

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **CONSTITUTION COMMITTEE**

DATE: **28 MARCH 2012**

REPORT BY: **DEMOCRACY AND GOVERNANCE MANAGER**

SUBJECT: **LOCAL GOVERNMENT (WALES) MEASURE 2011 –
CONSULTATION ON DRAFT STATUTORY
GUIDANCE**

1.00 PURPOSE OF REPORT

1.01 To obtain the Committee's view on the Draft Statutory Guidance currently being consulted upon by the Welsh Government.

2.00 BACKGROUND

2.01 The Local Government (Wales) Measure 2011 became law on 10 May 2011 when it received Royal assent. The Measure contains proposals aimed at strengthening local democracy, governance arrangements, communities and community councils, members' allowances and collaboration.

2.02 On the 3 February 2012 the Welsh Government issued a consultation document on Draft Statutory Guidance on the local democracy and governance parts of the Measure. The parts of that Draft Statutory Guidance relating to overview and scrutiny have been reported to and considered by the Overview & Scrutiny Co-ordinating Committee at its meeting on the 8 March. The parts of that Draft Guidance relating to audit committees have been reported to and considered by the Audit Committee at its meeting on 26 March. The views of the Co-ordinating Committee have been included in this report and those of the Audit Committee will be reported verbally at the meeting.

2.03 Copies of the Draft Statutory Guidance have been placed in Members Services and in the group rooms. A response to the consultation will be sent under officers delegated powers following consideration by this Committee as the deadline for responses is 30 March.

3.00 CONSIDERATIONS

3.01 Chapter 1 of the Draft Statutory Guidance relates to the timing of council meetings. Section 6(2) of the Measure requires local

authorities to have regard to the final version of the Guidance in relation to the times and intervals at which council, committee and sub committee meetings are held. The Draft Guidance requires authorities to review the times at which meetings are held at least once in every council term, preferably shortly after the new council is elected and that meetings should then be held at times and intervals and locations which are convenient to the majority of members. Paragraph 1.10 of the Draft Guidance says that the survey should be carried out within three weeks of ordinary elections in order for recommendations to be considered at the council's annual meeting. Flintshire's Annual Meeting is only 12 days after the election and it is totally impractical to have surveyed the Members in that time. Officers believe this point should be made in response to the consultation notwithstanding that at the Overview & Scrutiny Network meeting on 10 February 2012 an undertaking was given to consider amending to 3 months rather than 3 weeks.

3.02 Chapter 2 of the Draft Statutory Guidance concerns the training and development of local authority members. Section 7 of the Measure requires local authorities to secure the provision of reasonable training and development opportunities for its members. The Draft Guidance refers to the WLGA Charter for Member Support and Development as being good guidance. Flintshire is one of the authorities that has obtained the Charter and complies with its requirements. In parts the Guidance goes beyond what is in the Charter, such as requiring that every member (except the Council Leader) be offered the opportunity to have their training and development needs reviewed on an annual basis whereas the Charter only requires those members in receipt of special responsibility allowance. The Draft Guidance also requires that a suitably qualified person carry out the interviews to assess the training and development needs of the member. The Draft Guidance would allow Flintshire to continue with its existing practice of such interviews normally being conducted by a group leader provided the group leader has received suitable training. Paragraph 2.22 of the Draft Guidance advises that authorities liaise with the WLGA to ensure the provision of this. The Draft Guidance recommends that the new Democratic Services Committee has overall responsibility for member training and development whereas at present in Flintshire this rests with the Member Development Working Group.

3.03 Chapter 3 of the Draft Statutory Guidance concerns local authority democratic services. The Measure requires each unitary authority to designate one of their officers to the new statutory post of Head of Democratic Services and to provide that Officer with sufficient support to do their job. The Head of Democratic Services has the functions set out in paragraphs 3.8 of the Draft Guidance which are basically to provide support and advice in relation to the authority's formal meetings and to each member in carrying out their role as a Member (except in connection with their role as an Executive Member).

3.04 Each unitary authority must also establish a Democratic Services Committee which is required to perform the following roles:-

- Designate the Head of Democratic Services.
- Keep under review the provision of staff, accommodation and other resources made available to the Head of Democratic Services in order to ensure that they are adequate for the responsibilities of the post.
- Make reports, at least annually, to the full council in relation to these matters.

The Chair of the Democratic Services Committee must not be a member of any of the political groups represented on the Executive (paragraph 3.12 of the Guidance). The Democratic Services Committee has the power to require the attendance of any members or officers to answer questions.

3.05 Chapter 4 of the Draft Guidance concerns the exercise of functions by individual members. Section 56 of the Measure introduced new powers for members aimed at helping them tackle issues and resolve problems in their local area. It is for individual councils to decide if they wish to make use of this power to delegate both Executive and Council functions to non executive members. If Flintshire decides to take advantage of this power there are a number of factors and considerations to be taken into account that are listed in paragraphs 4.17-4.23 of the Draft Guidance to try to protect such decisions from legal challenge.

3.06 Chapter 5 of the Draft Statutory Guidance concerns taking into account the views of the public. Section 62 of the Measure places a requirement on local authorities to make arrangements that enable all persons who live or work in the area to bring to the attention of the relevant overview and scrutiny committee their views on any matter under consideration by the committee. This part of the Guidance is very detailed rather than leaving matters to the discretion of the individual council. Flintshire County Council already make a facility available for the public via the website which has only been used twice.

3.07 Chapter 6 of the Draft Statutory Guidance is dealing with councillor calls for action. Section 63 of the Measure introduces provision for "councillor calls for action" which enables members to refer issues of local importance to an overview and scrutiny committee. The Draft Guidance will create extra work for Overview and Scrutiny Officers.

3.08 Chapter 7 of the Draft Statutory Guidance relates to the appointment of overview and scrutiny committee chairs. Part 6 of the Measure introduces detailed provisions relating to the appointment of chairs of

overview and scrutiny committees. The Council has previously made representations that the provisions in the Measure are unnecessarily complex and take no account of those members who are not in any political group. This remains the case with the Draft Guidance.

- 3.09** Chapter 8 of the Draft Guidance deals with co-opted members of overview and scrutiny committees. The Draft Guidance is very detailed on how to identify potential co-opted members and how they should be recruited, which will generate a lot of extra work.
- 3.10** Chapters 5, 6, 7 and 8 were considered at the Co-ordinating Committee meeting on 8 March and a copy of its recommended response to consultation effecting Overview and Scrutiny is attached as Appendix 1.
- 3.11** Chapter 9 of the Draft Guidance relates to audit committees and is the subject of a separate report to the Audit Committee meeting on 26 March. The views of the Audit Committee will be reported verbally at the meeting. The membership of Audit Committee must in future include at least one lay person and such committees are to have wider terms of reference than Flintshire's Audit Committee currently has.

4.00 RECOMMENDATIONS

- 4.01** For the Committee to note the provisions in the Draft Guidance.
- 4.02** For the Committee to consider the points to be made in response to consultation on the Draft Guidance.

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** Chapter 1 of the Draft Guidance relating to the time of council meetings is an equalities initiative of the Welsh Government.

9.00 PERSONNEL IMPLICATIONS

9.01 The Draft Guidance will increase the workload of officers supporting Overview & Scrutiny.

10.00 CONSULTATION REQUIRED

10.01 None as a result of this report.

11.00 CONSULTATION UNDERTAKEN

11.01 The Overview & Scrutiny Co-ordinating Committee and the Audit Committee have each received a report on relevant aspects of the Draft Guidance.

12.00 APPENDICES

12.01 Appendix 1 - recommended response of the Co-ordinating Committee (8 March meeting) to consultation effecting Overview and Scrutiny

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

Local Government (Wales) Measure 2011
Draft Statutory Guidance on the Local Government (Wales) Measure 2011

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