comment:** Previously omitted by oversight.

**Comment:** Guidance has now been issued

**Deleted:** to any

## 2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) elect a person to preside if the Chair and Vice Chair are not present;
- (ii) approve the minutes of the last meeting;
- (iii) ~~consider any urgent items of business as determined by the Chair to the meeting;~~
- ~~(iv) public questions in accordance with Rule 10 of these Rules~~
- (v) consider ~~questions and motions under Procedure Rules 9 and 11;~~ and
- (vi) receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- (vii) receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- (viii) ~~consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's budget and policy framework and reports of the Overview and Scrutiny Committees for debate.~~

**Comment:** This is covered by (viii) and does not need specific reference

**Comment:** It is unclear what this is intended to cover but in any event the minutes of the previous meeting are dealt with under (ii) and any other agenda items under (viii)

**Deleted:** receive any declarations of interest from members;

**Deleted:** ¶  
¶ (iv) deal with any business from the last Council meeting;

**Deleted:** ¶  
¶ (v).

**Comment:** Legally this is a decision for the Chair alone

**Deleted:** specified in the summary to the meeting

**Comment:** Previously omitted by mistake

**Comment:** Councillors questions previously omitted by mistake

**Deleted:** i

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### 3. SPECIAL MEETINGS

#### 3.1 Calling special meetings.

Those listed below may request the Democracy & Governance Manager to call Council meetings in addition to ordinary meetings:

- i) the Council by resolution;
- ii) the Chair of the Council;
- iii) the Leader of the Council;
- iv) the Chair of the ~~Constitution~~ Committee
- v) the Monitoring Officer;
- vi) the Chief Finance Officer, and
- vii) the Chair of an Overview and Scrutiny Committee acting in accordance with a call-in referral to the County Council by that Overview and Scrutiny Committee in accordance with paragraph 16 of the Overview and Scrutiny Procedure Rules.

**Comment:** Update

**Deleted:** Scrutiny Co-ordinating

3.2. Any five Members of the Council shall be entitled to requisition a

Special Meeting of the Council on presentation of a Requisition Notice signed by them all setting out the Motion they wish to move and delivering the Requisition Notice to the office of the Democracy & Governance Manager;

- 3.3 On receipt of the Requisition referred to in 3.2 above the Democracy and Governance Manager shall convene a Special Meeting and that meeting shall be held no earlier than 10 working days of receipt of the Requisition Notice (except with the consent of the Chairman or Vice Chairman in cases of urgency) and no later than 20 working days of receipt of the Requisition Notice (except with the agreement of the five Members making the Requisition).
- 3.4 If following receipt of the Requisition Notice, but before the agenda has been dispatched, signatories to that Notice indicate in writing that they no longer require such meeting to be held then the requisite Notice shall be deemed to be cancelled.
- 3.5 Where appropriate questions given on Notice in Writing in compliance with Rule 9.4(b) and Motions on Notice in accordance with Rule 11 shall be considered at special meetings of the Council where they are received within the relevant timescales unless the Member submitting the question or motion requests otherwise

#### 4. TIME AND PLACE OF MEETINGS

The time and place of meetings will be determined by the Democracy & Governance Manager and notified in the summons.

#### 5. NOTICE OF AND SUMMONS TO MEETINGS

The Democracy & Governance Manager will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least three clear days before a meeting, the Democracy & Governance Manager will send a summons signed by him or her to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

**Deleted:** by post

**Deleted:** or leave it at their usual place of residence

**Comment:** Some Members have agreed to receive agendas electronically or by collecting them from Members' Services.

#### 6. CHAIR OF MEETING

- 6.1 Each Committee shall appoint one of its members as Vice Chair at the first meeting following the annual general meeting.
- 6.2 The person presiding at the meeting may exercise any power or duty of the Chair. Accordingly, if it appears appropriate, the Chair may, at his/her sole discretion waive compliance with the rules of debate set out in Rule 13.4 and 13.5 to facilitate the transaction of business at the meeting.

**Comment:** Already covered by Procedure Rule 23

**Deleted:** Where these rules apply to Committee and Sub-Committee meetings, references to the Chair also include the Chair of Committees and Sub-Committees.

- 6.3 The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any Procedure Rule shall be final and no debate may ensue thereon.
- 6.4 In the case of Committees:-
- (a) The Committee's Chair when present shall chair the meeting except where the Committee Chair decides otherwise.
- (b) Where the Committee Chair does not Chair the meeting or a part of it the Vice-Chair of the Committee when present shall take the Chair except where the Vice-Chair decides otherwise.
- (c) In the absence of a Chair and Vice Chair for the meeting or a part of it a Chair for the meeting shall be appointed by the Committee from those Members present for the meeting.

## 7. QUORUM

The quorum of a meeting will be one quarter of the whole number of members. During any meeting if the Chair counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 8. DURATION OF MEETING

Unless the Chairman in his/her discretion decides otherwise, any meeting shall conclude at 5.00pm. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

## 9. QUESTIONS BY MEMBERS

### 9.1 On reports of the Cabinet or Committees

A Member of the Council may ask the Leader or the Chair of a Committee any question without notice upon an item ~~in~~ the report of the Cabinet or a Committee when that item is being received or under consideration by the Council.

**Comment:** Clarification

**Deleted:** of

### 9.2 Questions on notice at full Council

Subject to Rule 9.4, a Member of the Council may ask:

- the Chair of the Council;
- a Member of the Cabinet; or
- the Chair of any Committee or Sub-Committee.

a question on the minutes of any committee or fora (with the exception of minutes relating to planning or licensing applications) published since the last Ordinary Meeting of the County Council or on any matter in relation to which the Council has powers or duties or which affects the County of Flintshire.

**Comment:** Clarification as 9.4(b) makes clear questions do not have to be on minutes.

### 9.3 Questions on notice at Committees and Sub-Committees

Subject to Rule 9.4, a Member of a Committee or Sub-Committee may ask the Chair of it a question on any matter in relation to which the Council has powers or duties or which affect and which falls within the terms of reference of that Committee or Sub-Committee.

### 9.4 Notice of questions

- (a) In the case of questions on the minutes of committees or fora where they have given at least three clear working days notice in writing of the question to the Democracy & Governance Manager; or
- (b) subject to (c) below in relation to any other question where they have given at least ten clear working days notice in writing of the question to the Democracy & Governance Manager; or
- (c) the question relates to urgent matters, they have the consent of the Chair or Member of the Cabinet to whom the question is to be put and the content of the question is given to the Democracy & Governance Manager by 9.00 a.m. on the day of the meeting.

### 9.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer circulated later to the questioner and all other Members.

**Comment:** All Members should be entitled to a copy

### 9.6 Supplementary question

A Member asking a question under Rule 9.2 or 9.3 may ask one supplementary question without notice of the Member to whom the first question was asked. The supplemental question must arise directly out of the original question or the reply.

### 9.7 Questions at the Overview and Scrutiny Committees

- (a) Where a person attends before an Overview and Scrutiny Committee for the purpose of answering questions the Chair may allow the person to make an opening statement relating to the subject matter under consideration.
- (b) Members of the Committee will each be permitted to ask questions of any person attending the Committee for the purpose of answering questions.
- (c) The order number and duration of questioning by Members of the Committee shall be determined by the Chair of the meeting.
- (d) A person attending the Committee for the purpose of answering questions will be expected to normally give an oral answer or to nominate someone else present to answer on that person's behalf.

Note

- (i) Where an answer would involve the disclosure of exempt information there will be a need to first consider excluding the press and public.
- (ii) A person will be able to decline to answer where this would be permissible in Court.

**10.00 PUBLIC QUESTION TIME**

- 10.01 There will, as the next agenda item after apologies at ordinary meetings, be an opportunity for people who work, study or live in Flintshire to ask questions to the Leader of the Council and Cabinet Members.
- 10.02 The overall period for asking and answering questions will be 30 minutes.
- 10.03 Questions shall be restricted to matters relating to Flintshire County Council and/or the services provided by the Council and no other agencies.
- 10.04 A person may only submit one question for consideration at any public question time.
- 10.05 Questions will not be accepted which:-
  - (a) Involve judicial or quasi-judicial matters or matters being investigated by the Ombudsman, under any Council procedure or other agency;
  - (b) Relate to individual planning applications; licence applications; grant applications, or appeals;
  - (c) Relate to a named officer or member of the Council;
  - (d) Requires the disclosure of confidential or exempt information as described in the Access to Information Procedure Rules;
  - (e) Are party political matters.
  - (f) Are defamatory, or
  - (g) Are substantially the same as a question already put at the same question time or within the last six months.

10.06 Questions must be submitted in writing and received by the Democracy & Governance Manager no later than 12 noon on the seventh day before public question time.

10.07 Questions which conform to the requirements of these Rules will be scheduled by the Democracy & Governance Manager in the order in which they were received, and they will be dealt with in that order. Five days prior to public question time the Democracy & Governance Manager will inform the person/persons concerned of the date of the meeting at which their question will be presented. Details of all questions submitted will be circulated to all members of the Council in advance.

10.08 Where a submitted question cannot be answered because time does not allow, a written answer will be provided within 7 days of the public question time, a copy of which will be sent to all members of the Council.

10.09 One supplementary question will be allowed by the questioner but must specifically relate to the subject matter of the original question and not introduce other issues. The Leader or Cabinet Member may elect to respond to any supplementary question in writing.

10.10 This protocol will not operate to allow Members and employees of Flintshire County Council to raise any questions as they have their own procedure already.

## 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 office of the Democracy and Governance Manager, not later than 10 working days before the date of the meeting. These will be entered in a book open to public inspection.

**Comment:** For clarity

**Deleted:** proper Officer

### 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 Cabinet and cannot require the Cabinet to follow its view on any Executive function.

**Comment:** clarification

**Deleted:** recommendations

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



#### 11.4 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 residents or 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.

#### 11.5 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 **at least 7** working days **prior to** 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.

Deleted: within

Comment: For clarification

Deleted: of

#### 12. MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- (a) To appoint a Chair of the meeting at which the motion is moved;
- (b) In relation to the accuracy of the minutes;
- (c) To change the order of business in the agenda;
- (d) To refer something to an appropriate body or individual;
- (e) To appoint a Committee or Member arising from an item on the summons for the meeting;
- (f) To receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;

- (g) To withdraw a motion;
- (h) To amend a motion;
- (i) To proceed to the next business;
- (j) That the question be now put;
- (k) To adjourn a debate;
- (l) To adjourn a meeting;
- (m) That the meeting continue beyond 6 hours in duration;
- (n) To suspend a particular Council procedure rule;
- (o) To exclude the public and press in accordance with the Access to Information Rules;
- (p) To not hear further a Member named under Rule 19.3 or to exclude them from the meeting under Rule 19.4; and
- (q) To give the consent of the Council where its consent is required by this Constitution.

### 13. **RULES OF DEBATE**

#### 13.1 **No speeches until motion seconded**

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

#### 13.2 **Right to require motion in writing**

Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him/her before it is discussed.

#### 13.3 **Secunder's speech**

When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

#### 13.4 **Content and length of speeches**

Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed 5 minutes without the consent of the Chair.

#### 13.5 **When a Member may speak again**

A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (a) To speak once on an amendment moved by another Member;
- (b) To move a further amendment if the motion has been amended since he/she last spoke;

- (c) In exercise of a right of reply;
- (d) On a point of order; and
- (e) By way of personal explanation.

**Comment:** Duplication

**Deleted:** (c) . If his/her first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);¶

**Deleted:** d

**Deleted:** e

**Deleted:** f

### 13.6 Amendments to motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
  - (i) To refer the matter to an appropriate body or individual for consideration or reconsideration;
  - (ii) To leave out words;
  - (iii) To leave out words and insert or add others; or
  - (iv) To insert or add words.

As long as the effect of (ii) to (iv) is not to negate the motion.

- (b) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (e) After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### 13.7 Alteration of motion

- (a) A Member may alter a motion of which he/she has given notice with the

consent of the meeting. The meeting's consent will be signified without discussion.

- (b) A Member may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- (c) Only alterations which could be made as an amendment may be made.

### 13.8 Withdrawal of motion

A Member may withdraw a motion which he/she has moved with the consent of the seconder. No Member may speak on the motion after it has been withdrawn.

**Deleted:** both the meeting and

**Deleted:** The meeting's consent will be signified without discussion.

**Comment:** Clarification

**Deleted:** the mover has asked permission to withdraw it u

**Deleted:** unless permission is refused.

### 13.9 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
- (c) The mover of the amendment has no right of reply to the debate on his or her amendment.

### 13.10 Motions which may be moved during debate

When a motion is under debate, no other motion may be moved except the following procedural motions:

- (a) To withdraw a motion;
- (b) To amend a motion;
- (c) To proceed to the next business;
- (d) That the question be now put;
- (e) To adjourn a debate;
- (f) To adjourn a meeting;
- (g) That the meeting continue beyond 6 hours in duration;
- (h) To exclude the public and press in accordance with the Access to Information Rules; and
- (i) To not hear further a Member named under Rule 19.3 or to exclude

them from the meeting under Rule 19.4.

### 13.11 Closure motions

- (a) A Member may move, without comment, the following motions at the end of a speech of another Member:
  - (i) To proceed to the next business;
  - (ii) That the question be now put;
  - (iii) To adjourn a debate; or
  - (iv) To adjourn a meeting.
- (b) If a motion to proceed to next business is seconded and the Chair thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
- (c) If a motion that the question be now put is seconded and the Chair thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
- (d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chair thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

### 13.12 Point of order

A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairperson on the matter will be final.

### 13.13 Personal explanation

With the consent of the Chair a Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member which may appear to have been misunderstood in the present debate. The ruling of the Chair on the admissibility of a personal explanation will be final.

## 14. PREVIOUS DECISIONS AND MOTIONS

#### **14.1 Motion to rescind a previous decision**

A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless moved on the recommendation of a Committee or the Cabinet or the notice of motion is signed by at least 10 members.

#### **14.2 Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless moved on the recommendation of a Committee or the Cabinet or the notice of motion or amendment is signed by at least 10 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **15. VOTING**

#### **15.1 Majority**

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

#### **15.2 Chair's casting vote**

If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chairperson chooses to exercise a casting vote.

#### **15.3 Show of hands**

Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the Chair will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

#### **15.4 Ballots**

At a meeting of the County Council the vote will take place by ballot if 20 members present at the meeting demand it. At meetings of Committees or Sub-Committees the vote will be taken by ballot if at least one quarter of the membership of the Committee or Sub-Committee demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### **15.5 Recorded vote**

If 10 members present at the meeting of the County Council demand it, or in the case of Committees or Sub-Committees at least one quarter of the membership of the Committee or Sub-Committee demand it, the names for

and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.

#### **15.6 Right to require individual vote to be recorded**

Where any Member requests it immediately after the vote is taken, there must be recorded in the minutes of the proceedings of that meeting, whether that person cast a vote for the question or against the question or whether that person abstained from voting.

#### **15.7 Voting on appointments**

If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **16. MINUTES**

#### **16.1 Signing the minutes**

The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chairperson will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### **16.2 No requirement to sign minutes of previous meeting at special meeting**

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (a special meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) shall be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

#### **16.3 Form of minutes**

Minutes will contain all motions and amendments in the exact form and order the Chair put them.

### **17. RECORD OF ATTENDANCE**

All members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.

## 18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the Access to Information Rules in Part 4 of this Constitution or Rule 20 (Disturbance by Public).

## 19. MEMBERS' CONDUCT

### 19.1 Standing to speak

When a Member speaks at full Council they must stand and address the meeting through the Chair. If more than one Member stands, the Chairperson will ask one to speak and the others must sit. Other members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### 19.2 Chair standing

When the Chair stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

### 19.3 Member not to be heard further

If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, any Member may move that the Member concerned be not heard further. If seconded, the motion will be voted on without discussion.

**Deleted:** the Chair

**Comment:** Best if it is a Member other than the Chair in case the vote is lost

### 19.4 Member to leave the meeting

If the Member continues to behave improperly after such a motion is carried, any Member may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

**Comment:** Best if it is a Member other than the Chair in case the vote is lost

**Deleted:** the Chair

### 19.5 General disturbance

If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he/she thinks necessary.

## 20. DISTURBANCE BY PUBLIC

### 20.1 Removal of Member of the public

If a Member of the public interrupts proceedings, the Chair will warn the



person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

## 20.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

## 21. SUSPENSION AND AMENDMENT OF COUNCIL PROCEDURE

### 21.1 Suspension

All of these Council Rules of Procedure except Rules 7, 15.6, 20 and 21.2 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

### 21.2 Amendment

Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council.

## 22. ATTENDANCE AT COMMITTEES AND SUB COMMITTEES

### 22.1 Provision of Agendas and Reports

All Members will be sent the agenda and reports for each meeting of each Committee, Sub-Committee and Forum with the exception of reports containing confidential information within Section 100A(3) of the Local Government Act 1972 and/or exempt information within paragraphs 12 to 18 of Part 4 of Schedule 12A of the Local Government Act 1972, irrespective of whether they are a Member of the Cabinet, the Committee, Sub-Committee or Forum in question.

**Deleted:** 1 - 6, 9, 11, 12 and 14

**Deleted:** I

**Comment:** Updated to reflect current legislation

**Deleted:** (as set out in paragraph 10.5 of the Council's Access to Information Procedure Rules)

### 22.2 Attendance at Meetings to Speak on Matters Significantly Affecting a Member's Ward

Provided that the Chief Executive or the Democracy & Governance Manager is notified on the working day preceding the meeting of a Committee or Sub-Committee of a Member's intention to attend, a Member who is not a Member of a Committee or Sub-Committee shall be authorised to attend and speak on such agenda item or minutes specifically relating to projects, development or other matters which significantly affect that Member's Ward as are specified in that Member's written notice. Any member attending pursuant to this Standing Order shall have no voting rights. This Procedure Rule does not apply to meetings of the Licensing Committee or its Sub-Committees, the Appeals Committee, Standards Committee or the Appointments Committee.

### 22.3 Attendance at Meetings to Observe and Speak at the Discretion of the Chair

A Member who does not have a seat on a Committee, Sub-Committee or Forum may where Council Procedure Rule 22.2 does not apply attend and observe at such Committee, Sub-Committee or Forum and may speak at the discretion of the Chair, except at meetings of the Licensing Committee, its Sub-Committees, the Appeals Committee, Standards Committee or the Appointments Committee or where the public and press have been excluded for the consideration of confidential information within Section 100A(3) of the Local Government Act 1972, or of exempt information. Where the public and press have been so excluded, a Member may observe proceedings, but may not speak, if he is able to demonstrate a legitimate interest in the matters under discussion, connected to the performance of his public duty, and his presence would not prevent the Committee, Sub-Committee or Forum from exercising its proper functions.

**Comment:** Updated to reflect current legislation

**Deleted:** falling within categories 7, 8, 10 and 13 of the exempt information set out in paragraph 10.5 of the Council's Access to Information Procedure Rules

## 23. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

All of the Council Rules of Procedure apply to meetings of full Council. None of the rules apply to meetings of the Cabinet. Only Rules 5, 6, 7, 8, 9.3, 9.4, 9.5, 9.6, 12, 13, 15, 16.1, 16.2, 16.3, 17, 18, 19, 20, 22, 23, 25 apply to meetings of Committees and Sub-Committees.

## 24. OVERVIEW AND SCRUTINY COMMITTEES

This rule shall apply only to meetings of Overview and Scrutiny Committees.

- (a) Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
- i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Where a person attends before an Overview and Scrutiny

Committee for the purpose of answering questions the Chair may allow the person to make an opening statement relating to the subject matter under consideration.

- (d) The order number and duration of questioning by Members of the Committee shall be determined by the Chair of the meeting.
- (e) A person attending the Committee for the purpose of answering questions will be expected to normally given an oral answer or to nominate someone else present to answer on that person's behalf.
- (f) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

**Note**

- (i) Where an answer would involve the disclosure of exempt information there will be a need to first consider excluding the press and public.
- (ii) A person will be able to decline to answer where this would be permissible in Court.

**25. SUBSTITUTIONS**

Where a political group alters any of its representatives serving on a committee, sub-committee or forum, either for individual meetings or for all future meetings, formal written notice of such alterations must be received by the committee minute taker prior to the commencement of the committee, sub-committee or forum meeting. The written notice may be sent by fax but not e-mailed and must be signed by Group Leaders or the Member authorised to act in the place of the Leader. In the case of substitutions for individual meetings of the Planning and Development Committee, substitutions are only permitted in the case of illness, inconvenience or incapacity with the agreement of the Chairman of the meeting. The substitutes will be from a pool of substitutes consisting of three named substitutes for each of the main political groups on the Council. The named substitutes shall be appointed for the current municipal year and must have received relevant training in planning matters before they can act as substitutes.

**Deleted:** or Deputy Leaders or Group Secretaries or Whips

**Comment:** Correct legal terminology

Working parties or task groups shall be entitled to set out their own rules in relation to substitutions.

## **Cabinet Procedure Rules**

### **HOW DOES THE CABINET OPERATE?**

#### **1.1 Who may make Cabinet decisions?**

The arrangements for the discharge of Executive Functions may be set out in the Executive arrangements adopted by the Council. If they are not set out there, then the Leader may decide how they are to be exercised. In either case, the arrangements or the Leader may provide for Executive Functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a Committee of the Cabinet;
- iii) an individual Member of the Cabinet;
- iv) an officer;
- v) joint arrangements.

#### **1.2 Delegation by the Leader**

At the annual meeting of the Council, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about Executive Functions in relation to the coming year:

- i) the names, addresses and electoral divisions of the people appointed to the Cabinet by the Leader;
- ii) the extent of any Authority delegated to Cabinet members individually, including details of the limitation on their Authority;
- iii) the terms of reference and constitution of such Cabinet Committees as the Leader appoints and the names of Cabinet members appointed to them;
- iv) the nature and extent of any delegation of Executive Functions to any joint arrangements and the names of those Cabinet members appointed to any joint Committee for the coming year; and
- v) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

### 1.3 Sub-delegation of Executive Functions

(a) Where the Cabinet, a Committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to joint arrangements or an officer.

(b) Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a Committee of the Cabinet or to an officer.

(c) Unless the Leader directs otherwise, a Committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.

(d) Even where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### 1.4 The Council's scheme of delegation and Executive Functions

(a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 8 and set out in Part 3 of this Constitution.

(b) The Leader is able to decide whether to delegate Executive Functions, and he/she may amend the scheme of delegation relating to Executive Functions at any time during the year. To do so, the Leader must give written notice to the Democracy and Governance Manager and to the person, body or Committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, Committee or the Cabinet as a whole. The Democracy and Governance Manager will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

(c) Where the Leader seeks to withdraw delegation from a Committee, notice will be deemed to be served on that Committee when he/she has served it on its Chair.

(d) Where in exercising an executive function a decision by Cabinet requires a consequential change to the Constitution, then the Head of Legal & Democratic Services can update the Constitution following the expiry of the call in process in accordance with Article 19.02.

**Comment:** Updated to reflect the change to Article 19.02 agreed by County Council in November 2012

### 1.5 Personal Interests or a Personal and Prejudicial Interest

**Deleted: Conflicts of Interest**

(a) Where the Leader has a personal interest or a personal and prejudicial

**Comment:** To clarify

interest in a matter this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

(b) If any Member of the Cabinet has a personal or prejudicial interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

**Comment:** To clarify

**Deleted:** every

(c) If the exercise of an Executive Function has been delegated to a Committee of the Cabinet, an individual Member or an officer, and should a personal or prejudicial interest arise, then this should be dealt with as set out in the Council's Code of Conduct for Members or Code of Conduct for Officers in Part 5 of this Constitution.

**Deleted:** , then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise

**Comment:** The current wording in this paragraph is ambiguous and it is illogical. The proposed amendment removes the ambiguity and provides for consistency that the provisions in either the Member or Officer Codes will apply.

### 1.6 Cabinet meetings – when and where?

The Cabinet will meet at least 6 times per year at times to be agreed by the Leader. The Cabinet shall meet at the Council's main offices or another location to be agreed by the Leader.

### 1.7 Public or private meetings of the Cabinet?

Subject to the Access and Information Procedure Rules meetings of the Cabinet shall so far as is possible be public.

### 1.8 Quorum

The quorum for a meeting of the Cabinet, or a Committee of it, shall be 3 including the Leader and/or deputy Leader.

### 1.9 How are decisions to be taken by the Cabinet?

(a) Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution.

(b) Where Cabinet decisions are delegated to a Committee of the Cabinet, the rules applying to Cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

## 2. HOW ARE THE CABINET MEETINGS CONDUCTED?

### 2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence the deputy Leader shall preside and in the absence of both Leader and deputy Leader, then a person appointed to do so by those present shall preside.

### 2.2 Who may attend?

Subject to the Access Information Procedure Rules the public may attend

public meetings of the Cabinet as may other Councillors. In the case of meetings from which the public are excluded, Councillors seeking to attend will need to establish either the permission of the Cabinet to remain in attendance or establish to the satisfaction of the Monitoring Officer a need to attend.

### 2.3 What business?

At each meeting of the Cabinet the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iv) consideration of reports from Overview and Scrutiny Committees; and
- v) matters set out in the agenda for the meeting.

### 2.4 Consultation

All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### 2.5 Who can put items on the Cabinet agenda?

The Leader will decide upon the schedule for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter which he/she wishes, whether or not Authority has been delegated to the Cabinet, a Committee of it or any Member or officer in respect of that matter.

Any Member of the Council may ask the Leader to put an item on the agenda of an Cabinet meeting for consideration and if the Leader agrees the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the Councillor who asked for the item to be considered and this individual will be invited to attend the meeting, whether or not it is a public meeting, and will be allowed to address the meeting in relation to that item, however, there may be only up to two such items per

**Deleted:** There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny Committees. ¶

**Comment:** This paragraph is not necessary as there is not always a matter referred to the Cabinet by Overview and Scrutiny.

Cabinet meeting.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of an Cabinet meeting and may require the Democracy and Governance Manager to call such a meeting in pursuance of their statutory duties. In other circumstances where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the persons entitled to include an item on the agenda may also require that a meeting be convened by the Democracy and Governance Manager at which the matter will be considered.



## Overview and Scrutiny Procedure Rules

### 1. Overview & Scrutiny Committees

**Formatted:** Font: Bold

The Council has the Overview and Scrutiny Committees set out in the left-hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matter set out in the right-hand column of the table below.

**Deleted:** Article 6 and will appoint to them as it considers appropriate from time to time. Such Committees may appoint Sub-Committees. Further Overview and Scrutiny Committees may also be appointed for a fixed period or for a particular task on the expiry or completion of which they shall cease to exist

**Comment:** This reflects the wording in Article 6 and is clearer than the present wording

**Comment:** Table updated to reflect changes at the May 2012 annual meeting

Committee	Scope
Corporate Resources 15 Elected Members	Corporate Management and Governance, organisation design/Flintshire Futures Programme, monitoring finance, but not specific control issues which are within the remit of the Audit Committee, Revenue and Capital Budget monitoring, Asset Management, Strategy and Planning, People Strategy and Single Status, Strategic Assessment of Risks and Challenges Overview and Coordination of the Performance Management Performance and Policy development for all 4 Corporate Services: HR and OD, ICT and Customer Services, Finance, Legal & Democratic Services.
Community Profile & Partnerships 15 Elected (Statutory Crime & Disorder Committee)	Community Strategy and Leadership initiatives. All external and regional collaboration and partnership working with other public service bodies. Local Service Board. Community Safety Partnership. Statutory Crime & Disorder Committee, thus relationship with the Police, Fire, Probation etc, Voluntary Sector compact, Clwyd Theatre Cymru, Cross Cutting Policy issues, the Outcome Agreement, but excluding issues specifically remitted to another committee (eg. NWRWTP, TAITH or DCELLS)
Environment 15 Elected Members	All services provided by the Environment Directorate including: Assets & Transportation, including TAITH, highways, engineering and energy issues but not valuation/estates which are specifically remitted to the Corporate Resources OSC. Planning, including planning and environmental strategy, development control, minerals and waste planning, countryside and the environment. Public Protection, including community, health protection and environmental protection. Regeneration, including Communities First, economic development & tourism, enterprise and the Regeneration Partnership. Street Scene Services, including AD Waste, environmental and waste management, neighbourhood services and the vehicle fleet.

	Performance and Policy. Development within the Environment Directorate.
Housing 15 Elected Members	All housing services provided by the relevant divisions of the Community Services Directorate eg. Housing Management, Housing Strategy, Neighbourhood housing renewal areas. Performance and policy development for the Housing Service.
Lifelong Learning 15 Elected Members (5 Statutory Co-Opted Members)	All services provided by the Lifelong Learning Directorate: Education – school organisation, School Improvement, Early Years, Special Educational needs. Adult and Community Learning, Youth Services Libraries, Culture and Heritage including archives, records management and museums. Leisure Services, including leisure and sports centres, swimming pools and recreational facilities/activities. Relations with external education providers/partners – Deeside College, Glyndwr University etc on service specific issues. Relations with DCELLS, Children and Young People’s Partnership (jointly with S & HC O&S). Performance and policy development for services within the Lifelong Learning Directorate.
Social and Health Care 15 Elected Members	Services provided by the Community Services Directorate relating to: Social Services to Adults, Social Services to Children, Social & Health Care Strategy Development, Children and Young People’s Partnership (jointly with Lifelong Learning O&S). Monitoring service delivery by the Health Services Providers and Voluntary sector including the relationship with Betsi Cadwaladr UHB. Health Social Care and Well-being partnership and the Good Health Good Care Strategy. Policy and Performance development within the Social Care and Development and Resources Division of the Community Services Directorate.

**Deleted:** Stock Ballot progress and ongoing work relating to the future of the housing stock.¶

Further Overview & Scrutiny Committees may also be appointed for a fixed period or for a particular task on the expiry or completion of which they shall cease to exist.

**Comment:** Moved from wording prior to the table

## 2. Who may sit on Overview and Scrutiny Committees?

All Councillors except members of the Cabinet may be members of an Overview and Scrutiny Committee. However, no Member may be involved in scrutinising a decision which he/she has been directly involved.

### 3. Co-optees

Any Overview and Scrutiny Committee may agree to the appointment of co-optees.

### 4. Education representatives

The Lifelong Learning Overview and Scrutiny Committee ~~and any~~ Sub-Committee dealing with education matters shall include in its membership the following voting representatives:

**Deleted:** /

**Comment:** For clarity

- (a) One Church in Wales representative;
- (b) One Roman Catholic Church representative;
- (c) Three parent governor representatives.

The Overview and Scrutiny Committee/Sub-Committees in this paragraph is the Overview and Scrutiny Committee or Sub-Committee of a local education Authority, whose functions relate wholly or in part to any education functions which are the responsibility of the local Authority's Cabinet. When the Overview and Scrutiny Committee/Sub-Committee deals with other matters, these representatives shall not vote on those other matters.

### 5. Meetings of the Overview and Scrutiny Committees

Ordinary meetings of Scrutiny Committees shall be convened in accordance with the Council's timetable of meeting. ~~In addition extraordinary meetings may be called from time to time as and when appropriate.~~ A Scrutiny Committee meeting may be called by the chairman of the relevant Scrutiny Committee or by any four members of the Committee or by the Governance & Democracy Manager if he/she considers it necessary or appropriate. The Council Procedure Rules apply to Overview and Scrutiny Committee in the same way as they apply to other Committees.

**Deleted:** set at the time of its Annual Meeting

**Comment:** Timetable of meetings not always set at annual meeting.

### 6. Quorum

The quorum for an Overview and Scrutiny Committee shall be as set out for Committees in the Council Procedure Rules in Part 4 of this Constitution, i.e., one quarter of the whole number of Members.

### 7. Who chairs Overview and Scrutiny Committee meetings?

The Chairs of Overview & Scrutiny Committees will be appointed in accordance with the Local Government (Wales) Measure 2011. In accordance with the guidance on it, at the annual meeting it shall be

**Deleted:** Chairs and Vice chairs of Overview and Scrutiny Committees/Sub-Committees will be drawn from among the Councillors sitting on the Committee/Sub-Committee, and appointed by the Council at the Annual Meeting and in default of any such appointment or in the case of a casual vacancy, the Committee/Sub-Committee may appoint such a person as it considers appropriate as Chair for the remainder of the municipal year. ¶

determined which political group shall nominate the Chair of each Overview & Scrutiny Committee. Each Vice Chair will be appointed by the Overview & Scrutiny at its first ordinary meeting following the annual meeting.

**Comment:** Amended to reflect the legislative changes that came into effect in April 2012.

## 8. Work programme

The Overview and Scrutiny Committees/Sub-Committees will subject to the Constitution Committee be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that Committee who are not members of the largest political group on the Council.

**Deleted:** parent co-ordinating

## 9. Agenda items

Any Member shall be entitled to give notice to the Member Engagement manager or Governance & Democracy Manager that he/she wishes an item relevant to the functions of the Committee or Sub-Committee to be included on the agenda for, and be discussed at, a meeting of the Committee or Sub-Committee.

**Deleted:** of an Overview and Scrutiny Committee or Sub-Committee

**Comment:** To reflect Local Government (Wales) Measure 2011

On receipt of such a request the attached Protocol (Annex A) will be followed.

The Overview and Scrutiny Committees shall also respond, as soon as their work programme permits, to requests from the Council and if it considers it appropriate the Cabinet to review particular areas of Council activity. Where they do so, the Overview and Scrutiny Committee shall report their findings and any recommendations back to the Council and/or Cabinet.

**Deleted:** Any Member of the Council may give written notice to the Democracy & Governance Manager that he/she wishes an item to be included on the agenda of a Scrutiny Committee. If the Democracy & Governance Manager receives such a notification then he/she will include the item on the first available agenda of the Scrutiny co-ordinating Committee for consideration by that Committee. ¶

## 10. Policy review and development

- (a) The role of the Overview and Scrutiny Committees in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- (b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committee or Sub-Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference.
- (c) Overview and Scrutiny Committees may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform

their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

**11. Reports from Overview and Scrutiny Committee**

- (a) Once it has formed recommendations on proposals for development, the Overview and Scrutiny Committee will prepare a formal report and submit it to the Democracy & Governance Manager for consideration by the Cabinet (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- (b) If an Overview and Scrutiny Committee cannot agree on one single final report to the Council or Cabinet as appropriate, then up to one minority report may be prepared and submitted for consideration by the Council or Cabinet with the majority report.

**12. Making sure that Overview and Scrutiny reports are considered by the Cabinet**

- (a) Once an Overview and Scrutiny Committee has completed its deliberations on any matter it will forward a copy of its final report to the Democracy & Governance Manager who will allocate it to either or both the Cabinet and the Council for consideration, according to whether the contents of the report would have implications for the Council's budget and policy framework. If the Democracy & Governance Manager refers the matter to Council, he/she will also serve a copy on the Leader with notice that the matter is to be referred to Council. The Cabinet will have 2 weeks in which to respond to the Overview and Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny Committee on a matter which would impact on the budget and policy framework, it shall also consider the response of the Cabinet to the Overview and Scrutiny proposals.
- (b) Where an Overview and Scrutiny Committee or Sub-Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision making power to another individual Member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to him/her for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Democracy & Governance Manager. The Member with delegated decision making power must consider the report and

respond in writing to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Democracy & Governance Manager. The Member will also attend a future meeting of the Overview and Scrutiny Committee to present their response.

- (c) Where an Overview and Scrutiny Committee or Sub-Committee prepares a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision making power to another individual Member of the Cabinet, then the Overview and Scrutiny Committee will submit a copy of their report to that individual for consideration. At the time of doing so, the Overview and Scrutiny Committee shall serve a copy on the Democracy & Governance Manager and the Leader. If the Member with delegated decision making power does not accept the recommendations of the Overview and Scrutiny Committee then he/she must then refer the matter to the next available meeting of the Cabinet for debate before exercising his/her decision making power and responding to the report in writing to the Overview and Scrutiny Committee. The Cabinet Member to whom the decision making power has been delegated will respond to the Overview and Scrutiny Committee within 6 weeks of receiving it. A copy of his/her written response to it shall be sent to the Democracy & Governance Manager and he/she will attend a future meeting to respond.
- (d) Overview and Scrutiny Committees will in any event have access to the Cabinet's forward work programme for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an Overview and Scrutiny Committee following a consideration of possible policy/service developments, the Committee will at least be able to respond in the course of the Cabinet's consultation process.

**13. Rights of Overview and Scrutiny Committee Members to documents**

- (a) In addition to their rights as Councillors, members of Overview and Scrutiny Committees have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- (b) Nothing in this paragraph prevents more detailed liaison between the Cabinet and Overview and Scrutiny Committee as appropriate depending on the particular matter under consideration.

**14. Members and officers giving account**

- (a) The relevant Overview and Scrutiny Committee or Sub-

Committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions. As well as reviewing documentation, in fulfilling the Scrutiny role, it may require any Member of the Cabinet, the Head of Paid Service and/or any senior officer to attend before it to explain in relation to matters within their remit:

- i) any particular decision or series of decisions; and/or
- ii) the extent to which the actions taken implement Council policy; and/or
- iii) their performance.

and it is the duty of those persons to attend if so required.

- (b) Where any Member or officer is required to attend an Overview and Scrutiny Committee under this provision, the Chair of that Committee will inform the Member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the Committee. Where the account to be given to the Committee will require the production of a report, then the Member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- (c) Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the relevant Chair of the Overview and Scrutiny Committee shall in consultation with the Member or officer arrange an alternative date for attendance.

#### 15. **Attendance by others**

An Overview and Scrutiny Committee may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

#### 16. **Call-in**

- (a) When a decision is made by the Cabinet, an individual Member of the Cabinet or a Committee of the Cabinet, 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 Democracy & Governance Manager.

- (b) The decision record will bear the date on which it is first published and the date the decision is made. The decision will come into force, and may be implemented, on the expiry of 5 working days after the first publication of the decision, unless called in pursuant to these Procedure Rules.
- (c) During that period, the Democracy & Governance Manager 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, where the decision maker is the Cabinet at the earliest Cabinet meeting, 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 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

**Deleted:** (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.†

**Comment:** There is no need for this paragraph and it is confusing



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 Cabinet 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.

## EXCEPTIONS

- (g) 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.

**Deleted:** (g) . 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.¶

**Comment:** There is no need for this paragraph and it is confusing

## CALL-IN AND URGENCY

- (h) The call-in procedure set out above shall not apply where the decision being taken by the Cabinet 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.

**Deleted:** (i) . 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. ¶

**Comment:** There is no need for this provision

## 17. The party whip

Section 78 of the Local Government (Wales) Measure 2011 prohibits a member of an Overview & Scrutiny voting if before the meeting the Member has been given a party whip in relation to that matter. A vote given in breach of this must be disregarded by the Chair of the meeting. At each Overview & Scrutiny Committee meeting, each

member of the committee must declare any prohibited party whip which the Member has been given in relation to the meeting.

**Comment:** This is updated to reflect Local Government (Wales) Measure 2011

“Party whip” means an instruction which is given on behalf of the political group on a local authority to a member of that political group which is an instruction as to how that Member should vote on a question failing to be decided by the Overview & Scrutiny Committee and if not complied with would be likely to make the Member liable to disciplinary action by the political group concerned.

The above provisions apply equally in relation to a sub-committee meeting of an Overview & Scrutiny Committee.

**Deleted:** Means: "Any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council or any Committee or Sub-Committee, or the application or threat to apply any sanction by the group in respect of that Councillor should he/she speak or vote in any particular manner."<sup>¶¶</sup>  
¶¶ When considering any matter in respect of which a Member of an Overview and Scrutiny Committee is subject to a party whip the Member must declare the existence of the whip, and the nature of it before the commencement of the Committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

**Comment:** Updated to reflect the Local Government (Wales) Measure 2011

## **18. Procedure at Overview and Scrutiny Committee meetings**

- (a) Overview and Scrutiny Committees and Sub-Committees shall consider the following business:
- i) minutes of the last meeting;
  - ii) declarations of interest (including whipping declarations);
  - iii) the business otherwise set out on the agenda for the meeting.
- (b) Where the Overview and Scrutiny Committee conducts investigations (e.g. with a view to policy development), the Committee may also ask people to attend to give evidence at Committee meetings which are to be conducted in accordance with the following principles:
- i) that the investigation be conducted fairly and all members of the Committee be given the opportunity to ask questions of attendees, and to contribute and speak;
  - ii) that those assisting the Committee by giving evidence be treated with respect and courtesy; and
  - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Where a person attends before an Overview and Scrutiny Committee for the purpose of answering questions the Chair may allow the person to make an opening statement relating to the subject matter under consideration.
- (d) The order number and duration of questioning by Members of the Committee shall be determined by the Chair of the

meeting.

- (e) A person attending the Committee for the purpose of answering questions will be expected to normally give an oral answer or to nominate someone else present to answer on that person's behalf.
- (f) Following any investigation or review, the Committee/Sub-Committee shall prepare a report, for submission to the Cabinet and/or Council as appropriate and shall make its report and findings public.

#### **Note**

- (i) Where an answer would involve the disclosure of exempt information there will be a need to first consider excluding the press and public.
- (ii) A person will be able to decline to answer where this would be permissible in Court.

#### **19. Matters within the remit of more than one Overview and Scrutiny Committee**

Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of one or more other Overview and Scrutiny Committees, the decision as to which Overview and Scrutiny Committee will consider it will be resolved by the Constitution Committee.

**Deleted:** co-ordinating

#### **20. Terms of Reference of the Overview and Scrutiny Committees**

**Comment:** Co-ordinating Committee Terms of Reference deleted

### **LIFELONG LEARNING OVERVIEW AND SCRUTINY COMMITTEE**

#### **Terms of Reference**

To fulfil all the functions of an Overview & Scrutiny Committee as they relate to Lifelong Learning and, in particular (but not limited to):

1. All functions of the Council as an Education Authority under the Education Acts, School Standards and Framework Act 1998 and all other relevant legislation in force from time to time;
2. All functions of the Council insofar as they relate to the provision of opportunities for education, training and learning outside the school environment including pre-school, adult and community learning;
3. All services provided by the Lifelong Learning Directorate including

leisure services, leisure and sport centres, swimming pools and recreational facilities/activities.

4. The provision of management of archives, local history activities, libraries, parks, open spaces, arts, culture and heritage, recreational activities to enhance the quality of life for local people and museums;
5. To fulfil the Overview & Scrutiny role in relation to the development of the Council's Education Strategic Plan, School Organisation Plan, Lifelong Learning Development Plan Early Years Development Plan, Behaviour Support Plan, Children and Young People's Framework Partnerships, Children and Young Person's Plan, Young People's Partnership Strategic Plan.
6. Adult and Community Learning Services and Youth Services.
7. Relations with external education providers/partners such as Deeside College and Glyndwr University on service specific issues.
8. Performance risk management and policy development for services within the Lifelong Learning Directorate.
9. Relations with DCELLS, Children & Young People's Partnership (jointly with Social and Health Care Overview & Scrutiny).
10. To act as the appropriate Overview & Scrutiny Committee for such other matters as are referred to it by either the Council or the Constitution Committee.
11. To have the statutory powers of an Overview and Scrutiny Committee pursuant to Section 21 of the Local Government Act 2000.

## **SOCIAL AND HEALTH CARE OVERVIEW AND SCRUTINY COMMITTEE**

### **Terms of Reference**

To fulfil all the functions of an Overview & Scrutiny Committee as they relate to Social & Health Care and, in particular (but not limited to):

1. Services to be provided by the Community Services Directorate relating to:-  
  
Social Services to adults, Social Services to children, Social & Health Care strategy and development, Children and Young People's Partnership (jointly with Lifelong Learning O&S).
2. Monitoring service delivery by the health services providers and voluntary sector including the relationship with Betsi Cadwaladr UHB.

3. Health, Social Care and Well-being Partnership and the Good Health Good Care Strategy.
4. Policy and performance development within the Social Care & Development & Resources Division of the Community Services Directorate.
5. Monitoring risk issues and contributing to policy development within Adult Social Care and Children's Services.
6. To liaise as appropriate with the Social Inclusion Forum.
7. To act as the appropriate Overview & Scrutiny Committee for such other matters as are referred to it by either the Council or the Constitution Committee.
8. To have the statutory powers of an Overview and Scrutiny Committee pursuant to Section 21 of the Local Government Act 2000.

## **CORPORATE RESOURCES OVERVIEW AND SCRUTINY COMMITTEE**

### **Terms of Reference**

To fulfil all the functions of an Overview & Scrutiny Committee as they relate to Corporate Resources and, in particular (but not limited to):

1. To act as the appropriate Overview & Scrutiny Committee for issues concerning corporate management and governance.
2. To act as the appropriate Overview & Scrutiny Committee for organisational design/Flintshire Futures Programme.
3. Monitoring the revenue and capital budget and finance but not specific control issues which are within the remit of the Audit Committee.
4. Asset Management, Strategy and Planning, People Strategy and Single Status.
5. Strategic Assessment of Risk, Challenges and overview and coordination of the Performance Management Framework, Performance of Policy Development for all Corporate Services.
6. To assist the Council in the development of its budget strategy.
7. To review the management of resources made available to the Council and to scrutinise its financial management, property and asset acquisition and disposal and capital programme.

8. To assist the Cabinet in the development of a Council-wide property and asset strategy.
9. To act as the appropriate Overview & Scrutiny Committee for such other matters as are referred to it by either the Council or the Constitution Committee.
10. To have the statutory powers of an Overview and Scrutiny Committee pursuant to Section 21 of the Local Government Act 2000.

## **COMMUNITY PROFILE & PARTNERSHIPS OVERVIEW AND SCRUTINY COMMITTEE**

### **Terms of Reference**

To fulfil all the functions of an Overview & Scrutiny Committee as they relate to Community Profile and Partnerships and, in particular (but not limited to):

1. Community Strategy and Leadership initiatives
2. All external and regional collaboration and partnership working with other public service bodies including the Local Service Board, except where these are assigned to another Overview & Scrutiny Committee.
3. To act as the Statutory Crime & Disorder Committee thereby having a relationship with the Community Safety Partnership, the Police, Fire, Probation etc.
4. Scrutinising the Voluntary Sector compact, Clwyd Theatre Cymru, Cross Cutting Policy issues, the Outcome Agreement, but excluding issues specifically remitted to another committee (eg. NWRWTP, TAITH or DCELLS).
5. To act as the appropriate Overview & Scrutiny Committee for such other matters as are referred to it by either the County Council or the Constitution Committee.
6. To have the statutory powers of an Overview and Scrutiny Committee pursuant to Section 21 of the Local Government Act 2000.

## **ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE**

### **Terms of Reference**

To fulfil all the functions of an Overview & Scrutiny Committee as they relate to the Environment Directorate and, in particular (but not limited to);

1. All services provided by the Environment Directorate including:  
  
Assets and Transportation (but not valuation/estates which are specifically remitted to the Corporate Resources Overview & Scrutiny Committee), Planning, Public Protection, Regeneration, Street Scene Services, Waste Planning and Management, Performance and Policy Development within the Environment Directorate.
2. Arrangements by the Council for the regeneration, and the provision and improvement of environmental well-being in the County.
3. Environmental issues within the County.
4. Economic development and tourism issues within the County and to liaise as appropriate with the Economic Affairs Forum;
5. To act as the appropriate Overview & Scrutiny Committee for highways and transportation and countryside matters;
6. Monitoring risk issues and contributing to policy development within the Environment Directorate.
7. To act as the appropriate Overview & Scrutiny Committee for such other matters as are referred to it by either the Council or the Constitution Committee.
8. To have the statutory powers of an Overview and Scrutiny Committee pursuant to Section 21 of the Local Government Act 2000.

## HOUSING OVERVIEW & SCRUTINY COMMITTEE

### Terms of Reference

To fulfil all the functions of an Overview & Scrutiny Committee as they relate to Housing Directorate and, in particular (but not limited to):

1. All housing services provided by the relevant divisions of the Community Services Directorate such as Housing Management, Housing Strategy, Stock Ballot progress and ongoing work relating to the future of the Council's housing stock, Neighbourhood Housing renewal areas.
2. All the functions of the Council as a Local Housing Authority and of successive Housing Acts and all other relevant legislation in force from time to time.
3. To act as the appropriate Overview & Scrutiny Committee for Performance and Policy Development for the Housing Service.
4. To act as the appropriate Overview & Scrutiny Committee for such other matters as are referred to it by either the Council or the Constitution Committee.
5. To have the statutory powers of an Overview and Scrutiny Committee pursuant to Section 21 of the Local Government Act 2000.

In addition to the above Overview & Scrutiny Committees the following terms of reference relating to Overview & Scrutiny have been given by the Council to the Constitution Committee

1. Allocating, coordinating and prioritising the work of the Overview & Scrutiny Committees where necessary.
2. Dealing with matters of common interest to Overview & Scrutiny.
3. Identification/allocation of appropriate Scrutiny Chair for consent/consultation purposes.
4. The examination and development of good scrutiny practice
5. The promotion, effective development and maintenance of a high profile Overview & Scrutiny function to ensure maximum opportunity for non Cabinet Member engagement.
6. Liaison with and responding to the Welsh Government on emerging legislation relevant to Overview & Scrutiny.

**Comment:** To explain the Constitution Committee's role it has taken from the former Coordinating Committee



## ANNEX A

### PROTOCOL

#### RELATING TO MEMBER PLACING ITEMS ON AN AGENDA OF AN OVERVIEW AND SCRUTINY COMMITTEE

**Comment:** This protocol is in the course of being updated to reflect Councillor Calls for Action. When updated protocol agreed it will replace this protocol.

#### **Background**

By virtue of Section 21(8)(a) of the Local Government Act 2000 a Member of an Overview and Scrutiny Committee has a right to place an item on the Agenda of that Committee provided it is relevant to the functions of that Committee.

Flintshire County Council has decided that all Members should have an ability to place an item on an Agenda of an Overview and Scrutiny Committee in a similar way to the right given to Members of an Overview and Scrutiny Committee.

It is recognised that the legal right given to a Member of an Overview and Scrutiny Committee has priority over the discretion the Council has given to other Members and that the statutory right given to Committee Members cannot be infringed by the discretion given to other Members.

#### **Procedure**

1. All requests from Members to place an item on the Agenda of an Overview and Scrutiny Committee should be made in writing addressed to the Member Engagement Manager.
2. All requests will initially be referred to the Constitution Committee for consideration.
3. Following consideration by the Constitution Committee a letter will be sent to the Member, informing him of the Constitution Committee's view as to how the item is best dealt with.
4. Where the Constitution Committee is of the view that the item should be placed on the Agenda of the Overview and Scrutiny Committee to which the Member has asked that it be referred, then this will take effect as soon as practicable and, in any event, within a reasonable time.
5. Where the Constitution Committee is of the view that it is inappropriate at that time to place the item on the Agenda of the Overview and Scrutiny Committee requested by the Member, then the Member will be given an explanation and asked whether, in view of this, he agrees.

6. Where the Constitution Committee has explained its view why it would be inappropriate at the present time to place the item on the Agenda of the Committee requested by the Member, and the Member concerned does not accept this reasoning, then the appropriate next step will vary as to whether the Member is, or is not, a Member of the Overview and Scrutiny Committee that he has requested the item be referred to.
  - a. Where the Member is a member of the Overview and Scrutiny Committee that he has requested the item be referred to, then the item will be placed on the Agenda of that Committee, if the Member so wishes and this will be as soon as practicable, and, in any event, within a reasonable time.
  - b. Where the Member is not a member of the Overview and Scrutiny Committee that he has requested the item be referred to and the Member does not agree with the view of the Constitution Committee, the matter will be referred to the County Council to determine how it should be pursued.

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** CONSTITUTION COMMITTEE  
**DATE:** WEDNESDAY, 30 JANUARY 2013  
**REPORT BY:** DEMOCRACY & GOVERNANCE MANAGER  
**SUBJECT:** LOCAL GOVERNMENT (WALES) MEASURE 2011

### **1.00 PURPOSE OF REPORT**

1.01 For the committee to consider the implementation of parts of the Local Government (Wales) Measure 2011.

### **2.00 BACKGROUND**

2.01 Whilst there have been different commencement dates for different parts of the Local Government (Wales) Measure 2011, large parts of the Measure came into effect at the end of April 2012. Statutory guidance on those parts of the Measure was issued some 8 weeks later on the 25 June 2012. Some aspects of the Measure had to be implemented prior to the statutory guidance being issued. These included the appointment of Overview & Scrutiny Chairs at the Council's annual meeting and the recruitment of a lay person to serve on the Council's Audit Committee.

2.02 Copies of the statutory guidance were placed in the Members' library and group rooms. During July there were separate reports to the Audit, Constitution and Democratic Services Committees on the parts of the guidance relating to such committees.

2.03 In the report to the Constitution Committee of the 24 July, it was explained that the intention was to bring a further report to the committee in relation to the constitutional aspects of implementing the Measure and statutory guidance following consultation with Group Leaders and relevant officers. There was consultation with the Group Leaders at its meeting on the 19 October 2012.

### **3.00 CONSIDERATIONS**

3.01 Many aspects of the Measure require operational and administrative work that can be implemented by the relevant officers. There are however, two aspects directly affecting Members which are the subject of this report. These are contained in sections 56 and 63 of the Measure.

- 3.02 Section 56 of the Measure enables arrangements to be made for individual Members to exercise functions in relation to that Member's electoral division. Where the function is a Cabinet function, the arrangements are to be made by the Council Leader. Where the function is a Council function the arrangements are to be made by the Council. Such arrangements can also be made in relation to that Member's role as the Council's representative on an outside body.
- 3.03 The statutory guidance indicates that judicious use of these powers may assist Members to become "Cabinet members for their ward" as described in the report by Local Government Leadership referenced in the Simpson report. The Simpson report advocates a re-think of Member's "committee-based" work in favour of a more localised, empowered means of addressing community issues. The intent behind the provision is a desire to give Councils a wider range of opportunities to make effective use of elected Members' representational role (paragraphs 4.4, 4.5 and 4.11 of the statutory guidance).
- 3.04 Paragraph 4.17 of the statutory guidance states that when considering whether or not to delegate functions to non Executive members, Councils may wish to give thought to various issues including:-
- Would Members need additional support such as legal advice in the discharge of delegated functions?
  - How will Members be supported if their decisions are challenged, for example, by judicial review?
  - How will Members publically record decisions made using their new powers?
- 3.05 In addition to the considerations identified in the statutory guidance, other issues if this is to be pursued are the budget implications, the inconsistency of practice in different wards, the effect on Council policies and on staffing workload and resources.
- 3.06 In Flintshire it has been the custom and practice under differing leaderships for Cabinet members to reach decisions on a joint basis rather than individually. It has also been the custom and practice for all Member decisions to be based upon a written report from officers detailing various implications such as legal and financial. Putting in place similar arrangements so that each of the 70 members could make individual decisions would require significant additional officer resources. Without such a framework the risks identified in the statutory guidance would be the greater, leading again to significant officer resources being needed to deal with complaints and legal challenges. At the Group Leaders meeting there was an unanimous agreement not to utilise the power given by section 56.

- 3.07 The other aspect of the Measure of direct interest to Members is section 63 which introduces provision for “Councillor calls for action” (CCfA) enabling Councillors to refer issues of local importance to an Overview & Scrutiny Committee. Section 63 changes the existing provisions in the Local Government Act 2000 to ensure that Executive arrangements by a local authority enable any member of the Council to refer to an Overview & Scrutiny Committee a “local government matter” which falls within the committee’s remit. A referral in this way will ensure that the matter is included in the agenda and discussed at the committee. In making such a referral the Member must have regard to the statutory guidance issued in June 2012.
- 3.08 The statutory guidance (paragraph 6.27) makes clear that before a CCfA goes to an Overview & Scrutiny Committee, Councillors should consider the 13 other options listed in that paragraph of the guidance. Paragraph 6.5 of the statutory guidance makes clear that CCfA should be understood as a means of “last resort” with issues being made to a Overview & Scrutiny Committee after other avenues have been explored.
- 3.09 Flintshire currently has an agreed protocol relating to individual Members putting items on the agenda of an Overview & Scrutiny committee. It is considered that this needs updating and amending to reflect the CCfA process. At the Group Leaders meeting it was considered that the current protocol should be updated to reflect the CCfA process. A draft of this updated protocol is attached as appendix 1.

#### **4.00 RECOMMENDATIONS**

- 4.01 To not pursue the power given by section 56.
- 4.02 To approve the updated protocol shown in appendix 1 to replace the existing protocol relating to Members putting items on the agenda of Overview & Scrutiny Committees.

#### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 There would be significant resource implications of implementing the powers given by section 56 but none as a result of implementing section 63.

#### **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 There would be significant resource implications of implementing the power given by section 56 but none as a result of implementing section 63.

**10.00 CONSULTATION REQUIRED**

10.01 None.

**11.00 CONSULTATION UNDERTAKEN**

11.01 With Group Leaders.

**12.00 APPENDICES**

12.01 Appendix 1 - Draft Protocol

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

Statutory guidance on the Local Government (Wales) Measure 2011

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## **PROTOCOL RELATING TO MEMBERS PLACING ITEMS ON AGENDAS OF OVERVIEW & SCRUTINY COMMITTEES AND THE COUNCILLOR CALLS FOR ACTION (CCfA) PROVISIONS**

### **Background**

Under Section 63 of the Local Government (Wales) Measure 2011 a Councillor can refer a 'local government matter' to whichever Overview & Scrutiny Committee holds the appropriate remit. This is known as Councillor Calls for Action (CCfA).

There is a separate CCfA process for crime and disorder issues, which would be dealt with by the Community Profile & Partnerships Overview & Scrutiny Committee as the authority's designated 'Crime & Disorder Committee'.

The CCfA provisions strengthen the earlier provision under Section 21 (8)(a) of the Local Government Act 2000 which gives a member of an Overview & Scrutiny Committee the right to place an item on the agenda of that Committee providing it is relevant to the functions of that Committee. In Flintshire a local protocol has existed since 2002 which extended such a right to all members of the Council. This protocol supersedes that earlier Flintshire protocol.

The Welsh Government has issued statutory guidance on CCfA in June 2012. Paragraph 6.5 of that guidance makes clear that CCfA is a means of last resort with issues being raised at a Scrutiny Committee after other avenues have been explored.

### **Local Government Matter**

The legislation defines 'Local Government matter' as a matter which is not an excluded matter and which –

- a) Relates to the discharge of any function of the authority or
- b) Affects all or part of the electoral area for which the Member is elected or any person who lives or works in that area.

The legislation defines what is meant by an excluded matter as –

- a) A local crime and disorder matter within the meaning of Section 19 of the Police & Justice Act 2006 or
- b) A matter of any description specified in an order made by the Welsh Ministers for the purposes of the legislation.

## **Preliminary**

Paragraph 6.27 of the statutory guidance provides that before a CCfA is escalated to a full Scrutiny Committee meeting, the Councillor should first consider the following options in resolving a community issue:-

- Informal discussions with officers or other Councillors
- Informal discussions with partner representatives
- Referral of matters to other Scrutiny bodies, such as Community Health Councils or internal Audit Committees
- Formal discussions with officers and Councillors
- Formal letters to Cabinet Members
- Asking questions of full Council
- Submitting a Motion to full Council
- Organising public meetings
- Use of petitions
- Making a complaint
- Freedom of Information request
- Communications with local AMs or MPs
- Use of social media or e-mail based campaigns

## **Procedure**

1. All CCfA should be made in writing addressed to the Member Engagement Manager and include the following:-
  - a) An explanation of the issue the Member wishes to raise
  - b) What the Member would regard as a successful outcome or resolution
  - c) What other options have already been pursued
2. The Member Engagement Manager in consultation with the appropriate Overview & Scrutiny Chair will determine whether further information is required before it is reported to the appropriate Overview & Scrutiny Committee.
3. Once he has sufficient information the Member Engagement Manager or Overview & Scrutiny Facilitator, as appropriate, will prepare a report for consideration by the appropriate Overview & Scrutiny Committee.
4. The appropriate Overview & Scrutiny Committee will initially consider whether or not to accept the issue or to reject it. This decision will be based on the statutory guidance, this protocol and the workload of the Overview & Scrutiny Committee. Where the issue is rejected, consideration will be given as to whether it should be reconsidered at a later date. Where the issue is accepted, preliminary consideration will be given as to how to pursue the issue.



5. The Member Engagement Member will, following the Committee meeting write to inform the Member concerned of the Committee's decision.

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