



# COTSWOLD DISTRICT COUNCIL

Council name	<b>COTSWOLD DISTRICT COUNCIL</b>
Name and date of Committee	<b>ANNUAL COUNCIL - 3 JUNE 2020</b>
Report Number	<b>AGENDA ITEM (12)</b>
Subject	<b>REPORT OF THE CONSTITUTION WORKING GROUP</b>
Wards affected	Not applicable
Accountable member	Cllr. Joe Harris - Leader of the Council and Chair of the Constitution Working Group Email: <a href="mailto:joe.harris@cotswold.gov.uk">joe.harris@cotswold.gov.uk</a>
Accountable officer	Nigel Adams - Head of Paid Service Tel: 01285 623202 Email: <a href="mailto:nigel.adams@cotswold.gov.uk">nigel.adams@cotswold.gov.uk</a> Bhavna Patel - Group Manager Legal Services and Monitoring Officer Tel: 01285 623219 Email: <a href="mailto:bhavna.patel@cotswold.gov.uk">bhavna.patel@cotswold.gov.uk</a>
Summary/Purpose	To consider further suggestions/issues arising out of the second meeting of the Constitution Working Group, relating to a number of the Council's Procedure Rules; and other associated items.
Annexes	None
Recommendation/s	<i>(a) That the Council considers the suggestions/issues arising out of the second meeting of the Constitution Working Group;</i> <i>(b) that the Monitoring Officer be authorised to make any necessary revisions to the Council's Constitution arising out of the decisions made by the Council.</i>
Corporate priorities	Some of the suggestions seek to reflect the principle of promoting a culture of openness and transparency
Key Decision	N/A
Exempt	NO
Consultees/ Consultation	Constitution Working Group and other attending Members, Head of Paid Service, Group Manager Legal/Monitoring Officer.

## 1. BACKGROUND

- 1.1. The Council has previously agreed to review its Constitution, and established a Constitution Working Group for this purpose.
- 1.2. There are seven Members on the Working Group - Councillors Patrick Coleman, Mike Every, Joe Harris and Clive Webster (Liberal Democrat Group representatives); Councillors Julian Beale and Richard Morgan (Conservative Group representatives); and Councillor Nikki Ind (Independent/non-grouped representative). The Group also agreed that invitations should be extended to the Chair and Vice-Chair of Council and/or Chairs and Vice-Chairs of the Council's Committees, should the Group be discussing matters which may benefit from their input.
- 1.3. The Working Group held its first meeting on 22 October 2019 where the parameters of the Group were discussed and agreed. Councillor Joe Harris was elected Chair of the Group. A further meeting was held on 16 December 2019, when the Group focussed on the Council's Procedure Rules.
- 1.4. At the Council Meeting on 22 January 2020, Members were asked to consider the schedule of meetings for 2020/21 along with a number of suggestions from the Working Group in relation to future meeting arrangements and procedures before and during meetings. By way of a reminder, the following changes were agreed by the Council:-
  - (a) *the amended draft Schedule of Meetings for 2020/21, as circulated at the Meeting, be approved;*
  - (b) *the Head of Paid Service be given delegated authority, in consultation with the Chair and Leader of the Council to agree any necessary changes to the Schedule either prior to, or during, the municipal year;*
  - (c) *for 2020/21, in addition to the Annual and Budget/Council Tax setting meetings, there shall be six ordinary business meetings of the Council; and that, as a result, the February Budget/Council Tax setting meeting will deal solely with Budget/Council Tax matters.*
  - (d) *for 2020/21, Council meetings will remain either at 2pm or 6pm (in principle summer meetings (during BST) will be held at 6pm and winter meetings (during GMT) at 2pm, but with the exception being the February Budget/Council Tax meeting which will be held at 6pm);*
  - (e) *for 2020/21, the Planning and Licensing Committee will trial half of its meetings no earlier than 2pm (with the Committee being able to decide the exact start time at or after 2pm);*
  - (f) *for 2020/21, Overview and Scrutiny and Audit Committee meetings shall start no earlier than 4pm (with those Committees being able to decide the exact start time at or after 4pm);*
  - (g) *for 2020/21, meeting times for the Licensing Sub-Committees and the Appeals Committee shall be determined by the Members selected to participate, given the ad hoc nature of those meetings;*

*(h) for 2020/21, the maximum duration of any one sitting of a meeting be set at 4 hours - and meetings at the time limit can either be adjourned or the business rescheduled to a subsequent meeting;*

*(i) for 2020/21, at the conclusion of an item of business after three hours have elapsed, the meeting shall vote by a simple majority to continue for the final hour;*

*(j) the restrictions at resolutions (h) and (i) above shall not apply to meetings of the Planning and Licensing Committee;*

*(k) during the course of 2020/21, the Democratic Services Team be requested to survey all Members about their preference for the timing and location of full Council Meetings.*

*(l) the Head of Paid Service be given delegated authority to make any necessary changes to the Constitution arising out of the Council's decisions.*

**1.5.** Further meetings of the Working Group had been scheduled/planned, to review the remaining sections of the Constitution (beyond the Meeting Procedure Rules), ideally in advance of the 2020/21 Municipal Year. However, this did not prove possible for a number of reasons and, therefore, the outstanding recommendations of the Working Group are presented for consideration and decision now.

**1.6.** The overall review will be concluded at the earliest opportunity, but given current circumstances this may not be achievable within the period of 12 months from the Working Group's initial establishment. Given that the Constitution states that no working group shall continue for more than 12 months unless by positive affirmation of the Council, **it is suggested that the Council agrees to the re-appointment of the working group for the 2020/21 Municipal Year.**

## **2. WORKING GROUP DELIBERATIONS**

### **2.1. Meeting Locations for attending Members/members of the public**

**2.1.1.** The Working Group considered at the time that it would be beneficial if Ward Members and members of the public participating in Council/Committee Meetings remotely via conference call, including from other Council sites (e.g. Moreton Area Centre); and asked Officers to review the legal implications of such an arrangement.

**2.1.2.** Arising out of the Covid-19 Virus Outbreak, the Government introduced legislation and regulations which give councils the ability to hold meetings "remotely", i.e. without the previous legislative requirement for members of a local authority to be present at the same place to conduct business. This also covers participation by the public (where allowed through a Council's Constitution).

**2.1.3.** The current arrangements extend to May 2021. Dependent upon the situation at that time (or earlier) and the success or otherwise of the arrangements, the Government may extend the provisions temporarily or seek to retain them indefinitely. In the meantime, Officers will continue to explore the situation in the event of a return to the previous situation.

## **2.2. Formal Questions at Meetings (Public and Member)**

- 2.2.1.** The Working Group felt that the requirement for members of the public to provide advance notice of any formal questions they wished to ask of a Cabinet Member or Committee Chair at a Council or Committee Meeting should be removed and replaced by an open forum Q&A session, to enable enhanced public engagement.
- 2.2.2.** However, the Working Group did not consider that the same arrangement should be applied to formal questions by Members; and that these should still be submitted to the relevant Cabinet Member/Committee Chair in advance, with an initial response also being provided in advance of the Meeting.
- 2.2.2.** The Working Group also felt that a time restriction should be introduced, limiting any member of the public asking a question to a maximum of two minutes; and that the total time permitted within a meeting to deal with both Public and Member Questions should be enforced.
- 2.2.3.** Some members of the Working Group questioned the risk of 'unknown' questions being asked at meetings by the public, but it was highlighted that this was already a potential risk given that the content of supplementary questions asked by both the public and Members were not known in advance of the meeting.
- 2.2.4. The Working Group put forward the following suggestions as the basis for Council debate:**
- (i) the maximum length of oral questions or supplementary questions by the public to be two minutes;**
  - (ii) the maximum length of oral supplementary questions by Members to be one minute;**
  - (iii) the maximum length of oral responses to questions or supplementary questions by Cabinet Members or Committee Chairs to be two minutes;**
  - (iv) the requirement for notice and questions to be in writing from members of the public be removed, and replaced by an open forum session.**

## **2.3. Motions on Notice**

- 2.3.1.** The Group considered **the reference to Motions needing to be formally signed by Members should be removed; and replaced by a reference instead to the 'Proposer and Seconder being clearly stated'.**

## **2.4. Rules of Debate**

- 2.4.1.** The Working Group considered in detail the numerous provisions relating to Rules of Debate, with a view to enabling greater clarity and a degree of simplification. **The following suggestions were put forward as the basis for Council debate:**
- (i) Amendments - any amendment proposed requiring the addition of more than seven words in length must be circulated to all Members present in writing as it is moved;**
  - (ii) To remove the automatic right of a Member to speak again in a debate if named subsequently in that debate (existing Rule 14.5 (g) refers);**

- (iii) To include a cross reference between existing rules 14.5 (f) and 14.13, which both relate to 'Personal Explanation';
- (iv) Given the Council's previous decision in relation to duration of meetings, to delete the procedural motion 'to propose that the meeting continue beyond four hours in duration' (existing Rule 14.10 (g) refers).

## 2.5. Voting

- 2.5.1. The Working Group indicated that Rule 16.3 - voting by Show of Hands - would require updating once any electronic voting facility had been installed.

## 2.6. Record of Attendance

- 2.6.1. The Working Group considered **the current requirement of all Members present at a meeting to sign the record of attendance should be abolished**, given the practice related historically to when the Members' Allowances Scheme included an element which reflected the number of hours spent at formal meetings. The Working Group noted that Officers maintained such a record in any event, to enable the names of Members present or otherwise at a meeting, and the times they were present, to be recorded within the minutes of the meeting.

## 2.7. Recording and/or Filming of Meetings

- 2.7.1. The Group noted that the current arrangement detailed within the Constitution would require updating following the installation of webcasting facilities within the Council Chamber.

## 2.8. Substitute Members

- 2.8.1. The Working Group felt that the current notification arrangements were not sufficiently flexible to deal with emergency situations, particularly on the day of a meeting; to the detriment of the democratic process. Following discussion, the **Working Group put forward the following suggestion for debate by the Council:**
  - **Removal of requirement for substitute Members of Committees to be notified the previous working day and to be replaced with requirement for notification before or at the start of the meeting.**

- 2.8.2. Following a request by the Working Group, Officers also agreed to revise the current wording to clarify which Members were unable to substitute at various meetings.

## 2.9. Chair of Council and Committees

- 2.9.1. The Working Group felt **the current provision whereby 'No Member is eligible to be a Chair or Vice-Chair of any Committee within one year of ceasing to hold office as Chair of any Committee'** was unnecessarily restrictive, and proposed that it be removed.

## 2.10. Items for Agenda

- 2.10.1. It was noted by the Working Group that **the timing of submission of items should simply refer to 'seven working days in advance of the meeting' rather than days of the week**, given that the Council, Cabinet and Committees meet on different weekdays.

### **3. ADDITIONAL MATTER FOR CONSIDERATION - STATUTORY OFFICERS**

- 3.1.** The Leader and Deputy Leader of the Council have also reviewed matters concerning the employment of the Council's Statutory Officers, given that these are currently covered in a number of documents, including the Officer Employment Procedure Rules, the Terms of Reference of the Senior Appraisal and Remuneration Panel, and the Pay Policy Statement.
- 3.2.** For ease and simplicity, it is proposed that a single committee - a Statutory Officer Appointments and Performance Committee - be established to deal with virtually all matters relating to Statutory Officers, albeit that, in some instances, the Committee would need to make a recommendation to Full Council.
- 3.3.** It has been suggested that there should be seven Members on such Committee, comprising the Leader of the Council, the Leader of the largest Opposition Group, plus five additional members appointed by the political groups under the proportionality rules (in the current situation - three representatives from the Liberal Democrat Group, and two from the Conservative Group). It has also been suggested that substitutes be allowed.
- 3.4.** In summary, the duties and responsibilities of the Committee would include:-
- (a) To deal with all matters relating to the recruitment of the Statutory Officers and recommend any appointment to Full Council, which will make the final decision, including the level of remuneration for any post.
  - (b) To deal with and approve all relevant on-going matters relating to the salaries and contractual terms of the Statutory Officers; and where the value of any remuneration package is £100,000 or over, to present a report and recommendation to Full Council for consideration and decision.
  - (c) To approve terms for the retirement and/or redundancy of Statutory Officers; and where the value of any severance package is £100,000 or over, to present a report and recommendation to Full Council for consideration and decision.
  - (d) To conduct appraisals of the Chief Executive/Head of Paid Service (N.B. For this purpose, the Leader of the Council, in consultation with the other Committee Members, will select an Appraisal Panel of four Members, to include the Leader of the largest Opposition Group).
  - (e) To assist the Chief Executive/Head of Paid Service with the conduct of appraisals of the other Statutory Officers (N.B. For this purpose, three Members will be selected, comprising the Leader of the Council, the Leader of the largest Opposition Group, and one other Member who will be selected by the Leader of the Council in consultation with the other Committee Members).
  - (f) To conduct employee grievance appeals in respect of any Statutory Officer in accordance with the Council's Grievance and Disciplinary Procedures (N.B. Committee members will require necessary training for this role).

(g) To appoint an Independent Investigator to investigate and report on disciplinary matters in relation to a Statutory Officer.

(h) To impose sanctions (other than dismissal) on a Statutory Officer in accordance with any disciplinary process.

(i) To make recommendations to Full Council on the dismissal of a Statutory Officer, including in cases of disciplinary, redundancy or permanent ill-health (*see also paragraphs 3.5 and 3.6 below*).

**3.5.** It should be noted that Regulations include the mandatory appointment of a 'Panel' whose role is to give advice, views and recommendations to Full Council which must be taken into account before a decision is taken to dismiss any Statutory Officer. The Committee proposed would perform such role, but with membership expanded to include at least two 'relevant independent persons', being persons appointed by the authority or by any other council under Section 28(7) of the Localism Act 2011 for the purposes of the members' conduct regime. This arrangement provides an independent check on the overall process.

**3.6.** In cases of any proposed dismissal, the extended Committee would have the following duties:

(a) to consider reports recommending dismissal made by the Independent Investigator; and

(b) to prepare a report to Full Council stating whether it agrees or disagrees with the recommendation to dismiss, including its reasons.

#### **4. FINANCIAL IMPLICATIONS**

**4.1.** None arising directly from this report.

#### **5. LEGAL IMPLICATIONS**

**5.1.** The Constitution is a legal document which supplements legislative provisions in respect of the governance arrangements and methods of working of the authority. It is based largely on a modular version.

#### **6. RISK ASSESSMENT**

**6.1.** There are no key risks expected to arise from this item. However, the Council has a general duty of care to its Members and Officers, which should be borne in mind.

#### **7. EQUALITIES IMPACT**

**7.1.** Not required as a whole - however, individual proposals may require an analysis to be carried out.

#### **8. CLIMATE CHANGE IMPLICATIONS**

**8.1.** None specific or arising directly from this report.

**9. ALTERNATIVE OPTIONS**

- 9.1.** The Council could continue with the existing arrangements; or put forward and alternative or hybrid alternative.

**10. BACKGROUND PAPERS**

- 10.1.** The following document has been identified by the author of the report in accordance with section 100D.5(a) of the Local Government Act 1972 and is listed in accordance with section 100 D.1(a) for inspection by members of the public:

- The Council Constitution.

- 10.2.** This document will be available for inspection at the Council Offices at Trinity Road, Cirencester, GL7 1PX during normal office hours for a period of up to 4 years from the date of the meeting. Please contact the author of the report.

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