

CONSTITUTION AND DEMOCRATIC SERVICES COMMITTEE
24 MARCH 2021

Minutes of the meeting of the Constitution and Democratic Services Committee of Flintshire County Council held at Remote Meeting on Wednesday, 24th March, 2021

PRESENT: Councillor Neville Phillips (Chairman)

Councillors: Chris Bithell, Jean Davies, Rob Davies, David Evans, David Healey, Michelle Perfect, Vicky Perfect, Ian Smith, David Williams and Arnold Woolley

SUBSTITUTIONS: Councillors Sean Bibby for Ted Palmer

APOLOGIES: Councillor Bob Connah and Mike Peers

ALSO PRESENT AS OBSERVERS: Councillor Patrick Heesom.
Mr. Jonathan Duggan-Keen (Standards Committee)s)

IN ATTENDANCE: Chief Officer (Governance), Head of Democratic Services, and Democratic Services Officers. Internal Audit Manager for minute no 16.

14. DECLARATIONS OF INTEREST (INCLUDING WHIPPING DECLARATIONS)

None.

15. MINUTES

The minutes of the meeting held on 25 November 2020 were submitted.

Matters arising:

Page 3 – In response to a question from Councillor Chris Bithell regarding the guidance for Members on the process for reporting enquiries and complaints. The Head of Democratic Services explained that a new protocol had been circulated to Members following a meeting with Group Leaders in January which superseded the previous guidance provided.

The minutes were moved by Councillor Chris Bithell and seconded by Councillor David Evans.

RESOLVED:

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

16. REVIEW OF THE TERMS OF REFERENCE OF THE AUDIT COMMITTEE

The Internal Audit Manager introduced a report to inform the Committee of the requirements in the

Local Government and Elections (Wales) Act 2021 (sections 116-118) which required a change to the name of the Audit Committee to the Governance and

Audit Committee. Appended to the report was the current Terms of Reference for the Audit Committee which had been updated to reflect the renaming of the Committee and to include the new functions going forward, as detailed in the report. The Internal Audit Manager said that the terms of reference had also been updated to address the additional changes that would be required to the composition of the renamed Governance and Audit Committee in May 2022. These changes would include the additional appointment of a lay member and also the Chair of the Governance and Audit Committee being a lay member.

The Internal Audit Manager reported that the draft Terms of Reference had been submitted to the Audit Committee prior to the meeting of the Constitution & Democratic Services Committee held today and the proposed changes to the terms of reference had been acknowledged. If accepted by the Committee they would be presented to County Council on 1 April for approval

The recommendation in the report was moved by Councillor Chris Bithell and seconded by Councillor Jean Davies.

RESOLVED:

That the updated terms of reference as appended to the report which includes the amended name of the Council's Audit Committee and the new functions as set out in the Local Government and Elections (Wales) Act 2021 be acknowledged

17. REVIEW OF PROTOCOL FOR MEETING CONTRACTORS

The Chief Officer (Governance) explained that the Protocol had been reviewed as part of the Committee's rolling programme of reviewing the Constitution. The periodic refresh was an opportunity to check that the document remained up to date and pertinent. He provided background information and said the Protocol explained the considerations that apply to the award of contracts and the determination of planning applications. It gave guidance on whether Members should meet with people seeking contracts with the Council and safeguards that should be applied if they did so. The guidance remained necessary although some of the terminology needed updating and the proposed changes were as shown in Appendix 1 of the report.

The Chief Officer explained that the Protocol also gave advice on what Members should do if they were approached or lobbied by either planning applicants or objectors. The guidance on dealings with developers required updating, however, in addressing these matters the Protocol overlapped with the Planning Code of Guidance. It was suggested that the Protocol should not seek to duplicate advice given elsewhere and the parts of the document relating to planning should be removed and the Planning Code of Guidance be updated instead. This document would be updated and reported to the Planning Strategy Group before being presented to the Constitution & Democratic Services Committee....The amended Protocol should then be included within training and induction programmes for officers who award contracts and Members of Cabinet.

Referring to Appendix 1, Councillor Chris Bithell raised a number of queries on the proposed changes to the Protocol. The Chief Officer responded to the comments and questions and provided clarification on where text had been

inserted and deleted in the tracked changes. In response to the suggestion by Councillor Bithell the Chief Officer agreed to amend the wording on page 27, paragraph 1.3, to read as follows: "One of the overriding principles that must be complied with is that officers and Members should show no undue favour to any contractor". The Chief Officer also agreed to the further suggestion by Councillor Bithell that an additional precaution be included in section 6, page 28, that recordings of meetings/conversations should not be made without permission.

Councillor David Evans commented been on a matter which had been brought to his attention by a resident in his Ward concerning the progress of a planning application regarding a business. The Chief Officer advised that the Protocol did not prevent Members from advocating on behalf of residents in their Ward or other people. However, he agreed that further clarification could be helpful to outline the appropriate and positive role Members could undertake as community representatives if approached by applicants to request assistance in the progress of a business application which could benefit the Council or their Ward without the Member incurring any potential legal ramifications for the Council. In response to a further question by Councillor Evans concerning paragraph 1.3, page 27, the Chief Officer provided explanation of the meaning of the terminology 'undue favour' as referred to and said this was to avoid personal, or personal and prejudicial interests, being made by Members.

The recommendation in the report was moved by Councillor Chris Bithell and seconded by Councillor David Evans.

RESOLVED:

- (a) That the parts of the Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties relating to dealings with parties who might be bidding for or seeding a contact with the Council be amended as shown in the Appendix to the report; and
- (b) That the parts of the Protocol for Members in their Dealings with Contractors/Developers and Other Third Parties relating to Planning be transferred to the Planning Code of Guidance (to the extent that they are not already incorporated therein) and that the Planning Code of Guidance be updated.

18. UPDATE ON THE IMPLEMENTATION OF THE LOCAL GOVERNMENT & ELECTIONS ACT

The Chief Officer (Governance) introduced a report to apprise the Committee of ongoing implementation of the Local Government and Elections (Wales) Act 2021. He advised that the provisions of the Act would be brought into force by three commencement orders accompanied by other relevant subordinate legislation during March 2021. These orders would bring the relevant provisions into force on a series of dates between March 2021 and 5 May 2022. As a consequence of the pandemic the commencement of a number of the Act's provisions had been postponed to 5 May 2022 to correspond with the date of the next Local Government elections. The Chief Officer reported on the main considerations and referred to the details of the commencement orders as shown in the report.

The Head of Democratic Services advised that Commencement order No.2 had been made on 11 March and dealt with the performance and governance regime for principal Councils and gave Welsh Ministers new support and intervention powers. Commencement Order No.3 was made on 18 March and brought into force provisions in respect of remote attendance at local authority meetings and arrangements for local authority meetings and documents, including requiring electronic publication of certain meeting documents.

Councillor Chris Bithell raised questions on the provisions under the first commencement order and the duties from 5 May 2022 for principal councils to make arrangements to enable the electronic broadcasting of meetings; to establish a petitions scheme; and the power to require authorities to appoint joint overview and scrutiny committees. The Chief Officer advised that the Act formally made provision for the temporary arrangements put in place until May 2021 due to the pandemic for holding remote meetings. He also said that provision was being made for electronic petitions to be made available. Officers responded to the question on the enabling power to appoint joint overview and scrutiny committees and it was agreed that the Head of Democratic Services would provide further information on this duty following the meeting. The Head of Democratic Services referred to the Local Government (Wales) Measure 2011 which advised that local authorities may set up joint scrutiny committees and explained that the wording had been changed from 'may' to 'must'.

Councillor Chris Bithell also sought clarification on the removal of the restriction on monitoring officers also being designated Head of Democratic Services, and on the abolition of polls consequent on a Community meeting, which were being brought into force on 5 May 2022 for principal councils. In response the Chief Officer advised that the first matter had been to provide a statutory separation of powers: the post of Head of Democratic Services which provided support to non-executive members to fulfil their role was not combined with the post of the Monitoring Officer. In response to the second matter he outlined how community polls were conducted and commented that the Welsh Government had probably determined that there were better ways of engaging with the public to determine public opinion

The recommendation in the report was moved by Councillor Jean Davies and seconded by Councillor David Healey.

RESOLVED:

That the implementation timetable be noted and further updates be provided in due course.

19. FAMILY ABSENCE FOR MEMBERS OF LOCAL AUTHORITIES (WALES) (AMENDMENT) REGULATIONS 2021.

The Head of Democratic Services introduced a report to inform the Committee of the increase in adopter's absence entitlement for Members. He provided background information and advised that the relevant part of the Constitution had been changed to reflect the new increase in adoption absence period for local authority members from 2 to 26 weeks

The recommendations in the report were moved by Councillor Chris Bithell and seconded by Councillor Ian Smith.

RESOLVED:

That the Committee notes that the Welsh Government have made the Family Absence for Members of Local Authorities (Wales) (Amendment) Regulations 2021; and the Constitution amended accordingly.

20. MEMBER WORKSHOPS BRIEFINGS AND SEMINARS UPDATE

The Head of Democratic Services introduced a report to provide an update on the engagement events held during the last year. He drew attention to the events provided, using webex video technology, from 1 July 2020 to 22 March 2021 as detailed in the report. He invited Members to contact him with any suggestions they wished to put forward for future Member development events.

In response to a request from Councillor Chris Bithell it was agreed that the Head of Democratic Services would include the number of Members attending each event in future reports to the Committee

The recommendations in the report were moved by Councillor Chris Bithell and seconded by Councillor Rob Davies.

RESOLVED:

- (a) That the progress with Member Workshops, Briefings and Seminars since the last report be noted; and
- (b) That if Members had any suggestions for future Member Development they contact the Head of Democratic Services to discuss them.

21. MEMBERS OF THE PUBLIC AND PRESS IN ATTENDANCE

There was no member of the press in attendance.

(The meeting started at 2.00 pm and ended at 3.08 pm)

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Chairman