

## **CONSTITUTION COMMITTEE**

**28 MARCH 2012**

Minutes of the meeting of the Constitution Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Wednesday, 28 March 2012

**PRESENT: Councillor Hilary Isherwood (Chairman)**

Councillors David Barratt, Chris Bithell, Quentin Dodd, Fred Gillmore, Robin Guest, George Hardcastle and Peter Macfarlane

**APOLOGIES:** Councillors Marion Bateman, Veronica Gay, Ron Hampson and Peter Pemberton.

**IN ATTENDANCE:**

Democracy and Governance Manager, Member Engagement Manager, Internal Audit Manager, and Committee Officer

**50. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**

There were no declarations of interest.

**51. MINUTES**

The minutes of the meeting of the Committee held on 18 January 2012, were submitted.

**Matters arising**

**Monitoring of Planning Training**

The Democracy and Governance Manager reported that Planning training had been considered by Group Leaders at a meeting on 24 January 2012. It had been decided that a report was not required to be submitted to the next meeting of the Committee.

**Updating Council Constitution**

The Democracy and Governance Manager advised that the changes recommended by the Committee to County Council had been agreed. He said he had written to all Group Leaders about the minor changes that would be made and that he would distribute details of the changes to the Committee.

**Welsh Government Consultation Document on the Local Elections Survey (Wales) Regulations 2012**

The Democracy and Governance Manager commented it was disappointing that the points made by the Committee in response to the consultation document had not been put into effect by the Welsh Government.

## **RESOLVED**

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

## **52. LOCAL GOVERNMENT (WALES) MEASURE 2011 - CONSULTATION ON DRAFT STATUTORY GUIDANCE**

The Democracy and Governance Manager introduced a report to seek the view of the Committee on the Draft Statutory Guidance currently being consulted on by the Welsh Government (WG).

The Democracy and Governance Manager advised that on 3 February 2012, the WG had issued a consultation document on Draft Statutory Guidance on the local democracy and governance parts of the Measure. The parts of the Draft Statutory Guidance relating to overview and scrutiny were considered by the Overview & Scrutiny Co-ordinating Committee on 8 March 2012, and details of its recommended response to consultation effecting Overview and Scrutiny was attached to the report. The parts of the Draft Guidance relating to audit committees had been considered by the Audit Committee at its meeting on 26 March 2012. The observations of the Audit Committee were tabled at the meeting and reported by the Internal Audit Manager. The Democracy and Governance Manager advised that the deadline for responses to the consultation was 30 March 2012.

The Democracy and Governance Manager gave an overview of the proposals put forward in the Draft Statutory Guidance which were detailed in the report. Members raised a number of concerns in relation to the proposed timescale, following ordinary elections, for a survey to be conducted around the timing and intervals at which council, committee and sub committee meetings were held. Councillor R.C. Bithell expressed the view that this and some of the other proposals should be left with the local authority to determine rather than the WG trying to micro manage authorities. He commented that Flintshire County Council already had well established and long standing arrangements in place which worked well. Further queries were raised by Members concerning the appointment of at least one lay person to the membership of the Audit Committee. The Democracy and Governance Manager responded to the comments and queries and provided clarification on the matter of co-optee allowances.

The Committee endorsed the observations of the Overview and Scrutiny Coordinating Committee in response to consultation on the Draft Guidance relating to Overview and Scrutiny. Members also endorsed the points made by the Audit Committee at its meeting on 26 March 2012, in response to consultation relating to audit committees. In addition Members stated that the criteria for the appointment of a suitable lay person to the membership of the Audit Committee should be made clear in the final version of the Guidance. It was agreed that the proposed timetable for a survey to be conducted of Members following ordinary elections in relation to the timing of the Council's meetings was unrealistic.

## **RESOLVED:**

- (a) That the observations of the Overview and Scrutiny Coordinating Committee in response to consultation on the Draft Guidance be endorsed;
- (b) That the observations made by the Audit Committee at its meeting on 26 March 2012 concerning the Draft Statutory Guidance relating to audit committees be endorsed;
- (c) That the criteria for the appointment of a suitable lay person to the membership of the Audit Committee be made clear in the final version of the Guidance;
- (d) That the proposed timetable for a survey to be conducted following ordinary elections in relation to the timing of the Authority's council, committee, and sub committee meetings, was deemed unrealistic; and
- (e) That the Democracy and Governance Manager responds to consultation on the above basis.

## **53. REVISED MEMBERSHIP AND TERMS OF REFERENCE OF AUDIT COMMITTEE**

The Democracy and Governance Manager introduced a report to consider a recommendation from the Audit Committee in relation to its membership and terms of reference.

The Democracy and Governance Manager provided background information and commented on the need for the Council to prepare for the implementation of the provisions in the Local Government (Wales) Measure 2011 relating to audit committees. He advised that irrespective of the implementation of the Measure there was a need by June 2012 to update the current terms of reference for the Audit Committee under section C, financial reporting. The Internal Audit Manager explained that the update was required to reflect the changed practice to reporting for the draft statement of accounts to go to the Audit Committee and then following consideration by the Welsh Audit Office to be considered again and referred to Council for approval.

The Democracy and Governance Manager advised that once the Measure came into effect there was a need to recruit at least one lay person to the Audit Committee. At its meeting on 26 March 2012 the Audit Committee received a report on the Local Government (Wales) Measure which recommended that the Committee considered changes to its membership and terms of reference so that these could be recommended to the Constitution Committee and County Council and the process of recruiting lay member(s) undertaken. Councillor Q.R.H. Dodd said that the Committee's preliminary view was that the total membership of the Audit Committee under the new arrangements would be seven Members and one lay member, with no Executive Members.

Members referred to the present terms of reference for the Audit Committee which were attached to the report. Councillor R.J.T. Guest sought clarification on the effect of the Measure on the terms of reference for the Audit Committee. He commented on section 7.02, Form and Composition, which advised that the Chair and Vice-Chair would be chosen from amongst the main opposition group(s) on the Council. Councillor Guest suggested that the terms of reference be amended so that the word 'main' was deleted from the first sentence and this was agreed by Members.

In addition to the above the Committee also agreed that the terms of reference for the Audit Committee be amended under Section C, Financial Reporting, so that the Audit Committee considered the draft annual Statement of Accounts, together with the underlying accounting policies prior to their submission to the Welsh Audit Office and again afterwards prior to recommending their approval to the Council.

In response to a request from Councillor Q.R.H. Dodd, the Democracy and Governance Manager suggested that via a letter from the Chair, Members be informed of the proposed changes to the composition and terms of reference for the Audit Committee.

#### **RESOLVED:**

- (a) That the membership of the Audit Committee be extended by one lay member and its terms of reference extended to reflect the Local Government (Wales) Measure 2011 when it comes into effect;
- (b) That the terms of reference for the Audit Committee be amended so that the word 'main' be deleted from the first sentence in section 7.02, Form and Composition;
- (c) That the terms of reference for the Audit Committee be amended under Section C, Financial Reporting, to read 'Consider the draft annual Statement of Accounts, together with the underlying accounting policies prior to their submission to the Welsh Audit Office and again afterwards prior to recommending their approval to the Council'; and
- (d) That via a letter from the Chair, Members are informed of the proposed changes to the composition and terms of reference of the Audit Committee.

#### **54. FLINTSHIRE BYE-LAWS**

The Democracy and Governance Manager introduced a report to revisit the need for a separate Bye-laws Committee pursuant to the decision at the last meeting. He advised that whilst the Council had not decided to have a Bye-law Committee, it had decided in 2006 to set up a working party to examine and consider the creation of a set of bye-laws for Flintshire. However, the Group did not meet and the work was undertaken by the Constitution Forum which was subsequently replaced by the Constitution Committee.

The Democracy and Governance Manager advised that the Council's Constitution provided that the making, amending, revoking, re-enacting or adopting of bye-laws was a function of the full Council. Once the Local Government Bye-Laws (Wales) Bill was enacted the process for making bye-laws should be simplified and this may lead the Council to making new bye-laws or amending existing ones.

Councillor Q.R.H. Dodd suggested that the issue of Bye-laws be considered by the Constitution Committee and proposed that the terms of reference for the Committee be amended to reflect this. During discussion Members expressed a number of concerns in relation to the enforcement of bye-laws. Councillor R.J.T. Guest seconded the proposal put forward by Councillor Dodd and when put to the vote this became the resolution of the Committee.

**RESOLVED:**

That the terms of reference for the Constitution Committee be amended to enable the Committee to examine and consider the creation or amendment of Bye-laws for Flintshire.

**55. ANNUAL REVIEW OF CODE OF CORPORATE GOVERNANCE**

The Democracy and Governance Manager introduced a report on the annual review of the Code of Corporate Governance. He reported that in October 2011 the Corporate Governance Officer Working Group had commenced this year's review and update of the Code of Corporate Governance. Whilst the majority of the code remained accurate and appropriate some parts of it required updating and a copy of the updated code and the changes made was attached to the report.

The Democracy and Governance Manager advised that as the Code of Corporate Governance formed part of the Constitution when the Code was amended there was a need to update the Constitution to include the amended version of the code. He advised that if the Committee approved the updates made to the Code he would consult with political Group Leaders and the Chair of the Constitution Committee to check they had no objection to the version in the Constitution being updated. In the event of any objection there would be a need for it to be reported to the Council for approval. Councillor D. Barratt requested that the Vice-Chair of the Constitution Committee also be kept informed of any changes.

**RESOLVED:**

- (a) That the amendments made by way of updating the Code of Corporate Governance be approved; and
- (b) That the Democracy and Governance Manager consults with political Group Leaders and the Chair of the Constitution Committee on updating the Constitution to reflect the current Code of Corporate Governance following the review.

**56. PRESS IN ATTENDANCE**

There were no members of the press in attendance.

**57. DURATION OF MEETING**

The meeting commenced at 10.00am and finished at 11.25am

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**Chairman**