

**CONSTITUTION COMMITTEE**  
**24 OCTOBER 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, 24 October 2012

**PRESENT: Councillor Robin Guest (Chairman)**

Councillors Chris Bithell, Clive Carver, David Cox, Ian Dunbar, David Evans, Veronica Gay, George Hardcastle, Patrick Heesom, Joe Johnson, Neville Phillips, Paul Shotton, Nigel Steele-Mortimer and Arnold Woolley

**SUBSTITUTES:** Councillors Bernie Attridge (for Ian Roberts), Jim Falshaw (for Owen Thomas) and David Wisinger (for Glenys Diskin)

**APOLOGIES:** Councillors Derek Butler, Rita Johnson and Tony Sharps. Chief Executive.

**IN ATTENDANCE:** Head of Legal and Democratic Services, Democracy and Governance Manager, Member Engagement Manager and Committee Officer

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

There were no declarations of interest

**14. MINUTES**

The minutes of the meeting of the Committee held on 24 July 2012, were submitted.

**Matters arising**

Page 3 – the Democracy and Governance Manager reported that the response to the consultation has been sent.

Page 5 – Overview and Scrutiny annual report would go to council meeting on 13 November.

**RESOLVED:**

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

**15. UPDATING THE CONSTITUTION**

The Democracy and Governance Manager introduced the report and explained that a 3 year programme to update the Constitution was now in place. Six areas of the Constitution had been identified for review in year one. This

report introduced suggested changes to Part 1, Part 2 and Part 8. Changes to Part 1 were shown as tracked changes in Appendix 1 and Part 2 in Appendix 2. Appendices 3 and 4 referred to changes in the table showing the Senior Management team to include Heads of Service. Appendix 5 referred to the Review and Revision of the Constitution and the Democracy and Governance Manager pointed out a further change to Appendix 5, whereby the sentence in the underlined paragraph should read "Where the changes are consequential" rather than "Where the changes consequential".

The Democracy and Governance Manager explained that the guiding principles of the review were to update current arrangements and to avoid ambiguity. He also informed the Committee that the Welsh Government were currently in the process of preparing a model constitution for all local Welsh Authorities.

Councillor R. C. Bithell referred to page 16 of the report and asked if the Appeals Committee could deal with all types of appeals, such as transport services and social care. The Democracy and Governance Manager said that the Committee dealt with those appeals which our policies or procedures gave an appeal to it. Councillor Bithell asked whether response times to customer queries should be included under Citizen's Rights on page 16. The Democracy and Governance Manager in response said that the section dealt with legal rights, although if the Committee wished, the Constitution could be expanded to include procedures for Corporate Communication. Councillor Bithell asked if the Democracy and Governance Manager could investigate this further.

Councillor J.B. Attridge questioned the use of a protocol in the Constitution when responsibility with it lay with the Chief Executive. He asked for clarification about corporate service standards in terms of customer communications. It was agreed that the Democracy and Governance Manager research the matter and submit a report to a future meeting.

Councillor R.C. Bithell asked if the Overview and Scrutiny function was affected by delegation to and from other local authorities on page 49. He was concerned about powers being taken away from Flintshire County Council. The Chair said this matter would be dealt with under Agenda Item 6. The Head of Legal and Democratic Services advised that a report went to Executive in February 2012 setting out in detail the scrutiny arrangements for regional collaboration projects.

Councillor C. Carver asked about page 4 of Appendix 1, with reference to Citizens Rights and asked if this meant citizens had the right to contact their local councillor about any matters of concern to them, even if it concerned matters outside of their ward or even Flintshire. The Chair said that it was expected that members referred cases outside their ward to the relevant member for that ward for them to pursue. The Head of Legal and Democratic Services said that a local councillor would then refer a matter in their ward to a relevant officer of the council or to the portfolio holder. The Democracy and Governance Manager said that this could be re-phrased to clarify the matter. Councillor C. Carver referred to Article 19 – Review and Revision of the Constitution in Appendix 5 and observed that Cabinet could make decisions that could not be called in which would then amend the constitution. The Democracy and Governance Manager

said that the procedure was rarely used and did involve consultation with the Chair of the Council and only applied in the case of urgent decisions. The Head of Legal and Democratic Services said that that it was unlikely that Cabinet would need to amend the consultation urgently.

Councillor R. C. Bithell asked if the Member development and training referred to Democratic Services Committee (Appendix 1, page 4) was applicable to all Members. The Head of Legal and Democratic Services said that every Member would be supported.

**RESOLVED:**

- (a) That the proposed changes be recommended to Council subject to rephrasing to address the point made by Councillor C. Carver
- (b) That the Democracy and Governance Manager bring a report to a future meeting on Corporate Service Standards for responses to communications.

**16. REVIEW OF INTERNAL MEMBER FORA**

The Democracy and Governance Manager explained that the review had developed from a decision at the annual council meeting on 15 May 2012. The purpose of the review was to establish whether there was still a need to retain all of the internal member bodies. At the Constitution Committee meeting of 24 July 2012, it was agreed that further information be obtained and further consultation with Group Leaders prior to a report back to Constitution Committee.

The Democracy and Governance Manager reported that at the Group Leaders meeting on 19 October it had been unanimously agreed that there was no longer a need for the Member Development Working Group (paragraph 3.04). It had similarly been agreed that the Development Plans Panel and Planning Protocol Working Group be merged into one group (paragraph 3.05). It was also similarly agreed that the Social Services Representation and Complaints Review Panel be dissolved (paragraph 3.08). The Democracy and Governance Manager drew Members attention to the amendment to paragraph 3.07 on the original report, whereby it now stated that at Land Disposal Panel, the local member to be consulted on the principle of disposal and their observations/comments noted in the report.

The Democracy and Governance Manager then asked the Committee if they agreed with the recommendations of the Group Leaders in respect of paragraphs 3.04, 3.05 and 3.08.

It was agreed by the Committee to accept the recommendations of the Group Leaders in relation to paragraphs 3.04, 3.05 and 3.08.

The Democracy and Governance Manager then asked Members to consider paragraph 3.06 and to refer to the additional sheet which contained further information on Chairman's/Delegation panel meetings that had been requested at the Group Leaders Meeting. The Head of Legal and Democratic

Services reported that over four years, the Chairman's Delegated Panel had considered 423 applications and referred on 11 applications to Planning and Development Control committee for consideration and of those referred on 3 had subsequently been refused against officer recommendations. He added that this represented a poor use of resources and that the 423 applications could safely have been left to officers to determine. The panel also lacked transparency because applicants/objectors were not able to determine from the outset whether an application would need to be considered at committee. Further more the meetings were neither open to the public nor minuted.

Councillor P. Heesom said that the Chairman's/Delegation Panel meetings were not transparent because they were conducted under closed conditions without minutes. He added that he wanted to see a clear set of criteria as to what could be dealt with by officers. The Head of Legal and Democratic Services said that the group could be made into a sub committee that would meet in public, but this would involve more time and bureaucracy. Councillor Heesom said that he wanted the discussion referred back to Group Leaders.

Councillor D. Wisinger referred to point 3.06 and said that he had agreed to look at the panel, to see if it needed modification, but did not agree to its abolition.

Councillor I.A. Dunbar agreed with Councillor D. Wisinger.

Councillor J.B. Attridge questioned the need for the Panel given the very small amount of cases referred to Planning and Development Control Committee. Councillor R. C. Bithell concurred with Councillor Attridge and said that there were no sound reasons to retain the panel.

Councillor C. Carver asked if the time scale for planning applications could be clarified. Councillor I. A. Dunbar said that he was the new vice chair of Planning and Development Control committee and said that the policy protocols were followed.

Councillor V. Gay asked if applications by current or ex council staff had to go to committee. The Democracy and Governance Manager said that only planning officers' and some highway officers' applications should be referred.

It was agreed by members that paragraph 3.06 be taken back to the Group Leaders for further discussion.

The Chair commenced discussions about paragraph 3.07, Land Disposal Panel by saying that he would like to see the Portfolio Holder involved in the sign off of land to the value of £1-£100,000 and said that political responsibility should be taken. The Head of Legal and Democratic Services advised that currently, officers could authorise the sale of property up to £2 million, but in future all sales of £500k and over would go to Cabinet as a Part 2 item. The Cabinet Member for Environment said that he agreed with all suggestions contained within paragraph 3.07.

Councillor C. Carver asked about sales of land that fell between two wards and asked if both Councillors would have input into discussions. The Chair said that a member should inform a neighbouring member of any such cases.

The Committee approved paragraphs 3.07 and 3.09.

**RESOLVED:**

- (a) That Committee recommends to Council and for Executive functions to Cabinet the proposals in paragraphs 3.04, 3.05, 3.08 and those in paragraph 3.07 and 3.09 subject to the incorporation of the point made by the chair.
- (b) That paragraph 3.06 be referred back to the Group Leaders for further discussion.

**17. WALES AUDIT OFFICE SCRUTINY IMPROVEMENT STUDY**

The Member Engagement Manager introduced the report to advise the Committee of the all Wales Audit Office Scrutiny Improvement Study which commenced in September 2012. He explained that there were 6 phases to the study which were 1) Collaborative Scoping, 2) Initial Self Evaluation, 3) Regional Workshop, 4) Peer Learning Exchange Field Work, 5) Second Regional Workshop and 6) Reporting.

The Member Engagement Manager informed the Committee that he had completed the self evaluation and had identified a lead officer for the Learning Exchange Team, Margaret Parry Jones, Overview and Scrutiny Facilitator. He now sought nominations for further team members: one cabinet member, one overview and scrutiny chair, two Overview and Scrutiny members. The Member Engagement Manager would also be included in the team. Phase 3 would include regional workshops and a reciprocal arrangement of two North Wales groups had been agreed with Wrexham, Denbighshire and Flintshire in one group and Gwynedd, Anglesey and Conwy in the other. The Member Engagement Manager said that the Peer Learning Exchange Field Work would involve scrutiny teams from the various councils attending and observing at two meetings of neighbouring councils. The Second Regional Workshop would involve feedback from the Peer Learning Exchange teams. The final phase would involve the dissemination of information and was likely to take place in June or July 2013.

The Member Engagement Manager asked for nominations for the team. Councillor J.B. Attridge nominated Councillor B. Mullin as the appropriate Cabinet Member. Councillors C. Carver and C.A. Thomas were also nominated.

**RESOLVED:**

- (a) That the Committee notes the arrangements which have already been made for Flintshire's participation in the study;
- (b) That Councillors B Mullin, C. Carver and C.A. Thomas be members of the Peer Learning Exchange Team.

- (c) That the Member Engagement Manager identify an Overview and Scrutiny Chair to be a member of the Peer Learning Exchange Team.

**18. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

There were no members of the press in attendance.

(The meeting started at 2.00 pm and ended at 3.30 pm)

.....

**Chairman**