

CONSTITUTION COMMITTEE

TIME: 3.00pm
DATE: Tuesday, 13 October 2009
VENUE: Meeting Room 1, Shire Hall, Gloucester

MINUTES

Membership:

Barry Dare	a	Steve McHale	p
Mark Hawthorne	A	Antonia Noble	P
Tony Hicks	A	Ray Theodoulou	p
Jeremy Hilton	P	Will Windsor Clive	p
Ceri Jones	p		

P=Present a=apology/absent

Substitute:

Phil Awford

25. MINUTES

RESOLVED

THAT the minutes of the meeting held on 17 August 2009 be approved as a correct record subject to the correction of some typographical errors, and signed by the Chairman.

25a Matters arising from the minutes, Minute No. 22 – It was requested that a formal notification be given to OSMC with regard to the recommendations from the last meeting i.e. that OSMC review the functioning of the new Health, Community & Care Scrutiny Committee within 12 months of its establishment and that proposals on how to introduce neighbourhood scrutiny be considered by OSMC at the earliest opportunity.

26. APOLOGIES FOR ABSENCE – Apologies for absence were received from Cllr Hawthorne & Hicks.

27. PUBLIC QUESTIONS – No public questions were received.

28. MEMBERS' QUESTIONS – No members' questions were received.

29. HEALTH SCRUTINY – COMMISSIONING OF SPECIALISED NHS SERVICES
- Christine Wray introduced this report that asked the Committee to support the recommendations of the Health Overview and Scrutiny Committee and recommend to Council that it adopts the protocol for establishing joint health

overview and scrutiny committees to respond to proposals for changes to specialised NHS services.

Cllr Gravells attended the meeting and explained that this had been considered by Health Overview & Scrutiny Committee, where all political parties are represented, and was unanimously approved. The Council had previously set a precedent for waiving political proportionality when a Joint Committee was established to look at the Ambulance Service. The reason for waiving political balance was because 16 Local Authorities were involved and South West Councils believe a politically balanced committee would be too large. Cllr Gravells pointed out that these Joint Committees would be dealing with critical health issues and politics should not be involved. If Gloucestershire does not agree to accept this protocol it would not be part of the whole consultation process. The other 15 authorities, not all with Conservative Administrations, had all endorsed the protocol.

During the ensuing debate some members considered that this proposal was changing the constitutional rights of members of this Council. Joint committees should be based on political proportionality, which can only be waived if all members agree to do so, therefore the Joint Committee looking at Health should be geographically and politically balanced. Whilst it was accepted that the work done by the Health Scrutiny Committee in Gloucestershire was excellent, the work of a Joint HOSC should be politically proportional.

It was suggested and accepted that a pool of members for Gloucestershire could be established. A further recommendation in relation to this would be attached to the report to Council for approval.

On being put to the vote it was

RESOLVED to RECOMMEND to COUNCIL

THAT

- a) **The recommendation of the Health Overview & Scrutiny Committee (now named the Health, Community & Care Scrutiny Committee) be approved.**
- b) **Council approves the establishment of a joint committee or committees for the purpose of reviewing those specialised commissioning services which the Health, Community and Care Scrutiny Committee considers to be a substantial variation or development .**

30. **PROPOSED CHANGE TO PROCEDURAL STANDING ORDER 11** – Christine Wray presented this report that advised that Procedural Standing Order 11 requires that motions to council must be delivered to the Chief Executive not later than 12 noon on the sixth day before the date of the meeting. The Constitution requires that the summons to the Council meeting be issued at least nine days before the meeting, i.e. before the notice of motions is received.

The law requires that all business to be transacted at the Council meeting is specified in the summons to the meeting unless it is an urgent item. It was recommended that the Procedural Standing Order 11 should be changed so that motions are be required to be delivered to the Chief Executive not later than 10am on the ninth day before the date of the meeting, i.e. day summons is issued.

During the ensuing discussion it was suggested that where days are mentioned in the Constitution it should be clear whether it is working or calendar days. It was also suggested that the day for receipt for members and public questions could be moved in order that answers could be received earlier. It was agreed that this would be considered at the next meeting of Constitution Committee. A request was also made that amendments to motions received on the day, should be available at the beginning of the meeting.

On being put to the vote it was

RESOVLED to RECOMMEND to COUNCIL

THAT the Constitution is changed such that written notice of motion is required to be delivered to the Chief Executive not later than 10am on the ninth day before the date of the meeting, unless the Chair is of the opinion that the motion should be considered as a matter of urgency. This would not apply to motions which can be moved without notice under Procedural Standing Orders.

- 31. REVIEW OF PROCESS FOR EMPLOYMENT RELATED APPEALS – Dilys Wynn** presented this report that proposed amendments to the current employment appeals processes to reflect the relevant Regulations, legal framework and bring consistency to the role of members in the employment of staff. The proposal would result in the Appeals Committee only taking responsibility for appeals against dismissal for the Chief Executive/Head of Paid Service, Chief Financial Officer, Monitoring Officer/Director of Law and Administration, all Group Directors and Directors of service reporting directly to a Group Director or the Chief Executive. The Head of Paid Service would be responsible for employment matters relating to all other groups of staff (excluding schools which are subject to different employment procedures), and ensure that the Council puts in place good practice arrangements for hearing employment appeals. This would include more than one independent senior member of staff hearing the appeal.

In response to Members' questions Dilys Wynn explained that it was not illegal to continue with current arrangements. With regard to staff consultation, this was carried out through the unions as representatives of all staff because the Local Authority has collective bargaining arrangements. Non-union staff were not consulted separately. The duty of care for staff rests with the Head of Paid Service. In response to the suggestion that one member could be involved in the final appeal process, it was considered that this would not be appropriate as

it would compromise the Officers involved. The process had been subject to an equality assessment. Assurances were given that safeguards were in place to protect staff.

During the discussion on this, a number of members expressed their deep concerns about removing them from the Appeals process for the majority of staff. Members consider they have a duty of care for staff and fear that independence would be lost with the proposed process. If the current system was working well and if it complied with the law, it should not be changed. Members had recently received training during the Induction package from an external organisation. Other members agreed that they had a duty of care to the staff but felt it important that procedures were standardised.

On being put to the vote it was

RESOLVED to RECOMMEND to COUNCIL

THAT:

- i) The Scheme of Delegation within the Constitution be amended in accordance with the revised processes set out in paragraph 2 of the report; and**
- ii) The terms of reference for the Appeals Committee be amended accordingly.**

32. DISCUSSION ABOUT THE USE OF THE TERM “OVERVIEW” IN THE NAMING OF THE SCRUTINY COMMITTEES – The Committee

RESOLVED to RECOMMEND to COUNCIL

That the term “overview” be used in the naming of the Scrutiny Committees.

33. DISCUSSION ABOUT QUESTIONS AT CABINET MEETINGS – Cllr Hilton asked for this item to be put on the agenda and said that other neighbouring authorities had public and members’ questions at Cabinet Meetings. This facility should be available at this Council. Petitions should also be allowed to be handed in at Cabinet and the member presenting the petition should be able to speak.

It was agreed that a report should be brought to the next meeting of the Constitution Committee following consultation with the Chairman, Cllr Hilton & Cllr McHale.

Antonia Noble

Chairperson

