

TO: Councillor: Robin Guest (Chairman)

Councillors: Klaus Armstrong-Braun, Bernie Attridge,
David Barratt, Chris Bithell, Carolyn Cattermoul, Glenys
Diskin JP, Quentin Dodd, Veronica Gay, Alison Halford,
George Hardcastle, Patrick Heesom, Mel Higham, Dennis
Hutchinson, Peter Macfarlane, Peter Pemberton, Neville
Phillips OBE, Tony Sharps, Aaron Shotton, Nigel Steele-
Mortimer, Arnold Woolley

Your Ref /
Eich Cyf
Our Ref / Ein MT
Cyf
Date / Dyddiad 09/10/2008
Ask for /
Gofynner am
Direct Dial /
Rhif Union
Fax / Ffacs

Dear Sir / Madam,

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD** on **WEDNESDAY, 15 OCTOBER 2008** at **14:00** to consider the following items.

Yours faithfully



Assistant Director (Democratic Services)

AGENDA

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
3. **MINUTES**
To confirm as a correct record the minutes of the meeting held on 21/07/2008 (copy enclosed).
4. **REVIEW OF COUNCIL BUSINESS**
Report of Assistant Director (Democratic Services) enclosed
5. **REVIEW OF THE COUNCIL PROCEDURE RULES**
Report of County Legal and Democratic Services Officer enclosed

County Hall, Mold. CH7 6NA
Tel. 01352 702400 DX 708591 Mold 4
www.flintshire.gov.uk
Neuadd y Sir, Yr Wyddgrug. CH7 6NR
Ffôn 01352 702400 DX 708591 Mold 4
www.siryfflint.gov.uk

6. **PROCEDURE TO DEAL WITH SUBSTANTIAL DEPARTURES FROM POLICY AT THE PLANNING AND DEVELOPMENT CONTROL COMMITTEE**
Report of County Legal and Democratic Services Officer enclosed
7. **REVIEW OF THE DELEGATION SCHEME**
Report of County Legal and Democratic Services Officer enclosed
8. **REVIEW OF CONTRACT PROCEDURE RULES**
Report of County Legal and Democratic Services Officer enclosed
9. **CODE OF CORPORATE GOVERNANCE**
Report of County Legal and Democratic Services Officer enclosed

CONSTITUTION COMMITTEE
21ST JULY 2008

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on Monday 21st July 2008.

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

Councillors: K Armstrong-Braun, J B Attridge, D Barratt, R C Bithell, G D Diskin, V Gay, A Halford, P G Heesom, H D Hutchinson, R P MacFarlane, P Pemberton, N Phillips, A P Shotton and N R Steele-Mortimer

SUBSTITUTE: Councillor S Jones for G Diskin. Councillor D Mackie for G Hardcastle

APOLOGIES: Councillors Q R H Dodd, M Higham, A Woolley.

(It was noted that Councillor L A Aldridge did not attend because following the recent Election in Hope the Labour group would be a Member down on this Committee and he would be that Member).

IN ATTENDANCE:

County Legal and Democratic Services Officer (Monitoring Officer) and Democratic Services Manager.

1. WELCOME FROM THE CHAIRMAN

The Chairman reported that this was the first meeting of the Constitution Committee as its status had been changed from a Forum. He welcomed the Members and indicated that there was much work to be done and hoped that the Committee would be proactive in its deliberations.

2. DECLARATIONS OF INTEREST

None were received

3. MINUTES

RESOLVED:

That the minutes of the meeting of the Forum held on 8th April 2008 be approved as a correct record and signed by the Chairman.

4. **PRICEWATERHOUSECOOPERS REPORT ON THE DEVELOPMENT CONTROL FUNCTION – RECOMMENDATIONS.**

The Committee considered the joint report of the Chief Executive and the County Legal and Democratic Services Officer which was presented by the latter. The purpose of the report was to consider a request from the Executive held on the 11th December 2007 to recommend amendments to appropriate procedure rules. By way of background the County Legal and Democratic Services Officer explained that the Council's external auditors, PricewaterhouseCoopers had been commissioned by the Council to carry out a review of the Development Control Function. The report, dated May 2007, was considered by the Environment and Regeneration Overview and Scrutiny Committee during 2007. That Committee's responses to the recommendation of the report was subsequently reported to the Executive on 18th September 2007. The Executive then invited the Planning Protocol Group to consider a number of recommendations made in the report.

One of the recommendations in the PWC report, contained in paragraph 154, was that a protocol should be established only allowing substitutes to attend the Planning and Development Control Committee in the case of illness and when agreed with the Chair of the Committee. The Environment and Regeneration Overview and Scrutiny Committees view on this was that the use of substitutes on the Planning and Development Control Committee should be tightened up and that this was the responsibility of Group Leaders.

Members also made a suggestion that the Constitution Committee be invited to review the use of substitutes on the Planning and Development Control Committee. They considered that it was important for consistency and awareness of local and national planning policy and guidance and that planning decisions were taken by "experienced" elected Members. The County Legal and Democratic Services Officer reported that at a meeting held on 30th October 2007 the Planning Protocol Working Group made the following recommendations to the Executive:-

- (a) That no substitute be permitted at Planning and Development Control Committee meetings.
- (b) That deadlines should be imposed for inclusion of late observations and were observations received following the deadline, which would have a significant impact on the application, the item should be deferred.

There were a number of recommendations and the Committee agreed to consider them item by item.

- (a) "That no substitutes be permitted at Planning Committees"

The recommendation from the Planning Protocol Working Group was duly proposed and seconded.

Councillor D Barratt referred to the reference in the report to “experienced” Members and indicated that following the recent elections there was a considerable number of Members on the Planning and Development Control Committee who had only just been elected which suggested that the Committee could not operate in these circumstances. He also expressed the view, supported by a number of other Members, that it was reasonable for a Constituent to expect their elected representative to speak on their behalf at Committee. Councillor P G Heesom indicated that there was clearly a need to tighten up the procedures in relation to substitutes. However, his view was that PricewaterhouseCoopers did not say that there should be no substitutes and he suggested that they could be allowed but from a pool of Members from within each group. He felt it would be difficult for the Committee to continue to operate without the provision for substitutes and that the number could be determined on a pro-rata basis dependent upon the numbers in each group. This was duly proposed and seconded. Councillor H D Hutchinson gave notice of a further amendment.

Following comments from Councillor N R Steele-Mortimer, Councillor P G Heesom indicated that he was prepared to adjust his amendment, to the effect that each group could have three named substitutes, and this was duly accepted.

Councillor H D Hutchinson felt that there was a need for experience in dealing with such issues and as there had been a number of changes on the Council many Members were short of that experience. He was of the opinion that the existing system worked well and expressed a view that constituents would expect their elected representative to have the power to vote rather than just to speak at a meeting.

In responding, Councillor R C Bithell indicated that his recollection of the meeting of the Planning Protocol Working Group was different from Councillor P G Heesom’s. He suggested that the information from the Planning Protocol Working Group was accurate but as he was not a Member of the Overview and Scrutiny Committee he could not comment on its views. Councillor Bithell expressed a view that the Planning and Development Control Committee was a large Committee and was unlikely that it would not be quorate. He also suggested that the Committee was not about political issues and therefore political balance was irrelevant. His view was that it was important to improve the level of consistency because exceptions to the rules weakened those rules and caused embarrassment to the Authority. He also observed that the Planning and Development Control Committee was one of the few Committees where there was a regular attendance from Members of the public, many of whom noted the decisions as they had a grievance concerning particular applications and wished to pursue it further. He expressed a further view that a substitute did not always have the same commitment as other Members.

With regards to the Members right to speak, the Constitution allowed for a local Member to do this but did not allow them to vote. He strongly defended the recommendation of the report.

Councillor K Armstrong-Braun suggested it was difficult for new Members to comment as they had not seen the original report of PricewaterhouseCooper and it would be useful if they had the opportunity to do so. However, he supported the recommendations of the report and suggested that the Members involved had researched this matter in some detail and made the recommendations for good reasons. However, he did support the principle whereby a Member could speak but not vote. He felt it was appropriate for the process to be seen to be open and transparent.

Councillor A Halford referred to the suggestion whereby a substitution would be allowed only in the case of illness and felt this would be difficult to determine by the person who would have to decide if the reason was appropriate.

Councillor J B Attridge indicated that he would like to see evidence from PricewaterhouseCoopers whereby the recommended system had been implemented elsewhere and proved successful. He expressed a view that Members of the Council had been properly charged by constituents to represent them and therefore to act on such matters. He also expressed a view that planning applications were considered on their individual merits and were not political issues.

Councillor A P Shotton, who was the Leader of the Council when a number of these issues were raised, indicated it was important not to forget the essence of the review which related to a crisis of confidence in the planning system. He referred to high profile decisions which raised issues in the public arena, and it was essential that the system was seen to show proberty in decisions made. He referred to meetings he had attended with the then Acting Chief Executive when it was apparent that it was necessary for a review to be undertaken and it was for this reason that the matter was submitted to the Council's external auditors for them to pursue and report back. He expressed his disappointment that they did not recommend a more stringent process and felt that the report could have gone further and also placed an onus on the Developer for them to declare any formal links with Members of the Committee.

Councillor N Phillips referring to the comments made earlier by Councillor R C Bithell reiterated the point that the Council Members had to remain above suspicion. In this respect he referred to discussions in relation to the UDP process where Members were not allowed to comment if they had expressed a view on a particular issue.

Referring to the amendment proposed earlier by Councillor H D Hutchinson that the status quo remain, the Chairman felt that this was in fact a direct negative to the proposal.

Members reiterated a number of points previously made and commented upon issues already addressed. The Chairman reminded the Committee of the background to this issue and advised that the Planning Protocol Working Group had cross party representation.

The County Legal and Democratic Services Officer explained that Members should, when considering planning issues do so from a Flintshire perspective as opposed to regarding them as local issues. Local Members were consulted on planning applications and their responses were included in the report submitted to Committee. He explained the role and status of a Planning and Development Control Committee and the responsibility of Members. He referred particularly to accountability concerning planning issues and commented that such wishes were very much in the public eye.

He clarified that the amendment as it stood, which was that each political group could nominate three Members to act as substitutes for the Planning and Development Control Committee and that these Members must have received appropriate training.

The amendment was put to the vote and a recorded vote was requested with the requisite Members standing in support. The amendment was lost the voting being as follows:-

For the Amendment:

Councillors: V Gay, David Mackie, P G Heesom, P R Pemberton, A P Shotton, N R Steele-Mortimer

Against the Amendment:

R J T Guest, K Armstrong-Braun, D Barratt, R C Bithell, R P MacFarlane, N Phillips

Abstentions:

J B Attridge, S Jones, A M Halford, H D Hutchinson

As there was an equality of votes the Chairman used his casting vote against the amendment and it therefore fell. The proposal was then put to the vote and again a recorded vote was requested and the requisite Members stood in support of this. The voting being as follows:-

For the Proposition:

R J T Guest, K Armstrong-Braun, R C Bithell, A M Halford, R P MacFarlane, N Phillips, A P Shotton, P R Pemberton

Against the Proposition:

J B Attridge, D Barratt, G D Diskin, V Gay, G Hardcastle, P G Heesom, H D Hutchinson, P R Pemberton

Abstentions:

None.

As there was again an equality of voting the Chairman used his casting vote in favour of the proposition.

RESOLVED:

That the County Council be recommended to adopt the following

“that no substitutes be permitted at Planning and Development Control meetings”.

- (b) “A deadline should be imposed for inclusion of late observations and where observations are received following the deadline which would have a significant impact on the application the items should be deferred”

The County Legal and Democratic Services Officer reported upon the background to this recommendation which was duly proposed and seconded. The Chairman commented as to when the deadline would be set.

Councillor D Barratt supported by a number of Members was concerned that this could result in a delay in the determination of applications and put them outside the specified deadline. Other Members suggested that the significance of the observations should also be taken into account.

Councillor K Armstrong-Braun indicated that if members of the public were not at the meeting they would not necessarily be in position to obtain copies of the late observations. On a similar line Councillor J B Attridge commented that Members who were not Members of the Committee and were not present on the day of the meeting would not normally receive copies of this information. Councillor H D Hutchinson felt it was important for all information to be received by Members and referred to an instance where the comments of a Town Council were not reported. Councillor S Jones sought clarification on who would make the decision if the application was to be deferred. After due consideration the proposal was put to the Committee.

RESOLVED:

That the County Council be recommended to adopt the following:-

“A deadline should be imposed for the inclusion of late observations received on the day of the meeting. Where such observations were received following that deadline which would have a significant impact on the application, the item should be deferred to the next meeting by the Chairman of the Committee”.

(c) Departure from Policy

The County Legal and Democratic Services Officer reported that in the PricewaterhouseCooper report it was recommended that the Council should consider introducing a system, internally, whereby should Members wish to depart from policy in determining an application it was automatically deferred either to Council or the next meeting of the Planning and Development Control Committee. In agreeing to this recommendation the Environment and Regeneration Overview and Scrutiny Committee suggested amended wording which was detailed in the report. The report explained that the ability to defer proposals in this situation already existed in the paragraph 11.5 of the Planning Code of Practice. It also indicated that automatic referral to a subsequent Planning and Development Control Committee or Full Council would be in-line with an increasing number of Local Planning Authorities which adopted a “cooling off period”. This would allow Members to be further advised on the implications of the decision they were minded to take. Councillor N R Steele-Mortimer whilst accepting the point of the recommendations felt it was not necessary in certain cases where there was disagreement with an Officers interpretation of policy which was a comparatively minor issue. Councillor A P Shotton felt that further consideration should only apply to where there was a major issue of concern. Taking this point on board the Chairman suggested that if the word “substantial” was included then this would perhaps address the point made. The Committee felt this was a good suggestion.

RESOLVED

That the Council be recommended to adopt the following:-

- (a) “That were there is a SUBSTANTIAL departure from policy, the application shall be deferred.
- (b) That a determination as to whether there was likely to be a SUBSTANTIAL departure from policy would be made by the Committee’s Legal Adviser. “
- (c) That any items deferred on the basis of SUBSTANTIAL departure from policy be submitted to the next meeting of the Planning and Development Control Committee.

- (d) Recommendations Regarding Site Visits.

RESOLVED:

That a decision on this issue be deferred.

5. REVIEW OF THE COUNCIL PROCEDURE RULES

- (a) Motions on Notice and Questions on Minutes

- (b) Call-In Procedures

RESOLVED:

That a decision on these issues be deferred.

6. SUBMISSION OF LATE REPORTS

The Committee considered the report of the County Legal and Democratic Services Officer previously circulated. He explained that at the meeting on 4th March 2008 the County Council requested the Constitution Forum to examine the procedures for the submission of late reports. The report detailed the provisions relating to the availability and public inspection of agendas and reports as identified in Section 100 (b) of the Local Government Act 1972.

The County Legal and Democratic Services Officer reported that Councillor I B Roberts had raised this issue initially.

Councillor J B Attridge in pursuing this point felt that if matters were of a genuine urgent nature it was reasonable for those reports be marked "to follow". However, he felt that the amount of reports currently marked in this way gave cause for concern. Councillor Attridge suggested that the excuse given was not acceptable. He commented that Officers had indicated that Agendas had been marked in this way and reports not sent out to stop them being published in the press. He felt that this was an unacceptable.

The Chairman suggested that if this was a reoccurring problem it was an issue for the Corporate Management Team to pursue and if that was the case, it could be regarded as a disciplinary issue. Councillor K Armstrong-Braun suggested that this was a performance matter and should be looked at by Overview and Scrutiny. He duly proposed this but was not seconded. Councillor A P Shotton felt that it was important that the submission of reports should not be used as a political tool. Councillor P G Heesom indicated that he shared the view that papers should not be dealt with in this way. Councillor D Barratt suggested that in the first instance this issue should be sent back to the Chief Executive for him to pursue. Councillor P Pemberton

felt there should be a protocol regarding the issue of reports and Officers should be clearly aware of deadlines. There were occasions when these could not be met but these should be the exception. Councillor J B Attridge wished to hear the views of the Chief Executive on this issue. The Chairman suggested that at this stage it may be appropriate for Group Leaders to discuss this issue with the Chief Executive and the Committee felt that this was a good suggestion.

RESOLVED:

That Group Leaders meet with the Chief Executive to discuss the issue of late reports.

7. FORWARD WORK PROGRAMME

The Committee considered the report of the County Legal and Democratic Services Officer previously circulated, the purpose of which was to consider introducing a Forward Work Programme for the Constitution Committee. The report detailed the background to its preparation and Members were asked if they wished to consider if it was appropriate to schedule more regular meetings of the Committee to receive reports. In this respect it was suggested the Committee have four regular meetings during the municipal year with further ad-hoc meetings when the necessity arose. The report also suggested items for each of those meetings identified in the Forward Work Programme. The Chairman explained why he had requested the inclusion of this item and Members felt that it was a good step forward to be proactive.

RESOLVED:

That a Forward Work Programme be adopted on the basis detailed in the report.

.....
Chairman

SUMMARY OF DECLARATIONS MADE BY MEMBERS
IN ACCORDANCE WITH FLINTSHIRE COUNTY COUNCIL'S
CODE OF CONDUCT

CONSTITUTION FORUM	DATE: 21st JULY 2008
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MEMBER	ITEM	MIN. NO. REFERS
NO DECLARATIONS WERE MADE		

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: CONSTITUTION COMMITTEE

DATE : 15 OCTOBER 2008

REPORT BY: ASSISTANT DIRECTOR (DEMOCRATIC SERVICES)

SUBJECT : REVIEW OF COUNCIL BUSINESS

1.00 PURPOSE OF REPORT

1.01 To consider the results of the Members' survey regarding the arrangements for Council business.

2.00 BACKGROUND

2.01 One of the requirements for the Welsh Local Government Association Charter is that there should be a review of the arrangements for Council business so that as a result meeting times, timings and venues reflect the needs of Members as closely as possible.

2.02 By letter dated the 1 July 2008 a questionnaire was sent to all Members seeking the views of Members, not only on the issues identified in the Charter but also on other relevant issues relating to Council business. A copy of the questionnaire is attached as Appendix 1 to this report. A table showing the responses to the questionnaire as reported to the Member Development Working Group meeting on the 30 July 2008 is attached as Appendix 2.

2.03 At the Member Development Working Group meeting, consideration was given to the response to the survey which led to the group recommending:

- (a) That the existing arrangements for morning and afternoon meetings in County Hall should continue.
- (b) That the length of meetings should be limited to 3 hours.
- (c) That meetings should normally commence at 9.30am in the morning and 2.00pm in the afternoon.
- (d) That the County Council and Planning & Development Control Committee meetings be held in the mornings with Council at 10.00am.
- (e) That officers investigate the cost implications of only committee Members receiving paper copies of agendas and reports for

meetings, plus paper copies in the group rooms with non-committee Members receiving electronic copies and executive summaries.

3.00 CONSIDERATIONS

- 3.01 The Members' survey and the Member Development Working Group meeting both support the existing arrangements for formal Member meetings being held in County Hall in the morning and afternoon, rather than being held in the evening or at other venues.
- 3.02 By introducing a procedure rule limiting the length of meetings this should help Members in managing their diaries. It may also avoid Members leaving an ongoing meeting because of other commitments. Any procedure rule should give the Chair some discretion as over rigorous enforcement of the three hour maximum could on occasions be counterproductive.
- 3.03 The Member survey showed a large degree of agreement on the starting time for afternoon meetings being at 2.00 pm but less consistency regarding the starting time for morning meetings. The Member Development Working Group believe that a 9.30 am start allows sufficient time for Members to travel to County Hall from the various parts of the County.
- 3.04 The Chair of the Working Group, Councillor Neville Phillips, expressed the view that Council and Planning Committee meetings should be held in the morning rather than the current practice of afternoon meetings and that the Council meeting should commence at 10.00 am. These views were endorsed by the rest of the Working Group.
- 3.05 The cost implications of proceeding as indicated in paragraph 2.03(e) above have been investigated following the Member Development Working Group meeting. The cost of providing Members with laptop computers, printers, software and ICT officer support (for the initial year) is estimated at £100,000. The cost savings on printing and postage is estimated at £13,000 per year at current charges. The saving in officer time is not quantifiable in advance.

4.00 RECOMMENDATIONS

- 4.01 It is recommended:
- (i) That the County Legal & Democratic Services Officer make appropriate changes to the Council Procedure Rules to reflect (b), (c) and (d) of paragraph 2.03 above.
 - (ii) That the committee endorse the implementation of only committee Members receiving paper copies of agendas and reports for meetings, plus paper copies in the group rooms with non-committee Members receiving electronic copies and executive summaries.

5.00 FINANCIAL IMPLICATIONS

- 5.01 As detailed in this report the initial setup costs to provide the revised procedure for receiving agenda, papers etc as indicated in paragraph 3.05 are £100K. As part of the budget 2009/10 process a request is being submitted for this expenditure to be built into the 2009/10 base budget.
- 5.02 It is anticipated that ongoing reduction in expenditure of £13K per annum could be achieved by adopting the proposal, however, the current level of expenditure is predicted to be £13K over budget in the normal year. Although savings will be achieved the base budget will not be affected.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 The move to greater use of electronic agendas and reports has a positive environmental impact.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

- 9.01 The move to electronic agendas will require the recruitment of an ICT officer at Scale 5 to support the implementation for at least the first year.

10.00 CONSULTATION REQUIRED

- 10.01 The report is as a result of a consultation survey with Members.

11.00 CONSULTATION UNDERTAKEN

- 11.01 The report is as a result of a consultation survey with Members.

12.00 APPENDICES

- 12.01 Appendix 1: A copy of the questionnaire sent to Members on 1 July 2008
Appendix 2: A table showing responses to the questionnaire.

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

Report to the Member Development Working Group meeting on the 30 July 2008

Contact Officer: Peter J Evans
Telephone: 01352 702304
E-Mail: peter_j_evans@flintshire.gov.uk

WLGA CHARTER QUESTIONNAIRE

* Please delete as appropriate

1. I would like Council, Executive and Committee meetings to be held:-

* **During mornings / Afternoons / Evenings**

2. I would like the meetings referred to in question 1 to be held at:-

* **County Hall / Other (please specify)**

3. I would like there to be a time limit on the length of such meetings.

* **Yes or No**

4. If you would like there to be a time limit on the length of meetings, please specify the limit you would suggest.

* **2 Hours / 3 Hours / Other (please specify)**

5. At what time do you believe the meetings referred to in question 1 should commence

For morning meetings:

For afternoon meetings:

For evening meetings:

6. I would like to receive copies of Council, Executive and Committee agendas and reports

* **Electronically / Paper copies / Other (please specify)**

7. I have the following other observations to make

.....
.....
.....

Name (Print):..... Date:

Please return to Member Services by the 14 July 2008.

RESPONSE TO QUESTIONNAIRE

APPENDIX 2

Name	Q1			Q2		Q3		Q4			Q5			Q6	
	am	pm	Evening	County Hall	Other	Yes	No	2hrs	3hrs	Other	am	pm	Evening	Electronic	Paper
T Howorth	✓	✓		✓		✓			✓		9	2			✓
A Woolley				✓			✓								✓
C Bithell	✓	✓		✓		✓			✓		9	2			✓
F Gillmore	✓			✓		✓			✓		9.30	1.30	6.30		✓
A Davies-Cooke				✓			✓								✓
N Phillips	✓			✓			✓				9.30	2.00	6.00		
C Thomas	✓	✓		✓			✓				9.30	2.00	6.00	✓	✓
Doreen Mackie	✓	✓		✓		✓		✓	✓		10.00	2.00		✓	
P Macfarlane	✓	✓		✓			✓	✓	✓		10.00	2.00		✓	
D Cox	✓	✓		✓			✓				9.30	2.00			✓
N Humphreys	✓			✓		✓			✓		11.00				✓
S Jones	✓	✓		✓			✓				10.00	2.00		✓	✓
I Roberts			✓		Various	✓			✓				6.00		✓
T Evans	✓	✓		✓		✓			✓		10.00	2.00			✓
R Johnson		✓	✓		T/Hall	✓		✓				2.00	5.00		✓
A Aldridge	✓	✓		✓		✓			✓		10.00	1.00			
R Jones				✓			✓				10.00	2.00	6.00	✓	✓
R Hughes	✓	✓		✓		✓			✓		9.30	2.00			✓
R Baker		✓		✓		✓			✓		10.00	2.00	6.00	✓	✓
P Pemberton						✓			✓		10.00	2.00	6.30		✓
C Ellis	✓			✓		✓			✓		10.00			✓	
B Mullin	✓			✓			✓				10.00	2.00	6.00		✓
E Owen				✓		✓		✓			10.00	2.00	6.00		✓
N Steele-Mortimer	✓			✓			✓				10.00				✓
H McGuill	✓			✓		✓			✓		9.00	1.30	6.00	✓	✓
C Carver	✓	✓		✓		✓			✓		9.00	1.00	6.00	✓	✓
H Bateman	✓			✓		✓		✓			9.30	2.00	6.00		✓

Name	Q1			Q2		Q3		Q4			Q5			Q6	
	am	pm	Evening	County Hall	Other	Yes	No	2hrs	3hrs	Other	am	pm	Evening	Electronic	Paper
N Matthews			✓	✓		✓			✓		9.30	2.00	6.00	✓	
T Newhouse		✓	✓	✓		✓		✓				5.00	5.30	✓	
A Halford	✓	✓		✓		✓		✓			10.00	2.00	5.30	✓	
B Attridge			✓	✓			✓						6.00		✓
G Hardcastle	✓			✓			✓				10.00				✓
A Minshull	✓			✓		✓		✓			10.00				✓
David Mackie	✓	✓		✓		✓			✓		10.00	2.00		✓	
Q Dodd	✓			✓			✓				10.00				✓
C Hinds	✓	✓		✓		✓		✓			10.00	2.00		✓	
C M Jones		✓		✓		✓		✓			10.00	2.00	7.00		✓
K Armstrong-Braun	✓			✓			✓				10.00	1.00	6.30		✓
J Falshaw		✓		✓			✓		✓						✓
D Wisinger	✓	✓		✓			✓				10.00	2.00			✓
R Davies		✓		✓		✓		✓				2.00		✓	
M Reece				✓		✓		✓					6.00		✓
R Dolphin			✓	✓			✓		✓		9.00	1.30	6.30	✓	✓
C Dolphin			✓	✓		✓			✓		9.00	1.00	6.00	✓	✓
R Hampson	✓			✓			✓				10.00	2.00	6.00		✓
TOTAL	28	21	7	41	2	27	17	12	20		10.00	2.00	6.00	17	33

Question 7 - Comments

Name	Comments
A Woolley	Minutes of Committees should go only to those who need hard copies. Copies in Member Services and electronic copies provide adequate back up for anyone else interested. Sending 70 copies of everything to every Councillor seems wasteful.
C Bithell	Such is the nature of Council business nowadays evening meetings are not practical. Furthermore, most Councillors have other demands on their time in the evenings such as governing bodies, outside bodies etc.
N Phillips	Whatever the outcome of questionnaire, I suggest that full Council should meet at 10.30 am and Planning at 10.00 am
Carolyn Thomas	Paper copies on Committees I am a member of. Electronic copies of other Committees.
Doreen Mackie	I would welcome the facility to use laptops in main Committee rooms, Chamber, Delyn & Clwyd rooms.
P Macfarlane	Better use must be made of electronic means for communicating. All Member documents which are not important to retain for+B28 future reference.
S Jones	Committee papers (agendas) if I am a member of the Committee I would like the paper version, if they are for information electronically. Audit & Exec in paper form.
I Roberts	Papers should be sent to time and not marked to follow.
R Jones	Council, Executive & Committees that I represent/participate - paper copies Other Committees that I do not represent/participate - electronic copy (pdf)
R Hughes	In an emergency meetings should be called at anytime - day or evening.
R Baker	For meetings where the papers are sent for info only, it would seem sensible to just produce electronic information on the County Infonet. This would be impracticable for meetings where a paper copy will be needed for reference during a meeting. I would suggest a hybrid system so that actual members of Committees receive paper copies, whilst other Councillors are merely sent an e-mail to notify that papers can be viewed on-line. To send electronic papers by e-mail is not really practical as some Internet service providers limit file size of e-mails and many documents would fall foul of this.
H McGuill	Paper for Committees you are a member of and electronically for Committees you are not a member of and if need info. Committees should do site visits so meetings could be "on site".
C Carver	With regard to the No. 6, would prefer choice for each category, rather than overall decision.
N Matthews	Special Council meetings could be evenings/twilight to begin with.
David Mackie	There should be laptop connection for power and network in all Committee rooms otherwise item 6 will not be possible.
Q Dodd	For 12 months I am the servant of the Council.
C Hinds	If I do have trouble in downloading documents then I will have to go to paper copies.
Rosetta Dolphin	We need more evening meetings as this is more convenient to working people like myself.
Chris Dolphin	Working Councillors are normally younger. To encourage a new/fresher/outlook to the future, evening meetings must be seriously considered.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5

REPORT TO: CONSTITUTION COMMITTEE

DATE : 15 OCTOBER 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

SUBJECT : REVIEW OF THE COUNCIL PROCEDURE RULES

1.00 PURPOSE OF REPORT

- 1.01 To review the Council's Procedure Rules relating to Notices of Motion, Questions on Minutes and the Call In Procedure. Consideration of these items was deferred at the last meeting of the Committee.
- 1.02 To note the position concerning late reports.

2.00 MOTIONS ON NOTICE AND QUESTIONS ON MINUTES

- 2.01 Council Procedure Rule 11 currently deals with Notices of Motion and the full text of the Rule is set out below:

11. MOTIONS ON NOTICE

11.1 Notice

Except for motions which can be moved without notice under Rules 12, 13.10 and 13.11, written notice of every motion, signed by the Member giving notice, must be delivered to the proper Officer not later than 10 working days before the date of the meeting. These will be entered in a book open to public inspection.

11.2 Motion set out in agenda

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the Member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it.

11.3 Scope

The County Council cannot alter, but it can express a view, on decisions made by the Executive and cannot require the Executive to follow its recommendations.

Motions must be about matters for which the Council has a responsibility or which affect Flintshire.

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

- 2.02 Following the problems encountered at earlier meetings of the County Council in connection with Notices of Motion, consideration has been given to revising the procedure and the criteria for allowable motions. The Chief Executive wrote to all Group Leaders on the 7 February setting out his suggestions, which are incorporated below:-

Suggested Criteria for Allowable Motions

1. the subject matter of a motion should have a direct connection with the business of the Council or the interests of the County of Flintshire;
2. the text of a motion should be precise and understandable;
3. where the motion makes references to facts, published reports or published statements it should be factually accurate and must give the source of the information upon which it relies (i.e. person/organisation and place/date/publication); the motion should not be defamatory in content; and
4. the motion should make a proposition which is capable of being debated and voted upon with or without amendment.

Suggested Process for Considering Motions

1. motions are to be submitted to the Monitoring Officer by the deadline of 10 working days before the meeting of the Council in question;
 2. the Monitoring Officer and Chief Executive will determine whether the motion is allowable, is able to be allowed with amendment by the proposer or should be refused and will advise the proposer of the motion accordingly;
 3. in the case of an irresolvable disagreement between the proposer of the motion and the Monitoring Officer and the Chief Executive the Chairman of the Council shall arbitrate;
 4. any amendment necessary to the motion submitted or any decision by the Chairman in the case of any disagreement must be agreed or made within 7 working days of the meeting of the Council in question; and
 5. where third parties are named or implicated in an allowable motion they shall be contacted and given the opportunity to provide a statement which will be presented to the council meeting following the proposing and seconding of the motion and before the debate on the motion.
- 2.03 The Chairman of the Council has also suggested that consideration should be given to the possibility of allowing Motions on Notice to be included on the agenda of all meetings of the County Council whether they be Ordinary or Special Meetings and also enabling Members to ask questions on Executive and committee minutes at both Ordinary and Special Meetings.

- 2.04 Members are requested to recommend the amendment of Rule 11 to reflect the suggestions set out in 2.02 above and to consider extending the opportunity for Members to propose Motions on Notice for Special Meetings of the Council and also ask questions on Executive and committee minutes at both Ordinary and Special Meetings.

3.00 CALL IN PROCEDURE

- 3.01 It is some time since the Council reviewed the call in procedure for Overview and Scrutiny Committees. It had been intended that the criteria for call ins should be reviewed but unfortunately the meeting of the Constitution Forum scheduled to take place prior to the May elections was cancelled. The present procedure for call ins is set out in paragraph 16 of the Overview and Scrutiny Procedure Rules (Appendix A). It will be noted that the Procedure does not contain any criteria upon which the determination of call in requests can be based.

- 3.02 Statutory Guidance issued by the National Assembly for Wales came into force on the 31 July, 2006. Paragraph 6.3 of the Guidance states that:

"Authorities' standing orders will need to set out the general circumstances in which overview and scrutiny committees may decide either to refer a decision made but not implemented back to the executive or to ask the council to review it. The reasons for doing so might include:

- a belief, following advice from the monitoring officer, that the decision or action was contrary to the policy framework or budget, or fell outside the functions of the executive;
- a belief that the executive had not followed agreed procedures on consultation (as set out in standing orders or protocols adopted by the council) before reaching its decision; or
- a belief that the executive had not followed, or had failed to take account of, any legal obligations, including regulations or statutory guidance governing the council's actions, or other guidance adopted by the council."

- 3.03 Paragraph 6.4 of the Guidance states that:

"This might also include a request from an overview and scrutiny committee that the executive consider an action or decision which it has not taken, but which the committee believes it should have done according to the policy, financial and legal framework and guidance under which it operates. Again, the advice of the monitoring officer should be obtained before the committee decides on such a request."

- 3.04 The Guidance makes it clear "that a referral remains very much a "back stop" and should be considered only where there are genuine and serious ground for doing so". It goes on to advise that if "executive arrangements are

working effectively, there should be plenty of opportunity for the views of overview and scrutiny committees and individual councillors to be taken into account in advance of decisions being made which concern their functions or their constituents. Equally, executive members should not be taking decisions without the professional advice of officers."

- 3.05 Members will recall that the Welsh Assembly Government had intended to provide guidance on Overview and Scrutiny and publication was originally envisaged for autumn 2007. It is now understood that this guidance is unlikely to be produced in the near future and that it is not intended to undertake any review in the foreseeable future.
- 3.06 Whilst the Committee is considering criteria for call ins, it would also be helpful to make amendments to clarify other areas of the procedure.
- 3.07 The first suggested alteration concerns paragraph 16(b). The last few words at the end of the paragraph are inaccurate and need to be amended to read; "unless called in pursuant to these Procedure Rules".
- 3.08 Another problem with the existing wording is the ambiguity over dates. Paragraph 16(b) mentions the expiry of 5 working days after the publication of the decision. The decision, however, is published in various ways on different days. The notice can be displayed one day and sent out on the next. Accordingly it is suggested that the word "first" be inserted before the word "publication" so that it becomes clear when the five working days commences, ie. from the date of the earliest publication.
- 3.09 The sub paragraph also needs to be amended so that the decision record is required to bear on it the date on which it is first published. The paragraph should also be amended to require the decision record to state the date the decision is taken.
- 3.10 The Chief Executive has personally undertaken further research with the Welsh Assembly Government on any impending guidance for the call-in procedure.
- 3.11 The Assembly Government is reviewing its legislative competence, at a primary and secondary legislative level, to introduce new powers for local government such as the duty to scrutinise other public bodies and the right to co-opt members with full speaking and voting rights onto overview and scrutiny committees. The Assembly Government has also published research reports and papers on the operation of public scrutiny in Wales, as have the Wales Audit Office and the Welsh Local Government Association (WLGA) and other bodies, which influence national thinking. The legislative powers will not make any reference to call-in procedures and no new guidance is intended. The WLGA is conducting a survey of how call-in procedures are operated in the field for the information of local authorities only. The Council now has a copy of the survey outcome.

- 3.12 Members are requested to consider incorporating the above criteria and amendments set out above.

4.00 SUBMISSION OF LATE REPORTS

- 4.01 At its meeting on the 4 March, 2008 the County Council requested the Constitution Forum to examine the procedure for, and concerns around, the submission of late reports.

- 4.02 The provisions relating to the availability and public inspection of agendas and reports are set out in Section 100(b) of the Local Government Act 1972. Any documents required to be available for inspection by the public and press must, with exceptions, be available at least three clear days before the meeting. An item of business may not be considered at a meeting unless either:-

- a. a copy of the agenda including the item (or a copy of the item) is open to inspection by members of the public for at least three clear days before the meeting or, when the meeting is convened at shorter notice, from the time the meeting is convened: or
- b. by reason of special circumstances, which will be specified in the minutes, the Chairman of the meeting is of the opinion that the item should be considered at the meeting as a matter of urgency

- 4.03 Accordingly as long as an item is set out on the agenda, the item can still be considered even though the report concerning the item is marked "to follow", although it is best practice for the report to accompany the agenda and also be available for public inspection for three full days prior to the meeting. It is only in circumstances where the item is not included on the agenda that the Chairman of the meeting is required to satisfy himself that there were special reasons for the introduction of the late item of business with the reasons for doing so being set out in the minutes.

- 4.04 The Committee considered the reference from Council at its meeting on the 21 July and as a result of concerns that were expressed, it was resolved:-

"That Group Leaders meet with the Chief Executive to discuss the issue of late reports."

- 4.05 Subsequently the Chief Executive following investigation, wrote to the Chairman of the Committee with copies to the Group Leaders over the issues of (1) late reports and (2) the concerns expressed at the committee that reports might in some cases be purposely delayed to prevent the media from reporting on them in advance of the respective meeting.

- 4.06 The Chief Executive's letter included an analysis of the numbers and percentages of late reports (late is defined as reports which are despatched separately to and at a later date from the agenda for the same meeting) for the meetings of the Executive, Audit Committee, County Council, Planning

and Development Control Committee, Constitution Committee, Standards Committee, Licensing Sub-Committee, Licensing Committee and Scrutiny Committees from January to August 2008.

4.07 In the Chief Executive's letter it was noted that of 15 bodies/committees 11 had had 100% reports despatched on time with the agenda during that period. The 4 bodies/committees which had received late reports are the Executive, Audit Committee, County Council and the Lifelong Learning Overview and Scrutiny Committee. It can be seen from the analysis, the performance of report despatch for all 4 bodies/committees had improved. In the case of the Executive, if the exceptional first meeting post-election of 3 June was discounted (given that a full explanation had been given at the meeting for the delay in reports) the percentage of late Executive reports in the 2 months prior to the letter was running at only 2.56%. From the analysis and the investigations of the Chief Executive the Council does not have a serious problem with reports being despatched late and there is no evidence of purposely delayed reports. A copy of an updated analysis is attached as Appendix B.

4.07 Members are requested to note the position.

5.00 RECOMMENDATIONS

5.01 That Members consider the recommendations set out in Section 2 and 3.

6.00 FINANCIAL IMPLICATIONS

6.01 None

7.00 ANTI-POVERTY IMPACT

7.01 None

8.00 ENVIRONMENTAL IMPACT

8.01 None

9.00 EQUALITIES IMPACT

9.01 None

10.00 PERSONNEL IMPLICATIONS

10.01 None

11.00 CONSULTATION REQUIRED

11.01 None

12.00 CONSULTATION UNDERTAKEN

12.01 None

13.00 **Appendices**

13.01 Appendix A - Call In Procedure

13.02 Appendix B - copy of the analysis re late reports

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

None

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16. Call-in

(a) When a decision is made by the Executive, an individual Member of the Executive or a Committee of the Executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 days of being made. Chairs of all Overview and Scrutiny Committees will be sent copies of the records of all such decisions within the same timescale, by the Assistant Director (Democratic Services).

(b) That decision record will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless an Overview and Scrutiny Committee objects to it and calls it in.

(c) During that period, the Assistant Director (Democratic Services) shall call-in a decision for Scrutiny by the Committee if so requested by the Chair, or at least four Members of the Council, and shall then notify the decision-taker of the call-in. All such requests must be in writing and signed individually by those requesting the call-in and stating the reason(s) for the call-in. He/she shall call a meeting of the Committee on such date as he/she may determine, where possible after consultation with the Chair of the Committee, and in any case within 7 working days of the decision to call-in. For the purpose of this paragraph the last working day before Christmas and the three working days in-between Christmas and the New Year shall not be counted as working days.

(d) If, having considered the decision, the Overview & Scrutiny Committee is satisfied with the explanation which it has received, it will so indicate to enable the decision to be implemented. Should the Overview & Scrutiny Committee, in receiving the explanations be 'no longer concerned', but not minded to indicate that it is 'satisfied with the explanation', it is in order for that Committee to resolve that 'the explanation be accepted but not endorsed by the Overview & Scrutiny Committee'.

(e) If, having considered the decision, the Overview and Scrutiny Committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred to the decision maker that decision maker shall then reconsider within a further 5 working days, amending the decision or not, before adopting a final decision. If referred to the full Council, the Council shall meet to consider the referral within 10 working days unless there is a scheduled meeting of the full Council at which the matter may be considered within the expiry of a further 5 working days.

(f) If following an objection to the decision, the Overview and Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further 5 working day period, whichever is the earlier.

(g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a Committee of it, a meeting will be convened to reconsider within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

(h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

EXCEPTIONS

(h) Councils have been recommended to consider exceptions to this process in order to ensure that call-in is neither abused nor causes unreasonable delay.

The Council considers that no limitations are to be placed upon the use of the procedure at the outset but rather prefers that the procedure should be monitored and the question of limitations be reconsidered in the light of experience.

CALL-IN AND URGENCY

(i) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairperson, the Vice-Chair's consent shall be

required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

(j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

EXECUTIVE

TABLE 1
EXECUTIVE PRE ELECTION – 6 MEETINGS

Date	Number of Reports	Marked to follow	%
8 January 2008	14	0	0%
30 January 2008	13	5	38.46%
19 February 2008	11	4	36.36%
11 March 2008	17	0	0%
1 April 2008	13	0	0%
22 April 2008	1	0	0%

Total number of reports: 69
Total number marked to follow: 9
Total % = 13.04

TABLE 2 (a)
EXECUTIVE POST ELECTION – 6 MEETINGS

Date	Number of Reports	Marked to follow	%
3 June 2008	16	10	62.5%
24 June 2008	7	1	14.28%
15 July 2008	10	0	0%
5 August 2008	21	0	0%
16 September 2008	24	0	0%
7 October 2008	27	0	0%

Total number of reports: 105
Total number marked to follow: 11
Total % = 10.48%

TABLE 2 (b)
EXECUTIVE POST ELECTION – 5 MEETINGS
(Shown without 3 June 08)

Date	Number of Reports	Marked to follow	%
24 June 2008	7	1	14.28%
15 July 2008	10	0	0%
5 August 2008	22	0	0%
16 September 2008	24	0	0%
7 October 2008	27	0	0%

Total number of reports: 90
Total number marked to follow: 1
Total % = 1.11%

OTHER COMMITTEES

TABLE 3
AUDIT COMMITTEE – 4 MEETINGS

Date	Number of Reports	Marked to follow	%
22 January 2008	8	3	37.5%
25 March 2008	7	1	14.28%
25 June 2008	7	1	14.28%
24 September	8	0	0%

Total number of reports: 30
Total number marked to follow: 5
Total % = 16.67%

TABLE 4
FLINTSHIRE COUNTY COUNCIL – 8 MEETINGS

Date	Number of Reports	Marked to follow	%
29 January 2008	4	1	25%
19 February 2008 (Special)	7	2	28.57%
4 March 2008 (Special)	6	1	16.66%
8 April 2008	13	2	15.38%
13 May 2008 (AGM)	3	3	100%
26 June 2008 (Special)	1	0	0%
22 July 2008	8	0	0%
25 September 2008 (Special)	6	0	0%

Total number of reports: 48
Total number marked to follow: 9
Total % = 18.75%

TABLE 5
PLANNING AND DEVELOPMENT CONTROL COMMITTEE – 12 MEETINGS

Date	Number of Reports	Marked to follow	%
9 January 2008	17	0	0%
6 February 2008	24	0	0%
18 February 2008 (Special)	1	0	0%
5 March 2008	24	0	0%
2 April 2008	22	0	0%
23 April 2008	14	0	0%
21 May 2008	23	0	0%
18 June 2008	35	0	0%
30 July 2008	27	0	0%

11 August 2008 (Special)	1	0	0%
3 September 2008	35	0	0%
1 October 2008	20	0	0%

Total number of reports: 243
Total number marked to follow: 0
Total % = 0%

TABLE 6
CONSTITUTION COMMITTEE – 2 MEETINGS

Date	Number of Reports	Marked to follow	%
8 April 2008	2	0	0%
21 July 2008	3	0	0%

Total number of reports: 5
Total number marked to follow: 0
Total % = 0%

TABLE 7
STANDARDS COMMITTEE – 3 MEETINGS

Date	Number of Reports	Marked to follow	%
11 February 2008	1	0	0%
7 April 2008	2	0	0%
14 July 2008	1	0	0%

Total number of reports: 4
Total number marked to follow: 0
Total % = 0%

TABLE 8
LICENSING SUB-COMMITTEE – 9 MEETINGS

Date	Number of Reports	Marked to follow	%
14 January 2008	1	0	0%
28 January 2008	1	0	0%
17 March 2008	1	0	0%
17 March (pm) 2008	1	0	0%
2 June 2008	1	0	0%
21 July 2008	1	0	0%
4 August 2008	1	0	0%
18 August 2008	1	0	0%
6 October 2008	1	0	0%

Total number of reports: 9
Total number marked to follow: 0
Total % = 0%

TABLE 9
LICENSING COMMITTEE – 1 MEETING

Date	Number of Reports	Marked to follow	%
30 June 2008	1	0	0%

Total number of reports: 1
Total number marked to follow: 0
Total % = 0%

TABLE 10
COMMUNITY AND HOUSING OSC – 9 MEETINGS

Date	Number of Reports	Marked to follow	%
9 January 2008	3	0	0%
31 January 2008	1	0	0%
13 February 2008	2	0	0%
4 March 2008	1	0	0%
19 March 2008	2	0	0%
4 June 2008	2	0	0%
9 July 2008	4	0	0%
31 July 2008	1	0	0%
9 September 2008	5	0	0%

Total number of reports: 21
Total number marked to follow: 0
Total % = 0%

TABLE 11
CORPORATE MANAGEMENT OSC – 6 MEETINGS

Date	Number of Reports	Marked to follow	%
5 February 2008	1	0	0%
12 February 2008	3	0	0%
21 February 2008	1	0	0%
20 March 2008	3	0	0%
9 June 2008	2	0	0%
17 September 2008	3	0	0%

Total number of reports: 13
Total number marked to follow: 0
Total % = 0%

TABLE 12

ENVIRONMENT & REGNERATION OSC – 9 MEETINGS

Date	Number of Reports	Marked to follow	%
11 January 2008	1	0	0%
1 February 2008	1	0	0%
6 February 2008	3	0	0%
13 February 2008	1	0	0%
4 March 2008	5	0	0%
29 May 2008	2	0	0%
27 June 2008	2	0	0%
30 July 2008	4	0	0%
24 September 2008	5	0	0%

Total number of reports: 24

Total number marked to follow: 0

Total % = 0%

TABLE 13

LIFELONG LEARNING OSC – 9 MEETINGS

Date	Number of Reports	Marked to follow	%
10 January 2008	4	1	25%
30 January 2008	1	0	0%
19 February 2008	3	0	0%
18 March 2008	2	0	0%
5 June 2008	2	0	0%
2 July 2008	3	0	0%
9 July 2008	1	0	0%
4 September 2008	6	0	0%
8 October 2008	5	0	0%

Total number of reports: 27

Total number marked to follow: 1

Total % = 3.70%

TABLE 14

PEOPLE & PERFORMANCE OSC – 8 MEETINGS

Date	Number of Reports	Marked to follow	%
7 January 2008	7	0	0%
31 January 2008	1	0	0%
11 February 2008	5	0	0%
20 March 2008	5	0	0%
21 April 2008	1	0	0%
28 May 2008	2	0	0%
29 July 2008	3	0	0%
6 October 2008	5	0	0%

Total number of reports: 29
Total number marked to follow: 0
Total % = 0%

TABLE 15
SOCIAL & HEALTH OSC – 7 MEETINGS

Date	Number of Reports	Marked to follow	%
15 January 2008	2	0	0%
1 February 2008	1	0	0%
27 February 2008	2	0	0%
25 March 2008	3	0	0%
11 June 2008	2	0	0%
24 July 2008	2	0	0%
15 September 2008	5	0	0%

Total number of reports: 17
Total number marked to follow: 0
Total % = 0%

TABLE 16
OVERVIEW & SCRUTINY CO-ORDINATING COMMITTEE – 2 MEETINGS

Date	Number of Reports	Marked to follow	%
19 June 2008	5	0	0%
25 September 2008	6	0	0%

Total number of reports: 11
Total number marked to follow: 0
Total % = 0%

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 6

REPORT TO: CONSTITUTION COMMITTEE

DATE : 15 OCTOBER 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

**SUBJECT : PROCEDURE TO DEAL WITH SUBSTANTIAL DEPARTURES
FROM POLICY AT THE PLANNING AND DEVELOPMENT
CONTROL COMMITTEE**

1.00 PURPOSE OF REPORT

- 1.01 To consider a request from the Executive Member for Housing Strategy and Planning to review the operation of the procedure adopted for departures from policy.

2.00 BACKGROUND

- 2.01 At its meeting on the 22 July, 2008 the County Council approved recommendations from the Constitution Committee with slight amendments as follows:

- “a) that where there is a **substantial** departure from policy, the application shall be deferred.
- b) that the determination as to whether there was likely to be **substantial** departure from policy would be made by the Committee’s legal advisor:
and
- c) that any items deferred on the basis of **substantial** departure from policy would be resubmitted to the next Planning and Development Control Committee.”

- 2.02 As Members will be aware, the recommendations of the Constitution Committee replicated those previously made by the Executive and before that, the Planning Protocol Working Group. The original suggestion to introduce a system of this nature was made by PriceWaterhouseCoopers in a report commissioned by the Council to carry out a review of the Development Control function. Their report was dated May 2007 and considered by the Environment and Regeneration Overview and Scrutiny Committee during June 2007. In the accompanying report to the Environment and Regeneration Overview and Scrutiny Committee it was explained that the ability to defer proposals in circumstances where there is a departure from policy already existed in paragraph 11.5 of the Planning Code of Practice. It was also noted that automatic referral to a subsequent

Planning Committee or Full Council would be in line with an increasing number of Local Planning Authorities which adopt a "cooling off period".

3.00 CONSIDERATIONS

3.01 Since the introduction of the new procedure, two applications have been deferred. These applications related to:-

- Full application - residential development of six units at former "Marsh Farm", Coast Road, Mostyn.
- Change of use to car sales (in retrospect) and siting of office portakabin at the Cottage Filling Station, Sealand Road, Sealand, Chester.

3.02 The legal advisor in both cases made the decision to defer the application in question, having considered the appropriate policies and after consulting with the mover and seconder of the motion to grant permission. In each case the legal advisor has come to the impartial and informed view that there "was likely to be a departure from policy", In both cases the legal advisor has been the subject of criticism from some Members of the Planning Committee.

3.03 The purpose behind the introduction of the new procedure was to stand back from the original decision, reflect upon it and after looking again at all the evidence, come to a view on the application. In relation to both applications there has been a perception that some Members regard decisions on a deferral as a challenge to their decision making role. This is not the case and the system is there to protect Members of the Planning Committee and the Council by providing a safeguard and an ability to review a decision in the event that on reflection they consider it should not be supported.

4.00 RECOMMENDATIONS

4.01 That Members review the procedure in relation to **substantial** departures from policy at the Planning and Development Committee.

5.00 FINANCIAL IMPLICATIONS

5.01 None.

6.00 ANTI POVERTY IMPACT

6.01 None.

7.00 ENVIRONMENTAL IMPACT

7.01 None.

8.00 EQUALITIES IMPACT

8.01 None.

9.00 PERSONNEL IMPLICATIONS

9.01 None.

10.00 CONSULTATION REQUIRED

10.01 None.

11.00 CONSULTATION UNDERTAKEN

11.01 None.

12.00 APPENDICES

12.01 None.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 7

REPORT TO: CONSTITUTION COMMITTEE

DATE : 15 OCTOBER 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

SUBJECT : REVIEW OF THE DELEGATION SCHEME

1.00 PURPOSE OF REPORT

1.01 To make essential amendments to the Delegation Scheme required as a result of phase 1 of the restructure of senior management and to create a new framework which will enable decisions to be made at the appropriate level within the Authority.

2.00 BACKGROUND

2.01 The Delegation Scheme sets out those decisions which can be taken by the County Council and the Executive respectively and proceeds to delegate decision-making to committees and Officers in the case of Council functions and Officers in the case of Executive functions.

2.02 The Leader of the Council can at any time add to, delete from or alter any of the delegations made to Officers in relation to Executive functions. In relation to County Council functions, any additions, deletions or alterations are required by the full County Council. The existing Delegation Scheme is based upon the interim arrangements that have been put in place prior to phase 1 of the restructure of the Council's senior management. The Delegation Scheme provides that where the title of an Officer is altered from that shown in the Scheme due to a reorganisation of arrangements or for any other reason, then the delegated powers and duties are exercisable by the Chief Executive or appropriate Chief Officer responsible for the function in question. The Delegation Scheme needs to be amended to reflect the responsibilities of the three new Directors for the functions previously delegated.

2.03 Over the last two years delegations below Director level have been agreed in relation to a number of Heads of Service and Senior Officers. Examples include:-

- The Chief Planning Services Officer
- The Chief Building Control Officer
- Health, Safety and Licensing Manager
- Senior Housing Officer

- Head of Human Resources

2.04 The advantages of devolving decision making on functions and particularly operational matters to Heads of Service and Service Managers have been recognised by the Council. These advantages include more timely decision making and less duplication of resources. Best practice dictates that decisions should be taken by those Officers responsible for the provision of services. Accordingly it is suggested that the Delegation Scheme should be linked to the responsibilities and accountabilities set out in the job descriptions of Senior Officers.

3.00 CONSIDERATIONS

3.01 The present Delegation Scheme provides a limited number of general delegations common to all Chief Officers. A copy of this is attached as Appendix A. The Delegation Scheme then goes on to identify numerous specific functions which can be exercisable by the Chief Executive, Directors/Chief Officers, Heads of Service and Senior Officers. One of the disadvantages of lists of specific delegations is that whenever new delegations are required as a result of a change in legislation or practice, then the Scheme needs to be amended. Another disadvantage is that when drafting a specific delegated function, it is difficult to anticipate all the potential circumstances that might arise and sometimes the delegation does not cover the decision which is required.

3.02 Some authorities, following the appointment of corporate or strategic directors, have followed a system which avoids providing specific delegations by making each director responsible for decisions on all functions within his/her responsibility subject to certain specific exceptions which are then reserved to the county council, its committees or the executive. This framework is accompanied by an arrangement whereby each director can authorise other officers for whom he or she has line management responsibilities to exercise functions delegated to them. Where such functions relate to statutory powers or duties the delegated action should be taken in the relevant Director's name. It is likely that Directors will only be responsible for making strategic and high profile decisions with the remaining decisions made by Heads of Services and Senior Managers.

3.03 An advantage of an extended general Delegation Scheme is that it avoids the need to trawl through the Scheme to ensure that there is a sufficient specific delegated authority to meet a given situation. If the Council wishes to move to a more general set of delegations at appropriate levels within the Authority it is suggested that it could do so as follows:-

Level of Delegated Function

Level 1	Chief Executive and Directors
Level 2	Monitoring Officer and S151 Officer
Level 3	Heads of Service

Level 4 Specific Senior Managers

Limits on the Exercise of Delegated Functions at Each Level of Decision Making

The decision must be:-

- (a) within their area of responsibility
- (b) within budget
- (c) in accordance with the Council's policy framework
- (d) in accordance with the Council's Financial Procedure Rules and Contract Procedure Rules
- (e) in accordance with their Directorate or Service Area Plans
- (f) not a matter specifically reserved for full Council, a committee of the Council, the Executive or a Statutory Officer.

- Subject to the above the general delegation would be to take appropriate action, which is necessary, to ensure the efficient, equitable and effective delivery of services.
- Further general delegations could be given to manage human resources within their area of responsibility, procure works/goods/services and/or supplies up to a given value, to dispose of or acquire or lease land up to a given value. The value will depend on the level of decision making. It is suggested this be up to £100,000 in the case of Heads of Service and £250,000 in the case of Directors with higher value procurement, disposals or acquisitions being reported to the Executive.
- To act as Proper Officer for any function within their responsibility.

3.04 To assist transparency in delegated decision-making, a new process for recording the exercise of any functions requires consideration. It is suggested that in the case of decisions taken by the Chief Executive or a Director:-

- (a) the written record of the decision, in the prescribed form, will be sent to, and kept by, the County Legal & Democratic Services Officer;
- (b) the written record of the decision will be open to public inspection, except where it contains confidential or exempt information; and
- (c) a copy will be sent to the County Finance Officer.

All decisions made by the Executive will be published in the Executive Decision Register. Similarly all decisions made by the Chief Executive or a Director will be published in the Executive Decision Register.

In the case of decisions by an employee other than the Chief Executive or a Director:-

- (a) the written record of the decision will be kept in accordance with the requirements of the relevant Director;
- (b) the written record of decision will be open to inspection by a Councillor in accordance with the Access to Information Procedure Rules; and
- (c) a copy will be sent to the County Finance Officer.

For the avoidance of doubt, the record of the exercise of a delegated power may relate to the exercise of one or more powers where the powers have been exercised contemporaneously.

- 3.05 A review of the existing cumbersome mechanism for urgent decisions would also be appropriate. The existing provisions are set out in Appendix B. The existing process could be simplified by adopting the following:-

“The Chief Executive shall have the power to exercise any Council or Executive function in cases of urgency or emergency, and where it is impracticable for the matter to be considered by the County Council or the Executive as appropriate and unless action is taken then the Authority would be likely to suffer a financial or other serious disadvantage or unlikely to be able to take advantage of a material opportunity and to take any action on behalf of the Council.”

- 3.06 The Constitution additionally requires amendment as it does not contain any references to Taith or the North Wales Trunk Road Agency Joint Committee. It is suggested that the following be included:-

Taith

The Executive 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 Executive 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.

The North Wales Trunk Road Agency Joint Committee

The Executive 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 Executive 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.

3.07 A further report will be made to the Committee in relation to any refinements to the Delegation Scheme required during or as a result of the second phase of the restructure of senior management.

3.08 In the meantime it is recommended that any existing delegation be exercised by the relevant Second Tier Officer or Head of Service who has responsibility for the function in question.

4.00 RECOMMENDATIONS

4.01 That Members recommend the amendment of the existing Delegation Scheme to reflect the requirements set out in paragraphs 3.02, 3.06 and 3.08.

4.02 That Members recommend the suggested amendments to the Chief Executive's urgent powers as set out in paragraph 3.05.

4.03 That Members consider the suggestion that the Delegation Scheme be reviewed to reflect a set of extended general delegations as set out in paragraphs 3.03 and 3.04.

5.00 FINANCIAL IMPLICATIONS

5.01 None

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

7.01 None

8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 Corporate Management Team

11.00 CONSULTATION UNDERTAKEN

11.01 Corporate Management Team

12.00 APPENDICES

12.01 Appendix A - General Scheme of Delegation of Executive and Non-Executive Functions to Officers

Appendix B - Urgent Action - 7. Non-Executive Functions and 8. Executive Functions

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

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SECTION C

GENERAL SCHEME OF DELEGATION OF EXECUTIVE
AND NON-EXECUTIVE FUNCTIONS TO OFFICERS

1. **Definitions**

"Chief Officer" the expression Chief Officer means any of the following:-

The Chief Executive
Director of Community Services
Director of Lifelong Learning
Director of Environment
County Legal & Democratic Services Officer
County Finance Officer

and this shall include any Interim or Acting Chief Officer appointed for the time being

"Legal Proceedings" means proceedings before a court, tribunal or any other forum where a body is acting in a judicial capacity, including appeals or applications to Ministers

2. The following functions are delegated to the Chief Executive and Chief Officers by the Council under Section 101 of the Local Government Act 1972 and by the Leader under Section 15 of the Local Government Act 2000.
3. The County Council may review the delegations it has made at any time in accordance with Article 18 of the Constitution. The Leader may review the delegations in relation to Executive functions at any time.
4. The County Council, however, **does not** delegate any power to:-
 - a) Act on matters which involve new policy or the substantial variation of existing policy.
 - b) Determine borrowing limits.
 - c) Approve the Council's Capital Programme.
 - d) Approve the annual estimates of expenditure and income.
 - e) The making of by-laws.
 - f) To receive reports from the Head of Paid Service, Chief Finance Office or Monitoring Officer to the County Council acting in discharge of their statutory functions except to the extent that those functions are Executive Functions.

5. Each Chief Officer has a general delegated power to do all operational acts in respect of the functions of the Directorate in accordance with the provisions set out below together with the specific delegations set out in Appendix 1 below and each Chief Officer is authorised to make arrangements for the proper administration of those functions. Specific functions can be undertaken jointly with other Directors and if there is any dispute or uncertainty the Chief Executive may make a final determination.

5.1 The Chief Officers or other officer to whom a function has been delegated may authorise officers in their Directorate or where lawful to do so other appropriate persons to exercise functions delegated to them subject to such limits as they see fit. Any decisions taken under this Authority shall be taken in the name of the Chief Officer or other officer to whom a function has been delegated giving the authorisation who shall be accountable and responsible for such decisions. Chief Officers will keep the Monitoring Officer informed of all arrangements which they make to authorise other officers to act on their behalf and this information will be kept by the Monitoring Officer and will be open for inspection by the public.

5.2 Where the Scheme delegates powers and duties within broad functional descriptions or specifically it shall be regarded as extending to include powers and duties under all legislation present and future within those descriptions.

5.3 The Chief Executive and/or Director of Financial, Legal and Democratic Services have power to exercise such functions, powers and duties as may be specified in Contract Procedure Rules or Financial Procedure Rules.

5.4 The Constitution includes power for the Executive and for Committees to delegate their functions onwards to officers or to other local authorities.

5.5 Functions of the Council are divided between:-

5.5.1 Executive functions.

5.5.2 Non Executive functions which are those functions listed in the Constitution together with any other functions which are required by statute or regulations to be non Executive functions or local choice functions which the Council decides will be non Executive functions.

5.6 Any exercise of responsibility of functions or delegated powers shall comply with:-

5.6.1 The Council's Constitution including in particular the Rules of Procedure;

5.6.2 The Council's Policy Framework and Budget;

5.6.3 Any statutory provisions;

5.6.4 Members Code of Conduct and the Code of Conduct for Employees;

5.6.5 Agreed arrangements for recording the decisions;

- 5.6.6 Taking legal or other appropriate professional advice when required;
- 5.6.7 The principles of Wales Improvement Plan using the most efficient and effective means available.
- 5.7 The Scheme does not delegate any matter which:-
- 5.7.1 Is reserved by law or by this Constitution to the full Council or a Committee or the Executive, or
- 5.7.2 Which may not by law be delegated to an officer.
- 5.8 The Scheme places an obligation on officers to keep the appropriate Executive Member(s) properly informed of action arising under delegations relating to Executive functions and to record decisions.
- 5.9 Where expenditure is involved, such action shall be conditional upon financial provision being included within the approved budget of the Council and Financial Procedure Rules being complied with.
- 5.10 Should the title of an officer be altered from that shown due to a re-organisation of arrangements or any other reason, the approved delegated powers and duties shall be exercisable by the Chief Executive or the appropriate Chief Officer, as the case may be, responsible for the function in question.
- 5.11 Any reference to a Committee shall be deemed to include a reference to any other Committee to which the Council may from time to time delegate the performance of the function referred to.
- 5.12 Any reference to a specific statute includes any statutory extension or modification or e-enactment of such statute and any regulation, orders or bylaws made thereunder.
- 5.13 Officers shall act so as to achieve for their service the policies and objectives of their service area always having regard to the overall corporate interest of the Council.
- 5.14 In exercising delegated powers, officers shall consult other officers as appropriate and shall have regard to any advice given.
- 5.15 The Chief Executive shall be entitled to determine any matter delegated to another Chief Officer in the event of that officer's absence or refusal to exercise specific delegated powers.

6. Delegated Powers Applicable to All Chief Officers

- 6.1 To make arrangements for the efficient discharge of all functions within the scope of the post, in accordance with relevant legislation and the plans and policies of the Council.

- 6.2 To appoint and manage staff in accordance with the Council's approved terms and conditions of employment.
- 6.3 To sign all documentation required for the proper discharge of their functions in accordance with the Constitution.
- 6.4 To be responsible for the Health and Safety of their staff and premises.
- 6.5 To approve special leave of absence within the Council's policies.
- 6.6 To attend or to authorise leave of absence for attendance at conferences, courses and seminars.
- 6.7 To designate employees as essential or casual car users and to approve claims for essential and casual car users car allowances and motor cycle allowances, subsistence and travel allowances.
- 6.8 To decide the eligibility of employees to receive payment:-
- (i) in respect of overtime permitted within the terms of the Green Book, or where appropriate, any other National Agreement, in consultation with the Director of Corporate Strategy;
 - (ii) of telephone charges;
 - (iii) for temporarily undertaking additional duties and responsibilities where provided for in the conditions of service;
 - (iv) in accordance with the relocation and disturbance scheme;
 - (v) of accelerated increments.
- 6.9 To extend sick pay, in accordance with the Council's policy and where the application is supported by medical evidence.
- 6.10 To take action, including dismissal against an employee in accordance with the Council's Disciplinary, Grievance and Anti-Bullying and Harassment procedures or in accordance with appropriate procedures on grounds of redundancy, ill-health or some other substantial reason and under the Council's Managing Attendance (Sickness Absence) Policy.
- 6.11 Each Chief Officer/Director and Service Manager has the delegated power to authorise in writing any Senior Officer (or person appointed to cover the responsibilities of such Officer), to be an Authorised Officer, Investigating Officer or any other Officer that needs to be appointed under the procedures referred to in 6.10 above (where appropriate in consultation with that person's Chief Officer/Director or Head of Service) and in the case of an Authorised Officer the authority given shall extend to the taking of actions set out in 6.10 above).
- 6.12 To issue personal protective equipment.

- 6.13 To authorise the carrying forward of annual leave to the next year in accordance with the Council's policy.
- 6.14 To appoint temporary staff.
- 6.15 To undertake and arrange for the day to day management of the premises under their control.
- 6.16 To reply directly on consultation documents.
- 6.17 To authorise surveillance or other appropriate action under the Regulatory and Investigatory Procedure Act 2000.
- 6.18 To award grants and awards unless they are contrary to the Council's policy and budget framework.
- 6.19 To act as proper officer on any matter within their departmental functions and responsibilities unless otherwise stated.
- 6.20 To award contracts in accordance with Contract Procedure Rules.
- 6.21 Allocate resources in accordance with the Financial Procedure Rules of the Council.
- 6.22 To authorise officers or other persons acting on behalf of the Council to enter land/premises.
- 6.23 To authorise the seizure of goods/other articles forming evidence. This is not meant to restrict the powers already available to officers duly authorised under specific legislation.
- 6.24 To authorise the laying of informations for the purpose of obtaining a warrant, whether of search entry or otherwise.
- 6.25 To authorise commencement of and/or appear in proceedings in respect of any legislation, regulations, codes of practice or bye-laws for the time being enforceable by the Council and relating to the functions of their Directorate.
- 6.26 To authorise the issue and service of statutory notices related to the functions that stand referred to them.
- 6.27 To authorise appropriate officers within their Directorates to enforce the legislation relating to dog fouling.
- 6.28 To impose or vary conditions in relation to any licence, registration or other authorisation granted or to be granted by the Chief Officer or in accordance with any relevant statutory requirements.

7. Urgent Action – Non Executive Functions

7.1 Where urgent action is necessary between either County Council or Committee meetings, and the Authority of the County Council or that Committee is necessary to give effect to the action the following provisions will apply:-

- i) The Chief Executive and the Chief Officer (or in their absence their duly authorised Deputy or nominee) concerned must consult with the Chair and/or the Vice-Chair of the Council or relevant Committee and the Leader and /or the Deputy Leader of the Council and the Chair of the relevant Overview and Scrutiny Committee or in the absence of such Chair, the Chair of the Scrutiny Co-ordinating Committee to consider whether it is either desirable or possible to convene a meeting of the County Council or the Committee in time for the decision to be taken.
- j) If in the opinion of the Chief Executive (or in his absence his duly authorised Deputy) following such consultation, it is either impossible to convene such a meeting or it is not considered desirable, then the County Council expressly delegates to the Chief Executive (or duly authorised Deputy) the power to act, subject only to further detailed consultation with the Chair/Vice-Chair of the Council/Committee and the Leader/Deputy Leader of the Council and the Chair of the relevant Overview and Scrutiny Committee or in the absence of such Chair, the Chair of the Scrutiny Co-ordinating Committee and the decision taken being reported to the next meeting of the Council/Committee.
- k) The circumstances of the urgency and the nature of the decisions taken shall be recorded in a record of the decision.

8. Urgent Action – Executive Functions

8.1 In the absence of the Leader, Deputy Leader and appropriate Executive Member, the Chief Executive (or, in his absence, his duly authorised Deputy) shall have the delegated power to make decisions on any matter where urgent action is necessary between meetings of the Executive provided:-

- (a) The Chief Executive (or duly authorised Deputy) consults with at least 2 other available Members of the Executive and the Chair of the relevant Scrutiny Committee.
- (b) The decision is reported to the next meeting of the Executive.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 8

REPORT TO: CONSTITUTION COMMITTEE

DATE : 15 OCTOBER 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

SUBJECT : REVIEW OF CONTRACT PROCEDURE RULES

1.00 PURPOSE OF REPORT

- 1.01 To consider the recommendations of the Officer Working Group suggesting recommendations to deal with:-
- (a) recommendations from the Internal Audit Report
 - (b) ways of modernising practice and
 - (c) dispensing with unnecessary red tape

2.00 BACKGROUND

- 2.01 The Contract Procedure Rules were last reviewed towards the end of 2006 and adopted by the Council in early 2007. Those Procedure Rules had been radically overhauled to eliminate a number of anomalies that had arisen since Local Government Reorganisation. The existing Rules have generally worked well in practice. They are comprehensive in nature and provide a wealth of information. The electronic procurement advisory support system was developed following the introduction of the new Rules and seeks to provide guidance on the use of the Rules and back-up documents which can be adapted for use in specific procurement situations.
- 2.02 A Contract Procedure Rules Group of Officers has been tasked to review the Rules in the light of problems which have occurred during the last 18 months of operation. Their recommendations have been considered by the Corporate Management Team and the proposals for amending the existing Rules are set out in Section 3.

3.00 CONSIDERATIONS

- 3.01 The Working Group considered it would be useful for the Contract Procedure Rules to make reference at an early stage to the Council's electronic procurement system, the need to order from a corporate contract if one exists, including contracts used by the North Wales Procurement Partnership. It is also suggested that the Rules be reviewed annually.
- 3.02 In line with recommendations in a recent Internal Audit Report, it is also suggested that the Rules should require the maintenance of a register of all

contracts. In addition, it is suggested that the Rules are amended to make it clear that poor performance will be taken into account in relation to suspension /exclusion from contractor lists and the contractors should be made aware of the criteria for suspension and exclusion. Further, all instances of poor performance should be recorded on the Council's electronic procurement system / Contractor database. The contract register could be incorporated into the corporate system as a facility already exists to record successful tenders. It also has a contractor performance and default system built into it.

- 3.03 The review has identified the need to make reference to equality objectives in procurement arrangements where equality is a core requirement of the service. The duty to promote equality (including disability, gender, race and age equality) and other equality legislation should be added to the criteria for admission to and suspension and exclusion from approved contractor lists. Where equality is a core requirement of the contract, it should be clearly defined in the specification in terms of measurable outcomes.
- 3.04 The Rules should make it clear that Officers must ascertain what relevant British, European or International standards should apply to the contract to describe the required quality.
- 3.05 The Rules need to be amended to reflect the new European Union thresholds for works, supplies and services including the new thresholds above which contracts should not be sub-divided. These are set out in Appendix A.
- 3.06 It is suggested that the present bands of contract should be revised. The existing bands are as follows:-
- below £5,000
 - between £5,000 and £20,000
 - £20,000 to £100,000
 - above £100,000
 - contracts above the EU thresholds
- 3.07 Under the existing bands there is no requirement to seek quotations for contracts below £5,000 providing value for money can be demonstrated. In relation to contracts between £5,000-£20,000 unless exemptions apply, there is a requirement to seek at least three written quotations. In relation to contracts valued between £20,000 and £100,000 at least four tenders must be invited. In relation to contracts above £100,000 in value, at least five tenders shall be invited. In relation to contracts above the European Union thresholds, there are additional more onerous requirements.
- 3.08 The Working Group concluded that the existing bands cause unnecessary bureaucracy in low level procurement within the Authority, cause delays and

result in unnecessary expense, both to the Council and to outside contractors responding to invitations to quote or tender. Accordingly, providing value for money can be demonstrated on every occasion, it is suggested that the band widths be amended to:-

- under £10,000 – value for money must be demonstrated
- between £10,000-£30,000 (in the case of supplies and services) or £50,000 (in the case of works) - at least three written quotations must be sought
- contracts valued at between £30,000-£100,000 (in the case of supplies and services) or between £50,000-£100,000 (in the case of works) must invite at least four tenders
- contracts above £100,000 - at least five tenders must be invited
- in relation to contracts above the European Union thresholds, more onerous provisions will apply.

- 3.09 Irrespective of the bands set out above, where there is an approved provider list, then Officers will be expected to seek quotations or tenders from contractors on the list. Where there is a consortium through which the Council can procure supplies or services, those contracts may be accessed in accordance with their terms and conditions.
- 3.10 It is possible for Chief Officers to seek exemptions from complying with the Contract Procedure Rules in appropriate cases. The Assistant Director (Funds and Customer Accounts) considers those requests. It is suggested that in the case of frequently occurring requests of a similar nature, that the Assistant Director have the power to agree blanket exemptions to cover the circumstances in question. That suggestion should apply to exemptions from tendering, price testing and other Council Procedure Rules.
- 3.11 It is suggested that the Rules make reference to the Council's Guidelines for Partnering. Those new Guidelines are set out at Appendix B.
- 3.12 In relation to contract values between £10,000-£30,000 (in the case of supplies and services) and £10,000-£50,000 (in the case of works), it is suggested that records be maintained in each service area comprising records of exemptions and reasons for them, reasons if the lowest price is not accepted and records of communications with the successful contractor. It is suggested that those records should be kept for six years.
- 3.13 At present the regulations provide that contractors on the Approved List should not be assigned an Annual Workload Threshold above 30% of their most recently reported turnover. It was felt that this unduly prejudices small traders and new companies and it is suggested that the percentage be increased to 50%.

- 3.14 It is suggested that the Rules incorporate a requirement that a reasonable time shall be given for the submission of tenders. This would vary with the subject matter involved.
- 3.15 The Rules governing situations where errors have been revealed in tender documentation conflicts with the provisions governing the various standard forms of construction contracts used. In the circumstances it is suggested that they be amended to incorporate the nationally agreed rules in such cases.
- 3.16 The Rules should make it quite clear that except in certain circumstances where letters of intent can be provided by the Council, no work should commence or services or supplies ordered or commissioned until the contract has been signed or sealed as appropriate.
- 3.17 It is suggested that the Rules should require sub-contractors or suppliers to send with their tenders an undertaking to work for the main contractor and indemnify them for sub-contracted work or materials.
- 3.18 It is suggested that the Rules be amended to make it clear that agency staff should only be engaged through the Council's Corporate Managed Agency Staff system (MASS) when it comes into operation.
- 3.19 In relation to Approved Lists, criteria for selection should be extended to include the Council's Welsh Language Scheme, Equalities Schemes, equality legislation and environmental considerations as considered appropriate. Lists should also be reviewed every two years. It is intended that Approved Lists will be converted to a Corporate List of all goods, works and services sourced and procured by the Council and managed centrally by the Procurement Department in close liaison with service areas.
- 3.20 It is suggested that the Essential List of Contractual Conditions should be extended to include conditions relating to discrimination, safe methods of work, bonds or guarantees.
- 3.21 The existing annexe relating to Community Care Contract Procedures should be extended to include contracts for the provision of personal, social and welfare services to provide care or support to individual service users or carers. At present it merely applies to registered residential nursing home care, domiciliary care and day care.
- 3.22 The Contract Procedure Rules for schools should be amended in the light of decisions made by the Council.
- 3.23 In the section relating to Framework Agreements it is suggested that the existing references are amended to make it clear that a mini tender exercise undertaken pursuant to a framework agreement should be treated in the same way as any other tender eg. the requirement for the production of a

specification, prices to be submitted in a sealed envelope by a stated closing date and all tenders opened by a minimum of two Officers.

4.00 RECOMMENDATIONS

4.01 That the suggestions referred to in Section B above and set out in Appendix A be agreed and recommended to the County Council for approval.

5.00 FINANCIAL IMPLICATIONS

5.01 None

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

7.01 None

8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 Contract Procedure Rules Officer Working Group, Corporate Management Team, Head of Strategic Procurement.

11.00 CONSULTATION UNDERTAKEN

11.01 Contract Procedure Rules Officer Working Group, Corporate Management Team, Head of Strategic Procurement.

12.00 APPENDICES

12.01 Appendix A - Suggested Amendments of the Officer Working Group and Corporate Management Team

Appendix B - Guidelines for Partnering

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

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APPENDIX A

The suggested amendments are incorporated in the paragraphs set out below in italics.

- 1.3 *Guidance on the application of these Rules may be obtained from the Council's electronic procurement systems (currently PASS) accessible on the Infonet. Each directorate should maintain its own contact officer responsible for matters relating to procurement who should be available to provide general advice. Advice will also be available from the Council's Procurement Unit:- ext. nos. 1816, 1812, 1814, and 1809*
- 1.4 *These Rules shall be reviewed annually.*
- 1.5 *There is a general requirement to order supplies or services from a corporate contract if one exists including those contracts used by the North Wales Procurement Partnership.. A full list of corporate contracts can be accessed on the Council's electronic procurement system (currently PASS).*
- 1.1 *Heads of Service shall compile and maintain up to date lists of all Relevant Officers properly authorised to carry out any of the Council's contract functions and must keep a register of all contracts completed.*
- 8.
- *establish from the Council's electronic procurement system (currently PASS) that no corporate contract already exists for the procurement required*
 - *consult with the Procurement Unit to ensure that a contractual arrangement is not already in place*
 - *appraise the need for the expenditure and its priority*
 - *define the objectives of the purchase and include equality objectives where equality is a core requirement*
- 8.3 *The Officer must ascertain what are the relevant British, European or international standards which apply to the subject matter of the contract. The Officer must include those standards which are necessary properly to describe the required quality. The Procurement Unit must be consulted if it is proposed to use standards other than European standards.*
- 10.3 current financial thresholds (effective as of 1 January, 2008 until 31 December, 2009) are as follows:

Works	£ 3,497.313
Supplies and Services	£139,893

10.5 If the European Procurement Rules do not apply, the Council has adopted the following categories applicable to the estimated value of each contract:

- ***Between £10,000 and £30,000 (supplies and services)***
- ***Between £10,000 and £50,000 (works)***
- ***£30,000 to £100,000 (supplies and services)***
- ***Between £50,000 and £100,000 (works)***
- ***Above £100,000 (see CPR 10.3 regarding EU limits)***

10.9 If the estimated value of the contract is less than *£10,000 value for money must be demonstrated. If it cannot be demonstrated then the procedure for contracts above £10,000 shall be followed. Guidance will be issued on how value for money can be demonstrated.*

10.10 If no appropriate Approved List exists and the estimated value of the contract is *£10,000 or over but less than £30,000 in the case of supplies or services or £50,000 in the case of works, quotations should be sought in accordance with CPR 15.*

10.11 If no appropriate Approved List exists and the estimated value of the contract is more than *£30,000 in the case of supplies and services and £50,000 in the case of works, expressions of interest should be sought in accordance with CPR 16 and all subsequent CPRs should be followed through to the award of contract.*

11.1 Where a requirement is subdivided into several contracts (*note it is unlawful to artificially split contracts to avoid EU regulations*), the estimated value of each shall be aggregated to estimate the total contract value. However, *for the purpose of calculating EU aggregation limits only:*

- (a) any works contract that has an estimated value of less than *£679,090*; or
- (b) any *supply or service* contract that has an estimated value of less than *£54,327* need not be aggregated,

12.1 The Relevant Officer may seek an exemption from his *Head of Service* in writing setting out the reason for requiring the exemption and the CPRs from which exemption is required. The *Head of Service* can agree any exemptions where the estimated contract value is below *£10,000*. Where the estimated contract value is above *£10,000* the Officer seeking the exemption shall prepare a written report. The report shall include reference to legal and financial implications and shall highlight any future commitments (whether or not of a financial character) that the proposed contract might entail. The report shall be presented to the *Head of Service* who shall counter-sign it, if he/she agrees, for submission to the *Chief Finance Officer* for approval. *The Chief Finance Officer* shall have

Authority to agree any exemption requested or, if he/she so chooses, refer it to the Executive for decision or, where applicable, under the Council's procedures for urgent action contained elsewhere in the Constitution. *The Chief Finance Officer may agree blanket exemptions in relation to frequently occurring exemptions of a similar nature.*

- 13.1 Where an exemption is sought from Tendering or price testing, the report (CPR 12.1) shall in addition contain justification for the use of an alternate method of Contractor selection so that propriety, value for money and compliance with EU and domestic legislation can be demonstrated. *The reference to blanket exemptions referred to in 12.1 shall also apply to this Rule.* The following list provides examples of possible justification:

(add) (t) the engagement of actors and performers

- 13.2 (a) the estimated contract value is less than £10,000 when this can be granted by the Relevant Head of Service;

14.1.2 The criteria for admission to and suspension and exclusion from Approved Lists shall be specified in writing by the *Chief Finance Officer*, and shall relate to economic and financial standing, technical ability and capacity, insurance arrangements, quality systems, health and safety record and compliance *with the duty to promote equality (disability, gender and race equality)*, the Council's Welsh Language Scheme, and other *equality* legislation. The *Chief Finance Officer* may in addition to or instead of such criteria, with the agreement of the Relevant Head of Service, stipulate that a pre-qualification system shall be utilised *where appropriate*. *Poor performance shall also be taken into account in relation to suspension/exclusion from Lists. Contractors shall be made aware of the criteria for suspension and exclusion.*

14.3.4 *The Council's Guidelines for Partnering are set out at Appendix*

14.3.5 *Further advice can be obtained from the Corporate Procurement Unit: ext nos: 1816, 1812, 1814 and 1809*

QUOTATIONS AND TENDERS

This section contains the following:

- Quotations – contracts valued at more than £10,000 but less than £30,000 *in the case of supplies and services*
- Quotations – contracts valued at more than £10,000 but less than £50,000 *in*

the case of works

- Tenders – contracts valued at £20,000 or more

15 Quotations - Contracts valued at more than £10,000 but less than £30,000 in the case of supplies and services and £50,000 in the case of works

- 15.1 Where there is an approved list CPR 17 applies.
- 15.2 Where no approved list exists or such a list is not appropriate, CPR 15.3 applies.
- 15.3 Except in appropriate cases (e.g. cases of urgency) with the written consent of the Relevant *Head of Service* any Contract where the estimated value is between *£10,000 and £30,000 in the case of supplies and services and £50,000 in the case of works may only* be made after seeking at least three written (including those by e-mail or fax) quotations. Where the estimate value is below £10,000 see CPR 10.9 above.
- 15.4 Heads of Service shall keep records based upon enquiries made under CPR 9.2(c) for the purposes of obtaining quotations. *Those records shall comprise:*
- *a record of any exemptions and the reasons for them*
 - *of the reason if the lowest price is not accepted*
 - *written records of communication with the successful contractor or an electronic record if a written record of the transaction would normally be produced.*

Records required under this Rule must be kept for six years after the end of the contract. However, written documents which relate to unsuccessful candidates must be kept electronically, scanned or stored by some other suitable method.

16 Tenders - Contracts valued at £30,000 or more in the case of supplies and services and £50,000 in the case of works

- 16.1 Where the estimated value of a contract is:
- (a) *£30,000 in the case of supplies and services and £50,000 in the case of works but less than £100,000, at least four Tenders shall be invited;*
 - (b) *£100,000 or above, at least five Tenders shall be invited;*
- 17.2 Each Contractor on an Approved List shall be assigned an Annual Workload Threshold which shall both equate to 75% of their most recently reported turnover from their annual accounts.
- 18.1 *Where the Contract is below the EU threshold (see 10.3) a reasonable time shall be given for the submission of tenders. This will vary according to the subject matter.*
- 21.1 Where a contract over *£30,000 in the case of supplies and services and £50,000 in the case of works* is to be awarded using evaluation criteria based on factors other than price alone, *the evaluation criteria shall be*

included on the contract file and deposited by the Relevant Officer in writing with the Chief Finance Officer before the specified time and date for receipt of Tenders. The Chief Finance Officer shall provide the Relevant Officer with a receipt to confirm the time and date the evaluation criteria were deposited. The criteria should specify the criteria to be adopted. Initial advice on Evaluation Criteria can be found on PASS. Further assistance is available from the Corporate Procurement Unit. Where the contract is under £30,000 in the case of supplies and services and £50,000 in the case of works, the evaluation criteria only needs to be included on the file.

24.1 *All Tenders for any one contract shall be opened sequentially at the same time and place after the closing date and time for receipt stated in the Tender documents. Tender envelopes shall be retained for a period of 6 months following the opening session by the directorate responsible for the contract in question.*

24.3 The following details of each Tender shall be listed on a permanent record immediately on opening:

- (a) the unique reference on the Tender envelope (*unless electronic Tenders);
- (b) the name of the Tenderer;
- (c) the Tender amount(s), where applicable and readily determinable;

(add)

(d) *the total number of tenders opened.*

After opening, tender details of all construction contracts shall be recorded on the corporate contractor database.

25.3 (add)

If it is in the best interests of the Authority, the tenderer may be given the opportunity to correct the tender.

25.4 (add)

Where a standard form of contract is being used, errors in the contract will be dealt with in accordance with the rule applicable to that form of contract.

25.5 (add)

Where a standard form of construction contract is being used, alternative tenders and substitute products will be dealt with in accordance with the rules applicable to that form of contract

27.7.2 Subject to 27.1.1 above, no work shall commence or services or supplies ordered or commissioned until a contract has been signed or sealed as appropriate.

27.7.4 (add)

A copy of a model bond is included on the Council's electronic procurement system.

30.6 *Where equality is a core requirement, this should be clearly defined in the specification. This should be specified in terms of measurable equality outcomes.*

31.3 *In the case of Contractors on an Approved List, incidents of poor performance shall first be raised with the Contractor in writing, or at a meeting where notes are made and sent to the Contractor. All instances of poor performance must be recorded on the Council's electronic procurement system / Contractor database. In cases of particular poor performance, or persistent poor performance, the Relevant Officer shall consider whether to recommend suspension or exclusion from the Approved List in accordance with Annex A.*

32 (b) *add more than 20% to the estimated value of the contract or increase it from below £30,000 to £36,000 or more in the case of supplies/services or £50,000 to £60,000 or more in the case of works; or*

33.1 *These CPRs apply to the nomination of a sub-Contractor or supplier for carrying out works or services or supplying goods or materials. Sub-Contractors or suppliers shall send with the Tender an undertaking to work for the main Contractor and indemnify them for the sub-contracted works or materials.*

35.1 *Unless the estimated value of the contract is less than £30,000 in the case of supplies and services and £50,000 in the case of works, the engagement ...*

35.1 (e) (add)

- *Compliance with the duty to promote equality*

35.3.2 (add)

Agency staff shall only be engaged through the Council's corporate Managed Agency Staff System (MASS) when it comes into operation.

Code of Practice – Approved Lists

- 1 This code of practice prescribes the methods for compilation of a *corporate select list of Contractors* and any other standing approved lists of Contractors (*supplies, services and works*) and for invitation of Tenders therefrom, as referred to in CPR 14.
- 2 *Where the corporate select list is not appropriate* each Head of Service wishing to invite Tenders by this method shall be responsible for compiling and maintaining a suitable list or lists in the required manner.
- 3 (c) (add) *in the case of works,*
 - (e) Such other criteria including compliance with such matters as the Council's Welsh Language Scheme, *Equality Schemes, equality legislation* and environmental considerations as considered *appropriate* by the Relevant Officer.
- 5 (add) *every two years*

Annex C

Code of Practice – Conditions of Contract

- (h) *that the Contractor shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise) in employment and the Contractor shall take all reasonable steps to secure the compliance by any employees or agents of the Contractor and all suppliers and sub-contractors engaged in the performance of the contract;*
- (i) *that in the provision of goods, facilities or services the Contractor must not commit acts of unlawful discrimination, harassment or victimisation and the Contractor shall take all reasonable steps to secure the compliance by any employees or agents of the Contractor and all suppliers and sub-contractors engaged in the performance of the contract;*
- (j) *that the Contractor shall adopt safe methods of work and comply with all other requirements of the Health and Safety at Work Act 1974 in order to protect the health and safety of its personnel and to the extent applicable the personnel of the Council and all other persons;*
- (m) any performance bond or parent company guarantee required. *The Head of Finance must be consulted about whether a bond is needed: where the total value exceeds £1,000,000 or where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Contractor;*

Annexe F – Framework Agreements

6. Social & Environmental Considerations

- 6.3 (1) *Accessibility criteria for all users including disabled people ...*

Annex F 1.5 (Framework Agreements)

Alternatively, where not all the terms of the proposed contract are laid down in the Framework Agreement, a further mini competition will be held, involving all those contractors in the Framework Agreement who are capable of performing the proposed contract. If the contracting Authority decides to re-open competition, it must do so on the basis of the same or, if necessary, more precisely formulated terms, and where appropriate other terms referred to in the contract documents based on the Framework Agreement. *The mini competition shall follow the usual tendering procedures set out in these Procedure Rules, including those relating to the requirement for a specification invitation receipt, custody and opening of tenders and tender evaluation.*



GUIDELINES FOR PARTNERING

Barry Davies
County Legal & Democratic Services Officer
22 September 2008
BCD/AEH/Guidelines for Partnering Sep 08

INTRODUCTION

Partnerships in procurement are a relatively new concept in local government, although they have been in use in the private sector for some time. This document aims to provide basic guidance for those who have not previously been involved in such agreements. Appendix A to this document answers 10 basic questions and they should give you a good starting point in understanding the concept, and deciding whether to proceed further.

There are five important principles to bear in mind if you are considering the idea of a partnership:-

1 Customer focus

Best Value requires a continuous dialogue with users to ascertain their requirements and assess whether those requirements are being delivered.

2 Integrity

The commitment required to high standards of probity, ethics and professional conduct, within an accountable and transparent process is just as high as it would be in carrying out any type of procurement.

3 Continuing competition

Potential partners must understand that a partnership agreement is not infinite. Continuing competition will stimulate and develop the competitive market as well as ensuring that the partnership remains value for money.

4 Intelligent buyers

The Council will need to continue to train and develop the skills of those involved in procurement so that they are skilful, informed, innovative and discerning.

5 Contract management

Partnerships will require a change of culture on the part of both parties, away from the more traditional attritional types of contract. By positively and actively managing contracts, not only will co-operation improve but also continuous improvement and quality should be fostered.

TABLE OF CONTENTS

	Page
Partnering as a Contracting Activity	1
Partnering Process – A Summary	2
The Partnering Process	3
Stage 1 – Planning	3
Stage 2 – Tendering	3
Stage 3 – Partnering Workshops	3
Stage 4 – The Contract	4
Continuous Improvement	4
Contract Renewal	4
Principles of Partnering	5
Partnering Tips	6
Assistance and Further Information	7
Appendix A – 10 basic questions about partnerships answered	8 - 10
Appendix B – Partnering Charter	11

INFORMATION HELPLINE

Departments considering partnering for the first time or requiring support, assistance or advice should contact the Procurement Unit.

Mr Stuart Davies, Head of Strategic Procurement
Flintshire County Council, County Hall, Mold, Flintshire CH7 6NB

Tel: 01352 701816

Email: stuart.davies@flintshire.gov.uk

Partnering as a Contracting Activity

With the increasing focus on competitive purchasing practices in the public sector, contracting is becoming increasingly sophisticated and aimed at generating maximum benefits for local authorities.

Partnering is one of the more advanced contract management techniques which embraces joint management, process measurement and improvement tools to achieve enhanced contract performance and improved customer service.

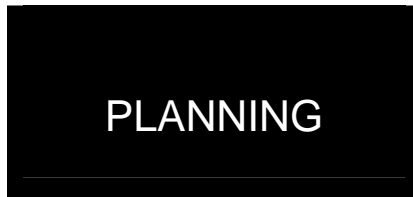
Advanced models of partnering include strategic alliances and facilities management arrangements; both long-term supply relationships and strategic importance to customer service delivery.

In partnering arrangements, suppliers and contractors are selected using a multi-criteria selection process based on functional and performance based specifications. Partners are also selected on reputation, their known ability to control and improve business processes, their understanding of the vision, mission, values and objectives of the public authority and for their ability to become part of a team. In these contracts innovative payment arrangements can reflect an understanding of value for money and total cost.

Partnering is more likely to be appropriate for large complex projects or where service delivery suits an open, joint management arrangement. Therefore it is not suitable in all situations. Partnering should be adopted in situations where strategic gains in cost and quality can be delivered and where service requirements are complicated or continuously developing.

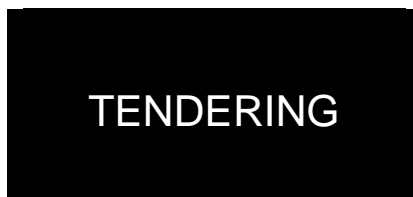
Partnering strengthens relationships with contractors and suppliers, and is arranged through normal contracting processes in accordance with established procurement procedures. Active contract management techniques are employed to ensure the contract requirements are delivered. The contract should be re-tendered periodically to ensure open competition and best value for money.

CONTRACT PLANNING



- Identify customer needs
- Assess risks and issues
- Consider partnering and remuneration options
- Consider procurement plan/strategy

CONTRACT INFORMATION



- Establish selection criteria
- Issue public tender inviting partnering proposals
- Evaluate proposals and remuneration models



- Set common objectives
- Develop issue resolution process
- Establish joint management structure
- Establish action plans

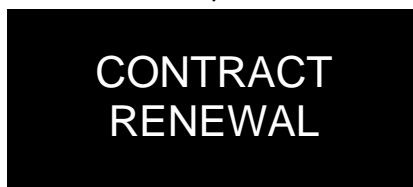
CONTRACT MANAGEMENT



- Include deliverables/outputs
- Develop performance criteria
- Incorporate performance measures
- Prepare contract management plan



- Monitor performance
- Measure customer satisfaction
- Active contract management



- Evaluate contract
- Re-tender to ensure open competition
- Re-award contract

The Partnering Process

Stage 1 - Planning

Partnering should be considered as one of the options available for contracts that are critical, strategically important or require an innovative approach.

Preparing a procurement plan is particularly important for strategic, innovative or complex projects or where the contract value is likely to exceed £1 million. This plan should provide a checklist of key issues.

Public authorities need to clearly define customer needs (which of course are dynamic) and this information should be incorporated into the tender specification and used throughout the lifecycle of the contract, and particularly to monitor the contractor's performance.

Consideration should also be given to intellectual property ownership, payment mechanisms and associated incentives, which will form an important element of the partnering arrangement.

In establishing a partnering contract the risks and human resources issues, such as employment status and possible union development, should be considered. The financial and legal responsibilities of all parties should also be identified at the planning stage and a contract management plan should be developed.

Stage 2 - Tendering

The partnering selection process follows normal public tendering guidelines and results in a formal contract.

As part of the tendering process, an appropriately skilled selection team should be used to develop performance based selection criteria (which may include the extent to which risk is proposed to be shared) to be used during evaluation. Partnering proposals and remuneration models should then be evaluated against the predetermined selection criteria and contracting objectives.

The selection team should conduct a due diligence process to ensure the recommended tenderer has the capacity, including financial viability, to fulfil the contractual obligations.

Stage 3 - Partnership Workshops

The purpose of the partnering workshop is to establish a sense of joint mission and set common objectives and guidelines for the further development of the relationship.

Issue resolution processes, joint management structures and action plans are developed during partnering workshops.

It is important that the people who have the greatest influence in making the relationship work, not just senior management, attend the workshops.

Senior managers should attend if they play an active role in work processes, or if their presence is considered necessary to demonstrate commitment.

Stage 4 - The Contract

Partnering relationships are commercial contracts that require performance measures. Rigorous contract management and performance reviews are required to ensure contract obligations are delivered. Detailed guidelines on contract management are available from the Procurement Unit.

Most partnering relationships are also outlined in a non-binding Partnering Charter (refer to Appendix B) which formally details the mission and objectives of the partners and demonstrates the commitment of the key people involved.

Continuous Improvement

Continuous improvement in partnering involves a team approach to determine whether work processes are meeting the needs of customers, and where necessary, to improve them.

Performance measures are established and regularly monitored, and combined with customer satisfaction measures, provide valuable data for continuous improvement.

Joint process improvement teams should be established to investigate problems or pursue improvement opportunities.

These teams should be trained in the partnering philosophy, team development, conflict resolution, the improvement cycle, and quality improvement techniques.

Contract Renewal

The rules of transparent and fair competition, accountability and probity must also be observed in the renewal of partnering contracts.

When a formal partnering contract expires it should be evaluated against the contract objectives and then publicly tendered again to ensure open competition.

This tendering process will encourage competitive tenders and allow innovative offers to be received. This will result in the best value for money solution when the contract is re-awarded.

Principles of Partnering

Partnering relationships should be established according to the following principles and everybody involved in the partnering arrangement needs to understand and accept these principles.

Commitment

Partnering requires considerable effort, innovation and patience. Open book accounting would be fundamental to this commitment.

Common Objectives

Partners must identify, understand and support each other's objectives. Partners work together to translate their individual objectives into common objectives, and strive to achieve the same goals.

Open and Honest Communication and Trust

Partnering establishes principles and systems for the timely and accurate exchange of information to develop trust and efficient management. Business relationships could suffer through the guarding of information and poor responsiveness.

Ethical Behaviour

High ethical standards are fundamental to partnering and the conduct of all parties must be totally transparent and ultimately accountable.

Teamwork

A team approach (and there is no reason why end users cannot be represented on the team) is essential in partnering and lays the foundations for continuous improvement. Teamwork builds trust and keeps the relationship successful. It is also a good means of resolving problems.

Partnering is about value for money, exploring new ideas and sharing risk and reward.

Partnering Tips

The introduction of partnering into a public authority should be carefully planned, with the following issues considered:

- Partnering works best within an environment that understands quality management, customer focus, process improvement, participative leadership, and team practices.
- Partnering should be endorsed as corporate policy.
- Partnering should be phased in slowly to allow a cultural transition to take place.

Successful partnering arrangements have considered the following:

Education

Partnering requires a new way of thinking within a public authority. As suppliers and contractors should be seen as an extension of the public authority and treated as members of the team, informing and educating those involved is critical.

Personalities

The key personnel involved in partnering are critical to the success of the relationship. The relationships need to be developed; changes to these personnel can impact on the effectiveness of the arrangement and need to be managed.

Resolution Procedures

It is essential that partnering arrangements include effective and clearly defined conflict resolution procedures that work.

Positive Outcomes

Effective partnering is built on a continuing recognition that the arrangement results in positive outcomes for all parties.

Customers

Do not lose sight of the fact that we provide services for our customers. A suitable mechanism needs to be put into place:

- To achieve services from their perspective
- To take account of their views
- To involve them as appropriate in service development proposals
- To show them that we care

Assistance and Further Information

Partnering is best practice in contracting. New concepts and models are constantly evolving as better ways of meeting customers' needs and expectations are explored.

Partnering is at the leading edge in contracting in the public sector and the Procurement Unit will work with departments to act as centres of excellence in partnering.

10 BASIC QUESTIONS ABOUT PARTNERSHIPS ANSWERED

1. What is partnership?

The legal definition of a partnership is that of two or more parties coming together, usually (but not always) to exploit a commercial opportunity. Partnerships can be project based, time based or open-ended. One of the important elements to a partnership is that the partners share both the benefits and the risks in equal measure.

2. Why partner?

The Welsh Assembly Government is keen for local authorities to explore new ways of working, and part of that agenda is to try to get away from the adversarial nature of some contracts, particularly those created during the CCT era. There is no doubt that some of the Council's contracts have been, and possibly still are, adversarial in nature. Partnerships in the private sector are seen as good examples of a way of working to which local government should aspire. However there are benefits to the private sector in working in partnership that do not necessarily translate through into the public sector. In the private sector, partnerships are used to aid supply chain management, in other words each partner adds value, shares the risks (and reduces costs) throughout the supply chain. Local authorities are by and large consumers of goods and services rather than part of the supply process.

Partnerships can produce economies of scale, encourage greater capital investment, capture specialist skills and knowledge and produce better operational management.

3. Are they likely to affect me?

Under the Best Value regime you should always be trying to think of other means of provision that is an improvement on the existing, and potential partnerships should be considered. Partnerships in the true sense of the definition are unlikely to be significant in number, however the potential for altering the way we work and our attitude to contractors as outlined in this paper are likely to have a far more significant impact.

4. Don't the current rules prevent partnership arrangements?

It is quite possible to enter into partnership arrangements by utilising the current Contract Procedure Rules.

5. This document talks about partnerships and continuing competition: Aren't the two opposites?

No. Whilst partnership contracts will probably be for longer periods than more conventional contracts, they will not be infinite. Renewed competition from time to

time has the benefit of testing value for money, as well as preventing complacency and too cosy a relationship developing.

6. How do I get started?

You should above all have a vision for the service concerned, and this could be informed by the outcome of the fundamental performance review. A market analysis is the usual starting point (indeed the market players will almost certainly want to know whether there is to be an in-house competitor). A combination of any or all of the following would be classed as a market analysis:

- An advertisement in appropriate trade journals could invite proposals (this may also have the effect of stimulating a market where currently it is weak);
- Questionnaires could be sent to selected suppliers to ask how they could add value through partnership arrangements;
- Other local authorities (UK and world-wide) could be asked for their approach;
- Compile a 'scrapbook' of successful partnership arrangements/suppliers.

Even handedness is important, and you should be careful that any subsequent specification does not reflect one supplier's product.

At this stage no decision has been made to procure therefore the public procurement rules do not yet apply. But once you have made that decision you **must** follow the rules as set out in Contract Procedure Rules and the EU's Public Procurement Rules.

7. Is there anything wrong with talking to the private sector?

Best Value fundamental performance reviews will in any event require you to talk to and learn from the private sector. These discussions may help form a view that a partnership may be beneficial to the delivery of a particular service. You should however be even handed in your approach and document all discussions.

The private sector is aware of the Welsh Assembly Government's initiatives on partnerships and you may well have already received approaches. There is some truth in the suggestion that some private sector companies see partnerships as a means of obtaining work without the rigours of competition. This is not the case.

8. Is there such a thing as a free lunch?

No. It is extremely unlikely that you will be approached through purely altruistic motives and you should bear that in mind at all times. Free consultancy, free equipment may be offered to the Council. Whilst these need not be rejected out of hand, you should ask yourself whether to proceed would affect your long term strategy or lock you into some arrangement from which you could not extract yourself, or at a cost. For example the offer of free software may limit or close off future choices. The receipt of anything free may induce a false feeling of loyalty and influence future decisions or strategies.

The personal receipt of any such offers is of course covered by the Codes of Conduct and Financial Regulations.

If the private sector approaches you, you must carefully weigh the proposal against your overall strategy. If further consideration of the proposal would benefit that strategy, then do so. You should always warn any person making an approach that if the Council was to proceed then it would more than likely result in a procurement exercise. Thus they should not reveal anything which later may be interpreted as a breach of confidence (or indeed copyright). Even handedness is important and it is always wise to document what has happened. If you are concerned that your position is becoming compromised you should discuss the issue with your line manager.

9. How will partnering differ from traditional contracts?

The whole truth of this paper is that partnering requires a change of culture away from more traditional (or additional) attitudes. In additional partnerships may well embrace issues like Open Book Accounting, Continuous Improvement, Price Benchmarking and Annual Performance Reviews (service and product reviews; customer satisfaction; etc).

10. What if I choose the wrong partner?

A rigorous procurement process should enable you, with clear evaluation criteria to select a suitable partner. There may be occasions when the partnership does not work out or the costs far outweigh the benefits. Whilst mechanisms can be built into contracts, that will now always be possible especially where contractors will need significant periods of recover outlay. There is help at hand and you should use it. See contact points on page 1.

PARTNERING CHARTER

Most partnering relationships are outlined in non-binding partnering charter document. The purpose of the charter is to detail the mission and objectives of the arrangement and to demonstrate the commitment of the key people involved. The following is a typical example of a partnering charter.

PARTNERING CHARTER

Our mission

To complete the project on time, within budget, to specified standards and to the satisfaction of all key stakeholders

Common Objectives

- Complete on time
- Complete on or below budget
- Fair return to the Contractors
- No adverse effects on the environment or to public amenities
- Enhance reputations
- Customer satisfaction
- Work together in the future
- No disputes
- Safe constructions
- Good working relationships
- Minimal disruption

Supported By

Notes: The 'Partnering Charter' will be different for every partnership arrangement. The above Charter, taken from a construction project partnership, is one example only.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 9

REPORT TO: CONSTITUTION COMMITTEE

DATE : 15 OCTOBER 2008

REPORT BY: COUNTY LEGAL AND DEMOCRATIC SERVICES OFFICER

SUBJECT : CODE OF CORPORATE GOVERNANCE

1.00 PURPOSE OF REPORT

1.01 To consider the revised Code of Corporate Governance and recommend its approval by the County Council.

2.00 BACKGROUND

2.01 The Council adopted its first Code of Corporate Governance in October 2007 and in accordance with CIPFA guidance, undertook a self-assessment of its corporate governance arrangements in late 2007. The self-assessment was subsequently reported to the Constitution Committee for approval.

2.02 As part of the Council's governance arrangements, Internal Audit subsequently audited the Council's corporate governance arrangements and made recommendations in a number of areas.

2.03 New guidance has now been issued which has resulted in a need for the Code to be redesigned and refocused upon six new core principles. As the Code was being redesigned, the opportunity has been taken to include reference to matters referred to in the Internal Audit report.

3.00 CONSIDERATIONS

3.01 The new Code has been circulated to Officers who participated in the Working Group that prepared the original Code and considered by the Council's Corporate Management Team. All their comments have been incorporated.

3.02 It is now necessary for the Constitution Committee to consider the new Code and, if approved, recommend its adoption by the County Council.

4.00 RECOMMENDATIONS

4.01 That the redesigned Code of Corporate Governance be considered and recommended to County Council for adoption.

5.00 FINANCIAL IMPLICATIONS

5.01 None

6.00 ANTI POVERTY IMPACT

6.01 None

7.00 ENVIRONMENTAL IMPACT

7.01 None

8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 Representatives of the Code of Corporate Governance Working Group and Corporate Management Team.

11.00 CONSULTATION UNDERTAKEN

11.01 Representatives of the Code of Corporate Governance Working Group and Corporate Management Team.

12.00 APPENDICES

12.01 Appendix 1 - Code of Corporate Governance

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

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Contact Officer: Barry Davies
Telephone: 01352 702344
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Introduction

Corporate Governance is the system by which local authorities direct and control their functions and relate to their communities. It is founded on the basic principles of openness and inclusivity, integrity and accountability together with the overarching concept of leadership. It is an inter-related system that brings together the underlying set of legislative requirements, governance principles and management processes.

Flintshire County Council recognises the need for sound corporate governance arrangements and over the years Members and senior Officers have put in place policies, systems and procedures designed to achieve this and the stewardship of the resources at their disposal. However, until recently these arrangements have tended to develop in an ad-hoc and uncoordinated manner. In adopting a Code in October 2007 the Council drew together all those elements of corporate governance which were already in place.

When the Code was adopted by the Council it was recognised that the first review of the Code would need to take into account certain modifications set out in proposed new guidance which was at that time in draft format. That new guidance has now been formalised and additional guidance received on governance issues. The new guidance documents issued are as follows:-

- Delivering Good Governance in Local Government: Framework – CIPFA/SOLACE
- Delivering Good Governance in Local Government – Guidance Notes for Welsh Authorities – CIPFA/SOLACE
- The Annual Governance Statement – A Rough Guide for Practitioners issued by the CIPFA Finance Advisory Network

This new Code recognises the greater emphasis placed upon corporate governance by the Welsh Assembly Government and the contents of the new guidance documents. The Council's Corporate Governance arrangements were reviewed during early 2008 by way of a self-assessment undertaken in accordance with the new guidance. The self-assessment was undertaken by senior officers of the Council and approved by the Council's Constitution Forum following consultation with the Council's Corporate Management Team. The Self-assessment Review has been subsequently audited by the Council's Internal Audit Department and the recommendations in the Audit Report together with the outcomes of the Self-assessment Review have been taken into account in compiling the new Code.

The Code forms part of the Constitution and will apply to all aspects of the Council's business. Members and staff of the Council will, in carrying out its business, conduct themselves in accordance with the high standards expected by the citizens of Flintshire and to the aspirations set out below.

The Code is based upon and reflects the various requirements that underpin the six core principles contained in the document entitled "Delivering Good Governance in Local Government: Framework". Those six core principles are:-

- Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area.
- Members and Officers working together to achieve a common purpose with clearly defined functions and roles.
- Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour.
- Taking informed and transparent decisions which are subject to effective scrutiny and managing risk.
- Developing capacity and capability of Members and Officers to be effective.
- Engaging with local people and other stakeholders to ensure robust public accountability.

Many of the requirements that underpin the six core principles are inter-related and the various sections of the Code need to be read together to obtain a full understanding of the arrangements in place. The Code specially identifies the actions to be taken for each of the six core interlocking principles governing our business.

The Executive in consultation with the Constitution Committee are responsible for approving this Code and the Chief Executive and Monitoring Officer are responsible for ensuring that it is kept up to date by way of annual reviews commencing in October each year.

The Monitoring Officer and Section 151 Officer will arrange for the Council's Corporate Governance arrangements to be audited independently by Internal Audit following each annual review of the Code. The results of the review will be included in the Internal Audit Manager's Annual Report and form part of the overall assurance on internal control incorporated in the Annual Governance Statement signed by the Leader, Chief Executive and Section 151 Officer.

1. Focusing on the purpose of the Authority and on outcomes for the community and creating and implementing a vision for the local area

1.1 The County Council is committed through the carrying out of its general and specific duties and responsibilities and its ability to exert wider influence, to:-

- Work for and with its communities.
- Exercise leadership in its communities, where this is appropriate.
- Undertake an “ambassadorial” role to promote the well-being of Flintshire where appropriate.
- Engaging and working in partnership with other organisations and authorities for the benefit of its communities.

1.2 The Council will maintain effective arrangements:

- For explicit accountability to stakeholders for the Authority’s performance and its effectiveness in the delivery of services and the sustainable use of resources.
- To demonstrate integrity and openness in the Authority’s dealings with partnerships established with other public agencies and the private/voluntary sectors.
- To demonstrate inclusivity by communicating and engaging with all sections of the community to encourage active participation.
- To develop and articulate a clear and up to date vision as part of the four yearly review of the Community Strategy and through the developing arrangements for a local service board.
- Ensure that the partnership arrangements below the community strategy are supported by a common vision.

1.3 An audited and signed Statement of Accounts is published on an annual basis containing:

- A statement of responsibilities for the Statement of Accounts.

- A statement of compliance with Statements of Recommended Practice (SORP's) and the Chartered Institute of Public Finance and Accountancy (CIPFA) general accounting principles.
 - A statement of accounting policies.
- 1.4 An Annual Governance Statement is currently in draft for 2007/08, it will be presented to Audit Committee and Council for approval during late September. Once approved the Statement will be signed by the Leader of the Council, Chief Executive and County Finance Officer. Statements are published annually explaining how the Council has complied with the Code and met the requirements of the Accounts and Audit (Wales) Regulations 2005.
- 1.5 The Council Plan was adopted on the 27 June, 2006 and reviewed in early 2007. A further but more fundamental review was commenced prior to the local elections in May 2008 and a draft Council Plan 2008/2012 produced based upon how the Council is governed and resourced and identifying the Council's strategic risks and challenges following the Strategic Risk Assessment undertaken for 2007/08. The Council Plan is closely influenced by the Flintshire wide Community Strategy and significantly influences Directorate Plans and Service Plans.
- 1.6 The County Council's financial and operational reporting processes are independently examined by:
- The Audit Wales Office whose annual audit letter is presented to the Audit Committee and their unqualified audit certificate is included in the 2006/07 Statement of Accounts.
 - Our own independent Internal Audit who report regularly to the Audit Committee including an annual report.
 - Other external review agencies such as ESTYN and the Social Services Inspectorate (SSI).
- 1.7 The Council's Overview and Scrutiny Committees have a significant input into the review and development of service delivery issues. This role includes the examination of performance out turn and budget monitoring which together with the Audit Plan and the monitoring of audit recommendations assist in assessing success and failure. These are some of the checks and balances which have been put in place. External regulations add to the process through the publication of reports on service and performance.

- 1.8 Other ways in which the Council measures and monitors the quality of its services includes:-
- The development of quality assurance models.
 - A more focused approach to audit and inspections.
 - Customer Satisfaction Surveys.
 - The CIPFA Benchmarking Club.
 - Reports on performance indicators to Overview & Scrutiny Committees and the Executive.
 - The Statement on Internal Control set out in the Annual Governance Statement.
- 1.9 The Council strives to ensure continuous improvement in the delivery of its services through performance measurement of and management, establishing service quality standards, creating clear lines of accountability and undertaking customer satisfaction surveys. The Council has introduced a new procedure for dealing with Compliments, Comments and Complaints which enables complaints to be recorded on a central database and monitored corporately and within each directorate.
- 1.10 A central register of contracts and lists of defaults is being developed to assist in contract monitoring and review. In some areas the Council has put in place arrangements and backup capacity to respond to service or market failure.
- 1.11 A number of methods are employed to demonstrate value for money. The Annual Improvement Plan provides detailed information of the Council's plans and aims, performance and general progress towards improving the level of efficiency and effectiveness. An annual budget setting process is in place and all directorates have monthly meetings to review their budgets. The Terms of Reference of the Council's Overview & Scrutiny Committees enable them to review, scrutinise, question and make recommendations in relation to their areas of activity including policy, finance, risk and governance.
- 1.12 The Council's Regulatory Plan produced by the Wales Audit Office and the Annual Audit Letter also review the Council's performance and value for money arrangements.
- 1.13 The environmental impact of the Council's policies, plans and strategies are identified on all committee reports. In addition, the Flintshire Integrated Tool provides an overview of the environmental, social and economic impacts during the development process of all new strategies, plans and policies as deemed as appropriate.

1.14 The Council has adopted the principle that in the conduct of public business and the administration of justice in Wales it will treat the Welsh and English languages on a basis of equality. The Council's Welsh Language Scheme sets out how the Council will give effect to that principle when providing services to the public in Wales, and in the conduct of its internal business.

1.15 The Council has made a public commitment to monitor and review the implementation of its Welsh Language Scheme and to report annually to the Council's Executive and to the Welsh Language Board on its performance. The Annual Report covering the period 1 April, 2007 to 31 March, 2008 has been considered by the Executive and Overview and Scrutiny.

2. Members and Officers working together to achieve a common purpose with clearly defined functions and roles

2.1 The Council recognises the need to have effective political and management structures and processes to govern decision-making and the exercise of authority within the organisation. It has therefore established a number of arrangements to secure this.

2.2 The Council's Constitution includes the names and a description of the portfolios held by the Leader and other Members of the Executive. Their respective roles have been agreed and documented. Role descriptions have also been agreed for all chairmen and vice-chairmen of Overview and Scrutiny Committees, regulatory committees and Members of Overview and Scrutiny Committees and similarly documented.

2.3 Job descriptions are in place for all Senior Officers of the Council and will be reviewed as part of the Council's restructuring programme.

2.4 The Constitution includes a Delegation Scheme which identifies those decisions reserved to the County Council and local choice issues which can be decided by either the County Council or the Executive at the Council's discretion. Local choice issues are reviewed at the Council's Annual Meeting. The Delegation Scheme identifies those general and specific delegated powers given to Chief Officers, Heads of Service and other Senior Officers and is subject to frequent review. This Scheme will be further reviewed as part of the ongoing restructure of the senior management of the Council.

2.5 The Council has appointed a Chief Executive as Head of the Paid Service and responsible for all aspects of operational management. The County Finance Officer is responsible for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts and for maintaining an effectual system of internal financial control fulfilling the Council's requirements under Section 151 of the Local Government Act 1972 and Section 114 of the

Local Government Finance Act 1988. The County Legal and Democratic Services Officer has been designated as the statutory Monitoring Officer and is accountable for the statutory requirements of that role under Section 5 and 5(a) of the Local Government and Housing Act 1989. The three Statutory Officers consult each other as required by their statutory roles and meet regularly to consider the work of the Executive.

- 2.6 The Council has put in place a number of mechanisms to ensure effective communication between Members and Officers in their respective roles. A Protocol on Member/Officer Relations provides guidance for Members and Officers covering the more common situations that tend to arise. The Protocol encourages the establishment of sound and effective working relations for engendering mutual respect and the observance of the highest standards of behaviour and courtesy towards each other. It gives advice to Officers on the information that Members are entitled to expect, for the purposes of undertaking their various roles. It includes a section relating to communications and emphasises the need to maintain confidentiality where such an expectation exists. It also recognises the need of Members to be apprised of local issues affecting their Ward including public meetings and consultation exercises.
- 2.7 Briefing sessions are provided to Chairs and Vice-chairs of Committees in advance of committee meetings and wider briefings are organised from time to time with Group Leaders, members of the Executive and Ward Members in relation to specific issues.
- 2.8 There is an annual review of Members' allowances including the allocation of Special Responsibility Allowances at the Annual Meeting and further reviews during the course of the year where appropriate. The Members' Allowance Scheme is set out in the Constitution.
- 2.9 The terms and conditions or the remuneration of Officers are negotiated nationally. However a job evaluation exercise covering former manual and former administrative, professional, technical and clerical staff is underway pursuant to a single status agreement. The project is central to the development of an equality proofed pay structure and is reaching its final stage. A proposal for completing the exercise will be submitted to the County Council later in the year. A review of second tier Officer terms and conditions is also underway. It will be undertaken through a Hay job design and evaluation exercise based upon the development of behavioural competencies.
- 2.10 The Chief Executive leads the management of the Council through its Corporate Management Team which through the review of the Council Plan, Directorate and Service Plans, is responsible for communicating the Council's shared values with the community and the Council's partners. It communicates these through:-
 - o Partnership working

- Reports to the Council and its committees and the Executive
- Meetings with the Flintshire Joint Trades Union Council
- Meeting of the Joint Consultative Committees
- Flintshire Focus
- Team Talk and Team Brief
- Staff appraisal process
- Senior Management Team and other team meetings

2.11 Following the Annual Meeting of the Council, Members from all political groups were nominated to undertake roles on various outside bodies and guidance will be produced during the year to assist Members in carrying out those roles and responsibilities. Guidance has already been produced in relation to Members who have been nominated by the Council as company directors. Whenever a new partnership is created, care is taken to ensure that its legal status is clear, that it has appropriate terms of reference and that representatives are aware of the extent to which they can bind the Council.

3. Promoting values for the Authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

3.1 The County Council recognises that the openness, integrity and accountability of individuals within a local authority form the cornerstone of effective corporate governance. Also the Council's reputation depends on the standards of behaviour of everyone in it, whether Members, employees or agents contracted to it.

3.2 Members and Senior Officers are therefore expected to maintain shared values and exercise leadership by conducting themselves as role models within the County Council to follow. As a result:-

- Following the local elections in May 2008 the Council has adopted a new Code of Conduct governing the behaviour of all Members and co-opted Members of the County Council. This Code requires all Members to declare personal (and prejudicial where appropriate) interests in any matters which come before them for consideration. Where the interest is prejudicial Members must withdraw from the room where the discussion is taking place unless they have received a dispensation from the Standards Committee. Interests must be declared in all meetings including informal meetings with Officers and in correspondence.
- The Code applies to Members in their dealings with other organisations to which they have been nominated except where that organisation has its own separate code when that code will apply.

- A supplementary Code has been adopted to deal specifically with planning matters.
 - We have also established a Standards Committee including three independent members, one of whom is the Chairman of the Committee, with the responsibility for monitoring the operation of the Members' Code and providing training and guidelines on it to all Councillors.
 - Officers are subject to a Code of Conduct which includes a wide range of standards of behaviour required of them. These standards include requirements to perform their duties diligently, to respect the dignity and rights of the public, customers and other employees at all times; and to serve the public courteously, efficiently and impartially. There are other requirements relating to the use of Council resources, gifts and hospitalities, outside commitments, conflicts of interest, confidentiality, political neutrality, relationships with Members and general conduct.
- 3.3 The Leader and Executive have set up a number of advisory boards to assist in the development of policy and the development of services.
- 3.4 The County Council has in place a timetable of meetings which seeks to ensure that the roles described above can be exercised effectively. The full County Council is scheduled to meet every 10 weeks, special meetings also take place when they are required, Executive meets every three weeks and each of the six Overview and Scrutiny Committees meet regularly several times a year. A total of 76 Overview and Scrutiny Committee meetings and 8 other meetings organised for Overview and Scrutiny Members were held in 2007/08.
- 3.5 The County Council has adopted an Anti-Fraud and Corruption Policy. Its key elements are:-
- To promote a culture of honesty and opposition to fraud and corruption within the Council.
 - To provide arrangements whereby concerns can be raised with senior Officers on a confidential basis.
 - To ensure arrangements are in place for the prevention of fraud and corruption within the Council, including internal control mechanisms and effective recruitment procedures.
 - To set up basic principles to apply where instances of fraud are detected, including the involvement of the Police and the taking of disciplinary measures.
 - To remind staff to be alert to possible causes of fraud and corruption.

- 3.6 Processes are also in place to ensure the continued operation of arrangements for ensuring that Members and employees are not influenced by prejudice, bias and conflicts of interest. In particular:-
- Members receive advice on a regular basis from the Standards Committee on the application of the Members' Code of Conduct.
 - A Code of Planning Practice has been adopted.
 - A Protocol has been agreed and published giving guidance to Members on dealings with Developers and Contractors.
 - A new Members' Register of Interests has been compiled following the local elections in May 2008.
 - There is a formal opportunity for Members at the beginning of all meetings to declare interests.
 - Officers are required to register any interests, gifts and hospitality on registers kept by their Heads of Service. Members of the Corporate Management Team and Heads of Service should inform the Monitoring Officer of any interests, gifts and hospitality which will be kept on a central register.
- 3.7 The requirements and terms of the various codes and policies are drawn to the attention of those who need to know about them in a variety of forms:-
- Through formal Member training, in the case of the Members' Code of Conduct.
 - Through publicity of the Officers Code of Conduct, Whistle Blowing Policy and Anti-Fraud and Corruption Policy and the County Council's intranet site.
 - Through the County Council's staff induction programme.
- 3.8 In addition to the Codes of Conduct and Protocols referred to above, the Council seeks to maintain high standards in the conduct of its business and avoid prejudice, bias and conflicts of interest through:-
- The adoption and publication of an Equal Opportunities and Diversity Policy and the provision of training.
 - The adoption of a Race Equality Scheme through the Codes of Conduct, Protocols referred to earlier.
 - Through the adoption and monitoring of the Council's Welsh Language Strategy and Policy.

- 3.9 The Council intends to undertake a strategic review of the range, role and purpose of its partnering arrangements during 2008/09 to determine the strategic relevance of those partnership arrangements and be assured of accountability and governance arrangements within them.

4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

- 4.1 The Council has also adopted a Constitution which:-

- Clearly defines those functions which are reserved to the full Council for decision, those decisions which will be taken by the Executive or its individual members, and those which are delegated to senior Officers. In this respect, the basic principle on which these rules are established is that the full Council sets the strategic direction through the adoption of policies and the budget, the Executive takes major decisions within the overall policy and budget framework and helps to develop new policies and Officers take the day to day decisions within the policy and budget framework.
- Established through the six Overview and Scrutiny Committees and the Co-ordinating Committee a robust overview and scrutiny role. These bodies have between them powers to review and scrutinise decisions relating to any of the Council's activities, including considering policy issues referred to them by the Council or the Executive.
- Sets out clearly the role of the Leader and Executive and in particular makes it clear that they are responsible for providing effective strategic leadership to the Council and for ensuring that the Council successfully discharges its overall responsibilities for the activities of the organisation as a whole.
- Ensures through Financial Procedure Rules and the Scheme of Delegated Powers that there is effective control over the day to day conduct of the Council's business by requiring Member approval for non-routine decisions or decisions outside defined parameters.
- Makes clear the role of all Councillors both in their formal decision making/ policy development role and as local members and ensures through the Members' Allowance Scheme that they are properly remunerated for this work.

- 4.2 The Constitution sets out the responsibilities and procedures for decision making. Decisions which can be taken by the Executive, Overview and Scrutiny and other committees and full Council are clarified in Part 3 of the Constitution. The fundamental principles to be applied to in all decision making are as follows:

- Proportionality (ie. the action must be proportionate to the desired outcome).
 - Due consultation and the taking of professional advice from Officers.
 - Respect for human rights.
 - A presumption in favour of openness.
 - Clarity of aims and desired outcomes.
 - Consideration of alternative options.
 - Recording reasons for the decision, including details of any alternative options considered and rejected.
 - In addition the Council's policies and protocols set out the processes that must be followed in decision making eg. Disciplinary and Grievance Policy, Licensing and Planning Applications Appeals, Legal advisors are available to advise during meetings.
- 4.3 The Constitution sets out how the Council operates, how decisions are made and the procedures followed to ensure that these are efficient, transparent and accountable to local people. The Constitution is divided into 19 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in rules and protocols at the end of the Constitution.
- 4.4 The decision making process is clearly explained on the Council's web site.
- 4.5 The Constitution contains comprehensive Contract and Financial Rules governing the process to be adopted in conducting the Council's business; these are further supported by more detailed local codes, protocols and notes of guidance.
- 4.6 The Constitution sets out clear protocols and codes of conduct to ensure that the implications of supporting community political leadership for the whole Council are acknowledged and resolved, including:
- Members' Code of Conduct
 - Standards Procedures
 - Pre-election Protocol
 - Code of Conduct on Planning Matters
 - Protocol for Overview and Scrutiny Committees
 - Attendance of Members and Officers at Overview and Scrutiny Committee meetings

- Dealing with minority reports within Overview and Scrutiny
- Executive Members attending meetings of Overview and Scrutiny Committees
- Members placing items on an agenda of an Overview and Scrutiny Committee
- IT Codes of Practice
- Local Member/Officer Protocol

4.7 In addition, the Employee Induction Handbook contains policy statements and guidance on:-

- Equalities
- Harassment
- Speaking up about wrongdoing (Whistle Blowing)
- Violence at Work
- Health and Safety at Work
- IT Code of Practice

4.8 The Council has an Audit Committee consisting of 7 Members, politically balanced with a Chairman and Vice-Chairman from the main opposition group. It meets on a regular basis and is advised by the Council's Internal Audit Manager, and is normally attended by representatives of the Council's external auditors. All Members receive training and it is a requirement that only named and trained substitutes are allowed.

4.9 The Audit Committee is further supported in the discharge of its functions by:-

- Having appropriate arrangements in place for delivery of an adequate and effective Internal Audit function and ensuring adequate reporting arrangements to safeguard its independence.
- An up to date risk based Internal Audit Plan.
- Systematic Risk Assessments in all areas of the Council's activities.
- Clear Terms of Reference.
- External Auditors who annually consider the Council's approach to legality, its response to major legislation and any matter of legality relevant to the Audit of financial transactions and the outcome is considered by the Audit Committee.
- Appropriate training for Members of the Audit Committee.

4.10 Ongoing Institute of Risk Management training courses are arranged for Members and Officers that are directly involved within the Risk Management structure. In addition Risk Management training is being developed for managers at all levels, to include Ffynnon (software) training. Other ways in which Risk Management has been bedded into the culture of the Authority include:-

- identification of risk during service planning.
- the annual joint risk assessment process.

- the consideration of identified risk in the review of the Council Plan.
 - redefining the respective responsibilities of the Executive, Scrutiny and the Audit Committee.
- 4.11 A new Whistle Blowing Policy was adopted in 2007 following a review by Bentley Jennison, the company that manages the Council's Internal Audit function. All members of staff have access to the policy which aims to:-
- Encourage staff, contractors and suppliers and partners to feel confident in raising serious concerns and to question and act upon concerns.
 - Provide avenues for people to raise those concerns and receive feedback on any action taken.
 - Ensure that people receive a response to their concerns and that they are aware of how to pursue them if they are not satisfied.
 - Reassure those raising concerns that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have raised any concern in good faith.
- 4.12 The Council actively recognises the limits of lawful activity placed upon them whilst also striving to utilise powers to the full benefit of their communities through:-
- Legal advice in the preparation of Council, Committee and Executive reports.
 - The availability of legal advice at meetings of the Council, the Executive and Statutory Committees.
 - The pro-active work of the Council's Legal Service and its close working relationship with service managers.
 - Professional development and training (including multi-agency training for Children's Services staff in particular).
 - The Council's policies and protocols set out the processes.
- 4.13 The Overview & Scrutiny function has developed as a critical friend, providing constructive challenge in order to contribute to continuous service improvement. This role is discharged both through consultation by the Executive and directors and also through the 'calling in' of Executive decisions by the 6 Overview & Scrutiny Committees. Each of those Committees engages in performance monitoring and management through the consideration of appropriate items such as performance indicators and out turns and risk issues. The work programmes of Overview & Scrutiny are updated and published on a regular basis and there is a dedicated team of Officers to support the function.

- 4.14 Regulatory Committees will take decisions based upon detailed reports with any late information being referred to in the minutes. Overview and Scrutiny Committees when undertaking work requested by Council or the Executive or when undertaking their own investigations will agree reports containing the evidence which was considered to be material.
- 4.15 The Executive and County Council reports will contain all the information, evidence and comments needed to take decisions. The decisions made by Officers under delegated powers will be documented on files or where of a significant nature be incorporated in Delegated Action Forms which will be reported to the Executive for information purposes.
- 4.16 The Monitoring Officer and Deputy Monitoring Officer are available to give advice to Members and staff on conflicts of interest that might arise from time to time. Guidance is also available on the Council's Infonet.
- 4.17 We have a set of customer care standards supported by a complaints procedure supported by a central database system which aims:-
- To make it easy for anyone to make a complaint or a compliment.
 - To solve problems as close to where they occur as possible, and pass back compliments to the right people.
 - To prevent problems happening again and also encourage good practice.
- 4.18 Monitoring of the arrangements set out above is carried out in a number of ways, particularly:-
- Through the Corporate Complaints Officer in the case of compliments, comments and complaints.
 - Through the Standards Committee, in the case of the Members' Code of Conduct.
 - Through the Monitoring Officer, in respect of the Whistle Blowing Policy.
 - By Internal Audit, in the case of the Anti-Fraud and Corruption Strategy.
- 4.19 Members' Services provide a service to Members who seek information concerning ward issues.
- 4.20 The Council has developed a separate complaints handling system for social services matters with three stages. The final stage involves an appeal to an Independent Panel.

4.21 There are statutory appeal processes involving independent panels for school exclusions and admissions.

5. Developing capacity and capability of Members and Officers to be effective

5.1 Generic one day induction sessions are provided for all new employees in groups. Those induction sessions involve modules comprising equalities and diversity awareness, customer care, corporate governance and performance management and appraisal, meetings and procedure rules.

5.2 A Member induction programme was developed prior to the local elections in May 2008 and a large majority of new Members of the Council took part. The Council ensures that both Members and Officers have the skills required to undertake their roles and that those skills are developed on a continuing basis to improve performance through:-

- The development of a new recruitment and selection process for the appointment of Officers.
- Staff appraisal which should identify training and development needs.
- Development and training programmes including those provided by professional organisations for both Members and Officers.
- Induction training.
- The development of management/behavioural competencies.
- A mentoring system for Members.
- Member induction training.
- Specific training for Members including planning and development control, licensing and appeals, audit and risk management.

5.3 The Council benefits from its membership of the Welsh Local Government Association which provides support and assistance over the whole range of Council functions, partnership working, policy development and liaison with the Welsh Assembly Government. CIPFA/SOLACE, ACSES and other professional associations also assist and support statutory and other service officers in performing their roles.

5.4 A People Strategy Framework which aims to ensure that employees deliver services that meet existing and future demands has been developed and there is an Officer in each department responsible for co-ordinating the Plan and monitoring progress in relation to annual staff appraisals and half yearly updates. Further work is required during the year to ensure progress across the Council.

5.5 The Council wishes to encourage individuals from all sections of the community to engage with and contribute to and participate in the work of the Authority and seeks to achieve this aim through:-

- It's Community Strategy and its review through extensive consultation.
- Supporting Communities First programmes to enable people to participate effectively in their own communities.
- The development and implementation of a consultation and engagement framework and guidelines/policy document.
- Undertaking biennial resident surveys.

5.6 The Council ensures that career structures are in place for Members and all staff to encourage participation and development through:-

- development of a Corporate Performance Management framework
- development of a People Strategy
- restructuring of the Council's senior management
- committing to the Member Development Charter
- continuous professional development

6. Engaging with local people and other stakeholders to ensure robust public accountabilities

6.1 The Council will enhance arrangements to demonstrate the levels of accountability in the provision of services through:-

- The Community Strategy
- Clear statements of roles and accountabilities in job descriptions of staff
- Clear statements of the roles of Members in their various offices
- Unambiguous provisions in partnership and service level agreements
- Terms of reference of committees
- Directorate and Service Plans

6.2 The vast majority of reports are considered in public and in the rare cases where this is not the case, the Legal Officer advising the Committee follows a process in which he/she is required to demonstrate that appropriate criteria have been taken into account in considering the public interest test.

6.3 The Council's Overview and Scrutiny Committees produce an annual report which is considered by the Council.

6.4 The Council has established clear channels of communication with all sections of the community and other stakeholders and put in place proper monitoring arrangements to ensure they operate effectively.

- We have many ways of communicating with our citizens and stakeholders and the Corporate Communications Team has developed a Communication Strategy, including:
 - Publications and leaflets
 - Website
 - Flintshire Focus
 - Your Community, Your Council – household newsletter
 - Established links and regular meetings with local interest groups/forums such as Older Peoples Forum, Schools Forum
 - Public Question Time
 - Invitation to members of the public to submit issues they consider should be considered by Overview and Scrutiny Committees
 - The Overview and Scrutiny Team will also be approaching schools, Town and Community Councils and community groups to do a short presentation about what Overview and Scrutiny is and does, commencing in the autumn of 2008.

- Recognising the value of media as a method of communicating information to the public and using news releases, statements and media briefings to do this.

6.5 The Council continues to deliver action set out in the 2006/08 Communication Strategy which sets out the five key areas of internal and external communication for the Council, namely workforce communication, media relations, public information and promotion, consultation and corporate identity.

