



**Gloucestershire**

COUNTY COUNCIL

**CONSTITUTION COMMITTEE**

**2.00 pm**

**MONDAY**

**10 MARCH 2014**

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

**MEETING PAPERS**





## CONSTITUTION COMMITTEE

**TIME:** 2.00 pm  
**DATE:** Monday 10th March, 2014  
**VENUE:** Members' Room - Shire Hall, Gloucester

### A G E N D A

ITEM	TOPIC	CONTACT
1.	<b>Apologies for absence</b>	Simon Harper
2.	<b>Minutes</b> (Pages 1 - 8) To approve the minutes of the meeting held on 7 October 2013.	Simon Harper
3.	<b>Public Questions</b> To answer any written public questions about matters which are within the powers and duties of the Committee. <b>The closing date/time for receipt of questions is 10.00am on 3 March 2014.</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>	Simon Harper
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 3 March 2014.</b>	Simon Harper
5.	<b>Report of the Independent Remuneration Panel</b> (Pages 9 - 16)	William Alexander
6.	<b>Constitution Changes</b> (Pages 17 - 26)	Jane Burns

### NOTES

- (a) **MEMBERSHIP** – Cllr Colin Guyton, Cllr Mark Hawthorne, Cllr Jeremy Hilton, Cllr Paul Hodgkinson, Cllr Steve McHale, Cllr Nigel Moor, 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: Jane Burns ☎01452 328472 /fax: 425149/e-mail: jane.burns@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

Simon Harper, Head of Democratic Services

☎: 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 Monday 7th October, 2013 commencing at 3.00 pm.**

### **PRESENT MEMBERSHIP:**

Cllr Colin Guyton	Cllr Nigel Moor
Cllr Mark Hawthorne	Cllr Ray Theodoulou
Cllr Jeremy Hilton	Cllr Lesley Williams
Cllr Paul Hodgkinson	Cllr Will Windsor-Clive

William Alexander, Chairman of the Independent Remuneration Panel

Jane Burns, Director of Strategy & Challenge and Monitoring Officer  
Christine Wray, Head of Legal Services and Deputy Monitoring Officer  
Simon Harper, Head of Democratic Services  
Joanne Bolton, Democratic Services Adviser

### **53. APOLOGIES FOR ABSENCE**

Cllr Steve McHale.

### **54. MINUTES**

The minutes of the meeting held on 10 June 2013 were confirmed and signed as a correct record by the Chairman.

### **55. DECLARATION OF INTEREST**

No declarations of interest were made at the meeting.

### **56. PUBLIC QUESTIONS**

No questions from members of the public had been received.

### **57. MEMBERS' QUESTIONS**

No questions from members had been received.

## **58. INDEPENDENT REMUNERATION PANEL**

- 58.1 William Alexander, Chairman of the Independent Remuneration Panel (IRP) presented the panel's recommendations relating to allowances for members of the Adoption Panel and Fostering Panel and the qualifying number of members required in a political group for a payment of a Special Responsibility Allowance (SRA) to their group leader.
- 58.2 William Alexander explained that the IRP had recognised that appointing two members to the Adoption Panel should provide greater resilience, and enable the workload to be shared. The IRP was suggesting that the current level of SRA of £11,703 be divided equally between the two members appointed, resulting in an allowance of £5,852 each.
- 58.3 He informed members that the IRP had been unaware until recently that an elected member served on the Fostering Panel, and that historically the member had not received an allowance. The IRP believed the member should receive the same level of allowance (£5,852) as the two members of the Adoption Panel. In response to a question, William Alexander made the point that whilst it was not the responsibility of the IRP to recommend the number of members to a specific workload or role, it was the responsibility of the panel to recommend the remuneration relative to that role.
- 58.4 William Alexander informed the committee that the IRP had considered the number of members required in a political group for the payment of a SRA to the group leader. The current qualifying number in a political group for the leader to receive a SRA was four. He informed members that he had met with the leader of the Independent Group who had provided details of his role.
- 58.5 William Alexander confirmed to members that the IRP was not supportive of reducing the number of qualifying members from four to three at the present time. The IRP was however currently undertaking a review of the position as part of a wider review of the allowances scheme.
- 58.6 In response to a question, William Alexander explained that the IRP had previously made the recommendation to the committee that the qualifying number of members in a political group, for the payment of a SRA to the group leader, should be six. He clarified that it was the Constitution Committee which had set the current number.
- 58.7 William Alexander made reference to the significance of the no overall control position of the council had on the group leaders. He emphasised the point that the IRP was having to rethink this particular aspect of the members' allowances scheme, to consider what was needed to help a no overall majority council work.
- 58.8 One member commented that it was unfair that the group leaders of the smaller political groups did not qualify to receive a SRA.

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

58.9 William Alexander informed the committee that he was keen to hear the views of councillors, particularly those in the minority political groups, on this subject. He explained that he would be undertaking this as part of the wider review of the Members' Allowances Scheme, with member interviews taking place throughout October.

58.10 He explained that following its review of the Members Allowances Scheme, the IRP would be bringing its conclusions and recommendations to this committee, at a meeting in the New Year.

58.11 The committee resolved:

***TO RECOMMEND TO COUNCIL***

- (a) That a Special Responsibility Allowance of £5,852 should be paid to each of the two members of the Adoption Panel. The allowances to be payable from the date of appointment by council.*
- (b) That a Special Responsibility Allowance of £5,852 should be paid to the member appointed to the Fostering Panel (effective from the date of appointment on 15 May 2013).*
- (c) That the council should not reduce the qualifying number of members for a political group leader's allowance from four to three.*

**59. HEALTH AND WELLBEING BOARD**

59.1 The committee resolved:

***TO RECOMMEND TO COUNCIL***

- (a) To amend the membership of the Health and Wellbeing Board in Section 3.0 of Part 3 of the Constitution to allow the Leader of Gloucestershire County Council to appoint four county councillors.*
- (b) To remove the reference to the Leader of the Council and two Cabinet Members as members of the Board.*

**60. FILM AND AUDIO RECORDING OF COUNCIL MEETINGS**

60.1 The committee noted that this change would permit filming from a fixed location and also filming from Smart phones by individuals and members. The chairman explained that the political group leaders had agreed to remind members that the filming should not in any way be disruptive. The committee recognised that it would still be within the chairman's power to intervene if filming became disruptive and the amendment would not affect this.

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

60.2 Simon Harper, Head of Democratic Services, informed the committee that media organisations were being encouraged to get in touch beforehand if they planned on filming the meeting, so that the necessary arrangements could be made in the meeting room.

60.3 The committee resolved:

***TO RECOMMEND TO COUNCIL*** *That following the publication of Government Guidance, to amend procedure rule 22 in Part 4 of the Constitution as follows:*

*Filming, photographing and audio recordings of meetings is permitted. Please contact Democratic Services (tel 01452 425230) to make the necessary arrangements ahead of the meeting.*

## **61. JOINT WASTE COMMITTEE**

61.1 The committee considered the terms of reference for the Joint Waste Committee for inclusion in Part 3 of the Constitution.

61.2 The committee made the recommendation that the Joint Waste Committee should devise a protocol for public and member questions at the meeting, and reference to this be included on the agenda. **Action: Simon Harper.**

61.3 The committee resolved:

***TO RECOMMEND TO CABINET*** *that the terms of reference of the Gloucestershire Joint Waste Committee be approved and included in Part 3 of the Council's Constitution.*

## **62. ITEMS FOR DISCUSSION FROM CLLR JEREMY HILTON**

### **62.1 Time limit to debate Notices of Motion**

62.1.1 Cllr Jeremy Hilton informed the committee that the Liberal Democrat Group members on the Constitution Committee, were proposing the removal of the time limit of a maximum of 30 minutes rule for each political group to consider motions at full council. He commented that the present rules meant that it was often the case that there was not enough time to debate the motions, thus denying backbench councillors the opportunity to participate.

62.1.2 He explained that the effect of the proposed amendments would be to restrict the total time for debating motions to three hours, an increase of one hour from the present constitutional limit.

62.1.3 The chairman indicated that the Conservative Group understood the reasons behind the proposed amendment to remove the 30 minute rule for each political group to consider motions. He recognised that some debates had been



curtailed, when an extra 10 or 15 minutes would have enabled all members to participate who wished to, effectively completing the debate.

- 62.1.4 The chairman stated that the Conservative Group was not supportive of increasing the time spent considering motions to three hours, and he felt it should remain at two. He suggested that once the two hours was up the Chairman of Council could make a judgement on whether extra time was needed to complete the debate.
- 62.1.5 The chairman emphasised that the extension should only be used to complete the debate of that particular motion and not be used to debate a new motion. He suggested that increasing the overall time spent debating motions could be reviewed again in six months time.
- 62.1.6 Some members of the committee raised the point that there would be an opportunity for the political group leaders to consider the council agenda beforehand at their group leaders' meeting. Group leaders in consultation with the Chairman of Council would be able to determine the motions which needed the most debate, and agree an informal time period for each motion.
- 62.1.7 On being put to vote the committee resolved:

***TO RECOMMEND TO COUNCIL*** that the following amendments to the council's Constitution be approved:

1) *Under part 4 – Notices of Motion – Section 11.2.2 –*

*Unless the Chairperson, in consultation with Group Leaders, decides otherwise, subject to Procedural Standing Order 11.8, there will be no time restrictions on motions from each political group (for the purposes of this Procedural Standing Order 11.2.2 only, all independent Councillors are considered as a political group) shall be considered by full council for up to a maximum of 30 minutes on the day of a meeting. Immediately after the end of the 30 minute period debate the proposer of the original motion then under debate may choose whether the motion be put or withdrawn (the consent of the seconder and full Council not being required in these circumstances) and if he or she decides that the motion be put, he or she shall first have the right of reply which shall be limited to 3 minutes;*

- 62.1.8 The committee was not in support of amending Procedural Standing Order 11.8, to increase the total time period spent on motions to three hours.
- 62.1.9 The committee was not in support of amending 13.5 of the Council's Constitution to introduce a 20 minute limit to debate amendments.

**62.2 Annual Election of Leader of Council**

- 62.2.1 Cllr Jeremy Hilton explained that the Liberal Democrat Group members on the Constitution Committee were proposing amendments to the Constitution, for the

Leader of Council to be appointed annually at the annual meeting of the council, therefore reducing the current four year term of office, to an annual one.

- 62.2.2 Cllr Hilton informed members that this would improve democracy on the county council and ensure that the post of Leader of the Council was treated the same as other elected member positions. Cllr Paul Hodgkinson explained that the amendment would mean that the Leader of Council would remain both effective and accountable.
- 62.2.3 Some members made reference to the mechanisms already in place for the removal of the Leader of Council, if there was a need to. Those members felt that there were benefits to the council and council services from the stability of a four year term of office of the Leader of Council, and consequently were strongly against the proposed amendment.
- 62.2.4 One member informed the committee that he could appreciate both sides of the argument and suggested that research should be done into what other local authorities did. Cllr Hilton commented that at Gloucester City Council the Leader of Council was elected annually.
- 62.2.5 On being put to the vote, the committee did not support amending the council's Constitution to reduce the current four year term of office of the Leader of Council to an annual term.

### **63. CHANGES TO GLOUCESTERSHIRE COUNTY COUNCIL CONSTITUTION BY THE MONITORING OFFICER**

- 63.1 The committee considered a report of the Monitoring Officer relating to changes to the Article 14.03 (Changes to governance arrangements).

The committee resolved:

***TO RECOMMEND TO COUNCIL that the amendments to Article 14.03 be approved.***

### **64. FUTURE MEETING DATES**

- 64.1 Members noted the following future meeting dates and it was agreed that all meetings would now begin at 2pm.

10 March 2014  
9 June 2014  
6 October 2014

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

The committee agreed that another meeting would need to be arranged to take place in January 2014. **ACTION: Joanne Bolton.**

#### **CHAIRPERSON**

Meeting concluded at 16:30

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## REPORT OF THE INDEPENDENT REMUNERATION PANEL

JANUARY 2014

### 1. Introduction

1.1 This report has been produced by an Independent Remuneration Panel (IRP) made up of members drawn from the local community. The Panel is independent of the Council and its role is to make recommendations on the level of allowances paid to councillors. The object being to promote access to all in our diverse community who may wish to stand for election to serve that community via the democratic process.

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            Secretary of 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 of the Valuation Tribunal Service 2004 to 2014. Chairman of Dorset County Council Independent Remuneration Panel 2014.
- 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 the Royal College of Nursing Specialist Group. Trustee of Gloucestershire Chest Fund. Also a Parish Councillor, School governor as well as actively involved in Gloucestershire Girl Guiding
- Gwyn Morgan              Former Head of Science at a Gloucestershire Secondary School. Broad experience of the

education system as a teacher and a school governor.  
Custody Visitor with high level security clearance.

- Richard Blamey Former Pensions Manager for a number of multi-national companies. Currently a Pensions Consultant and trustee. Parish and local councillor.

1.3 The Panel's recommendations relate to the period 1 April 2014 to 31 March 2015 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')

## **2. Report**

2.1 The Panel met on 22 April, 17 May, 12 July, 9 September, 4 November, 25 November and 20 December 2013. Interviews with 27 councillors were conducted on 2, 8, 14, 24 and 28 October 2013.

2.2 The Chairman of the Independent Remuneration Panel together with Simon Harper, Head of Democratic Services, attended the annual meeting of the Chairmen and Lead Officers of County, District and Unitary Authorities for the South West Region at Taunton on 18 June 2013.

2.3 As advised in our report to the Constitution Committee (December 2012) the Panel felt it was time to conduct an in-depth review of all matters relating to the remuneration of members. To this end, 27 interviews were conducted with a wide range of members bearing in mind length of service, political persuasion, back bencher or Special Responsibility Allowance holder, etc. Considerable help was given to the Panel by the willingness of members to be open and frank with their responses to questioning. Most importantly, a general feeling that the Basic Allowance had been allowed to drop behind that which was considered reasonable due to the economic climate prevailing over the past few years.

### **2.4 Basic Allowance (BA)**

2.4.1 The Panel members believe that the current BA of £8,800 undervalues the role of County Councillors and are unanimous in their view that the appropriate rate of BA for 2014/15 is in excess of £10,000. The Panel recognise, however, that the severe financial pressure on local authorities

means that now is not the right time to make a significant change to allowances.

- 2.4.2 The Panel therefore suggests that the increase in BA should be linked to the pay of Council staff. Staff pay was increased by 1% in 2013-14 after a pay freeze of four years and a further pay rise of 1% is anticipated in 2014-15.
- 2.4.3 The Panel will continue to consider all matters impinging on allowances during 2014-15 being mindful that the level of BA remains low. It is important in the longer term that allowances are set at a level so as not to discourage people from standing for election.

## 2.5 **Special Responsibility Allowances (SRA)**

- 2.5.1 It was felt that the remuneration for the Leader of Council undervalued the role when taking into account the high level of accountability, responsibility and time required to carry out the role effectively. However, the Panel believe that it is not appropriate due to financial constraints at the present time to make any recommendation for change.
- 2.5.2 The Panel's decision to offer a SRA to Political Group Spokespersons or 'Shadows' has been well received and believe that it should be maintained at its current monetary value of £1,500. The Panel recognise the need to keep the level of this allowance under review to reflect the working arrangements of the Council's new 'minority administration'.
- 2.5.3 Two of the Panel members attended the Pensions Committee on 8 November 2013 to gain a better understanding of the role of the committee. The Panel note the importance of the committee in overseeing the sums invested in the Gloucestershire Local Government Pension Fund which covers not only Council staff but also those employed by associated organisations such as the District Councils. The Panel believe that there is a strong case for the Chairman of the Pensions Committee to be awarded a SRA in line with the chairs of other committees.
- 2.5.4 The Panel recommends that the number of members required for the payment of a full SRA for a Group Leader be increased from 4 to 5. However, having listened carefully to the smaller groups, the Panel recognise that there is a strong case for the leaders of the small groups to receive an allowance based on a proportion of a main Group Leader's allowance.
- 2.5.5 The panel recommends that the 'only one SRA rule' should be abolished in the cause of good governance and to reflect the 'no-overall majority' position

of the Council. This particularly applies following the appointment of Political Group Spokespersons or 'Shadows'.

- 2.5.6 The Panel recommends the removal from the list of SRAs the Deputy Leader of the Council and the Highways Contract Cabinet Project Champion.
- 2.5.7 To reflect the limited funds available, the Panel suggests a minor adjustment to the BA multiple (0.66 to 0.6) for the SRAs for committee chairs and members of the Adoption Panel and Fostering Panel. Similarly, it is suggested that the BA multiple for the SRA for the Vice-chairman of the Council is reduced from 0.33 to 0.3.
- 2.5.8 It is felt, however, that the SRAs for the leaders of the main political groups (currently 0.66) should not be reduced in monetary terms and be set at a BA multiple of 0.65. These small changes together with the deletion of the allowances at 2.5.6 will release sufficient funds to allow the changes to SRAs highlighted in this report to be made.
- 2.5.8 The Panel make mention that the Chairman of the Police and Crime Panel is paid from sources recoverable from Central Government and therefore does not affect the budget.
- 2.5.9 The Panel, particularly following the 27 interviews carried out in October 2013, strongly recognises the value of the commitment of all County Councillors to the people of Gloucestershire and congratulate them on their untiring efforts in this cause.
- 2.5.10 The Panel notes the success of the induction programme for members following the May 2013 election and recognises the value of an ongoing member development programme in helping members to understand their roles and responsibilities.
- 2.5.11 The panel wishes to record its gratitude to Joanne Bolton and Andrea Griffiths for their assistance to the work of this Panel and particularly to Simon Harper who currently advises us.

### **3 Recommendations**

- 3.1 The following recommendations should be taken together and not considered on an individual basis. All of the allowances are inter-related and choosing one allowance over another will destroy the integrity of the scheme.

#### **3.2 Basic Allowance (BA)**

To increase the BA from £8,800 to £9,000 from 1 April 2014 to reflect staff pay rises for 2013-14 and 2014-15.



### 3.3 **Special Responsibility Allowances (SRA)**

To make the following adjustments to SRAs from 1 April 2014:

- a) To remove the rule of 'only one SRA'. This change does not increase the budget for allowances as the budget assumes that all allowances are taken up.
- b) To adjust the BA multiple (0.66 to 0.6) for the SRAs for committee chairmen and members of the Adoption Panel and Fostering Panel. This will reduce the value of the SRA from £5,808 to £5,400.
- c) To adjust the BA multiple (0.33 to 0.3) for the SRA for the Vice-chairman of the Council. This will reduce the value of the SRA from £2,970 to £2,700.
- d) To set the SRAs for the leaders of the main political groups at a BA multiple of 0.65 resulting in an allowance £5,850.
- e) To increase the qualifying number of members for a full Group Leader's allowance from 4 to 5 members and that Group Leaders of 2, 3 or 4 members receive a proportion of the full allowance. For example, the leader of a group with 3 members would receive 3/5 of the SRA resulting in an allowance of £3,510.
- f) That the Chairman of the Pensions Committee be given a SRA of 0.6 x BA in line with the allowance for other committee chairmen. This will result in an SRA of £5,400.
- g) To discontinue the provision of a SRA to the Deputy Leader of Council and Cabinet Project Champions.
- h) To maintain the SRAs for the Political Group Spokespersons, commonly referred to as 'Shadows', at their current monetary value of £1,500.

3.4 To note that the net effect of these changes will be to increase the members' allowances budget by just less than 2%. This is broadly in line with the staff pay rise of 1% in 2013-14 and the anticipated rise of 1% in 2014-15.

3.5 Please refer to Appendix A for a summary of the 2014-15 revised scheme of allowances.

**William Alexander**  
**Chairman**

**Independent Remuneration Panel for Gloucestershire County Council**

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## Appendix A

**Basic allowance (BA)** payable to all members

£9,000

			<b>BA multiple</b>	<b>Allowance</b>
<b>Special responsibility allowances (SRA)</b>				
Leader of the Council			3.00	£27,000
Group leader (5+ members, not Leader of Council)	Lib Dem	14	0.65	£5,850
	Labour	9	0.65	£5,850
Group Leader (4 members or less)	Independent	3		£3,510
	UKIP	3		£3,510
Cabinet member			2.00	£18,000
Scrutiny chair			0.60	£5,400
Audit and Governance Committee chair			0.60	£5,400
Planning Committee chair			0.60	£5,400
Pensions Committee chair			0.60	£5,400
Chair of Council			1.00	£9,000
Vice-chair of Council			0.30	£2,700
Adoption Panel member			0.60	£5,400
Fostering Panel member			0.60	£5,400
Political Group Spokesperson/Shadow			0.167	£1,500

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## CONSTITUTION COMMITTEE

10 MARCH 2014

### AMENDMENTS TO THE COUNCIL'S CONSTITUTION

#### REPORT OF THE MONITORING OFFICER

**1. Procedural Standing Orders: Recorded votes.**

- 1.1 On 25<sup>th</sup> February 2014 the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into force. The effect of these Regulations is that the Council must amend its Procedural Standing Orders to incorporate a provision requiring there to be a recorded vote at budget meetings. The purpose of this change is to enable people to see how their councillors voted, not only on the substantive budget motions agreeing the budget, setting council taxes or issuing precepts but also on any amendment proposed at the meeting.
- 1.2 The amendment to Procedural Standing Orders set out in Annex 1 Part 1 is therefore proposed for approval by the committee and recommendation to full council.

**2. Cabinet Procedure Rules: Time limit for submitting questions to Cabinet.**

- 2.1 It is proposed that the deadline for submitting questions to Cabinet be amended to 4.00pm three clear working days before the date of the meeting; thus paragraph 9.3 of the Cabinet Procedure Rules be amended as set out in Annex 1 Part 2.

**3. Ratification of changes made by the Monitoring Officer under delegated powers.**

- 3.1 The committee is requested to approve the amendments to the Constitution made by the Monitoring Officer under delegated powers as set out in Annex 2 and to recommend the same to full council.
- 3.2 The change to Article 6.03.1 results from previous discussions at committee.
- 3.3 The changes to the whistle blowing procedure result from a change in legislation, namely Part 4A of the Enterprise and Regulatory Reform Act 2013 amending the Employment Rights Act 1996. Essentially, in order to benefit from protection under the 1996 Act, whistle blowing claims must satisfy a

public interest test and disclosures which can be categorised as being of a personal rather than a public interest will not be protected. This necessitated the change in nuance in the council's procedure. Employees will still be able to address personal grievances through the council's HR policies.

#### **4. RECOMMENDATIONS:**

The amendments to the Constitution set out in Annexes 1 and 2 are approved and recommended to full Council.

Jane Burns

Monitoring Officer

Tel: 01452 328472

Email: [jane.burns@gloucestershire.gov.uk](mailto:jane.burns@gloucestershire.gov.uk)

## **ANNEX 1**

### **Part 1.**

Procedural Standing Orders shall be amended by the addition of the following new paragraph 15.7 and re-numbering of subsequent paragraphs.

“15.7 Immediately after any vote is taken at a budget decision meeting there shall be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision, or against the decision or who abstained from voting.”

### **Part 2.**

Cabinet Procedure Rule 9.3 shall be amended to read;

“A written copy of the question must have been delivered to the Chief Executive by 4.00pm three clear working days before the date of the meeting.”

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

In the exercise of my powers set out in Article 14.02.01 of the Council's Constitution, I make the following amendments to the Council's Constitution:

1. The Confidential Reporting Procedure for Employees (Whistle blowing) shall be amended in accordance with the tracked changes shown in Annex A.
2. In Article 6.03.1 the words "but normally only in the event of a change of political control of the Council" shall be deleted.



.....  
Jane Burns  
Monitoring Officer  
Gloucestershire County Council

27 November 2013

90. 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.

## APPENDIX 1

### 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~~ the public interest
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

## 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 Monitoring Officer 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<sup>2</sup> factual evidence.

## UNTRUE ALLEGATIONS

14. If an employee makes an allegation in ~~good faith~~ the public interest, 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:

Monitoring Officer  
 Gloucestershire County Council  
 Shire Hall  
 Gloucester GL1 2TZ  
 Telephone: (01452) 328472

The Monitoring Officer 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 concern~~ the disclosure is in the public interest.

### HOW THE COUNCIL WILL RESPOND

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

- ~~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 Monitoring Officer will write to the employee concerned at their private address:-

- acknowledging that the concern has been received
- indicating how s/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 ~~T~~trade ~~U~~nion 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 Monitoring Officer has overall responsibility for the maintenance and operation of this Procedure. S/Hhe 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 Monitoring Officer before taking any action to ensure that they are not putting themselves in a vulnerable position.

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