

**CONSTITUTION COMMITTEE**  
**5 OCTOBER 2016**

Minutes of the meeting of the Constitution Committee of Flintshire County Council held in County Hall, Mold, on Wednesday, 5 October 2016.

**PRESENT: Councillor Nigel Steele-Mortimer (Vice Chair in the Chair)**

Councillors: Alex Aldridge, Glyn Banks, Haydn Bateman, Chris Bithell, Clive Carver, David Cox, Paul Cunningham, George Hardcastle, Dave Mackie, Neville Phillips, Aaron Shotton, Nigel Steele-Mortimer, David Williams and Arnold Woolley

**SUBSTITUTIONS:** Councillor Andy Dunbobbin (for Christine Jones)

**APOLOGIES:** Councillor Veronica Gay

**IN ATTENDANCE:**

Chief Officer (Governance), Member Engagement Manager, Internal Audit Manager, Principal Auditor, and Committee Officer

**1. APPOINTMENT OF VICE-CHAIR**

Councillor George Hardcastle nominated Councillor Nigel Steele-Mortimer as Vice-Chair of the Committee. This was duly seconded and supported by the Committee.

**RESOLVED:**

That Councillor Nigel Steele-Mortimer be appointed Vice-Chair of the Committee.

**2. DECLARATIONS OF INTEREST**

Councillor Glyn Banks declared a personal interest in the following item:

Item 5: Contract Procedure Rules

**3. MINUTES**

The minutes of the meeting of the Committee held on 27 April 2016 were submitted.

**Matters arising**

Councillor Chis Bithell referred to his comments on page 4, concerning declarations of personal and prejudicial interest and asked if the Chief Officer (Governance) had received a response to the request for clarification from the Ombudsman. Councillor Bithell also asked if the Chief Officer had received a

response from the Welsh principal councils concerning the upper level of gifts and hospitality which did not require registration. The Chief Officer reported that the Ombudsman had recently issued revised guidance on the Code of Conduct which would be circulated to all Members. He advised that there was no change to the current procedures concerning declarations of personal and prejudicial interest. The Chief Officer explained that there was no further information to report regarding the level of registration of gifts and hospitality.

**RESOLVED:**

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

**4. CONTRACT PROCEDURE RULES**

The Chief Officer (Governance) introduced the report to seek approval of the revised contract procedure rules (CPRs). He provided background information and explained that it was appropriate to revise the CPRs in light of changes to European procurement law, the introduction of the Well Being of Future Generations Act, the move to electronic procurements and the introduction of the new Welsh language standards. He advised that the proposed new CPRs were simpler and more consistent in terminology, which would improve understanding and compliance, and put greater focus on planning the procurement route and early approval/authorisation.

The Chief Officer reported on the key changes in the proposed CPRs, and the work being undertaken around community benefits, as detailed in the report and the document appended. He also referred to the need for awareness training for those people who specifically undertake procurement. The Chief Officer commented on the concerns around contract management which had been raised by the Audit Committee and said these would be addressed by the revised CPRs.

Councillor Aaron Shotton spoke in support of the aim to achieve as much as possible out of public procurement for the benefit of the community; citing the opportunity for apprenticeships as an example. He also referred to the positive outcomes gained in England as a result of the Social Value Act.

The Chair invited Members to raise questions.

Councillor Clive Carver referred to the community benefits and expressed concern regarding how they might be perceived. The Chief Officer responded to the points raised and explained that the cost of the benefits would not necessarily be passed back to the Authority through the contract.

Councillor Dave Mackie said there was no reference to Equality Impact Assessments in the report. He also commented on the reference to 'approved lists' in section 1.11 of the appended report and asked for more information on this. Councillor Mackie raised further concerns around the All Wales Agreement which he felt excluded the opportunity for local businesses/tradespeople to compete for business.

The Chief Officer responded to the matters raised by Councillor Mackie. He explained that the mechanism to address the Authority's obligation to carry out Equality Impact Assessments was addressed under the risk management section of the report and added that the CPRs would require the contract to be compliant with the Council's equality duties and those under the Wellbeing of Future Generations Act . He also commented on the approved lists which had been used by the Authority for a long time and said contractors on the lists had not always been given work and the lists were not as accurate as required.

Addressing the concerns raised by Councillor Mackie regarding the All Wales Agreement the Chief Officer explained that the Agreement was expected to provide better value for service overall. However, if that proved not to be the case and a better local arrangement was available and evidence of such provided to the national procurement service, then the All Wales service would not be used. He explained that the Authority could give advice and support to encourage small/medium local businesses about how to best present themselves to bid for major contracts.

Councillor Alex Aldridge expressed concerns around the Authority's 'internal recharges' which increased the cost of work or services provided and prevented the Authority from being competitive in the market. The Chief Officer referred to the governance costs associated with providing and maintaining the standards/requirements imposed on the Authority which were not on the approved contractors. Whilst the Council kept these costs to a minimum there would always be a need for high standards of governance in a local authority.

Councillor David Wisinger expressed concerns regarding contractors who then sub contracted work to other companies and asked how issues arising from poor workmanship/performance were addressed. The Chief Officer acknowledged the need for appropriate direct management and said there were a number of ways that the CPRs addressed the issue of contract management. He advised that at the end of every contract an assessment was made about the contractor. This was an area which the Audit Committee was concerned about and the importance of contract management and contract evaluation was emphasised in the training on procurement. The Audit Committee had requested a follow up report about how the CPRs are managed in practice.

Councillor Chris Bithell asked if approved contractors could be asked to submit and validate a list of the sub-contractors they intended to use. The Chief Officer explained that this information should form part of the contract arrangement between the Authority and the approved contractor so that the Authority was aware of who the sub-contractors are.

In response to a suggestion made by Councillor George Hardcastle that a percentage of the payment to the contractor should be withheld until all work was satisfactorily completed, the Chief Officer explained that the current practice was that a percentage of the payment is retained until the work 'settles' and any problems arising fully addressed.

**RESOLVED:**

That the Committee recommends Council:

- adopts the proposed CPRs
- harmonises delegated authority levels for spending decisions within the Constitution with effect from 1 November 2016

**5. INTERNAL AUDIT CHARTER**

The Internal Audit Manager introduced the Principal Auditor who would be presenting the report. The Principal Auditor provided background information and advised that the current Charter had been reviewed to ensure it met all legal and regulatory requirements. The report detailed the results of the review and the revised draft Charter, which had been considered and approved by the Audit Committee at its meeting on 26 September 2016, and was appended to the report.

Councillor Dave Mackie commented that it was difficult to compare the changes between the revised and the existing Charter on an 'i'pad and suggested that it would be helpful if a copy with tracked changes was provided to the Committee in future. It was agreed that this would be done.

**RESOLVED:**

That the updated Internal Audit Charter, as approved by the Audit Committee, be agreed.

**6. REVIEW OF THE NEW REPORT FORMAT**

The Member Engagement Manager introduced a report to update the Committee following a year of using the new format. He advised that the feedback from Members and Officers had been positive and only a slight change was required concerning the guidance on completion of the Risk Management section. It was suggested that the report format be reviewed regularly to ensure it is effective.

Councillor Dave Mackie suggested some improvements to make reports more 'i'pad friendly. He also referred to the need to include track changes where revised documents were submitted for consideration to ease comparison.

In response to a query from Councillor Arnold Woolley concerning Equalities Impact Assessments (EIAs) the Member Engagement Manager advised that the issue of EIAs would be addressed by revising the guidance on completion of the Risk Management Section.

Councillor Chris Bithell commented on the need to reduce duplication of information in reports to the Planning Committee. The Member Engagement Manager agreed to raise the matter with the Chief Officer (Planning and Environment) and acknowledged the need for consistency in report writing. The

Chief Officer also emphasised the need for all report writers to be aware of providing clear and succinct reports.

**RESOLVED:**

That we continue to use the new report format which will include revised guidance on the Quality Impact Assessments.

**7. DRAFT OVERVIEW & SCRUTINY ANNUAL REPORT**

The Member Engagement Manager introduced a report on the draft Overview & Scrutiny Annual Report for the 2015/16 municipal year. He advised that the draft Report for 2015/16 included an article on the use of the call in process, as requested at Council on 20 October 2015. The Member Engagement Manager explained that the foreword had not been drafted as it was suggested that this be done to reflect the Committee's consideration of the Annual Report and be inserted before submission to Council. He went on to suggest an appropriate form of words to reflect the discussion which had taken place. The draft report was appended for comment and approval.

**RESOLVED:**

Having considered the Overview & Scrutiny Annual Report for 2015/16 the Committee was satisfied with it and commended it to the next meeting of the County Council.

**8. MEMBERS OF THE PRESS AND PUBLIC IN ATTENDANCE**

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

(The meeting commenced at 10.00 am and finished at 11.25 am.)

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Chairman