

CONSTITUTION COMMITTEE
28 JANUARY 2015

Minutes of the meeting of the Constitution Committee of Flintshire County Council held at Delyn Committee Room, County Hall, Mold CH7 6NA on Wednesday, 28 January 2015

PRESENT: Councillor Robin Guest (Chairman)

Councillors Bernie Attridge, Glyn Banks, Haydn Bateman, Chris Bithell, Clive Carver, David Cox, Ian Dunbar, Veronica Gay, Christine Jones, Dave Mackie, Tim Newhouse, Neville Phillips (Vice-Chairman), Paul Shotton and Owen Thomas

SUBSTITUTION: Councillor Jum Falshaw (for Nigel Steele-Mortimer)

APOLOGIES: Councillors George Hardcastle, Aaron Shotton, David Williams, David Wisinger and Arnold Woolley.

IN ATTENDANCE: Chief Officer (Governance), Democracy and Governance Manager, Member Engagement Manager, and Committee Officer

Prior to the start of the meeting the Chairman referred to the recent death of Councillor Stella Jones and asked all Members and Officers to stand in silent tribute to her memory. Members expressed their sincere condolences.

20. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

Councillor Clive Carver explained that he had been granted a dispensation for his personal and prejudicial interest in the following item:-

Agenda Item 5 – Officers' Code of Conduct

21. MINUTES

The minutes of the meeting of the Committee held on 15 October 2014, were submitted.

Matters arising

Clwyd Pension Fund Governance

The Democracy and Governance Manager referred to the proposal to create a local Pension Board and advised that the proposed Protocol for the Board would be recommended for approval to the meeting of the County Council on 3 March 2015.

RESOLVED:

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

22. OVERVIEW & SCRUTINY COMMITTEE STRUCTURE

The Member Engagement Manager introduced the report on proposals for a revised and renewed Overview & Scrutiny Committee structure. He provided background information and advised that the design principles for the new structure were appended to the report. Also appended were the examples of six models for structures which have six Overview & Scrutiny Committees.

The Member Engagement Manager explained that detailed terms of reference, similar to those currently used, could be drafted for any model or models which the Committee recommended. He reported that in addition to the six models put forward for consideration a further three options had been produced to illustrate how alternative models with fewer committees could operate.

In view of the complexities the Member Engagement Manager advised that the Committee should consider appointing a working group of eight Members who would put forward the Committee's recommendations to the Annual Meeting of the County Council in May 2015. The working group preferably to include the Chair of the Constitution Committee, the Council Leader and at least one Overview & Scrutiny Chair.

During discussion it was agreed that such a working group be established but for it to report back on its preferred option or options for a new Overview & Scrutiny structure to a meeting of the Constitution Committee prior to submission to the Annual Meeting of the County Council.

The Chief Officer (Governance) commented on the need for all Members to have the opportunity for consideration and input on the process.

Officers responded to the questions and points raised by Members around transitional arrangements and the appointment of Chairs for the new committees. The Chief Officer (Governance) advised that the committees would be approved at the Annual Meeting of the County Council and the Council would subsequently ask the political groups to appoint a Chair for each committee.

Councillor Bernie Attridge proposed that the membership of the Working Group be politically balanced and this was seconded by Councillor Chris Bithell and agreed by the Committee.

RESOLVED:

- (a) That the Committee appoints a working group of eight members which is to be politically balanced; and
- (b) That the working group provides a report on the recommendations for a new Overview & Scrutiny structure to a future meeting of the Constitution

Committee prior to submission to the Annual Meeting of the County Council

23. OFFICERS' CODE OF CONDUCT

The Democracy and Governance Manager introduced a report on the review of the Officers' code of Conduct as part of the ongoing review of the Council's Constitution. He provided background information and referred to the key considerations in the report. He advised that the provisions in paragraphs 8.11 and 8.12 of the Code needed to be considered in the wider context of the other requirements placed on officers by legislation and the statutory parts of the officers' code.

The Democracy and Governance Manager explained that Officers considered that in view of decided cases and Counsel's advice, it would be unlawful to implement the Committee's previous decision to retain clauses 8.11 and 8.12 of the Officers' Code. However, it was important that the Council's Senior Officers voluntarily disclosed their membership of societies and clubs in the interests of transparency in relation to the advice given to Members or decisions taken under delegated powers.

During discussion Officers responded to the queries and concerns raised by Councillor Bernie Attridge concerning the proposal to delete paragraphs 8.11 and 8.12 from the Officers' Code of Conduct. Councillor Attridge proposed that paragraphs 8.11 and 8.12 be retained in the Officers' Code of Conduct and Councillor Ian Dunbar seconded the proposal.

Officers responded to the further comments and observations put forward by Members concerning the disparity between the Members Code of Conduct and the Officers' Code of Conduct. The Chief Officer reiterated the advice provided by Counsel that it would be unlawful to adopt mandatory obligations of disclosure especially focussed just on freemasonry, and referred to a decision taken by the European Court of Human Rights.

The Chair asked Members to vote on the proposal put forward by Councillor Bernie Attridge that paragraphs 8.11 and 8.12 be retained in the Officers' Code of Conduct. Councillor Clive Carver withdrew from the meeting at this point. When put to the vote the proposal was carried.

Councillor Clive Carver returned to the meeting and the Chair informed him of the decision that was taken by the Committee in his absence.

Councillor Glyn Banks sought further clarification in relation to paragraph 9.4 concerning hospitality. The Chief Officer (Governance) explained that the sum referred to in the paragraph was determined by the Council and was currently deemed to be sufficient to account for the cost of a working lunch for example.

Councillor Chris Bithell referred to paragraph 5.1 and sought further guidance on the definition of close personal familiarity between employees and individual Councillors. The Chief Officer (Governance) provided clarification on this.

RESOLVED:

- (a) That paragraphs 8.11 and 8.12 be retained in the Officers' Code of Conduct; and
- (b) That the revised Officers' code of Conduct be recommended to County Council.

24. WEBCASTING OF MEMBER MEETINGS

The Democracy and Governance Manager introduced a report to seek further consideration to the webcasting of some Member meetings pursuant to the decision of the Committee at its last meeting. He provided background information and referred to the key considerations in the report. He reported that the Welsh Government (WG) had decided that joint procurement was not practical due to the need to meet EU procurement requirements.

The Democracy and Governance Manager drew attention to the arrangements made by Monmouthshire Council for webcasting of meetings and advised that Officers had also made enquiries with the two other Councils that had devised their own systems, however, neither provided a better option for Flintshire than the Public-I system.

During discussion some Members expressed concerns around the ongoing costs associated with webcasting of meetings and referred to the current and future financial restraints faced by the Authority.

Other Members spoke in support of the webcasting of some meetings and referred to the benefits in terms of public engagement, access, convenience and transparency. They referred to webcasting being underway in most authorities in Wales for those meetings which were judged to be of most interest to the public and to ongoing public interest in the broadcasting of Council meetings.

Responding to the questions raised around the cost of webcasting and the one-off grant of £40k which had been made available by the WG, the Democracy and Governance Manager explained that if the funding was not used for webcasting then the Welsh Government expected it to be used for some other form of democratic service initiative.

The Chairman asked Members to consider the recommendation in the report that the Committee recommends to Cabinet the implementation of webcasting for those Member meetings of most interest to the public with officers investigating ways of doing so within available staffing resources. When put to the vote the recommendation was carried.

RESOLVED:

That the Committee recommends to Cabinet the implementation of webcasting for those Member meetings of most interest to the public with officers investigating ways of doing so within available staffing resources.

25. REVIEW OF PROTOCOL ON MEMBER / OFFICE RELATIONS

The Democracy and Governance Manager presented a report to review the protocol on Member/Officer Relations. He gave background information and advised that the protocol showing the proposed tracked changes was appended to the report for consideration.

The Democracy and Governance Manager explained that the main changes proposed were to introduce as Section 3 a description of the roles of Members and Officers, and to introduce as Section 4 what Members can expect from Officers and what Officers can expect from Members.

RESOLVED

That the Protocol on Member/Officer Relations including the proposed changes shown in Appendix 1 be approved.

26. ANNUAL REVIEW OF THE CODE OF CORPORATE GOVERNANCE

The Democracy and Governance Manager advised that the Code of Corporate Governance was one of the documents included in the Council's Constitution and applied to all aspects of the Council's business. In carrying out Council business Members and officers were expected to conduct themselves in accordance with the high standards expected by the citizens of Flintshire and in accordance with the aspirations set out in the code.

The Democracy and Governance Manager provided background information and referred to the main updating changes to the Code of Corporate Governance which were detailed in the report. He advised that a copy of the updated Code which included the tracked changes made following the annual review, was appended to the report for consideration.

RESOLVED

That the updating changes proposed to the Code of Corporate Governance as shown in Appendix 1 be approved.

27. NEW MODEL CONSTITUTION

The Democracy and Governance Manager introduced the report to seek agreement in principle to recommend to Council the adoption of a new model constitution. He provided background information and explained that the current Council constitution was based on a national model with a modular format. The format meant, for example, that not all information about Cabinet or Overview & Scrutiny Committees was in the same part of the constitution. The new model simplifies the structure of the constitution by putting all the provisions for each topic area in the same place.

The Democracy and Governance Manager advised that the Committee may consider the most effective way of progressing consideration of the new

model constitution was for a Member working group to be formed which could meet informally with relevant officers and report back to the Committee on its work.

RESOLVED

- (a) That agreement be given in principle to adopting the new model constitution subject to a review of its provisions; and
- (b) That a working group of 8 members be established to consider the differences between the detailed provisions of the new model and Flintshire's existing constitution and make recommendations as to which detailed provisions to adopt to the next Annual Meeting of the County Council on 12 May 2015

28. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

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

(The meeting started at 2.00 pm and ended at 3.35 pm)

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Chairman