

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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