

FLINTSHIRE COUNTY COUNCIL

REPORT TO: FLINTSHIRE COUNTY COUNCIL

DATE: TUESDAY, 15 MAY 2012

REPORT BY: HEAD OF LEGAL AND DEMOCRATIC SERVICES

SUBJECT: CONSTITUTIONAL MATTERS: COMMITTEES AND
OUTSIDE BODIES

1.00 PURPOSE OF REPORT

1.01 To deal with those matters which require decisions at the Annual Meeting of the County Council in accordance with Council Procedure Rule 1.1 (vii)-(xiii). Those matters are set out in separate paragraphs below.

2.00 APPOINTMENT OF COMMITTEES

2.01 The Council's Procedure Rules require the Annual Meeting to appoint at least one Overview & Scrutiny Committee, a Standards Committee, a Licensing Committee and such other Committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive functions. The Constitution presently provides for the appointment of the following Committees:-

1. Corporate Resources Overview & Scrutiny
2. Community Profile and Partnerships Overview & Scrutiny
3. Lifelong Learning Overview & Scrutiny
4. Social and Health Care Overview & Scrutiny
5. Housing Overview & Scrutiny
6. Environment Overview & Scrutiny
7. Overview and Scrutiny Co-ordinating
8. Audit
9. Planning and Development Control
10. Constitution Committee
11. Licensing Committee
12. Standards Committee

2.02 During the last Council a review of Overview and Scrutiny Committees gave consideration to combining the Social and Health and Housing Committees. The Constitution Committee recommended the two Committees continue until the result of the housing stock ballot was known when their position should be reviewed. The housing stock ballot result to maintain the stock was announced on 20 March 2012. Further the Council may also wish to consider how to best undertake its overview and scrutiny functions once it has received details of the Leader's appointments to and arrangement of the Executive.

- 2.03 Section 11 of the Local Government (Wales) Measure 2011 requires all County Councils in Wales to appoint a Democratic Services Committee. This requirement came into effect on 30 April 2012 and will be a new Committee for Flintshire.
- 2.04 The statutory functions of a Democratic Services Committee are:-
- a) To designate an Officer as the Head of Democratic Services pursuant to a requirement under Section 8(1)(a) of the Measure.
 - b) To review the adequacy of provision by the Authority of staff, accommodation and other resources to discharge democratic services functions and
 - c) Make reports and recommendations to the Authority in relation to such provision.
- 2.05 Section 16 of the Measure also makes clear that the Committee may not exercise any functions other than those given to it under the Measure.
- 2.06 Section 12 of the Measure requires that the membership of the Democratic Services Committee should not include more than one Member of the Authority's Executive (not the Leader) and the membership of the Committee must comprise solely of Members of the Authority. The Committee is required by the Measure to meet at least once in every calendar year. It must also meet if the local authority resolves that it should meet or if at least a third of the members of the committee requisition a meeting.
- 2.07 In view of the requirement to have a Democratic Services Committee, Council may decide that there is no longer a need for an Overview and Scrutiny Co-ordinating Committee and for its role to be incorporated into the Corporate Resources Overview & Scrutiny Committee. The Council is asked to determine the committees it wishes to appoint.

3.00 DETERMINATION OF THE SIZE OF COMMITTEES

- 3.01 The Annual Meeting must decide upon the size of each of the Committees it has appointed. The Constitution presently makes provision for the size of those Committees as set out below:-

Each of the Overview & Scrutiny Committees	15
Planning and Development Control Committee	21
Audit Committee	7
Licensing Committee	12
Constitution Committee	21

- 3.02 The Council will need to determine the size of the Democratic Services Committee.

3.03 The Local Government (Wales) Measure 2011 requires that in future audit committees must have at least one lay co-opted member. This was considered at recent meetings of the Audit and Constitution Committees when it was decided to recommend to Council that the size of the Audit Committee be increased by one lay member. Council is recommended to appoint one lay Member to the Audit Committee in order to comply with the Local Government (Wales) Measure 2011.

3.04 The size of committees should reflect the need to achieve a fair political balance and any changes to the existing size will require corresponding amendments being made to the Constitution.

4.00 TERMS OF REFERENCE OF COMMITTEES

4.01 The Annual Meeting is required to decide the terms of reference of the committees that it appoints. The existing terms of reference of the existing committees are set out in Section A of Part 3 of the Constitution.

4.02 At recent meetings of the Audit and Constitution Committees, two minor changes to the Audit Committee's terms of reference were recommended and these changes are shown in Appendix A.

4.03 As from the 30 April 2012 the Local Government Measure requires the terms of reference of audit committees to include the following:-

- a) To review and scrutinise the authority's financial affairs.
- b) To make reports and recommendations in relation to the authority's financial affairs.
- c) To review and assess the risk management, internal control and corporate governance arrangements of the authority.
- d) To make reports and recommendations to the authority on the adequacy and effectiveness of those arrangements.
- e) To oversee the authority's internal and external audit arrangements and
- f) To review the financial statements prepared by the authority.

4.04 It is recommended that Council agrees to amend the terms of reference to reflect the above and that delegated power be given to the Head of Legal & Democratic Services to devise the precise wording in the light of the statutory guidance due to be issued by the Welsh Government.

4.05 The Democratic Services Committee's terms of reference need to cover the functions referred to in paragraph 2.04 above. Again it is recommended that the precise wording of the terms of reference be left to the Head of Legal & Democratic Services in the light of the promised statutory guidance from the Welsh Government.

- 4.06 At the last meeting of the Constitution Committee it decided to recommend to Council that its terms of reference be amended to enable the Committee to examine and consider the creation or amendment of byelaws for Flintshire. It is recommended the terms of reference be amended in this way.
- 4.07 In relation to the other committees that are to continue in the new Council, Members are recommended to confirm their existing terms of reference.

5.00 POLITICAL BALANCE – ANNUAL REVIEW

- 5.01 The Annual Meeting is required to decide the allocation of seats to political groups in accordance with the Political Balance Rules contained in the Local Government and Housing Act 1989 and the Local Government (Committees and Political Groups) Regulations 1990 as amended.
- 5.02 The basis of the statutory requirement is that committee seats should be allocated to political groups in so far as practicable in the same proportion as those groups have to the total membership of the County Council.
- 5.03 The allocation of seats on committees to the political groups will need to recognise that:-
- (i) There must be no one group committees.
 - (ii) Where there is a majority group it is entitled to a majority upon every committee. (This does not apply where the largest group does not have an overall majority).
 - (iii) The total number of seats allocated to each political group should be (in so far as is practicable) in the same proportion as those groups strengths upon the full Council.
 - (iv) Each committee should (so far as is practicable) have the same proportional division between political groups as is represented upon the full Council.
- 5.04 In relation to the Audit and Democratic Services Committees, the Local Government (Wales) Measure limits the number of Executive Members on each Committee to a maximum of one and that one to not be the Leader. At its last meeting the Audit Committee was of the view there should be no Executive Members on it.
- 5.05 At the time of preparing this report the political groups on the Council following the elections had not been formally constituted. It is hoped that they will be by the date of the Annual Meeting and the up to date position will be reported to the meeting.

6.00 APPOINTMENT OF CHAIRS AND VICE-CHAIRS OF STANDING COMMITTEES

6.01 Council Procedure Rule 1.1 requires that the County Council appoint the chairs of the standing committees (except the Standards Committee) at its AGM. However, the Local Government (Wales) Measure 2011 contains provisions requiring that:

- i) overview and scrutiny committee chairs be selected by the political groups in accordance with rules laid out in the Measure; and
- ii) the Audit Committee appoints its own chair.

6.02 The Measure came into force on 30 April 2012 which left insufficient time to amend the Procedure Rule. In order to comply with the legislation, therefore, it will be necessary to vote to suspend Procedure Rule 1.1 for this meeting.

6.03 How the chairs of Overview and Scrutiny are chosen by the political groups depends on the strength of the various groups and which have seats on the Executive. At the time of preparing this report this information is not known but should be by the time of the meeting.

6.04 The Constitution and the Measure contain restrictions on who may chair certain committees. These are set out below;

Committee	Restriction	Constitution or Measure
Audit	Committee must appoint its own Chair. Cannot be a Member of an Executive group.	Measure
Democratic Services Committee	Appointed by Council. Cannot be a Member of an Executive group.	Measure
Licensing	Appointed by Council. Must be a Member of the main opposition group.	Constitution

The appointment of chair for the Audit and Democratic Services Committees must be carried out in accordance with the Measure. Should Council wish to appoint someone who is not from the main opposition group to chair the Licensing Committee then the Constitution will need to be amended first.

- 6.05 Procedure Rule 1.1 will need to be amended to read as set out below. In accordance with Procedure Rule 21.2 it is recommended this proposed amendment will need to stand over to the next County Council meeting once proposed and seconded.

“(x) appoint the chairs and vice chairs of the standing committees appointed under (viii) above with the exception of the Standards Committee, Overview and Scrutiny Committees and Audit Committee.”

- 6.06 In addition, consequential amendments will need to be made to Article 7 of the Constitution making clear that the Audit Committee is to appoint its own chair. It is recommended delegated power is given to the Head of Legal & Democratic Services to give effect to this legal requirement.

7.00 LOCAL CHOICE ISSUES

- 7.01 The Council is also required to agree such part of the Scheme of Delegation as the Council determines it is for the Council to agree. This relates to those local choice functions which can be decided either by the Council or the Executive and/or delegated to Officers. The table of Local Choice Functions is included in Part 3, Section A, Table 3 of the Constitution. Members are recommended to confirm or otherwise the existing Local Choice Functions.

8.00 NOMINATIONS TO INTERNAL BODIES

- 8.01 The existing Scheme of Delegation provides for an Appointments Committee for first and second tier officers comprising 7 Members. This is not a standing committee and is convened when required by seeking nominations from Group Leaders. In the past it has been usual for Committee Members to be politically balanced including the relevant Executive Member. The Council has previously agreed that the Chair or Vice-Chair of the relevant Overview and Scrutiny Committee be one of the Members of the Committee. It is recommended Council continues the previous practice.
- 8.02 In the light of the recent implementation of the Local Government (Wales) Measure 2011 and at the start of a new Council it is opportune to review the various internal bodies such as panels and working groups. It is recommended that these are reviewed by the Head of Legal & Democratic Services in consultation with group leaders and a report submitted to Constitution Committee and

Council. Pending the outcome of the review the existing internal bodies will be retained.

9.00 NOMINATIONS TO OUTSIDE BODIES

- 9.01 Save for those that appear as separate agenda items Appendix B contains the outside bodies to which the Council makes appointments and those appointed by the former Council. The Council is recommended to delegate to the Chief Executive in consultation with Group Leaders and non aligned Members the appointments to these bodies.
- 9.02 Due to impending changes to the Police Authority, a report on appointments to the Authority and its successor body, the Police and Crime Panel, has been included as a separate agenda item. That report also deals with appointments to the Safer Communities Regional Board.
- 9.03 Council also needs to appoint six Members to serve on the North Wales Fire and Rescue Authority, and to decide whether they will service for one year or the whole electoral cycle of five years. The appointments must be politically balanced. A letter from the Clerk to the Fire Authority to all the North Wales Councils setting out the requirements is attached at Appendix C.

10.00 STANDARDS COMMITTEE

- 10.01 The Standards Committee includes five independent members, a Community Council member and three Councillors not to be the Council Leader or Executive Members. Council is asked to determine the three Members. The Constitution provides that the term of office of such Members is for a period of no more than four years or until the next ordinary local government elections, whichever is the shorter but can be reappointed for a second consecutive term.

11.00 PROGRAMME OF ORDINARY MEETINGS

- 11.01 At its meeting on 21 February 2012 County Council previously determined the schedule of County Council and committee meetings for 2012/13. This included the following ordinary meetings of the County Council:-

Ordinary County Council meeting - 19 June, 2012
Ordinary County Council meeting - 17 July, 2012
Ordinary County Council meeting - 11 September, 2012
Ordinary County Council meeting - 25 September, 2012
Ordinary County Council meeting - 13 November, 2012
Ordinary County Council meeting - 29 January, 2013
Ordinary County Council meeting - 19 February, 2013
Ordinary County Council meeting - 1 March, 2013

Ordinary County Council meeting - 16 April, 2013
Ordinary County Council meeting - 25 June, 2013

- 11.02 In accordance with the requirement of Section 6 of the Local Government (Wales) Measure 2011 there is a requirement to consult with all Members on the timing of Council, committee and sub-committee meetings. This survey will be conducted in the near future and the results reported back to County Council. In the meantime Council is recommended to endorse the above programme of ordinary Council meetings.

12.00 RECOMMENDATIONS

- 12.01 (a) To determine the Council's standing committees having considered paragraphs 2.01 to 2.07 above.
(b) To determine the size of the Council's standing committees having considered paragraphs 3.01 to 3.04 above.
(c) To determine the political balance of committee seats.
(d) To determine committee chairs and vice-chairs having considered paragraphs 6.01 to 6.06 and suspend Procedure Rule 1.1.
(e) To determine the Members to serve on the Standards Committee for the next four years.
- 12.02 That the Council considers the recommendations as summarised below:
- 3.02 to determine the size of the Democratic Services Committee
 - 3.03 to increase Audit Committee by 1
 - 4.04 to agree the revised terms of reference for Audit Committee
 - 4.05 to delegate drafting the terms of reference for the Democratic Services Committee to the Head of Legal & Democratic Services
 - 4.06 to agree the revised terms of reference for the Constitution Committee
 - 4.07 to confirm the terms of reference for the other committees
 - 6.05 for the proposed amendment to Procedure Rule 1.1 to stand over to the next meeting once proposed and seconded
 - 6.06 the Audit Committee to appoint its own chair
 - 7.01 to agree the Scheme of Local Delegation
 - 8.01 to appoint an Appointments Committee
 - 8.02 to review and report back on working groups
 - 9.01 to delegate appointments to outside bodies to the Chief Executive
 - 9.03 to appoint six Members to the North Wales Fire & Rescue Authority and determine their period of office
 - 11.02 to endorse the timetable of meetings.

13.00 FINANCIAL IMPLICATIONS

13.01 None as a result of this report.

14.00 ANTI-POVERTY IMPACT

14.01 Not applicable.

15.00 ENVIRONMENTAL IMPACT

15.01 Not applicable.

16.00 EQUALITIES IMPACT

16.01 Not applicable.

17.00 PERSONNEL IMPLICATIONS

17.01 Not applicable.

18.00 CONSULTATION REQUIRED

18.01 Constitution Committee

19.00 CONSULTATION UNDERTAKEN

19.01 Constitution Committee

12.00 APPENDICES

Appendix A - Changes to the Audit Committee's Terms of Reference
Appendix B - Current list of Outside Bodies
Appendix C – Letter from the Clerk to the North Wales Fire & Rescue Authority

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

Council Procedure Rule 1.1
Minutes of County Council Meeting 21/2/12
The Council's Constitution

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