



Gloucestershire

COUNTY COUNCIL

CONSTITUTION COMMITTEE

5 FEBRUARY 2013 AT 10AM

**Members' Room - Shire Hall,
Gloucester**

MEETING PAPERS



CONSTITUTION COMMITTEE

TIME: 10am
DATE: Tuesday, 5 February 2013
VENUE: Members' Room - Shire Hall, Gloucester

A G E N D A

ITEM	TOPIC	CONTACT
1.	Apologies for absence	Simon Harper
2.	Minutes (Pages 1 - 6) To approve the minutes of the meeting held on 7 November 2012.	Simon Harper
3.	Declaration of Interests Please see note (b) of the agenda.	Simon Harper
4.	Public Questions To answer any written public questions about matters which are within the powers and duties of the Committee. The closing date/time for receipt of questions is 10am on 29 January 2013. To answer any oral question(s) put by members of the public with the consent of the Chairperson.	Simon Harper
	<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>	
5.	Members' Questions To answer any written members' questions. The closing date/time for the receipt of questions is 10am on 29 January 2013.	Simon Harper

6. **Independent Remuneration Panel** (Pages 7 - 10) William Alexander
To consider the report and recommendations of the Independent Remuneration Panel relating to members' allowances.
7. **Amended Employee Code of Conduct** (Pages 11 - 30) Dilys Wynn
To consider the revised Employee Code of Conduct.
8. **New committee structure - May 2013** Simon Harper
To note that proposals for a revised scrutiny structure and a new approach to corporate parenting will be presented to the next meeting of the Constitution Committee on 5 March 2013.
9. **Changes to the constitution** (Pages 31 - 32) Christine Wray
To consider the attached report of the Monitoring Officer.

NOTES

- (a) **MEMBERSHIP** – Cllr Phil Awford, Cllr Mark Hawthorne, Cllr Tony Hicks, Cllr Jeremy Hilton, Cllr Ceri Jones, Cllr Antonia Noble, Cllr Ray Theodoulou, Cllr Lesley Williams 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 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, Lead Democratic Services Adviser

☎: 01452 425230/fax: 425850/e-mail: 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 Wednesday 7th November, 2012 commencing at 10.00 am.

PRESENT MEMBERSHIP:

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

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.

- 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.
- 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 21st 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

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.

- 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 a 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

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REPORT OF THE INDEPENDENT REMUNERATION PANEL

DECEMBER 2012

1. Introduction

1.1 This report has been produced by the Independent Remuneration Panel for Gloucestershire, which is appointed by the County Council and consists of independent members, drawn from the community. The panel's role is to make recommendations to the Council on the level of allowances paid to members.

1.2 The members of the panel:

- Philip Lowery A former adviser to the Social Services Committee. Member of the Independent Advisory Group (IAG) of the Criminal Justice Board.
- Quentin Tallon Cheltenham TUC, with broad experience of trade union and other negotiations and also work in the voluntary sector.
- William Alexander Former Group Personnel Manager for a major UK joinery company. Parish councillor since 1979. Member, Valuation Tribunal Service.
- Fiona Miles Until recently worked as a Clinical Nurse Specialist in Respiratory Medicine at Gloucestershire Royal Hospital, having worked within the NHS since 1970. Is actively involved with RSPB in Gloucestershire. In the past has been Treasurer and Secretary to Play Groups and Royal College of Nursing Specialist Group. Trustee of Gloucestershire Chest Fund.

1.3 The panel's recommendations relate to the period 1 April 2013 to 31 March 2014 and are in keeping with statutory provisions namely –

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') and

1.3.3 The Local Government Pension Scheme and Discretionary Compensation (Local Authorities Members in England) Regulations 2003 (the 'Pensions Regulations')

2. Report

- 2.1 The panel met on 8 March, 23 April, 28 June and 6 November 2012. Interviews with 12 councillors were conducted on 7, 18 and 19 June and 3 and 6 July 2012.
- 2.2 The Chairman of the Independent Remuneration Panel together with Simon Harper, Lead Democratic Services Adviser, attended the annual meeting of the Chairmen and Lead Officers of County, District and Unitary Authorities for the South West Region at Yeovil on 21 June 2012.
- 2.3 The interviews stated above were held as the first tranche of information gathering towards a major review of remuneration which will, we hope, be presented in December 2013 for consideration by the Constitution Committee for the year 2014/15. We think that following the May 2013 election the newly elected council will have more pressing matters than remuneration to consider. The panel would, however, like the opportunity to speak to councillors in the Autumn of 2013 once the new council has settled in.
- 2.4 The panel understands that the mileage allowance payable to Council staff is being brought in line with the HM Revenues and Customs rate. We strongly recommend that the same rate is payable to councillors from 1 April 2013.
- 2.5 The panel has over a number of years recommended that the Council offers councillors the opportunity to join the Local Government Pension Scheme based on the basic allowance. The Council has not accepted that recommendation but we believe that this opportunity should still be available.
- 2.6 The panel, particularly following the recently carried out interviews, recognise the value of the commitment of county councillors to the people of Gloucestershire and congratulate them on their untiring efforts in this cause. We note that councillors representing some of the more rural divisions travel significant distances to parish and town council meetings and this is an important part of their representative role. We recommend that in future the costs of travelling to and from parish and town council meetings should be formally recognised in the allowances scheme.

- 2.7 We are pleased that two new members, Richard Blamey and Gwyn Morgan, have been appointed to the panel and we look forward to working with them in the future.
- 2.8 The panel wishes to record its gratitude to Sharon Clutterbuck and Julie Hill for their past assistance to the work of this panel and also to Simon Harper who currently advises us.

3. Recommendations

- a) That no change be made to the Basic Allowance for 2013-14.
- b) That the level of special responsibility allowances in the scheme remain unchanged for 2013-14.
- c) That Gloucestershire County Council revert to the Inland Revenue's authorised mileage allowance rate current at the time with effect from 1 April 2013.
- d) That travelling allowances are payable to councillors on journeys to and from parish and town council meetings within their division.
- e) That, in line with recommendations made in previous years, councillors are given the opportunity to join the Local Government Pension Scheme based on the basic allowance.

William Alexander

Philip Lowery

Fiona Miles

Quentin Tallon

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CONSTITUTION COMMITTEE

EMPLOYEE CODE OF CONDUCT

REPORT OF THE DIRECTOR: PEOPLE SERVICES

5TH FEBRUARY 2013

1 INTRODUCTION AND BACKGROUND

A revised Employee Code of Conduct was considered by this Committee on 17th October 2012 following the recommendation set out in the Garbutt report (Review of the Cotswold Water Park) to revise the Codes of Conduct for both Members and employees.

Revisions to the Code

Members requested that the Director of People Services make further amendments to the section of the Employee Code of Conduct on membership of clubs, societies and other organisations. These are to:

- a) Include a paragraph outlining the purpose of recording the information.
- b) Provide examples of potential conflicts of interest.

Amendments have been made to include these at paragraph 82 and paragraph 85.

The Code, once adopted, will be promoted to ensure that all those to whom the Code applies have appropriate guidance on how the County Council and the public expect them to behave. This protects both the council and employees from circumstances where employee conduct could create an impression of conflict of interest or corruption.

2 RECOMMENDATION

That the Committee consider the revised draft of the Employee Code of Conduct and recommends approval and adoption to full Council.

CODE OF CONDUCT AND CONFIDENTIAL REPORTING PROCEDURE (WHISTLE-BLOWING) FOR EMPLOYEES OTHER THAN FOR STAFF IN EDUCATIONAL ESTABLISHMENTS (FOR WHOM A SEPARATE CODE EXISTS)

1. This Code also applies to others working within the County Council regardless of the basis of the employment including:-
 - Secondments (both to and from the County Council);
 - Temporary assignments (both to and from the County Council), Work Placements and Trainees;
 - Office holders; and
 - Employees acting as members of companies or voluntary organisations.

The Code also extends to additional and dual employment that has been secured as a result of working for local government.

Inevitably some of the issues covered by the Code will affect senior, managerial and professional employees more than others – but the basic principles apply to everyone.

INTRODUCTION

2. The purpose of this Code is to give all employees guidance on how the County Council and the public in general expect them to behave. If the Code is followed then staff should not find themselves in a situation where their conduct could create an impression of conflict of interest or corruption in the minds of the public. If staff are unsure of the standards expected of them guidance should be sought from their Chief Officer or, in the case of Chief Officers, the Chief Executive.
3. The areas covered by this Code are as follows:
 - Standards;
 - Personal Appearance;
 - Use of the Council's Facilities and Equipment;
 - Fraud and Corruption;
 - Gifts, Hospitality and Sponsorship;
 - Register of Gifts and Hospitality;
 - Disclosure and Use of Information;
 - Political Neutrality;
 - Relationships;
 - Appointments and Other Employment Matters;
 - Undertaking Additional Outside Work;
 - Arrest or conviction on civil or criminal charges;
 - Membership of clubs, societies and other organisations;
 - Equality Issues;

- Health and Safety Issues;
- Confidential Reporting Procedure (Whistle-blowing); and
- Breaches of the Code of Conduct.

STANDARDS

4. Employees are expected to give the highest possible standard of service to the public and to provide advice to Councillors and fellow employees with impartiality. The highest standard of probity must apply and employees must report any suspected unlawfulness, mal-administration, impropriety or breach of procedure of which they are aware to their Chief Officer. (See also paragraph 86 and Appendix 1 of this Code).
5. The Council, for its part, considers it has a duty to protect employees against unjustified allegations of wrong doing.

PERSONAL APPEARANCE

6. Although the Council has not adopted a formal dress code it does expect employees to observe a standard of personal hygiene and appearance which is appropriate to the nature of the work undertaken.

USE OF THE COUNCIL'S FACILITIES AND EQUIPMENT

7. The Council is entitled to expect at least the same standard of care of its property as employees give to their own property. Any facilities, property or equipment provided by the Council should only be used in connection with official duties except where the Council has agreed to private use. There are arrangements for the use of some services for private purposes on the payment of approved charges e.g. private telephone calls and photocopies, etc. You should always ensure that there is either general or specific agreement to private use of any facility or equipment.
8. When an employee ceases working for the Council all papers and other records, equipment and any other property of the Council must be returned.

FRAUD AND CORRUPTION

Culture of the Organisation

9. Although the Council believes that Members, employees and organisations associated with the Council will act with honesty and integrity it recognises that occasionally this will not be the case. The Council's culture is one of honesty and zero tolerance in respect of fraud and corruption.
10. Employees should make themselves aware, of the following key documents which set out various standards of behaviour and procedures which must be adopted in addition to those mentioned in this Code:-
 - Financial Regulations/Accounting Instructions;
 - Powers of Committees and Officers;
 - Computer/Internet Policy;
 - Standing Orders;
 - Staffnet Procurement Guidance

- Employee Handbook and
- Social Media Policy.

11. Employees must use public funds entrusted to them in a responsible and lawful manner and ensure that value for money is achieved. They must comply at all times with the Council's Financial Regulations and associated Accounting Instructions.
12. It is a criminal offence for employees to give or receive any gift, loan, fee, reward or advantage for doing, or not doing anything, or showing favour or disfavour to any person, company or contractor, with a corrupt intention. If an allegation is made it is for the employee to demonstrate that any rewards received have not been corruptly obtained.
13. Although there may be no corruptive intention in the act of giving or receiving of gifts, etc it is important to avoid any grounds for suspicion of corruption. For example, where contracts are being negotiated employees should not negotiate with a potential contractor, supplier or purchaser (of land for example) on a one-to-one basis. All steps in the contract negotiations should be recorded and in accordance with the Council's constitution and scheme of delegation. Standing Orders, Financial Regulations, the Procurement Guidance and the policies of the Council must always be followed; an adequate audit trail must be maintained.
14. The Council recognises that a key preventative measure in the fight against fraud and corruption is to take effective steps at the recruitment stage to establish the previous record of potential employees in terms of their propriety and integrity. Employees responsible for applying the Council's recruitment procedures should ensure that they are followed in respect of all appointments and that written references are obtained regarding known honesty and integrity. (See also paragraph 68).

Personal Interests

15. Any personal interests, financial or otherwise, must be registered (see paragraph 19) when they could reasonably be deemed to potentially conflict with any work undertaken by employees in the course of their duties. The Chief Executive and each Chief Officer will be responsible for ensuring that their personal interests are registered in accordance with this Code and that all of their employees are aware of the need to register personal interests. In certain circumstances even though a conflict of interest is not anticipated (e.g. acting as a School Governor, involvement with an organisation receiving grant aid from the Authority, involvement with an organisation or pressure group which may seek to influence the Authority's policies) employees should register their interests.
16. Section 117 of the Local Government Act 1972 requires all employees to give written notice of any contract or proposed contract in which the Council is involved and in which the employee has a financial interest (either direct or indirect) as soon as the employee becomes aware of it. Failure to declare an interest is a criminal offence and may result in prosecution.
17. A direct financial interest arises where an employee or their partner, family member or close friend has a financial interest in a contract or proposed contract whether to their advantage or disadvantage, in which the Council is involved. An indirect financial interest may arise where an employee or their nominee or employee's

partner holds securities or shares in a company, which exceed £5,000 or 1/100th of the nominal issued share capital of a company which has a direct financial interest, whichever is the lesser amount.

18. A non-financial interest may occur when an employee or their partner, family member or close friend has membership or association in a company, society, club or other body, trade union or voluntary body, or is employed by another person or company which has direct financial interests in any matter which is the subject of discussions/negotiations with the Council.
19. Details of interests must be made in writing and sent to the Director of Law and Administration who will record it in a register and acknowledge receipt of the declaration. Employees should ensure that they receive an acknowledgement back from the Director of Law and Administration. The declaration must be made as soon as the employee is aware of the interest and/or the contract or proposed contract to which the interest relates. All contracts or proposed contracts are covered by this requirement, including contracts for the regular supply of goods and services.
20. Employees with a financial or non-financial interest in any matter should not only declare that interest but also seek to distance themselves from involvement in that matter. Employees must be open and up front about their interest in all associated dealings. In particular, any such interest must be stated at meetings, whether Council meetings or other meetings, public or private. Notes taken at the time should be placed in the appropriate file concerning the interest(s) and how it has been handled.
21. Employees involved in the award or management of contracts shall declare in writing to their Chief Officer (or in the case of Chief Officers the Chief Executive) any association or friendship with any contractor on any part of the Council's select list of contractors and should take no part in the tender process without their written approval. Any employees engaged in the consideration or determination of any application for any contract, permission, grant, approval or consent must declare to the Chief Officer (or in the case of Chief Officers the Chief Executive) any association with any person or body who is an applicant in the field of work in which that employee is engaged.
22. A Chief Officer (or in the case of Chief Officers the Chief Executive) to whom any such interest, association or friendship is declared shall consider whether to take steps to ensure the employee concerned is not placed in a position where private interests and official duties may conflict.

Rules Governing Purchasing by Employees

23. Employees must follow Financial Regulations, Standing Orders, the Council's Purchasing Guide, Contract Guidance Manual (when appropriate) and Accounting Instructions whenever any goods or services are purchased.
24. Employees may not order, in the name of the Council, equipment or goods, whether with a discount or not, from official Council suppliers for their own personal use even if the cost is reimbursed in full to the Council.
25. Where appropriate, copies of the Procurement Guidance should be issued to those staff who are or become involved in purchasing supplies and services.

Separation of Roles during Tendering

26. Employees involved in the tendering process and dealing with contractors should understand the separation of client and contractor roles within the Council. Senior employees who have both client and contractor responsibilities must be aware of the need for accountability and openness.
27. Employees who are privy to confidential information in respect of tenders or costs for either internal or external contractors must not disclose that information to any unauthorised person or organisation or use it for any unauthorised purposes.
28. Employees should ensure that no special favour is shown to current or recent former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in a senior or relevant managerial capacity.
29. Employees must not use their position and knowledge of the Council to gain access to and provide information which puts a particular contractor or anyone else in a better position than any other contractor tendering to undertake work or to provide services or supplies.

Reporting a Concern

30. "Whistleblowing" by employees of the Council is fully supported and encouraged. Where concerns arise these should be brought to the attention of management at all times. In Appendix 1 of this Code a procedure is described for employees who wish to report serious concerns relating to any suspicions or allegations of fraud and corruption or any mal-practice or maladministration.

Investigation

31. Allegations and concerns relating to fraud or corruption will normally be investigated by the Head of Internal Audit and a report issued to the Chief Executive, the Director of Law and Administration and the Director: Strategic Finance (s.151 Officer).
32. The Chief Executive, after consultation with the Director of Law and Administration, will then decide whether there are grounds for the matter to be reported to the Police. The Council will normally wish the Police to be made aware of, and investigate independently, offences where financial impropriety appears to have been discovered.
33. The Council's Disciplinary Procedures (Managing Performance Improvement Procedure) will be used where the outcome of an audit investigation indicates improper behaviour by an employee.

GIFTS, HOSPITALITY AND SPONSORSHIP

34. Any offers of gifts, hospitality or sponsorship should be recorded in the Council's Gifts & Hospitality Register held by each Chief Officer or, in the case of Chief Officers the Chief Executive. The register must include all offers of gifts, etc whether accepted or declined. Advice/permission should be sought from the Chief Officer

before any gift, hospitality or sponsorship is accepted. (see paragraph 51 below)
When in doubt the employee should always refuse such gifts.

35. When hospitality or gifts have to be declined, the person making the offer should be informed of the procedures and standards operating within the Council, in relation to gifts, hospitality and sponsorship.

Gifts (including bequests)

36. Gifts offered by persons who are providing, or seeking to provide, goods or services to the Council, or who are seeking decisions from the Council, should be refused and returned, as should gifts (other than those of a trivial nature e.g. calendars, diaries, desk sets) offered by those receiving services from the Council.
37. In all cases relating to the receipt of gifts it is wise to err on the side of caution: an obviously expensive gift must be tactfully declined or, if appropriate, donated to the Council for official use, and the Chief Officer or Chief Executive should be advised of the action taken. If a gift is simply delivered it must be returned to the donor or, if appropriate, be donated to the Council for official use, and the Chief Officer or Chief Executive must be advised of the action taken. All such gifts must be registered in accordance with paragraph 51 of this Code.
38. On occasions an employee may become a beneficiary of a Will of a service user; this may be the way a service user wishes to express gratitude for the service he or she has received.
39. Those directorates/services which provide personal services to service users have written policies concerning the receipt of bequests by employees – such policies have been drawn up to protect the interests of both service users and members of staff. Staff should ensure that they have read and comply with such policies.

Hospitality

40. Employees may only accept offers of hospitality if there is a genuine need to exchange information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community within Gloucestershire and where the Council should be seen to be represented. All such hospitality must be properly authorised and recorded by Chief Officers or, in the case of Chief Officers the Chief Executive. Exceptions to this rule must be properly authorised and recorded by Chief Officers or the Chief Executive.
41. Acceptance of hospitality through attendance at relevant conferences and courses is acceptable where the hospitality is corporate rather than personal, or where the Chief Officer (or Chief Executive in the case of Chief Officers) gives consent in advance and where it is clear that any purchasing decisions are not compromised.
42. An offer of hospitality to individual employees calls for special caution particularly if the host is undertaking, or applying to do business with the County Council or hoping to obtain a decision from it. It is very important to avoid any suggestion of improper influence.

43. A working lunch of modest standards to allow the parties to discuss business would normally be acceptable; this is a case where the hospitality is secondary to a specific working arrangement. On the other hand, it would not be acceptable conduct for an employee to accept such things as:-

- a holiday
- tickets for concerts, theatre or sporting events
- the use of a company flat or hotel suite
- expensive meals or entertainment

44. Hospitality must not be accepted unless the acceptance can be readily acknowledged in public or is similar to that which the Council would provide in the same circumstances.

45. There are occasions when an offer of hospitality of any kind must be declined e.g. when the person offering the hospitality has a current issue with the Council such as a tender under consideration or is involved in a contract dispute.

46. Offers of hospitality accepted or rejected must be registered by employees to their Chief Officer or, in the case of Chief Officers to the Chief Executive. The details to be registered must be in accordance with that shown in paragraph 51 of this Code.

Sponsorship

47. Where outside organisations, contractors or potential contractors wish or seek to sponsor a Council activity, the basic conventions concerning acceptance of gifts or hospitality apply.

48. Where the Council acts as a sponsor for an event or service, neither an employee or any partner or relative must benefit from such sponsorship without there being full disclosure to an appropriate manager of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

Bribery Act 2010

49. The Bribery Act 2010 came into force in the UK on 1st July 2011. It amends and reforms the UK criminal law and provides a modern legal framework to combat bribery in the UK and internationally. Staff need to be aware of their obligations under this Act, which sets out the criminality of accepting and giving of bribes. This applies to both individual staff and the Council corporately.

50. The Bribery Act creates the following offences:

- Active bribery: promising or giving a financial or other advantage;
- Passive bribery: agreeing to receive or accepting a financial or other advantage;
- Bribery of foreign public officials; and
- The failure of commercial organisations to prevent bribery by an associated person (corporate offence).

The penalty under the Bribery Act is an unlimited fine and/or imprisonment up to a maximum of 10 years.

Full details of the Act can be found at: <http://www.legislation.gov.uk/ukpga/2010/23/contents>

REGISTER OF GIFTS AND HOSPITALITY

51. A register will be maintained by every Chief Officer detailing all offers of gifts or hospitality made to employees in their department. The following information will be recorded, based on information reported by employees:-

- the person or body making the offer;
- the member of staff to whom the offer was made;
- the gift or hospitality offered;
- the circumstances in which the offer was made;
- the action taken by the member of staff concerned; and
- the action taken (if any) by the Chief Officer (or in the case of Chief Officers the Chief Executive).

A similar register will be maintained by the Chief Executive in relation to Chief Officers.

Where a suspected breach has been reported a formal investigation will be undertaken and recorded.

DISCLOSURE AND USE OF INFORMATION

52. The Council believes that, subject to the content of paragraphs 53 to 59 below, information should normally be disclosed unless it is in the public interest not to do so. If in doubt, comply with the council's Freedom of Information policy, procedures and authorisation process.

53. Many employees obtain information which has not been made public and/or is confidential. Employees may also have access to personal information about other employees or clients. This information must only be disclosed to a third party where there is a legal responsibility to provide it, or where the employee or client provides a written authority for the information to be provided.

54. The restrictions in paragraph 53 to 59 apply equally to information which an employee may obtain from their employment about a contractor, debtor or creditor of the Council.

55. No employee, unless specifically authorised by their Chief Officer to do so, may communicate to the public or press any information about the discussions or decisions of the County Council or any of its Boards following the exclusion of the public and press, with the exception of information which is required to be published by law.

56. As a general rule employees must not enter into any public correspondence or debate on a matter related to their official duties, or in respect of which they hold official information, unless this is done with the consent of their Chief Officer. Similar considerations exist covering the position of employees invited to participate in press interviews, radio or television programmes, etc., where the subject relates directly or

indirectly to their work for the Council. Employees invited to take part in such programmes should discuss the position with their Chief Officer before replying to the invitation.

57. Employees must adhere to the Council's published employee guidelines relating to confidential information, as covered by current Data Protection legislation. In particular, information must not be disclosed to unauthorised people or organisations.
58. Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way.
59. Employees must comply with published policies and codes of practice relating to the secure use of ICT systems, including the use of the Internet and e-mail and the acquisition and use of software. A serious breach of the rules is likely to lead to disciplinary action.

POLITICAL NEUTRALITY

60. Employees must serve all Councillors and not just those of a single or controlling group, and must ensure that the individual rights of all Councillors are respected.
61. Employees of the County Council are not eligible to stand for office as an elected member of the County Council. Employees, whether or not politically restricted under the terms of the Local Government and Housing Act 1989, must follow every policy of the Council and must not allow their own personal or political opinions to interfere with their work.

Politically Sensitive Posts

62. The Local Government and Housing Act 1989 has the effect of imposing restrictions on public political activity by certain staff of local authorities in politically sensitive posts. Political assistants employed pursuant to Section 9, Local Government and Housing Act 1989 are not wholly bound by these restrictions.
63. The effect of the inclusion of a post in a list of sensitive posts is that the postholder will be prevented from becoming a member of a local authority (except a Town or Parish Council), or a member of the House of Commons or the European Parliament. In addition, regulations prevent them from:-
 - holding office in a political party
 - canvassing at elections
 - speaking or writing publicly on matters on party political lines

RELATIONSHIPS

Councillors

64. Mutual respect between employees and Councillors is essential to good local government. However, close personal familiarity can possibly damage working relationships and cause embarrassment.

Contractors

65. All relationships of a business or private nature with external contractors, or potential contractors, must be made known to the employee's immediate line manager. Orders and contracts must be awarded on merit, through fair competition, and no special favour should be shown to businesses run by, for example, friends, partners or relatives. No part of the local community should be discriminated against.
66. Employees who engage or supervise contractors or have any other official relationship with contractors and have previously had, or currently have, a relationship in a private or domestic capacity with such contractors, must declare that relationship to their Chief Officer, or in the case of Chief Officers to the Chief Executive.
67. No employee shall purchase for private purposes goods or services from a firm which has dealings with the Council where the firm is offering preferential terms to the individual employee (directly or indirectly) because of a contractual, business or other relationship with the Council. This rule equally applies to the ordering of extra supplies against a contract where the intention is to use the goods privately and pay for them at the Authority's contract price, particularly if the employee is aware that the price is not available to the ordinary customer. It would also apply to the use of services of a contractor with whom employees have official contacts as part of their employment with the Council. It also precludes employees from using, for private purposes, any special trading cards which the Council may hold for council business. It does not, however, preclude employees benefiting from general discounts offered by suppliers to all Council employees or made available by the Council or trade unions on behalf of staff generally.

APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

68. It is contrary to the Council's HR policies for an employee to make an appointment/engagement which is based on anything other than the ability of the individual to undertake the duties of the post. Employees must not be involved in an appointment/engagement where they are related to an applicant, or have any personal or business relationship outside work with them.
69. Employees must not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close personal friend.
70. Employees of the Council shall inform their Chief Officer or, in the case of Chief Officers the Chief Executive, of any relationship known to them to exist between themselves and a candidate for an appointment/engagement in which they are directly involved. If a candidate deliberately omits to disclose a relationship they will be disqualified. If the omission is discovered after appointment or engagement they shall be liable to dismissal.
71. Employees involved in appointments/engagements must, where practicable, ensure that references are obtained from the current and previous employer of the candidate to whom they wish to formally offer a post. Ideally both referees should be senior persons, one from the candidate's present employer and the other from their previous employer.

72. In the case of applicants leaving full-time education or not having worked since doing so, the Head of School, College, University etc. should be named as one of the referees.

UNDERTAKING ADDITIONAL WORK OUTSIDE OF THE COUNCIL

73. Full-time employees shall devote their whole time service to the work of the Council, and shall not engage in any other business, including self-employment, or take up any other additional appointment without the express written prior consent of their Chief Officer, and in the case of Chief Officers, the Chief Executive. The Chief Officer or the Chief Executive reserve the right to withdraw such consent at any time.
74. All prospective employees shall, prior to appointment, provide details on the Council's standard application form of any other employment(s) in which they are engaged, giving full details of the employer, job title and the hours worked per week in each job. (This information will be examined to see whether any other existing employment(s) is in conflict with the employment being sought with the Council and whether, in overall terms, the total hours of all the employments exceed 48 per week - as per the Working Time Regulations 1998.) Also, existing part-time employees must declare any other employment to the Council in order that the latter can ensure that there is no conflict of interest between such employment and that there is adherence to the Working Time Regulations.
75. Employees should avoid situations where a conflict between work and personal interests may arise.
76. Undertaking unpaid activities outside Council employment may, on occasions, be detrimental to the Council's interests. Employees should be mindful of any potential conflict of interests in such situations.
77. No personal business activity or outside work of any sort may be undertaken by an employee during their normal working hours for the Council.

Consultancy, Lecturing, Fee Paying Work

78. Where a request is received for any employee to make a presentation, speak at a seminar or lecture on a course, within their normal field of work and during their normal working hours, the work will be undertaken on behalf of the Council and any fee will be treated as income for the Council.
79. Where an employee is approached to undertake fee paying work the Council has determined that the fee is to be treated as income for the employee if all the work, including preparation, is undertaken outside normal work hours. In the case of activities which are prepared and/or take place partly during normal working hours, the Council has agreed that half the fee is to be treated as income for the employee and the remainder paid to the Council. All consultancy, lecturing and other fee paying work must be approved by the employee's Chief Officer or, in the case of Chief Officers the Chief Executive.

Intellectual Property

80. Intellectual property is a generic term that includes inventions, creative writings and drawings. If these items are created as part of an employee's normal course of employment then, as a general rule, they belong to the Council.

ARREST OR CONVICTION ON CIVIL OR CRIMINAL CHARGES

81. You must, as soon as practicable inform your line manager, at each stage, if you are arrested, charged, refused bail, required to attend court, convicted or sentenced for any criminal offence. This does not apply to traffic offences unless the possible penalty includes imprisonment or disqualification from driving or involves an official vehicle. Failure to inform will be considered an act of gross misconduct.

MEMBERSHIP OF CLUBS, SOCIETIES AND OTHER ORGANISATIONS WHICH ARE NOT OPEN TO THE PUBLIC AND/OR WHICH HAVE SECRECY ABOUT RULES, MEMBERSHIP, ETC.

82. The intention of this Code and procedures is to ensure transparency and openness and that no reasonable person can question the integrity and motives in connection with your employment with the Council.
83. All employees must declare membership of any organisation which is not open to the public, where there is a commitment of allegiance, and /or which has secrecy about rules, membership or conduct. This declaration needs to be made through completing a form held by each Chief Officer

CONFLICT OF INTEREST

84. Where employees belong to any club, society, charity or similar body and any person within it or the club, society or similar body itself may benefit from a decision or action employees may take in their work with the Council, then they must register their interest and discuss what action should be taken with their line manager.
85. A conflict of interest may be defined as a situation in which an employee has a private or personal interest sufficient to influence objectivity when exercising official duties. However employees are not to be subject to unreasonable restrictions on their private activities as a result of their employment with the council. For example if an employee wished to go on a protest march against foreign policy, the Council's expectation would be that in doing so the employee would not bring the Council into disrepute, e.g. not carry an abusive placard or give an inflammatory speech expressing views that conflict with or damage the Council's reputation. Similarly if an employee wished to join the Ramblers' Association, this may be of no relevance but would need to be declared in the register of officers' interests if the employee is in a role which might affect the Association's interests, e.g. if the Society was concerned with a particular conservation issue and the employee worked in a decision making role concerning conservation issues for the Council.

EQUALITY ISSUES

86. All employees must comply with the Council's policies on equal opportunities in employment and with those relating to service delivery.

HEALTH AND SAFETY ISSUES

87. Employees should ensure they read and follow all health and safety policies and arrangements relating to their employment.

CONFIDENTIAL REPORTING PROCEDURE FOR EMPLOYEES (WHISTLE-BLOWING)

88. Appendix 1 of this Code provides procedures for employees to follow who wish to report, in strict confidence, their serious concerns about any aspect of the Council's work or the behaviour or standard of conduct of other employees or anyone associated with the work and services provided by the Council.

BREACHES OF THE CODE OF CONDUCT

89. Any suspected breach of this Code must be:-
- (a) immediately reported to the appropriate Chief Officer and to the Chief Executive or, in the case of Chief Officers, to the Chief Executive,
 - OR
 - (b) be reported through the confidential reporting procedure for employees, detailed at Appendix 1.
90. Where a suspected breach has been reported, a formal investigation into that suspected breach will be undertaken.
91. Failure to comply with any of the standards detailed in this Code may result in formal disciplinary action, under the Managing Performance Improvement Procedure, including dismissal.

CONFIDENTIAL REPORTING PROCEDURE FOR EMPLOYEES (WHISTLE BLOWING)

1. Employees are often the first to realise that there may be something wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation and it may be easier, therefore, to ignore the concern rather than report what may just be a suspicion of malpractice.
2. The Council is committed to the highest standards of openness, probity and accountability. It expects employees, and others that it deals with, who have serious concerns about any aspect of the Council's work, to come forward and voice those concerns. The phrase 'whistle-blowing' in this procedure refers to the disclosure internally or externally by employees of malpractice, as well as illegal acts or omissions at work.
3. This Procedure makes it clear that employees can report, in a confidential manner, their concerns without fear of victimisation, subsequent discrimination or disadvantage and is intended to encourage and enable serious concerns to be raised with the Council, rather than overlooking a problem or 'blowing the whistle' outside. It is stressed that under the Public Interest Disclosure Act 1998, employees of the Council who, in good faith, speak out against corruption or malpractice at work have statutory protection against victimisation and dismissal.

AIMS AND SCOPE OF THIS PROCEDURE

4. This Procedure aims to:
 - encourage employees to feel confident in raising serious concerns in those cases where they do not wish to use the normal reporting routes within their service area
 - provide alternative avenues for raising concerns
 - ensure that responses to concerns are made
 - to reassure employees that they will be protected from possible reprisals or victimisation if they have a reasonable belief that they have raised a concern in good faith
5. There are existing procedures in place to enable employees to lodge a grievance relating to their own employment. This Procedure is intended to cover concerns that fall outside the scope of other procedures and include:
 - conduct which is an offence or a breach of law
 - disclosures related to miscarriages of justice
 - health and safety risks, including risks to the public as well as other employees (where the concerns raised have not been addressed through normal departmental procedures)
 - damage to the environment
 - the unauthorised use of public funds including fraud and corruption
 - sexual or physical abuse
 - other unethical or unprofessional conduct

- notification of any suspicions of price-fixing cartels providing services/goods to the Council
6. The Council fully understands that employees who are members of a Trade Union recognised by the Council may, in the first instance, wish to seek advice and guidance from their Union on the application of this Procedure (see paragraph 23 of this Appendix).
 7. Any serious concerns that employees have about any aspect of service provision, or the conduct of employees or members of the Council or others acting on behalf of the Council, can be reported under this Procedure. This may be about something that:
 - makes an employee feel uncomfortable in terms of apparent non adherence to known standards
 - appears to be contrary to the requirements of the Council's Standing Orders and Code of Conduct
 - falls below established standards of practice
 - may amount to improper conduct
 - appears to be an attempt to mislead

SAFEGUARDS

Harassment or Victimisation

8. The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from the person(s) who is the subject of the complaint. However, if employees believe that what they raise as a concern to be the truth they should be confident that they are fulfilling their duty to their employer and those for whom they are providing a service.
9. The Council will not tolerate any form of sexual, racial or general harassment or victimisation and will take appropriate action to protect employees when they raise a concern in good faith.
10. Any investigation into allegations of potential malpractice will be dealt with separately to any grievance, disciplinary or redundancy procedure concerning an employee. Equally, any investigation will not be influenced by any such procedures involving an employee.

CONFIDENTIALITY

11. All concerns will be treated in confidence and every effort will be made to protect an employee's identity if that is their wish. However this cannot be guaranteed if say following an investigation a case is taken to Court, where the employee may need to be called as a witness.

ANONYMOUS ALLEGATIONS

12. In order to ensure that employees receive protection of the Public Interest Disclosure Act 1998 employees should put their name to their allegation. Concerns expressed anonymously are sometimes less credible. Anonymous concerns and allegations,

whether made to the Director of Law and Administration or Head of Internal Audit, will therefore be investigated at the discretion of the Council.

13. In exercising this discretion the factors to be taken into account would include:

- the seriousness of the issues raised
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources factual evidence.

UNTRUE ALLEGATIONS

14. If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, an allegation is frivolous, malicious or for personal gain, disciplinary action may be taken against them.

HOW TO RAISE A CONCERN

15. Employees who wish to raise a serious concern should do so verbally or in writing (marked 'Confidential') to the:

Director of Law and Administration
Gloucestershire County Council
Shire Hall
Gloucester GL1 2TZ
Telephone: (01452) 425201

The Director of Law and Administration will refer all concerns in relation to possible financial impropriety to the Director: Strategic Finance and/or the Head of Internal Audit.

16. Alternatively employees may wish to use the Council's 24 hour "whistleblowing" answerphone service on Gloucester 01452 - 427052 to report any concern relating to possible fraud, corruption, conduct or mal-practice/administration.

17. Employees who wish to make a written statement/report are invited to set out:

- the background and history of the concern
- relevant dates, person involved
- details of supporting evidence

18. Although employees are not expected to prove an allegation they will need to demonstrate that there are reasonable grounds for their concerns.

HOW THE COUNCIL WILL RESPOND

19. The Council will respond to such concerns and, where appropriate, the matters raised may:

- be investigated by management, Internal Audit, or through the disciplinary process
- be referred to the Police

- be referred to the District Auditor
- be the subject of an independent inquiry

20. In order to protect individuals and those involved in the concern, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. The overriding principle which the Council will take into account is public interest; however, the Council has a zero tolerance attitude to any fraudulent activity. Concerns or allegations which fall within the scope of specific procedures (for example, child protection) will normally be referred for consideration under those procedures.

21. Within 10 working days of a concern being raised, the Director of Law and Administration will write to the employee concerned at their private address:-

- acknowledging that the concern has been received
- indicating how he proposes to deal with the matter
- telling the employee whether any initial enquiries have been made
- telling the employee whether further investigations will take place and, if not, why not

22. If the matter is subject to further investigation the employee will be informed of any progress and proposed timescale for the investigation. The amount of contact between the officers considering the issues and the employee raising the concern will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided. If necessary, the Council will seek further information from the employee raising the concern.

23. A representative of a Trade Union recognised by the Council or work place colleague may accompany an employee during any stage of an investigation conducted under this Procedure.

24. The Council will take steps to minimise any difficulties which may be experienced as a result of raising a concern. For instance, where an employee is required to give evidence in criminal or disciplinary proceedings the Council will arrange for them to receive advice about the procedures involved.

25. The Council accepts that employees need to be assured that matters of concern have been properly addressed and, therefore, subject to legal constraints, employees will be informed of the outcome of any investigation.

THE RESPONSIBLE OFFICER

26. The Director of Law and Administration has overall responsibility for the maintenance and operation of this Procedure. He will ensure that a record of concerns raised and the outcomes recorded is maintained in a form that does not breach confidentiality.

FURTHER ACTION

27. This Procedure is intended to assist employees who wish to raise concerns within the Council. The Council hopes employees will be satisfied with any action taken. However, if they are not, and they feel it is right to take the matter outside the Council, the following organisations are possible contact points:

- Health & Safety Executive
- Environment Agency
- District Audit/Audit Commission/External Auditors
- Financial Services Authority
- DSS Benefits/Contributions Agencies
- Serious Fraud Office
- Trade Union
- Inland Revenue
- Relevant Voluntary Organisation
- Charity Commission
- Police
- Customs & Excise
- 'Public Concern at Work' (tel: 0207 404 6609)

28. If employees do decide to take the matter outside the Council, they must ensure that they do not disclose to a third party any Council confidential information. If employees are in any doubt, they are strongly advised to seek the confidential advice of the Director of Law & Administration before taking any action to ensure that they are not putting themselves in a vulnerable position.

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Agenda Item 9

Changes to Gloucestershire County Council Constitution by the Monitoring Officer

In the exercise of my powers set out in Article 15.02.02 of the Council's Constitution, I make the following amendment to the Council's Constitution:

Procedural Standing Order 27.1 shall be amended to include reference to Procedural Standing Order 2.3 which states that

"The person presiding at the meeting may at any time call upon the Chief Executive or any other person who is not a Member of the Council to advise the Council on any matter referred to in the business under discussion."



.....
NJ Roberts

Director of Law & Administration and Monitoring Officer

Gloucestershire County Council

20 November 2012

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