

Public Document Pack

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Head of Legal and Democratic Services
Pennaeth Gwasanaethau Cyfreithiol a Democraidd



To: Cllr Robin Guest (Chairman)

CS/NG

Councillors: Chris Bithell, Derek Butler,
Clive Carver, David Cox, Glenys Diskin,
Ian Dunbar, David Evans, Veronica Gay,
George Hardcastle, Patrick Heesom, Joe Johnson,
Rita Johnson, Tim Newhouse, Neville Phillips,
Ian Roberts, Tony Sharps, Paul Shotton,
Nigel Steele-Mortimer, Owen Thomas and
Arnold Woolley

18 October 2012

Maureen Potter 01352 702322
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Dear Sir / Madam

A meeting of the **CONSTITUTION COMMITTEE** will be held in the **DELYN COMMITTEE ROOM, COUNTY HALL, MOLD CH7 6NA** on **WEDNESDAY, 24TH OCTOBER, 2012** at **2.00 PM** to consider the following items.

Yours faithfully

Democracy & Governance Manager

AGENDA

- 1 **APOLOGIES**
- 2 **DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)**
- 3 **MINUTES** (Pages 1 - 8)
To confirm as a correct record the minutes of the last meeting.

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The Council welcomes correspondence in Welsh or English
Mae'r Cyngor yn croesawau gohebiaeth yn y Cymraeg neu'r Saesneg

4 **UPDATING THE CONSTITUTION** (Pages 9 - 64)

To consider updating changes to the Council's Constitution pursuant to the three year programme agreed at the last committee meeting.

5 **REVIEW OF INTERNAL MEMBER FORA** (Pages 65 - 74)

To progress the review of internal member informal fora such as Panels and Working Groups

6 **WALES AUDIT OFFICE SCRUTINY IMPROVEMENT STUDY** (Pages 75-78)

To advise the Committee of the Wales Audit Office Scrutiny Improvement Study, an extensive piece of work which commenced in September 2012.

CONSTITUTION COMMITTEE

24 JULY 2012

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on Tuesday, 24 July, 2012

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

Councillors: R.C. Bithell, D. Butler, D.L. Cox, G.D. Diskin, A.I. Dunbar, D. Evans, V. Gay, G. Hardcastle, P.G. Heesom, J.M. Johnson, W.P. Shotton, W.O. Thomas and A. Woolley

SUBSTITUTION: Councillor J.B. Attridge for I.B. Roberts

APOLOGIES: Councillors C.S. Carver, R. Johnson and N. Phillips

IN ATTENDANCE:

Chief Executive, Head of Legal and Democratic Services, Democracy and Governance Manager, Member Engagement Manager and Committee Officer

Prior to the commencement of the meeting the Chairman expressed his thanks to Councillor H.T. Isherwood, for all her work in chairing the Committee during the last year.

1. APPOINTMENT OF VICE-CHAIR

The Chairman sought nominations for a Vice-Chair for the Committee.

RESOLVED:

That Councillor J.M. Johnson be appointed Vice-Chair of the Committee.

2. DECLARATIONS OF INTEREST

Councillor R.J.T. Guest declared a personal interest on agenda item number 10 – Terms of Reference of Committees, as Vice-Chair of the Community Profile and Partnerships Overview & Scrutiny Committee.

3. MINUTES

The minutes of the meeting of the Committee held on 28 March 2012, were submitted.

Matters arising

Annual Review of Code of Corporate Governance

Councillor R.C. Bithell requested that the Vice-Chair of the Constitution Committee also be kept informed of any changes on updating the Constitution to reflect amendments to the Code of Corporate Governance. The Democracy

and Governance Manager confirmed that he would do so.

RESOLVED:

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

4. CONSULTATION ON WELSH GOVERNMENT WHITE PAPER “PROMOTING LOCAL DEMOCRACY”

The Democracy and Governance Manager introduced a report to inform the Committee of the contents of the White Paper “Promoting Local Democracy” and obtain Members’ views on how to respond to the consultation. The questions and draft responses were appended to the report.

Copies of a paper to the WLGA Co-ordinating Committee on the consultation was distributed at the meeting for Members’ information.

Members referred to the considerations in the report and made the following observations on the seven areas covered by the White Paper.

Local Government Boundary Commission Wales

On question 2 Members agreed that the Commission’s membership be extended to 6 members and that the quorum be increased to three.

Question 8 related to community reviews. The Chief Executive commented that there was already a statutory duty to keep under review and only if a council had not carried this out should the Commission require one

There was an objection to the proposal put forward in question 16 as being unreasonable to put a specific number at the start of the process. The draft response reflected the recent Council decision when considering the consultation on Council size and so it was agreed that the response should remain “Yes”.

Members endorsed the draft responses provided to questions 19 to 23.

Amendments to the Local Government (Wales) Measure

Question 25 was discussed and it was agreed not to comment one way or the other.

Members agreed to add a comment that senior salaries should continue to be paid post elections until the appointment of new postholders at each subsequent Annual General Meeting as their duties continued during that period.

The draft responses to questions 29 to 32 were endorsed.

Access to Information: Town and Community Councils

Members were in favour of the draft responses to questions 33 and 34..

Electoral Issues

The Chief Executive and Head of Legal and Democratic Services responded to queries raised by Members concerning payments made to local government officers when undertaking election work and provided further clarification on the duties and responsibilities for running elections. Members agreed the draft response to question 35.

Members welcomed the potential use of funding mechanisms to reward efforts to improve registration levels and expressed the view that the Authority's performance was good.

Local Government Ethical Framework

During discussion Members were of the view that there should be a Code of Conduct which applied to both County and Town and Community Councillors in the same way. Members also supported the concept of more regional collaboration but not necessarily over North Wales as a whole.

Councillor P.G. Heesom withdrew from the meeting room at this point for the remainder of the agenda item.

The Committee were of the view that Members should be required to take out insurance cover for legal representation costs either individually or through political parties.

Local Government Scrutiny and Councillor Training and Development

Members endorsed the proposed responses as detailed in the report concerning Local Government Scrutiny and Councillor Training and Development.

RESOLVED:

- (a) That the White Paper "Promoting Local Democracy" be noted; and
- (b) That the draft response to consultation on the White Paper be amended to reflect the discussion and submitted.

5. STATUTORY GUIDANCE ON THE LOCAL GOVERNMENT (WALES) MEASURE 2011

The Democracy and Governance Manager introduced a report to inform the Committee of the statutory guidance issued following consultation on the draft guidance.

The Democracy and Governance Manager provided background information and an overview of the main considerations detailed in the report and identified changes made from the draft guidance.

RESOLVED:

That the provisions in the statutory guidance be noted.

6. REVIEW OF CONSTITUTION

The Democracy and Governance Manager introduced a report to propose a rolling review of the Constitution that would ensure all parts of the document were reviewed over a 3 year period..

Members were advised that although the Constitution was an important document there was a lack of understanding amongst Members and officers. It was felt that this could be addressed by the rolling programme of review itself, and by arranging briefings for groups of officers and groups of Members on the Constitution.

RESOLVED:

- (a) That the proposed programmed review of the Constitution be endorsed; and
- (b) That the above proposals in relation to raising understanding of the Constitution amongst Members and officers be endorsed.

7. REVIEW OF INTERNAL MEMBER FORA

The Democracy and Governance Manager introduced a report to formally commence a review of internal Member informal fora such as panels and working groups. He provided background information and a list of the internal Member fora that had been identified for review through consultation with Heads of Service.

The hope was expressed that the process would raise the profile of the planning function.

Councillor J.B. Attridge proposed that political Group Leaders consider a review of the internal Member fora with the benefit of the information in paragraph 3.03 of the report, following which a further report be submitted to the Constitution Committee prior to consideration by County Council. This was agreed by Members and became the resolution of the Committee.

RESOLVED:

The information in paragraph 3.03 of the report be obtained for consideration by political group leaders and then a further report to the Committee prior to consideration by County Council.

8. OVERVIEW AND SCRUTINY ANNUAL REPORT

The Member Engagement Manager introduced the report to enable the Committee to consider the draft Overview & Scrutiny Annual Report for the 2011/12 municipal year. Members were informed that the final version of the report would be forwarded to County Council for approval.

It was suggested and agreed that the following be included in the next annual report:

RESOLVED:

- (a) That the draft Overview and Scrutiny Annual Report for 2011/12 be amended to record the membership of Task and Finish Groups; and
- (b) That the attendance of Members at Overview and Scrutiny Committee meetings be included in future Overview & Scrutiny Annual Reports.

9. TERMS OF REFERENCE OF THE LIFELONG LEARNING AND COMMUNITY PROFILE AND PARTNERSHIPS OVERVIEW & SCRUTINY COMMITTEES

The Member Engagement Manager introduced a request from the Lifelong Learning Overview & Scrutiny Committee to resolve a potential overlap between its terms of reference and those of the Community Profile & Partnerships Overview & Scrutiny Committee.

At the Lifelong Learning Overview & Scrutiny Committee meeting held on 14 June 2012, the Members held the view that Clwyd Theatr Cymru was a better "fit" with their own terms of reference particularly the Culture and Leisure aspects. Historically, it had fallen within the remit of the Community Profile & Partnerships Overview & Scrutiny Committee.

During discussion it was proposed that Clwyd Theatr Cymru remained within the terms of reference of the Community Profile and Partnerships Overview & Scrutiny Committee, as previously determined by the Co-ordinating Committee, and this was agreed by Members.

RESOLVED:

That Clwyd Theatr Cymru remains within the remit of the Community Profile and Partnerships Overview & Scrutiny Committee.

10. REPORTS FROM OVERVIEW & SCRUTINY COMMITTEE CHAIRMEN

The Member Engagement Manager introduced the report to invite the Committee to consider whether it wished to continue the practice adopted by the former Overview & Scrutiny Co-ordinating Committee to receive reports from Committee Chairmen on the work of their Committees.

During discussion Members expressed their views concerning whether to continue or not with the practice of receiving Committee Chairmen reports and the Overview and Scrutiny Committee Work Programmes. It was agreed that the Committee should receive reports from Overview & Scrutiny Committee Chairmen on the work of their Committees on an annual basis, as part of the Annual Report.

RESOLVED:

That the Constitution Committee receives reports from Overview & Scrutiny Committee Chairmen on the work of their Committees on an annual basis as part of the Annual Report.

11. PRESS IN ATTENDANCE

There were no members of the press in attendance.

12. DURATION OF MEETING

The meeting commenced at 2.00 pm and finished at 3.45 am.

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Chairman

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

CONSTITUTION COMMITTEE		DATE 24 July 2012
MEMBER	ITEM	MIN. NO. REFERS
Councillor R.J.T. Guest	Terms of reference of the Lifelong Learning and Community Profile & Partnerships Overview & Scrutiny Committees	9

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: CONSTITUTION COMMITTEE
DATE: WEDNESDAY, 24 OCTOBER 2012
REPORT BY: DEMOCRACY & GOVERNANCE MANAGER
SUBJECT: UPDATING THE CONSTITUTION

1.00 PURPOSE OF REPORT

1.01 To consider updating changes to the Council's Constitution pursuant to the three year programme agreed at the last committee meeting.

2.00 BACKGROUND

2.01 Section 37 of the Local Government Act 2000 requires a local authority such as Flintshire to keep up-to-date a Constitution containing information prescribed by the Welsh Government and for that to be available for inspection by members of the public. Section 38 requires the authority to have regard to guidance issued by the Welsh Government and the subsequent guidance required the Constitutions to be in the modular format that Flintshire has.

2.02 At its meeting on the 24 July 2012 the committee considered a report recommending a programmed review of the Constitution over a three year period and resolved to endorse that programmed review. Six areas of the Constitution were identified for review in year one. The first three of those being:-

1. Part 1 Summary and Explanation
2. Part 2 Articles of the Constitution
3. Part 8 Management Structure

2.03 A review of the above three areas has been undertaken by the Democracy & Governance Manager and there has been consultation with Directors and Heads of Service. Tracking changes have been made for one and two above to show the proposed changes and the reasons for them and these are attached as Appendices 1 and 2. Attached as Appendix 3 is the current Part 8 Management Structure and Appendix 4 is the proposed Part 8.

3.00 CONSIDERATIONS

3.01 In undertaking the review the guiding principles have been to update to reflect current arrangements, avoid unnecessary bureaucracy and avoid ambiguity of wording. The extent to which changes can be

made is limited by the requirement to follow the Welsh Government guidance and to include the information the Welsh Government requires to be included in Constitutions.

- 3.02 One consideration Members need to be aware of is that recently the Welsh Government have commissioned Dickinson Dee Solicitors to prepare a draft model Constitution which would be relevant to the Council's own review but at the present time there is a lack of clarity as to what may emerge from this. It is therefore considered that the Council should continue with its own three year programme of review, at least for the time being.
- 3.03 The review of Part 1 of the Summary & Explanation of the Constitution includes the following proposed changes:-
- The current summary inaccurately explains Article 1 of the Constitution as committing the Council to a list of points when those points are a list of the purposes of the Constitution.
 - The summary has been updated to reflect the current size of the Cabinet and the portfolios within it.
 - The updated summary has deleted the reference in the current summary to the Scrutiny Coordinating Committee as it no longer exists.
 - The role of the Audit Committee has been summarised to reflect the recently implemented Local Government (Wales) Measure 2011.
 - An extra paragraph has been inserted to refer to the newly created Democratic Services Committee.
- 3.04 The review of Part 2, the Articles of the Constitution includes the following proposed alterations:-
- Updates such as changing reference from Welsh Assembly to Welsh Government and Members' allowance scheme to Member Remuneration Schedule.
 - To replace reference to the Coordinating Committee with reference to the Constitution Committee.
 - To update Article 11 relating to the Licensing Committee to reflect that its current role includes Private Hire and Hackney Carriage Licensing.
 - To introduce a new Article 14 explaining the role of the Democratic Services Committee.
- 3.05 In reviewing Part 8 the Management Structure, the current Part 8 is shown in appendix 3 and it is proposed that this should be expanded to include all Heads of Service as shown in appendix 4.
- 3.06 Article 19 of the Constitution (Appendix 5) covers the review and revision of it. Prior to the Council meeting on 31 January 2012 all changes to the Constitution had to be reported to Council. At its

meeting on 18 January 2012 the Constitution Committee recommended to Council that minor or consequential changes could be made by the Head of Legal & Democratic Services provided there had been consultation with the Chairman of the Committee and political Group Leaders and none of them required the proposed change to be reported to County Council.

- 3.07 Since that time there have been three separate consultations each containing a number of minor or consequential changes when none of the consultees have required any of the changes to be reported to Council. This process is therefore working well and enabling changes to be made more efficiently than previously.
- 3.08 It is suggested that a further improvement could be made in relation to updates required as a result of Cabinet decisions. Where the Cabinet makes decisions on Executive functions, those decisions become effective after the expiry of the call-in process. Any consequent updates that are needed to the Constitution could be made without the need to consult with the Chair of the Committee and political Group Leaders. Whatever the views of any of the consultees, the Cabinet decision can not be changed and should be promptly reflected in the Constitution. For example, the Cabinet has decided the portfolios of each Cabinet member and whatever the view of any of the consultees that decision can not be changed after the expiry of the call-in process. The consultation process is merely delaying the updating of the Constitution.
- 3.09 It is considered that Article 19.02 should be amended to enable updating as a result of Cabinet decisions to be made immediately following the expiry of the call-in process. Attached as appendix 5 is a draft revised wording of Article 19.02 to permit this.
- 3.10 Any alterations that the committee agrees to as a result of this report will need to be reported to County Council for its approval.

4.00 RECOMMENDATIONS

- 4.01 For the committee to determine the recommended changes to be made to Parts 1, 2 and 8 of the Constitution as a result of consideration of this report.

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 With senior Council officers.

12.00 APPENDICES

12.01 Appendix 1 - Part 1 of Constitution 'Summary & Explanation'
Appendix 2 - Part 2 of Constitution 'Articles'
Appendix 3 - Current Part 8 'Management Structure'
Appendix 4 - Proposed Part 8 'Management Structure'
Appendix 5 - Article 19

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

None

Contact Officer: Peter Evans
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Email: peter.j.evans@flintshire.gov.uk

PART 1 - Summary and Explanation

Flintshire County Council's Constitution

The Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.

The Constitution is divided into 20 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the document.

Comment [FCC1]: Added article on Democratic Services Committee

Deleted: 19

What's in the Constitution?

Article 1 explains that the Council will exercise its powers and their duties in accordance with the law and with the Constitution. It goes on to list the following purposes of the Constitution:-

Deleted: Article 1 of the Constitution commits the Council to:-

Provide clear leadership and effective accountability by:-

Comment [FCC2]: Inaccurate, Article 1 does not commit the Council to provide clear leadership and effective accountability

- ◆ Enabling the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
- ◆ Supporting the active involvement of citizens in the process of local authority decision making;
- ◆ Helping Councillors represent their constituents more effectively;
- ◆ Enabling decisions to be taken efficiently and effectively;
- ◆ Creating a powerful and effective means of holding decision-makers to public account;
- ◆ Ensuring that no one will scrutinise a decision in which they were directly involved;
- ◆ Ensuring that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions; and
- ◆ Providing a means of improving the delivery of services to the community.

Articles 2 –19 explain the rights of citizens and how the key parts of the Council operate.

These are:

- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Full Council (Article 4)

Comment [FCC3]: clarification

Deleted: meeting

- Chairing the Council (Article 5)
- Overview and Scrutiny Committees (Article 6)
- Audit Committee (Article 7)
- The Cabinet (Article 8)
- Planning and Development Committee (Article 9)
- The Standards Committee (Article 10)
- The Licensing Committee (Article 11)
- Appeals Committee (Article 12)
- Constitution Committee (Article 13)
- Democratic Services Committee (Article 14)
- Joint arrangements (Article 15).
- Officers (Article 16).
- Decision making (Article 17).
- Finance, contracts and legal matters (Article 18).
- Review and revision of the Constitution (Article 19).
- Suspension, interpretation and publication of the Constitution (Article 20).

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How the Council operates

Prior to the adoption of this Constitution the Council undertook to ascertain the views of the electorate and other stakeholders as to how it should operate. The overwhelming response to the consultation was in favour of the Council's recommended option, a Leader and Cabinet system under the Local Government Act 2000.

The Cabinet will make decisions within the framework decided by the Council as a whole.

Deleted: , or Cabinet,

Scrutiny Committees will hold the Cabinet to account in relation to their performance, advise on policy formulation and they may also review areas of Council activity which are not the responsibility of the Cabinet or matters of wider local concern.

Planning decisions will continue to be made by the Planning and Development Control Committee and the Council, not the Cabinet, will maintain an Appeals Committee, Audit Committee, Licensing Committee and a Standards Committee to deal with particular areas of work.

Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer trains and advises them on the code of conduct.

The Standards Committee will promote high standards of conduct and support Members' observation of their Code of Conduct.

The Council is composed of 70 Councillors normally elected every four years. Councillors are democratically accountable to residents of their electoral division. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here Councillors decide the Council's overall policies and set the budget each year.

HOW DECISIONS ARE MADE

THE CABINET

The Cabinet is the part of the Council which is responsible for taking most of the major decisions. The Cabinet is made up of 8 Portfolio Members including the Leader and Deputy Leader responsible for the following matters or functions:

1. Finance
2. Environment
3. Social Services
4. Education
5. Public Protection, Waste & Recycling
6. Housing
7. Corporate Management
8. Regeneration, Enterprise & Leisure

Deleted: 10

Comment [FCC4]: Update

Deleted: and Assets

Comment [FCC5]: Update

Deleted: and Youth

Comment [FCC6]: Update

Deleted: 5

Deleted: Strategy and Planning

Deleted: 6. . Waste Strategy and Management
7. . Estate Management
8. . Corporate Governance and Strategy
9. . Regeneration and Tourism
10. . Leisure and Public Protection

Comment [FCC7]: Update

The business to be considered by the Cabinet, Overview and Scrutiny Committees and the Council as a whole is published in the forward work programme. Meetings of the Cabinet, Overview and Scrutiny Committees, the Council and other Committees are open for the public to attend except where exempt or confidential matters are being discussed, as defined by the law. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole.

OVERVIEW AND SCRUTINY

There are six Overview and Scrutiny Committees, each having their own detailed terms of reference. Part of their role is to review and scrutinise decisions made or actions taken by the Cabinet. The terms of reference also include considering any matter affecting the Council area or its inhabitants. The Committees allow citizens to have a greater say in Council matters by investigating or inquiring into matters of local concern usually in public. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. Overview and Scrutiny Committees also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

Deleted: which complement the work of the Cabinet and the Council as a whole whilst each of the Committees has its own detailed terms of reference the activities of the Committees are co-ordinated by the Scrutiny Co-ordinating Committee which ensures, amongst other things, that there is no duplication or wasted effort in this area. They allow citizens

Comment [FCC8]: Update

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

The Cabinet cannot make planning and development control decisions. These are delegated by the Council to this Committee and under the officers Scheme of Delegation to the Head of Planning.

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Comment [FCC9]: Clarification

AUDIT COMMITTEE

The Local Government (Wales) Measure 2011 requires the Council to have an Audit

Committee and to include at least one lay person as a member of that Committee. The Committee's role is to support and promote efficient and economic use of resources and effective control of expenditure and review audit performance.

Deleted: In accordance with guidance and best practice, the Council has established an Audit Committee as a Committee of the Council

Comment [FCC10]: Update

APPEALS COMMITTEE

The Council has a pool of members from which from time to time Appeals Committees numbering not less than 3, nor more than 9, are convened to hear and determine appeals which may be brought either at law or under Council policies or procedures.

Comment [FCC11]: Clarification

Deleted: Wherever Council policies and procedures or statute provide for an appeal against a decision of Members or officers, including the Cabinet and any Committee, this body will hear and determine the appeal on behalf of the Council. ¶

LICENSING COMMITTEE

The Council has established a Licensing Committee which has been given delegated powers to determine applications made under the Licensing Act 2003 in accordance with policy adopted by the Council.

DEMOCRATIC SERVICES COMMITTEE

The Local Government (Wales) Measure 2011 requires the Council to have a Democratic Services Committee. Its role is to ensure that those members who are not part of the Cabinet have appropriate officer support to undertake their various roles and to ensure that there are appropriate arrangements in place for Member development and training.

Comment [FCC12]: Update

CONSTITUTION COMMITTEE

The Council has established a Constitution Committee to consider and make recommendations to the Council in matters relating to corporate governance and constitutional issues.

The Council's Staff

The Council has people working for it (called 'officers') to give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A code of practice governs the relationships between officers and members of the Council.

Citizens' Rights

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights.

Where members of the public use specific Council services, for example as a parent of a school pupil or as a council tenant, they have additional rights. These are not covered in this Constitution.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local Councillor about any matters of concern to them;

- obtain a copy of the Constitution;
- attend meetings of the Cabinet, the Council and its Committees except where exempt or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- find out, from the forward work programme, what business is to be considered by the Cabinet, Overview and Scrutiny Committees or the Council as a whole;
- see reports and background papers considered by the Cabinet, the Council and any of its Committees and the record of any decisions made by the Council, its Committees and the Cabinet, except where they contain exempt or confidential information;
- complain to the Council about dissatisfaction with the standard of service provided by the Council. A complaint may be about action or lack of action by the Council or its staff affecting the citizen as an individual or as one of a group of people receiving a service from the Council. A complaint may also be made on Council policy or the attitude or behaviour of a member of staff or a Councillor;
- complain to the Ombudsman if they think they have suffered injustice because the Council has not followed its procedures properly. However, they are encouraged only to do this after using the Council's own complaints process;
- complain to the Ombudsman if they have evidence which they think shows that a Councillor or co-opted Member of the Council has not followed the Members' Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor;
- ask a question (when at least 10 working days' notice has been given) in person at scheduled meetings of the County Council (subject to certain conditions).

The Council welcomes participation by its citizens in its work. For further information on your rights as a citizen, please contact the Democracy and Governance Manager at County Hall, Mold, Flintshire, CH7 6NR.

Citizens' rights of access to information are contained in **Part 4** of this Constitution in the Access to Information Procedure Rules.

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PART 2

Article 1 – The Constitution

1.01 Powers of the Council

The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.02 The Constitution

This Constitution is the Constitution of the Flintshire County Council.

Deleted: and all its appendices,

1.03 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local Authority decision-making;
3. help Councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

Deleted: review or

Comment [FCC1]: As Cabinet reviews its decisions after call in by O&S

Deleted: Interpretation and

Comment [FCC2]: As does not deal with interpretation.

Deleted: Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.¶

Comment [FCC3]: As not a legal requirement and not practical.

1.04 Review of the Constitution

The Council will monitor and evaluate the operation of the Constitution as set out in Article 18.

Article 2 – Members of The Council

2.01 Composition and eligibility

- (a) **Composition.** The Council will comprise 70 members, otherwise called Councillors. Councillors will be elected by the voters of each electoral division in accordance with a scheme drawn up by the Boundary Commission in Wales and approved by the National Assembly.
- (b) **Eligibility.** Only registered voters of the County Council or those living or working in the area will be eligible to hold the office of Councillor.

2.02 Election and terms of Councillors

The regular election of Councillors will normally be held every four years on the first Thursday in May, except as otherwise directed by the Welsh Government. The terms of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

Deleted: Assembly

Comment [FCC4]: As out of date

2.03 Roles and functions of all Councillors

- (a) **Key roles.** All Councillors will:
- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
 - (ii) contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making by the Council and its partnerships;
 - (iii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
 - (iv) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
 - (v) balance different interests identified within the electoral division and represent the electoral division as a whole;
 - (vi) contribute to the continual improvement of Council services through the Performance Improvement process;
 - (vii) participate in the governance and management of the Council; and
 - (viii) maintain the highest standards of conduct and ethics.

(b) Rights and duties

- (i) Councillors will have such rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public information which is confidential or exempt without the consent of the Council or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For these purposes, "confidential" and "exempt" information are defined in the Access to Information Rules in Part 4 of this Constitution.
- (iv) In the event of a disagreement as to whether a Councillor is entitled to access to any particular document, or information, the matter shall be determined by the Head of Legal & Democratic Services in accordance with the Delegation to Officers at Part 3 Section C.

2.04 Conduct

Councillors will at all times observe the Members' Code of Conduct and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

2.05 Allowances

Councillors will be entitled to receive allowances in accordance with the Member Remuneration Schedule set out in Part 6 of this Constitution.

Deleted: s' Allowances Scheme

Comment [FCC5]: As out of date.

Article 3 – Citizens and The Council

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in **Part 4** of this Constitution:

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote and sign a petition to request a referendum for an elected mayor form of Constitution.
- (b) **Information.** Citizens have the right to:
 - (i) attend meetings of the Council, the Cabinet and their Committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) find out from the forward work programme what decisions will be taken by the Cabinet or Council and which issues the Overview and Scrutiny Committees will be considering, and when these matters will be discussed;
 - (iii) see reports and background papers (except where they contain confidential, or exempt information) and any records of decisions made by the Council and the Cabinet; and
 - (iv) inspect the Council's accounts and make their views known to the external auditor.
- (c) **Complaints.** Citizens have the right to complain:
 - (i) to the Council itself under its complaints scheme;
 - (ii) to the Ombudsman about any injustice they have suffered as a result of maladministration, but they are encouraged to use the Council's own complaints scheme first;
 - (iii) to the Ombudsman where they believe a Member or co-opted Member of the Council has breached the Member's Code of Conduct.

3.02 Citizens' responsibilities

Citizens must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm things owned by the Council, Councillors or officers.

Article 4 – The Full Council

4.01 Meanings

(a) **Policy Framework.** The policy framework means the following plans and strategies:-

(1)	(2)
Plans, schemes and strategies	Reference
Single Education Plan	The Single Education Plan (Wales) Regulations 2006 (SI 2006/877 (W82))
Best Value Performance Plan	Section 6(1) of the Local Government Act 1999 (c27)
Community Strategy	Section 4 of the Local Government Act 2000 (c22)
Crime and Disorder Reduction Strategy	Section 5 and 6 of the Crime and Disorder Act 1998 (c37)
Health and Safety Well Being Strategy	Section 24 of the National Health Service Reform and Health Care Professions Act 2002 (c17)
Local Transport Plan	Section 108 of the Transport Act 2000 (c38)
Plans and alterations which together comprise the Development Plan	Section 10A of the Town and Country Planning Act 1990 (c8)
Welsh Language Scheme	Section 5 of the Welsh Language Act 1993 (c38)
Youth Justice Plan	Section 40 of the Crime and Disorder Act 1998 (c37)
Young People's Partnership Strategic Plan and Children and Young Peoples Framework Partnership	Section 123, 124 and 125 of the Learning and Skills Act 2000 (c21)
Housing Strategy	Section 87 of the Local Government Act 2003 (c26)

The Council has resolved that in addition to the plans and strategies referred to above it will reserve to itself the adoption or approval of the:-

- Corporate Plan
- Schools' Admissions Policy

(b) **Budget.** The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

(c) **Housing Land Transfer.** Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for approval of a programme of disposal of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993 or to dispose of land used for residential purposes where approval is required under sections 32 or 43 of the Housing Act 1985.

4.02 Functions of the full Council

Only the Council will exercise the following functions:

- (a) adopting and changing the Constitution;
- (b) approving or adopting the policy framework, the budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;
- (c) subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 4 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the policy framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the policy framework or contrary to/or not wholly in accordance with the budget;
- (d) appointing the Leader;
- (e) deciding the size and the terms of reference for Committees and deciding the allocation of seats to Political Groups in accordance with the political balance rules and appointment to Committees of those Members, if any, who are not Members of any Political Group.
- (f) appointing representatives to outside bodies unless the appointment is an Executive Function or has been delegated by the Council;
- (g) adopting a Remuneration Schedule under Article 2.05;
- (h) As a result of Section 38 of the Localism Act 2011 for each financial year beginning with 2012/13 approve pay policy statements each financial year.
- (i) changing the name of the area.
- (j) confirming the appointment of the Head of Paid Service and any Chief Officers;
- (k) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills;

Deleted: n allowances scheme

Comment [FCC6]: As now Remuneration Schedule

(l) all local choice functions set out in **Part 3** of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and

(m) all other matters which, by law, must be reserved to Council.

4.03 **Council meetings**

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) special meetings.

and they will be conducted in accordance with the Council Procedure Rules in **Part 4** of this Constitution.

4.04 **Responsibility for functions**

The Council will maintain the tables in Part 3 of this Constitution setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.

Article 5 – Chairing the Council

5.01 Role and function of the Chair

The Chair and Vice Chair will be elected by the Council annually.

The Chair of Council and in their absence, the Vice-Chair, will have the following roles and functions:

1. to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary;
2. to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of Councillors and the interests of the community;
3. to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which members who are not on the Cabinet are able to hold the Cabinet and Committee chairs to account;
4. to promote public involvement in the Council's activities;
5. to be the conscience of the Council; and
6. to attend such civic and ceremonial functions as the Leader and he/she determines appropriate. The Leader may accompany the Chair/Vice Chair of the Council to any civic or ceremonial functions or attend such functions in place of the Chair/Vice Chair.

Article 6 – Overview and Scrutiny Committees

6.01 Terms of reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 21 of the Local Government Act 2000 in relation to the matters set out in the right hand column of the same table.

Committee	Scope
Corporate Resources 15 Elected Members	Corporate Management and Governance, organisational design/Flintshire Futures Programme, monitoring finance but not specific control issues which are within the remit of the Audit Committee, Revenue and Capital Budget monitoring, Asset Management, Strategy and Planning, People Strategy and Single Status, Strategic Assessment of Risks and Challenges, Overview and Coordination of the Performance Management, Performance and Policy development for all 4 Corporate Services: HR and OD, ICT and Customer Services, Finance, Legal & Democratic Services.
Community Profile & Partnerships 15 Elected (Statutory Crime & Disorder Committee)	Community Strategy and Leadership initiatives. All external and regional collaboration and partnership working with other public service bodies. Local Service Board. Community Safety Partnership. Statutory Crime & Disorder Committee, thus relationship with the Police, Fire, Probation etc, Voluntary Sector compact, Clwyd Theatre Cymru, Cross Cutting Policy issues, the Outcome Agreement, but excluding issues specifically remitted to another committee (eg. NWRWTP, TAITH or DCELLS)
Environment 15 Elected Members	All services provided by the Environment Directorate including: Assets & Transportation, including TAITH, highways, engineering and energy issues but not valuation/estates which are specifically remitted to the Corporate Resources OSC. Planning, including planning and environmental strategy, development control, minerals and waste planning, countryside and the environment. Public Protection, including community, health protection and environmental protection. Regeneration, including Communities First, economic development & tourism, enterprise and the Regeneration Partnership. Street Scene Services, including AD Waste, environmental and waste management, neighbourhood services and the vehicle fleet. Performance and Policy. Development within the Environment Directorate.

Housing 15 Elected Members	All housing services provided by the relevant divisions of the Community Services Directorate eg. Housing Management, Housing Strategy, Stock Ballot progress and ongoing work relating to the future of the housing stock. Neighbourhood housing renewal areas. Performance and policy development for the Housing Service.
Lifelong Learning 15 Elected Members (5 Statutory Co-Opted Members)	All services provided by the Lifelong Learning Directorate: Education – school organisation, School Improvement, Early Years, Special Educational needs. Adult and Community Learning, Youth Services Libraries, Culture and Heritage including archives, records management and museums. Leisure Services, including leisure and sports centres, swimming pools and recreational facilities/activities. Relations with external education providers/partners – Deeside College, Glyndwr University etc on service specific issues. Relations with DCELLS, Children and Young People’s Partnership (jointly with S & HC O&S). Performance and policy development for services within the Lifelong Learning Directorate.
Social and Health Care 15 Elected Members	Services provided by the Community Services Directorate relating to: Social Services to Adults, Social Services to Children, Social & Health Care Strategy Development, Children and Young People’s Partnership (jointly with Lifelong Learning O&S). Monitoring service delivery by the Health Services Providers and Voluntary sector including the relationship with Betsi Cadwaladr UHB. Health Social Care and Well-being partnership and the Good Health Good Care Strategy. Policy and Performance development within the Social Care and Development and Resources Division of the Community Services Directorate.

In addition to the above Overview & Scrutiny Committees, the following terms of reference relating to Overview & Scrutiny have been given by the Council to the Constitution Committee

Committee	Scope
Constitution (as it relates to Overview & Scrutiny) 21 Elected Members	Allocating, co-ordinating and prioritising the work of the Overview & Scrutiny Committees where necessary. Dealing with matters of common interest to overview and scrutiny. Identification/allocation of appropriate Scrutiny Chair for consent/consultation purposes. The examination and development of good scrutiny practice. The promotion, effective development and maintenance of a high profile Overview and Scrutiny Function to ensure maximum opportunity for non-Cabinet member engagement. Liaison with and responding to the Welsh Assembly Government on emerging legislation relevant to O&S.

Deleted: 15

6.02 General role

Within their terms of reference, Overview and Scrutiny Committees will:

- i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's or Cabinet's functions;
- ii) make reports and/or recommendations to the full Council and/or the Cabinet; and/or any joint Committee.
- iii) consider any matter affecting the Council area or its inhabitants; and
- iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Cabinet.

6.03 Specific functions

(a) **Policy development and review.** Overview and Scrutiny Committees may:

- i) assist the Council and the Cabinet in the development of its budget and policy framework by in-depth analysis of policy issues;
- ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
- iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- iv) question members of the Cabinet and/or Committees and Chief Officers about their views on issues and proposals affecting the area; and
- v) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) **Scrutiny.** Overview and Scrutiny Committees may:

- i) review and scrutinise the decisions made by and performance of the Cabinet and/or Committees and Council officers both in relation to individual decisions and over time;
- ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
- iii) question members of the Cabinet and/or Committees and chief officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- iv) make recommendations to the Cabinet and/or appropriate Committee and/or Council arising from the outcome of the Scrutiny process;

v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and

vi) question and gather evidence from any person (with their consent).

(c) **Finance.** Overview and Scrutiny Committees may exercise overall responsibility for the finances made available to them.

(d) **Annual report.** Overview and Scrutiny Committees must report annually to full Council through the Constitution Committee on their workings and make recommendations for future work programmes and amended working methods if appropriate.

Deleted: Overview and Scrutiny Co-ordinating Committee
Comment [FCC7]: To update

(e) **Officers.** Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the officers employed to support their work.

6.04 Proceedings of Overview and Scrutiny Committees

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

Article 7 - The Audit Committee

7.01 Role

The Audit Committee's role and functions will be to:

- (a) Review the effectiveness of the Authority's systems of corporate governance, internal control and risk management systems, and to make reports and recommendations to the County Council on the adequacy and effectiveness of those arrangements;
- (b) Oversee the financial reporting process to ensure the balance, transparency and integrity of published financial information, and to review the financial statements prepared by the authority;
- (c) Monitor the performance and effectiveness of the internal and external audit functions within the wider regulatory context.
- (d) Review and scrutinise the County Council's financial affairs, and to make reports and recommendations on them.

A. Internal Control

- Evaluate whether management is setting the appropriate "control culture" by communicating the importance of internal control and risk management.
- Understand the internal control systems implemented by management for the approval of transactions and the recording and processing of financial data.
- Understand the controls and processes implemented by management to ensure the financial statements derive from the underlying financial systems, comply with relevant standards and requirements, and are subject to appropriate management review.
- Evaluate the overall effectiveness of the internal control and risk management frameworks and consider whether recommendations made by the internal and external auditors have been implemented by management.
- Consider how management is held to account for the security of computer systems and applications, and the contingency plans for processing financial information in the event of a systems breakdown or to protect against computer fraud or misuse.
- Consider the annual draft statement on internal control and make appropriate recommendations/observations to the Cabinet prior to its submission to the Council's Regulators.

B. Compliance with Law and Regulations

- Keep under review the Council's financial regulations and contract standing orders and all other corporate directions concerning financial control.
- Receive reports on all fraud identified and any other special investigations, and action taken.
- Obtain regular updates from management and legal advice regarding compliance matters, and be satisfied that all compliance matters have been considered in

preparing the financial statements.

C. Financial Reporting

- Consider the draft annual Statement of Accounts, together with the underlying accounting policies prior to their submission to the Wales Audit Office and again afterwards prior to recommending their approval to the Council.
- Gain an understanding of the current areas of greatest financial risk and how these are being managed.
- Meet with management and external auditors to review the financial statements, the key accounting policies and judgements, significant accounting and reporting issues and their impact on financial reports, and the results of the audit.
- Ensure that significant adjustments, unadjusted differences, disagreements with management and critical accounting policies and practice are discussed with the external auditor.
- Review the other sections of the Annual Report and the Statements of Accounts and consider whether the information is understandable and consistent with members' knowledge of the Authority and operations and lacks bias.

D. External Audit

- Ensure that the annual audit is undertaken in compliance with statutory requirements.
- Review the external auditors' proposed audit scope and approach for the current year in the light of the Authority's present circumstances and changes in regulatory and other requirements arising from Government, Assembly or Council initiatives.
- Receive all audit reports, and the annual audit letter, issued by the external auditor, and ensure that all agreed recommendations are implemented.
- Review on an annual basis the performance of external audit and co-ordinate any feed back requested from the Audit Commission.
- Discuss with the external auditor any audit problems encountered in the normal course of audit work, including any restriction on audit scope or access to information.
- Meet separately with the external auditors to discuss any matters that the committee or auditors believe should be discussed privately. Ensure the auditors have access to the chair of the audit committee when required.

E. Internal Audit

- Promote the role of internal audit within the Council, as a key element of its control environment.
- Review, approve and monitor the delivery of the internal audit plan and the risk assessment exercise on which the plan is based, and ensure it considers changes arising from Government, Assembly or Council initiatives.
- Receive summaries of all internal audit reports issued, highlighting key recommendations and recommendations of reports with corporate control implications.
- Monitor the implementation of agreed recommendations contained within internal

audit reports.

- Ensure that no management restrictions are placed in the scope of audit's examinations.
- Meet separately with the Head of Internal Audit to discuss any matters that the committee or internal auditors believe should be discussed privately.
- Keep under review the organisational structure and resource requirements of the Internal Audit Section.
- Discuss with the external auditor the standard of work of internal audit staff.
- Evaluate on an annual basis the performance and effectiveness of internal audit and its compliance with best practice.

F. **General**

- Request the attendance at the Committee of any Director, or the submission of a report from any Director, to provide further explanation in connection with any of the above terms of reference.
- Arbitrate in the event of any failure to agree between a Director and internal audit.
- Keep under review the joint working arrangements of the Council's internal and external auditors.
- Evaluate the committee's own performance, both of individual members and collectively, on a regular basis.

The Audit committee will keep the above terms of reference under annual review and propose any amendment to the County council.

7.02 **Form and Composition**

The Chair and Vice-Chair of the Audit Committee will be chosen by the Committee itself at its first meeting following each annual general meeting. The Chair and Vice Chair of the Audit Committee will be chosen from amongst the opposition group(s), non aligned Councillors or lay member on the Council (that is to say from amongst the group(s) none of whose members are included in the Cabinet). The County Council shall appoint one person who is neither a serving Councillor nor an officer of the County Council or any other Council to serve as a lay member of the Committee with full voting rights. The lay member's term of office shall be from the first County Council meeting following the annual general meeting following the County Council elections until the first County Council meeting after the annual general meeting following the next County Council elections.

It is the express wish of the Council that there should be continuity of membership of the Audit Committee so as to build up a body of expertise and maintain a consistency of approach.

In recognising the express wish of the Council, but observing the requirements of the legislation for political balance, the Audit Committee will comprise 7 Members with the seats allocated in accordance with the legislation to the appropriate political groups. Any proposed substitution shall comply with Council Procedure Rule 22.4 and the proposed substitute shall have attended relevant training. Substitutes will only be permitted where the Audit Committee at the commencement of its meeting agrees that good reasons exist for substitution.

Article 8 – The Cabinet

PART 1: Cabinet Arrangements

THE ROLE OF THE CABINET

8.01 Role

The Cabinet will carry out all of the local Authority's functions which are not the responsibility of any other part of the local Authority, whether by law or under this Constitution.

8.02 Form and composition

The Cabinet will consist of the Cabinet Leader together with at least 2, but not more than 9, Councillors appointed to the Cabinet by the Cabinet Leader.

8.03 Leader

The Leader will be a Councillor elected to the position of Leader by the Council. The Leader will hold office until:

- (a) he/she resigns from the office; or
- (b) he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) he/she is no longer a Councillor; or
- (d) the next Annual Meeting of the Council save that the Council may remove the Leader from office at an earlier date but only in the event of a change in political control of the Council.

8.04 Other Cabinet members

The Leader may, if he/she considers it appropriate so to do, appoint one of the other Cabinet members to the position of Deputy Leader and such Cabinet Member shall hold the office of Deputy Leader until removed from office by the Leader who must give written notice of any such removal to the Democracy and Governance Manager. The removal may be either from the office of Deputy Leader only or from the office of Deputy Leader and the Cabinet. The removal will take effect two working days after receipt of the notice by the Democracy and Governance Manager or the happening of any of the events specified at 8.04(a), (b), (c) or (d) set out below. Any Deputy Leader and all other Cabinet members shall hold office as Cabinet members until:

- (a) they resign from office; or

(b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or

(c) they are no longer Councillors; or

(d) they are removed from office by the Leader who must give written notice of any removal to the Democracy and Governance Manager. The removal will take effect two working days after receipt of the notice by the proper officer.

Following the vacation of office or removal from office by the Leader, the Leader may appoint such Members to the Cabinet as he/she thinks fit provided that the maximum of 9 other Cabinet Members is not exceeded and the Leader shall give notice of such appointment to the Democracy and Governance Manager. The appointment shall take effect two working days after receipt of the notice by the Democracy and Governance Manager.

8.05 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 4 of this Constitution.

8.06 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual members of the Cabinet, Committees of the Cabinet, officers or joint arrangements are responsible for the exercise of particular Executive Functions.

Article 9 – Planning and Development Control Committee

9.01 Role

The role of the Planning and Development Control Committee is as follows:-

1. To determine applications submitted to the Council in its capacity as local and mineral planning Authority except where such applications are otherwise determined in accordance with the Council's Scheme of Delegation.
2. To determine all applications for planning permission, listed building consent and advertisement consent except where any such applications have been determined in accordance with the Council's Scheme of Delegation other than where any such applications have been determined in accordance with the Executive Arrangements.
3. To determine any issues relating to the processing, consideration or determination of the types of application referred to in the preceding paragraphs, including the Council's position on "called in applications" (within the terms of section 77 of the Town and Country Planning Act 1990), and in relation to appeals against the non determination of applications, except where such issues have been determined under the Council's Scheme of Delegation other than where such issues have been determined under the Executive Arrangements.
4. To determine any policy issues relating to the discharge of the Council's development control function, including tree preservation orders, hedgerow protection, and enforcement action, where such issues are to be determined by the Chief Officer in accordance with the Scheme of Delegation and to itself determine any such matters which are not so delegated.
5. To keep under review the Council's performance in the discharge of its development control function..

9.02 Form and Composition

The Committee will consist of 21 Councillors, and its composition will be politically balanced.

9.03 Substitutes

Substitution at individual meetings of the Planning Committee are only permitted in accordance with Council Procedure Rule 25.

Comment [FC8]: Current wording introduces uncertainty into whether application should be deferred which is a matter for the Committee itself to decide

Deleted: 9.04 . Late Observations¶
¶ A deadline should be imposed for the inclusion of late observations received on the day of the meeting. Where such observations are received following that deadline which would have significant impact on the application, the item should be deferred to the next meeting by the Chairman of the Committee.

Article 10 – The Standards Committee

10.01 Standards Committee

The Council will establish a Standards Committee.

10.02 Composition

(a) **Membership.** The Standards Committee will be composed of 9 members. Its membership will include:

- i. 5 ‘independent’ members, who are not either a Councillor or an officer or the spouse of a Councillor or an officer of this Council or any other relevant Authority as defined by the Act, appointed in accordance with the procedure set out in the Standards Committees (Wales) Regulations 2001;
- ii. 3 Councillors other than the Leader and cabinet members;
- iii. 1 Member of a Community Council wholly or mainly in the Council's area (a ‘community council member’).

(b) **Term of office.**

- i. Independent members are appointed for a period of no more than six years and may be reappointed for a second term. Where there are two terms of office they cannot exceed 10 years in total.
- ii. Members of the local Authority who are members of the Standards Committee will have a term of office of no more than four years or the next ordinary local government election following their appointment, whichever is the shorter. They may be reappointed for a second term.

(c) **Quorum.** A meeting of the Standards Committee shall only be quorate when:

- i. at least three members are present, and
- ii. at least half the members present are independent members

(d) **Voting.** Independent members and Community Council members will be entitled to vote at meetings as well as Councillors;

(e) **Community Committee members.** A Community Council Member shall not take part in the proceedings of the Standards Committee when any matter relating to their community council is being considered;

(f) **Chairing the Committee.**

- i. Only an independent Member of the Standards Committee may be the Chair.
- ii. The Chair will be elected by the members of the Standards Committee.

(g) **Community Councils Sub-Committee.** The Standards Committee may include a Sub-Committee to exercise the function set out in Article 10.03 (h) below. Such Sub-Committee will include at least one independent Member and one community Council Member.

(h) The Council Procedure Rules should apply to this Committee in the same way as they apply to other Committees.

10.03 **Role and Function**

The Standards Committee will have the following roles and functions:

(a) promoting and maintaining high standards of conduct by Councillors, co-opted members and church and parent governor representatives;

(b) assisting the Councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct;

(c) advising the Council on the adoption or revision of the Members' Code of Conduct;

(d) monitoring the operation of the Members' Code of Conduct;

(e) advising, training or arranging to train Councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct;

(f) granting dispensations to Councillors, co-opted members and church and parent governor representatives from requirements relating to interests set out in the Members' Code of Conduct;

(g) determining requests for representation in proceedings under the Council's Indemnity Scheme for Members and Officers.

(h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the Monitoring Officer on any matter referred to that officer by the Public Services Ombudsman for Wales.

(i) the exercise of (a) to (h) above in relation to the Community Councils wholly or mainly in its area and the members of those community councils.

ADDITIONAL ROLE OF STANDARDS COMMITTEE

The Standards Committee shall maintain an Overview of the operation and maintenance of the Council's

- (i) confidential reporting procedure
- (ii) complaints handling procedures
- (iii) responses to Ombudsman's investigations
- (iv) the Council's planning code of conduct
- (v) the Council's Constitution

insofar as they relate to issues concerning Members and shall report thereon to the Cabinet.

Article 11 – The Licensing Committee

11.01 Licensing Committee

The Council is required by the Licensing Act 2003 to establish a Licensing Committee.

11.02 Composition

The Licensing Committee will consist of between 10 and 15 Members and be politically balanced. The Chair and Vice-Chair of the Licensing Committee may be chosen from any group or non-aligned Councillors.

11.03 General Role

The role of the Licensing Committee will be as follows:-

1. To draft, consult upon and recommend to the County Council a Licensing Act Policy every 5 years, a Gambling Act Policy every three years and policies regarding Private Hire and Hackney Carriage Licensing as and when required. To keep such Policies under review, recommending any revisions necessary to the County Council.
2. To determine applications for licensable activities under the Licensing Act 2003 including premises licenses, personal licences and club premises certificates.
3. To determine applications under the Gambling Act 2005 for premises licences and permits.
4. To determine applications under the Private Hire/Hackney Carriage licensing regime and to determine whether individuals are ‘fit and proper persons’ to hold licences.
5. Any other matters delegated to the Committee from time to time.

11.04 Sub-Committees

The Committee may delegate its functions to one or more Sub-Committees established by it, or in a limited number of circumstances to an officer of the Authority. A Sub-Committee must comprise 3 Members and a number of Sub-Committees or officers with delegated powers can, if required to do so, operate at the same time. The following delegations have been granted:-

Licensing Act Matters	Full Committee	Sub-Committee	Health, Safety and Licensing Manager
Application for personal licence		If Police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises		If relevant	If no relevant

licence/club premises certificates		representation made	representation made
Application for provisional statement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Applications for interim authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local Authority is a consultee and not the relevant Authority considering the application		All cases	
Determination of a Police objection to a temporary event notice		All cases	
Gambling Act Matters	Full Council	Licensing Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate			X
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Application for transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission

Application for a provision statement		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/ club machine permits		Where representations have been received and not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an Interested Party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X
<u>Private Hire/Hackney Carriage Matters</u>	<u>Full Licensing Committee</u>	<u>Licensing Sub Committee</u>	<u>Officers</u>
<u>Changes to Policy and Strategy or the setting of licence fees</u>	<u>X</u>		
<u>Determining applications that are not contentious</u>			<u>X</u>
<u>Determining contentious applications (contentious means those applicants that have relevant convictions or other sanctions as identified by CRB checks, driving licence irregularities or medical conditions that may affect driving. Also includes those who are convicted of offences while licensed or develop relevant medical conditions while licensed).</u>		<u>X</u>	
<u>Determining the suitability of vehicles to be licensed if other</u>		<u>X</u>	

<u>than conventional vehicles</u>					
<u>Power to licence hackney carriages and private hire vehicles – (a) as to hackney carriages, the Town Police Clauses Act 1847 (19 & 11 Vict. C89), as extended by Section 171 of the Public Health Act 1875 (38 & 39 Vict. C55), and Section 151 of the Transport Act 1985 (c67); and Section 47, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976 (c57)</u> <u>(b) as to private hire vehicles, Sections 48, 57, 58, 60 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</u>				X	Comment [FCC9]: To reflect current practice
<u>Power to license drivers of hackney carriages and private hire vehicles - Sections 51, 53, 54, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</u>				X	Comment [FCC10]: To reflect current practice
<u>Power to license operators of hackney carriages and private hire vehicles - Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976</u>				X	Comment [FCC11]: To reflect current practice

11.05 Procedures

The Committee may regulate its own procedure and that of its Sub-Committees, subject to any regulations, in relation to the conduct of hearings, access to the public and publicity. Any procedures adopted must comply with Human Rights Legislation.

Article 12 - Appeals Committee

12.01 The Council shall identify a pool of appropriately qualified Members to serve upon Appeals Committees as and when required.

12.02 The Democracy and Governance Manager shall from time to time select from such pool of Members, Appeals Committees which will number not less than three, nor more than nine in total, to hear and determine any and all appeals which may be properly brought either at law or under Council policies/procedures for the time being in force against:-

- (a) the exercise of or failure to exercise any power, duty or function;
- (b) the grant or refusal of any licence, permission, request, or approval howsoever expressed;
- (c) disciplinary actions where the right of appeal under Council procedures for the time being in force lies to elected Members.

12.03 It shall be a condition of any Member accepting selection to any particular Appeals Committee that such Member shall regard themselves as absolutely bound to observe the rules of natural justice and in particular shall not, without the consent of the parties, continue to sit upon the Committee hearing a particular appeal if that Member is absent for any substantial part of the proceedings.

12.04 Subject to any overriding requirement of statute any particular Appeals Committee shall have full power to hear and determine the appeal in question and the decision of the Appeal Committee shall be final and binding.

12.05 The Democracy and Governance Manager shall have power in consultation with the appropriate Chief Officer to identify and select such other "independent" Members as may from time to time be required by statute or regulations to sit together with elected Members in the hearing of any appeal.

12.06 The proceedings of the Appeal Committee shall be minuted and regardless of whether or not the case for the Council is presented by a legally qualified person the Committee shall be entitled to have as their adviser and clerk such appropriately qualified person as the Head of Legal & Democratic Services shall appoint and for the avoidance of doubt the identity of the appointee may vary from Committee to Committee.

12.07 The Committee shall have power to determine its own procedure upon any particular occasion subject to the general expectation that:-

- (i) It will consider whether or not to resolve to exclude the press and the public and if so state the ground or grounds.
- (ii) The Council will outline the history of the matter in an opening speech.
- (iii) The Council shall then call such witnesses as it shall consider necessary to provide the

Committee will all such evidence as may reasonably be required and those witnesses shall be liable to cross examination by the Appellant and independent questioning by the Committee.

(iv) At the close of the Council's case the Appellant shall be entitled to: -

Make a brief opening statement.

Call such witnesses as the Appellant may consider appropriate in support of the Appellant's case such witnesses shall be liable to cross examination by the Council's representative and/or the Committee.

(v) At the close of the Appellant's case the Committee shall have the power to direct that further evidence be received in respect of any particular matter or matters whether or not that involves the recalling of any witness already heard.

(vi) At the close of any independent examination on the part of the Committee the Council's representative shall sum up the issues on behalf of the Council and therefore the Appellant shall be entitled to sum up the Appellant's case.

(vii) The Committee shall then proceed to determine in the absence of the parties but in the presence, if so required, of their clerk/adviser, the issues and arrive at their decision.

(viii) When the Committee have arrived at their decision the parties shall be invited to return to the Committee's presence when the decision shall be announced and any consequential matters shall be addressed.

Article 13 – Constitution Committee

13.01 The Council will maintain a Constitution Committee comprising representatives from all of the political groups on the Council. The Committee will consist of ~~21~~ Members, politically balanced, with each Group Leader nominating representatives from his/her political group. It is not a standing committee of the Council and will only have power to make recommendations to the County Council.

Deleted: 17

13.02 The Constitution Committee shall consider reports from the Monitoring Officer in relation to any changes required or proposed as a result of his review of the Constitution prior to proposals being considered by the County Council.

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13.03 Any Member shall be entitled to propose items for consideration by the Constitution Committee relating to the contents of the Constitution.

13.04 The Constitution Committee will consider matters relating to corporate governance including the consideration of a Code of Corporate Governance to be adopted by the County Council and its future maintenance and review.

Comment [FCC12]: Inserted Governance to reflect current practice

13.05 The Constitution Committee has power to review, revoke and amend and create by-laws for Flintshire.

Article 14 – Democratic Services Committee

- 14.01 The Council is required by the Local Government (Wales) Measure 2011 to have a Democratic Services Committee. The committee consists of 21 members, politically balanced, with each Group Leader nominating representatives from his/her political group.
- 14.02 The Democratic Services Committee can not include more than one member of the Council's Cabinet. The Chair of the Democratic Services Committee must be appointed by the County Council and must not be a member of any of the political groups that are represented in the Cabinet.
- 14.03 The Democratic Services Committee shall:-
- a. Designate one the Council's officers as the Head of Democratic Services
 - b. Review the adequacy of provision by the authority of staff, accommodation and other resources to discharge Democratic Services functions.
 - c. Make reports and recommendations to the authority in relation to such provision.
- 14.04 The Committee has the power to require the attendance of any Members or officers of the Council to answer questions and to invite anyone else it likes to do so also.
- 14.05 The Democratic Services Committee must have regard to guidance from Welsh Ministers when exercising its functions.
- 14.06 Any reports presented to the Democratic Services Committee by the Head of Democratic Services must be considered by the Committee within 3 months. Similarly any report made by the Democratic Services Committee must be considered by the full Council within 3 months.

Comment [FCC13]: Article 14 new to reflect current practice and Local Government (Wales) Measure 2011

Article 15 – Joint Arrangements

15.01 Arrangements to promote well being

The Council or the Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

15.02 Joint arrangements

- (a) The Council or the Cabinet may establish joint arrangements with one or more local authorities and/or their Cabinets to exercise functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint Committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Executive Functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.
- (c) The Cabinet may appoint either Cabinet members or non-Cabinet members as it deems appropriate to the joint Committee and those members need not reflect the political composition of the local Authority as a whole.
- (d) Details of any joint arrangements including any delegations to joint Committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

15.03 Access to information

- (a) The Access to Information Rules in Part 4 of this Constitution apply.
- (b) If all the members of a joint Committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint Committee contains members who are not on the Cabinet of any participating Authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

15.04 Delegation to and from other local authorities

- (a) The Council may delegate non-Executive Functions to another local Authority or, in certain circumstances, the Cabinet of another local Authority.
- (b) The Cabinet may delegate Executive Functions to another local Authority or the Cabinet of another local Authority in certain circumstances.
- (c) The decision whether or not to accept such a delegation from another local Authority shall be reserved to the Council meeting.

15.05 Contracting out

The Council and the Cabinet may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the Contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 16 – Officers

16.01 Management structure

(a) **General.** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

(b) **Chief Officers.** The full Council will engage persons for the following posts, who will be designated chief officers:

CHIEF EXECUTIVE (AND HEAD OF PAID SERVICE)

JOB PURPOSE

Provide leadership to the Council's Management Team and all employees; ensure that the Council has the appropriate structure, staff and other resources needed to deliver high quality, cost effective services to the people of Flintshire; work closely with elected Members to ensure the realisation of the Council's culture, vision, policies and programmes; work with partners and others to realise Flintshire's full potential.

DIRECTOR OF COMMUNITY SERVICES

JOB PURPOSE

As a member of the Corporate Management Team, personally and actively contribute to and guide strategic management of Flintshire County Council to ensure achievement of the corporate aims and to constantly strive for organisational excellence.

To act as the statutory Director of Social Services under Section 6 of the Local Authority Social Services Act 1970.

Provide strategic leadership, guidance and professional advice on strategic and operational management responsibilities of the Community Services Directorate to ensure effective and integrated management of the Council.

DIRECTOR OF LIFELONG LEARNING

JOB PURPOSE

As a member of the Corporate Management Team, personally and actively contribute to and guide strategic management of Flintshire County Council to ensure achievement of the corporate aims and to constantly strive for organisational excellence.

Provide strategic leadership, guidance and professional advice on strategic and operational management responsibilities of the Life Long Learning Directorate to ensure effective and integrated management of the Council.

DIRECTOR OF ENVIRONMENT

JOB PURPOSE

As a member of the Corporate Management Team, personally and actively contribute to and guide strategic management of Flintshire County Council to ensure achievement of the corporate aims and to constantly strive for organisational excellence.

Provide strategic leadership, guidance and professional advice on strategic and operational management responsibilities of the Environment Directorate to ensure effective and integrated management of the Council.

HEAD OF FINANCE

JOB PURPOSE

- (a) To oversee the work of, and to manage, the Corporate Finance Manager, Pension Funds Manager, Revenues & Benefits Manager and Internal Audit Manager or any alternative temporary posts reporting directly to this post.
- (b) To act as the Council's responsible Chief Financial Officer under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988.
- (c) To act as the Treasurer and Administrator to the Clwyd Pension Fund.
- (d) To contribute, as a member of the Corporate Management Team, to the corporate management of the Council.
- (e) To contribute as a member of the Senior Management Team, to the management of the Directorate.

HEAD OF LEGAL AND DEMOCRATIC SERVICES

JOB PURPOSE

- (a) To oversee the work of, and to manage, the managers within Legal Services and Democratic Services or any alternative temporary posts reporting directly to this post.
- (b) To act as the Council's Principal Legal Adviser.
- (c) To act as the Council's Monitoring Officer to ensure the lawfulness and fairness of decision making within the Council, monitor, review and maintain the Council's Constitution and promote and maintain high standards of conduct in public life.
- (d) To contribute, as a Member of the Corporate Management Team, to the corporate management of the Council.
- (e) To contribute, as a member of the Senior Management Team, to the management of the Directorate.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.**

Deleted: ial

The Council will designate the following posts/officers as shown:

Post/Officer	Designation
Chief Executive	Head of Paid Service
Head of Legal & Democratic Services	Monitoring Officer
Head of Finance	<u>Chief Finance Officer</u>

Deleted: Section 151 Officer

Comment [FCC14]: Clarification

Such posts will have the functions described in Article 15.02–15.04 below.

(d) **Structure.** The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

16.02 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council.** The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

16.03 Functions of the Monitoring Officer

(a) **Maintaining the Constitution.** The Monitoring Officer will monitor and review the operation of the constitution and make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1.

(b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an Executive Function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission will give rise to or has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

(d) **Receiving reports.** The Monitoring Officer will receive and act on reports made by the Ombudsman in respect of Code of Conduct matters and decisions of the case tribunals.

(e) **Conducting investigations.** The Monitoring Officer will conduct investigations into matters referred by the Ombudsman in relation to Code of

Conduct matters and make reports or recommendations in respect of them to the Standards Committee.

(f) **Advising whether decisions of the Cabinet are within the budget and policy framework.** The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

(g) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and Authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.

(h) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

16.04 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Cabinet in relation to an Executive Function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility under section 151 of the Local Government Act 1972 for the administration of the financial affairs of the Council.

Comment [FCC15]: Clarification

(c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and Authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors, and officers in their respective roles.

(e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

16.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

Article 17 – Decision Making

17.01 Responsibility for decision making

The Council will issue and keep a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

17.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

PRINCIPLES OF DECISION MAKING

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights (see below for further details);
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

17.03 Decisions reserved to full Council

Decisions relating to the functions listed in Articles [4.01](#) and [4.02](#) will be made by the full Council and not delegated.

Comment [FCC16]: Inserted 4.01 to clarify

17.04 Decision making by the full Council

Subject to Article 16.08, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

17.05 Decision making by the Cabinet

Subject to Article 16.08, the Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

17.06 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

17.07 Decision making by other Committees and Sub-Committees established by the Council

Subject to Article 16.08, other Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.

17.08 Decision making by Council bodies acting as tribunals

The Council, a Councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

Article 18 – Finance, Contracts and Legal Matters

18.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Part 4 of this Constitution.

18.02 Contracts

Every contract made by the Council will comply with the Contracts Procedure Rules set out in Part 4 of this Constitution.

18.03 Legal proceedings

The Head of Legal & Democratic Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal & Democratic Services considers that such action is necessary to protect the Council's interests.

18.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal & Democratic Services or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite Authority to some other person. Notwithstanding any arrangements set out within the Contract Procedure Rules which may require particular forms of contract for contracts of a lesser value, the Council expressly resolves that any contract with a value exceeding £50,000 entered into on behalf of the local Authority in the course of the discharge of a Executive Function shall be made in writing. Such contracts must either be signed by at least two officers of the Authority or made under the common seal of the Council attested by at least one officer.

18.05 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal & Democratic Services. A decision of the Council, or of any part of it, will be sufficient Authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal & Democratic Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal & Democratic Services or Principal Solicitor, together with the Council Chairman or Vice Chairman

Comment [FCC17]: To reflect current practice

Deleted: some other person authorised by him/her.

Article 19 – Review and Revision of the Constitution

19.01 Duty to monitor and review the constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the Member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this Authority with those in other comparable authorities, or national examples of good practice.

19.02 Changes to the Constitution

The process for changes to the Constitution differs depending upon whether the change is one of substance, or a minor, or a consequential change. Changes of substance need to be approved by the full Council. This will normally be after consideration by the Constitution Committee and it making a recommendation to the County Council. Minor or consequential changes to the Constitution can be made by the Head of Legal & Democratic Services/Monitoring Officer under delegated powers provided:-

1. The Chair of the Constitution Committee and the political Group Leaders have been consulted; and
2. None of those consulted under (1) above require the proposed change to be reported to County Council.

Where the change is consequential on a Cabinet decision and in exercising an Executive function the Constitution can be updated by the Head of Legal & Democratic Services following the expiry of the call-in process.

Comment [FCC18]: To enable the Constitution to be promptly updated

Article 20 – Suspension, Interpretation and Publication of the Constitution

20.01 Suspension of the Constitution

(a) **Limit to suspension.** The Articles of this Constitution may not be suspended. The Rules specified in them and set out in Part 4 may be suspended by the full Council to the extent permitted within those Rules and the law.

(b) **Procedure to suspend.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

20.02 Interpretation

The ruling of the Chair of Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

20.03 Publication

(a) The Head of Legal & Democratic Services will ensure that printed copies are available for inspection at Council offices, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

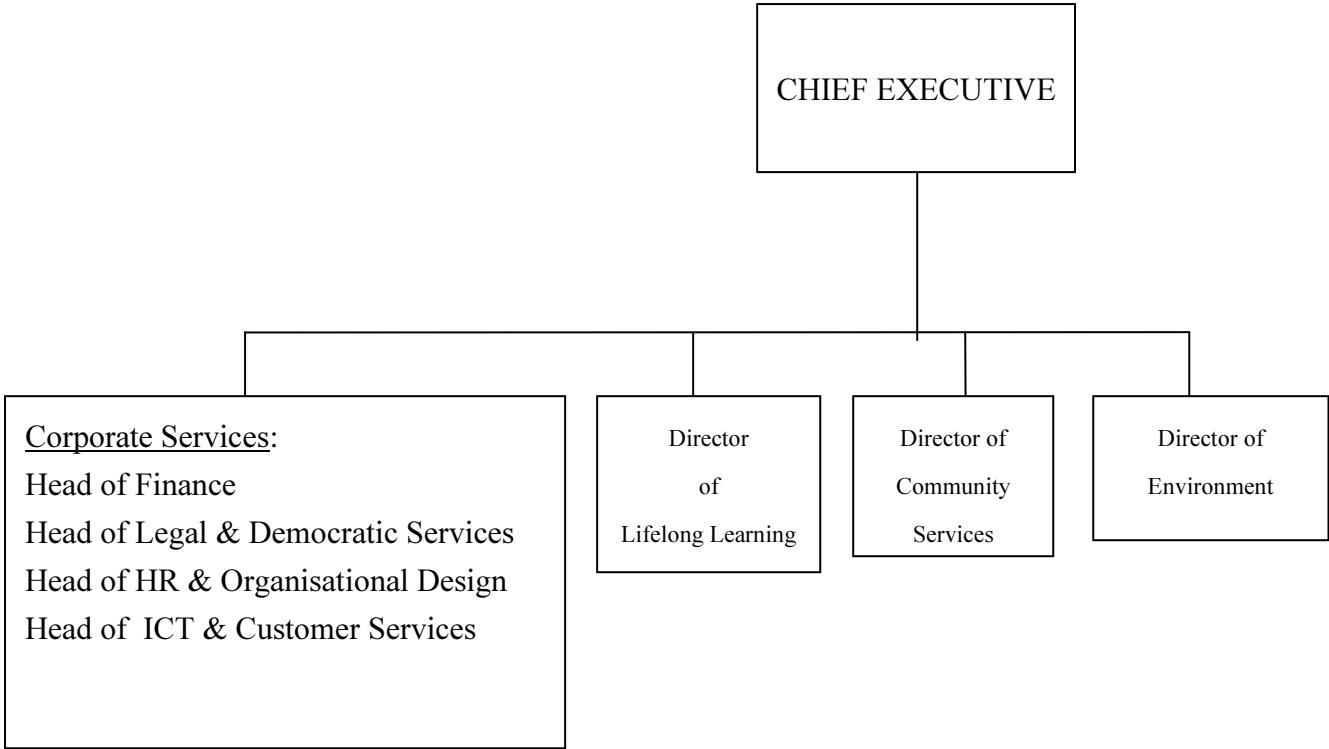
(b) The Head of Legal & Democratic Services will ensure that the summary of the Constitution is made widely available within the area and is updated as necessary.

Comment [FCC19]: As Constitution available on Infonet.

Deleted: (a) The Head of Legal & Democratic Services will provide a disk containing the Constitution to each Member of the Authority and each new Member upon delivery to him/her of that individual's declaration of acceptance of office on the Member first being elected to the Council.

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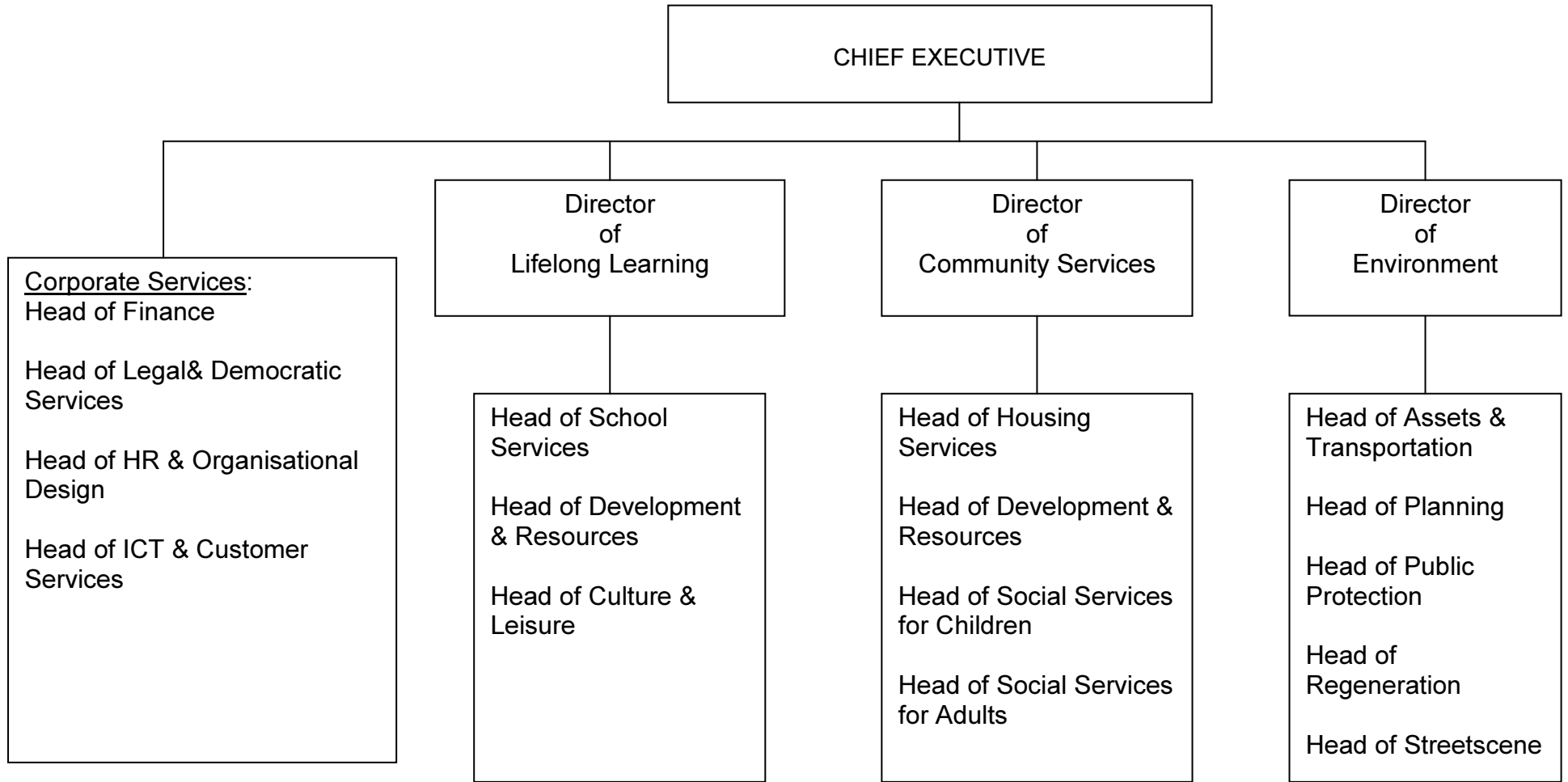
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COUNCIL'S SENIOR MANAGEMENT STRUCTURE

APPENDIX 4



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Article 19 – Review and Revision of the Constitution

19.02 Changes to the Constitution

The process for changes to the Constitution differs depending upon whether the change is one of substance, or a minor, or a consequential change. Changes of substance need to be approved by the full Council. This will normally be after consideration by the Constitution Committee and it making a recommendation to the County Council. Minor or consequential changes to the Constitution can be made by the Head of Legal & Democratic Services/Monitoring Officer under delegated powers provided:-

1. The Chair of the Constitution Committee and the political Group Leaders have been consulted; and
2. None of those consulted under (1) above require the proposed change to be reported to County Council.

Where the changes consequential on a Cabinet decision, in exercising an Executive function the Constitution can be updated by the Head of Legal & Democratic Services following the expiry of the call-in process.

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FLINTSHIRE COUNTY COUNCIL

REPORT TO: CONSTITUTION COMMITTEE
DATE: WEDNESDAY, 24 OCTOBER 2012
REPORT BY: DEMOCRACY & GOVERNANCE MANAGER
SUBJECT: REVIEW OF INTERNAL MEMBER FORA

1.00 PURPOSE OF REPORT

1.01 To progress the review of internal member informal fora such as Panels and Working Groups.

2.00 BACKGROUND

- 2.01 At the annual Council meeting on the 15 May the Head of Legal & Democratic Services' report on constitutional matters included a section on internal Member bodies. It explained that in the light of the recent implementation of the Local Government (Wales) Measure 2011 and at the start of a new Council it was an opportune time to review the various internal member bodies. The Council agreed to the recommendation that the review be undertaken by the Head of Legal & Democratic Services in consultation with Group Leaders and a report submitted to the Constitution Committee and Council. It also agreed that pending the outcome of the review the existing internal bodies be retained.
- 2.02 Most of the internal Member fora are undertaking or advising upon Executive functions which are the responsibility of Flintshire's Cabinet. In relation to such Member fora any Council decision can only be a recommendation to the Cabinet who have the final decision on whether such Member fora should continue or not. Attached as appendix 1 is a list of the internal Member fora, including a column indicating whether or not each forum is discharging an Executive or a Council function.
- 2.03 The review covers those internal Member fora that have been established for an indefinite period rather than those set up to deal with a specific task which automatically end once that task has been completed. The review therefore, does not include any Task & Finish Working Groups set up by Overview & Scrutiny Committees.

- 2.04 Following initial consideration at the Group Leaders meeting on the 9 July a report was submitted to the Constitution Committee meeting of the 24 July. At the Committee meeting it was agreed that the further information listed below should be obtained and for there to be further consultation with Group Leaders prior to a report back to the Constitution Committee.
- 2.05 The further information that the Constitution Committee agreed should be obtained for each internal body:-
- a. The membership
 - b. The terms of reference or function
 - c. The frequency of meetings
 - d. The view of the relevant senior officer as to whether the body should continue or not and the reason for this view.
 - e. For those internal bodies that relate to executive functions to obtain the view as to whether the body should continue from the appropriate Cabinet member.
 - f. The view of the chair of each forum
- 2.06 The information in the previous paragraph has been requested from the appropriate senior officer for each of the internal member fora. As part of this exercise some of those member fora originally identified have been removed from the list as they relate to a wider area than Flintshire, or are legally required, or are time limited in their duration. Attached to this report as an appendix is a list of the member fora remaining within the review, together with information in relation to them.
- 2.07 Group Leaders are being consulted on this report at the Group Leaders meeting on the 19 October 2012 and there will be a verbal feedback on it at the committee meeting.

3.00 CONSIDERATIONS

- 3.01 All internal member fora require resources from both members and officers in terms of preparation, attendance and actioning outcomes. The review may identify that whilst the member fora is discharging a valuable function there is a more efficient way of doing so that is less resource intensive.
- 3.02 Whilst some internal fora served a valuable role when they were initially established, with the passage of time the need of that role may have diminished. There may for instance have been a change in legislation or policy that reduced the need for a particular member forum. Whilst new member fora are created to meet new legislation or new policies, there needs to be a periodic review of existing fora to ensure that they are still needed and an efficient way of discharging their role.

- 3.03 Unfortunately at the present time not all the information requested by the Constitution Committee has been supplied. Sufficient information has however been provided to make recommendations in relation to some of the member fora. Each of these is considered in turn in the following paragraphs.
- 3.04 The Member Development Working Group was established prior to the requirement under the Local Government (Wales) Measure 2011 to form a Democratic Services Committee. The role of that committee covers the work that was previously undertaken by the Member Development Working Group. The Member Development Working Group has not met since the establishment of the Democratic Services Committee at the annual meeting in May. Councillor Mullin as the appropriate Cabinet member has been consulted and agrees that there is no longer a need for the Member Development Working Group.
- 3.05 Within the scope of this review are two separate member bodies relating to Planning, namely the Development Plans Panel and the Planning Protocol Working Group. The Head of Planning believes that both fora undertake valuable work but that it would be beneficial if they were combined into one working group leading to greater efficiency and consistency. Such a proposal would reflect one of the recommendations of the recently published Independent Advisory Group's report into the delivery of planning in Wales. The report recommended that a group of Councillors drawn from Planning Committee (as is the case with Planning Protocol Working Group) should be tasked with driving forward the Development Plan. As the Planning Protocol Working Group has the larger membership this would be the suggested size of the combined working group. This view is supported by Councillor Attridge the appropriate Cabinet member.
- 3.06 The Planning Delegations Body is a consultative meeting between the Head of Planning and the Chair and Vice Chair of Planning to consider those applications where the Head of Planning is of the view permission should be granted under his delegated powers, notwithstanding that there has been some objection raised as part of the consultation process. The Chair or Vice Chair can refer such applications to committee for determination where they disagree with the recommendation of the Head of Planning. The Head of Planning believes that despite recent improvements this is not a transparent process. The vast majority of items that are considered by the Delegation Body are dealt with in line with the officer's recommendation. It is felt that the significant resources required to service this meeting are disproportionate to the advantages that this forum brings. The Chair of the Planning and Development Control Committee supports the loss of such meetings provided there is some alternative arrangement to enable delegated decisions to be subsequently discussed at a planning member body on a quarterly

basis. This view is supported by Councillor Attridge the appropriate Cabinet member.

- 3.07 The Land Disposal Panel, in the view of the Head of Assets & Transportation should be discontinued and replaced with a more effective and transparent arrangement as indicated below:-

£1 to £100K - Report to be signed by the Case Officer who is to be a chartered surveyor, together with the Corporate Valuer and Head of Service. The local Member to be consulted on the principle of disposal and their observations/comments noted in the report.

£100K to £250K - As above plus the portfolio holder.

£250K to £500K - As above plus Corporate Asset Management Group

£500K plus - As above plus Cabinet

The above are in the case of properties/land which have been tested on the market.

In the absence of market testing and for properties/land above £100K the District Valuer to provide a supporting valuation.

In addition to the Council's internal arrangements there are statutory safeguards under the Local Government Act 1972 in relation to the disposal of land.

- 3.08 The Social Services Representation and Complains Review Panel in the view of the Head of Development & Resources is effectively redundant after changes to the Social Services complaints procedure which transferred the function to an independent body. The Panel has not met for some time and its dissolution is supported by the appropriate Cabinet member, Councillor Christine Jones.

- 3.09 The Agricultural Panel has no statutory purpose and its main role is to act as a sounding board and reviewer of leases and agreements for Council smallholdings. As a result of a review in 2011 there was a phased disposal programme and this role is diminishing. The Head of Assets & Transportation recommends that the Panel be discontinued and this view is supported by the appropriate Cabinet member.

The Head of Assets and Transportation believes that the processes should be the same as with the Land Disposal Panel (see paragraph 3.07 above).

4.00 RECOMMENDATIONS

- 4.01 For the committee to make recommendations to Council and for Executive functions to Cabinet in relation to the Member fora referred to in paragraphs 3.04 to 3.09.

4.02 For the review to continue in relation to the other Member fora in appendix 1.

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 A reduction in Member fora may lead to some personnel implications.

10.00 CONSULTATION REQUIRED

10.01 With Group Leaders.

11.00 CONSULTATION UNDERTAKEN

11.01 With Group Leaders.

12.00 APPENDICES

12.01 Appendix 1 - List of Internal Member Fora

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

Report of the Head of Legal & Democratic Services on Constitutional Matters to the Council meeting 15 May 2012

Minute of Council meeting 15 May 2012 relating to internal bodies

Report to Group Leaders dated 9 July 2012

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Review of Member Fora

	Name of Body	Current Membership	Summary of Terms of Reference for Function of the Body	Frequency of Meetings	Executive or Council Function
1.	Joint Consultative Committee				Executive
2.	Teachers' Consultative Committee	8 Teachers (Union reps) Directorate Advisors	The group covers the same ground as the FCCTCC.		Executive
3.	Flintshire County Council Teachers' Consultative Committee	8 Members from the LEA 8 Teachers (Union reps) Directorate Advisors	The function of the group is to provide consultations between FCC and Teachers regarding staff issues and any other relevant matters and to make recommendations to the Council		Executive
4.	Member Development Working Group	7 Members + Colin Everett, Peter Evans, Robert Robins and Steve Hughes	To deal with issues relating to Member support & development.	As required. On average approx. twice a year	Council
5.	Development Plans Panel	9 Members + relevant officers	Guides the work on the Development Plan (previously the UDP, in the future will be the LDP).	Depends on position with development plans work, sometimes meets every 2 weeks	Executive
6.	Planning Protocol Working Group	11 Members + relevant officers	Deals with ongoing improvements and changes to the Planning Service including responding to consultations	Every 2 months	Executive
7.	Planning Delegations	2 Members + relevant officers	1. To consider the recommendation of the Head of Planning to grant planning permission for development where objections have been received from members of the public or consultees, but the development is of such a scale that it need not be determined by Committee. 2. To agree with the Head of Planning's recommendation, or 3. To agree with the Head of Planning's recommendation subject to the imposition of additional conditions, or 4. To require that the matter be determined at the next available Planning & Development Control Committee. 5. Either the Chairman or Vice Chairman can request that the actions 2 to 4 are undertaken.	Every 2 weeks	Council
8.	Member/Officer Sheltered Working Group	6 Members and 6 officers	Manage implementation of service improvements with the sheltered housing wardens service.		Executive
9.	Member/Officer Tenant Working Group	4 Members to include the cabinet member for Housing, Chair of Tenant Federation + 3 other tenants and relevant officers	To implement the Customer Involvement Strategy and action plan, receive progress reports and to annually review the Customer Involvement Strategy.	Meets up to a maximum of 6 times a year	Executive

	Name of Body	Current Membership	Summary of Terms of Reference for Function of the Body	Frequency of Meetings	Executive or Council Function
10.	Land Disposal Panel	6 members + 3 officers	The function of the LDP is to act as a member group between the Corporate Assset Management Group approving a sale of property and the final approval under delegated powers or Cabinet approval	Previously monthly	Executive
11.	Voluntary Sector Grants Panel	8 Members + relevant officers	To provide recommendations to the Chief Executive on Council funding from the £21K available in the community chest fund to third sector organisations	The Penel meets 3 times a year in order to review and make recommendations on the allocation of the Community Chest Grant which is approx. £21K p.a.	Executive
12.	Inclusion Service Steering Group	2 Members, Inclusion Service Management Team, Primary, Secondary & Special School headteachers, Primary & Secondary ALNcos, Parent Partnership representative	To review and monitor Service policy, provision, delivery and efficiency.	Termly	Executive
13.	Welsh in Education Strategic Forum	Menter Iaith, Mudiad Ysgol Meithrin, parent representative, Children & Young People's Partnership, Athrawon Bro, 2 Head teachers, 3 Principal Learning Advisers, Head of Dev & Resources, Governor representative, Pupil Support Manager, Trade Unions, College Representative & Council Member	To agree, implement and review a coordinated approach that best delivers the requirements of the WG's Welsh-medium Education Strategy. To be responsible for the delivery of the action plan incorporating seven key outcomes. To monitor, evaluate and consider the impact of the delivery of the action plan in raising standards in Welsh first and second language. Forum representatives are expected to consult with and feedback to their respective associate stakeholders.	It meets approx. 6 times year	Executive
14.	Foster Care Panel	FCC x 5 BCUHB x 3 Independent Members x 4		Monthly	Executive

	Name of Body	Current Membership	Summary of Terms of Reference for Function of the Body	Frequency of Meetings	Executive or Council Function
15.	Children's Forum	FCC x 2 WCBC x 12 BCUHB x 3 Public Health x 1 CAFCASS x 1 NSPCC x 1 Police x 1 Cabinet members for Education, Social Services, Housing and Corporate Management with one member from each political group and other persons as determined by Cabinet at its meetings of the 01.08.06 and 13.12.11	1. Ensuring that the Chief Executive and Cabinet Members are involved in setting priorities and strategic direction for vulnerable children, specifically children on the Child Protection Register and children looked after. 2. Ensuring that the Chief Executive and Cabinet Members are well informed about the progress and well-being of vulnerable children for whom the Authority holds significant responsibility. 3. Overseeing the Authority's development of a robust approach to corporate parenting.	4 - 6 weeks	Executive
16.	Social Services Representations & Complaints Review Panel	One Member chosen from a pool	To review complaints made in respect of Social Services functions	Not met for some time	Executive
17.	Agricultural Panel	6 members + 2 officers	1. To be involved in shortlisting and interviewing arrangements for prospective farm tenants when farm vacancies occur together with appropriate local Members, and to advise the Director on candidate selection for the vacancy. 2. To be involved in site visits to the agricultural estate as appropriate and to meet on a six month basis to receive a report on general agricultural issues from the Land Agent.	Between quarterly and six monthly	Executive
18.	Waste Strategy Review Board		To consider issues relating to Waste Management Strategy and make recommendations to the Cabinet		Executive

	Name of Body	Current Membership	Summary of Terms of Reference for Function of the Body	Frequency of Meetings	Executive or Council Function
19.	Health & Safety Board	Chief Executive The Leader of the Council Cabinet Member for Corporate Management Members from each political group Directors Head of Public Protection Corporate Health and Safety Team Leader Union Representatives	<p>Aim of the Group To facilitate and monitor the strategic development and progress of health and safety practice and raise the profile of health and safety so it becomes embedded in the culture of the Authority. To take the lead in ensuring the effective communication of health and safety duties and the benefits throughout the organisation</p> <p>Purpose of the Group</p> <ul style="list-style-type: none"> • To act as the forum to maintain a positive health and safety culture throughout the Authority, a culture that strives to continually improve health and safety practice and performance • To act as a forum to monitor the Authority's Health and Safety Management System (SMS) and the supporting operating manual of Corporate Standards • To act as a forum to ensure health and safety information is disseminated and used throughout the Authority • To act as a forum for monitoring health and safety performance and the effectiveness of health and safety arrangements within the Authority • To maintain an oversight of legal changes in health and safety legislation and its interpretation • To ensure the group are made aware of the significant risks faced by FCC and that necessary action is being taken. 	Three monthly	Executive
20.	Procurement Board	4 Members and 4 officers	<p>To review and monitor progress in the implementation of the Corporate ICT Strategy.</p> <p>To champion the development and implementation of ICT initiatives across the County Council and monitor the outcomes and benefits of such initiatives.</p> <p>To advise the Executive of solutions to overcome obstacles which may impede progress in the development and implementation of ICT within the Council.</p> <p>To ensure Act development and investment is aligned to Council and service priorities.</p> <p>To review and monitor Information Security and receive reports of security incidents and where appropriate approve corrective action.</p>	Every 4 - 6 months	Executive
21.	ICT Panel	5 members	<ol style="list-style-type: none"> 1. To review and monitor progress in the implementation of the Corporate ICT Strategy. 2. To champion the development and implementation of ICT initiatives across the County Council and monitor the outcomes and benefits of such initiatives. 3. To advise the Executive of solutions to overcome obstacles which may impede progress in the development and implementation of ICT within the Council. 4. To ensure ICT development and investment is aligned to council and service priorities. 5. To review and monitor Information Security and receive reports of security 	Every 4 - 6 months	Executive

FLINTSHIRE COUNTY COUNCIL

REPORT TO: CONSTITUTION COMMITTEE

DATE: WEDNESDAY, 24 OCTOBER 2012

REPORT BY: MEMBER ENGAGEMENT MANAGER

SUBJECT: WALES AUDIT OFFICE SCRUTINY IMPROVEMENT STUDY

1.00 PURPOSE OF REPORT

1.01 To advise the Committee of the Wales Audit Office Scrutiny Improvement Study, an extensive piece of work which commenced in September 2012.

2.00 BACKGROUND

2.01 The Wales Audit Office Scrutiny Improvement Study has been in the offing for some time, but matters of detail were only made apparent with the publication of the Project Brief which was received on the 18th of September.

2.02 Officers had already raised concern at the timing of the Study, given the proximity to the recent Elections, the ongoing training programmes within individual authorities and the commitment of staff to supporting the Police and Crime Commissioner Elections to be held on the 15th of November. However, the Wales Audit Office, having already factored the study into their work plan and thus having the resources available, need to commence it in the current year.

2.03 It is reasonable to say that all Local Authorities in Wales are keen to support Overview and Scrutiny and to ensure that it flourishes as well as it can, within the resources available to each individual authority. Thus this study, whilst it may not be regarded as timely, should be recognised as being beneficial as the learning which is derived from it should contribute to more effective overview & scrutiny.

3.00 CONSIDERATIONS

3.01 There are to be six phases to the study as follows:-

3.02 Phase 1 – Collaborative scoping

This was how the approach and outline for the Study was developed,

and has included Local Government representatives (Leaders, Chief Executives, Policy & Performance Officers and Scrutiny Officers) the Welsh Local Government Association (WLGA) Welsh Government (WG) and the Scrutiny Officer Network

3.03 Phase 2 – Initial Self Evaluation

The Wales Audit Office issued each Council with an Electronic Scrutiny Self Evaluation Tool to gather evidence and evaluate their scrutiny arrangements on the 18th of September (around a week later than originally anticipated). The intention was that the Self Evaluation Tool would be returned to the Wales Audit Office by the 31st of October.

3.04 Each Authority is required to establish a Learning Exchange Team which should comprise up to 5 people and be a cross section of appropriate Members, both Executive and non-Executive from a mix of political groups as well as Officers. The Guidance has indicated that the commitment out of county between November 2012 and April 2013 would be around 4 days.

3.05 The Council has already, as required, identified a lead officer, Margaret Parry-Jones, the Overview & Scrutiny Facilitator who currently supports the Environment, Lifelong Learning and Social & Health Overview & Scrutiny Committees. It is suggested that the Learning Exchange Team should also comprise one cabinet member, one overview & scrutiny chair, two Overview & scrutiny members and the Member Engagement Manager.

3.06 The Wales Audit Office (WAO) has already sent authorities a 'self evaluation form', an extensive document which the officers are preparing in draft before the deadline which is 31st October. It has been suggested by WAO that Councils may want to involve their own Learning Exchange Team members in preparing the response to the self evaluation.

3.07 Phase 3 – Regional Workshop

Phase 3 consists of a regional workshop for sharing and learning with other Councils across North Wales. As part of this, each Council will pass on their initial Self Evaluation and Comparative Analysis Summary to a peer Learning Exchange Team from another Council in the region. It has been suggested by the North Wales Scrutiny Officer Network that it is suggested that for logistical reasons, it would be beneficial for the six North Wales Authorities to work together in two teams of three: Wrexham, Denbighshire and Flintshire in the north east and Conwy, Gwynedd and Anglesey in the north west.

3.08 Phase 4 – Peer Learning Exchange Field Work

Each Peer Learning Exchange Team will hold a focus group for the Chairs of Scrutiny of the partner Council, facilitated by the WAO study team leads and where the Peer Learning Exchange Team of each Council would attend and observe at two Scrutiny Committees of their partner Council. To make the Peer Learning Exchange work effectively and to remove any potential problems from Council A reviewing Council B, which then reviews A, it has been suggested by the Scrutiny Officer Network that in the two divisions of North Wales that Council A will review B, which in turn would review C, which would be the reviewing council for A. No decision has been made as to which Council would be which.

3.09 Phase 5 - Second Regional Workshop

The Second Regional Workshop is where the Peer Learning Exchange Teams will feed back their reflections and refine their final self evaluation.

3.10 Phase 6 – Reporting

This phase is reporting and the dissemination of information and is likely to take place in June or July of 2013. The exercise will end with a National Scrutiny Conference to be held in the autumn 2013. A copy of the project study brief has been deposited in each of the group rooms and an electronic copy is available from the Overview & Scrutiny Facilitator.

4.00 **RECOMMENDATIONS**

- (i) That the committee notes the arrangements which have already been made for Flintshire's participation in the study;
- (ii) that the composition of the Peer Learning Exchange Team be approved;
- (iii) that nominations be sought for the one cabinet member, one overview & scrutiny chair and two overview & scrutiny members to work alongside the officers who have already been identified.

5.00 **FINANCIAL IMPLICATIONS**

Participation in the study will involve offering refreshments to a peer learning team from another authority on two occasions together with the travel costs incurred by Flintshire's Learning Exchange Team members. This can be met from within the Overview & Scrutiny budget.

6.00 ANTI POVERTY IMPACT

None

7.00 ENVIRONMENTAL IMPACT

None

8.00 EQUALITIES IMPACT

None

9.00 PERSONNEL IMPLICATIONS

Members and officers who are engaged with the project will have to incorporate participation into their existing workloads.

10.00 CONSULTATION REQUIRED

Publication of this report constitutes consultation.

11.00 CONSULTATION UNDERTAKEN

See 10.00, above.

12.00 APPENDICES

None

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

Wales Audit Office Scrutiny Improvement Study Project brief,
published September 2012.

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