



CONSTITUTION COMMITTEE

TIME: 1.00 pm
DATE: Monday, 14 January 2019
VENUE: Meeting Room 1 - Shire Hall, Gloucester

A G E N D A

ITEM	TOPIC	CONTACT
1	Apologies for absence To note any apologies for absence.	Simon Harper
2	Minutes (Pages 1 - 4) To confirm and sign the minutes of the meeting held on 15 October 2018.	Simon Harper
3	Public Questions To answer any written public questions about matters which are within the powers and duties of the Committee. The closing date for receipt of questions was 10am on Monday, 7 January 2019.	Simon Harper
4	Members' Questions To answer any written members' questions. The closing date for receipt of questions was 10am on Monday, 7 January 2019.	Simon Harper
5	Independent Remuneration Panel (Pages 5 - 10) Richard Blamey, Chair of the Independent Remuneration Panel, to present the report.	Richard Blamey
6	Friendly Amendments (Pages 11 - 14) Following the request for further information at the last meeting, to consider the attached report.	Jane Burns

NOTES

- (a) **MEMBERSHIP** –Cllr Mark Hawthorne MBE, Cllr Colin Hay, Cllr Paul Hodgkinson, Cllr Nigel Moor, Cllr John Payne, Cllr Lynden Stowe, Cllr Ray Theodoulou, Cllr Lesley Williams MBE and Cllr Will Windsor-Clive
- (b) **DECLARATIONS OF INTEREST** – Members requiring advice or clarification about whether to make a declaration of interest are invited to contact the Monitoring Officer: Jane Burns ☎01452 328472, email jane.burns@gloucestershire.gov.uk prior to the commencement of the meeting.
- (c) **INSPECTION OF PAPERS AND GENERAL QUERIES** - If you wish to inspect reports relating to any item on this Agenda or have any other general queries about the meeting, please contact Simon Harper, Head of Democratic Services ☎: 01452 324202, email simon.harper@gloucestershire.gov.uk

EVACUATION PROCEDURE - in the event of the fire alarms sounding during the meeting please leave as directed in a calm and orderly manner and go to the assembly point which is outside the main entrance to Shire Hall in Westgate Street. Please remain there and await further instructions.



CONSTITUTION COMMITTEE

MINUTES of the meeting of the Constitution Committee held on Monday, 15 October 2018 at 3.00 pm.

Membership:

Cllr Mark Hawthorne MBE (Chair)	Cllr Rachel Smith
Cllr Colin Hay	Cllr Lynden Stowe
Cllr Paul Hodgkinson	Cllr Ray Theodoulou
Cllr Nigel Moor	Cllr Will Windsor-Clive

Apologies: Cllr John Payne

68. MINUTES

The minutes of the meeting held on 11 June 2018 were confirmed and signed as a correct record.

69. PUBLIC QUESTIONS

No public questions had been received.

70. MEMBERS' QUESTIONS

No questions from members had been received.

71. OPEN CONTRACTING ADVISORY GROUP

Cllr Ray Theodoulou, Chair of the Open Contracting Advisory Group, presented a report setting out the findings and recommendations of the group. He explained that a motion regarding open contracting was presented to the Council on 7 December 2016. This was referred to the Constitution Committee on 16 January 2017. The Constitution Committee agreed that an advisory group should be established after the May 2017 election to assess the implications of the Council adopting open contracting principles.

Minutes subject to their acceptance as a correct record at the next meeting

He thanked the other members of the group, Phil Awford, Iain Dobie, Rachel Smith and Lynden Stowe, for their work over the course of the review.

The group was fortunate in being able to speak to four leading figures on public sector contracting. These were:

- Andrew Bowen, Head of Transparency in Procurement at the Cabinet Office
- Gavin Hayman, Executive Director at the Open Contracting Partnership
- Al Collier, Head of Procurement at Norfolk County Council
- Liz Fitzsimons, Legal Partner at Eversheds Sutherland

Members of the advisory group had asked questions of them on a range of issues including their understanding of open contracting, how well it had been received in the private sector, balancing openness against commercial confidentiality and making decisions on redacting contracts. Officers from the Commercial, Legal and Information Management teams had supported the review by providing information on current practices at the Council.

With these factors in mind, the advisory group had made recommendations relating to:

- Compliance with the Local Government Transparency Code 2015
- Protecting public services
- Contract spend software
- Providing more opportunities for small and medium-sized enterprises to do business with the Council.
- Managing compliance costs and publishing contracts
- Raising awareness of procurement practices amongst members and officers.
- Contracts with schedules of prices

Cllr Theodoulou noted that for a number of the recommendations, the advisory group had requested that a report be made to the Audit and Governance Committee as it was responsible for ensuring that appropriate arrangements were in place.

Answering questions, Cllr Theodoulou explained that a review of the process around drafting contracts would hopefully result in the need for less redaction when requests were made to see the content of contracts. He said that what should be regarded as sensitive or confidential in a contract should be discussed with the firms tendering for the supply of a particular service. Council officers would be expected to challenge firms on any information they did not wish to be disclosed as part of the contract negotiation process.

Cllr Rachel Smith, who had been a member of the advisory group, stated that she was pleased with the content of the report but she was disappointed that it had not been possible to speak to any of the Council's suppliers. She said that the Ministry of Defence already had a process in place to ensure that commercially sensitive and confidential information included in contracts was agreed at the outset. This avoided any issues arising later on what could and could not be disclosed. She noted that there was nothing in the Constitution that prevented the Council from following open contracting principles.

Cllr Theodoulou advised that a number of Council suppliers had been approached to give evidence to the advisory group but they were reluctant to get involved. He stated that the group had spoken to four leading people on procurement and he believed that members had received the information they needed. He said that it was not appropriate to disclose the names of the firms who had been approached to give evidence.

Cllr Lynden Stowe, who had also been a member of the advisory group, said that he had enjoyed being involved in the review and he fully supported the recommendations.

RESOLVED that the Recommendations 1 to 7 in section 4 of the report be accepted.

72. FRIENDLY AMENDMENTS

Cllr Paul Hodgkinson raised an issue concerning a possible inconsistency in how 'friendly' amendments were approved at full Council meetings. In particular, he referred to how the Chairman had refused a friendly amendment that the original proposer and seconder had agreed to include as part of their motion but later in the meeting had accepted an amendment as friendly that had the support of the Council. Cllr Hodgkinson proposed that there be a change to the constitution to set out how friendly amendments should be dealt with at future Council meetings.

Cllr Mark Hawthorne, the committee chair, believed that this issue depended on how 'friendly' was defined. For example, was it that only the proposer and seconder needed agree to the amendment or did full Council need to indicate support for the amendment? He asked that Democratic Services work with the Political Research Assistants and undertake research on the practice followed by other councils.

73. REFERRALS TO SCRUTINY COMMITTEE

Cllr Colin Hay suggested that there should be a mechanism for a motion to be referred to scrutiny without the need for a debate at Council. He said that with limited time available for motions at Council meetings there were occasions when there was not enough time to consider all the motions on the agenda. He believed that with the agreement of the Chairman and political group leaders particular motions could be identified for referral to scrutiny at the Council briefing which was held the week before Council meetings. If there was sufficient time at the Council meeting there would still be an opportunity for debate but there was a fallback position that allowed motions to be referred to scrutiny without debate.

Cllr Mark Hawthorne, the committee chair, recognised the concerns raised by Cllr Hay but at the same time he was anxious that the scrutiny work programme was not dominated by items identified at full Council. Another member noted the importance of allowing each scrutiny committees to manage its own work programme.

The committee agreed that the matter should be examined in more detail through the scrutiny review being led by the Overview and Scrutiny Management Committee.

74. MONITORING OFFICER CHANGES TO THE CONSTITUTION

RESOLVED TO RECOMMEND TO THE COUNCIL that the changes to the Constitution made by the Monitoring Officer relating to the Employee Code of Conduct and changes to the Cabinet be ratified.

The meeting ended at 3.40pm

CHAIR

Independent Remuneration Panel

Constitution Committee - 14 January 2019

1 Introduction

1.1 This report has been produced by an Independent Remuneration Panel (IRP) made up of members drawn from the local community. The Panel is independent of the Council and its role is to make recommendations on the level of allowances paid to councillors. The object being to promote access to all in our diverse community who may wish to stand for election to serve that community via the democratic process.

1.2 The members of the Panel:

- Richard Blamey Former head of pensions with a large multi-national industrial gas company. Currently a pensions trustee and appointed chair of the Tewkesbury IRP. Also serves as treasurer and member of his local parish council.
- Philip Lowery A former adviser to the Social Services Committee. Member of the IAG to the Gloucestershire Constabulary.
- Fiona Miles Former Clinical Nurse Specialist in Respiratory Medicine. Former Treasurer and Secretary to play groups and the Royal College of Nursing Specialist Group. Former Trustee of Gloucestershire Chest Fund and former school governor. Involved in Gloucestershire Girl Guiding and a parish councillor.
- Quentin Tallon Former Secretary of Cheltenham and District TUC. Involved with the voluntary sector.

1.3 The Panel's recommendations are in keeping with the following statutory provisions:

1.3.1 Local Government and Housing Act 1989 and Local Government Act 2006

1.3.2 The Local Authorities (Members' Allowances) (England) Regulations 2003 ('The Allowances Regulations')

2 Review process

- 2.1 The Panel met on 26 October 2018 to receive an update on Council developments and consider allowances paid elsewhere. Interviews with members were held on 14 November 2018 and 17 December 2018. A meeting was held on 20 December 2018 to consider their recommendations for 2019-20.
- 2.2 The interviews provided a valuable insight into the work of members. The Panel welcomed the opportunity to speak to a range of members including Group Leaders and Cabinet Members.

3 Allowances

- 3.1 Last year, the Council accepted the Panel's recommendation to increase the Basic Allowance by 1% and adjust the Special Responsibility Allowances for committee chairs and group leaders from 1 April 2018. The current allowances are shown at Appendix A.
- 3.2 At the request of the Panel, Democratic Services undertook a review of allowance schemes for all county councils in England. On examining the data, it remains clear that the Special Responsibility Allowance of the Leader of Council is well below the majority of other county council leaders.
- 3.3 These concerns were raised during last year's review but no formal recommendations were made due to the panel's understanding that the Leader of the Council was reluctant to accept an increase. At the meeting of the Constitution Committee held on 15 January 2018, a request was made to the Panel that a formal figure be included as part of the 2018 review.
- 3.4 Accordingly, the panel identifies that the average special responsibility allowance for the Leader of Council across the 27 county councils is £33,500. It is clear from the Panel's conversations with members from across the political divide, over a number of years, that they believe that the Leader's allowance should be brought in line with other councils.
- 3.5 Panel members recognise the level of responsibility of the Leader of Council in leading an organisation of the size of Gloucestershire County Council with an annual budget in excess of £400 million and with a workforce of more than 3,000 people. Arguably, the role has a higher public profile than any other elected figure in Gloucestershire but the level of allowance fails to reflect this fact.
- 3.6 In making our recommendations, It is important that Allowances are set at the correct level to reflect the level of responsibility for each position. The panel

would like to remind members that they can choose to donate all or part of their allowance to a charity via suitable Gift Aid arrangements.

- 3.7 The staff pay settlement agreed this summer was 2% effective from 1 April 2018 and the Panel believe that Members' Allowances should be similarly increased.

4 Recommendations

- 4.1 To increase the Basic Allowance from £10,100 to £10,300 (2%) for the 2019-20 financial year.
- 4.2 To highlight [and increase] the Special Responsibility Allowance for the Leader of the Council to £33,500.
- 4.3 To increase all other Special Responsibility Allowances by 2% in line with the recommendation for the Basic Allowance.
- 4.4 To note the revised Members' Allowances Scheme for 2019-20 at Appendix B to the report.

Richard Blamey

Chairman, Independent Remuneration Panel for Gloucestershire County Council

Allowances for 2018-19

Basic Allowance payable to all 53 members: £10,100

Special Responsibility Allowances (SRA)	Positions	Allowance
Leader of the Council	1	£27,570
Group leader with 5 or more members (not Leader of the Council)	2	£ 6,000
Group leader with less than 5 members (0.2 per group member – min 2 members)	1	£ 2,400
Cabinet member	9	£18,380
Scrutiny chair	5	£ 6,000
Audit and Governance Committee chair	1	£ 6,000
Planning Committee chair	1	£ 6,000
Pensions Committee chair	1	£ 6,000
Chair of Council	1	£ 9,190
Vice-chair of Council	1	£ 2,750
Fostering Panel member	1	£ 5,510

APPENDIX B

Allowances for 2019-20

Basic Allowance payable to all 53 members: £10,300

Special Responsibility Allowances (SRA)	Positions	Allowance
Leader of the Council	1	£33,000
Group leader with 5 or more members (not Leader of the Council)	2	£ 6,120
Group leader with less than 5 members (0.2 per group member – min 2 members)	1	£ 2,450
Cabinet member	9	£18,750
Scrutiny chair	5	£ 6,120
Audit and Governance Committee chair	1	£ 6,120
Planning Committee chair	1	£ 6,120
Pensions Committee chair	1	£ 6,120
Chair of Council	1	£ 9,380
Vice-chair of Council	1	£ 2,800
Fostering Panel member	1	£ 5,620

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Friendly Amendments

Constitution Committee - 14 January 2019

1 Introduction

- 1.1 At the meeting of the Constitution Committee held on 15 October 2018, Cllr Paul Hodgkinson raised concerns regarding inconsistency in the use of friendly amendments and suggested that the position be made clear in the Constitution. The inconsistency relates to who needs to consent to a 'friendly amendment' – was it that only the proposer and seconder that needed agree to the amendment or did full Council need to indicate support for the amendment? Cllr Mark Hawthorne, the Chair of the Constitution Committee, requested that Democratic Services work with the Political Research Assistants and undertake research on the practice followed by other councils.
- 1.2 As part of the research, the constitutions of the six district councils in the county and neighbouring counties were reviewed along with local government legal reference guides Robert's Rules of Order and Knowles on Local Authority Meetings. Requests for information were also posted on the Association of Democratic Services Officers (ADSO) and Law in Local Government forum.

2 Research findings

- 2.1 Robert's Rules of Order indicates that the motion belongs to the council once it is put forward and a friendly amendment should go through the normal mechanisms of approval, by council. However, it does make an allowance for uncontroversial issues where the chair can ask if anyone objects to the amendment, and if none do, the amendment is accepted without debate or vote.
- 2.2 Knowles on Local Authority Meetings makes no mention of friendly amendments but does mention an alteration to a motion:
 - (a) A member may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
 - (b) A member may alter a motion which he/she has given notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

- 2.3 Gloucestershire County Council follows similar rules to those outlined above. Procedural Standing Order (PSO) 12.7 is the section concerned with alterations to motions. This states that a member requires the consent of Council 'agreed without discussion' to make an alteration to a motion they have given with notice. If they are altering a motion to which they have not given notice, then they require the consent of the seconder and full Council.
- 2.4 The Worcestershire County Council constitution does not have a specific reference to friendly amendments but it does have different rules to Gloucestershire County Council in dealing with them when they are put forward. This is supported by a post on the Law in Local Government Forum. Largely, it depends on whether or not the motion is given with notice or not. If notice is given, their constitution requires that either the alteration is made, in writing and signed by all the councillors who made the motion, to Head of Legal and Democratic Services three working days before the meeting, or that the councillors who signed the motion agree to the alteration whilst present at Council. This is an example of a council who seems to consider that the motion remains the property of the proposer and the seconders as opposed to being owned by the council as a whole. If notice is not given for the motion, then it requires consent of the seconder alone if the alteration is one that could be an amendment.
- 2.5 The Oxfordshire County Council constitution has no specific mention of friendly amendments but has the same procedural standing orders regarding them as Gloucestershire County Council.
- 2.6 The Wiltshire County Council constitution has no specific mention of friendly amendments either but does differentiate between motions given with and without notice. If a motion is made with notice, it requires the full consent of Council. If the motion is made without notice, it requires both the consent of the seconder and the meeting as a whole.
- 2.7 Norfolk County Council advised that whenever an amendment is put forward, the chair will ask the proposer if they would like to accept it. If they do, it becomes the substantive motion from that point. If they do not accept it, then the amendment goes through the normal process of debate and voting.
- 2.8 None of the constitutions of the six district councils make a specific reference to friendly amendments. Each Council requires the consent of council for the proposer to make alterations to the motion.
- 2.9 Bath and North East Somerset Council operate a system of friendly amendments. However, it only applies to minor adjustments to the wording of the motion and members are permitted to raise the question of whether the proposed friendly amendment meets this requirement. If it does satisfy the

requirement, the friendly amendment only requires the agreement of the proposer and the seconder and not the rest of the council.

- 2.10 The London Borough of Tower Hamlets operates a simple system whereby they simply ask the proposer if they are happy with the amendment and, if no one raises an objection, then it is adopted. The wording of their constitution is essentially the same as Gloucestershire County Council but it does specify that, in the event that there is no objection, this is known as a friendly amendment.
- 2.11 Sefton Metropolitan Borough Council makes specific reference to a friendly amendment process but not does specify exactly how the amendment is approved. The implication seems to be it relies solely on the proposer to 'accept' the friendly amendment.
- 2.12 The Cambridgeshire County Council constitution lays out a procedure that is the same as Gloucestershire County Council.

3 Summary and options

- 3.1 In summary, there are very few references to friendly amendments across the councils researched. Only Tower Hamlets and Sefton make specific reference to friendly amendments in their constitutions. Three other councils operate systems for friendly amendments. Bath and North East Somerset, Worcestershire and Norfolk County Council all have procedures that allow changes to motions that do not require the consent of Council.

- 3.2 There are four potential options

Option 1: To leave Gloucestershire County Council's constitution as it is. The procedure is clear: an alteration requires the consent of full council for it to become a part of the substantive motion.

Option 2: To consider a minor change to the constitution to clarify that in the event that a minor alteration is proposed and there is no active objection from another member then it is known as a friendly amendment and adopted as the substantive motion.

Option 3: To consider a change to the constitution to codify friendly amendments but specify that it applies only to minor alterations, such as wording changes. The constitution would be amended to clarify that only the proposer, or the proposer and the seconder, have to agree on the proposed minor amendment for it to become part of the substantive motion.

Option 4: To consider a change to the constitution to codify friendly amendments but have no conditions on when it can apply. The constitution

would be amended to clarify that only the proposer, or the proposer and the seconder, have to agree on the proposed amendment for it to become part of the substantive motion.