

TO: Councillor: Robin Guest (Chairman)

Councillors: 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, Eng. Klaus Armstrong-Braun, 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 22/07/2009

Ask for /
Gofynner am

Direct Dial /
Rhif Union

Fax / Ffacs

Dear Sir / Madam,

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **CLWYD COMMITTEE ROOM, COUNTY HALL, MOLD** on **TUESDAY, 28 JULY 2009** 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 12/03/2009 (copy enclosed).
4. **OVERVIEW & SCRUTINY MEMBER AND OFFICER OPINION SURVEYS**
Report of Head of Legal and Democratic Services enclosed
5. **PROCEDURE TO REDUCE THE RISK OF AWARDS OF COSTS AGAINST THE COUNCIL IN PLANNING APPEALS**
Report of Head of Legal and Democratic Services enclosed

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6. **THIRD PARTY PRESENTATIONS AT PLANNING COMMITTEE AND SITE VISITS**
Report of Head of Legal and Democratic Services enclosed
7. **DELEGATION SCHEME**
Report of Head of Legal and Democratic Services enclosed
8. **BOARDS - HOUSING STRATEGY, HOUSING OPTIONS, LEISURE STRATEGY, STREET SCENE AND SCHOOL MODERNISATION**
Report of Head of Legal and Democratic Services enclosed
9. **REQUEST FOR AN ITEM TO BE CONSIDERED**
Councillor Eng. K. Armstrong-Braun has requested the Committee to discuss the following topic:-
"That all Executive Members can never be a Chair or Vice-chair of a Committee of which its remit is one of which the Executive Member is Executive for the Directorate etc and policy making/decision making.

CONSTITUTION COMMITTEE
12TH MARCH 2009

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on Thursday 12th March 2009.

PRESENT: Councillor R J T Guest (Chairman)

Councillors: Eng K Armstrong-Braun, D Barratt, R C Bithell, QRH Dodd, A Halford, G Hardcastle, M Higham, H D Hutchinson, R P MacFarlane, P R Pemberton, A P Shotton and N R Steele-Mortimer

SUBSTITUTES: Councillors: C Jones for J B Attridge

APOLOGIES: Councillors: C Cattermoul, G D Diskin, P G Heesom, N Phillips, L A Sharps and A Woolley

IN ATTENDANCE:

Chief Executive, Head of Legal and Democratic Services, Assistant Director of Democratic Services and Democratic Services Manager.

17. DECLARATIONS OF INTEREST

None were received.

18. MINUTES

(a) Accuracy

RESOLVED

That the minutes of the meeting held on 15th October 2008 be confirmed as a correct record.

(b) Matters Arising

Minute Number 12 – Submission of Late Reports

Councillor R C Bithell commented that the situation regarding the submission of late reports had improved and commented that in certain reports there were spelling mistakes and asked that a watch be kept on this matter. The Chief Executive commented that the main concern on the issue of late reports had been addressed.

19. REVIEW OF COUNCIL BUSINESS

The Committee considered the report of the Assistant Director (Democratic Services), the purpose of which was to consider the results of the Members survey regarding arrangements for Council business. The Assistant Director (Democratic Services) presented the report and advised on the background to its preparation. A

copy of the report submitted to the Committee on 15th October 2008 was attached as Appendix A to the report. The Committee resolved that at that meeting the report be referred back to the Member Development Working Group.

A further report to the Member Development Working Group on 25th November 2008 was attached as Appendix B, a copy of the draft minutes as Appendix C, a copy of letter sent to Members as Appendix D.

The Assistant Director report that following the letter being sent to Members a Notice of Motion was received and a copy was attached as Appendix E. In response to that Notice of Motion it was agreed that the current arrangements would continue until further consideration by this Committee.

The Assistant Director then expanded on the key points. It was noted that following the Members survey the Member Development Working Group agreed 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 should remain. This was supported by the Committee.

The next issue related to the possibility of reducing the length of time on meetings. It had previously been suggested that by introducing a procedure rule limiting the length of meetings could help Members in managing their diaries. Members also commented on issues of childcare. The Working Group had previously recommended a limit of three hours for a meeting but now felt that the Chairman's existing discretion was sufficient.

The third issue concerned the normal time for start of meetings. The Assistant Director commented that the Members survey showed a large degree of agreement on the starting time for afternoon meetings being at 2 p.m. but less consistency regarding the starting time for morning meetings. The Member Development Group originally suggested that 9.30 a.m. would be appropriate but now reconsidered and felt that a 10.00 a.m. start should be recommended.

The issue of third party representatives for Planning Committee was also explained. The Member Development Working Group felt that Planning Committee and County Council should stand at 10.00 a.m.

In his report the Assistant Director also referred to the cost implications of a system for providing Members with laptop computers, printers etc.

With regard to the time limit on meetings it was proposed and seconded that the existing arrangements remain and that the length of time should be at the Chairman's discretion. A view was expressed that Members may wish to remain in the meeting for a longer period knowing that there would be a given finish time. The Chief Executive suggested it could be regarded more as a guideline rather than a fixed rule. After some discussion Members felt that the existing arrangements should remain with the discretion of the Chairman being paramount and on being put to the vote this was carried.

The Committee then went on to discuss the start times for meetings. Councillor R C Bithell spoke in support of an earlier start and referred to particular instances why he felt an earlier start in the morning would be appropriate. He duly proposed a 9.30 a.m. start for morning meetings and 2.00 p.m. for afternoon meetings but this was not seconded. Councillor K Armstrong-Braun felt that there was a case for evening meetings particularly for Planning and Development Control Committees as this was the meeting which showed most interest for the general public. He referred to the practice of other Authorities which appeared to work well. Councillor N R Steele-Mortimer did not support a 9.30 a.m. start and he referred to the travelling distances some Members had to undertake to arrive at County Hall. Councillor Q R H Dodd also commented that it was necessary to clarify what meetings were to be included and any recommendation would cover, for example, should they include Panels and the like. Councillor N R Steele-Mortimer duly proposed a 10.00 a.m. start for morning meetings this was seconded and on being put to the vote was carried.

Members then went on to discuss the situation regarding afternoon meetings. There was a general feeling that there was a necessity for a reasonable break between the end of morning meeting and the start of an afternoon meeting and that the 2.00 p.m. start should remain. They were also aware of the situation regarding some Members who were in employment and would need to finish at a reasonable time to attend an afternoon meeting and a 2.00 p.m. start was generally beneficial for them.

A considerable discussion ensued on the starting time for the Planning and Development Control Committee. It was agreed that this should be left to the Planning Protocol Working Group which was due to meet in the near future. Members also discussed the start time for Council meetings it was suggested that they should commence at 10.00 a.m. However Members reiterated the point regarding Members in employment, and the need for Group meetings prior to Council meetings and it was agreed that the meetings remain at 2.00 p.m.

In relation to the issue of the distribution of Committee agendas and reports to Members the Working Group recommended that only Members on a specific Committee or other Body would in future be entitled to paper copies of the agendas and reports. Additional paper copies of agendas and reports would be available in Members Services and in group rooms. It was also recommended that those Members entitled to have paper copies of agendas and reports sent to them could choose to receive them electronically instead. Members commented on a number of issues including the wishes of individual Members, the use of modern methods of communication, the financial implications and the environmental impact. It was noted that whatever arrangements were put in place it was important that all Members have access to the agendas and reports that they need to have access to. Members would be further consulted on this issue.

RESOLVED

- (1) That meetings of the County Council commence at 10.00 a.m.

- (2) The formal meetings of Committees with public access scheduled to meet in the mornings commence at 10.00 a.m. and that Panels, Sub-Committees, Working Groups and Hearings have discretion to commence at a different time.
- (3) That formal meetings of Committees scheduled to meet in the afternoon commence at 2.00 p.m. with a similar discretion as mentioned in (2) above.
- (4) That a decision on the start of Planning and Development Control Committee be deferred pending consideration of this and related issues by the Planning Protocol Working Group.

20. REVIEW OF THE DELEGATION SCHEME

The Committee considered the report of the Head of Legal and Democratic Services, the purpose of which was to recommend a new delegation scheme to reflect the organisational restructure of the Council's Senior Management. The Committee was informed that at its meeting held on the 15th October 2008 they considered a report with a view to making essential recommendations to the scheme required as a result of Phase I of the restructure of Senior Management and to create a new framework in enabling decisions to be made at the appropriate level within the Authority. Accordingly the Committee at its meeting on the 15th October 2008 endorsed all proposals. A new delegation scheme had to be developed with approval at the next Annual Meeting of the Council.

The Head of Legal and Democratic Services explained that further extensive consultations had taken place with Senior Officers and the draft delegation scheme had been produced which would enable all Directors, Heads of Service and Operational Managers to make operational decisions with responsibility and accountable at the most appropriate levels of the organisation.

In presenting his report the Head of Legal and Democratic Services corrected a typographical error in relation to the status of a particular post. He then went through each of the key points identified in his report. Reference was made to Section CE12 on page 55 in relation to the involvement of local members in land property disposals. Councillor A P Shotton referred to paragraph 3.3 on page 46 and suggested an addition of words which the Head of Legal and Democratic Services indicated assist with clarity. The Chief Executive and Head of Legal and Democratic Services explained a number of other points raised by Members.

RESOLVED:

That the revised delegation scheme with the further amendments suggested verbally by the Head of Legal and Democratic Services be recommended for approval by the County Council.

21. REVIEW OF OVERVIEW AND SCRUTINY FUNCTION

The Committee considered the joint report of the Chief Executive and Head of Legal and Democratic Services, the purpose of which was to consider undertaking a

review of the Overview and Scrutiny function. The report detailed the background to its preparation and identified the key considerations. It was noted that each Authority had a large degree of freedom in delivering its Overview and Scrutiny arrangements and Authorities operated in a number of different ways. The report detailed the arrangements for the Council. It was noted that any review of the existing arrangements needed to bear in mind the Government's proposals for new Overview and Scrutiny powers and these were expanded upon within the report. The Local Government Policy Paper 'A Shared Responsibility' published in March 2007 also set out proposals to strengthen the role and remit of Overview and Scrutiny which included a number of points which were identified in the report. It was also noted that the Local Democracy Economic Development and Construction Bill published in December 2008 would provide the Assembly Government with the legislative competence to introduce the proposals referred to in the report. Following questions by Members the Chief Executive expanded upon the revised powers of the Overview and Scrutiny Committees and the area which they could cover. It was generally accepted this was an opportune time to review the Overview and Scrutiny function and that any review should be informed by detailed consultation with all Members and the results of such consultation being considered by both the Overview and Scrutiny Co-ordinating Committee and the Constitution Committee. The report detailed what it was intended to include in the proposed questionnaire to all Members which were the key messages from the National Scrutiny Champions Network. Members shared the view expressed by Councillor A P Shotton whereby when seeking views Members should be looking to identify those areas where there was a deficit in the current system. The Chairman of the Committee also commented that it was important for Members to complete the questionnaire when circulated to them.

RESOLVED

That the proposals for Members consultation of the Overview and Scrutiny function be approved.

22. EXPIRY OF THE WORKING DAY

The Assistant Director of Democratic Services reported that to avoid doubt it was recommended that references in the Constitution to the expiry of the working day should be amended to specify 5.00 p.m. on that day.

RESOLVED

That the recommendation be approved and that the expiry of the working day be specified as 5.00 p.m.

DURATION OF MEETING:

The meeting commenced at 10.00 a.m. and ended at 12.30 p.m.

.....
Chairman

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

CONSTITUTION COMMITTEE	DATE: 12th MARCH 2009
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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 : **28 JULY 2009**
REPORT BY: **HEAD OF LEGAL AND DEMOCRATIC SERVICES**
SUBJECT : **OVERVIEW & SCRUTINY MEMBER AND OFFICER OPINION**
 SURVEYS

1.00 PURPOSE OF REPORT

- 1.01 To consider the outcomes of the member and officer surveys on Overview & Scrutiny.

2.00 BACKGROUND

- 2.01 At a meeting of the Overview & Scrutiny Coordinating Committee on the 3 December 2008 consideration was given to a report of the Welsh Scrutiny Champion's Network meeting on the 3 October 2008. During consideration of that item the Chairman of this Committee explained that he felt it was important that there was full member consultation on any future arrangements for Overview & Scrutiny and suggested joint working between the Constitution Committee and the Overview & Scrutiny Coordinating Committee. The Coordinating Committee resolved that a meeting be arranged between the two Chairmen and officers to prepare a questionnaire for completion by members with the results reported to later meetings of the two Committees.
- 2.02 Following the Coordinating Committee meeting the Chief Executive advised that the contents of the proposed questionnaire should be considered by this Committee prior to its distribution to members given a commitment to review the structure of the Overview & Scrutiny function. A report was therefore presented to the Committee's meeting on the 12 March 2009 when the proposal for member consultation on the Overview & Scrutiny function was approved.
- 2.03 A questionnaire compiled in consultation with the Chairs of this Committee and the Coordinating Committee were sent to members on the 26 March 2009. The same questionnaire was also sent to senior managers to obtain their observations on the Overview & Scrutiny arrangements. Originally the closing date for the return of the questionnaires was the 24 April 2009 but this was subsequently extended until the end of May 2009.
- 2.04 Individual responses to the questionnaire were received from 42 Members and 11 officers and these have been tabulated and are attached as **Appendices 1 & 2** respectively. For the most part the questionnaire comprises a series of statements which are to be scored from 1 (strongly

Date: 22/07/2009

disagree) to 5 (strongly agree). The statements are worded in such a way that an average score of over three shows a positive response. The questionnaire also contains a number of open questions seeking observations to improve the existing arrangements. The attached tables show the average score for the statements that are to be scored and list the responses received to the open questions.

- 2.05 The responses to the Member and officer surveys were reported to the meeting of the Coordinating Committee on the 16 July 2009. At that meeting each part of the survey was considered in turn and that Committee's views are summarised under each section of the survey later in this report.

3.00 CONSIDERATIONS

- 3.01 Section 1 of the questionnaire related to the planning of Overview & Scrutiny work. The average score for all questions in Section 1 is three or above in both the member and officer surveys. Both members and officers appreciate that a planned and structured approach to Overview & Scrutiny forward work programmes is essential with high average scores in both surveys. This was noted by the Coordinating Committee.
- 3.02 Section 2 deals with working practices with average scores at three or above in both the member and officer surveys. The lowest scoring in Section 2 in both the member and officer surveys with a score of three is question 14: that Overview & Scrutiny has early involvement in policy making. There are also several individual member comments to this effect. The need for more involvement by Overview & Scrutiny prior to the Executive making a decision was endorsed at the Coordinating Committee meeting.
- 3.03 The answers to the open question on arrangements for Overview & Scrutiny of external bodies or those working in partnership with the Council (question 22) contain several responses stressing the importance of scrutinising the work of such bodies. The importance of Overview & Scrutiny scrutinising the work of such bodies was also stressed at the Coordinating Committee meeting.
- 3.04 Section 3 of the survey deals with the relationship between Overview & Scrutiny and the Executive and with one exception, the average scores are three or above. The one exception is question 25 in the officer survey relating to call in only being used as a last resort at present in Flintshire. The average score is 2.8 and only slightly above 3 in the member survey. At the Coordinating Committee meeting it was recognised that the greater use of call in was affected by the under involvement of Overview & Scrutiny prior to the Executive making decisions.
- 3.05 There is support in both the member and officer surveys for reports from Overview & Scrutiny Committees being presented to the Executive by the Chair of the relevant Overview & Scrutiny Committee.

- 3.06 Section 4 of the survey deals with officer support. The statement in question 29 that existing arrangements to support Overview & Scrutiny work well scores particularly highly on the member survey and scores above average on the officer survey. The existing officer support arrangements were commended at the Coordinating Committee meeting.
- 3.07 Section 5 deals with the Overview & Scrutiny Committee structure and the average scores in both the member and officer surveys are above three with one exception. The one exception is in the officer survey, question 31, relating to the current Committee structure working well where the score is only 2.45. Both the member and officer survey results support a revised Committee structure which has a close alignment to the Council's organisation/structure, avoids duplication and has capacity to engage in external Overview & Scrutiny. A possible revised Committee structure to reflect these comments is shown in **Appendix 3**.
- 3.08 In considering Appendix 3 at the Coordinating Committee meeting some members commented that the workload of the Community Overview & Scrutiny Committee would be too large and that the option of this continuing as two separate Committees should be considered. The majority view however was that this could be addressed through improved working arrangements such as greater use of Task and Finish Groups. Another point made in relation to Appendix 3 was the reduction in the number of Overview & Scrutiny Committee places through the loss of two Committees. The one amendment to Appendix 3 that was agreed by the Committee was that there should be greater emphasis on outward looking scrutiny, including regional working and the relationship with the Welsh Assembly Government. The Chair of the Coordinating Committee suggested that this could possibly be added to the terms of reference of the Coordinating Committee.
- 3.09 Section 6 is a general section and the responses to both the member and officer surveys indicate that it is believed that at present the reports and work of Overview & Scrutiny have an important impact.

4.00 RECOMMENDATIONS

- 4.01 As a result of the member and officer survey results and the views of the Coordinating Committee the Committee is asked to consider what amendments should be made to the existing constitutional arrangements for Overview & Scrutiny.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 None as a result of this report.

12.00 APPENDICES

- 12.01 Appendix 1 - Member survey analysis
- Appendix 2 - Officer survey analysis
- Appendix 3 - Possible revised Committee structure

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

Responses to questionnaires received from Members and officers.
Report to the Coordinating Committee meeting of the 16 July 2009

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

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

APPENDIX 1

Total number of responses: 42

Average score

Section 1 - Planning Overview & Scrutiny work

1	A planned & structured approach to O&S FWP's is essential	4.44
2	At present there is a planned & structured approach to O&S FWP's	3.95
3	O&S should concentrate on high risk areas contained in SARC	3.60
4	At present O&S does concentrate on high risk areas in SARC	3.49
5	O&S agendas should be limited to a few items to get best results	3.93
6	O&S agendas are limited to a few items	3.37
7	O&S cttes should look at Executive FWP to prioritise topics for their own FWP	4.10
8	O&S cttes should give priority to outcomes & the benefits to the organisation of the activity	4.10

9 The existing arrangements for planning O&S work would be improved if:

If we have a researcher or two.
O&S cttes looked at Exec FWP to prioritise topics for their own FWP's.
Scrutiny was also carried out on topics before Executive decision, so that more input from Members is available.
O&S cttes looked at Exec FWP to prioritise topics for their own FWP's.
The current arrangements work well.
Members of O&S convene for 10-20 mins before start of meeting to identify items that would merit more intense scrutiny.
More items to be taken from CMT or LSG to O&S before going to Executive.
Essential to recruit research officers to provide briefings to cllrs before meetings. Need regular input to cllrs of relevant WAG reports and output from N Wales LA Scrutiny Committees - need to learn from them.
Papers (often voluminous!) were received more than 1-2 days before the meeting.
We had less Members.
If it were more aligned to the 'County Plan' and other strategic plans in the consultation and planning process
Involvement at policy formation; greater effort to praise officers; more effort to get below the surface.
A pre-meeting of all Members was scheduled to agree outcomes of questioning personnel.
Kept to time & only firm question asked relevant to subject, also 5 min time only.
The Chair & Vice Chair met with appropriate Executive Member and/or Director on a periodic basis to discuss items of concern which may require to come to O&S.
Discussion groups were held, pre-meetings primarily to enlighten Members were needed on items that were going to be on the agenda.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Facilitators did not report to Chairs & Exec Members background papers that Members have requested. They should not act as scrutiny snitchers!
We all made an effort to focus work on key areas and followed through the outcomes.
Members had a better understanding of the service being scrutinised, and if Members were more prepared to think strategically, rather than parochial.
The agendas were set out so that time did not become an issue and items were not deferred for better discussion.
Some councillors did not try to score political points.
What does essential mean in Question 1?

Section 2 - Working Practices

10	Our website should be a good shop window for O&S	4.33
11	Views expressed at O&S should not be as a result of group whip	4.48
12	Views expressed at O&S are not result of group whip	3.26
13	O&S should have early involvement in policy making	4.31
14	O&S has early involvement in policy making	3.00
15	More use of Task and Impr Working Groups	3.86
16	Performance monitoring by O&S is done well	3.60
17	Performance reports should not concentrate on small no of indicators but should provide bigger picture	3.86
18	O&S tends to concentrate on scrutinising detail rather than taking an overview of a service area's performance	3.38
19	O&S relies on good & timely information of the right quantity & quality	4.25
20	Info provided by contributors to O&S cttes is timely and of the right quantity & quality	3.29
21	Quality of reports & presentations to O&S is good	3.50

22 Comments on arrangements for O&S of external bodies or those working in partnership with the Council

We should be scrutinising outside bodies which provide public service or obtain public monies either singly or jointly.
They need to be enhanced, expanded and encouraged.
It is vital that external bodies and those working in partnership with the Council are closely consulted with and their views form a basis for discussion with O&S. We may be too focused on our needs and not those people we deliver the service to. At times it may be necessary to invite the interested parties to our meetings to obtain first hand knowledge of the subject under discussion.
I believe there should be involvement in Scrutiny with these outside bodies.
No meetings with outside bodies recently.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Perhaps worth a visit to explore the possibility of O&S to the bodies of those working in partnership with the Council.
Plain english' should be adopted as 'default'. Too many reports are 'top officer' wording - bullet points would be an improvement plus include a summary at beginning of reports.
Will be increasingly important; need to consider joint O&S with other Councils and one O&S ctte dealing with outside bodies on strategic as opposed to service matters.
More scrutinising of outside bodies: NHS, Police, Fire Authority. Also Community Strategy has not been looked at.
In Health & Social Care and Lifelong Learning, arrangements work well but one obstreperous rude cllr could lose goodwill and foul up the trust that has developed.
Should always engage when possible with partners.
The relationship between such bodies and the role they have in the life of the Council and the potential to add to the quality of life in Flintshire should be understood by ctte Mbrs prior to appearance at ctte.
Appalled that major decisions are taken regionally which cannot be scrutinised. I can provide a specific example where many errors were ignored by a regional body.
Members need to know we do not control these outside bodies, they are our partners!
These should be on the advice of Chair.
All partners working to a common goal should be subject to O&S.
Perhaps if we are to reduce bureaucracy and costs overall in Local Govt that there should be less outside bodies and more use of Scrutiny which is accountable - this would of course be a big change.

23 I believe the existing working practices of O&S would be improved if:

Cttes were smaller. Present cttes are too large & the perceived <u>need</u> to speak on the part of some cllrs is not conducive to efficient working.
The cttes were more politically balanced. At present 'coalition' 69% opposition 31% means that the smaller group points are taken little notice of.
We had more opportunity to form policy.
Any improvement to O&S can only come from the experience of the Members of the Committee and we should endeavour to ascertain any particular skills Members can bring to the Committee.
The paperwork is in plain english.
Members sitting to the end of meeting and not leaving before the conclusion of meeting dilutes any vote.
Still too many documents being handed out at meetings. Not necessarily the agenda reports but often ancillary documents.
Cllrs received better briefing papers from independent sources & read them. Cllrs need to specialise in different areas and to research these.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

There needs to be (and increasingly is) an opportunity to contribute strategically & proactively rather than merely receiving retrospective reports (for which there is a place also).
I feel we on scrutiny should have more teeth to enable real healthy scrutiny to be effective.
As training and experience of Members increases then the quality of work will also benefit.
The committee size was reduced - I find it difficult to ask questions in so large a group. More Task & Finish I think.
Members keep to the agenda items. We deal with a few topics rather than a number of small issues.
Members had minutes of mtgs immediately they could reasonably be produced and that agendas & reports for mtgs were produced far earlier than at present. It is not democratic if Mbrs do not have enough time to digest and seek explanation before meetings if required.
We develop our experience and relationship with Directorates.
Better integration with the rest of Committee Services.
Mbrs received reports in adequate time & reports are straightforward & not ambiguous.

Section 3 - Relationship with Executive

24	The call in of Executive decisions should only be used as a last resort	3.90
25	At present in Flintshire, call in of Executive decisions is only used as a last resort	3.07
26	Reports from O&S cttes should be presented to the Executive by the Chair of the relevant O&S ctte	3.59
27	Reports to Executive will have more impact if they display evidence based scrutiny	4.38

28 I believe the existing relationship with the Executive would be improved if:

There is 'trust' for each other, openness, non-confrontationalist and non-political.
Many issues were scrutinised before Exec decisions.
The appropriate Exec Member attended the O&S mtg.
There was a better dialogue.
More time could be given for evidence based information to be provided in a more professional way - increase use of technology - time is what we do not always have.
More contact with Executive as a whole.
(i) More items taken from CMT/LSG to O&S before going to Exec; (ii) less party politics - no chance!!; (iii) Exec Members attended O&S meetings as a matter of course.
The Executive received regular briefings (verbal) on the work and concerns of the O&S cttes. Officers and Executive generally ignore Scrutiny comments.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

There were evidence of two-way dialogue. Hard to judge how much difference, if any, Scrutiny makes in practice.
If Scrutiny reports were taken seriously and acted upon.
Call-ins are usually politically motivated and this is not good.
We had more Chair/Exec meetings to help iron out problems.
The Chair & Vice Chair met with the Executive on a periodic basis.
Pre-meetings on new matters to be dealt with were held.
The Executive took more notice of Scrutiny.
Executive Members could attend scrutiny meeting more often if possible.
We improve communication on both our forward plans.
The political games being played by the opposition group members stopped. Officers work too hard on service delivery & development to be dragged into political game playing. It is demoralising.

Section 4 - Officer Support

29 The existing officer arrangements to support O&S work well **4.10**

30 I believe that the existing officer support arrangements would be improved if:

Need more to do and exciting.
Whatever suggestions that I might have - time would not allow - most Officers are extremely busy.
O&S officers could work more comfortably with their colleagues if O&S Members had a better reputation for inquiring as opposed to officer baiting.
We need more officer support if Scrutiny is to expand its role and cover a wider range of outside bodies.
Existing officers serve as a neutral conduit for reports from officers. Staffing levels do not allow much added input and we never receive notification of WAG reports. I rely on briefings from Community Health Council.
It is as important to retain supporting officers with knowledge & experience of the Scrutiny function to work well.
Automatic transfer of responsibilities when away.
No comment except "it works well".
Better forward work planning!

Section 5 - Overview & Scrutiny Committee Structure

31 The current Flintshire structure of six functional O&S cttes and a Co-ordinating Ctte works well **3.51**

32 A ctte structure which has a closer alignment to the Council's organisational structure would enable Members to carry out their O&S roles more effectively **3.93**

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

		<u>Average score</u>
33	A structure which allows for the grouping of functions and the eradication of duplication would be more effective	4.10
34	We should ensure that any new ctte structure has the capacity to engage in external as well as internal O&S	4.14
35	The ideal ctte structure for Flintshire would be a small no of O&S cttes which use task groups led by Chairs/Vice-Chairs to work more effectively	3.43

36 In my view, the O&S cttes do not at present cover the following area(s) adequately:

Environmental, our agricultural holdings, our businesses & assets, our working environment.
Topics before Exec consideration. Once an Exec decision made, it is virtually end of discussion.
Internal services.
Local Govt is increasingly becoming more complex and it may be time to look at other more effective ways of governance with our framework.
Community Strategy, Fire Authority, Police, NHS
Comparison with other N Wales O&S cttes, understanding of WAG strategies & policies, any sensible scrutiny of partnerships - eg Community Safety, Health & Wellbeing.
All matters relating to education are open to scrutiny - no problems in this area. Not sure whether or where the operation of the Theatr is scrutinised.
The overall quality of life in Flintshire.
(i) where FCC is in partnership with others (ii) praise for officers (iii) rooting out poor practice & duplication.
Risk.
Finance, Budget & Audit. A full explanation of all the systems of accounting & also of the system for budgeting & of how budget figures can be altered and vired after they have been agreed and set - urgently required so that all Members have a proper understanding.
Not sure what Co-ordinating Committee achieves. Perhaps we should use it or scrap it.
Officer/Member arrangements, office capability

37 I believe the existing O&S ctte structure would be improved if:

In essence, the Co-ordinating Ctte is just a clearing house for requests for items to go on an O&S agenda. It is a waste of staff resources and Ctte Members' time.
The portfolio holder attends all of their appropriate O&S cttes.
Ctte structure has a closer alignment to the Council's organisational structure and allows for the grouping of functions and the eradication of duplication.
An in-depth look at how other Councils operate within Wales & England & Scotland.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Cttes were matched to the 3 new Directorates with at least 1 corporate ctte & feasibly a 5th to deal with external bodies. Greater use of Task & Finish groups.
Fewer committees, better resourced and more prestige and smaller committees and Task & Finish Groups.
Certain political parties were to stop thinking as a unit. Good constructive criticism were put in place cross party for the good of Flintshire residents.
They focussed more on outcomes rather than the managerial process & structures.
Work was carried out in smaller groups. Also, something has to be done about the amount of paperwork.
We do a risk analysis on agenda items.
Discussion groups were held on matters to be discussed before O&S meetings were held, with officers to explain if required.
Executive Members and non Scrutiny officers did not attend briefing meetings.
More in-depth advisors

Section 6 - General

38 At present in Flintshire the reports and work of O&S have an important impact

3.67

39 Please give any general comments or suggestions you wish to make about Flintshire's O&S function

Feel strongly that Mbrs do not have same level of involvement in issues, some have only 1 O&S ctte, that we had under 'pre scrutiny' system where more Mbrs had attendance at, eg Education ctte, and hence more knowledge of what is going on.
Needs publicity - have never seen a member of the general public present, and rarely press.
In the main O&S do serve their purpose and whilst we do not get everyting right - based on the information we have with educated foresight we hope the decsions made serve the people we represent.
By making sure item(s) for discussion are not already in the hands of WAG which was the case recently.
Too much work in after the event or simply receiving standard reports. It adds little at present to the value of FCC service delivery AND it's the fault of Members, not officers.
There is considerable expertise and experience in a group of cllrs who have chaired or already chair O&S cttes. Why is this not collated and then shared with all O&S Members?
As a co-opted member I have little means of knowing what impact, if any, there is - we live in hope!
The work of O&S cttes should have more recognition and play a more significant role in planning priorities and policies of the Council.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Has been trying to ask a question for about 6 mths but feel officers will sidestep & talk it out so will not get an answer. Feel frustrated by this. We do not give feedback to officers - there is one dept. I would like to tell that we often feel they have not answered questions.
People who are on the committee want to be, and that way we will get the best out of Scrutiny. No politics please.
We need to be more effective as a whole. Execs work well when sensibly and positively scrutinised.

40 Please comment on any good practices within Flintshire's O&S function

Access to O&S staff 10/10 and have meaningful discussion.
It is very difficult to pin-point any good practice as I do not have any experience of comparing our effectiveness with other Councils.
The fact that any decisions of any department in the Council can be examined and questioned.
As a new Member, I find O&S Members firm and critical/positive, Members are polite and friendly towards officers and likewise.
Appearance at committees by junior officers is always more beneficial than appearances by Directors. It is very helpful to have Executive Members present.
Periodic site visits (eg leisure facilities, new schools) bring home reality. Hopefully Scrutiny has the effect of helping the Director & senior officers to focus sharply and within reasonable timescales.
Certain Chairs are excellent. Facilitators excellent.
The commitment of Members and officers to produce meaningful reports, which seldom produces any meaningful change to policy or practice.
Is there a description of best practice? What do other authorities do? The training we had suggested pre-mtgs to decide strategy & question lines before officers join mtgs. I believe this suggests a different approach to the way we use cttes - do you agree? I feel that O&S falls into 2 areas: (i) Scrutiny of Exec decisions - but Execs are from the majority. Cttes reflect the majority, so in most cases cttes will support Exec decisions (only blatant mistakes will be criticised). The only viable role is for cttes to assist in policy formation, allowing perhaps wider perspectives to be brought into policy formation. (ii) To encourage better authority performance, give praise & test areas of administration, not to duplicate other checks (Internal Audit, Gov't bodies). Mbrs should bring a less structured approach to checks, perhaps inspired by local views of residents.
Regular communications between the Facilitator and Chair and Vice Chair.
They work very well together.

Results of Overview and Scrutiny Member Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Getting to meet Officers and hear their reports to full Scrutiny Committee is good. It raises awareness of functions and achievements of certain departments that Councillors may not otherwise be aware of and raises opportunities to ask questions and improve services. I think they are well run and the practices are good as a whole.
Pleased with use of workshops to complement T&F Groups and full Committee.
The use of joint scrutiny (eg S&H working with LL has been effective on occasion).
Social & Health is a well attended, active Scrutiny, because all Members want the same outcome. There is a single objective with no political overtones.

Results of Overview and Scrutiny Officer Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

APPENDIX 2

Total number of responses: 11

Average score

Section 1 - Planning Overview & Scrutiny work

1	A planned & structured approach to O&S FWP's is essential	4.64
2	At present there is a planned & structured approach to O&S FWP's	3.82
3	O&S should concentrate on high risk areas contained in SARC	3.55
4	At present O&S does concentrate on high risk areas in SARC	3.00
5	O&S agendas should be limited to a few items to get best results	4.27
6	O&S agendas are limited to a few items	3.40
7	O&S cttes should look at Executive FWP to prioritise topics for their own FWP	4.18
8	O&S cttes should give priority to outcomes & the benefits to the organisation of the activity	3.91
9	The existing arrangements for planning O&S work would be improved if:	

For Corporate Mgt OSC, planning the forward work programme is often difficult and confused.
More dialogue between senior managers and O&S staff and possibly O&S Chairs in drawing up work programme.
I am a little unclear of the work programme. Perhaps senior officers (3rd tier) should have a copy of existing arrangements, Terms of Ref, FWP & minutes of meetings.
Members should shape the agenda/work programme considering important issues whether they are/are not included in SARC. O&S is not just about the organisation - it's about the people of Flintshire surely?
There was a balance of items on the FWP that considered SARC, Executive FWP and also local Member suggestions, without overloading Scrutiny FWP, the Facilitator had contact with all ctte Members not just Chair and Vice-Chair.
Timing and communication were seen as the key and we held an annual visionary session with all key stakeholders (LSG and all O&S Chairs & Vice-Chairs & their support officers) to plan a rough year's FWP's for Executive and O&S on the agreed priorities of the Council. Obviously with spaces for any emerging significant local topics (SARC, corporate business planning review, regulatory plan - will make this easier, avoiding duplication of work, increasing capacity & providing clarity of role for all those concerned). Once these priority areas are agreed, the info could lead to the setting up of mtgs in the corporate committee diary to consider issues in a more coherent timely manner, eg within the accountancy cycle deadlines and other important timetables rather than meeting dates being set before the FWP's are fixed. A committee system in a local authority needs to fit around the functions/issues requiring consideration, not the other way round.

Section 2 - Working Practices

Results of Overview and Scrutiny Officer Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

	<u>Average score</u>
10 Our website should be a good shop window for O&S	4.09
11 Views expressed at O&S should not be as a result of group whip	4.27
12 Views expressed at O&S are not result of group whip	2.55
13 O&S should have early involvement in policy making	3.82
14 O&S has early involvement in policy making	3.00
15 More use of Task and Impr Working Groups	3.82
16 Performance monitoring by O&S is done well	3.10
17 Performance reports should not concentrate on small no of indicators but should provide bigger picture	3.91
18 O&S tends to concentrate on scrutinising detail rather than taking an overview of a service area's performance	3.55
19 O&S relies on good & timely information of the right quantity & quality	4.09
20 Info provided by contributors to O&S cttcs is timely and of the right quantity & quality	3.30
21 Quality of reports & presentations to O&S is good	3.40

- 22 Comments on arrangements for O&S of external bodies or those working in partnership with the Council

Need to review is this really O&S's role. What value does it add to FCC? Is the main benefit currently for individual members on topics of particular interest?
With the increase in partnership working it would make sense for greater involvement from partners.
Re performance monitoring, CMT need to decide how they are going to report & then stick to it - we've had constant changes which has made perf reporting extremely difficult over the last 9 months.
A co-ordinated approach with our neighbouring O&S Members/ teams when reviewing the work of an external partner who covers a number of LA boundaries. The creation of a less formal environment would encourage participation from external partners & witnesses, O&S need to work on building external relations and on how to influence and persuade others to partnership scrutiny.

- 23 I believe the existing working practices of O&S would be improved if:

Greater clarity on whether officers and Exec Members are required to attend anyway or only when requested by O&S. Arrangements seem to have changed over the years from questions being directed to Mbrs to it now being officers or at least a mixture.
Briefing of Chairs before meeting by report authors (I don't mean the covering report by O&S Facilitator which sometimes confuses matters!)
Officer training needed to achieve info of the right quality - some seem very sensitive to criticism. Info provided by contributors is mixed. Officers who come to O&S from outside organisations seem to know what they are doing.
There were a balance of open public meetings and closed sessions (either full ctte or task group) to allow for better investigation into topics.
Existing officer support arrangements were improved.

Results of Overview and Scrutiny Officer Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Section 3 - Relationship with Executive

- | | | |
|----|---|-------------|
| 24 | The call in of Executive decisions should only be used as a last resort | 4.50 |
| 25 | At present in Flintshire, call in of Executive decisions is only used as a last resort | 2.80 |
| 26 | Reports from O&S cttcs should be presented to the Executive by the Chair of the relevant O&S ctte | 4.00 |
| 27 | Reports to Executive will have more impact if they display evidence based scrutiny | 4.36 |
| 28 | I believe the existing relationship with the Executive would be improved if: | |

Greater consistency in matters going to O&S before Exec. Would avoid call-ins and create better working relationships and trust between both.
--

If Exec Members attended all O&S cttcs for their respective areas of responsibility (mixed at the moment). For instance my Exec Member waits for an invite from O&S before attending. They also need to be encouraged to take part in debates.

Executive were to share their workload with Scrutiny, asking Scrutiny to review topics and make recommendations before Exec consider, ensure that high risk items are considered by Scrutiny before decision making by Exec.

All officers treated Members the same, irrespective if on the Executive or not.
--

Section 4 - Officer Support

- | | | |
|----|--|-------------|
| 29 | The existing officer arrangements to support O&S work well | 3.55 |
| 30 | I believe that the existing officer support arrangements would be improved if: | |

Review of the number of people attending O&S needed and relationship between O&S staff and committee clerks. For CMOSC I am no longer clear on the role of the facilitator. I am unaware of a research role which was one of the original purposes.
--

Each support officer had only one committee to support, the support officer (Facilitator) had regular contact with relevant senior officers/Directors and all committee Members away from meetings.
--

Results of Overview and Scrutiny Officer Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

We utilised capacity better. We could do this by: (i) the organisation recognising & accepting the Facilitator's job description enabling it to be carried out; (ii) reducing the number of public O&S cttes being held, instead hold workshops or closed preparatory meetings specifically when formally questioning external contributors in public (vital that Mbrs have more development time rather than ask questions off the top of their heads); (iii) taking the opportunity with the 2nd stage organisation redesign proceeding, to consider the repositioning & perhaps restructuring of the Democratic Services teams. Why not go wider and include looking at officers that support the Executive, even more radical is Cardiff whose O&S are currently aligned to their Performance Unit. Whatever way decided, O&S support needs more access to its Members.

(continued) It would be helpful to have all officers understand they serve all Members, not just the Executive side, both are equally important in the new governance arrangements. Chairmen and Facilitators need more time for research with their Members and discussion groups.

Section 5 - Overview & Scrutiny Committee Structure

31	The current Flintshire structure of six functional O&S cttes and a Co-ordinating Ctte works well	2.45
32	A ctte structure which has a closer alignment to the Council's organisational structure would enable Members to carry out their O&S roles more effectively	3.82
33	A structure which allows for the grouping of functions and the eradication of duplication would be more effective	4.27
34	We should ensure that any new ctte structure has the capacity to engage in external as well as internal O&S	4.00
35	The ideal ctte structure for Flintshire would be a small no of O&S cttes which use task groups led by Chairs/Vice-Chairs to work more effectively	4.10

36 In my view, the O&S cttes do not at present cover the following area(s) adequately:

CMOSC only covers a part of the work of Finance (Financial Management) and does not look at Revenues & Benefits other than through a few Pls. I am concerned that CMOSC scrutinises the work of Pensions & Clwyd Pension Fund and feel that this crosses over with Clwyd Pension Fund Panel which is a Council function.

Policy development, strategy development, service improvement (only appear to note reports rather than assist in development).

Results of Overview and Scrutiny Officer Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

The 4 principles of effective scrutiny: (1) provides 'critical friend' challenge (not opposition); (2) drives improvement in public service (not just monitor); (3) enables the voice & concerns of the public (seeking it directly); and (4) is carried out by independent minded governors who lead & own the scrutiny role (any power comes with responsibility and O&S has a duty to maintain the integrity of the authority). These tend to get mixed up with the 4 powers of scrutiny (ie pre-decision, investigation of policy, performance scrutiny and call-in). Members have readily accepted the powers/role side but not yet embraced and put the principles of effective scrutiny into practice. This survey/review probably will go some way to addressing this.

37 I believe the existing O&S ctte structure would be improved if:

A committee structure aligned to the Council's organisation structure.

If the committees were reduced to four committees with each Facilitator supporting just one committee.

We reduced the number of cttes. There are too many portfolio holders to mirror them but it has been suggested to take O&S cttes down from 6 to 4, with 2 vice chairs to maintain SAs, and lead more task groups or workshops. With current capacity, Facilitators cannot continue to administer so many public meetings but more importantly all evidence shows they are not as productive as T&F groups and are costly. It does not remove transparency as some have argued, as all recommendations have to be ratified by the parent ctte & all reports are required to be evidenced.

(continued) For logical reasons I can see the wish to have the O&S ctte structure reflect the current 4 directorate structure, this would build communication and ease liaison with officers and build up Member and Facilitator's knowledge of service functions within the relevant directorate. However, we need to bear in mind the future is moving towards themes & project working (eg Streetscene is contributed to from differing directorates; sustainable communities is one of the strategic themes of the One Wales document). Some authorities don't name their O&S cttes for this reason; they merely number them 1, 2, 3 or a, b, c. The visionary session could plan out projects from the agreed corporate priorities and assign them to consider at cttes, task groups or workshops. In addition, O&S will be responsible for scrutiny of more external bodies; perhaps the Co-ordinating Ctte could take this role as it is made up of all Chairs and Vice-Chairs, thus representing all the other O&S cttes.

Section 6 - General

38 At present in Flintshire the reports and work of O&S have an important impact

3.30

39 Please give any general comments or suggestions you wish to make about Flintshire's O&S function

Results of Overview and Scrutiny Officer Opinion Survey

[Scores: 5 = strongly agree, 4 = agree, 3 = neutral, 2 = disagree, 1 = strongly disagree]

Average score

Committees are too large - a smaller number of Members would enable discussion to be more focussed.
This questionnaire is one of the most 'leading' I have ever completed.
O&S needs to move away from just noting reports and make sound recommendations. To aid in this, officers who prepare reports can be asked not to request that Members note the report.
Some have said O&S still too formal; for a small investment in more flexible furniture we could maximise usage of the Delyn Room with workshop, task groups and less formal committee setups. Improvement required in forwarding the O&S recommendations to the Executive, a more timely and consistent approach needed, perhaps an electronic template. In general, all ctte reports need to have a consistent, concise style of report writing with a measurable outcome focus. O&S has been in place for over 7 years, we are now required to take it to a higher level - reading and receiving reports is no substitute for O&S undertaking visits and seeing things operate for themselves, engage the public voice and take their community leadership role up. O&S has to start achieving outcomes.

40 Please comment on any good practices within Flintshire's O&S function

Good use of Task & Finish Groups.
Each O&S ctte has direct Facilitator support from qualified experienced officers.

POSSIBLE REVISED COMMITTEE STRUCTURE

Corporate Overview & Scrutiny Committee

- Combining existing terms of reference of Corporate Management and People and Performance Committees.
- Joint Chairs and Vice Chairs.
- 15 Members.
- Scrutinises all services within the Corporate Directorate.
- Crime and Disorder powers from the 1 October 2009.
- Scrutinises external bodies, including Police and Fire.

Community Overview & Scrutiny Committee

- Combining existing terms of reference of Social Health and Community and Housing Committees.
- Joint Chairs and Vice Chairs.
- 15 Members.
- Scrutinises all services within Community Directorate.
- Scrutinises external bodies, including Local Health Board, Community Health. Council and Housing Associations.

Lifelong Learning Overview & Scrutiny Committee

- 15 Members and 4 co-optees'.
- No change to existing terms of reference.
- Scrutinises all services within Lifelong Learning Directorate.
- Scrutinises external bodies, including schools, colleges, Clwyd Theatr Cymru, Arts Council and WAG Department of Children's Education Lifelong Learning & Skills (DCELLS).

Environment Overview & Scrutiny Committee

- 15 Members.
- Minimal change to existing terms of reference (to include Waste Management).
- Scrutinises all services within Environment Directorate.
- Scrutinises external bodies, including Tourist Board, Regional Flood Defence Committee, Dee Estuary Forum, Tourism Partnership and CBI Wales.

Coordinating Overview & Scrutiny Committee

- 21 Members.
- Existing terms of reference.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 5

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **28 JULY 2009**
REPORT BY: **HEAD OF LEGAL AND DEMOCRATIC SERVICES**
SUBJECT : **PROCEDURE TO REDUCE THE RISK OF AWARDS OF COSTS AGAINST THE COUNCIL IN PLANNING APPEALS**

1.00 PURPOSE OF REPORT

- 1.01 To consider a recommendation from the Planning Protocol Working Group to introduce a procedure for reducing the risk of costs being awarded against the Council when members exercise their right to refuse an application which officers had recommended for permission.

2.00 BACKGROUND

- 2.01 The reports of the Head of Planning to the Planning & Development Control Committee give reasons for when the officer recommendation is one of refusal and give recommended conditions when the officer recommendation is to grant permission. On occasions members decide that an application recommended for permission should be refused. Where an application is refused the applicant has a right of appeal to the Planning Inspectorate once the decision certificate has been issued.
- 2.02 An award of costs can be made against either party to an appeal if that party has acted unreasonably. Examples of unreasonable behaviour are contained in the costs circular 8/93. The most common situation where costs are awarded against the planning authority is when the authority is unable to substantiate each reason for refusal by reference to the development plan and other material considerations (paragraph 8 of annex 3 of the costs circular). The same part of the costs circular gives the example of where members reach a different view to their officers and the Council is unable to produce relevant evidence to support the members' decision in all respects (paragraph 9 of annex 3). Another example of unreasonable behaviour is where opposition from local residents has led members to refuse the application and the local opposition is not founded on valid planning reasons supported by substantial evidence (paragraph 15 of annex 3).
- 2.03 Where costs are awarded against an authority they can amount to a significant sum to reflect the expense to which the appellant has been put as a result of the authority acting unreasonably.
- 2.04 At a meeting of the Planning Protocol Working Group on the 10 June it considered a report suggesting a way in which the risk of awards of costs being made against the Council could be reduced when members decided to

Date: 22/07/2009

refuse an application recommended for permission. Following discussion, that meeting decided a further report should be made to the subsequent meeting of the Working Group. An amended report was submitted to the subsequent meeting of the Working Group held on the 17 July and the amended procedure in that report was agreed as a recommendation to the Constitution Committee.

3.00 CONSIDERATIONS

- 3.01 In issuing a refusal decision notice, it is a requirement that the reasons for refusal are given on the notice. As soon as a decision notice has been issued an appeal can be lodged and the appeal timescales start to run. This can put the Council at risk of an award of costs against it if on further examination one or more of the reasons originally given cannot be supported by substantial relevant evidence.
- 3.02 The report to the Planning Protocol Working Group meeting of the 10 June 2009 recommended that in all cases where the Committee decided to refuse an application recommended for permission, the decision certificate should not be issued until a report on the reasons for refusal was considered at the subsequent Committee meeting.
- 3.03 The amended report to the meeting of the Working Group on the 17 July recommended that such a procedure should only apply in those cases where the Monitoring Officer decides there is insufficient relevant evidence to support one or more of the reasons members gave and that as a result the Council would be vulnerable to an award of costs. In coming to such a decision the Monitoring Officer will consult the members concerned to establish what additional evidence exists or can reasonably be obtained to support the reasons given. In such cases the decision certificate will not be issued until a report has been presented to the next meeting of the Committee. If all the reasons members had originally given would make the Council vulnerable to costs, the Committee would have the option to decide to grant permission. This procedure was approved by the Working Group.

4.00 RECOMMENDATIONS

- 4.01 The Committee is recommended to agree the procedure referred to in paragraph 3.03 above in order to reduce the risk of costs being awarded against the authority in planning appeals.

5.00 FINANCIAL IMPLICATIONS

- 5.01 The introduction of the recommended procedure would reduce the risk of costs being awarded against the authority.

6.00 ANTI POVERTY IMPACT

6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 The procedure follows consideration by the Planning Protocol Working Group

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

Costs circular 8/93

Report to the Planning Protocol Working Group of the 17 July 2009

Contact Officer: Peter J Evans
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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 6

REPORT TO: CONSTITUTION COMMITTEE
DATE : 28 JULY 2009
REPORT BY: HEAD OF LEGAL AND DEMOCRATIC SERVICES
SUBJECT : THIRD PARTY PRESENTATIONS AT PLANNING COMMITTEE AND SITE VISITS

1.00 PURPOSE OF REPORT

- 1.01 For Members to consider the recommendations of the Planning Protocol Working Group held on the 10 June, 2009 introducing third party representations, ie. public speaking, at Planning Committee, and to agree a protocol for its effective implementation.
- 1.02 For Members to consider an amended Protocol for Planning and Development Control Committee Site Visits to take account of the proposed amended committee procedures concerning third party representations.

2.00 BACKGROUND

- 2.01 At its meeting on the 10 June, 2009 the Planning Protocol Working Group considered the attached report of the Head of Planning (Appendix A) and resolved:

"That the principle of public speaking at Planning and Development Control Committee be accepted together with the Protocol and Guidelines, and that it be referred to the Constitution Committee for formal consideration."

- 2.02 The Protocol on Public Speaking is attached to the Planning Protocol Working Group report.

- 2.03 At its meeting held on the 17 July, 2009 the Planning Protocol Working Group considered a report of the Head of Planning on a Protocol for Planning and Development Control Committee Site Visits. A copy of the report is attached as Appendix B and the Committee resolved:

"That the revised Protocol for Planning and Development Control Committee Site Visits outlined in section 3 of the report be supported by the Planning Protocol Working Group and taken forward as a recommendation to the next meeting of the Constitution Committee."

3.00 CONSIDERATIONS

- 3.01 If approved by the Constitution Committee, it is hoped to have the third party

Date: 22/07/2009

representations procedure in place as early as possible. This in turn will require the implementation of the Site Visits Protocol.

4.00 RECOMMENDATIONS

4.01 That the recommendations of the Planning Protocol Working Group be approved and that the Protocol on Public Speaking at Planning Committee and the Protocol for Planning and Development Control Committee Site Visits be approved.

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 Planning Protocol Working Group

11.00 CONSULTATION UNDERTAKEN

11.01 Planning Protocol Working Group

12.00 APPENDICES

12.01 **Appendix A** - 10 June PPWG - report of Head of Planning - Third Party Representations at Planning Committee and attached Protocol on Public Speaking

Appendix B - 17 July PWG - report of Head of Planning - Protocol for Planning and Development Control Committee Site Visits

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

BACKGROUND DOCUMENTS

As referred to in the report.

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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 4

REPORT TO: **PLANNING PROTOCOL WORKING GROUP**
DATE : **10 JUNE 2009**
REPORT BY: **HEAD OF PLANNING**
SUBJECT : **THIRD PARTY REPRESENTATIONS AT PLANNING COMMITTEE**

1.00 PURPOSE OF REPORT

- 1.01 For Members to consider introducing third party representations, ie: public speaking at Planning Committee, and to agree a protocol for its effective implementation.

2.00 BACKGROUND

- 2.01 An increasing number of local planning authorities have introduced public speaking rights at Planning and Development Control Committees. Experience has shown that this assists in the transparency of the planning process and gives greater public confidence that their views are being listened to.
- 2.02 The issue has been discussed by this Working Group previously and Members have visited Planning Committees at the neighbouring authorities of Wrexham and Denbighshire to see at first hand how such a system works. This report sets out to establish key principles and provide a basis for discussion on suitable working arrangements. In addition, to make the process fair and efficient, it will be necessary to set out rules and clear guidance for participants which will also make it easier for the Chair to retain effective control. A draft protocol is attached as Appendix 1 for consideration.

3.00 CONSIDERATIONS

- 3.01 It is considered that public speaking should be allowed at the first Committee meeting at which the application is considered but not at:-
- * a subsequent Committee meeting if the application has already been discussed and debated, but deferred;
 - * Committee site visits.
- 3.02 It is recommended that a representative of the Town or Community Council be permitted to speak.
- 3.03 It is recommended that both applicant (or the agent) and representative objectors (or their agents) be permitted to speak and that there be no other

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qualifying criteria other than compliance with the Council's notification procedure (as set out in Appendix 1).

- 3.04 It is recommended that speakers be given up to 3 minutes to address the Committee. Experience elsewhere shows that participants regard 2 minutes as too short and are satisfied with 3 minutes. It is understood that some Councils allow 5 minutes, but a balance has to be struck between allowing people to express their views and unnecessary repetition of points already raised in written representations which are summarised in the officer's report and stated by the speaker. There is also a requirement to manage the workload of the meetings. The use of photographs, video presentations and the circulation of correspondence as written submissions will not be allowed.
- 3.05 It should also be noted that speakers need to be advised about the laws of slander. This states that if a person says something defamatory in public about a person that is untrue, even if they believe it to be true, then they may be at risk of legal action. It is important therefore that speakers confine themselves to material planning issues and do not launch personal attacks on anyone.
- 3.06 It is also suggested that the approved process be trialled for a 6 month period and thereafter reviewed to consider whether or not there would be benefit in making any changes.
- 3.07 If third party representations at Planning Committee are introduced then at that time the provisions in the existing Planning Code preventing non Committee Members from speaking at Committee where in advance they have made known their support or opposition to the application should be removed.

4.00 RECOMMENDATIONS

- 4.01 It is recommended that the principle of public speaking at Planning and Development Control Committee be accepted together with the attached protocol and guidelines, and that it be referred to the Constitution Committee for formal consideration.

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 required.

11.00 CONSULTATION UNDERTAKEN

11.01 Not applicable.

12.00 APPENDICES

12.01 Appendix 1 - Protocol on Public Speaking at the Planning Committee.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

None.

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FLINTSHIRE COUNTY COUNCILPROTOCOL ON PUBLIC SPEAKING AT THE PLANNING COMMITTEEDRAFTED JUNE 2008(UPDATED DECEMBER 2008)**1.0 Introduction**

- 1.1 This protocol explains the procedure by which the public can address the Planning Committee. The public cannot address the Committee as of right, but at the discretion of the Chair of the Committee and in accordance with the Council's agreed policy and the procedure set out below.

2.0 The Procedure**Pre-Committee Notification to the Public**

- 2.1 The Council's letters acknowledging receipt of applications and notifying neighbours of applications include a note explaining how representations can be made and summarising the procedure by which the public can speak at the committee. This note is also published on the Council's web-site.
- 2.2 Persons must write to, the **Service Development and Support Manager** in the Planning Department to express a wish to speak or be informed if the application is to go to the Committee so that they can decide later whether to speak. Either way, the **Service Development and Support Manager** will advise them that the application may not necessarily be determined by Committee, but that if it is referred to Committee he/ she will telephone, write to or e-mail them.
- 2.3 Requests to speak must be made at least 48 hours before the Committee meeting, ie: normally 2.00 p.m. on the Monday before the scheduled Wednesday meeting.
- 2.4 Persons requesting to speak must allow the Council to give their name and telephone number to others of the same view who subsequently request to speak. This allows them to agree who will speak at Committee and the issues to raise, but should they not reach agreement, the first person to request to speak will normally be allowed to do so. The speaker will also be asked whom they are representing so that this can be indicated to the Committee (eg: applicant, agent, objector or town / community council).
- 2.5 If a second person contacts the Council asking to speak, the **Service Development and Support Manager** informs him/her that the Council has already received a request and gives the name and telephone number of the person concerned so that they can discuss content, etc. The second person's name is retained in case the first person no longer wishes to speak.
- 2.6 The **Service Development and Support Manager** logs requests to speak on a database.
- 2.7 If the application is decided by the Head of Planning Services under delegated powers, the **Service Development and Support Manager** rings or e-mails the 'speaker' to inform them of the decision.
- 2.8 When the **Head of Development Control** assembles the planning applications on the Committee Agenda he contacts the first person on the list who expressed an interest in speaking, and informs them of:-
- o the recommendation;

FLINTSHIRE COUNTY COUNCILPROTOCOL ON PUBLIC SPEAKING AT THE PLANNING COMMITTEEDRAFTED JUNE 2008(UPDATED DECEMBER 2008)

- where the report can be inspected;
- arrangements for attending the Committee (eg: time, venue, parking, disabled access);
- the need to speak only to the planning merits of the application.

If the first person on the list does not wish to speak the **Service Development and Support Manager** will contact the second person.

The Day of the Committee

- 2.9 On the day of the Committee, the **Head of Development Control** prepares 'Late Observations' Report which, in addition to listing information and representations received since the agenda was prepared, lists those applications for which there are speakers.
- 2.10 The **Head of Development Control** brings the late observations report to the pre-Committee Briefing meeting.
- 2.11 **Support Officers** place copies of the late observations report in Member and public seating areas at the start of the Committee.

Immediately Prior to the Start of the Committee

- 2.12 At 1.45 p.m. (up to 2.00 p.m.) the **Planning Support Officers** greet the speakers, explaining that the Chair will call them to speak, where to sit, that they have 3 minutes and that the Chair will ask them to return to their seat.
- 2.13 If anyone asks to speak who is not listed on the Late Observations Report, the **Planning Support Officers** will explain that unfortunately it is too late and they are not entitled to address Committee.
- 2.14 The **Planning Support Officers** notifies the Chair of the list of speakers by giving him/her a marked version of the Late Observations Report before the meeting starts.

Management of the Committee Meeting

- 2.15 **The Chair** opens the meeting, welcomes the public and allows Members and the public an appropriate amount of time to refer to the Late Observations Report. The Chair will explain that following consideration of the minutes, the agenda will run in the order set out unless in exceptional circumstances he considers it expedient to bring certain items forward or back.
- 2.16 **The Chair** informs the public that there are Ward Members as well as Committee Members in the room. This announcement shows the public the different roles performed by the Members in the meeting.
- 2.17 The **Planning Officer** briefly introduces the application by reference to the proposal and an outline of key points or issues.
- 2.18 **The Chair** calls forward the first speaker against an application. The speaker sits at the prescribed position with the microphone. The speaker is not permitted to distribute written material, hold placards, etc., or use videos.
- 2.19 Once the speaker starts, the **Committee Clerk** starts a clock that will make an

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audible signal once the 3 minutes are up. The speaker will have been advised beforehand to confine comments to relevant planning issues such as:

- impact on surrounding areas
- access and traffic
- design
- planning policy
- materials used in construction.

The speaker should not refer to any private issues such as disputes over land ownership, devaluation of property, loss of view.

- 2.20 If the speaker takes more than 3 minutes **the Chair** usually waits for him/her to finish a sentence and then tactfully says something like 'I'm afraid your 3 minutes are up'. He/she does not allow them to go over in the interests of fairness, but if they seem to be unfamiliar with the process he/she may allow them a few seconds more and then allow the speaker 'for' the proposal to have a similar extension of time.
- 2.21 **The Chair** asks the speaker to return to his/her seat before inviting the speaker 'for' the application to the microphone.
- 2.22 **The Chair** then invites the Town or Community Council representative to speak to the meeting, provided they have given notice of their wish to speak in accordance with the protocol.
- 2.23 The application is then discussed in the normal way with a mover and seconder of a recommendation before debate begins. Members of the public must not speak to or pass information to Members of the Committee while it is in session.
- 2.24 **The Chair** reports the decision to the public.
- 2.25 The **Committee Clerk** minutes who actually spoke at the Committee.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 7

REPORT TO: **PLANNING PROTOCOL WORKING GROUP**
DATE : **17 JULY 2009**
REPORT BY: **HEAD OF PLANNING**
SUBJECT : **PROTOCOL FOR PLANNING AND DEVELOPMENT
CONTROL COMMITTEE SITE VISITS**

1.00 PURPOSE OF REPORT

1.01 To provide an amended protocol for Planning and Development Control Committee Site Visits to take account of the proposed amended Committee procedures, which will allow third party representations.

2.00 BACKGROUND

2.01 The existing protocol relating to conduct at Planning and Development Control Committee Site Visits was drawn up in response to one of a series of recommendations made by the external auditors, PWC, following their report on the Review of the Development Control function within Flintshire and an ombudsman's report into a particular case which found maladministration in the way a previous Committee site visit had been conducted.

2.02 In summary, the existing procedures for Planning and Development Control Committee Site Visits involve:

- Advance notification of the site visit to Members of the Planning and Development Control Committee, the local ward Member, the relevant Town and Community Council and the applicant or agent.
- The Chair invites the officer to briefly outline the proposals and point out the key issues and any vantage points from which the site should be viewed.
- The Chair invites the local ward Member to speak, followed by Members of the Committee, to ask questions or seek clarification of any points from the officer.
- The Town/Community Council representative will only be invited to speak if there is someone present (applicant or third party) to present an opposing view
- Similarly, applicant/agent or objector will only be invited to speak if there is someone present to present an opposing view.
- Any statement or discussion concerning the principles and policies applicable to the development should not be allowed by the Chairman.

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- Although site visits are not part of the formal Committee consideration of the application the Code of Conduct for Members still applies.
 - A file record is kept of those attending the site visit, together with a brief note of any points raised.
- 2.03 The landowner or his planning agent have to be notified in advance of site visits to avoid trespass and minimise Health & Safety risks. No such prior notice is given to members of the public such as objectors to the planning application. There will however, on occasion be members of the public who are present on site visits because they have become aware of the visit from their local Member or from other sources. Members of the public may see site visits as an opportunity to lobby Councillors and persuade them to determine the application in a certain way.

3.00 CONSIDERATIONS

3.01 Following my earlier report to this group on 10th June, 2009, it is anticipated that third party representations will be introduced at the 2nd September meeting of the Planning and Development Control Committee. This will give interested parties the opportunity to address Members, negating the need for such representations at Committee site visits. Whereas, much of the protocol for Planning and Development Control Committee site visits will remain, there is a need to amend it to take account of the new procedures relating to third party representation. For ease of reference an amended protocol is set out below:

- 3.02 PROTOCOL for Planning and Development Control Committee Site Visits.
- o Advanced notification of the site visit is sent to all Members of the Planning and Development Control Committee and to the local ward member(s).
 - o Advance notice of the site visit is sent to the applicant or agent, requesting that access to the site for Members/officers be provided at the specified time/date, pointing out that the applicant/agent will not be allowed to participate in the site visit.
 - o At the site visit the Chair invites the officer(s) to briefly outline the proposals and point out the key issues and any vantage points from which the site should be viewed.
 - o The Chair invites the local ward member to speak, followed by Members of the Committee, to ask questions or to seek clarification of any points from the officer.
 - o Any statement or discussion concerning the principles and policies applicable to the development shall not be allowed by the Chairman.

- o Although the site visits is separate from the formal consideration of the application, the Code of Conduct for Members still applies.
 - o A file record is kept of all Members/officers in attendance at the site visit, together with a brief note of any points raised.
- 3.03 Rarely, the applicant/agent/owner of the site to be visited may not permit Members and officers onto the site. There might be good reasons for this in that, for example, if someone was injured they could have a claim against the landowner. Where the landowner is refusing access to one or more of the elected Members, the Chairman is advised that none of the Members and officers should enter onto the land. In such circumstances the site should be viewed if possible from the nearest public land, such as public highway.

4.00 RECOMMENDATIONS

- 4.01 That the revised Protocol for Planning and Development Control Committee site visits outlined in Section 3 of this report be supported by the Planning Protocol Working Group and taken forward as a recommendation to the next meeting of the Constitution Committee.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None as a result of this report.

6.00 ANTI POVERTY IMPACT

- 6.01 None as a result of this report.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None as a result of this report.

8.00 EQUALITIES IMPACT

- 8.01 None as a result of this report.

9.00 PERSONNEL IMPLICATIONS

- 9.01 None as a result of this report.

10.00 CONSULTATION REQUIRED

- 10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

- 11.01 None as a result of this report.

12.00 APPENDICES

12.01

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FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 7

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **28 JULY 2009**
REPORT BY: **HEAD OF LEGAL AND DEMOCRATIC SERVICES**
SUBJECT : **DELEGATION SCHEME**

1.00 PURPOSE OF REPORT

1.01 To consider the recommendations of the Planning Protocol Working Group on amendments to the existing Delegation Scheme concerning planning matters.

2.00 BACKGROUND

2.01 At its meeting on the 17 July, 2009 the Planning Protocol Working Group considered the attached joint report (Appendix A). During the course of the discussion it was agreed that the matters set out in paragraph 3.10 be deferred pending further specialist advice. However it was agreed that the Constitution Committee be recommended to implement the amendments set out in paragraph 3.03.

3.00 CONSIDERATIONS

3.01 That the Group consider the recommendations of the Planning Protocol Working Group on amendments to the existing Delegation Scheme concerning planning matters.

4.00 RECOMMENDATIONS

4.01 That the amendments set out in paragraph 3.03 of the report at Appendix A be agreed and submitted to the next meeting of 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

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8.00 EQUALITIES IMPACT

8.01 None

9.00 PERSONNEL IMPLICATIONS

9.01 None

10.00 CONSULTATION REQUIRED

10.01 Planning Protocol Working Group

11.00 CONSULTATION UNDERTAKEN

11.01 Planning Protocol Working Group

12.00 APPENDICES

12.01 Appendix A - 17 July report to PPWG - joint report - Delegation Scheme

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

As referred to in the report.

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FLINTSHIRE COUNTY COUNCIL

Appendix A

REPORT TO: **PLANNING PROTOCOL WORKING GROUP**
DATE : **17 JULY 2009**
REPORT BY: **MONITORING OFFICER AND HEAD OF PLANNING**
SUBJECT : **DELEGATION SCHEME**

1.00 PURPOSE OF REPORT

- 1.01 To give further consideration to proposals for amending the existing Delegation Scheme to the Head of Planning.

2.00 BACKGROUND

- 2.01 The existing Delegation Scheme set out in the Constitution provides the Head of Planning with a number of delegated powers in relation to the determination of applications in relation to both County Council and Executive functions. His delegated powers are subject to a number of restrictions which are set out in paragraphs 1(a)-(d) on page 136 (copy attached at Appendix A). Two of the restrictions require an application to be considered by the Committee where the Ward Member makes a request to that effect during the consultation period or an adjoining Ward Member where the Ward is significantly affected by the development.
- 2.02 As Members will be aware, generally applications should be determined within 8 weeks of submission and failure to do so could result in the applicant appealing against non determination. In addition, the Council's Performance Indicators relating to the Planning Service could be detrimentally affected by any significant reduction in delegated powers.
- 2.03 As Members will recall, PriceWaterhouseCoopers in their 2007 report commented on the Scheme of Delegation in paragraphs 117-124 and concluded that the Scheme of Delegation operated by this Council was similar to that found elsewhere. A copy of an extract from the PWC report is attached at Appendix B. At the meeting of the Planning Protocol Working Group on 15th December 2008 it was also noted that "The PWC report concludes that we have a good delegated scheme and that it would work even better if we had a regular review of delegated decisions with the chairman."

3.00 CONSIDERATIONS

- 3.01 At the December Planning Protocol Working Group meeting consideration was given to amending the Head of Planning's delegated powers. A copy of the existing delegated scheme is appended to this report and the proposed changes are outlined below. These suggestions would effectively mean that

two additional restrictions are made to the exercise of delegated powers ('e' and 'f') and that one of the existing restrictions ('d') is amended, as follows:-

- (d) Amended to read; "Where the application constitutes a departure from the Development Plan or planning policy, whether objections have been received or not."
- (e) Where the application is recommended for refusal.

In light of the analysis of recent appeal decisions as discussed earlier on the agenda, Members may wish to give further consideration to this matter.

- (f) Where the application is an amended application to one which has previously been refused and the recommendation is for approval.

Members may wish to consider whether it may be more appropriate for Committee to re-consider only matters that they had previously refused.

3.02 It is considered that any refinement of the scheme of delegation should reduce the numbers of applications that would be placed before Committee for consideration thereby allowing them to concentrate on schemes of a complex, strategic nature or those brought to Committee at the request of the local Member. The implications of the revised scheme set out in Section 3 when applied to recent Planning and Development Control agendas will be highlighted to members at the Working Group.

3.03 As mentioned at the last meeting of the Planning Protocol Working Group the Head of Planning also recommends the following additional amendments to the Scheme:-

(b) - substitute 2,000 sq.m or 50% (in place of 1,000 sq.m or 25%) and delete the reference to site area, which would only be applicable in cases of outline planning applications, which would seldom, if ever, apply to alterations/extensions.

(c) - substitute 2,000 sq.m (in place of 1,000 sq.m) and 2 Ha. (in place of 1 Ha.)

Add (Ci) - On established industrial estates/business parks, or land allocated for such purposes in the UDP, (where, in each case, the total estate/business park/allocation area exceeds 20Ha) limits in the case of both (b) and (c) be increased to 5,000 sq.m and 5 Ha.

(i) - substitute 2,000 sq.m and 2 Ha.

(m) - substitute 1 Ha.

(q) - take out the word 'minor'

(r) - take out 'for periods not exceeding 5 years'

3. Substitute: To determine the need for an Environmental Assessment and issue Screening and Scoping opinions in respect of development proposals.

Add: 4. To enter into Agreements and receive Unilateral Undertakings on behalf of the Council under Section 106 of the Town and Country Planning Act 1990 in respect of the payment of a commuted sum by developers in lieu of on site play/open space provision, where the residential development concerned provides a maximum of 10 No. dwelling units.

4.00 RECOMMENDATIONS

4.01 That Members give further consideration to the proposed amendments to the Delegation Scheme and make recommendations to the Constitution 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 required

11.00 CONSULTATION UNDERTAKEN

11.01 None undertaken

12.00 APPENDICES

- 12.01 Appendix A - Head of Planning's Delegated Powers (Existing)
Appendix B - copy of an extract from the PWC report.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

As referred to in the report

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CHIEF PLANNING SERVICES OFFICER

1. Subject to the following restrictions:-

- (a) Where objections are received from consultees or members of the public the issuing of permission shall follow consultation with the Chairman and Vice-Chairman of the Planning Committee and be subject to either of them requesting that the application being referred to Planning Committee for determination. In the absence of the Chairman or Vice-Chairman another Member of the Planning and Development Control Committee who has received the appropriate Planning training may deputise for either the Chairman or Vice-Chairman in their absence.
- (b) Where a Member requests in writing during the consultation period that any application in his or her ward should be determined by the Planning Committee.
- (c) Where an adjoining Ward Members whose Ward is likely to be significantly affected by the development in question requests in writing during the consultation period that the application be determined by the Planning Committee.
- (d) Where the application constitutes a departure from the Development Plan.

The Chief Planning Services Officer shall have power to act and determine applications in accordance with the Council's Planning Policies in the following categories:-

- (a) alterations and/or extensions to residential property, the construction of and alterations and/or extensions to domestic garages and structures;
- (b) alterations and/or extensions to non-residential buildings or structures where the additional net floor space or ground area does not exceed 1000 sq.m. or 25% of the existing whichever is the greater, where the resultant building or structure would not exceed 15 metres in height above ground level and/or where the site area does not exceed 1 ha. and alterations to and the provision of new entrances and means of escape;
- (c) new non-residential developments which do not create more than 1000 sq.m. net floor space or exceed 15 metres in height above ground level and/or where the site does not exceed 1 ha.;
- (d) construction and/or alteration of vehicular and pedestrian accesses to highways;
- (e) erection of satellite dishes, radio antennae and other telecommunications equipment;

- (f) development on allotments;
 - (g) provision of means of enclosure;
 - (h) alterations to and/or provision of new shop and office fronts and the provision of roller shutters and canopies;
 - (i) changes of use to buildings and land where the floor area does not exceed 1000 sq.m. or the site area does not exceed 1 ha.
 - (j) residential development which does not exceed 0.5 ha, substitution of house types and variation of housing layouts;
 - (k) development by the County Council, statutory undertakers (including privatised utilities) and Government departments and agencies falling within any other category (a) to (u) hereof;
 - (l) construction above and below ground of storage tanks with a volume no greater than 10,000 litres, pipes, sewers, drains and power lines of no more than 1 Km. in length and associated pumping stations and sub-stations;
 - (m) tipping of inert, non-toxic waste on sites not exceeding 0.5 ha. in area;
 - (n) demolition of buildings;
 - (o) conservation area consent;
 - (p) listed building consent;
 - (q) minor amendments to schemes with planning permission;
 - (r) renewal of temporary permission for periods not exceeding 5 years;
 - (s) reserved matters and any application or request for approval, agreement or consent pursuant to a condition imposed on a planning permission or approval and the subsequent discharge of the condition;
 - (t) renewal of time limited permissions which have not lapsed and where circumstances have not materially altered;
 - (u) variation or removal of planning conditions.
2. The Chief Planning Services Officer shall also have delegated powers to act in relation to those matters set out in Schedule One hereto.
3. To determine whether planning applications and deemed applications should be subject to an environmental assessment and to decide what data should be contained in environmental assessments.

Executive Functions

1. To respond on behalf of the County Council to requests for information and the provision of observations in respect of any matter within the scope of the Planning Division.
2. To respond to the Forestry Commission in relation to Notices regarding Felling Licence Applications under Section 15 of the Forestry Act 1967.
3. To prepare development briefs.
4. To authorise the staff of the Planning Division to enter land.
5. To take any urgent decision arising from the work of the Planning Division following consultation with the Chairman and Vice-Chairman.
6. To consult with the public and organisations on the various stages of the Development Process.
7. To determine grant applications under the Flintshire Historic Building Repair Grant Scheme in consultation with the Executive Member for Transportation, Planning and the Environment.
8. To determine Landscape and Conservation Grant applications in consultation with the Executive Member for Transportation, Planning and the Environment.
9. To determine Holywell TH1 Grant applications in consultation with the Executive Member for Transportation, Planning and the Environment.

APPENDIX B

EXTRACT FROM PNC REPORT - MAY 2007

"REVIEW OF THE DEVELOPMENT CONTROL
FUNCTION OF FLINTSHIRE COUNTY COUNCIL"

Scheme of Delegation

117 The scheme of delegation explains that applications can be considered by the following bodies:

- Full Planning Committee
- Chair and Vice Chair consideration ("call in")
- Delegated powers (Officer of the Planning Department)

118 The scheme established an assumption that applications should be determined by delegated powers unless one of the following conditions apply:

- Objections are received from consultees or members of the public. In this case the application is to be considered by the Chair and Vice-Chair.
- Where a Member requests in writing during the consultation period that any application in their ward should be taken out of delegated powers
- Where an adjoining Ward Member whose ward is likely to be significantly affected by the development in question requests in writing during the consultation period that the application should be taken out of delegated powers.
- Where the application constitutes a departure from the Development Plan.

119 In the absence of complications, the type of decisions that should be made by delegated powers are:

- Alterations and/or extensions to residential property, the construction of and alteration and/or extensions to domestic garages and structures
- Alterations and/or extensions to non-residential buildings or structures where the additional net

floor space or ground area does not exceed 1,000 sq.m. or 25% of the existing whichever is the greater, where the resultant building or structure would not exceed 15 metres in height above ground level and/or where the site area does not exceed 1 ha. Alterations to the provision of new entrances and means of escape.

- New residential development and non-residential developments which do not create more than 1,000 sq.m. net floor space or exceed 15 metres in height above ground level and/or where the site does not exceed 1 ha.
- 120 We have considered the nature of the scheme to assess whether it is typical of those found in other councils. We have also established the level of applications that have been dealt with under delegated powers, and conversely why certain schemes that might have been determined in this manner did not follow that route.
- 121 Our conclusions are that the scheme of delegation is similar to that found elsewhere.
- 122 The figures made available to us indicate that around 80% of applications are handled through delegated powers, which is much in line with practice at other authorities. The figures suggest that the proportion of decisions under delegated powers varies between 64% and 93%.
- 123 While both these conclusions are comforting, it is of concern to note anecdotal evidence of a marked recent rise in instances of Members requesting that individual applications should go to Committee, although they were capable under the scheme of being dealt with through delegated powers. We raised this with several councillors, who all told us that the reason is that they do not feel confident in Officer recommendations, owing to perceived inconsistencies in application of policy and a feeling that certain applicants are being discriminated against.
- 124 It is of course members' prerogative to request that applications be taken out of delegation. Nevertheless, it must be accepted that this hinders efficiency, and will often lead to delay, and as such this is a route that should be used sparingly. We believe that a local target should be established to monitor the number of occasions on which the provisions of the scheme of delegation are not followed, with the medium term aim of limiting its use. From our review of other Authorities, we have noted that different schemes are operating effectively elsewhere. These include a high level weekly review by the Head of Planning and the Chair of the Planning Committee of all delegated decisions. This gives Members confidence that all decisions have a degree of political review. These Authorities are of the opinion that the Members have increased comfort to delegate more decisions to Officers. This is something Flintshire may want to consider.

FLINTSHIRE COUNTY COUNCIL

AGENDA ITEM NUMBER: 8

REPORT TO: **CONSTITUTION COMMITTEE**
DATE : **28 JULY 2009**
REPORT BY: **HEAD OF LEGAL AND DEMOCRATIC SERVICES**
SUBJECT : **BOARDS - HOUSING STRATEGY, HOUSING OPTIONS,**
 LEISURE STRATEGY, STREET SCENE AND SCHOOL
 MODERNISATION

1.00 PURPOSE OF REPORT

1.01 To recommend the establishment of politically balanced boards to assist the work of the Executive.

2.00 BACKGROUND

2.01 At its meeting on the 21 April, 2009 Group Leaders discussed the establishment of Boards to assist the work of the Executive in the following areas:

- Housing Strategy
- Housing Options
- Leisure Strategy
- Street Scene
- School Modernisation

2.02 At the Annual Meeting of the Council on the 12 May, 2009 it was agreed that the matter be considered by the Constitution Committee.

2.03 For the purposes of consistency, it is suggested that each of the Boards comprise an appropriate number of elected Members. Two possible options are set out below:

- a. Board comprising 7 Members consisting of three Independent, two Labour, one Liberal Democrat, one Conservative.
- b. Board comprising 9 Members consisting of three Independent, three Labour, two Liberal Democrats, one Conservative.

2.04 It is hoped that the School Modernisation Board will be able to meet as soon as possible. Its primary role will be that of strategic analysis and monitoring and its terms of reference should include:-

- to provide a sounding board for recommendations regarding options appraisal and proposals for school modernisation schemes and projects

Date: 22/07/2009

involving capital and revenue resource implications, and for onward presentation to Executive, as required

- to support the usage and application of coherent and consistent policy as set out in the Council's agreed Statement of Priorities for the Education Asset Management Plan (EAMP)
- to ensure that all due consideration is made to appropriate strategic planning factors, relevant impact assessments, risk analysis and budgetary implications in relation to school modernisation proposals and options for investment and disinvestment
- to complement and coordinate with the work of the Executive, TCC and Lifelong Learning Overview and Scrutiny Committee, as appropriate.

2.05 Arrangements have provisionally been made for the establishment of a Housing Options Project Board; Group Leaders have been requested to gather nominees on the basis that the Board will comprise 9 Members with senior officer representation, WAG/regulator representation and tenant federation representation. These arrangements mirrored those made in relation to the previous Housing Options Panel. The terms of reference of the Board should include by agreement with WAG officials:-

- oversee the pre-ballot and ballot process
- ensure full compliance with WAG ballot guidelines
- oversee a communications strategy for all interested parties
- ensure that the project has sufficient capacity (people, finance and independent expertise) to fulfil a full project plan with objectives and deadlines
- oversee the appointment of a dedicated project team
- oversee the appointment of the necessary independent advisors
- oversee the development of the Offer Document
- provide advice and direction on key decisions such as the governance model for the alternative landlord
- assess and advise on the impacts on the Council of a positive vote
- assess and advise on the wider benefits of a positive vote and how to manage them (eg. construction industry capacity)
- advise on the contingency plan of the Council in the event of a negative vote
- assure delivery of the project plan objectives and deadlines
- account for project delivery to WAG and regulators

2.05 At the suggestion of our Group Leaders it is proposed that the above terms

of reference be extended to include the options for the future management of the housing repairs and maintenance function.

3.00 CONSIDERATIONS

3.01 Terms of reference now need to be developed for the Boards relating to Housing Strategy, Leisure Strategy and Street Scene and it is suggested that draft terms of reference be submitted by the appropriate Corporate Director to the first meeting of each of those Boards. The terms of reference agreed at the first meeting of each Board can then be submitted to the Executive for approval.

4.00 RECOMMENDATIONS

4.01 That Housing Strategy, Housing Options, Leisure Strategy, Street Scene and School Modernisation Boards be established.

4.02 That the terms of reference of the School Modernisation and Housing Options Boards set out in paragraphs 2.04 and 2.05 above be agreed and that the terms of reference of each of the other Boards be agreed at their first meeting subject to Executive approval.

4.03 That the Boards be politically balanced and have appropriate senior officer representation and where appropriate, representation from WAG/regulators and other appropriate or required representation.

4.04 That the Committee agree the number of elected Members on each Board.

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 Group Leaders, Executive Members

11.00 CONSULTATION UNDERTAKEN

11.01 Group Leaders, Executive Members

12.00 APPENDICES

12.01 None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
BACKGROUND DOCUMENTS

As referred to in the report.

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