



**Gloucestershire**

COUNTY COUNCIL

**CONSTITUTION COMMITTEE**

**3.00 pm**

**MONDAY**

**8 MARCH 2010**

**Meeting Room 1 - Shire Hall,  
Gloucester**

**MEETING PAPERS**





## CONSTITUTION COMMITTEE

**TIME:** 3.00 pm  
**DATE:** Monday 8th March, 2010  
**VENUE:** Meeting Room 1 - Shire Hall, Gloucester

### A G E N D A

ITEM	TOPIC	CONTACT
1.	<b>Apologies for absence</b>	Sharon Clutterbuck Tel: 01452 425286
2.	<b>Minutes</b> (Pages 1 - 4) To approve the minutes of the meeting held on 12 January 2010.	Sharon Clutterbuck Tel: 01452 425286
3.	<b>Public Questions</b> To answer any public questions about matters which are within the powers and duties of the Committee. <b>The closing date/time for receipt of question is 10.00am on Monday, 1 March 2010.</b> To answer any oral question(s) put by members of the public with the consent of the Chairperson.  <i>Depending on the nature of the questions asked it may not be possible to provide a comprehensive answer at the meeting, in which case a written answer will be supplied as soon as reasonably possible after the meeting.</i>	Sharon Clutterbuck Tel: 01452 425286
4.	<b>Members' Questions</b> To answer any written members' questions. <b>The closing date/time for the receipt of questions is 10.00am on Monday, 1 March 2010.</b>	Sharon Clutterbuck Tel: 01452 425286
5.	<b>Adoption of Revised Treasury Management Code &amp; Prudential Indicators - Consequential amendments to the Constitution</b> (Pages 5 - 8)	Christine Wray Tel: 01452 426911
6.	<b>Cabinet Procedure Rules - Questions at Cabinet meetings</b> (Pages 9 - 12)	Christine Wray Tel: 01452 426911
7.	<b>Amendments to the Constitution Committee - Appointments Committee</b> At its meeting on 23 February 2010, the Appointments Committee	

referred a recommendation to the Constitution Committee that for joint appointments with NHS Gloucestershire which are within the remit of the Appointments Committee a sub-committee should be established comprising 3 members (2 Conservative, 1 Liberal Democrat) to drawn from the Appointment Committee's membership. The Committee is asked to consider this recommendation and recommend to Council that amendments to the Constitution be made accordingly.

## **NOTES**

- (a) **MEMBERSHIP** – Cllr Barry Dare, Cllr Mark Hawthorne, Cllr Tony Hicks, Cllr Jeremy Hilton, Cllr Ceri Jones, Cllr Steve McHale, Cllr Antonia Noble, Cllr Ray Theodoulou 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: Nigel Roberts ☎01452 425201 /fax: 426790/e-mail: nigel.roberts@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

Sharon Clutterbuck, Principal Democratic Services Officer  
☎: 01452 425286/fax: 425850/e-mail:  
sharon.clutterbuck@gloucestershire.gov.uk

## **GENERAL ARRANGEMENTS**

- (1) *Will Members please sign the attendance list.*

***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 Tuesday 12th January, 2010 commencing at 10.00 am.**

### **PRESENT MEMBERSHIP:**

Cllr Phil Awford	Cllr Steve McHale
Cllr Mark Hawthorne	Cllr Antonia Noble
Cllr Tony Hicks	Cllr Ray Theodoulou
Cllr Jeremy Hilton	Cllr Will Windsor-Clive
Cllr Ceri Jones	

### **1. APOLOGIES FOR ABSENCE**

An apology for absence was received from Cllr Dare.

### **2. MINUTES**

#### **RESOLVED**

**THAT the minutes of the meeting held on 9 November 2009 be approved as a correct record and signed by the Chairman.**

### **3. PUBLIC QUESTIONS**

No public questions were received.

### **4. MEMBERS' QUESTIONS**

No Members' questions were received.

### **5. REPORT OF INDEPENDENT REMUNERATION PANEL**

William Alexander, Chairman of the Independent Remuneration Panel attended the meeting and presented the Panel's report in respect of Members' allowances for 2010/11.

He explained that the Panel had unanimously agreed that there should be no change to the basic rate of allowance and all other allowances in the scheme remain unchanged for 2010/11. The IRP would be interviewing newly elected members to get their views on the allowances scheme during the next few months. It would also be inviting the Chairman of the newly established Corporate Parenting Committee to give their view on the role and responsibility of that Committee when it had been running for a few months. The Panel would also be giving consideration to the gap difference in the basic allowance and the average white collar worker's wage in Gloucestershire.

Members were in general agreement that it would not be appropriate to increase allowances at this time, especially as many people were being forced to take a reduction in salaries.

During the ensuing debate some Members' expressed concern that the allowance was not sufficient to encourage a wider sector of the community to consider becoming a councillor, particularly younger people, whilst others considered that the allowance was not the primary reason people stood for election. When considering the gap difference between the basic allowance and the average white collar worker's wage, the Panel were asked to also take into consideration that white collar workers may also have a pension scheme in addition to their salary. It was also requested that more in-depth consideration should be given to all the Special Responsibility Allowances in relation to the basic allowance and what additional work a Chairman of a Committee has, to that of a Lead Member.

The Committee thanked Mr Alexander and the Panel for their work, stressing the importance of having an Independent Panel reviewing allowances.

On being put to the vote it was

**RESOLVED to RECOMMEND TO COUNCIL**

**THAT**

- (a) No change be made to the basic rate of allowance for 2010/11**
- (b) All other allowances in the scheme remain unchanged for 2010/11.**

**6. INTERIM APPOINTMENTS**

The Nigel Roberts, Director of Law & Administration presented this report that advised of the discussion and recommendation from the Appointments Committee at its meeting on 17 December 2009 in respect of the appointment of senior interim managers to the Council's employment.

The recommendation was that the Constitution be amended to reflect that the Chief Executive be granted express authority (in consultation with the relevant Cabinet Member and Scrutiny Chairman) to appoint on an interim basis to the position of group director or director within the employment of the Council.

In response to Members' questions, Nigel Roberts explained that most of the Interims are appointed through an Agency and the contract would be between the Council and Agency, with the Interim working in the Council as an employee. The decision to appoint an Interim would be that of the Chief Executive, whilst members' would be consulted they could not veto the decision.

During the ensuing discussion concerns were expressed with regard to the role of the Appointments Committee being waived. Consultation should include all Group Leaders. Some members did not consider enough detail had been included in the

report and that it should be re-drafted and brought back to the Committee for consideration. The Interim appointments should be for a maximum of six months and if there was a need to extend it should be referred back to the Appointments Committee.

Nigel Roberts explained that the difficulty of putting too much detail in a process was that there was a risk of missing something out. There would be the opportunity during the consultation process to explore the detail in relation the proposed interim appointment. The decision would be that of the Chief Executive, but he must take account of any issues raised during consultation.

On being put to the vote it was

**RESOLVED to RECOMMEND to COUNCIL**

**THAT the Constitution be amended to reflect that the Chief Executive be granted express authority (in consultation with the relevant Cabinet Member, Group Leaders and relevant Scrutiny Chairman) to appoint on an interim basis to the position of group director within the employment of the Council for a maximum period of up to 6 months.**

**7. QUESTIONS AT CABINET**

Cllr Hilton presented this report that sought consideration to be given to public and members questions being asked at Cabinet meetings. The County Council has a procedure in the Constitution for questions at Council and other bodies and a similar process could be used for Cabinet. He explained almost all other Local Authorities have a similar system and it worked well.

During the ensuing debate the following principle points were made:

- There was facility to ask questions at Council, therefore no need to ask at Cabinet meetings;
- Consideration should be given as to whether questions were asked in advance or on the day and what time limit should be allowed.
- What would questions relate to – i.e. any matter or only on items on the agenda
- It was good for democracy for the public to be able to put their questions to Cabinet Members before decisions were made.
- Members have the opportunity to ask questions on decisions made by Cabinet at Council.
- If this was introduced, it should be done for a 12 month trial period.

It was suggested that the Monitoring Officer be asked to give consideration to the points raised and bring a report back to a future meeting of the Constitution Committee clarifying the issues.

Cllr Hilton proposed that the report be brought to a special meeting of the Constitution Committee prior to Council meeting in February.

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

The Chairman asked the Committee to vote on this proposal. On being put to the vote it was LOST.

The Chairman suggested that the report be brought back to the next scheduled meeting of the Constitution Committee in March.

On being put to the vote it was

**RESOLVED**

**THAT a report be brought back to the next scheduled meeting of the Constitution Committee on 8 March 2010.**

**8. CHANGE TO THE CONSTITUTION MADE UNDER DELEGATED POWERS**

Nigel Roberts presented this report that advised of changes made to the Constitution under delegated powers.

**RESOLVED to RECOMMEND to COUNCIL**

**THAT changes to the Constitution as set out in the report be ratified.**

**CHAIRPERSON**

Meeting concluded at 11.45am



## CONSTITUTION COMMITTEE

8 MARCH 2010

### ADOPTION OF REVISED TREASURY MANAGEMENT CODE AND PRUDENTIAL INDICATORS - Consequential amendments to the Constitution

#### REPORT OF THE ASSISTANT DIRECTOR OF LAW AND ADMINISTRATION

On the 24 February 2010, full Council approved the Council's Medium Term Financial Strategy which included at Annex 11 approval to the adoption of clauses on treasury management recommended by CIPFA. A copy of Annex 11 can be found via this link. <http://www.gloucestershire.gov.uk/index.cfm?articleid=1109>

Members will have received a copy with their Council papers.

The following consequential amendments to the Constitution should therefore be made. The Committee is asked to consider and recommend such amendments to full Council:

A. Amendment to the Terms of Reference of the Audit Committee:

Add: "To be responsible for the implementation and undertake regular monitoring of the Council's treasury management policies and practices".

B. Amendment to the delegated responsibilities of the Group Director of Business Management:

Add after "To determine arrangements for treasury management" the following:

"In accordance with the Council's policy statement and approved treasury management practices and where relevant CIPFA's Standard of Professional Practice on Treasury Management".

C. Amend Sections C12 to C19 of Financial Regulations as follows:

**C.12** The Chief Financial Officer is responsible for arranging the Council's banking arrangements including opening and closing of all accounts.

**C.13** All electronic transfers of funds will only be made by the Chief Financial Officer or his or her nominated signatory.

**C.14** All other payments made by the Council, with the exception of those made from imprest accounts, will be made by cheque or other payment instrument, bearing the manuscript or facsimile signature of the Chief Financial Officer or his or her nominee.

**C.15** The Authority has adopted CIPFA's Code of Practice for Treasury Management in Public Services. Under the code the following four clauses are adopted:

1. The Council will create and maintain, as the cornerstones for effective treasury management:
  - a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
  - suitable treasury management practices (TMPs), setting out the manner in which the organisation will seek to achieve those policies and objectives and prescribing how it will manage and control those activities.

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.

2. The Council's Audit Committee will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
3. The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Audit Committee and for the execution and administration of treasury management decisions to the Chief Financial Officer, who will act in accordance with the organisation's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's *Standard of Professional Practice on Treasury Management*.
4. The Council nominates the Audit Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

**C.17** The Chief Financial Officer is responsible for reporting to the Cabinet, Leader of the Council or a Cabinet Member on the proposed treasury

management strategy for the coming financial year at or before the start of each financial year.

- C.18** All executive decisions on borrowing, investment or financing shall be delegated to the Chief Financial Officer, who is required to act in accordance with CIPFA's Code of Practice for Treasury Management in Public Services.

**IT IS RECOMMENDED THAT:**

The amendments to the Constitution set out above are approved and recommended to full Council.

**Christine Wray**

Assistant Director of Law and Administration

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## CONSTITUTION COMMITTEE

8 MARCH 2010

### CABINET PROCEDURE RULES: Questions at Cabinet Meetings

#### Report of the Assistant Director of Law and Administration

At the last Constitution Committee meeting on the 12 January 2010, the Committee considered a paper about a protocol for questions at Cabinet meetings. The Monitoring Officer was asked to draw up amendments to the Constitution to implement the proposals discussed.

Cabinet meetings are regulated by the Cabinet Procedure Rules in Part 4 of the Constitution. An additional Rule 9 is proposed and a draft thereof is attached at Annex A to this report.

The draft follows the wording in the Constitution for questions at Council. It is felt that having a protocol as similar as possible to that applicable to full Council meetings will simplify the process for all concerned, e.g. time limits for one will not be confused with time limits for the other.

The draft also combines questions from Members with questions from the public, in order to keep the new rule as short as possible. There is no reference to questions on Police Authority matters as there is for Council.

Members are asked to consider the wording of the draft and also, specifically, whether oral questions should be permitted or not.

#### IT IS RECOMMENDED THAT:

1. Members consider and approve, with or without modification, the draft of Cabinet Procedure Rule 9 relating to Questions at Cabinet Meetings as set out in Annex A; and
2. The resulting version of the new Cabinet Procedure Rule be recommended to Cabinet for adoption.

#### **Christine Wray**

Assistant Director of Law and Administration

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*[NB: To go in Cabinet Procedure Rules – paragraph 9, then re-number]*

**9. QUESTIONS AT CABINET MEETINGS**

9.1 At each meeting of the Cabinet there shall be up to 30 minutes set aside for written and oral questions from the public and from County Councillors.

9.2 An oral question under this Rule may be asked with the consent of the person presiding and within the 30 minutes set aside for written and oral questions under provision 9.1.

**9.3 Written questions at Cabinet**

A County Councillor or any person who lives or works in the county or is affected by the work of the County Council may ask:

9.3.1 The Leader of the Council; or

9.3.2 A Cabinet Member

a question on any matter which is within the powers or duties of the Council or which may affect the County.

**9.4 Notice of questions**

A question under this Rule may be asked if a written copy of the question has been delivered to the Chief Executive by 10.00 a.m. four clear working days before the date of the meeting.

**9.5 Response**

A written answer will be provided to a written question and will be given to the questioner and to Cabinet Members before being read out at the meeting by the person presiding or other Cabinet Member to whom it was addressed.

If the person who submitted the question agrees, the answer need not be read out. If the person who submitted the question is not present, the person presiding may decide whether or not the answer shall be read out.

9.6 A copy of all written questions and written answers circulated at the meeting will be attached to the signed copy of the minutes of the meeting.

**9.7 Additional Questions**

A person who has put a written question may, with the consent of the person presiding, ask an additional oral question on the same subject.

9.8 An answer to an oral question under this Rule will take the form of:

9.8.1 A direct oral answer;

9.8.2 Where the information required is contained in a Council document or other published work, the questioner will be given the name of that

document and if the person presiding considers it appropriate the relevant part of the document will be read out;

9.8.3 If the information required is not easily available, a written answer will be sent to the questioner and circulated to all Cabinet Members.

9.9 There will be no discussion on any question from a member of the public.

9.10 Written questions may be rejected and oral questions need not be answered when the person presiding considers that they:

9.10.1 Are not on any matter that is within the powers and duties of the Council;

9.10.2 Are defamatory, frivolous or offensive;

9.10.3 Are substantially the same as a question that has been put to a meeting of the Cabinet in the past six months; or

9.10.4 Would require the disclosure of confidential or exempt information.

In every case, the person presiding must specify the reason for rejecting a question or not requiring an answer to be given to it.

9.11 Oral questions on reports of the Cabinet:

A Member may ask the Leader of the Council and any Cabinet Member a question relating to any matter contained in a Cabinet Report as long as that question is put when the report is being discussed at the meeting of the Cabinet.