

CONSTITUTION COMMITTEE

24 APRIL 2013

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold on 24 April 2013.

PRESENT: Councillor R.J.T. Guest (Chairman)

Councillors: R.C. Bithell, D. Butler, C. Carver, A.I. Dunbar, D. Evans, G. Hardcastle, P.G. Heesom, J.M. Johnson, T. Newhouse, N. Phillips, W.P. Shotton, N.R. Steele-Mortimer, W.O. Thomas

APOLOGIES:

Councillors: D.L. Cox, V. Gay, R. Johnson, A. Woolley,

IN ATTENDANCE:

Head of Legal and Democratic Services, Democracy and Governance Manager, Member Engagement Manager and Committee Officer

29. DECLARATIONS OF INTEREST

There were no declarations of interest

30. MINUTES

The minutes of the meeting of the Committee held on 30 January 2013, were submitted.

Matters arising

Page 2/3 – the Democracy and Governance Manager reported that the response to the Review of Internal Member Fora has been to Council and Cabinet and that the Constitution had been updated to reflect changes.

Page 3 – Local Government (Democracy) (Wales) Bill – the Democracy and Governance Manager reported that a response, which included Councillor C. Carver's comments had been forwarded.

Page 4- Four Protocols for Public Engagement with Overview and Scrutiny, The Democracy and Governance Manager reported that the Welsh Government had supplied a protocol for public engagement.

Page 4 – Updating the Constitution The Democracy and Governance Manager reported that all changes agreed in the resolution had been agreed by council and the Constitution had been amended.

RESOLVED:

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

31. CONSULTATION ON DRAFT SUPPLEMENTARY REPORT BY THE INDEPENDENT REMUNERATION PANEL FOR WALES

The Chair introduced a report to determine how the Council should respond to the draft supplemental report dated 19 March 2013 issued by the Independent Remuneration Panel for Wales (“the Panel”).

The Supplementary Report related to the appropriate level of payment to the Chairs of joint Overview and Scrutiny Committees and sought views on the five issues:

- 1) Chairs of Joint Overview and Scrutiny Committees to be paid the same as the Chair of an individual council, which is £8,735 per annum.
- 2) The local authority responsible for the payment will fall to the council of which the chair is a member, but decisions on how cost is apportioned would be a matter for all the authorities that are involved.
- 3) The Chair of a Joint Overview and Scrutiny Committee would be additional to the maximum the authority is otherwise allowed.
- 4) That if a chair of a Joint Overview and Scrutiny Committee was already in receipt of one senior salary from their authority it would be reasonable for them to receive 50% of the allowance (£4,368 per annum).
- 5) That chairs of sub-committees of joint committees should receive £4,368 per annum.

Councillor P. J. Heesom said he found the proposals obscene and said that all elected members should receive a single basic salary. The Chair voiced concern at proposed payments to chairs of sub-committees of joint committees.

Councillor I.A. Dunbar said that extra responsibility should not include extra payments, particularly when some committees sat infrequently.

Councillor C. Bithell proposed the following resolution which was seconded by Councillor. Butler, to agree the proposal except for the payment of chairs of sub committees for Joint Overview and Scrutiny Committees.

On being put to the vote, the resolution was carried with 8 votes in favour and 2 against.

RESOLVED:

That the committee agree the proposals except for payment to the chairs of sub committees for Joint Overview and Scrutiny Committees.

32. CONSULTATION ON LOCAL AUTHORITIES (STANDING ORDERS) (WALES) REGULATIONS 2006 (AMENDMENT) REGULATIONS 2013.

The Head of Legal Services introduced the consultation on proposed changes in terms and conditions for Head of Democratic Services and the Monitoring Officer under the Local Government (Wales) Measure 2011.

The draft regulations proposed to afford the Head of Democratic Services the same protection as other statutory officers in relation to disciplinary proceedings. It also proposed to add Heads of Democratic Services and Monitoring Officers to the list of officers whose appointment and dismissal were dealt with by committee rather than by the Head of Paid Service and that all vacancies at Chief Officer level being made subject to public advertisement.

The Chair drew the attention of the committee to the consultation questions contained within Appendix 1 of the report and invited debate upon them.

Councillor C. Bithell said that he agreed with the proposals around the Head of Democratic Services and the Monitoring Officer. He also agreed with the proposals to publicly advertise Chief Officer roles as he believed in transparency and openness in such matters. He said that excellent internal candidates could still succeed in open competition.

In response to a question from Councillor P.J. Heesom, the Head of Legal Services said that Monitoring Officers or the Head of Democratic Services could have differences of opinion with the Head of Paid Service as well as with members.

Councillor N. Steele-Mortimer asked who maintained a list of “independent” members of a disciplinary committee and how they were identified. The Head of Legal Services advised that in England, the Department of Transport and Local Government maintained a list of panel members and expected that a similar, separate list would be held by the Welsh Government. The Head of Legal and Democratic Services agreed to find out more about this, and let members know.

Councillor Bithell proposed a resolution that the committee agree to all three of the consultation questions. On being put to the vote, all three proposals were carried.

RESOLVED:

- (a) That the committee agree that the Head of Democratic Services should be subject to the same disciplinary procedures as the Head of Paid Service, Monitoring Officer and Chief Finance Officer.
- (b) That the role of the independent person be retained in the disciplinary process applying to these officer posts.
- (c) That all vacancies at Chief Officer level should be subject to public advertisement for transparency and in the public interest.

33. CONSULTATION ON FAMILY ABSENCE FOR MEMBERS

The Democracy and Governance Manager explained that the Local Government (Wales) Measure 2011 made available to Members of local authorities entitlement to five types of family absence and that consultation was being undertaken on draft regulations and draft guidance.

Councillor C. Bithell argued that types of family absence were the same as someone being granted dispensation for non attendance for a set time due to serious personal illness or illness of a close family member.

The Head of Legal and Democratic Services advised members that the measure had already been passed in order to make councils more family friendly and to afford councillors the same rights as officers. He did acknowledge that it might be interpreted as being overly bureaucratic.

Councillor D. Evans said that he was in agreement with the right to family absence as long as it mirrored conditions of paid employees of the council. The Head of Legal and Democratic Services explained the differences.

The Head of Legal Services suggested that the Democratic Services Committee have responsibility around regulation 33 in point 3.05 of the report. On being put to the vote, this was carried with 8 votes in favour, 1 against and 1 abstention.

Discussion followed about Regulation 34 and how alleged improper usage of family leave would be managed.

Councillor C. Bithell proposed an amendment to point 3.06 of the report in that any complaint concerning abuse of family leave would be reported to the Standards Committee rather than Democratic Services Committee. On being put to the vote, this was not carried with 3 votes in favour and 7 against.

The Head of Legal and Democratic Services suggested that the committee seemed to disagree in principle with the legislation and believed the procedures in regulations 34 to 39 be as simple as possible.

RESOLVED:

(a) That Democratic Services Committee have responsibility around regulation 33.

(b) That the committee disagree in principle with the legislation and believe the procedures in regulations 34-39 should be as simple as possible.

34. STANDARDS FOR RESPONSES TO COMMUNICATIONS

The Democracy and Governance Manager's report referred to the previous meeting whereby he had been asked to supply details of standards for responses to communications. The Committee had been given a copy of the Customer Care Policy Statements and Standards (Appendix 1) and the Democracy and Governance Manager explained that it was not usual practice to

put service standards into the Constitution. His recommendation not to include the Customer Care Policy Statement and Standards in the Council's Constitution on being put to the vote was carried unanimously.

RESOLVED:

That the Customer Care Statement and Standards not be included in the Council's Constitution.

35. UPDATING ACCESS TO INFORMATION PROCEDURE RULES

The Democracy and Governance Manager introduced the report to update the forward work programme part of the access to information procedure rules.

Appendix 2 included a proposed revised wording for Section 12 to reflect current practice of updating the forward work programme amendments on an almost daily basis. As the forward work programme was published on the Council's website and was updated monthly the reference to publishing notice in at least one newspaper had been deleted.

The Committee were asked to consider updating the reference to the forward work programme contained in the access to information procedure rules with the wording in Appendix 2. This was unanimously agreed by the Committee.

RESOLVED:

That the forward work programme part of the access to information procedure rules be updated with the wording in Appendix 2.

36. PLANNING STRATEGY GROUP – TERMS OF REFERENCE

The Democracy and Governance Manager presented the report which asked the Committee to agree the draft terms of reference for the newly formed Planning Strategy Group as set out in Appendix 1.

Councillor C. Carver said that the terms of reference did not include a reference to numbers of representatives and substitutes on the group. He pointed out that the Conservative group had 1 representative and 3 substitutes and asked if this was normal practice. The Democracy and Governance Manager advised that this was a separate issue to the subject of the report. He would be happy to discuss the number of substitutes with Councillor Carver after the meeting.

RESOLVED:

That the committee agree the draft terms of reference for the Planning Strategy Group as set out in Appendix 1.

37. PRESS IN ATTENDANCE

There were no members of the press in attendance.

38. DURATION OF MEETING

The meeting commenced at 2.00 pm and finished at 3.40 pm.

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Chairman