

# Public Document Pack

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



To: Cllr Robin Guest (Chairman)

CS/NG

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

20 March 2014

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, 26TH MARCH, 2014** at **2.30 PM** to consider the following items.

**Please note that the meeting will commence at 2.30pm or on the rising of the Democratic Services Committee, whichever is the latest.**

Yours faithfully

Democracy & Governance Manager

## **A G E N D A**

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

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

- 3 **MINUTES** (Pages 1 - 4)  
To confirm as a correct record the minutes of the last meeting.
- 4 **CLWYD PENSION FUND GOVERNANCE** (Pages 5 - 18)  
To provide Members with a proposal to change the governance arrangements for the Clwyd Pension Fund, and hence, the Council's Constitution.
- 5 **POSSIBLE REDUCTION IN SIZE OF DEMOCRATIC SERVICES AND CONSTITUTION COMMITTEES** (Pages 19 - 24)  
To consider a reduction in the size of both the Democratic Services and Constitution Committees
- 6 **SIZE OF THE AUDIT COMMITTEE** (Pages 25 - 28)  
To consider increasing the number of seats for councillors on the Audit Committee
- 7 **WHISTLEBLOWING POLICY** (Pages 29 - 40)  
To consider amending the Constitution to reflect updating changes to the Council's Whistleblowing Policy.
- 8 **UPDATING THE CONSTITUTION** (Pages 41 - 54)  
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.
- 9 **LOCAL CHOICE FUNCTION FOR SCHOOLS** (Pages 55 - 58)  
To update the Constitution to include a new local choice function relating to schools.
- 10 **COUNCIL PROCEDURE RULE 25 – USE OF SUBSTITUTES** (Pages 59 - 66)  
To consider amendments to Council Procedure Rule 25 relating to the use of substitutions.

## **CONSTITUTION COMMITTEE** **8 JANUARY 2014**

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold, on Wednesday, 8 January 2014.

**PRESENT: Councillor Robin Guest (Chairman)**

Councillors: Chris Bithell, David Cox, Ian Dunbar, David Evans, Veronica Gay, George Hardcastle, Joe Johnson, Dave Mackie, Tim Newhouse, Neville Phillips, Paul Shotton, Nigel Steele-Mortimer, and Arnold Woolley

**APOLOGIES:** Councillors Derek Butler, Glenys Diskin, Ian Roberts, and Owen Thomas

**SUBSTITUTION:** Councillor Jim Falshaw for Clive Carver

**ALSO PRESENT:** Councillor Aaron Shotton

**IN ATTENDANCE:**

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

**22. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**23. MINUTES**

The minutes of the meeting of the Committee held on 16 October 2013, were submitted.

**Matters arising**

**Audit Committee Terms of Reference**

Page 2: The Head of Legal and Democratic Services advised that the statutory guidance from the Welsh Government on the Local Government Measure 2011 stated that lay members on the Audit Committee should serve no more than 2 terms of office.

**RESOLVED:**

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

**24. WALES AUDIT OFFICE NATIONAL SCRUTINY IMPROVEMENT STUDY UPDATE**

The Member Engagement Manager introduced a progress report on the Wales Audit Office (WAO) National Scrutiny Improvement Study. He provided background information and referred to the Peer Review Action Plan which was

appended to the report. He advised that the action plan be updated once the WAO final report and the 'Characteristics of Effective Scrutiny' were published.

The Member Engagement Manager asked Members to consider a proposal within the action plan to create an 'Overview and Scrutiny Chairs and Vice-Chairs' Steering Group which could meet to discuss good practice with the officer support team. Councillor Paul Shotton referred to the informal meetings which were currently held between the Overview & Scrutiny Chairs and Vice Chairs and the Audit Committee, and commented on the need to avoid duplication.

Councillor Dave Mackie provided brief feedback on the 'Scrutiny in the spotlight: Investing to maximise its impact' conference held in Cardiff in November. Councillor Chris Bithell referred to the subject of collaborative scrutiny which was addressed during the Conference and expressed concern regarding how this could be undertaken effectively with external partners.

In response to the comments made by Councillor Veronica Gay concerning the need for wider public engagement, the Member Engagement Manager advised that a Centre for Public Scrutiny workshop relating to public engagement was to be held in Llandudno in March 2014.

**RESOLVED:**

- (a) That the Committee endorse the proposed approach towards the development of the action plan; and
- (b) That the Committee endorse the creation of the Overview & Scrutiny Chairs and Vice-Chairs Steering Group.

**25. PLANNING COMMITTEE QUORUM**

The Democracy and Governance Manager introduced a report to consider a recommendation from the Planning Strategy Group that the quorum of Planning and Development Control Committee meetings should be increased to 50% of the membership. He advised that the current quorum allowed decisions to be made by as few as six members and a larger quorum was likely to result in a greater consistency of decision making and would not create any practical difficulties.

**RESOLVED:**

That the Constitution be amended so that the quorum for meetings of the Planning and Development Control Committee be 50% of its membership.

**26. FAMILY ABSENCE FOR MEMBERS**

The Democracy and Governance Manager introduced a report on the legislation relating to the family absence for Members and to put in place appropriate standing orders.

The Democracy and Governance Manager provided background information and advised that the provisions for family absence gave similar entitlements to elected members as other legislation gave to those in employment and was seen by the Welsh Government as an important equal opportunities initiative.

The Democracy and Governance Manager explained that the regulations required standing orders to make provision as to the extent of duties, if any, which remained applicable to Members during a period of family absence. He advised that draft standing orders relating to family absence were appended to the report for Members consideration.

During discussion Members referred to the views they had previously expressed in response to the consultation on the draft regulations. Councillor Chris Bithell proposed that a letter be sent to the Welsh Government which reiterated Members views that there was no need for the regulations.

**RESOLVED:**

- (a) That the provisions relating to family absence for Members be noted;
- (b) That the Committee approved the draft standing orders relating to Family Absence for Members as set out in Appendix 2;
- (c) That the Committee endorsed the suggestions in paragraphs 3.08, 3.09 and 3.13 of the report;
- (d) That the Head of Legal and Democratic Services has delegated power to make amendments to Democratic Services Committee terms of reference to give effect to the Committee's decision subject to consultation with Group Leaders; and
- (e) That the Democracy and Governance Manager writes to the Welsh Government to reiterate the Committee's views in relation to the regulations on Family Absence for Members.

**27. PRESS IN ATTENDANCE**

There were no members of the public or press in attendance.

**28. DURATION OF MEETING**

The meeting commenced at 2.00 pm and finished at 2.55 pm.

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Chairman

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **CONSTITUTION COMMITTEE**

**DATE:** **WEDNESDAY, 26 MARCH 2014**

**REPORT BY:** **HEAD OF FINANCE (TREASURER AND ADMINISTRATOR TO THE FUND)**

**SUBJECT:** **CLWYD PENSION FUND GOVERNANCE**

### **1.00 PURPOSE OF REPORT**

- 1.01 To provide Members with a proposal to change the governance arrangements for the Clwyd Pension Fund, and hence, the Council's Constitution.
- 2.02 To seek agreement for a recommendation to Council for the creation of a newly constituted Clwyd Pension Fund Committee.

### **2.00 BACKGROUND**

- 2.01 The Clwyd Pension Fund is administered by Flintshire County Council as the Administering Authority on a "lead authority" basis which is set out in statute following LGR in 1996. The Clwyd Pension Fund is a £1bn Local Government Pension Fund which provides death and retirement benefits for local government employees in North East Wales and other qualifying contributors from 30 contributing employers and 15,000 retired members, widows and deferred members.
- 2.02 In terms of governance, Local Government Pension Scheme matters are a Council rather than Executive function.
- 2.03 Local Government Pension Scheme Regulations (LGPS) state that an administering authority must prepare a written statement setting out whether the authority delegates its functions to a Committee, a sub-committee or an officer of the authority. However, these Regulations then go on to refer to guidance given by the Secretary of State and a requirement to explain where the delegation does not comply with this guidance.

- 2.04 The Council's Constitution delegates responsibility for the management of pension issues to the Head of Finance under Part 3 Responsibility for Council Functions. There is a Clwyd Pension Fund Panel, made up of elected Members from Flintshire, Wrexham and Denbighshire, which is an advisory body on pension fund issues. The Panel also has a Staff/Union Observer nominated by Trade Unions and is advised by an Independent Adviser/Consultant.
- 2.05 This governance structure is not compliant with guidance given by the Secretary of State relating to best practice as explained below.
- 2.06 A Governance Health Check of the Clwyd Pension Fund was carried out by a senior advisor from the Chartered Institute of Public Finance and Accountancy (CIPFA) Pensions Network in 2010. Although, the report concluded that the governance of the Fund was 'very good', a weakness in relation to the governance structure was identified and the following two key recommendations were made to comply:
1. Responsibility for the management of the Clwyd Pension Fund should be transferred from the Head of Finance to a newly constituted Pension Fund Committee which should meet quarterly in Mold.  
  
The Department for Communities & Local Government (DCLG) guidance states *'the management of the administration of benefits and the strategic management of fund assets should clearly rest with a committee established by the appointing Council'*. It is not considered to be best practice or appropriate to delegate management of a pension fund, with all its associated complexities and responsibilities to an officer. The view of the Chartered Institute of Public Finance and Accountancy (CIPFA) is that it is unfair to place the burden on the shoulders of a single officer.
  2. There should be wider representation of stakeholders on the newly constituted committee to include a representative from a scheme employer, other than from the unitary authorities, and a member representative with voting rights.  
  
The DCLG guidance states *'representatives of participating LGPS employers, admitted bodies and scheme members (including pensioner and deferred members) should be members of the committee'*.
- 2.07 Although these findings were accepted in principle by the Head of Finance and the Clwyd Pension Fund Panel, it was considered then that the time was not right to make these changes as the work on the potential for merger and collaboration across the eight Funds in Wales was about to commence.



2.08 However, the time has now come to consider implementing these changes for the following prime reasons:

- To comply with statutory guidance now the outcome of the work of the eight Funds in Wales has recommended collaboration between Funds and not merger.
- The Public Service Pensions Act 2013 requires an administering authority to establish a new and separate 'Local' Pension Board whose role will include securing compliance with legislation relating to governance and administration. Although, it will not be in place until 2015, the current structural flaw in the Clwyd Fund's governance structure may lead to criticism from this new Board in the future.
- In addition, a new National Scheme Advisory Board is required under the Act which will also be 'advising' administering authorities on compliance, although the terms of reference are not fully known at this time.

2.09 Based on the above, the Head of Finance received agreement from the Clwyd Pension Fund Panel on 25<sup>th</sup> February 2014 to recommend a new Clwyd Pension Fund Committee to the Constitution Committee for consideration, and then the Council.

2.10 As required under the LGPS 2013 Regulations (Para 55 (3)), when revising governance arrangements, the administering authority must consult with 'such persons as it considers appropriate'. The Head of Finance has consulted with employers in the Fund and the joint trade unions. The consultation closed on the 10<sup>th</sup> March 2014 and no response was received which was against this change. A positive response was received from the joint trade unions.

### **3.00 CONSIDERATIONS**

3.01 The proposed new structure which is in line with CIPFA recommendations is shown in diagram form in Appendix 1 and demonstrates that under these arrangements:

- The County Council would delegate, in its constitution, all decisions relating to its statutory duty to administer the Clwyd Pension Fund to the Clwyd Pension Fund Committee, instead of the Head of Finance.
- The Clwyd Pension Fund Committee would be representative of its stakeholders with representation as follows:
  - five from Flintshire County Council as the administering authority

- one from each of the two unitary authorities (Wrexham County Borough Council and Denbighshire County Council)
- one from another scheme employer who are required to participate in the Fund (these are mainly Town Councils or educational establishments), and
- a scheme member representative (i.e. representing all the active, deferred, pensioner and dependant members who participate or receive benefits from the Clwyd Pension Fund).

All representatives would have voting rights. The only direct stakeholders of the Fund not having representation on the Committee are admission bodies which make up a very small proportion of the liabilities of the Clwyd Pension Fund and have joined voluntarily, so it is not considered appropriate at this time. Alternative arrangements are in place to engage with admission bodies.

- The recommended role and function of the Committee is as set out in Appendix 2.
- To enable a flexible and efficient decision making process the Pension Fund Committee will be able to delegate specific responsibilities including to the Head of Finance.
- Further, the Council will delegate specific responsibilities to the Head of Finance including the day to day management of the Fund and establishing and chairing a Pension Fund Advisory Panel to provide advice and propose recommendations to the Pension Fund Committee. The Pension Fund Advisory Panel would include Council Officer(s) and Fund advisors (including the Investment Consultant, Fund Actuary and Independent Adviser), as appropriate.

3.02 Legal and Democratic Services have provided advice and support and will continue to assist with documenting Terms of Reference and Scheme of Delegation based on 3.01 above, along with other administrative matters.

3.03 Subject to the approval of this Committee the new governance structure and representation can then be recommended for approval to the Council with the new structure becoming effective at the Council's Annual Meeting in May.

#### **4.00 RECOMMENDATIONS**

- 4.01 That Members recommend to Council a change to its Constitution as outlined in Appendix 2 so that the Council, as administering authority for the Clwyd Pension Fund, delegates its functions, under the Local Government Scheme Regulations 2013, to a newly constituted Clwyd Pension Fund Committee.

#### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 The four co-opted members on the committee will be entitled to an allowance of £99 per half day meeting. These costs will be met from the Clwyd Pension Fund.

#### **6.00 ANTI POVERTY IMPACT**

- 6.01 None directly as a result of this report.

#### **7.00 ENVIRONMENTAL IMPACT**

- 7.01 None directly as a result of this report.

#### **8.00 EQUALITIES IMPACT**

- 8.01 None directly as a result of this report.

#### **9.00 PERSONNEL IMPLICATIONS**

- 9.01 None directly as a result of this report.

#### **10.00 CONSULTATION REQUIRED**

- 10.01 As outlined paragraph 2.10 of this Report.

#### **11.00 CONSULTATION UNDERTAKEN**

- 11.01 As outlined paragraph 2.10 of this Report.

#### **12.00 APPENDICES**

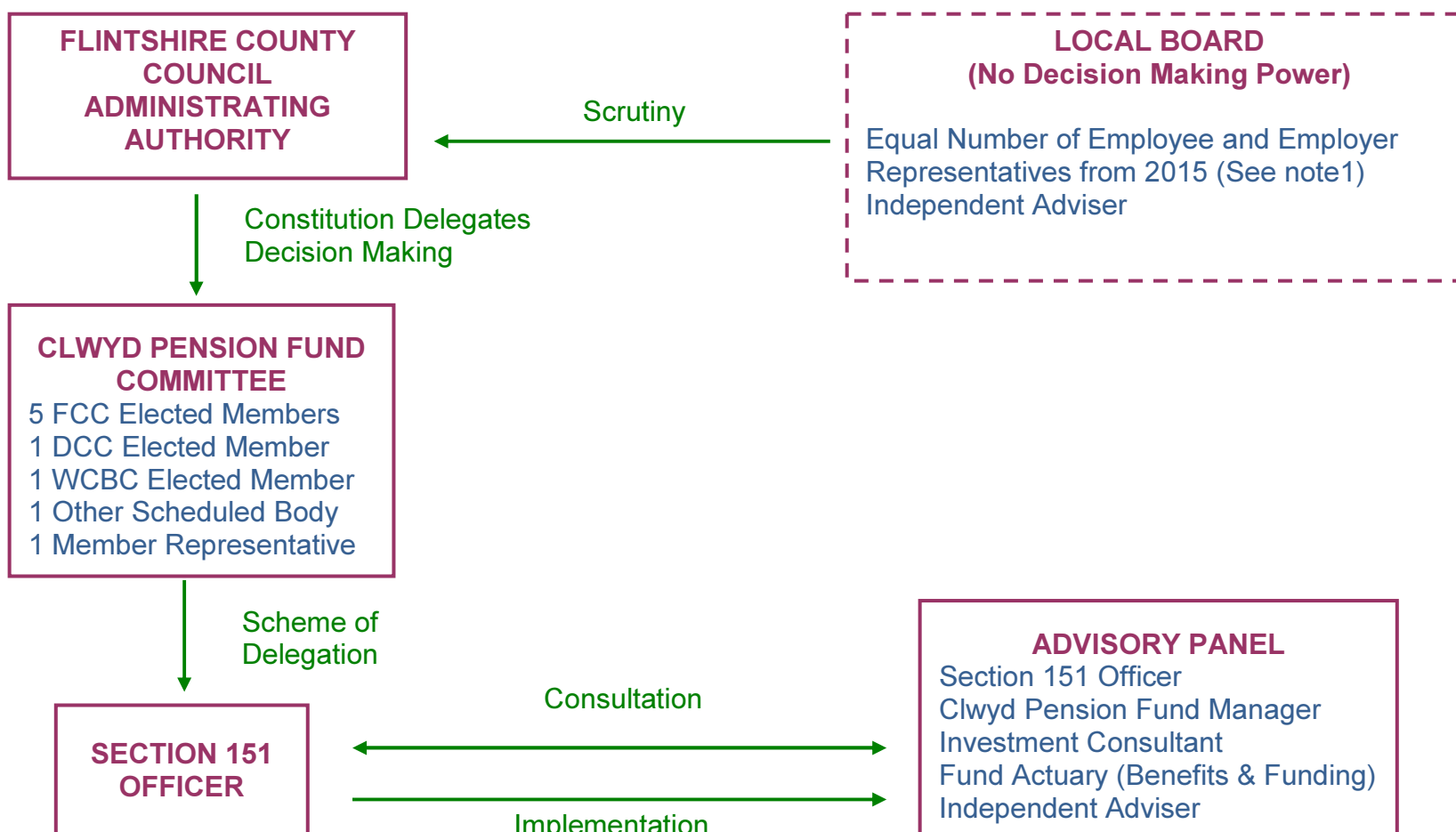
- 12.01 Appendix 1 - Clwyd Pension Fund Proposed Governance Structure  
Appendix 2 - Recommended changes to the Constitution relating to the Clwyd Pension Fund

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

CIPFA Health Check for Clwyd Pension Fund  
Clwyd Pension Fund Panel Report 25<sup>th</sup> February 2014  
Local Government Pension Scheme Regulations 2013

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**CLWYD PENSION FUND  
PROPOSED GOVERNANCE STRUCTURE**



**Note:**

1. The Public Services Pensions Act requires a new body, a Local Board, to 'scrutinise' the administering authority. Not expected to be implemented until 2015.

## Recommended changes to the Constitution relating to the Clwyd Pension Fund

### **1) Addition to PART 2 – ARTICLES OF THE CONSTITUTION**

*The following article shall be added:*

#### **Article XX – The Pension Fund Committee**

##### **1.1 Pension Fund Committee**

The Council will establish a Pension Fund Committee.

##### **1.2 Composition**

(a) **Membership.** The Pension Fund Committee will be composed of 9 members. Its membership will include:

- i) 5 Councillors of Flintshire County Council, determined by the Council.

Four co-opted members comprising:-

- ii) 1 Councillor of Wrexham County Borough Council, determined by that Council.
- iii) 1 Councillor of Denbighshire County Council, determined by that Council.
- iv) 1 Representative of the other Scheme Employers (not admission bodies) in the Clwyd Pension Fund as defined by Schedule 2 of the Local Government Pension Scheme 2013, as amended from time to time, appointed in accordance with procedures agreed by the Head of Finance in consultation with the members of the Pension Fund Advisory Panel\*.
- v) 1 Representative of the scheme members of the Clwyd Pension Fund, appointed in accordance with procedures agreed by the Head of Finance in consultation with the members of the Pension Fund Advisory Panel.

\*The Pension Fund Advisory Panel is a group of officers and advisers to the Clwyd Pension Fund, currently consisting of:

- The Head of Finance of Flintshire County Council
- The Clwyd Pension Fund Manager
- Investment Consultant
- Fund Actuary
- Independent Adviser

(b) **Term of office.**

- i) The representative members (for other scheme employers and scheme members) are appointed for a period of no more than six years and may be reappointed for further terms.
- ii) Councillors of Flintshire County Council will be appointed annually and may be reappointed for further terms.
- ii) Councillors of other local authorities who are members of the Pension Fund Committee will have a term of office to the next ordinary local government election following their appointment. They may be reappointed for further terms.

(c) **Quorum.** A meeting of the Pension Fund Committee shall only be quorate when:

- i) At least five members are present, and
- ii) At least three of the members present are councillors of Flintshire County Council

(d) **Voting.** The Councillors from Wrexham County Borough Council and Denbighshire County Council and the representative members will be entitled to vote at meetings as well as Councillors of Flintshire County Council;

(f) **Chairing the Committee.**

- i) Only Councillors of Flintshire County Council may be the Chair and Vice-Chair.
- ii) The Chair and Vice- Chair will be elected annually by members of Flintshire County Council.

(h) The Council Procedure Rules should apply to this Committee in the same way as they apply to other Committees unless different provision is made in this article.

- (i) Location. The Pension Fund Committee may occasionally meet outside of the Flintshire County Council area.

### 1.3 Role and Function

The Pension Fund Committee's principal aim is to carry out the functions of Flintshire County Council as the Scheme Manager and Administering Authority for the Clwyd Pension Fund in accordance with Local Government Pension Scheme legislation.

The Pension Fund Committee will have the following specific roles and functions, taking account of advice from the Head of Finance and the Fund's professional advisers:

- a) Ensuring the Clwyd Pension Fund is managed and pension payments are made in compliance with the extant Local Government Pension Scheme Regulations, Her Majesty's Revenue & Customs requirements for UK registered pension schemes and all other relevant statutory provisions.
- b) Ensuring robust risk management arrangements are in place.
- c) Ensuring the Council operates with due regard and in the spirit of all relevant statutory and non statutory best practice guidance in relation to its management of the Clwyd Pension Fund.
- d) Determining the Pension Fund's aims and objectives, strategies, statutory compliance statements, policies and procedures for the overall management of the Fund, including in relation to the following areas:
  - i) Governance – approving the Fund's Governance Policy and Compliance Statement for the Fund within the framework as determined by Flintshire County Council and making recommendations to Flintshire County Council about any changes to that framework.
  - ii) Funding Strategy – approving the Fund's Funding Strategy Statement including ongoing monitoring and management of the liabilities, ensuring appropriate funding plans are in place for all employers in the Fund, overseeing the triennial valuation and interim valuations, and working with the actuary in determining the appropriate level of employer contributions for each employer.
  - iii) Investment strategy - approving the Fund's investment strategy, Statement of Investment Principles and Myners Compliance Statement including setting investment targets and ensuring these are aligned with the Fund's specific liability profile and risk appetite.



- iv) Administration Strategy – approving the Fund's Administration Strategy determining how the Council will the administer the Fund including collecting payments due, calculating and paying benefits, gathering information from and providing information to scheme members and employers.
  - v) Communications Strategy – approving the Fund's Communication Strategy, determining the methods of communications with the various stakeholders including scheme members and employers.
  - vi) Discretions – determining how the various administering authority discretions are operated for the Fund.
- e) Monitoring the implementation of these policies and strategies on an ongoing basis.
  - f) Considering the Fund's financial statements prior to approval by the Council and agreeing the Fund's annual report.
  - g) Selection, appointment and dismissal of the Fund's advisers, including actuary, benefits consultants, investment consultants, global custodian, fund managers, lawyers, pension funds administrator, and independent professional advisers.
  - h) Making decisions relating to employers joining and leaving the Fund. This includes which employers are entitled to join the Fund, any requirements relating to their entry, ongoing monitoring and the basis for leaving the Fund.
  - i) Agreeing the terms and payment of bulk transfers into and out of the Fund.
  - j) Agreeing Pension Fund business plans and monitoring progress against them.
  - k) Agreeing the Fund's Knowledge and Skills Policy for all Pension Fund Committee members and for all officers of the Fund, including determining the Fund's knowledge and skills framework, identifying training requirements, developing training plans and monitoring compliance with the policy.
  - l) Agreeing the Administering Authority responses to consultations on LGPS matters and other matters where they may impact on the Fund or its stakeholders.
  - m) Receiving ongoing reports from the Head of Finance and Pensions Advisory Panel in relation to delegated functions.

No matters relating to Flintshire County Council's responsibilities as an employer participating within the Clwyd Pension Fund are delegated to the Pension Fund Committee.

#### 1.4 Sub-Committees, Task and Finish Groups and Officers

The Committee may delegate a limited range of its functions to one or more officers of the Authority. The Pension Fund Committee will be responsible for outlining expectations in relation to reporting progress of delegated functions back to the Pension Fund Committee.

## 2) Change to PART 2 – ARTICLES OF THE CONSTITUTION

*The following provision shall be deleted:*

Committee (Membership)		Non-Executive Functions	Provision of Act or Statutory Instrument	Delegation of functions
H. Functions relating to pensions etc	1	Functions relating to local government pensions, etc	Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972 (c11) [44]	Head of Finance
	3	Functions under existing pension schemes as respects persons employed by the fire and rescue authorities pursuant to Section 1 of the Fire and Rescue Services Act 2004	Sections 34 and 36 of the Fire and Rescue Services Act 2004	Head of Finance

*The following provision shall be added:*

Committee (Membership)		Non-Executive Functions	Provision of Act or Statutory Instrument	Delegation of functions
<b>Pension Fund Committee</b>  5 Councillors of Flintshire County Council, 1 Councillor of Wrexham County Borough Council, 1		<b>In accordance with Article X</b> , to carry out the functions of Flintshire County Council as the Scheme Manager and Administering Authority for the Clwyd Pension Fund.	Regulations under Sections 7, 12 or 24 of the Superannuation Act 1972 (c11) [44] and the Public Service Pensions Act 2013.	Head of Finance

Councillor of Denbighshire County Council, 1 Representative of the other Scheme Employers (not admission bodies) in the Clwyd Pension Fund and 1 Representative of the scheme members of the Clwyd Pension Fund.				
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### **3) Change to PART 3 – RESPONSIBILITY FOR FUNCTIONS**

*The following provisions shall be deleted:*

<b>Head of Finance &amp; Section 151 Officer</b>	
FS9	To accept nominations of admitted bodies to participate in the Superannuation Fund.
FS14	In accordance with any policy or strategy decided by the Authority to approve decisions relating to the management of the Pension Fund and the administration of pension benefits.
FS15	To carry out functions relating to local government pensions etc pursuant to Regulations under Section 7, 12 or 24 of the Superannuation Act 1972; and functions relating to pensions, allowances and gratuities pursuant to Regulations under Section 18(3A) of the Local Government and Housing Act 1989.
FS16	To determine matters involving the exercise of a discretion under provisions relating to or arising from the Local Government Pension Scheme following consultation with the Discretions Panel consisting of the Head of Pensions/Funds, the Pensions Manager and Principal Solicitor (Litigation).

*The following provisions shall be added:*

<b>Head of Finance &amp; Section 151 Officer</b>	
FSn	The day to day management of Clwyd Pension Fund matters including ensuring arrangements for investments of assets and administration of contributions and benefits, excluding matters delegated to the Pensions Fund Committee.
FSn	Establish and chair a Clwyd Pension Fund Advisory Panel consisting of officers of the Council and adviser to the Clwyd Pension Fund to provide advice and propose recommendations to the Pension Fund Committee, and carry out such matters as delegated to it from time to time by the Pension Fund Committee.

### **3) Change to PART 4 – RULES OF PROCEDURE Financial Procedure Rules**

*The following provisions shall be amended:*

In:

- Clause 18.5 (b) relating to Chief Finance Officer or Head of Human Resources and Organisational Development, and
- Clause 18.5 (d) relating to Directors and Heads of Service the words "superannuation" shall be replaced by "pension".

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **CONSTITUTION COMMITTEE**

**DATE:** **WEDNESDAY, 26 MARCH 2014**

**REPORT BY:** **HEAD OF LEGAL & DEMOCRATIC SERVICES**

**SUBJECT:** **POSSIBLE REDUCTION IN SIZE OF DEMOCRATIC SERVICES AND CONSTITUTION COMMITTEES**

### **1.00 PURPOSE OF REPORT**

- 1.01 To consider a reduction in the size of both the Democratic Services and Constitution Committees.

### **2.00 BACKGROUND**

- 2.01 A councillor has asked for consideration to be given to reducing the size of both the Democratic Services and Constitution Committees from 21 to 15 Members. The Chair has agreed to this being considered by the Democratic Services Committee immediately prior to consideration by this committee. The recommendation from the Democratic Services Committee meeting will be reported verbally to the meeting.

### **3.00 CONSIDERATIONS**

- 3.01 Attached as Appendix 1 is a record of attendances at meetings of the Democratic Services and Constitution Committees over the last 12 months. This shows that the average number of Members attending a meeting of the Democratic Services Committee is 12. The Committee may therefore consider that as a result of this the size of the Committee can be reduced.
- 3.02 The Chair of both Committees makes the point that there is little that can be done to vary the content of matters coming before each Committee and that if some Members are not sufficiently interested to attend, this should be taken note of. The size of the committee is not a measure of its importance.
- 3.03 Both the Democratic Services Committee and Constitution Committee have the same membership and chair so as to facilitate both Committees meeting on the same day and one immediately following the other. The Local Government (Wales) Measure 2011 requires that Democratic Services Committees limit the matters such committees can consider and therefore prevents it being combined with the Constitution Committee.

3.04 The committee needs to consider whether reducing the size of the Democratic Services and Constitution Committees will improve its effectiveness. It also needs to consider what is the most appropriate size for the two committees.

3.05 Any change to the size of the Democratic Services Committee needs to be agreed by this committee which would also need to consider reducing its own size to correspond. Any change agreed by this committee would then need to be considered by County Council with a view to the change taking effect at the annual meeting.

#### **4.00 RECOMMENDATIONS**

4.01 For the committee to consider any recommendation from the Democratic Services Committee and any consequent changes to its own size.

#### **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 the Chair of the Democratic Services and Constitution Committees.

#### **12.00 APPENDICES**

12.01 Appendix 1 – Attendance Records

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

None

**Contact Officer:** Peter Evans

**Telephone:** 01352 702304

**Email:** peter.j.evans@flintshire.gov.uk

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**APPENDIX 1**

**Attendance at Constitution Committee and Democratic Services Committee Meetings**

<b>Date of Meeting</b>	<b>Constitution Committee</b>	<b>Democratic Services Committee</b>
17 July 2013	11	10
16 October 2013	9 (including 1 substitute)	Cancelled
8 January 2014	15 (including 1 substitute)	14 (including 1 substitute)
Average	12	12

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **CONSTITUTION COMMITTEE**  
**DATE:** **WEDNESDAY, 26 MARCH 2014**  
**REPORT BY:** **HEAD OF LEGAL & DEMOCRATIC SERVICES**  
**SUBJECT:** **SIZE OF THE AUDIT COMMITTEE**

### **1.00 PURPOSE OF REPORT**

1.01 To consider increasing the number of seats for councillors on the Audit Committee.

### **2.00 BACKGROUND**

2.01 The Audit Committee currently consists of seats for councillors allocated to the political groups as follows:-

<b>Group</b>	<b>Seats</b>	<b>Group</b>	<b>Seats</b>
Conservative	1	Labour	3
Independent	1	Liberal Democrat	0
Independent Alliance	1	New Independent	1

There is also one seat for a lay member in accordance with the Local Government Measure 2011 (the Measure).

2.02 At a recent meeting of the committee it was suggested that the size of the committee should be increased. The committee agreed that there should be more seats for councillors and that there should not be any additional lay members. It was also agreed to consult Group Leaders (and thus the wider membership of the Council) as to the optimum size for the committee.

2.03 As at the date of writing the report two groups had indicated their views. The New Independent Group was willing to increase the size of the committee and the Conservative Group was willing to see it increased by one place (but no more). The views of the remaining groups will be reported at the committee meeting.

### **3.00 CONSIDERATIONS**

3.01 A number of members of the Audit Committee (including the Chair) believe that the committee should be increased by one or two places. This would:-

- Enable a broader political spread with a representative of all political groups; and
  - Reduce the impact of the occasional, inevitable absence by committee members. The Audit Committee has restricted substitutions (in order to ensure continuity) so any member absence has a greater impact.
- 3.02 The Audit Committee is politically balanced under the Local Government & Housing Act 1989. If membership were to be increased by one the Liberal Democrat Group would gain a seat. If membership were increased by two then the Labour Group would also gain an additional seat.
- 3.03 Clearly, whether to increase the number of places should be linked to whether that increase would improve the effectiveness of the committee. The annual self assessment of the effectiveness using CIPFA guidance does not reveal any perceived weakness in the working of the committee. However, that self assessment tool does not measure whether all political groups have places on the committee.
- 3.04 The Internal Audit Manager has researched the size of Audit Committees in other Welsh Councils. This reveals that 12 of the 22 committees have fewer than 10 places for councillors with four having six places, two having seven and four having eight places.
- 3.05 Since March 2013 there have been eight meetings. At three meetings there was one apology but a substitute was sent. At two meetings there were two apologies, although only one substitute. At one meeting there was one apology but no substitute.
- 3.06 Having examined the different aspects of the work of the committee there is no evidence that its size is preventing it from undertaking its duties effectively. On the contrary, the committee appears to be working very well with high levels of attendance, interest and diligence. The only criticism is that the committee does not contain a representative of every group, which, due to the political balance rules, is the case for some other committees as well.

#### **4.00 RECOMMENDATIONS**

- 4.01 That the committee notes the request from the Audit Committee to increase the number of places for councillors.
- 4.02 That in light of its current effective functioning, sufficiency of size and loyal member attendance, the Constitution Committee does not recommend any change in the size of the Audit Committee to the Annual General Meeting.

**5.00 FINANCIAL IMPLICATIONS**

5.01 None as a result of this report.

**6.00 ANTI POVERTY IMPACT**

6.01 None as a result of this report.

**7.00 ENVIRONMENTAL IMPACT**

7.01 None as a result of this report.

**8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

**10.00 CONSULTATION REQUIRED**

10.01 With political Group Leaders.

**11.00 CONSULTATION UNDERTAKEN**

11.01 With political Group Leaders.

**12.00 APPENDICES**

12.01 None

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

None

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **CONSTITUTION COMMITTEE**  
**DATE:**               **WEDNESDAY, 26 MARCH 2014**  
**REPORT BY:**       **HEAD OF LEGAL & DEMOCRATIC SERVICES**  
**SUBJECT:**           **WHISTLEBLOWING POLICY**

### **1.00 PURPOSE OF REPORT**

1.01 To consider amending the Constitution to reflect updating changes to the Council's Whistleblowing Policy.

### **2.00 BACKGROUND**

2.01 At its meeting on the morning of the 26 March the Audit Committee will be considering a report recommending updating changes to the Council's current Whistleblowing Policy. A copy of that report is attached as Appendix 1.

2.02 The Enterprise and Regulatory Reform Act 2013 introduced changes to the statutory protection given to whistleblowers that needs to be reflected in the Council's policy.

2.03 The Council's Whistleblowing Policy forms part of the Council's Constitution and the committee is in the second year of a 3 year programme to review all parts of the Constitution.

### **3.00 CONSIDERATIONS**

3.01 The Council's Whistleblowing Policy needs to be updated to reflect the change in legislation whereby the protection given to whistleblowers now applies where they reasonably believe that the disclosure they are making is in the public interest.

3.02 The decision made by the Audit Committee at its meeting on the morning of the 26 March will be reported verbally to the committee.

### **4.00 RECOMMENDATIONS**

4.01 The committee is requested to consider and approve the updated policy attached as an appendix to the report to Audit Committee.

### **5.00 FINANCIAL IMPLICATIONS**

5.01 None as a result of this report.

**6.00 ANTI POVERTY IMPACT**

6.01 None as a result of this report.

**7.00 ENVIRONMENTAL IMPACT**

7.01 None as a result of this report.

**8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

**10.00 CONSULTATION REQUIRED**

10.01 With relevant officers in Legal & Democratic Services, Finance and HR&OD.

**11.00 CONSULTATION UNDERTAKEN**

11.01 With relevant officers in Legal & Democratic Services, Finance and HR&OD.

**12.00 APPENDICES**

12.01 Appendix 1 – Audit Committee Report

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

None

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **AUDIT COMMITTEE**  
**DATE:**               **WEDNESDAY, 26 MARCH 2014**  
**REPORT BY:**       **HEAD OF FINANCE**  
**SUBJECT:**           **WHISTLEBLOWING POLICY**

### **1.00 PURPOSE OF REPORT**

1.01 To outline to Members the updated Whistleblowing Policy

### **2.00 BACKGROUND**

2.01 Flintshire County Council has had a whistleblowing policy since 2002, and it was last updated and approved by the Audit Committee in 2010. There is a need to review the policy periodically to ensure that it reflects any changes in working practice, legislation and other regulation.

2.02 The document has been reviewed and updated by Internal Audit in conjunction with the Legal and HR departments.

### **3.00 CONSIDERATIONS**

3.01 The Enterprise and Regulatory Reform Act (June 2013) introduced changes to whistleblowing arrangements. The changes have been incorporated in this revised policy. The main changes which came into effect are

- For employees to have protection under the act they need to reasonably believe that they are making disclosures in the public interest. The previous requirement for disclosures to be protected was for them to be made in good faith.
- Greater protection for workers who blow the whistle, particularly where they may suffer from detriment in the workplace.

3.02 The whistleblowing policy enables employees to raise any concerns that they may have and gives assurances about confidentiality and protection. It gives the procedure to be followed and how the Council will respond, along with examples of the types of concerns that can be raised.

3.03 The policy forms part of the Council's constitution. Following approval by the Audit Committee it will be presented to the Constitution Committee.

Following approval it will be re-launched on the Council's Infonet.

**4.00 RECOMMENDATIONS**

4.01 The Committee is requested to consider and approve the updated policy.

**5.00 FINANCIAL IMPLICATIONS**

5.01 None as a direct result of this report.

**6.00 ANTI POVERTY IMPACT**

6.01 None as a direct result of this report.

**7.00 ENVIRONMENTAL IMPACT**

7.01 None as a direct result of this report.

**8.00 EQUALITIES IMPACT**

8.01 None as a direct result of this report.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None as a direct result of this report.

**10.00 CONSULTATION REQUIRED**

10.01 Legal and HR departments

**11.00 CONSULTATION UNDERTAKEN**

11.01 Legal and HR departments

**12.00 APPENDICES**

12.01 Whistleblowing Policy

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

None.

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APPENDIX 1

**FLINTSHIRE  
COUNTY COUNCIL**

**(Excluding staff employed by School Governing  
Bodies)**

Whistleblowing Policy

Policy owner for review	Internal Audit Manager & Head of Human Resources and Organisational Development
Date implemented	April 2007
Date last reviewed	October 2010
Date of last amendment	March 2014
Date of next review	

## Introduction

Flintshire County Council encourages a free and open culture in dealings between its managers, employees and all people with whom it engages in business and legal relations. In particular, FCC recognises that effective and honest communication is essential if concerns about breaches or failures are to be effectively dealt with and the organisation's success ensured.

FCC aim to create an environment where employees feel able to share their concerns internally in confidence. Employees do not suffer any detriment or victimisation as a result of making a protected disclosure

## Aims of the Policy

This policy sets out how to make a disclosure under the Public Interest Disclosure Act 1998. This policy is designed to provide guidance to all those who work with or within Flintshire County Council who may from time to time feel that they need to raise certain issues relating to the organisation with someone in confidence.

This Policy ensures that you receive a response to your concerns and that you are aware of how to pursue them if you are not satisfied.

## Scope

This policy applies to all employees of and workers for Flintshire County Council with the exception of teachers and those employed by School Governing Bodies. This policy is commended to schools as good practice.

## Definition

Whistleblowing encourages and enables employees to raise serious concerns that are in the public interest **within** the Council rather than overlooking a problem or 'blowing the whistle' outside

## Policy

Any issues about malpractice should be raised at an early stage initially with Line Managers, in order for practices to be modified before they reach the point where problems are created or harm is caused. These issues will initially be dealt with informally where possible.

Employees who reasonably believe that the disclosure they are making is in the public interest will be protected from suffering a detriment, bullying or harassment.

This assurance will not be extended to someone who maliciously raises a matter they know is untrue and there are clear procedures in place for dealing with deliberately made false claims.

## **Confidentiality**

We recognise that you may want to raise a concern in confidence under this policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent (apart from exceptional cases) for example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing.

However, this policy encourages you to put your name to your allegation, as concerns expressed anonymously are often much more difficult to investigate. Anonymous allegations will be considered wherever possible at the discretion of the Council.

## **Third Parties/Contractors**

Although the provisions of the Public Interest Disclosure Act 1998 only applies to employees, the Council is committed to ensuring that any third party or contractor who raises a concern under this Policy will not be harassed or victimised as a result. Third parties/contractors should follow Step 3 of the procedure set out below.

## **Personal Issues**

If you have a complaint that relates to personal disputes or your own terms and conditions of employment, this should be raised initially with your line manager and if the issue is not resolved informally with your line manager, the Grievance Policy should be followed.

## **Protection**

Providing that you reasonably believe the disclosure you are making is in the public interest and you follow the procedures outlined in this policy then whistleblowing legislation protects you from detriment. Some examples are; you have a right not to be demoted, suspended, unfairly dismissed or victimised.

## **Independent Advice and External Contacts**

While we hope this policy gives you the reassurance you need to raise such matters internally, we would rather you raised a matter with the appropriate regulator than not at all. Provided you have evidence to back up your concern you can also contact:

- Your Trade Union

- The independent charity Public Concern at Work on 020 7404 6609. Their lawyers can give you free confidential advice at any stage about how to raise a concern about serious malpractice at work.
- The Auditor General Wales can also receive whistleblowing disclosures directly from employees

Auditor General Wales 24 Cathedral Road Cardiff, CF11 9LJ Tel: 029 2032 0500	Health & Safety Executive Information Centre Broad Lane Sheffield S3 7HQ
Information Commissioner Wycliffe House Water Lane Wilmslow Cheshire SK9 5AF Tel: 01625 545700	The Director of the Serious Fraud Office Elm House 10 – 16 Elm Street London WC1X 0BJ
The Environmental Agency Rio House Waterside Drive, Aztec Way Almondsbury Bristol BS12 4UD Tel: 0800 807060	

### Monitoring and Evaluation

The policy will be reviewed to ensure compliance with changes in employment legislation or recommended best practice. Any future amendments to the policy may be authorised by the Head of Human Resources and Organisational Development.

### Training and Development

Training will be provided to ensure that those with management responsibility for employees are clear about the policy and the procedures contained within it.

In addition to the support provided by your line manager, advice may be sought from a number of other sources such as the Human Resources Department or your Trade Union representative.

### Procedure

When raising a concern about malpractice at work, you can: -

1. Raise the issue first with your line manager; this may be done orally or in writing.
2. If you feel unable to raise the matter with your line manager, for whatever reason, please raise the matter with the next immediate line manager whom

you trust, or with someone outside line management within the Directorate. Please say if you want to raise the matter in confidence so that they can make appropriate arrangements.

3. If these channels have been followed and you still have concerns, or if you feel that the matter is so serious that you cannot discuss it with any of the above, please contact one of the following
  - the Internal Audit Manager
  - the Monitoring Officer
  - the Head of Human Resources and Organisational Development, or
  - the Head of Finance

## **The Council's Response**

The Council will assess the concern once it is raised, which may involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact them and whether further assistance may be needed. If you request it, we will write to you summarising your concern and how we propose to handle it. Some concerns may be resolved by agreed action without the need for investigation.

While the purpose of this policy is to enable us to investigate possible malpractice and take appropriate steps to deal with it, we will give you as much feedback as we properly can within an agreed timescale. If requested, we will confirm our response to you in writing. Please note, however, that we may not be able to tell you the precise action we take where this would infringe upon a duty of confidence owed by us to someone else or being in breach of any statutory requirement.

The Authority will ensure that an Officer with knowledge and experience of this procedure will be given the responsibility for obtaining initial information from the referrer. A trained and suitable Officer will also conduct any initial meetings that are required.

At an appropriate stage in any investigation due consideration will need to be given to informing the subject of the concerns raised. It will be necessary to do this to comply with the Council's duties under the Human Rights legislation. However, all efforts will be made to ensure that the source of the concerns remains confidential where possible. The source of the concern will not be disclosed without their consent (apart from exceptional cases) for example this could be in cases when the person raising the concerns will need to provide a statement and potentially appear as a witness in subsequent legal proceedings, or may be required to give evidence in a disciplinary hearing. A central log of concerns reported under this Policy will be kept by Internal Audit.

## **Appeals**

If you are unhappy with our response, remember you can go to the other levels and bodies detailed in this Policy.

Whilst we cannot guarantee that we will respond to all matters in the way that you might wish, we will try to handle the matter fairly and properly. By using this policy

you will help us to achieve this.

### Role of the Manager

- To deal with and respond to any complaints raised under this policy
- To ensure employees are protected from suffering a detriment as a result of raising an issue under this policy.

### Role of the Employee

- Employees must reasonably believe the disclosure of information is in the public interest.
- Employees must **not** act maliciously or make false allegations.
- Employees must **not** seek any personal gain.

### Appendices

Appendix 1 – Examples of concerns which could be raised.



## Appendix 1 Examples of Concerns which could be raised

This policy will apply in cases where employees reasonably believe that the disclosure they are making is in the public interest. Examples of this are :-

- a criminal offence has been committed, is being committed or is likely to be committed
- a person has failed, is failing or is likely to fail to comply with any legal obligation to which he or she is subject
- a miscarriage of justice has occurred, is occurring or is likely to occur
- the health and safety of any individual has been, is being or is likely to be endangered
- the environment has been, is being or is likely to be damaged
- information tending to show any matter falling within any one of the preceding paragraphs has been, is being or is likely to be deliberately concealed.
- The unauthorised use of public funds.
- Possible fraud and corruption.
- Other unethical conduct.
- Actions which are unprofessional, inappropriate or conflict with a general understanding of what is right and wrong.

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **CONSTITUTION COMMITTEE**  
**DATE:**               **WEDNESDAY, 26 MARCH 2014**  
**REPORT BY:**       **HEAD OF LEGAL & DEMOCRATIC SERVICES**  
**SUBJECT:**           **UPDATING THE CONSTITUTION**

### **1.00 PURPOSE OF REPORT**

- 1.01 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.

### **2.00 BACKGROUND**

- 2.01 Section 37 of the Local Government Act 2000 requires local authorities 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. The six areas identified for review in year one were dealt with last year. Four of the six areas identified for this year have been reviewed and reported to the committee. The fifth related to the standing orders concerning the appointment and dismissal of officers. The Welsh Government is in the process of making regulations concerning the appointment and dismissal of senior officers and this part of the Constitution will be reviewed once those regulations have been issued.
- 2.03 The sixth area identified for the current Council year was part 3 of the Constitution concerning the responsibility for functions. Most of this relates to the delegated powers of senior officers. Whilst work has been done on this it has been put on hold until the new senior management structure of the Council has been agreed. The one section of part 3 that can be reviewed is Section B concerning the Leader's Scheme of Delegation of Executive Functions.

### **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 Attached as Appendix 1 to this report is the Leader's Scheme of Delegation of Executive Functions with recommended changes shown, together with comments on those proposed changes. In summary these changes are:-
1. To delete reference to the Coordinating Committee that no longer exists.
  2. To update the membership of the Cabinet and the portfolios assigned to Cabinet members by the Leader.
  3. To reflect that Social Services functions are no longer split between Adult Social Care and Education.
  4. To remove ambiguity of wording around recording of officer decisions.
  5. To reflect the current membership of the Welsh in Education Strategic Forum.
- 3.03 This part of the Constitution reflects the Leader's Scheme of Delegation of Executive Functions and such arrangements are a matter for the Leader. The proposed changes shown in Appendix 1 follow consultation with the Leader and his agreement to them.

### **4.00 RECOMMENDATIONS**

- 4.01 For the committee to approve the proposed changes to the Leader's Scheme of Delegation of Executive Functions as shown in Appendix 1.

### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 None as a result of this report.

### **6.00 ANTI POVERTY IMPACT**

- 6.01 None as a result of this report.

### **7.00 ENVIRONMENTAL IMPACT**

- 7.01 None as a result of this report.

### **8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

**10.00 CONSULTATION REQUIRED**

10.01 With the Leader and Deputy Leader.

**11.00 CONSULTATION UNDERTAKEN**

11.01 With the Leader and Deputy Leader.

**12.00 APPENDICES**

12.01 Appendix 1 – Leader’s Scheme of Delegation of Executive Functions

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

None

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**SECTION B**  
**LEADER'S SCHEME OF DELEGATION OF**  
**EXECUTIVE FUNCTIONS**

**GENERAL**

No individual Cabinet Member shall have power to act as an individual except in cases of urgency relating to an Executive Function which falls within that Cabinet Member's portfolio.

**1. Cabinet Terms of Reference**

- 1.1 To act as the main focus of day-to-day political leadership and decision making, as well as of democratic accountability, at corporate level.
- 1.2 To carry out all the local Authority's functions which are not the responsibility of any other part of the local Authority, whether by law or under the Constitution.

1.3 To propose to the Council:

1.3.1 the Council's Guiding Principles;

1.3.2 the key policies, and associated resource strategies, which comprise the Council's policy framework, as well as changes to that framework, including:

- (a) The Council's Strategic Plan (Improvement Plan) and Performance Improvement Plan (Annual Performance Report);
- (b) The Council's Annual Revenue and Capital Budgets, and levels of Council Tax.

**Comment:** Amended titles

taking advice from the ~~appropriate Overview and Scrutiny committee, interested agencies or groups, the local community, and others, as appropriate;~~

**Deleted:** Co-ordinating Committee or

**Comment:** No longer exists

1.3.3 ~~upon any matter relating to any of the Council's powers and functions.~~

**Deleted:** or

**Comment:** Grammatical change

1.4 To guide Cabinet Members and Directors on:

- 1.4.1 policy development, co-ordination, and implementation;
- 1.4.2 determination of relative priorities for action; and
- 1.4.3 the effective and efficient operation of the Council, and of its various services.

- 1.5 To ensure effective implementation of the Council's strategies and plans, including monitoring and reviewing performance, and considering the need for major changes in delivery or new developments to improve service standards and quality.
- 1.6 To receive reports from appropriate officers of the Council, and/or Cabinet Members, on significant matters requiring consideration/decision, and/or proposals for new or amended policy and its implementation.
- 1.7 To have discretion to seek the advice or comments, of the Overview and Scrutiny Committees, and other relevant bodies, in relation to significant matters before making a decision.
- 1.8 To establish standing Cabinet Committees, where appropriate, as a means of transacting more efficiently discrete aspects of the work of the Cabinet.
- 1.9 To appoint (on a task and finish basis) ad hoc panels to assist in a key aspect of policy development, consisting of officers working with the relevant Cabinet Members.
- 1.10 To establish topic forums to promote dialogue with, and partnership working on, matters of significance to the Council, the community, and other key local organisations which work closely with the Council.

**Deleted:** Co-ordinating Committee and/or

**Comment:** No longer exists

## 2. **Names and Electoral Divisions of the Leader and Other Cabinet Members Appointed by the Leader and their Portfolios**

- 2.1 The Cabinet will take decisions collectively as a group, (although individual Cabinet Members may take decisions individually in an emergency, as set out in paragraph 3 below).

The individual Cabinet Members listed below are allocated personal portfolios of responsibility. (These individual portfolios may be changed by the Leader at any time). The individual Cabinet Members will each work closely with, and take professional advice from, a range of senior officers within the Authority, as appropriate to their particular responsibilities, with the ability to convene meetings of such staff as needed. Each portfolio holder also will liaise with, consult and inform other Cabinet Members on individual matters likely to affect their portfolios.

2.1.1 Name of Leader: **County Councillor Aaron Shotton**  
 Electoral Division: **Connah's Quay Central**  
 Portfolio and Functional Area of Responsibility: **Chair of the Cabinet, Finance**

**Deleted:** , Regeneration, Enterprise

**Deleted:** and Assets

2.1.2 Name of Deputy Leader: **County Councillor Bernie Attridge**  
 Electoral Division: **Connah's Quay Central**  
 Portfolio and Functional Area of Responsibility: **Environment**



- 2.1.3 Name: **County Councillor Christine Jones**  
Electoral Division: **Sealand**  
Portfolio and Functional Area of Responsibility: **Social Services**
- 2.1.4 Name: **County Councillor Chris Bithell**  
Electoral Division: **Mold East**  
Portfolio and Functional Area of Responsibility: **Education**
- 2.1.5 Name: **County Councillor Kevin Jones**  
Electoral Division: **Bagillt East**  
Portfolio and Functional Area of Responsibility: **Waste Management Strategy, Public Protection & Leisure**
- 2.1.6 Name: **County Councillor Helen Brown**  
Electoral Division: **Aston**  
Portfolio and Functional Area of Responsibility: **Housing**
- 2.1.7 Name: **County Councillor Billy Mullin**  
Electoral Division: **Broughton North East**  
Portfolio and Functional Area of Responsibility: **Corporate Management**

2.1.8 Name: **Councillor Derek Butler**  
Electoral Division: **Broughton South**  
Portfolio and Functional Area of Responsibility: **Economic Development**

### 3. Delegations of Executive Functions to Cabinet Members

Normally, decisions will be taken collectively by the Cabinet, but individual Cabinet Members can take decisions within their portfolios which they consider to be urgent to protect the interest of the Council, subject to prior consultation with the Leader or Deputy and the Chief Executive or the appropriate Director(s) and, where necessary, other Cabinet Members. If there is uncertainty as to whether a matter falls within a particular portfolio, the Leader will make a determination as to which is the relevant Cabinet Member. The Leader can take urgent decisions in the absence of the appropriate portfolio holder.

### 4. Delegation of Executive Functions to Officers

4.1 There are delegated to Chief Officers, under Section 15 of the Local Government Act 2000, functions within their responsibility, in the terms set out in Sections A and C of Part 3 of this part of the Constitution.

#### 4.2 Social Services

The statutory responsibilities of Director of Social Services are in Flintshire discharged by the Director of Community Services and that post holder has responsibility for both Children's Social Services and Adult Social Care.

**Deleted:** In view of the fact that, under the Council's organisational structure, Social Services functions are allocated between Adult Social Care and Education, Recreation and Children's Services and due to the fact that it is a statutory requirement to designate a Director of Social Services, the designated Director shall be the Director of Adult Social Care and the allocation of Social Services functions is set out in the attached protocol at Appendix 1 to this Section. ¶

#### 4.3 Recording of Officer Decisions

Following consultation and in accordance with arrangements agreed with the appropriate Cabinet member, officer delegated decisions of Executive functions shall be recorded and reported to Cabinet.

**Comment:** Deleted in view of the fact that under the Council's organisational structure Social Services functions are allocated between Adult Social Care and Education & Recreation due to the fact that it is a statutory requirement to designate

**Comment:** Updated as Social Services functions are no longer split between Adult Social Care and Education.

#### 5. **Appointments to Bodies undertaking or advising upon Executive Functions**

Members will be appointed to the following bodies:-

**Deleted:** Decisions taken by officers under delegated Authority will be open to scrutiny, and a sufficient record will be made of such decisions, in order that they may be available for consultation if required and for ensuring that all those who need to know are informed promptly of the decision.

##### 5.1 **Adoption Panel**

Comprises two Flintshire members, two Wrexham members, two representatives from BCUHB and four independent members.

**Comment:** The current wording is ambiguous and confusing.

##### Terms of Reference:

- (a) To make recommendations in respect of the following to the Head of Children's Services.
  - (1) to consider each application for approval and to recommend whether or not a person is suitable to act as a foster parent;
  - (2) where it recommends approval of an application to recommend the terms on which the approval is given, for example, as to the numbers and ages of children, or whether the approval relates to any particular named child, or to any particular type of placement;
  - (3) to recommend whether or not a person remains suitable to act as a foster parent, and whether or not the terms of his approval remains appropriate;
    - (i) on the first review
    - (ii) on the occasion of any other review when requested to do so by the fostering service provider.

##### 5.2 **Foster Care Panel**

This comprises five Flintshire members, 3 representatives from BCUHB and four independent members.

##### Terms of Reference:

- (a) To make recommendations in respect of the following to the Head of Children's Services:-

- (1) whether fostering is in the best interests of a child;
- (2) whether applicants are suitable to be approved as foster parents; and
- (3) whether approved fosters are suitable to be adopters for a child.

### 5.3 Children's Forum

This comprises the Cabinet Members for Education, Social Services, Housing and Corporate Management, one Member from each political group and other persons as determined by the Cabinet at its meetings of the 1 August 2006 and 13 December 2011.

#### Terms of Reference:

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.

### 5.4 It has been decided to carry on with the following Boards:-

- Health & Safety
- Single Status

#### a) **The Health & Safety Board**

#### Terms of Reference:

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

**Deleted:** and reinvention of wheels

#### b) **Single Status Board**

#### Terms of Reference:

To provide strategic direction, guidance and support in the implementation of Single Status and associated matters.

The Boards will comprise:

One member from each political group plus the Cabinet member for Corporate Management and relevant officers. The Leader will also attend all Board meetings, diary permitting.

#### **5.5 Planning Strategy Group**

Eleven members comprising the Cabinet Member responsible for Town & Country Planning, members of the Planning and Development Control Committee and relevant officers. The working group may co-opt other members from time to time.

To make recommendations to Council, Cabinet, the Cabinet Member for Environment, Environment Overview & Scrutiny Committee, Constitution Committee, Planning and Development Control Committee or to the Head of Planning, as appropriate, in relation to:-

1. Improvements to the planning process within Flintshire including alterations to the Flintshire Planning Code of Practice, the workings of the Planning and Development Control Committee and the procedures for dealing with the various types of application processed by the Planning Service.
2. Review the performance of the Planning Service.
3. Monitor and consider the findings and implications from planning appeal decisions.
4. Establish and review Member and officer planning training programmes.
5. Lead the progression of the Local Development Plan and the production or amendment of planning policies or planning guidance.
6. Respond to consultations from Welsh Government on matters relating to Planning where timescales permit.
7. Provide a forum for improved links with other services critical to the Planning Service such as Housing, Welsh Water/Dwr Cymru or to the soon to be established Single Environment Body.
8. Any topics referred to it by the Planning and Development Control Committee or the Chair of that Committee, County Council, or Overview and Scrutiny Committee, or by the Constitution Committee, or Cabinet Member, or by the Head of Planning, or by the Head of Legal and Democratic Services.

#### **5.6 The Joint Consultative Committee**

This committee comprises eighteen members comprising nine employer representatives and nine employee representatives and

relevant officers.

Terms of Reference:

To 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.

**5.7 The Education Consultative Committee**

The membership of this committee comprises eighteen members, nine from the Local Education Authority and nine Union representatives, together with relevant officers.

Terms of Reference:

Consultative forum between the Council and education staff regarding staff issues and any other relevant matters and to make recommendations to the Council.

**5.8 School Performance Monitoring Group**

The membership of this is the Cabinet member for Education, the Chair of Lifelong Learning Overview & Scrutiny, the co-opted members of Lifelong Learning Overview & Scrutiny and relevant officers.

Terms of Reference:

1. Key stage results
2. Other attainment information, including outcomes for “vulnerable” learners.
3. Estyn reports
4. Welsh Government banding information
5. Attendance
6. Exclusions
7. School contexts and contextualised performance.

**5.9 Tenant Working Group**

The membership is the Cabinet member for Housing plus three other members, the Chair of the Tenant Federation and three other tenants and relevant officers.

Terms of Reference:

1. To implement the Customer Involvement Strategy and action
2. Receive progress reports
3. Annually review the Customer Involvement Strategy

**5.10 The Voluntary Sector Grants Panel**

Membership is eight members and relevant officers.

Terms of Reference:

To provide recommendations to the Chief Executive on Council funding from the £21K available in the community chest fund to third sector organisations.

**5.11 Inclusion Service Steering Group**

The membership comprised two members, Inclusion Service Management Team, Primary, Secondary and Special School Headteachers, Primary & Secondary ALNCos, Parent Partnership representatives.

Terms of Reference:

To review and monitor service policy, provision, delivery and efficiency.

**5.12 Welsh in Education Strategic Forum**

This forum comprises Menter Iaith, Mudiad Meithrin, Director of Lifelong Learning, Principal Primary Officer, Principal Secondary Officer, Cabinet member for Lifelong Learning, Ysgol Maes Garmon – representing Welsh Secondary, St Richard Gwyn Catholic High School – representing Catholic Schools, Ysgol Gwenffrwd – representing Flintshire Welsh Primary Schools, Ysgol Penarlq – representing Flintshire English Medium Schools, Acting Headteacher – Ysgol Croes Atti, Menter Iaith Sir – Flint, Coleg Cambria, SWFFLAG, Flintshire Governors Association, Urdd and relevant officers.

**Deleted:** parent representative, Children & Young People's Partnership,

**Deleted:** Athrawon Bro, 2 Headteachers, 3 Principal Learning Advisers, Head of Development & Resources, Governor representative, Pupil Support Manager, College representative

Terms of Reference:

1. To agree, implement and review a coordinated approach that best delivers the requirements of the Welsh Government's Welsh-medium Education Strategy.
2. To be responsible for the delivery of the action plan incorporating seven key outcomes.
3. To monitor, evaluate and consider the impact of the delivery of the action plan in raising standards in Welsh first and second language.
4. Forum representatives are expected to consult with and feedback to their respective associate stakeholders.

**6. Joint Committees**

Joint Committee	Function	Name of Members Allocated
Clwydian Range AONB		Councillor Nigel Steele-Mortimer Councillor Carolyn Thomas Councillor Nancy Matthews

7. **TAITH**

The Cabinet has established a joint committee known as 'Taith' with Gwynedd County Council, Conwy County Borough Council, Denbighshire County Council and Wrexham County Borough Council. The aims of Taith are to develop and adopt a transport strategy and subsidiary strategies for the areas of the member Authorities. The Committee consists of two elected Councillors from each of the member Authorities. The Cabinet has delegated authority to Taith to make decisions, enter into contracts and incur expenditure in pursuance of the aims, and in accordance with the constitution of Taith.

8. **The North Wales Trunk Road Agency Joint Committee**

The Cabinet has established a joint committee known as 'The North Wales Trunk Road Agency Joint Committee' with Conwy County Borough Council, Denbighshire County Council, Wrexham County Borough Council, Gwynedd County Council and the Isle of Anglesey County Council. The Committee consists of two elected Councillors from each member Authorities. The Cabinet has delegated responsibility to the Joint Committee for supporting Gwynedd Council (as lead Authority) and the other member Authorities in delivering services pursuant to an agency agreement between the National Assembly for Wales and Gwynedd Council, relating to the maintenance and improvement of trunk roads in the areas of the member Authorities, in accordance with the constitution of the Joint Committee.

9. **North Wales Residual Waste Joint Committee**

The Cabinet has established a joint committee known as the North Wales Residual Waste Joint Committee with Conwy County Borough Council, Denbighshire County Council, Gwynedd County Council and Isle of Anglesey County Council. The Committee consists of two elected Councillors from each authority (one voting and one non-voting). Flintshire County Council is the lead authority and has entered into an inter-authority agreement with the other four authorities which sets out the constitution of the Joint Committee and its decision making powers.

10. **Regional School Effectiveness and Improvement Service Joint Committee (RSEIS)**

At its meeting on 18 September 2012 the Cabinet confirmed the establishment of this Joint Committee of the 6 North Wales Local Authorities and its membership and proposed terms of reference were detailed in the report to that meeting. Each of the 6 Authorities is represented by one member and its chief education officer on the Joint Committee.





## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** **CONSTITUTION COMMITTEE**  
**DATE:** **WEDNESDAY, 26 MARCH 2014**  
**REPORT BY:** **HEAD OF LEGAL & DEMOCRATIC SERVICES**  
**SUBJECT:** **LOCAL CHOICE FUNCTION FOR SCHOOLS**

### **1.00 PURPOSE OF REPORT**

1.01 To update the Constitution to include a new local choice function relating to schools.

### **2.00 BACKGROUND**

2.01 The Local Government Act 2000 introduced three categories of function undertaken by County Councils:-

- Council functions
- Local choice functions
- Executive functions

All functions that are neither Council nor local choice functions are automatically Executive functions.

2.02 Council functions are those where the final member decision rests with the County Council. Executive functions are where the final member decision rests with Flintshire's Cabinet. Local choice functions are where each County Council can choose whether that function should be a Council or Executive function.

2.03 The Welsh Government has recently passed subordinate legislation creating a new local choice function in relation to approvals under Section 51 or a determination under Section 53 of the School Standards Organisation (Wales) Act 2013 (the Act). This relates to the new power County Councils have to make decisions about the future of individual schools following a public consultation

### **3.00 CONSIDERATIONS**

3.01 Until the passing of the Act making a proposal to reorganise a school was an Executive function. However, if any objections were received to the proposal then the final decision could only be made by Ministers. The Act now gives that power to the authority.

3.02 Previously, the Overview and Scrutiny Committee and County Council have been consulted over school organisation policy. That arrangement was of enormous benefit and although it is proposed that the new power for determination of individual school change proposals should be an Executive function, would be adopted again in similar circumstances.

**4.00 RECOMMENDATIONS**

4.01 That the Constitution Committee recommend to County Council that the local choice function relating to Sections 51 and 53 of the School Standards and Organisation (Wales) Act 2013 be an Executive function.

**5.00 FINANCIAL IMPLICATIONS**

5.01 None as a result of this report.

**6.00 ANTI POVERTY IMPACT**

6.01 None as a result of this report.

**7.00 ENVIRONMENTAL IMPACT**

7.01 None as a result of this report.

**8.00 EQUALITIES IMPACT**

8.01 None as a result of this report.

**9.00 PERSONNEL IMPLICATIONS**

9.01 None as a result of this report.

**10.00 CONSULTATION REQUIRED**

10.01 None as a result of this report.

**11.00 CONSULTATION UNDERTAKEN**

11.01 None as a result of this report.

**12.00 APPENDICES**

12.01 None

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

None

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## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:**           **CONSTITUTION COMMITTEE**  
**DATE:**                 **WEDNESDAY, 26 MARCH 2014**  
**REPORT BY:**         **HEAD OF LEGAL & DEMOCRATIC SERVICES**  
**SUBJECT:**            **COUNCIL PROCEDURE RULE 25 - SUBSTITUTIONS**

### **1.00 PURPOSE OF REPORT**

1.01 To consider amendments to Council Procedure Rule 25 relating to Member substitutions.

### **2.00 BACKGROUND**

2.01 The Local Government & Housing Act 1989 requires Flintshire and other principal authorities to allocate places on committees and sub committees in accordance with the rules in the Act to replicate the proportionate strengths of the different political groups on the Council. These political balance calculations are undertaken at each annual meeting and on other occasions if the respective strengths of the political groups alters as a result of an event specified in the Local Government (Committees and Political Groups) Regulations 1990.

2.02 The regulations provide that the wishes of political groups are to be those expressed by the Leader of the group or by the person who is authorised to act in the place of the Leader as notified to the Council's Proper Officer. The regulations provide that such wishes can be communicated either orally or in writing.

2.03 In Flintshire the use of substitutions is governed by Council Procedure Rule 25, the current wording of which is set out in Appendix 1. This differs from the provisions in the regulations in requiring notice to be given in writing but not by e-mail and that it be signed.

### **3.00 CONSIDERATIONS**

3.01 The current Procedure Rule strengthens the provisions in the regulations by requiring written notice rather than wishes being communicated orally. This is presumably to avoid dispute as to the wishes of the group when either the Leader or the person authorised to act in the Leader's place are not available. The Committee can, if it so wishes, remove the requirement for written notice and permit oral communication.

- 3.02 If the Committee consider there is a need to retain written notice there appears to be no good reason for preventing such notification being given by e-mail or for requiring it to be signed. Representations have recently been received from a number of Group Leaders to permit notification by e-mail.
- 3.03 Whilst the current wording expressly refers to the Planning & Development Control Committee, there is also the Audit Committee that has restrictions on the use of substitutions. There may also be other specific restrictions on the use of substitutions that in future are agreed. It is therefore believed that Council Procedure Rule 25 should be less specific as to the restrictions on the use of substitutions contained in the Constitution.
- 3.04 Attached at Appendix 2 is a suggested rewording of Procedure Rule 25 for consideration by the Committee. Any change agreed at this meeting to the existing wording would be subject to consultation with all Group Leaders and any of them could require the change to be considered by County Council before coming into effect.

#### **4.00 RECOMMENDATIONS**

- 4.01 For the Committee to consider amending Council Procedure Rule 25 to that indicated in Appendix 2.

#### **5.00 FINANCIAL IMPLICATIONS**

- 5.01 None as a result of this report.

#### **6.00 ANTI POVERTY IMPACT**

- 6.01 None as a result of this report.

#### **7.00 ENVIRONMENTAL IMPACT**

- 7.01 None as a result of this report.

#### **8.00 EQUALITIES IMPACT**

- 8.01 None as a result of this report.

#### **9.00 PERSONNEL IMPLICATIONS**

- 9.01 None as a result of this report.

#### **10.00 CONSULTATION REQUIRED**

- 10.01 With political Group Leaders.

**11.00 CONSULTATION UNDERTAKEN**

11.01 With political Group Leaders.

**12.00 APPENDICES**

12.01 Appendix 1 – Council Procedure Rule 25  
Appendix 2 – Amended Council Procedure Rule 25

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

None

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**Council Procedure Rule 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.

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

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**Council Procedure Rule 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, the committee officer must be informed prior to the commencement of the committee, sub-committee or forum meeting. This must be by the Group Leader or person authorised to act in place of the Group Leader.

This is subject to any specific restrictions on the use of substitutions contained in the Constitution.

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

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