

CONSTITUTION COMMITTEE

17 JULY 2013

Minutes of the meeting of the Constitution Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Wednesday, 17 July 2013

PRESENT: Councillor Robin Guest (Chairman)

Councillors Derek Butler, David Cox, Veronica Gay, Patrick Heesom, Joe Johnson, Tim Newhouse, Neville Phillips, Nigel Steele-Mortimer, Owen Thomas and Arnold Woolley

APOLOGIES: Councillors Chris Bithell, Clive Carver, Ian Dunbar, George Hardcastle and Paul Shotton.

IN ATTENDANCE: Head of Legal and Democratic Services, Democracy and Governance Manager, Member Engagement Manager, Acting Head of Procurement, Corporate Finance Manager, and Committee Officer

1. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

There were no declarations of interest.

2. APPOINTMENT OF VICE-CHAIR

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

Councillor W.O. Thomas nominated Councillor N.R. Steele-Mortimer as Vice-Chair of the Committee. Councillor A. Woolley seconded the nomination.

Councillor D. Butler nominated that Councillor W.P. Shotton as Vice-Chair of the Committee. Councillor J.M. Johnson seconded the nomination.

Members were asked to vote on the nominations and when put to the vote Councillor N.R. Steele-Mortimer was appointed Vice-Chair of the Committee.

RESOLVED:

That Councillor N.R. Steele-Mortimer be appointed Vice-Chair of the Committee.

3. MINUTES

The minutes of the meeting of the Committee held on 24 April 2013, were submitted.

Accuracy

The Member Engagement Manager said he had not been present at the meeting

and asked that the minutes be amended accordingly.

Matters arising

Page 2 The Democracy and Governance Manager advised that he had responded to the consultation on draft Supplementary Report by the Independent Remuneration Panel for Wales to reflect the view of the Committee.

Page 4 – The Democracy and Governance Manager advised that he had responded to the consultation on Family Absence for Members in accordance with the decision of the Committee.

RESOLVED:

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

4. CONTRACT PROCEDURE RULES

The Chair welcomed and introduced Arwel Staples, Acting Head of Procurement, and invited him to introduce the report on Contract Procedure Rules.

The Acting Head of Procurement advised that the purpose of the report was to consider the revised Contract Procedure Rules (CPRs) prior to consideration and approval by County Council in September 2013. He provided background information and outlined the criteria used to update the CPRs which had been developed through collaboration by a Joint Working Group of Officers from Flintshire, Denbighshire and Conwy Councils.

Members were informed that following adoption by County Council a series of workshops would be held in each Directorate to update Officers on the new CPRs and ensure they were fully aware of their responsibilities when undertaking procurement activities.

The Acting Head of Procurement explained that the revised CPRs had been considered at a meeting of the Audit Committee which had been held prior to the meeting of the Constitution Committee. He advised that the CPRs had in general been fully endorsed by the Audit Committee and provided feedback on the queries and concerns raised during the meeting.

The Acting Head of Procurement said a summary of the key amendments between the revised and the current CPRs were attached to the report. He advised that the revised CPRs would ensure a consistent and compliant approach was adopted for all procurement activity across the Council.

The Chairman invited Members to raise questions.

Councillor W.O. Thomas raised concern around bad workmanship and asked what safeguards were in place to protect the Authority and residents from poor performance by contractors. The Acting Head of Procurement referred to

the revised CPRs for contract management and contract performance which had been strengthened. He said there was a facility in the process to send a questionnaire to a number of stakeholders, internal and external, to enable them to express their views on performance. Feedback would be collated and action taken against contractors which gave particular or persistent poor performance.

Councillor A. Woolley asked how Members could gain access to information about the performance of contractors. The Acting Head of Procurement suggested that interested parties could be given access to the system to view complaints made against a contractor to determine the performance prior to authorisation of work.

Councillor V. Gay reiterated the concerns raised by Councillor Thomas and emphasised the need for robust quality assurance to ensure work was completed to the standard expected by the Authority before being signed off and payment authorised. The Acting Head of Procurement acknowledged the points made and explained that the new CPRs were more robust than the existing measures. If contract management was not being undertaken officers would be responsible for non compliance with procedural rules. He commented that contract management had to be applied rigorously and the system generated reminders to officers that they needed to undertake specific tasks in relation to CPRs.

Councillor Gay referred to page 54, paragraph 39.3, of the proposed new Contract Procedure Rules, and suggested that the word "should" be changed to "will".

Councillor P.G Heesom referred to the Medium Term Financial Plan (MTFP) and the need for justifying expenditure particularly concerning purchasing need and procurement planning. He commented on the need for the new CPRs to link in with the MTFP. Councillor Heesom thanked the Acting Head of Procurement for his presentation on CPRs to the Audit Committee and suggested it would be helpful if it was made available to all Members in due course. The Acting Head of Procurement referred to a workshop which had been held recently for Members and suggested that following adoption of the CPRs by County Council in September a further workshop be arranged.

The Chairman expressed his thanks to the Acting Head of Procurement for the substantial work undertaken to update the CPRs.

RESOLVED:

- (a) That the Committee endorse the revised CPRs for adoption by County Council subject to the above change in paragraph 39.3; and
- (b) That the Council's Constitution be updated with the revised CPRs once approved by County Council.

5. REVIEW OF FINANCIAL PROCEDURE RULES

The Chairman introduced Gary Ferguson, Corporate Finance Manager, and invited him to present the report.

The Corporate Finance Manager introduced a report on the proposed updated Financial Procedure Rules (FPR's) for comment and endorsement prior to approval at County Council in September 2013. He provided background information and gave an overview of the recommended changes to the existing rules which were detailed in the report.

The Corporate Finance Manager advised that the Audit Committee had endorsed the amendments to the FPRs at a meeting held prior to the meeting of the Constitution Committee. He said Members had welcomed the clarity and strengthening of roles and responsibilities in relation to budget monitoring and management and were keen to ensure that there would be adequate training provided and that there was sufficient capacity to deliver it. He said he had given an assurance that this would begin following approval by County Council. The Audit Committee had suggested that some of the relevant strengthened elements on budget monitoring should be reported to the Corporate Resources Overview and Scrutiny Committee. It had been agreed that an update on the links to the review work done on the outturn report would be provided in the month 3 report.

The Chairman expressed his thanks to the Corporate Finance Manager on behalf of the Committee, for the substantial work undertaken to update the FPRs. He invited Members to raise questions on the updated FPRs which were appended to the report.

Councillor D. Butler commented that asset management should include acquisition as well as disposal. The Corporate Finance Manager agreed this was a key element which would be incorporated in the next stage of the review.

RESOLVED:

- (a) That the updated Financial Procedure Rules be endorsed and recommended to County Council for approval; and
- (b) That following approval at County Council the Council's Constitution be updated to reflect the changes.

6. UPDATING THE CONSTITUTION

The Democracy and Governance Manager introduced the report to consider further updating changes to the Council's Constitution pursuant to the 3 year programme agreed at the meeting of the Committee held on 24 July 2012. He provided background information and referred to the six areas in the programme to be reviewed this year. He referred to the guiding principles undertaken to update the Council's Constitution and explained that he had undertaken a review of the Access to Information Procedure Rules and Protocol for Members in their dealings with Contractors/Developers. The proposed

changes and reasons for them were attached to the report for Members' consideration.

During discussion Officers responded to the queries and observations raised by Members around the Protocol and provisions under the Planning Code of Conduct and Procedure Rules. The Head of Legal and Democratic Services provided clarification around the matter of localism and non-commercial considerations.

Members agreed to the proposed changes, as appended to the report, to the Access to Information Procedure Rules and the Protocol for Members in their dealings with Contractors/Developers. It was also agreed that paragraph 3.2 of the Protocol be updated to reflect the wording of paragraph 3.2 of the revised Contract Procedure Rules.

RESOLVED:

- (a) That the proposed changes to the Access to Information Procedure Rules and the Protocol for Members in their dealings with Contractors/Developers be agreed; and
- (b) That paragraph 3.2 of the Protocol be updated to reflect paragraph 3.2 of the revised Contract Procedure Rules.

7. CONSULTATION ON REMOTE ATTENDANCE AT COUNCIL MEETINGS

The Democracy and Governance Manager introduced the report to determine the responses to consultation by the Welsh Government on remote attendance at Council meetings. He provided background information and stated that the intention was to make it easier for Councillors who may have to travel long distances, have domestic responsibilities, or were in employment.

The Democracy and Governance Manager advised that in April 2013 the Welsh Government had issued draft guidance on remote attendance for consultation purposes and responses were required by 21 August 2013. Attached to the report was a draft response to the consultation for Members' consideration. The Democracy and Governance Manager explained that there was a typographical error in paragraph 4 of the draft response and the word "response" should read "resource".

The Head of Legal and Democratic Services provided brief feedback on the general views expressed by other local authorities across North Wales. It seemed that some local discretion should be allowed to enable local authorities to make their own arrangements to suit their own requirements as far as remote attendance was concerned.

Councillor A. Woolley expressed a number of concerns around the initiative and referred to the financial and resource implications.

Councillor W.O. Thomas commented on the need for financial restraint in the current economic climate and said the timing was inappropriate.

Councillor P.G. Heesom reiterated the sentiments expressed by Councillor Thomas and suggested that a letter be sent to the Welsh Government to outline that view on behalf of the Committee.

The Democracy and Governance Manager explained that he had previously written to the Welsh Government on the matter. He suggested that it may be more constructive to send a detailed response to the consultation and also refer to the local circumstances.

In summary the Chair suggested that the draft response be expanded to indicate that the initiative was unworkable for Flintshire, and that the Welsh Government be asked to allow wider local choice as to implementation in the final version of the guidance.

RESOLVED:

- (a) That the draft response to the consultation as detailed in the appendix to the report be expanded to indicate that the draft guidance made the initiative unworkable for Flintshire; and
- (b) That the Welsh Government be asked to allow wider local choice as to implementation in the final version of the guidance.

8. WALES AUDIT OFFICE PEER REVIEW AND SELF EVALUATION

The Member Engagement Manager introduced the report to inform of the results of the Wales Audit Office Scrutiny Improvement Study self-evaluation of overview and scrutiny arrangements and provide feedback from the peer review by the Wrexham Peer Review team of Overview and Scrutiny arrangements in Flintshire.

The Member Engagement Manager provided background information and referred to the work and development activities of the Flintshire Peer Learning Evaluation Team (PLET) and the Wrexham PLET. He explained that the self-evaluation and peer review process had enabled the Authority to reflect on its overview and scrutiny arrangements. A draft action plan was attached to the report which aimed to improve on the current good practice within Overview and Scrutiny in Flintshire.

The Member Engagement Manager highlighted the key strengths and areas for development which had been identified by the Wrexham PLET following their visit to undertake a peer review of Flintshire.

Councillor A. Woolley referred to the observation by the Wrexham PLET that there was restricted space for public attendance. He suggested that the spare tables in the Delyn Committee Room be removed to make more space in the public gallery.

Councillor N. Steele-Mortimer commented on the need for more training required on the scrutiny role and suggested that in certain cases training should

be made compulsory. He supported the recommendation in the Action Plan that reports to Cabinet include a section to ensure scrutiny comments are accurately reflected.

The Member Engagement Manager stated that he was not in favour in general of compulsory training for Members as it was not conducive to learning and development. He said he would prefer Group Leaders to encourage Members to attend the relevant training session. It was suggested during discussion that it may be helpful if a short training session could be held prior to the start of a meeting and cited the training sessions held prior to meetings of the Standards Committee as an example of good practice. It was agreed that the Member Engagement Manager would discuss the suggestions raised with the appropriate Group Leaders and Chairmen of Committees.

RESOLVED:

- (a) That the Committee agreed the actions as detailed in the Action Plan attached to the report;
- (b) That a further report on the implementation of the proposed actions be submitted to a future meeting of the Constitution Committee; and
- (c) That the Member Engagement Manager discusses the suggestions raised with the appropriate Group Leaders and Chairmen of Committees.

9. OVERVIEW & SCRUTINY ANNUAL REPORT

The Member Engagement Manager introduced the report and invited the Committee to consider the draft Overview and Scrutiny Annual Report for the 2012/13 municipal year which was appended to the report and make observations or amendments as appropriate. He advised that the final version of the Annual Report would be forwarded to County Council for approval.

RESOLVED:

That the Annual Report be agreed and forwarded to Council.

10. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There were no members of the press or public in attendance.

(The meeting started at 2.00 pm and ended at 3.32 pm)

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Chairman