

CONSTITUTION COMMITTEE
27 JANUARY 2016

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold, on Wednesday, 27 January 2016.

PRESENT: Councillor Robin Guest (Chairman)

Councillors: Alex Aldridge, Bernie Attridge, Haydn Bateman, Clive Carver, David Cox, Paul Cunningham, Glenys Diskin, Veronica Gay, George Hardcastle, Christine Jones, Dave Mackie, Neville Phillips, Aaron Shotton, Nigel Steele-Mortimer, David Wisinger and Arnold Woolley

SUBSTITUTIONS: Councillors Andy Dunbobbin (for Glyn Banks), Alison Halford (for David Williams), David Healey (for Chris Bithell), Tim Newhouse (for David Roney)

ALSO PRESENT: Councillors Ian Dunbar and Ian Smith

IN ATTENDANCE:

Chief Officer (Governance), (for minute no.19) Internal Audit Manager, Member Engagement Manager, and Committee Officer

17. DECLARATIONS OF INTEREST

Councillor Bernie Attridge declared a personal interest in the following item:

Item 7: Proposed Alterations to Local Resolution Procedure

18. MINUTES

The minutes of the meeting of the Committee held on 7 October 2015, were submitted.

Matters arising

Councillor Clive Carver sought clarification of the terminology 'true and correct record' which was used when the minutes of meetings were approved. The Chief Officer (Governance) commented on the legal implications around approval of the minutes of meetings.

RESOLVED:

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

19. ANNUAL REVIEW OF THE CODE OF CORPORATE GOVERNANCE

The Internal Audit Manager introduced a report on the Annual Review of the Code of Corporate Governance. He explained that the Code was reviewed annually to ensure it was up to date and complied with all relevant legislation and other requirements. The review for 2015 had been completed by the Corporate Governance Working Group and the updating changes proposed to the Code were detailed in Appendix 1 to the report. The Internal Audit Manager commented on the main changes this year and advised that they had been considered and agreed by the Audit Committee earlier that day. As the Code of Corporate Governance formed part of the Constitution, when the Code was amended there was a need to update the Constitution with the amendments.

RESOLVED:

That the updating changes to the Code of Corporate Governance as shown in Appendix 1 to the report be approved.

20. THE '6 MONTH RULE'

The Chief Officer (Governance) introduced a report on the '6 Month Rule'. He provided background information and advised that all councillors are required to attend, as a member, at least one meeting of full Council, Cabinet, a Committee or working group, every 6 months. Failure to do so without prior approval from full Council results in disqualification.

The Chief Officer referred to the situation in relation to a councillor who had attended an overview and scrutiny committee meeting, intending to participate as a member, only to find that she had not been nominated by her Group as a member of that committee. However, the councillor remained at the meeting as an observer. The Chief Officer referred to the legislation under S.85(1) and 85(2) of the Local Government Act 1972 and advised that it was not clear whether attendance as an observer was sufficient to satisfy the 6 month rule. As the answer was unclear from the legislation and there was no relevant case law on the issue, the Committee was asked to establish the convention that would be used to judge this and future cases.

Councillor Tim Newhouse queried the attendance of the Councillor as an observer at the meeting of the overview and scrutiny Committee held in June 2015 and suggested that the Councillor should be disqualified as from 13 November 2015 as she was in breach of the 6 month rule. He proposed that the item be deferred to the next meeting of the Constitution Committee.

Councillor Alex Aldridge commented on the need for 'inclusiveness' and to encourage greater participation from young people in how the Council conducted its business. He expressed concern that the 6 month rule did not take into account attendance at the Planning Committee to speak on Ward issues, site visits, meetings, attendance as an observer in any committee, and the work undertaken by a Councillor on behalf of their Ward.

Councillor Aaron Shotton proposed that the meeting be adjourned to give Members the opportunity to reflect on the issues raised during discussion and this was agreed by the Committee.

The meeting was adjourned at 2.40 p.m. and reconvened at 2.50 pm.

Councillor Alex Aldridge said that on reflection the recommendation contained in the Chief Officer's report offered a better solution and therefore he would withdraw his earlier proposition and move the recommendation. He did so and this was duly seconded.

The Chief Officer reiterated the lack of case law and the need for a commonsense approach to resolve the problem now facing the Council. Concerning the accuracy of minutes, the Chief Officer referred to the standard textbook on local government meeting procedure.

Councillor Aaron Shotton commented on the need for clarity on attendance at meetings. He said that there was no doubt that the Councillor referred to had attended the meeting of the overview and scrutiny committee in question in good faith. His particular concern was that work carried out in the Ward by Members was not reflected in the Local Government Act 1972; and he suggested that there was a need for a modern interpretation.

Councillor Alison Halford spoke against moving away from the 6 month rule and said it was important in maintaining integrity, credibility and transparency. She expressed the view that Group Leaders had a duty of care to monitor attendance of their Group members.

Councillor David Healey spoke in favour of the recommendations in the report which he said gave clarity and provided a more robust constitution

Councillor Tim Newhouse raised a number of further concerns and proposed the following amendment: that all Councillors are required to attend at least one meeting every 6 months as a voting member on full Council, Cabinet, committee or sub-committee, or to speak at Planning Committee for an application in their Ward. The amendment was seconded.

Further discussion took place during the course of which Councillors Clive Carver, Neville Phillips, Dave Mackie, Veronica Gay and Nigel Steele-Mortimer, expressed their views on various aspects of the matters raised.

Members were asked to vote on the amendment proposed by Councillor Newhouse. Councillor Arnold Woolley requested a recorded vote and was supported by the requisite six other Members. On being put to the vote, the amendment was lost.

For the amendment:

Councillors: Clive Carver, Veronica Gay, Robin Guest, George Hardcastle, Alison Halford, Dave Mackie, Neville Phillips, Nigel Steele-Mortimer, Tim Newhouse, Arnold Woolley

Against the amendment:

Councillors: Alex Aldridge, Bernie Attridge, Haydn Bateman, David Cox, Paul Cunningham, Glenys Diskin, Andy Dunbobbin, David Healey, Christine Jones, Aaron Shotton, David Wisinger

A further recorded vote was requested on both elements of the substantive proposition, which was as the recommendation. When put to the vote the first recommendation was carried, with the voting as shown below:

For the proposal:

Councillors: Alex Aldridge, Bernie Attridge, Haydn Bateman, David Cox, Paul Cunningham, Glenys Diskin, Andy Dunbobbin, David Healey, Christine Jones, Aaron Shotton, David Wisinger

Against the proposal:

Councillors: Clive Carver, Veronica Gay, Robin Guest, George Hardcastle, Alison Halford, Dave Mackie, Neville Phillips, Nigel Steele-Mortimer, Tim Newhouse, and Arnold Woolley

When put to the vote the second recommendation was carried with the voting as shown below:

For the proposal:

Councillors: Alex Aldridge, Bernie Attridge, Haydn Bateman, Clive Carver, David Cox, Paul Cunningham, Glenys Diskin, Andy Dunbobbin, Robin Guest, David Healey, Christine Jones, Neville Phillips, Aaron Shotton, David Wisinger and Arnold Woolley

Against the proposal:

Councillors: George Hardcastle, Dave Mackie, Nigel Steele-Mortimer and Tim Newhouse

Abstentions:

Councillors: Veronica Gay and Alison Halford

RESOLVED:

- (a) That, until such time as the position is clarified by further legislation or case law, the following convention will be used, in addition to the legislation, to interpret whether a councillor has satisfied the 6 month rule:

‘Attendance by a councillor to observe, listen to or speak at any meetings of the Cabinet (or any of its sub-committees), a committee, a sub-committee, a working group or task and finish group or member workshop (whether the public is entitled to attend some or all of the meeting) will be deemed sufficient to satisfy the requirement to attend meetings contained within s.85 of the Local government Act 1972 (“the 6 month rule”); and

- (b) That Council be recommended to expressly confirm the authority of the Monitoring Officer to decide whether a councillor has complied with the 6 month rule.

21. CONTRACTS REQUIRING SEALING

The Chief Officer (Governance) introduced a report on contracts requiring sealing and explained that certain contracts are required by contract procedure rules to be “under seal” (to have the Council’s official seal attached rather than being signed by a manager). One such category is contracts worth more than £250,000. Section 12 of the Constitution requires all contracts over £50,000 to be in writing and either signed by two officers or sealed. For the sake of clarity there should be only one set of rules.

RESOLVED:

That section 12.10 of the Constitution be amended to reflect that in the Contract Procedure rules, as the recommendation, to read -
‘When any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Chief Officer, Governance or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person’.

22. PROPOSED ALTERATIONS TO LOCAL RESOLUTION PROCEDURE

The Chief Officer (Governance) introduced a report on the proposed alterations to the Local Resolution Procedure (LRP). He provided background information and referred to the main considerations around the LRP which were detailed in the report. Members were asked to consider the proposed amendments to the LRP as outlined in the tracked changes to the current LRP which was appended to the report.

RESOLVED:

That the amended wording of the Local Resolution Procedure (as appended to the report) be approved and recommended to the County Council for adoption.

23. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE

There was one member of the public and one member of the press in attendance.

(The meeting commenced at 2.00 pm and finished at 4.19 pm.)

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Chairman