

APPENDIX 1

**Peter J
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lintshire/GB** To LGDTMailbox@wales.gsi.gov.uk
cc
Sent by: Lavinia M
Stockham/CountySecretary Fax to
/Flintshire/GB
29/03/2012 11:46 Subje Consultation on Draft Statutory Guidance on the Local
ct Government Measure 2011

Dear Sir/Madam

The purpose of this e-mail is to give you the formal response of Flintshire County Council to the consultation document issued on the 3 February for which responses are required by 30 March.

The Draft Statutory Guidance in so far as it relates to overview and scrutiny committees has been considered by the Council's Overview & Scrutiny Co-ordinating Committee. In so far as it relates to the audit committee the Draft Guidance has been considered by the Council's Audit Committee and all parts of the Draft Guidance have been considered by the Council's Constitution Committee at its meeting on the 28 March.

At these meetings it was agreed that the Council should make the following observations on the Draft Statutory Guidance.

1. The first point the Council wishes to make is that the Draft Statutory Guidance is too prescriptive and that more freedom should be left to the local choice of each council as to how it implements the provisions in the Local Government (Wales) Measure 2011. Observations to this effect were made at each of the three committee meetings that considered the Draft Statutory Guidance and the view expressed that the Draft Guidance is seeking to micro manage authorities and that the final version of the Guidance should be less detailed, allowing individual authorities to be creative in putting in place local arrangements to suit their local circumstances.

2. Secondly, Members believed that particularly in relation to the parts of the Guidance dealing with overview and scrutiny, it is generating a lot of extra administrative and bureaucratic work for little or no benefit. For example, in paragraph 5.26 of the Draft Guidance it recommends that authorities develop four separate protocols when it is believed that raising public awareness about overview and scrutiny can be achieved without such protocols.

I shall now make observations in the order in which they appear in the Draft Guidance.

3. Paragraph 1.10

In this paragraph it is indicated that the survey to ascertain the preferences of Members should be carried out within 3 weeks of ordinary elections in order for recommendations to be considered at the Council's Annual Meeting. Flintshire's Annual Meeting will be held on 15 May following the elections on 3 May and it believes that it is totally impractical to conduct a survey of all Members in such a short period of time that the results of any such survey can be reported to and considered at the Annual Meeting. It is believed this sentence should be deleted from the final version of the Guidance.

4. Paragraph 5.26

As indicated in 2. above, it is believed that raising public awareness about overview and scrutiny can be achieved without the need to recommend four separate protocols.

5. Paragraph 5.33

As overview and scrutiny forward work programmes frequently change to reflect changing local priorities rather than circulating to a large number of bodies as is indicated in this paragraph, it is believed it would be a more effective use of resources to use council web sites which is what Flintshire currently does. Sending copies of forward work programmes to the long list of bodies indicated in paragraph 5.33 is going to generate confusion with those bodies whenever the forward work programmes are changed as inevitably and quite properly they are.

6. Paragraph 6.5

The Council welcomes the reference in this paragraph that a councillor call for action should be a means of last resort after other avenues have been explored. Flintshire already has a number of mechanisms to support Members in resolving problems within their electoral divisions which are lower profile and potentially less confrontational than a call for action.

7. Paragraph 7.2

It would be helpful if the final version of the Guidance includes a worked example of where a council has a number of members that are not in any political group.

8. Chapter 8

It is believed that the Draft Guidance dealing with Co-opted Members of Overview and Scrutiny is too detailed and more flexibility should be given to enable easy co-option.

9. Chapter 9

It seems as if the Welsh Government is proposing to implement the part of the Measure dealing with audit committees so that it takes effect from early May which would mean that any meeting of the audit committee thereafter would legally require to have on it at least one lay member. The Council believes that the implementation of this part of the Measure should be approximately 2 months after the final guidance has been issued. The final version of the Guidance should give more guidance than is in paragraph 9.27 of the Draft Guidance as to the criteria against which lay candidates' appropriateness will be judged. Councils should then have 2 months to publicly advertise in a transparent way indicating the criteria and to recruit suitable lay members so that the reconstituted committee can be in place when that part of the Measure is implemented. Otherwise there is a risk of either recruiting in a rushed non transparent way or of not having a legally effective audit committee because the requisite lay member(s) have not as yet been appointed.

10. Paragraph 9.2

The Local Government Measure introduces a responsibility for Audit Committees to review, scrutinise and issue reports and recommendations in relation to the authority's financial affairs. The draft guidance does not clarify what it is intended that this should mean in practice. A number of Councils are interpreting this to mean that the Audit Committee should take over responsibility for scrutiny of the Council's revenue budget and capital programme and the in-year monitoring, following consideration of the same by the Executive. In effect this would take away the budget scrutiny role from Flintshire's Overview & Scrutiny Committees. Flintshire believes that the final version of the guidance should clarify what precisely is seen as the role of the Audit Committee in relation to the financial affairs of the Council and how this differs to the ongoing role of Overview & Scrutiny. In Flintshire's opinion the final version of the consultation should indicate that the Audit Committee should be limited to ensuring that there is a solid approach towards financial and organisational propriety, through the application of effective systems, procedures and controls. The role of Overview & Scrutiny to monitor, challenge and support the development of effective financial performance (linked to service delivery and performance) should remain.

11. Paragraphs 9.9 and 9.10

These refer to two separate publications issued by CIPFA and indicate that whilst one of those publications is somewhat dated (published in 2005) its principles are still valid. The Draft Guidance

goes on to indicate that local authorities are advised to view the two documents as being complimentary to the Guidance. The Council believes that the final Guidance should be all encompassing rather than referring to separate documents, particularly where it is saying that one of those documents is somewhat dated. The final Guidance should include those parts of the separate document that the Welsh Government believes still to be relevant.

12. Paragraph 9.15

This indicates that each authority must ensure that the Audit Committee is provided with all copies of auditor's reports. Flintshire believes that this is too prescriptive and that in view of the number of reports that are issued by internal and external auditors it can lead to the Committee being inundated and unable to properly consider the reports that raise significant issues. It is believed that the final guidance should leave it to local choice for each authority to decide the extent to which Audit Committees need to receive copies of auditor's reports. Separate arrangements can always be made for the members of the Audit Committee to be informed of all audit reports and for those reports to be available for any member who wishes to read them and if the member wishes refer them to the Committee for its consideration.

13. Paragraph 9.19

This requires the Audit Committee to receive and consider reports from not only external/internal auditors but also any other regulators or inspectors. It goes on to say that the authority will need to ensure that there is no unnecessary duplication between the Audit Committee and any Overview & Scrutiny Committee in considering such reports. If in future Audit Committees are to receive and consider reports from bodies such as Estyn, and duplication is avoided, then such reports would not in future be considered by Flintshire's Lifelong Learning Overview & Scrutiny Committee but by the Audit Committee. Flintshire believes that this part of the draft guidance is too prescriptive and it should be left to the local choice of individual authorities as to the extent to which reports from regulators and inspectors are considered by Audit Committee rather than by the appropriate Overview & Scrutiny Committee.

14. Paragraph 9.23

This states that reports and recommendations by the Audit Committee should be considered by full Council in particular, as well as the Executive. Whilst this appears just to relate to the Audit Committee in relation to financial statements, it does seem to be advocating duplication and could lead to confusion as to whether the responsibility is with the Executive or is a Council function. It is believed that this paragraph should be clarified in the final version of the guidance. Firstly, as to when it is appropriate for reports and recommendations to subsequently be considered by both Council and Executive and secondly, to clarify which prevails in the event of the Council and Executive taking different views.

I hope the above representations will assist in the drafting of the final version of the statutory guidance.

Please acknowledge receipt of this e-mail.

Regards,

Peter Evans
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