

## Part A – Summary and Explanation

### Glossary of Terms<sup>1</sup>

Cabinet	A number of elected Council members appointed by the Leader of the Council and who, together with the Leader, act as the body which is responsible for most formal decisions.
Cabinet Members	A councillor who has been appointed by the Leader of the Council as a Member of the Cabinet. Cabinet Members remain in office until the next election unless they resign, are suspended, are no longer a member of the Council or are removed from office by the Leader.
Call-in	The consideration by Overview & Scrutiny committee of a decision made, but not yet implemented, which may result in the recommendation that the decision be reconsidered by the person or persons who made that decision or that Full Council be recommended that the decision be reconsidered.
Chair	The person appointed to preside at meetings of any properly constituted body.
Chief Executive	The officer with overall management and operational responsibility (including overall management responsibility for all officers). This post holder is also the “Head of Paid Service” as appointed in accordance with Section 4 of the Local Government and Housing Act 1989.
Chief Finance Officer	The officer appointed by the Council under Section 151 of the Local Government Act 1972, to exercise the proper administration of the Council’s financial affairs, with specific responsibilities under the Local Government Act 1972 (currently the Deputy Chief Executive).
Clear working day	A clear working day excludes Saturday, Sunday and bank and public holidays (and in the case of committee agenda excludes the date of publication of the agenda and the date of the meeting).
Committee	A committee of the authority.
Council	Cotswold District Council.
Exempt	Information to be considered at a Council or Committee meeting in respect of which the public may be excluded (as defined by Schedule 12A of the 1972 Act (as amended). Categories of exempt information are: 1. Information relating to any individual.

<sup>1</sup> Glossary of Terms approved by Full Council on 14 July 2021

	<p>2. Information which is likely to reveal the identity of an individual.</p> <p>3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).</p> <p>4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p> <p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p> <p>6. Information which reveals that the authority proposes –  (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person or task  (b) to make an order or direction under any enactment.</p> <p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.</p>
Executive Functions	Functions which may be discharged by the Leader, or delegated by the Leader to the Cabinet, a committee of the Cabinet, an individual member of the Cabinet, an officer or another local authority.
Forward Plan	A plan to be published by the Cabinet and updated on a monthly basis in accordance with Regulations 13 and 14 of the 2000 Regulations, setting out the Key Decisions which the Cabinet plans to take over the coming months.
Head of Paid Service	The officer appointed in accordance with Section 4 of the Local Government and Housing Act 1989, i.e. The Chief Executive.
Key Decision	<p>A decision which is significant. This Council has previously determined the definition of a “key decision”, which is:</p> <ul style="list-style-type: none"> <li>(i) any Cabinet decision which requires a budget expenditure, or generates savings, of £150,000 or more;</li> <li>(ii) any executive decision where the outcome will have a significant impact on communities living or working in an area comprising two or more District Wards.</li> </ul>
Leader of a Political Group	The leader of a political group as defined in the Local Government (Committee etc.) Regulations 1990.
Leader	Such person as the Council elects to be the Leader with powers outlined in the Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007.

Local Choice Functions	As defined by Regulation 3 and Schedule 2 to the Local Authority (Functions and Responsibilities) (England) Regulations 2000, where the authority has decided which functions are to be the responsibility of the Executive.
Meeting	A meeting of the Council, Cabinet, a committee or sub-committees or task groups as the case may be.
Member	In relation to the Council, an elected Councillor; in relation to any other body, a person appointed as a member of that body, whether or not entitled to vote.
Monitoring Officer	The officer appointed by the Council in accordance with Section 5 of the Local Government and Housing Act 1989, to promote and maintain high standards of ethical conduct and ensure lawfulness and fairness of decision making or, if they are unable to act owing to absence or illness, the person nominated as their deputy).
Overview and Scrutiny Committee	Committee or Committees of the Council established in accordance with Section 21 of the Local Government Act 2000, to assist in the development of policy and to review and scrutinise the decisions made by the Cabinet, committees and council officers (there is currently one Overview and Scrutiny Committee which also acts as the Council's Crime and Disorder Committee).
Political Balance Rules	As defined in the Local Government and Housing Act 1989 relating to proportional representation of political groups; on committees, sub-committees and certain other bodies.
Political Groups	Any two or more councillors notifying the Monitoring Officer in the appropriate form is considered a political group for the purpose of seat allocation.
Portfolio Holder	A Cabinet Member with a specific and detailed area of responsibility, and who may be delegated to take executive decisions.
Proper Officer	An officer, appointed in accordance with the terms of Section 270(3) of the Local Government Act 1972, to carry out specified actions of the performance of certain specified duties on behalf of the Council.
Regulatory Committee	A committee undertaking quasi-judicial functions of the Council (such as Planning & Licensing Committee).
Task & Finish Group	A small working group of interested elected members who review specific issues of concern to Overview and Scrutiny in depth.
The 1972 Act	The Local Government Act 1972.
The 1989 Act	The Local Government and Housing Act 1989.
The 2000 Act	The Local Government Act 2000.
The 2007 Act	The Local Government and Public Involvement in Health Act 2007.
Vice-Chair	The person appointed to preside in the absence of the Chair, at meetings of any properly constituted body.

## The Councils Constitution

Section 37 of the Local Government Act 2000 requires Cotswold District Council to maintain a Constitution. This summary is intended to explain the purpose of the Constitution and help the reader find their way around it.

This Constitution sets out how the Council operates, how decisions are made and the procedures that are followed to ensure that these are efficient, transparent and accountable to local people.

Some of these processes are required by the law, whilst others are a matter for the Council to choose.

The Constitution is divided into 16 Articles that set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in the [procedure rules \(Part D\)](#) and [codes and protocols \(Part E\)](#).

## What is in the Constitution

Article 1 of the Constitution commits the Council to provide clear leadership to the community and to operate efficient, transparent and accountable decision making processes. Articles 2-15 of the Constitution explains the rights of citizens and how the key parts of the Council operate. These are:

- Members of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Council (Article 4)
- Chairing the Council (Article 5)
- The Cabinet (Article 6)
- The Overview and Scrutiny Committee (Article 7)
- The Audit and Governance Committee (Article 8)
- The Planning and Licensing Committee (Article 9)
- Area Committees and Forums (Article 10)
- Joint Arrangements (Article 11)
- Officers (Article 12)
- Decision Making (Article 13)
- Finance, Contracts and Legal Matters (Article 14)
- Review and Revision of the Constitution (Article 15)

- Suspension, Interpretation and Publication of the Constitution (Article 16)

## **How the Council Operates**

The Council comprises 34 Councillors, elected every four years. The overriding duty and accountability of Councillors is to the whole community in the Cotswold District, but they have a special responsibility to their constituents in their Ward, including those who did not vote for them.

Councillors have to agree to follow a Code of Conduct to ensure high standards in the way they undertake their duties. The Monitoring Officer trains and advises them on the Code of Conduct and, where there may be a breach, will investigate and take the necessary action. The Monitoring Officer is supported by an Independent Person and, if necessary, the Audit and Governance Committee on Code/standards matters.

All Councillors meet together as the Council. Meetings of the Council are normally open to the public. Here, Councillors decide the Council's overall policies and set the budget each year; and settle the Council's main plans, like the Corporate Strategy and Plan.

## **How Decisions are made**

The majority of decisions are made by the Cabinet (sometimes known as the Executive). The Cabinet is made up of the Leader of the Council and up to nine other individual Members of the Cabinet known, with the Leader, as Portfolio Holders (or Cabinet Members). Portfolio Holders also have individual decision-making powers, within their respective portfolio areas.

A Cabinet's role is principally to formulate detailed policies and proposals for the delivery of services within the policy and budgetary framework that is set by the Council.

When key decisions are to be discussed or made, these are published in the Cabinet's Forward Plan, insofar as they can be anticipated. The Cabinet has to make decisions which are in line with the Council's overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

The various Committees also have decision-making powers, set by the Council; as do Officers, operating within approved Scheme of Delegation.

Meetings of the Council, Cabinet and Committees are, by law, publicised well in advance and are open to the public except where personal or confidential matters are being discussed.

## **The Overview and Scrutiny Committee**

In view of the importance of a Cabinet's role and its very extensive powers, its work is required by law to be subject to monitoring by at least one overview and scrutiny committee.

The Council currently has one Overview and Scrutiny Committee which, in addition to this Cabinet monitoring role, can support the work of the Cabinet, the Planning and Licensing

Committee and the Council as a whole. It allows citizens to have a greater say in Council matters by holding investigations/inquiries into matters of local concern. These can lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery.

The Overview and Scrutiny Committee also monitors the decisions of the Cabinet and the Portfolio Holders. It can “call-in” a decision that has been made but not yet implemented. This enables the Committee to consider whether the decision made is appropriate given all relevant information (but not because it would have made a different decision). It may recommend that the Cabinet, a Portfolio Holder or the Council should reconsider the decision. (It should be noted that Cabinet does not have to change its decision following the recommendation of the Overview and Scrutiny Committee).

The Committee can also assist the Cabinet, the Portfolio Holders and the Council in the development of policy of forthcoming decisions.

## **The Audit and Governance Committee**

The Audit and Governance Committee is another ‘scrutiny-style’ committee, which is responsible for ensuring that the Council complies with its audit duties and responsibilities, in accordance with the Accounts and Audit Regulations. This role covers internal and external audit, risk management, matters relating to the Council’s Statement of Accounts, and corporate governance.

In addition the Audit and Governance Committee is responsible for promoting and maintaining high standards of conduct and for determination of complaints regarding conduct of Members.

## **Performance and Appointments Committee (Statutory Officers)**

The Performance and Appointments Committee (Statutory Officers) (comprising of 7 Councillors, appointed at the Annual Council Meeting) is responsible for:

- the salaries and contractual terms and conditions of the Chief Executive/Head of Paid Service and the Council’s other statutory officers (Chief Finance Officer and Monitoring Officer);
- retirement/redundancy issues relating to the Chief Executive/Head of Paid Service; and
- any grievance and/or disciplinary matters in respect of the Chief Executive/Head of Paid Service.

A sub-group of the Panel will also conduct the appraisal of the Chief Executive/Head of Paid Service.

## **Area Committees or Forums**

The Council does not currently have Area Committees or Forums but may choose to create these in the future, following public consultation on their number, composition, function and delegated financial authority.

## The Council's Staff

The Council employs staff to give advice, implement decisions and manage the day-to-day delivery of its services. However, the Council acknowledges that upon the transfer of services to Publica Group (Support) Ltd ('Publica') on 1 November 2017, Publica became the main body with responsibility for the employment of staff - see below.

There are three officers which statute states must be appointed to the staff of the Council, namely the Head of Paid Service, the Chief Finance Officer (section 151 Officer) and the Monitoring Officer. These officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely; and also have special protection of employment rights.

A [Member/Officer Protocol, set out in Part E](#) of this Constitution, governs the relationships between Members of the Council and Officers, rooted in mutual respect and trust.

## Publica Group (Support) Limited

Vires - The Council has exercised its powers under section 1 of the Localism Act 2011 to establish Publica Group (Support) Limited ("Publica").

Ownership & purpose - Publica is a company limited by guarantee (company number 10580349) which is jointly owned by West Oxfordshire District Council, Cotswold District Council, Forest of Dean District Council and Cheltenham Borough Council ("Members"). Publica has been established as a vehicle through which services are delivered to the Members which jointly own it.

Objects - Publica's objects are recorded in its Articles of Association, and are to provide services to public bodies and other customers (whether public bodies or not) as the Members consider appropriate (but subject to the proviso that the provision of services to non-public bodies shall always remain incidental to the primary aim of providing services to public bodies).

Control - The four Councils exercise control over Publica by both their membership of it and through the directors they appoint to manage it.

Members' Agreement - The Members have entered into a Members' Agreement which sets out more detailed operational arrangements and the matters which are reserved for determination by each Member. In general, these reserved matters are key structural and high-level operational matters rather than the "day-to-day" business of the company, which is the responsibility of Publica's directors.

Directors - Publica's directors are appointed by the Members. Publica's directors hold a fiduciary duty to Publica, but at the same time are also accountable to the Member(s) which appointed them, and as such owe duties to both the Council and Publica.

Independent legal entity - It is important to recognise that Publica is an independent legal entity which is entirely separate from the Council. Publica has its own identity and responsibilities, and so cannot be treated as simply another internal department of the Council. As a Council owned company, Publica is required to comply with Company law, its Articles of Association and its Members Agreement. Publica is not governed by the Council's Constitution.

Service Contract - The Council and Publica have entered into a bi-lateral Service Contract which (amongst other things) details the services the Council requires from Publica and terms of payment

Teckal - Publica is a “Teckal” company within the meaning of Regulation 12 of the Public Contracts Regulations 2015. As such it is required to carry out more than 80% of its activities for its Members. It also operates with Mutual Trading Status. The practical effect of the “Teckal” exemption is that the Council may award contracts to Publica without the need to comply with the full requirements of the Public Contract Regulations.

Officers and Staff - Notwithstanding that the Council may employ such officers as it considers necessary to undertake the day-to-day operations arising out of the functions for which it is responsible, the Council acknowledges that on the transfer of services to Publica, Publica became the main responsible body for the employment of staff.

Statutory Officers - There are three officers which by law must be appointed to the staff of the Council. They are:

- The Head of Paid Service;
- The Chief Finance Officer (Section 151 Officer); and
- The Monitoring Officer.

These officers have special protection of employment rights.

Council Functions - Council services are divided into delegable and non-delegable functions. Delegable functions may be carried out by Publica on the Council’s behalf. Non-delegable functions may only be carried out by the Council. Whilst Publica may assist the Council with service and policy development the Council retains responsibility for non-delegable statutory duties as well as its political processes for determining and monitoring Council policies and services.

Council Decisions - Council decisions continue to be taken by elected members, either through formal governance processes or as delegated decisions by Council officers. There is also a group of employees with joint employment contracts who are able to take some of the delegated decisions as outlined in the Council’s Constitution. Publica itself does not take any decisions for the Council.

Joint Employment Contracts - The contracts of employment of employees with joint employment contracts make it clear that in relation to the specific statutory functions listed they are solely employed by the Council. In addition, the contract of employment also makes it clear that when exercising statutory functions on behalf of the Council the employee is directly accountable to the Council’s Chief Executive or another employee with a joint employment contract who is directly accountable to the Chief Executive.

Conflicts of interest - As a result of the fact that the Council and Publica are separate legal entities, when they contact, or otherwise interact, with each other, care must be taken to ensure that conflicts of interest are avoided whenever possible. When Council officers are asked to provide advice in a situation where the interests of the Council and Publica are not



entirely aligned, individual officers should be assigned to advise or represent one side or the other, but should not act for both.

## Citizens' Rights

Citizens have a number of rights in connection with their dealings with the Council. These are set out in more detail in [Article 3](#). Some of these are legal rights, while others depend on the Council's own processes. The local Citizens Advice Bureau can advise on individuals' legal rights. Citizens have the right to:

- vote at local elections, if they are registered;
- contact their local Councillor about any matters of concern to them;
- obtain a copy of the Constitution (accessible on the Council's website [www.cotswold.gov.uk](http://www.cotswold.gov.uk)). A "hard copy" can be supplied but there will be a charge for this
- attend meetings of the Council, the Cabinet and Committees except where, for example, personal or confidential matters are being discussed;
- inspect agendas and reports except where, for example, a report has been written about a confidential matter;
- petition to request a referendum on a Mayoral form of executive;
- participate in the Council's question time and ask questions at Cabinet and Committee Meetings - See [Council Procedure Rules](#)
- petition the Council on a particular matter - see [Council Procedure Rules](#);
- initiate a 'Councillor Call for Action' in respect of a matter relating to an individual Ward where you feel that the Council should take action;
- find out from the Cabinet Forward Plan (published monthly), what major decisions are to be discussed by the Cabinet or decided by the Cabinet or Officers and when;
- complain to the Council under its internal complaints process;
- complain to the Local Government and Social Care Ombudsman if they think the Council has not followed its procedures properly (although they should only do this after using and exhausting the Council's own complaints process);
- complain to the Council's Monitoring Officer if they have evidence which they think shows that a Councillor has not followed the Council's Code of Conduct for Members; and
- inspect the Council's accounts and make their views known to the external auditor.

A statement of the rights of citizens to inspect agendas and reports and attend meetings is set out in the [Access to Information Rules contained within this Constitution \(Part D\)](#).