

CONSTITUTION COMMITTEE
16th JANUARY 2009

AGENDA ITEM 6

Amendments to the Constitution arising from

- A. The Restructuring of Cabinet Roles and Responsibilities**
- B. Changes made by the Director of Law and Administration under his Delegated Powers**

Report of the Assistant Director of Law & Administration

- A. Proposals for restructuring the Cabinet, to take effect immediately, have been received from the Leader of the Council. These are that:-
 - there should be a Lead Cabinet Member for Communications, the role to be held jointly with that of Cabinet Member for Services to Children and Young People.
 - there should be a Lead Cabinet Member for Community Safety.
 - the role of the Lead Cabinet Member for Environment will change and will cover Environment and Economy, with overall responsibility for environmental, transportation, waste and planning functions. The Lead Cabinet Member – Environment will take on responsibility for waste management.
 - the Cabinet Member for Environment and Planning will take responsibility for waste planning and for planning in general, as well as the other specific areas listed.

The pages of the Constitution showing these amendments and the consequent changes in responsibility are attached as Appendix A1, and the pages with the amendments accepted as Appendix A2.

- B. Under his delegated powers, the Director of Law and Administration has authorised various changes to the Constitution. These are now reported to this Committee, before being reported to and ratified by full Council as required by Article 15 of the Constitution. They form Appendix B.

Future Changes to the Constitution.

Looking forward to matters which will be coming to the Committee in the near future, members will recall that on 19th November 2008 the Council approved the new executive arrangements to bring the Council in line with the Local Government and Public Involvement in Health Act 2007; the new arrangements are due to be implemented after the next election in June 2009. The necessary changes to the Constitution will then be authorised by the Director of Law & Administration, as directed by full Council, and reported to this committee.

The Local Government and Public Involvement in Health Act 2007 also enacted changes to the constitutional arrangements for overview and scrutiny. That part of the Act is due to come into force on 1st April 2009. Between now and then we await new Regulations and Guidance legislating for the detail of the changes. The substance of the changes are that:

- Any member of the council must be able to refer a local government matter relating to his local area to the relevant overview and scrutiny committee. This is known as the “councillor call for action”. Certain matters such as crime and disorder, or planning decisions, are excluded.
- The Secretary of State can make Regulations enabling a council to have a joint overview and scrutiny committee with one or more Districts in its area to scrutinise improvement targets in the Local Area Agreement.

The Act also made provision enabling the Council to make arrangements for individual members to exercise functions of the authority in their electoral division.

RECOMMENDED THAT:

1. The changes to the Constitution set out in Appendix A are approved by this Committee and are now recommended to full Council for adoption.
2. The changes to the Constitution set out in Appendix B are noted and will be reported to full Council for ratification.

Christine Wray
Assistant Director of Law & Administration
Telephone: 01452 426911

SECTION 4 - RESPONSIBILITY FOR CABINET FUNCTIONS

- 4.1 The Local Government Act 2000 provides that any function that is not reserved by law to the full Council (or another Council body to which powers have been delegated by full Council) shall be the responsibility of the Cabinet.
- 4.2 The Cabinet is not responsible for approving the Council's budget or the policy framework. It is, however, responsible for leading the development of the budget and policy framework. The Cabinet is also responsible for making decisions on the delivery of Council services within the approved budget and policy framework in respect of any matter that is not reserved by law or under this Constitution to the full Council or another council body.
- 4.3 In Gloucestershire, executive decisions can be taken by the Cabinet collectively and by the Leader of the Council, Lead Cabinet Members and officers of the Council to whom powers have been delegated. Decisions will be taken –in accordance with the Cabinet Procedure Rules, Access to Information Procedure Rules and the Policy Framework and Budget Procedure Rules.
- 4.4 Every Cabinet Member is assigned general areas of responsibility by the full Council and the Leader of the Council decides the precise content of each general area. These general areas are described under paragraphs 4.5, 4.6 (bold text heading only) and 4.7 below.-

All Lead Cabinet Members shall also have corporate responsibility for cross cutting and community leadership roles in their areas of responsibility listed in paragraph 4.6 below and also in the following general areas of responsibility

Lead Cabinet Member – Community and Adult Care	performance management, lead relationship with health
Lead Cabinet Member – Environment and Community	place communications and consultation
Lead Cabinet Member – Services to Children and Young People	Strategic partnership working
Lead Cabinet Member – Resources	efficiency and health and safety
Lead Cabinet Member – Community Safety	lead relationship with the police
Lead Cabinet Member – Communications	Communications, -consultation and community engagement

- 4.5 The Lead Cabinet Member for Services to Children and Young People is the person designated as the Lead Member for Children's Services in accordance with section 19 of the Children Act 2004

Areas of responsibility	Chief Executive/ Group Director
4.6.1 Leader of the Council	
1. Overall responsibility for the running, development and corporate governance of the council	Chief Executive
2. Regional, National and International Affairs	
3. Strategic Communications	
4.3. Community Strategy, Gloucestershire Strategic Partnership and Strategic Partnership Relationships	

45. Corporate Planning	
56. Cross cutting policy development and monitoring	
67. Customer focus	
78. Relationship with key partners and external agencies	Business Management
4.6.2 Lead Cabinet Member – Resources	
1. Corporate and Medium Term Financial Strategies	Business Management
2. Business Management: <ul style="list-style-type: none"> ▪ Human Resources ▪ Information and Communication Technology ▪ Corporate Property Management ▪ Procurement ▪ Legal and Democratic Services ▪ Finance ▪ Corporate Building Services ▪ Audit and Financial Standards ▪ Health and Safety 	
4.6.3 Lead Cabinet Member – Services to Children and Young People	
1. Overall responsibility for the development of all services for children, young people and families	Services to Children and Young People
2.. Relationships with key partners and external agencies	Services to Children and Young People and Community and Adult Care
3.- Special Educational Needs	Services to Children and Young People
4.6.4 Cabinet Member – Schools	
1. School Improvement and governance	Services to Children and Young People
2. Access to educational provision	
3. Asset and school organisation planning	
4. Research, data and performance	
5. Partnerships enhancing pupil learning 5-19	
4.6.5 – Cabinet Member – Young People’s services	
1.Children in need and their families	Services to Children and Young People
2.Children looked after by the County Council	
3.Safeguarding including Local Safeguarding Board	
4.Early years and childcare	
5.Health and social care partnerships where childcare issues are predominant	
6.Youth Offending Service	
7.Youth Services	
8.Support for vulnerable pupils	

9. Adoption	

4.6.56 Lead Cabinet Member – Community and Adult Care	
1. Overall responsibility for adult social services	Community and Adult Care
2. Services to older people	
3. Services to adults with physical disabilities	
4. Health and Social care partnerships where adult care issues predominate	
5. Supporting People	
6. Overall responsibility for Libraries and Information Service	
7. Arts, sport and culture	
8. Adult and continuing education	
9. Equalities	
10. Customer services	
11. Relationships with key partners and external agencies	Community and Adult Care and Services to Children and Young People
4.6.67 Cabinet Member – Learning Disabilities	
1. Services to adults with learning disabilities	Community and Adult Care
2. Libraries and Information	
3. Services to adults with mental health needs	
4.6.78 Lead Cabinet Member – Environment and Community and Economy	
1. Overall responsibility for planning, transportation, waste and environmental, transportation, waste and planning functions	Environment
2. Overall responsibility for community safety	Community Safety
3.2. Social and Economic Development including tourism and regeneration	Environment
34. Relationships with key partners and external agencies	Environment and Community Safety
45. Sustainability	Environment
56. Structure Plan and Regional Planning	
67. Travellers	
7. European affairs	Environment
8. Archaeology, countryside and conservation	
9. Waste Management	Environment
4.6.89 Cabinet Member – Environment and Planning	
1. Local transport planning and implementation	Environment
2. Traffic management functions including regulation	

3. Highway authority functions including highway maintenance and street lighting	
<u>3.4.</u> <u>4. Structural and Regional Planning</u>	
<u>4.5.</u> Road safety	
<u>5-6.</u> Public rights of way	
<u>6-7.</u> Waste management <u>planning</u>	
8. Passenger transport	
9. <u>Land use and planning functions, environmental protection and flooding, county and local planning authority executive functions</u>	

4.6.910	<u>Lead Cabinet Member – Community Safety, Planning and Economy</u>	
<u>1.</u> Overall responsibility for Community Safety		<u>Community Safety</u>
<u>1.2.</u> Coroners		Community Safety
<u>2-3.</u> Community Safety		
<u>3-4.</u> Emergency Management		
<u>4-5.</u> Fire and Rescue		
<u>5-6.</u> Registration Service		
<u>6-7.</u> Trading Standards (including Local Weights and Measures Authority)		
7. European affairs		Environment
8. Land use and planning functions, environmental protection and flooding, county and local planning authority executive functions		
9. Archaeology, countryside and conservation		
10. Social and Economic Development including tourism and regeneration		
<u>8. Relationships with key partners and external agencies</u>		<u>Community Safety</u>
4.6.10	<u>Lead Cabinet Member – Communications and Cabinet member – Young People’s Services</u>	
<u>1.</u> Overall responsibility for communication and consultation		Chief Executive
<u>2.</u> Strategic Communications		Chief Executive
<u>34.</u> Children in need and their families		Services to Children and Young People
<u>45.</u> Children looked after by the County Council		
<u>56.</u> Safeguarding including Local Safeguarding Board		
<u>67.</u> Early years and childcare		
<u>78.</u> Health and social care partnerships where childcare issues are predominant		
<u>89.</u> Youth Offending Service		
<u>910.</u> Youth Services		
<u>101.</u> Support for vulnerable pupils		
<u>112.</u> Adoption		

4.7 Every area of responsibility shall include the Council's executive function of investigating and/or prosecuting suspected or actual criminal and civil acts relating to the executive functions referred to in the portfolio

Note : Prosecution of suspected criminal acts are subject to authorisation by the Director of Law and Administration

SECTION 4 - RESPONSIBILITY FOR CABINET FUNCTIONS

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Lead Cabinet Member – Environment	place
Lead Cabinet Member – Services to Children and Young People	strategic partnership working
Lead Cabinet Member – Resources	efficiency and health and safety
Lead Cabinet Member – Community Safety	lead relationship with the police
Lead Cabinet Member – Communications	Communications and consultation and community engagement

- 4.5 The Lead Cabinet Member for Services to Children and Young People is the person designated as the Lead Member for Children's Services in accordance with section 19 of the Children Act 2004

Areas of responsibility	Chief Executive/ Group Director
4.6.1 Leader of the Council	
1. Overall responsibility for the running, development and corporate governance of the council	Chief Executive
2. Regional, National and International Affairs	
3. Community Strategy, Gloucestershire Strategic Partnership and Strategic Partnership Relationships	
4. Corporate Planning	

5.	Cross cutting policy development and monitoring	
7.	Customer focus	
8.	Relationship with key partners and external agencies	Business Management
4.6.2 Lead Cabinet Member – Resources		
1.	Corporate and Medium Term Financial Strategies	Business Management
2.	Business Management: <ul style="list-style-type: none"> ▪ Human Resources ▪ Information and Communication Technology ▪ Corporate Property Management ▪ Procurement ▪ Legal and Democratic Services ▪ Finance ▪ Corporate Building Services ▪ Audit and Financial Standards ▪ Health and Safety 	
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1.	Overall responsibility for the development of all services for children, young people and families	Services to Children and Young People
2..	Relationships with key partners and external agencies	Services to Children and Young People and Community and Adult Care
3.	Special Educational Needs	Services to Children and Young People
4.6.4 Cabinet Member – Schools		
1.	School Improvement and governance	Services to Children and Young People
2.	Access to educational provision	
3.	Asset and school organisation planning	
4.	Research, data and performance	
5.	Partnerships enhancing pupil learning 5-19	
4.6.5 Lead Cabinet Member – Community and Adult Care		
1.	Overall responsibility for adult social services	Community and Adult Care
2.	Services to older people	
3.	Services to adults with physical disabilities	
4.	Health and Social care partnerships where adult care issues predominate	
5.	Supporting People	
6.	Overall responsibility for Libraries and Information Service	
7.	Arts, sport and culture	

8.	Adult and continuing education	
9.	Equalities	
10.	Customer services	
11.	Relationships with key partners and external agencies	Community and Adult Care and Services to Children and Young People
4.6.6 Cabinet Member – Learning Disabilities		
1.	Services to adults with learning disabilities	Community and Adult Care
2.	Libraries and Information	
3.	Services to adults with mental health needs	
4.6.7 Lead Cabinet Member – Environment and Economy		
1.	Overall responsibility for environmental, transportation, waste and planning functions	Environment
2.	Social and Economic Development including tourism and regeneration	Environment
3.	Relationships with key partners and external agencies	Environment
4.	Sustainability	Environment
5.	Travellers	
6.	European affairs	Environment
7.	Archaeology, countryside and conservation	
8.	Waste Management	Environment
4.6.8 Cabinet Member – Environment and Planning		
1.	Local transport planning and implementation	Environment
2.	Traffic management functions including regulation	
3.	Highway authority functions including highway maintenance and street lighting	
4.	Structural and Regional Planning	
5.	Road safety	
6.	Public rights of way	
7.	Waste planning	
8.	Passenger transport	
9.	Land use and planning functions, environmental protection and flooding, county and local planning authority executive functions	
4.6.9 Lead Cabinet Member – Community Safety		
1.	Overall responsibility for Community Safety	Community Safety
2.	Coroners	Community Safety
3.	Community Safety	
4.	Emergency Management	
5.	Fire and Rescue	
6.	Registration Service	

7.	Trading Standards (including Local Weights and Measures Authority)	
8.	Relationships with key partners and external agencies	
4.6.10	Lead Cabinet Member – Communications and Cabinet Member –Young People’s Services	Chief Executive Services to Children and Young People
1.	Overall responsibility for communications and consultation	Chief Executive
2.	Strategic Communications	
3.	Children in need and their families	Services to Children and Young People
4.	Children looked after by the County Council	
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10.	Support for Vulnerable pupils	
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Note : Prosecution of suspected criminal acts are subject to authorisation by the Director of Law and Administration

**Changes to Gloucestershire County Council Constitution
by the Monitoring Officer**

In the exercise of my powers set out in Article 15.02.1 of the Council's Constitution, in order to

- secure the convenient, efficient and effective discharge of any function; and
- clarify the effect of the Council's Constitution;

with effect from today's date, I make the changes to the Council's Constitution set out below.

1. In Part 3 of the Constitution, the Schedule to Table 3.8 shall be amended by the inclusion in the list headed "Duty on Local Weights and Measures Authority" the following:

"Building Act 1984
The Energy Performance of Buildings (Certificates and Inspections)
(England and Wales) Regulations 2007"

2. In paragraph 14 of the said Table 3.8 there shall be inserted after "Act of Parliament" the words "or any statutory instrument".



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(N J Roberts)

Director of Law & Administration & Monitoring Officer
Gloucestershire County Council

21st November 2008

Changes to Gloucestershire County Council Constitution by the Monitoring Officer

In the exercise of my powers set out in Article 15.02.1 of the Council's Constitution, in order to

- secure the convenient, efficient and effective discharge of any function; and
- clarify the effect of the Council's Constitution

with effect from today's date, I make the changes to the Council's Constitution set out below.

1. Paragraph 1 of Table 3.3 (the duties of the Appeals Committee) shall be amended to read as follows:

"Individual appeals by employees under the Council's Performance Procedure and its Grievance Procedure (where exceptional circumstances exist) and any other employment related procedure that expressly provides for a right of appeal to elected members"

2. In Table 3.7 (the duties of the Planning Committee):
 - (i) Delete "A. Functions relating to town and country planning and development control".
 - (ii) Paragraph 24 shall be renumbered 25
 - (iii) There shall be added a new paragraph 24 as follows:

Power to consider applications to assess environmental effects in relation to applications to develop land.	Section 71A of the Town and Country Planning Act 1990, The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (SI 1999/293) or any regulations amending or replacing the same.
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3. In Part 3 Section 5 of the Constitution the Particular Delegation GDE3 shall be amended by substituting "Head of Planning and Development Services" for the title "Planning Manager".



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N J Roberts
Director of Law & Administration & Monitoring Officer
Gloucestershire County Council

30th
..... December 2008