

FLINTSHIRE COUNTY COUNCIL

Date of Meeting	Thursday, 18 th May 2017
Report Subject	Constitutional Matters: Committees and Internal Bodies
Report Author	Chief Officer (Governance)

EXECUTIVE SUMMARY

Every year the Council must agree what arrangements it will make to carry out its functions, such as its committee structure and delegation to officers. These matters are set out in Council Procedure Rule 1.1 (vii)-(xiv) and are determined at the Annual Meeting.

The report is split into sections, each one dealing with one decision that needs to be made and the relevant issues to consider. Each section will need to be considered and voted on in turn at the meeting.

In addition, because this year is the start of a new Council term, Council must consider the appointment of a new lay member to the Audit Committee (see separate report) and must approve the process for selecting a town and community representative on the Standards Committee.

This year there are also a number of changes to be made over how the Planning Committee will operate. These changes are required to comply with legislation, which came into force on 5 May 2017.

RECOMMENDATIONS

1	That the Constitution Committee be incorporated into the Democratic Services Committee, and that Full Council should review, make or revoke by laws.
2	That Council appoint the following committees: <ul style="list-style-type: none"> • Audit • Clwyd Pension Fund • Constitution and Democratic Services Committee • Joint Governance Committee (for pensions)

	<ul style="list-style-type: none"> • Licensing • Planning • Standards • The Six Overview and Scrutiny Committees listed above
3	That the Constitution be amended to reflect the committees appointed.
4	That the terms of reference for each committee in Part 2 of the Constitution should be approved (noting the changes proposed in respect of the Constitution and Democratic Services Committees).
5	That the size of each Committee should be as set out in paragraph 1.06, noting the restrictions that must now apply to the membership of the Planning Committee.
6	<p>That:</p> <p>1) the Constitution be amended to show that no substitutes are permitted on the Planning Committee and that its quorum shall be 50%</p> <p>2) that the Constitution be amended so that in the event of 2 members from a multiple member ward being nominated to the Planning Committee, then the seat will be allocated</p> <ul style="list-style-type: none"> • in the first instance by agreement between the 2 respective group leaders; and • in the event that agreement is not possible, to the first nomination to be received by the proper officer.
7	That seats be allocated in accordance with the requirements of political balance (and the rules on membership of the Planning Committee).
8	<p>That Council appoints the Chair of the following Committees (noting any restrictions on eligibility):</p> <ul style="list-style-type: none"> ○ Clwyd Pension Fund ○ Constitution and Democratic Services ○ Licensing ○ Planning and Development
9	That Council decides which group will chair each Overview and Scrutiny Committee.
10	That Local Choice Functions as set out in the Constitution be approved.
11	That the make-up of the Appointments Committee be approved.
12	That 3 county councillors be appointed to the Standards Committee.
13	That the town and community councils be consulted on the reappointment of the town and community representative to the Standards Committee, and that the current representative continue in office until such time as he is reappointed or a new appointment is made.

REPORT DETAILS

1.00	CONSTITUTIONAL MATTERS
	<u>APPOINTMENT OF COMMITTEES</u>
1.01	<p>The Constitution presently provides for the appointment of the following committees:-</p> <ul style="list-style-type: none">• Audit• Clwyd Pension Fund Committee• Constitution Committee• Democratic Services Committee• Joint Governance Committee (for Pensions)• Licensing Committee• Planning and Development Control• Standards Committee <p>Plus six Overview and Scrutiny Committees (OSC's) which will be as shown below</p> <ul style="list-style-type: none">• Community and Enterprise• Corporate Resources• Education and Youth• Environment• Organisational Change• Social & Healthcare
1.02	<p>The Constitution Committee and Democratic Services Committee have very similar roles, and have previously had the same chair and an almost identical membership. At the last meeting of the Constitution Committee there was a request for the two committees to be combined because their roles are entirely compatible and the overlap in functions makes it nonsensical to appoint two separate committees. The Local Government Measure 2011, requiring the Council to establish the Democratic Services Committee, prohibits the allocation to it of functions over and above its statutory remit.</p> <p>However other councils in Wales take the view that the statutory remit of the Democratic Services Committee to “review the adequacy of provision by the authority of staff, accommodation <i>and other resources</i> [my emphasis] to discharge democratic services functions” is sufficiently broad to encompass the role fulfilled by the Constitution Committee (overseeing the constitution and co-ordinating the Overview and Scrutiny Committees). It would therefore make sense to incorporate the Constitution Committee into the Democratic Services Committee.</p> <p>The Constitution Committee also has the power to make by review and make by-laws on behalf of the Council. The use of by laws is diminishing as new legislation typically gives a power to make orders (rather than by laws) and allocates the function to the executive. Any residual review or passing of by-laws could be handled by Full Council.</p>

1.03	It is recommended that the Constitution Committee be incorporated into the Democratic Services Committee, and that Full Council should review, make or revoke by-laws.																		
1.04	It is recommended that Council appoint the following committees: <ul style="list-style-type: none"> • Audit • Clwyd Pension Fund • Constitution and Democratic Services Committee • Joint Governance Committee (for pensions) • Licensing • Planning • Standards • The six Overview and Scrutiny Committees listed above 																		
1.05	It is recommended that the Constitution be amended to reflect the committees appointed.																		
<u>DETERMINATION OF THE SIZE OF COMMITTEES</u>																			
1.06	<p>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:-</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Audit Committee</td> <td style="text-align: right;">7</td> </tr> <tr> <td>Constitution and Democratic Services Committee</td> <td style="text-align: right;">21</td> </tr> <tr> <td>Joint Governance Committee (Pensions) (this is the chair of the Pensions Committee)</td> <td style="text-align: right;">1 representative</td> </tr> <tr> <td>Licensing Committee</td> <td style="text-align: right;">12</td> </tr> <tr> <td>Each of the Overview & Scrutiny Committees</td> <td style="text-align: right;">15</td> </tr> <tr> <td>Pensions Committee*</td> <td style="text-align: right;">5</td> </tr> <tr> <td colspan="2">(*please note in addition to the places listed there are 4 places for co-optees)</td> </tr> <tr> <td>Planning Committee (see below)</td> <td style="text-align: right;">21</td> </tr> <tr> <td>Standards Committee** (** there are 3 places for county councillors plus 6 co-optees)</td> <td style="text-align: right;">9</td> </tr> </table>	Audit Committee	7	Constitution and Democratic Services Committee	21	Joint Governance Committee (Pensions) (this is the chair of the Pensions Committee)	1 representative	Licensing Committee	12	Each of the Overview & Scrutiny Committees	15	Pensions Committee*	5	(*please note in addition to the places listed there are 4 places for co-optees)		Planning Committee (see below)	21	Standards Committee** (** there are 3 places for county councillors plus 6 co-optees)	9
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1.07	The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 were made on 21 st March and came into force on 5 th May 2017. They require that the Planning committee should be between 11 and 21 members in size and no larger than 50% of the total membership of the Council. Members will note that the proposed size of committee meets these requirements.																		
1.08	It is recommended that the size of each committee should be as set out in paragraph 1.06.																		

	<u>TERMS OF REFERENCE OF COMMITTEES AND PENSION DELEGATIONS</u>
1.09	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 Part 2 of the Constitution.
1.10	It is recommended that the terms of reference for each committee in Part 2 of the Constitution should be approved (noting the changes proposed in respect of the Constitution and Democratic Services Committees).
	<u>POLITICAL BALANCE</u>
1.11	The Council is required at, or as soon as practicable after the Annual Meeting, 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.
1.12	<p>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. The allocation of seats on committees to the political groups must recognise that:-</p> <ul style="list-style-type: none"> (i) There must be no committees whereby only one group has all the seats. (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.
1.13	<p>The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 also require that a Planning Committee</p> <ul style="list-style-type: none"> • Should not include any substitutes; and • Must have a quorum of 50% of the members of committee; • May only include 1 member from a multiple member ward <p>In making nominations to the Planning Committee the groups will need to follow these rules. Where a multiple member ward is represented by councillors who are not in the same group (and both wish to be on the Planning Committee) then there will need to be a means of deciding which councillor can take up the place. In the first instance the two respective group leaders should seek to reach agreement. If that is not possible then the following options exist:</p> <ul style="list-style-type: none"> • the smaller group should get the seat because it will have less scope for flexibility • the first nomination received by the proper officer should be accepted • the allocation is decided by drawing lots.

1.14 For the Audit and Democratic Services Committees, the Local Government (Wales) Measure limits the number of Cabinet Members on each committee to a maximum of one who cannot be the Leader. The Constitution has extended this so that no Cabinet Member may be a member of the Audit Committee.

1.15 There are a total of 157 seats for councillors across all of the Council committees based on the current group membership. The entitlement of each group to seats is set out in the table below. Those seats could be divided across the different committees in a number of possible configurations, and possible lawful configurations will be circulated prior to the meeting.
Please note that although we know councillors' intentions, as yet, not all group membership forms have been received. Should the group membership vary then the allocation of seats will need to be reviewed.

Group	Size of group	% of total councillors	Entitlement to seats
Labour	34	48.57	76
Independent Alliance	14	20.00	31
Conservative	6	8.57	14
Independent	6	8.57	14
Liberal Democrats	5	7.14	11
New Independent	5	7.14	11
Total	70	100%	157

1.16 **It is recommended that**
1) the Constitution be amended to show that no substitutes are permitted on the Planning Committee and that its quorum shall be 50%
2) that the Constitution be amended so that in the event of 2 members from a multiple member ward being nominated to the Planning Committee then the seat will be allocated

- in the first instance by agreement between the 2 affected group leaders; and
- in the event that agreement is not possible, to the first nomination to be received by the proper officer

1.17 **It is recommended that seats be allocated in accordance with political balance (and the rules on membership of the Planning Committee).**

APPOINTMENT OF CHAIRS OF STANDING COMMITTEES

1.18 The committee chairs are appointed by different bodies and some are subject to restrictions. A table showing which body appoints which chair and what restrictions (if any) apply is set out below:

Committee	Who Appoints the Chair?	Any Restrictions?
Audit Committee	Audit Committee	Cannot be a member of a group represented

			on the Cabinet (Local Government Wales Measure 2011)
	Clwyd Pension Fund Committee	Council	The Chair and Vice Chair must be a Flintshire County Councillor
	Constitution and Democratic Services Committee	Council	Cannot be a Cabinet Member (LGW Measure 2011)
	Overview & Scrutiny Committees	Council decides from which group the chair comes	Council must allocate chairs based on the size of each group (LGW Measure 2011)
	Licensing Committee	Council	None
	Planning Committee	Council	None
	Standards Committee	Standards Committee	Must be an independent member (Standards Committees (Wales) Regulations 2001)
1.19	<p>It is recommended that Council appoints the chair of the following committees (noting any restrictions on eligibility):</p> <ul style="list-style-type: none"> • Clwyd Pension Fund • Constitution and Democratic Services • Licensing • Planning 		
1.20	<p>Under the Local Government Measure 2011 the chairs of Overview and Scrutiny are chosen by the political groups based on the strength of the various groups and which have seats on the Cabinet. Chairs are allocated to groups with a place on Cabinet first and any entitlement is rounded down to the nearest whole number. The remaining chairs are then allocated to groups without a seat on Cabinet (rounding up to the nearest whole number).</p>		
1.21	<p>Full Council appoints the Leader at the Annual General Meeting and the Leader will then announce the Cabinet. When the membership of the Cabinet is known it will be possible to formally allocate the correct number of chair(s) to each group.</p>		
1.22	<p>It is recommended that Council decides which group will chair each Overview and Scrutiny Committee.</p>		
	<p><u>LOCAL CHOICE FUNCTIONS</u></p>		
1.23	<p>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 Cabinet and/or delegated to officers. The table of Local Choice Functions is</p>		

	included in Part 3, Section A, Table 3 of the Constitution. Members are recommended to confirm or otherwise the existing Local Choice Functions.
1.24	It is recommended that local choice functions as set out in the Constitution are approved.
	<u>NOMINATIONS TO INTERNAL BODIES</u>
1.25	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 Cabinet 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.
1.26	It is recommended that the make-up of the Appointments Committee be approved.
	<u>STANDARDS COMMITTEE</u>
1.27	The Standards Committee includes five independent members, a Town and Community Council representative (see below) and three Councillors (who cannot also be the Leader or Cabinet Members). The three members will be appointed for the whole term of this Council. If Council wishes it may reappoint the two previous members (Cllrs Woolley and McGuill) but under the legislation they may serve one further term only. Councillor Cox has already served two terms and therefore may not be reappointed.
1.28	It is recommended that 3 county councillors be appointed to the Standards Committee.
1.29	The term of office for the town and community representative has come to an end. It was, of course, not possible to reappoint a representative prior to the elections. The Council can reappoint the current representative or it could seek a new representative using the process at Appendix 1 (which was approved at the AGM in 2012). In either case the Council must consult with the Town and Community Councils about its proposed course of action.
1.30	The current representative (Cllr Duggan-Keen from Caerwys Town Council) has made a valuable contribution to the work of the Committee and is willing to serve again. It is therefore proposed that the Council consult Town and Community Councils on his reappointment for a further term, and that he continue in office until such time as he is reappointed or a new appointment is made.
1.31	It is recommended that the Town and Community Councils be consulted on the reappointment of the town and community representative, and that the current representative continue in office until such time as he is reappointed or a new appointment is made.

2.00	RESOURCE IMPLICATIONS
2.01	None as a result of this report.

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	Constitution Committee.

4.00	RISK MANAGEMENT
4.01	None as a result of this report.

5.00	APPENDICES
5.01	Appendix 1 – procedure for appointing Town and Community Council representative to the Standards Committee

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	None Contact Officer: Gareth Owens, Chief Officer (Governance) Telephone: 01352 702344 E-mail: gareth.legal@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	None.