

CONSTITUTION COMMITTEE

MINUTES of a meeting of the Constitution Committee held on Thursday 30 January 2020 at the Chairman's Room - Shire Hall, Gloucester.

PRESENT

Cllr Richard Boyles	Cllr Nigel Robbins OBE
Cllr Mark Hawthorne MBE (Chair)	Cllr Lynden Stowe
Cllr Nigel Moor	Cllr Lesley Williams MBE
Cllr John Payne	

Substitutes: Cllr Vernon Smith and Cllr Iain Dobie.

Officers: Rob Ayliffe, Simon Harper, Steve Mawson and Gillian Parkinson

1. APOLOGIES FOR ABSENCE

Apologies were received from Cllrs Will Windsor-Clive and Colin Hay.

2. MINUTES

The minutes of the meeting held on 14 October 2019 were confirmed and signed as a correct record by the Chair.

3. PUBLIC QUESTIONS

No public questions had been received.

4. MEMBERS' QUESTIONS

No member questions had been received.

5. MOTION 837 - PARENTAL LEAVE FOR COUNCILLORS

5.1 Simon Harper, Head of Democratic Services, was invited to present the item.

5.2 The Committee was reminded that the item related to a motion that was passed by full Council in October 2019 and after consideration at the last Committee meeting, officers were asked to draft a policy that was as close as possible to the existing employee arrangements at Gloucestershire County Council.

5.3 Members noted that that the proposed policy needed to reflect the following:

- Members were not employees of the Council;
- they had no entitlement to statutory maternity pay; and
- they had a legal duty under the Local Government Act 1972 to attend a meeting of the Council within a six month period unless Council agrees to

an extended leave of absence prior to the expiration of that six month period.

5.4 It was pointed out that 2.1 and 2.3 of the report, which stated 'by agreement with the relevant Group Leader' would need to be amended to take account of the Group Leader being the member requesting the parental leave or councillors who did not have a Group Leader.

5.5 The suggested amendment was as follows:

2.1 *Members giving birth are entitled to up to six months' maternity leave from the due date, with the option to extend up to 52 weeks by agreement with the relevant Group Leader or, where a member is a Group Leader or is not a member of a political group, the Chair of Council in consultation with the Monitoring Officer.*

2.3 *A member who adopts a child through an approved adoption agency shall be entitled to take up to six months' adoption leave from the date of placement, with the option to extend up to 52 weeks by agreement with the relevant Group Leader or, where a member is a Group Leader or is not a member of a political group, the Chair of Council in consultation with the Monitoring Officer.*

5.6 A third amendment was requested as follows:

1.2 *The objective of the policy is to ensure that members are able to take appropriate leave at the time of the child's birth or adoption, both parents are able to take leave, and that reasonable and adequate arrangements are in place to provide cover for portfolio-holders and others in receipt of Special Responsibility Allowances (SRA) during any period of leave.*

RESOLVED TO RECOMMEND TO THE COUNCIL to adopt the Parental Leave Policy for Councillors (section B of the report), subject to the amendments outlined above.

6. HEALTH AND WELLBEING BOARD TERMS OF REFERENCE

6.1 The Chair invited Cllr Iain Dobie to address the Committee on this item.

6.2 The Committee heard that the development of the Health and Wellbeing Board was an important way of supporting an integrated approach. Its decisions had a large impact on the communities it served and it influenced a considerable amount of money through its decision making. In light of this, it was suggested that the Council should have appropriate democratic oversight in the form of scrutiny over the Board's decision making.

- 6.3 Members were referred to a draft form of words on the Committee's agenda and officers confirmed that this proposal would not be prevented by the Board's legislative provisions.
- 6.4 The Chair believed that a sensible approach would be to request feedback from the Board and the relevant Scrutiny Committees on the principle and practicalities of this proposal before bringing it back to the Constitution Committee. It was noted that the Board also had membership from outside GCC. A member suggested that it might be worth researching arrangements at other county council's in regard to this issue.
- 6.5 The Committee agreed this approach, with the added request that it be considered before the Annual Meeting of Full Council on 12 May 2020.

ACTION: DEMOCRATIC SERVICES

7. CRITERIA FOR SUBMITTING MOTIONS

- 7.1 The Chair invited Rob Ayliffe, Monitoring Officer, to present this item.
- 7.2 The Committee were informed that the report outlined findings from other county council's on their approach to submitting motions. The research showed that GCC's existing approach was not out of kilter with others but it allowed a wider scope than some.
- 7.3 The report reflected three groupings of criteria for motions. Some councils injected officer advice into the process in preparation for the debate, some had a default position to refer all motions to their relevant body/scrutiny committee and others restricted the scope or subject matter of the motion.
- 7.4 As the original proposer of this item at the last Constitution Committee, the Chair invited Cllr Stowe to put forward his proposal. Members were given a print out of the proposed amendment to the existing Constitution shown in Annex A.
- 7.5 Cllr Stowe reminded members that the reason for this request was to encourage good decision making and educated debate at full Council. An example was given of a recent motion that recommended for GCC to plant one million trees by 2030. Whilst no one was disputing the importance of such a motion, it was given as an example of where a better understanding of the financial implications, and the Council's ability to achieve this would have been beneficial to debate.
- 7.6 The suggested increase in the submission timeline was proposed to allow sufficient time for officers to produce their advisory notes. It was pointed out that even by increasing it to an eight day notice period, this was still well within the parameters of other councils' submission deadlines.

- 7.7 It was highlighted that when Cabinet receive reports to make decisions, all such implications as suggested in this proposal would be commented on to allow the executive to make an informed decision.
- 7.8 Speaking in support of Cllr Stowe's suggestion, a member welcomed the need for a better informed debate, and that members from across the Chamber would have access to the same information, putting everyone on the same footing.
- 7.9 Another member welcomed the proposal, especially in relation to the impact on climate change. They questioned whether this could be taken a step further and include a reference to the Council's declared net zero CO2 emissions target.
- 7.10 In response, the Chair reiterated the proposals intention to be clear and simple, and acknowledged that by adding a reference to a specific climate change target, this may lead to other members requesting other policies to be specified as well. It was agreed as a compromise position that a final line would be added under the criteria as follows:
- "in accordance with the Council's agreed policy framework".*
- 7.11 This would therefore encompass all of the Council's agreed strategies, rather than making reference to each individually.
- 7.12 It was highlighted that the information provided by officers would be a purely factual summary on the implications of the proposal within the motion. It would not indicate any opinions of its effectiveness or suitability.
- 7.13 Through discussions it was noted that there might be some teething issues on implementation and therefore, it would be sensible to have a six month bedding in period to understand any implications. Members requested that this was added as a recommendation.

ACTION: DEMOCRATIC SERVICES

RESOLVED TO RECOMMEND TO THE COUNCIL that the proposed amendment outlined in Annex A, subject to the above amendments, be made to the Constitution.

8. PROCEDURE FOR MOTIONS WITHOUT NOTICE

- 8.1 Rob Ayliffe, Monitoring Officer, reminded the Committee that this item was as a result of a request during a full Council meeting to make the process for motions without notice clearer in the Constitution.
- 8.2 The flow diagram being presented captured the current procedure included in the Constitution.

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

- 8.3 As the Constitution was silent on who should be selected to speak against a procedural motion, the Committee felt it would be clearer to state who it should be. The Chair believed that the fairest approach would be to provide the proposer of the original motion an opportunity to respond.
- 8.4 The Monitoring Officer was requested to draft a suitable form of words which could be ratified by full Council.

RESOLVED TO RECOMMEND TO THE COUNCIL that the changes to the Constitution in respect of Motions without Notice be ratified, subject to the amended wording.

9. REVIEW OF THE CONSTITUTION

- 9.1 Members were advised that officers intended to carry out an end to end review of the Constitution to make sure that it is up to date with legislation, check for any anomalies or contradictions and also update financial and contract procedures.
- 9.2 Any changes made would be brought back to this Committee for members to understand and approve before recommending ratification to Council.
- 9.3 It was requested for members to contact officers if they wished to suggest any particular sections for review.
- 9.4 The Chair requested that officers kept in mind throughout the review the desire to make the document simpler. For example, frustration was shared that every time the Leader, under their executive powers, made any change to Cabinet responsibilities, the Constitution needed updating which seemed very onerous.

CHAIR

Meeting concluded at 12.07.

This page is intentionally left blank

10. NOTICES OF MOTION

10.1 Notice

Except for motions which can be moved without notice under these Procedural Standing Orders and unless the Chair is of the opinion that the motion should be considered as a matter of urgency, written notice of motions for discussion at full Council meetings must be delivered to the Chief Executive not later than 10 a.m. five eight clear working days before the date of the meeting. Motions are not considered at the first annual meeting of a new Council. The Chief Executive will maintain a record of all motions submitted and the public may inspect that record except in respect of motions considered in the absence of the press and public.

10.2 Where the Chief Executive receives a motion, they will, where practicable, prepare a short accompanying note in respect of the proposals it contains setting out:

- a) Any implications for climate change
- b) Any financial or resource implications
- c) Any implications for human rights
- d) Any other pertinent factors the Chief Executive might wish to include in accordance with the Council's agreed policy framework.

| 10.23 Motion set out in the agenda for a meeting

10.23.1 Motions for which proper notice has been given under this Procedural Standing Order will be listed on the agenda in the order in which they are received;

10.23.2 Unless the Chair, in consultation with Group Leaders, decides otherwise, subject to Procedural Standing Order 10.8, there will be no time restrictions on motions from each political group (for the purposes of this Procedural Standing Order 10.2.2 only, all independent Councillors are considered as a political group);

10.23.3 If the Chief Executive considers that such a motion qualifies to be considered by the full Council in the absence of the press and public, the Chief Executive may decide appropriate agenda wording to avoid public disclosure of confidential or exempt information.

| 10.34 Scope

Motions must be about matters which are related to the responsibilities of the Council or which affect the County. The Chair's decision on whether or not a motion is relevant to the responsibilities of Council will be final.

| 10.45 Subject to Procedural Standing Order 10.9, unless the Chair, in consultation with Group Leaders, decides otherwise a motion that has been properly notified and

which has been moved and seconded will be discussed by full Council at the meeting for which notice has been given (excluding the first annual meeting of a new Council).

- | 10.56 If the motion relates to an executive function and whether or not it is discussed at full Council at that time, full Council may:
 - | 10.56.1 Refer the motion to Cabinet who will consider the matter in the light of any views expressed by the full Council and advise the full Council of its decision; or
 - | 10.56.2 Refer the motion to the relevant Scrutiny Committee who will consider the matter in the light of any views expressed by the full Council. Following consideration, the Scrutiny Committee will refer the motion to Cabinet, Leader of the Council or Cabinet Member who will consider the matter in the light of any views expressed by full Council and the Scrutiny Committee and advise the full Council of its or their decision.
- | 10.67 If a motion is referred by full Council to the Cabinet or another Council body (or both under Procedural Standing Order 10.5.2) the proposer and seconder of the motion may attend the meeting of the Cabinet or other Council body (or both) and speak to the motion but not vote unless a Member of the Cabinet or other Council body.
- | 10.78 If a motion is referred by full Council to the Leader of the Council or Cabinet Member (either directly or via a Scrutiny Committee under Procedural Standing Order 10.5.2) the proposer and seconder of the motion may attend the meeting of the Scrutiny meeting and speak to the motion but not vote (unless a Member of the Scrutiny meeting) and/or submit in writing to the Leader of the Council or Cabinet Member, their views on the motion.
- | 10.89 The total period of time spent on motions on the day of a meeting shall not exceed two hours. However, debate on motions may be extended beyond the two hour limit to allow those members who have indicated to the Chair, before the end of the two hour period, their intention to speak on the motion being debated at that time. The mover of the motion will then have the opportunity to sum up and the vote will take place. This Procedural Standing Order may not be suspended.
- | 10.910 In the event a motion has not been discussed at the meeting for which notice has been given, that notice of motion shall then be void.