

# CONSTITUTION COMMITTEE

**MINUTES of the meeting of the Constitution Committee held on Wednesday 7th November, 2012 commencing at 10.00 am.**

## **PRESENT MEMBERSHIP:**

|                     |                         |
|---------------------|-------------------------|
| Cllr Phil Awford    | Cllr Ceri Jones         |
| Cllr Jackie Hall    | Cllr Ray Theodoulou     |
| Cllr Mark Hawthorne | Cllr Lesley Williams    |
| Cllr Tony Hicks     | Cllr Will Windsor-Clive |
| Cllr Jeremy Hilton  |                         |

**Substitutes:** Cllr Jackie Hall for Antonia Noble

**Apologies:** Cllr Antonia Noble

**Officers:** Nigel Roberts, Christine Wray, Joanne Bolton, Simon Harper, Sidgoree Nelson

## **21. MINUTES**

### **RESOLVED**

THAT the minutes of the meeting held on 17 October be approved as a correct record and signed by the Chairman subject to the following amendment:

Paragraph 17.4.4, first sentence be amended to read: 'The committee noted that paragraph 82 of the Code of Conduct had been redrafted.'

## **22. PUBLIC QUESTIONS**

No public questions were received.

## **23. MEMBERS' QUESTIONS**

No members' questions were received.

## **24. NEW STANDARDS REGIME FOR MEMBERS**

24.1 The committee considered the report of the Director of Law and Administration which set out the proposed new arrangements relating to the conduct of members and ancillary matters consequent upon the requirements of the Localism Act 2011.

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

- 24.2 The committee was informed that the Localism Act required councils to introduce a code of member conduct consistent with the seven Nolan Principles: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, and Leadership. The Act was non prescriptive in how codes of conduct should be drafted, the only requirement being that they met the stipulation above.
- 24.3 The Director of Law and Administration explained that one disadvantage of moving away from a nationally prescribed code to self regulation was that 'dual hatted' members needed to carefully consider which code they were complying with at the particular meeting in question.
- 24.4 The committee considered two potential codes of conduct, one based on the Department for Communities and Local Government (DCLG) model, and one based on the Association of Council Secretaries and Solicitors (ACSS) model.
- 24.5 The committee noted that Gloucestershire's six district councils in the main had taken a broadly similar approach by adopting the ACSS model with some local amendments. The committee agreed however that the preferred code of conduct for this Council was the one based on the DCLG model.
- 24.6 During consideration of the draft terms of reference for the proposed Audit and Governance Committee, specifically paragraph 8, the committee agreed that "Statement of Internal Control" should be replaced with "Annual Governance Statement". The committee therefore:
- RESOLVED that in paragraph 8, of the terms of reference, "Statement of Internal Control" should be replaced with "Annual Governance Statement".**
- 24.7 The committee also agreed to include in the terms of reference the right for the Audit and Governance Committee to require officers and members to attend before it. The committee therefore:
- RESOLVED that the following note be added at the end of the terms of reference:**
- "The committee has the right to require the attendance of any Council officers or members in order to respond directly to any issue under consideration."**
- 24.8 During consideration of the draft procedure for dealing with allegations of member misconduct, specifically paragraph 5 of the section on 'Delegated powers available to the Hearing Panel for sanctioning purposes' the committee suggested that a time frame should be set for when the member was expected to have undertaken the activities deemed appropriate by the panel. A report back on the actions taken should then be received by the Audit and Governance Committee as follow-up.

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- 24.9 In response, the Director of Law and Administration explained that it was the decision of the Hearing Panel, as to what actions it deemed appropriate. He pointed out that the Panel only had the power to request, it was up to the individual member whether or not they wished to comply with the request.
- 24.10 The committee was in support of the existing Standards and Audit Committees being abolished, and the functions and responsibilities being discharged by the establishment of a new Audit and Governance Committee. The committee agreed however that the Audit and Governance Committee should be reviewed in 18 months time to consider any emerging issues from the new way of working. The committee therefore:

**RESOLVED that the Audit and Governance Committee should be reviewed in 18 months time to consider any emerging issues from the new way of working.**

On being put to the vote the committee resolved

**TO RECOMMEND TO COUNCIL:**

- (a) That the Council adopts the draft Code of Conduct based on the Department for Communities and Local Government model, as at Appendix i.
- (b) That the Council adopts the draft procedure for investigating and determining allegations of member misconduct as at Appendix iv.
- (c) That the Council agrees that the existing Standards and Audit Committees be abolished, with their functions and responsibilities being discharged by the establishment of a new Audit and Governance Committee, the draft terms of reference of which are attached as at Appendix vi.
- (d) That the investigation and determination of allegations of member misconduct be the remit of a newly established Hearings Panel sub-committee of the new Audit and Governance Committee, with a politically balanced membership of five county councillors.
- (e) That the Council appoints the nine members and the Chairman of the Audit and Governance Committee at the meeting of County Council on 21<sup>st</sup> November 2012.
- (f) That the Council agrees the principle of appointing a pool of three Independent Persons to consult on allegations of member misconduct.

**25. ACCESS TO INFORMATION REGULATIONS AND CHANGES TO CONTRACT STANDING ORDERS**

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

25.1 The committee considered the report which set out the changes to the Constitution to reflect the new Access to Information Regulations and revised Contract Standing Orders.

**25.2 Update following new regulations on Access to Information about the Council's formal business**

25.2.1 The committee noted that on 10 September 2012 the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 came into force. The regulations made some changes to the existing rules, requiring amendment to the Constitution.

On being put to the vote the committee resolved:

**TO RECOMMEND TO COUNCIL that amendments to the Constitution as set out in Annex A be approved.**

**25.3 Changes to Contract Standing Orders 3.4, 3.5, 7.4 and 7.5.**

25.3.1 The committee was informed that that as a result of a review by Internal Audit there was a proposal to change the wording of Contract Standing Orders 3.4, 3.5, 7.4 and 7.5 in order to clarify the circumstances where a full tender process was not required.

On being put to the vote the committee resolved:

**TO RECOMMEND TO COUNCIL that amendments to the Constitution as set out in Annex B be approved.**

**26. NEW SCRUTINY STRUCTURE**

26.1 The committee considered the report from Cllr Rob Garnham, Chairman of the Overview and Scrutiny Management Committee, with regard to the new scrutiny structure.

26.2 The committee noted that a new scrutiny structure had been developed which built upon the success of the current arrangements, whilst also taking into account the council's new operating model, the reduction in councillors from 63 to 53 in May 2013, the introduction of the Police and Crime Panel, and reducing staff resources in the Democratic Services Unit and across the Council.

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- 26.3 One member whilst recognising that members from across the council had an opportunity to comment on the proposed new scrutiny structure, expressed disappointment that certain views had not been taken into account. In particular, he drew member's attention to the comment on 'Call-in', and emphasised that it did not help the scrutiny process. He felt that Call-In should be taken more seriously and as result dealt with at full Council.
- 26.4 The committee was of the view that when considering the reduction in councillors against the proposed changes to the scrutiny structure and frequency of meetings, it was important that committee membership and therefore the workload, was allocated evenly amongst the non-executive members, following the election in May 2013.
- 26.5 Consequently before recommending a new scrutiny structure to Council the committee:

**RESOLVED**

- (a) **To request that a survey of all members be undertaken to ascertain their views on the frequency of all council meetings.**
- (b) **To request a report on the number of seats available to non-executive members under the proposed arrangements.**

**27. INDEPENDENT REMUNERATION PANEL**

- 27.1 The committee noted the report which set out the details of the appointment of the two new members, Richard Blamey and Gwyn Morgan, to the Independent Remuneration Panel.

**CHAIRPERSON**

Meeting concluded at 11:30