

## FLINTSHIRE COUNTY COUNCIL

**REPORT TO:** FLINTSHIRE COUNTY COUNCIL  
**DATE:** TUESDAY, 13 NOVEMBER 2012  
**REPORT BY:** HEAD OF LEGAL AND DEMOCRATIC SERVICES  
**SUBJECT:** UPDATING THE CONSTITUTION

### **1.00 PURPOSE OF REPORT**

1.01 To consider updating changes to the Council's Constitution pursuant to recommendation from the Constitution Committee.

### **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 Constitution 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. A report was then presented to the Constitution Committee meeting on the 24 October 2012 when the committee agreed the proposed changes. Copies of the tracking changes, together with the reason for each proposed change are available in Member Services and each of the group rooms.

### **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, it is proposed that the diagram should be expanded to include all Heads of Services.
- 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 present 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 1 is the draft revised wording of Article 19.02 that was approved by the Constitution Committee.

#### **4.00 RECOMMENDATIONS**

- 4.01 For Council to agree the changes recommended by the Constitution Committee to Parts 1, 2 and 8 of the Constitution.

#### **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 – Article 19

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

Tracked changes to Parts 1, 2 & 8 of the Constitution.

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