



COTSWOLD
DISTRICT COUNCIL

Council name	COTSWOLD DISTRICT COUNCIL
Name and date of Committee	FULL COUNCIL – 15 MARCH 2023
Subject	AMENDMENTS TO THE CONSTITUTION – REPORT OF THE CONSTITUTION WORKING GROUP
Wards affected	All
Accountable member	Cllr Joe Harris - Leader of the Council Email: joe.harris@cotswold.gov.uk
Accountable officer	Angela Claridge, Director of Governance & Development Tel: 01282 623219 Email: angela.claridge@cotswold.gov.uk
Report author	As above
Summary/Purpose	To consider proposals from the Constitution Working Group for amendments to the Constitution to – <ul style="list-style-type: none">• commence the recruitment process and agree remuneration for up to two independent members on the Audit Committee, and associated amendments to the Constitution;• Implement a Monitoring Officer Protocol• change the meeting duration for Overview and Scrutiny Committee and Audit Committees to a maximum duration of three hours.
Annexes	Annex A – DRAFT Recruitment Pack: Independent Member of Cotswold District Council’s Audit Committee Annex B – DRAFT Monitoring Officer Protocol
Recommendation(s)	<i>That Council resolves to:</i> <i>a) approve the recruitment of up to two Independent Members of Audit Committee on the basis of the recruitment pack at annex A;</i> <i>b) delegate authority to the Director of Governance & Development (Monitoring Officer, and Deputy Chief Executive & S151 Officer, in consultation with the Chair of Audit Committee, to agree three members of Audit Committee to be on the interview panel;</i> <i>c) approve an annual payment of £1,000.00 to be paid to independent</i>



	<p><i>members of Audit Committee;</i></p> <p><i>d) authorises the Director of Governance & Development (Monitoring Officer) to update Part C3: Committee Functions to make the consequential amendments to the Audit Committee’s membership.</i></p> <p><i>d) approve the Monitoring Officer Protocol for inclusion in the Constitution.</i></p> <p><i>f) update Procedure Rule 9 in Part D of the Constitution to read as follows:</i></p> <p><i>“The maximum duration of one sitting of a meeting (excluding any comfort breaks) will be as shown below. When the time limit is reached the current agenda item will be completed in the normal way. Any subsequent business will fall or may be reschedule to a later meeting or the meeting may be adjourned (to conclude on a different date).</i></p> <p><i>Council – four hours*</i></p> <p><i>Cabinet – four hours*</i></p> <p><i>Audit Committee – three hours</i></p> <p><i>Overview and Scrutiny Committee – three hours</i></p> <p><i>Planning and Licensing Committee – no maximum duration</i></p> <p><i>*For Council and Cabinet, at the conclusion of an item of business, after three hours have elapsed, a vote will be taken by a simple majority to continue for the final hour”.</i></p>
Corporate priorities	Deliver the highest standard of service
Key Decision	NO
Exempt	NO
Consultees/ Consultation	Elected Members of the Constitution Working Group; Chair and Vice-Chair of Audit Committee; Local Management Team; Business Manager, Democratic Services, and; Interim Head of Legal Services.



1. BACKGROUND

- 1.1 The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 The Constitution must contain:
 - the Council's standing orders/procedure rules;
 - the members' code of conduct;
 - such information as the Secretary of State may direct;
 - such other information (if any) as the authority considers appropriate.

2. REPORT

- 2.1 Members of the Constitution Working Group have considered a number of proposals and now recommend the following amendments to the Constitution to the Council.

3. RECRUITMENT OF INDEPENDENT MEMBERS ON AUDIT COMMITTEE

- 3.1 Full Council on 18 January 2023, considered the Local Government Association's Corporate Peer Review Feedback Report and associated Action Plan addressing how the recommendations within the report will be implemented.
- 3.2 Audit Committee, at its meeting on 26 January 2023, considered and supported those actions relating to the responsibilities of that committee, primarily addressing the Peer Review's recommendation: "The council needs to reassure itself that its governance arrangements are robust". This report addresses one of the actions - introduce two independent members to the Audit Committee.
- 3.3 A co-opted independent or lay member is a committee member who is not an elected representative but recruited to join the committee. The role description of an independent member of Audit Committee is the same as for an elected member with the only substantial difference being around decision making responsibilities. An independent member cannot vote on Council policy so will not be able to take part in the decision although they can actively contribute to the discussions leading up to the vote. The objective of including such members is to increase the knowledge and experience base of the committee, reinforcing its independence. The Inclusion of lay members is a legislative requirement for authorities in Wales and for combined authorities in England.
- 3.4 The Chartered Institute of Public Finance and Accounting (CIPFA) have long been advocates for the benefits of an Independent Member on Audit Committees stating "Independent members can be helpful in supplementing the knowledge and experience of elected members on the committee". Although there is no legal requirement to, CIPFA recommends a committee of our size includes two co-opted independent members.



- 3.5** It is proposed that a recruitment exercise is undertaken with advertisement of the position on the Council's website and social media channels to ensure the net is cast as wide as possible.
- 3.6** The recruitment pack at Annex A has been drafted to highlight the skills required for the position and sets out in full what would disqualify a person from applying.
- 3.7** The recommendation is that there will be an interview panel consisted of three members of the Audit Committee. The interview panel will be assisted by the Director of Governance & Development and Deputy Chief Executive and S151 Officer.
- 3.8** Subject to Council's approval, the recruitment campaign will commence this month, with interviews in April, ready for a recommendation to Council in the new municipal year for the appointments to be made. It is suggested in the Recruitment Pack that the appointments should be a four year period.

4. MONITORING OFFICER PROTOCOL

4.1 It is proposed that Cotswold District Council adopt a Monitoring Officer Protocol to be included in Part E of the Constitution with other Codes and Protocols. The Protocol is not a mandatory part of the Constitution, but is considered good practice. Annex B sets out a draft Protocol which was considered by the Constitution Working Group at their meetings on 20 January and 20 February 2023 and is now recommended by the Constitution Working Group for approval.

4.2 The provisions of the draft Protocol may be summarised as follows:

- Clarity around the role and responsibility of the Monitoring Officer including the statutory obligation to make public report to the Council in cases of illegality;
- Describes the manner in which the Council expects the Monitoring Officer to discharge their functions;
- Clarifies the statutory requirements around the appointment of a Monitoring Officer;
- Confirms the role of the Deputy Monitoring Officer, when it is effective, and when the duties of the Monitoring Officer may be delegated and when they remain personal to the post holder;
- To confirm functions including reporting on illegality and maladministration, reporting on ombudsman decisions, maintaining the members register of interests and assessing and investigating member code of conduct complaints;
- Inclusion of the responsibility for monitoring, maintaining and interpreting the constitution;
- Provision of resources to support the Monitoring Officer function.

5. TIME LIMIT FOR OVERVIEW & SCRUTINY AND AUDIT COMMITTEES.



- 5.1 At the Full Council meeting on the 17 November 2022, Council agreed to approve the programme of meetings for 2023 to May 2024 and agreed amongst other recommendations that the Constitution Working Group considers recommending a change to the Council's Constitution so that meetings of Overview and Scrutiny and Audit Committee should have a maximum duration of three hours.
- 5.2 At the request of the Chair of Overview and Scrutiny, the item was deferred from the Constitution Working Group to allow the Overview and Scrutiny and Audit Committees the opportunity to review the proposals. Audit Committee considered this at their meeting on 26 January. The Chair of Overview and Scrutiny requested that the Overview and Scrutiny Committee consider this matter at its informal work planning session on 1 March 2023. Members at that meeting debated the issue whilst having regard to the emerging scrutiny work plan for the coming municipal year. At both meetings, members were supportive of making changes to future meeting lengths being cognisant of the following points:
- Effective from the new municipal year, Overview and Scrutiny, and Audit Committee meetings will commence at 5pm;
 - Travel times for members particularly during inclement weather;
 - Diary clashes with other evening commitments such as town & parish council meetings;
 - Accessibility of meetings for members with day-time commitments.
- 5.3 The Constitution (Part D, paragraph 9) currently provides that all meetings, with the exception of Planning and Licensing Committee meetings, are subject to a rule whereby the maximum duration of one sitting of a meeting will be for four hours. Meetings at the time limit can either be adjourned or the business rescheduled to a subsequent meeting. At the conclusion of an item of business, after three hours have elapsed, a vote will be taken by a simple majority to continue for the final hour.
- 5.4 The proposed new wording to Procedure Rule 9 in Part D of the Constitution is to read as follows:
- 5.5 *“The maximum duration of one sitting of a meeting (excluding any comfort breaks) will be as shown below. When the time limit is reached the current agenda item will be completed in the normal way. Any subsequent business will fall or may be reschedule to a later meeting or the meeting may be adjourned (to conclude on a different date).*
- Council – four hours**
- Cabinet – four hours**
- Audit Committee – three hours*
- Overview and Scrutiny Committee – three hours*
- Planning and Licensing Committee – no maximum duration*



**For Council and Cabinet, at the conclusion of an item of business, after three hours have elapsed, a vote will be taken by a simple majority to continue for the final hour*.*

6. ALTERNATIVE OPTIONS

- 6.1 Members are advised to adopt the recommendations for the reasons outlined in the main body of the report.

7. FINANCIAL IMPLICATIONS

- 7.1 There is an annual allowance of £1,000.00 each for independent members on Audit Committee which is included in the Members' Allowances Scheme and can be accommodated within existing budgets.

8. LEGAL IMPLICATIONS

- 8.1 Full Council, through its responsibilities as set out in the Constitution, recognises the requirement to observe specific requirements of legislation and the general responsibilities placed on the Council by public law, but also accepting responsibility to use its legal powers to the full benefit of the citizens and communities in its area.
- 8.2 Section 5(1) Local Government and Housing Act 1989 requires the Council to appoint an Officer as the Council's Monitoring Officer and gives that Officer personal responsibility for a number of functions as set out in the Protocol.

9. EQUALITIES IMPACT

- 9.1 This will be considered as part of the selection process.

10. BACKGROUND PAPERS

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

- Full Council 16.11.2022, report titled "Draft Programme of Meetings 2023-24"
- Full Council: 18.01.2023, report titled "Peer Review".
- Audit Committee: 26.01.2023, report titled "Peer Review – Governance Recommendations & Action Plan"
- Audit Committee 26.01.2023 and Overview and Scrutiny (work planning session) 01.03.2023, report titled "Referral from Council - Time limit for Overview and Scrutiny Committee and Audit Committee"
- Council's Constitution (available on the Cotswold.gov.uk website).



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- CIPFA Guide: “The audit committee member in a local authority” (2022)

10.2 These documents will be available for inspection online at www.cotswold.gov.uk or by contacting democratic services democratic@cotswold.gov.uk for a period of up to 4 years from the date of the meeting.

(END)