

FLINTSHIRE COUNTY COUNCIL

4th MAY 2023

Minutes of the meeting of Flintshire County Council held as a hybrid meeting on Thursday, 4th May 2023.

PRESENT: Councillor Mared Eastwood (Chair)

Councillors: Mike Allport, Bernie Attridge, Glyn Banks, Pam Banks, Sean Bibby, Chris Bithell, Helen Brown, Mel Buckley, Teresa Carberry, Tina Claydon, David Coggins Cogan, Geoff Collett, Steve Copple, Bill Crease, Paul Cunningham, Rob Davies, Ron Davies, Chris Dolphin, Rosetta Dolphin, David Evans, Ian Hodge, Andy Hughes, Dave Hughes, Alasdair Ibbotson, Paul Johnson, Christine Jones, Richard Jones, Simon Jones, Dave Mackie, Gina Maddison, Roz Mansell, Allan Marshall, Ryan McKeown, Billy Mullin, Debbie Owen, Ted Palmer, Andrew Parkhurst, Mike Peers, Michelle Perfect, Vicky Perfect, Carolyn Preece, David Richardson, Ian Roberts, Dan Rose, Kevin Rush, Dale Selvester, Jason Shallcross, Sam Swash, Linda Thew, Linda Thomas, Roy Wakelam and Antony Wren.

IN ATTENDANCE:

Chief Executive, Chief Officer (Governance), Chief Officer (Streetscene and Transportation), Chief Officer (Housing and Assets) Corporate Manager, People and Organisational Development, Service Manager – Strategy, Community and Business Protection Manager, Team Leader – Democratic Services and Democratic Services Officers.

APOLOGIES FOR ABSENCE:

Councillors: Gillian Brockley, Jean Davies, Adele Davies-Cooke, Carol Ellis, Chrissy Gee, and David Healey.

98. PUBLIC QUESTION TIME

The Chair explained that one public question had been received from Vicki Roskams:

“Following the recent devastation that has happened to the nature and established woodland down in a SSSI area that runs alongside the Dee Estuary, which is also a listed garden and site we would like to ask:-

What is Flintshire going propose to improve both its procedures, reporting strategies and to ENSURE clearer communication and timelines are formalised and adhered, to stop this type of devastation expediting with clearer guidance of reporting and shared responsibilities, guaranteeing clear set rules and consequences for breaking such guidance which are published and enforced?”

In response, the Cabinet Member for Planning, Public Health and Public Protection, Councillor Bithell said:

“The Council is presently dealing with a Planning Enforcement investigation at the John Summers Shotton Point complex, following a series of issues that have been raised with the Council from a number of secondary

sources and by third parties, including and unhelpfully in this instance, social media coverage.

Following an email from Mrs Vicki Roskams of Enbarr Enterprises Limited received on Friday 28th April querying progress, Mrs Roskams and other key stakeholders have already been made fully aware of the ongoing investigation that is taking place by the Council, including the steps the Council has already taken and intends to take, in order to ensure that the best interests of all of the relevant conservation assets at this site are taken into account.

The Council can only act in accordance with the legislation and powers available to it, and in the instances where clear planning harm has been identified. In response to the question posed, it is difficult for the Council to understand what it can alter or indeed needs to, as far as its enforcement policies, processes, or response is concerned. The Council has and follows its adopted Enforcement Policy and deals with each case on its merits, which is a well-established planning convention.

What is also important in any enforcement investigation is that the Council takes a balanced and proportionate approach. This includes the need to gain full information before acting, and to hear from both sides of the argument or issue, rather than just taking one perspective. This is what the Council has done and continues to do in a timely and proportionate manner, within the powers available to it.

The Council's response has been clear, well informed, and proportionate but this has not been helped at times by the coverage given on social media which can act as a barrier to an ongoing enforcement investigation.

The Council will continue to manage the situation and has now fully engaged with the site owners including the receipt of an outline strategy for the whole site which the Council can discuss with them and advise on the appropriate way to take this forward and remain compliant. This in fact is often one of the best outcomes of an enforcement investigation where far from simply seeking to penalise or punish someone, a positive and beneficial outcome can be achieved. This is very much the aim of the Council for this site”.

The following supplementary question was asked, and Ms Roskams was advised that a written response would be provided:

“You clearly state Ms Roskams and other stakeholders had already been made fully aware of the ongoing investigation, including the steps already taken and those the Council intend to take to protect the heritage assets of the site, yet no information has been received and all parties have not yet been spoken to, to gain a balanced and measured overview, hence the email on the 28th April asking for information. Also, later in your answer you discuss how to converse with stakeholders about taking plans forward.

What about everything in the past, and the perceived eradication of greenspace and listed garden, and renovation which has already taken place over the past years. With this in mind- What does the council deem a timely and proportionate manner? – as measures were put in place in **March 2022** by Enforcement for further planning for the works undertaken at the site to be

submitted the Landlord, but these have yet to be materialised and we are now in May 2023 and when the issue were brought to FCC attention in March 2023 about that trees being removed and the habitats of many “At Risk” wildlife destroyed from the listed site by not just myself but members of the public, your constituents, it took until Ms Roskams got the support of CADW and members of the Senedd for the council to progress this concern forwards.

I also take exception to the comments blaming social media impeding the investigation, because on some of them I was answering public posts or alerting the public that the unsanctioned works and fires that were happening had nothing to do with ourselves or our volunteers and we wanted to distance ourselves from the responsibility, after the numerous messages we received through various social media channels by concerned members of our public / community, and I was called to site on several occasions by the fire service for unsanctioned fires which were burning out of control late into the night, not caused by myself or Enbarr Foundation or Enterprises, when the landlord did not answer there phone.

I have a professional reputation to uphold not just on myself but on members of the community that have gifted their time over the matter of 3 years to turn a place of desolation and neglect into an award-winning place of excellence, so I would like to put back to the council, what they are going to do, to turn this situation around? And what they class as a timely manner because a year to me is not timely manner, hence why I have now brought it up under a whistleblowing policy, because I do not think you have followed your own procedures or dealt with individuals equally or balanced. Thank You.

Can I just make one more comment, I would like to state that both Cllr Selvester and Cllr Jones have been nothing but supportive in this whole situation, they have been down to site, dealt with community members, and I cannot commend them enough on the support they have given?

99. DECLARATIONS OF INTEREST

None were received.

100. MINUTES

The minutes of the meeting held on 23rd February were submitted.

Councillor Attridge moved them as a correct record which was seconded by Councillor Dave Hughes.

RESOLVED:

That the minutes be approved as a correct record.

101. PETITIONS

None were submitted.

102. ADOPTION OF THE MODEL ORDINARY LANGUAGE GUIDE TO THE CONSTITUTION AND UPDATES MADE TO THE NATIONAL MODEL CONSTITUTION

The Chief Officer (Governance) introduced the report and explained that the Council's constitution was based on a national model prepared jointly by the Welsh Local Government Association (WLGA) and Lawyers in Local Government during 2014. An updated model was commissioned by those bodies during 2021 to reflect changes in legislation and the need to modernise language.

The Constitution and Democratic Services Committee established a working group to consider the new document. It looked at the document, which it thought should be adopted. At its meeting on 12 January the Committee was asked to undertake a further review of provisions which appeared to change how the Council's current rules/procedures operated. The working group satisfied itself that whilst the terminology, and in some cases the layout, may have changed the new document did not fundamentally change how the Council operated. The document was now recommended for adoption.

The current model and the new model both contained role descriptions for different positions within the council e.g. chair of Committee and ward Councillor. In 2014 the Council did not wish to adopt the role descriptions but this time the working group believed they may be of utility. The working group however recognised that all Councillors should be consulted on the role descriptions which required further work before being adopted. They would be shared with all Members to ensure Members agreed that the descriptions reflected the different roles of Members. A consistency check would also take alongside the plain English guidelines.

The Chief Officer thanked Matt Georgiou who had left his role in Flintshire of Head of Legal Services and Deputy Monitoring Officer, for his work undertaken with the Working Group which had been a large piece of work and wished him well in his new role at Conwy County Borough Council.

Councillor Rob Davies moved the recommendation which was seconded by Councillor Hodge.

Councillor Richard Jones said page 119 needed to be amended to reflect the number of Overview and Scrutiny Committees as five and not six. On page 115, the wording should be 'a LDP' and not 'the LDP'. In response to a question, the Chief Officer explained that any words that were underlined in the document reflected changes that had been made. In response to a further question, the Chief Officer confirmed that the Act permitted Cabinet positions to be shared, which included the Deputy Leader. Councillor Jones sought advice as to whether or not the arrangements over the last 12 months had not been in line with the Constitution. The Chief Officer explained that the document was a live document and the work had commenced on it in autumn the previous year. It described what was done when any changes were made so it was documented. The document had not caught up, but the legislation did allow for what had been in place since last year in relating to sharing the role of Deputy Leader. The Leader

had the autonomy to appoint who he wished including shared roles which he reported at the AGM in 2022. Since the legislation had been in force the document had been worked on, but it was not ready to be reported in May 2022 and adoption was recommended as soon as officers were able to present it to Members. This was deemed the next reasonable opportunity to present the amended document. Councillor Jones asked that the document detail that information.

Councillor Peers commended the work undertaken by the Working Group and formally thanked officers, the Chair of the Constitution and Democratic Services Committee and the Members of the Working Group.

Councillor Bithell commented on a number of amendments that were required: page 110 – Streetscene and Transportation should show Councillor Dave Hughes as the Cabinet Member and the Cabinet Member for Communities and Housing should Councillor Sean Bibby. On page 201 the reference to the Independent Alliance Group needed to be removed. Page 563, David Hanson was no longer the MP for Delyn and Michelle Brown was no longer a MS. The Chief Officer asked if Members identified any inaccuracies to please let him know.

RESOLVED:

- (a) That the updated model constitution be adopted, with the exception of the role descriptions contained in Section 31 of the draft consultation and subject to a final internal consistency check, proof-read and cross reference with the ordinary language guide;
- (b) That the Council considers a further report on the role descriptions contained within section 31 of the amended model after consultation has taken place with all Councillors on their wording; and
- (c) That authority be delegated to the Chief Officer (Governance), in consultation with the chair of the Constitution and Democratic Services Committee, to make any changes following the proof read and consistency check.

103. ROLLING REVIEW OF THE COUNCILLORS CODE OF CONDUCT

The Chief Officer (Governance) introduced the report and explained that the Standards Committee conducted a rolling review of the codes and protocols within the constitution. As part of its most recent review, it considered changes to the Councillors' Code of Conduct in response to recommendations in the Penn Review.

It recommended the following changes to Full Council for approval:

- iv) Paragraph 4a of the Code (to have due regard to equality of opportunity for all people) should be extended to include all nine protected characteristics under the Equality Act 2010.

vi) 6(1)(b) of the Code of Conduct should be amended to make it an obligation on a Member to report their own criminal behaviour as well as that of others (as at present).

vii) training on the Code of Conduct should be mandatory for all Members
The Constitution and Democratic Services Committee considered the changes at its meeting on 15 March 2023 and agreed to recommend them for adoption.

An updated draft had been circulated to Members which addressed any concerns that had been raised, particularly in relation to new offences since commencing the Council term.

On page 668, Councillor Peers asked if the Council were being asked to approve something that had not been tested in a tribunal. The Chief Officer explained that in changing the Code, Welsh Government (WG) had published a proposal to amend the national model of the Code which was part of the consultation and could be removed in due course. If it was accepted, it had to be submitted to Parliament to pass that legislation. If a tribunal advised it was not for Flintshire to include those aspects in the Code then Flintshire would remove it. However, legislation did permit the Council to make the changes to their own Code. In response to a further question, the Chief Officer said it was a good suggestion that the reference to facsimile be removed.

Councillor Richard Jones suggested that rather than listing the three protected characteristics on page 668, that the wording say 'protective characteristics' which would future proof the document. The Chief Officer explained that, as the recommendation of the report had not been moved, this became the substantive motion.

In response to a question from Councillor Bithell, the Chief Officer explained that when a person stood for election, they would be disqualified if they had been sentenced to imprisonment for three months or more. However, there would become a point where the previous crimes would become 'spent'. The Constitution and Democratic Services Committee had requested a report on the updating of Disclosure and Barring Service checks which would be reported to the meeting in June.

Councillor Ibbotson moved an amendment that the three protected characteristics should remain to ensure there was no regression in the characteristics.

At this point the discussion was on the amendment.

The Chief Officer explained that either proposal was legitimate, and it was for Members to determine.

Councillor Coggins Cogan spoke in support of retaining listing individual characteristics as these could be amended or added to which he felt was safer.

On being put to the vote, the amendment proposed by Councillor Ibbotson was carried. The amendment then became the substantive motion which was

moved by Councillor Attridge and seconded by Councillor Hodge. No further amendments were proposed so the vote on the amendment was carried.

RESOLVED:

That the proposed amendments to the Councillors' Code of Conduct be approved, including the change proposed by Councillor Peers.

104. APPOINTMENT OF A LAY PERSON TO THE GOVERNANCE AND AUDIT COMMITTEE

The Chief Officer (Governance) introduced the report and explained that the Local Government and Elections (Wales) Act 2021 required the Council to ensure that 1/3 of members on the Governance and Audit Committee were Lay Members.

The term of office for one of the existing Lay Members was due to expire in May 2023, having already served five years. The Lay Member was willing to serve for a further term if the Council was willing to re-appoint her.

Sally Ellis was appointed by the Council in May 2017 for a period of five years. Her term of office therefore expired in May 2022. She had been a diligent and active member of the Committee and was its current chair.

In order to allow Councillor's time to "settle in" and time for mature consideration of the skills mix on the Committee, Sally Ellis was reappointed for 12 months. Members having had nearly 12 months experience of the Committee and her as chair. If she was re-appointed, it was suggested that it should be for a further period of three years so that the Council could recruit for a replacement in 2026 before the next elections.

The recommendations were moved by Councillor Attridge and seconded by Councillor Parkhurst.

RESOLVED:

That Sally Ellis be reappointed as a Lay Member of the Governance and Audit Committee for further three years until 31st May 2026.

105. QUESTIONS

One was received and Members had been provided with a copy, including the response:

Councillor Bernie Attridge

"Can the Cabinet Member commit to an urgent review of employee's holidays due to lots of employees taking annual leave at the end of the financial year and leaving services vulnerable. I would be grateful if you could look at employee birthday as a way of sorting this problem out. I appreciate it is for managers to manage but I am aware of services with all agency staff whilst our

employees take annual leave. I would like to ask the Cabinet Member a supplementary question at Full Council depending on his response”.

In response to the question, Councillor Mullin, the Cabinet Member for Governance and Corporate Services including Health and Safety and Human Resources said:

“I would like to thank Councillor Attridge for his question.

The holiday year can be any 12-month period but is most commonly defined in the United Kingdom as the calendar year (1 January to 31 December) or the financial year running from 1 April to 31 March.

The Council's annual leave year is and has always been aligned to the financial year (1 April to 31 March). This enables finance colleagues to make accurate financial provision for any leave carried forward into the new leave year. It is also aligned to the outcome of national negotiations in respect of pay and terms and conditions which are effective 1 April annually.

Chief Officers have previously considered the question of leave and changes to leave years, however, and as part of those considerations there are a number of complexities which would involve substantial rework with little overall business benefit. The fundamental position should clearly be that leave should be effectively managed within the portfolios and form part of active ongoing discussions with managers and their team members to avoid large amounts of leave, which cannot realistically be used sensibly by the end of the leave year.

In relation to Cllr Attridge's point relating to leaving services vulnerable, I don't believe that this is or has ever been the case and would of course welcome any specific information he can furnish me with so that it may be fully considered”.

He suggested that a meeting could be held with the Chief Executive, Cabinet Member, the Corporate Manager, People and Organisational Development and Councillor Attridge.

Councillor Attridge added that it was a widespread issue across the whole authority as employees were unable to carry over leave. He commented on one service area which had a high number of managers off at the same time, with agency workers covering, which was not acceptable. He welcomed the opportunity of the meeting which was offered by the Cabinet Member.

Councillor Mullin said a suitable solution needed to be found that worked for everybody.

The Chief Executive said further work was required on the issue and a report would be submitted to a future meeting.

108. NOTICE OF MOTION

None were received.

109. QUESTIONS FROM MEMBERS ON COMMITTEE MINUTES

None were received.

110. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

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

(The meeting started at 10.00 a. m. and ended at 11.20 a.m.)

.....

Chair