


Constitution Committee	
Thursday 30 January 2020 at 11.30 am	
Chairman's Room - Shire Hall, Gloucester	
AGENDA	

1	APOLOGIES FOR ABSENCE To note any apologies for absence.	Chair
2	MINUTES (Pages 1 - 6) To approve the minutes of the meeting held on 14 October 2019.	Chair
3	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 10.00am on Thursday 23 January 2020.	Sophie Benfield
4	MEMBERS' QUESTIONS To answer any written members' questions. The closing date/time for the receipt of questions is 10.00am on 23 January 2020.	Sophie Benfield
5	MOTION 837 - PARENTAL LEAVE FOR COUNCILLORS (Pages 7 - 10) To consider the attached report.	Simon Harper
6	HEALTH AND WELLBEING BOARD TERMS OF REFERENCE (Pages 11 - 12) To consider a proposal from Cllr Iain Dobie to add the following	Cllr Iain Dobie

	<p>additional paragraph to the Health and Wellbeing Board Terms of Reference (current version attached):</p> <p><i>“The Health and Wellbeing Board is subject to democratic scrutiny by Council via the Health Scrutiny Committee, and the Adult Social Care and Communities Scrutiny Committee.</i></p> <p><i>To properly consider increasingly integrated Health and Social Care systems, such scrutiny of the Health and Wellbeing Board should be done via a joint meeting of both the above committees on at least an annual basis. The timing of such a meeting to be agreed by the three chairs.”</i></p>	
7	<p>CRITERIA FOR SUBMITTING MOTIONS (Pages 13 - 26)</p> <p>To consider the attached report.</p>	Rob Ayliffe
8	<p>PROCEDURE FOR MOTIONS WITHOUT NOTICE (Pages 27 - 30)</p> <p>To consider the attached report.</p>	Rob Ayliffe
9	<p>REVIEW OF THE CONSTITUTION</p> <p>To receive a verbal update on the intended review of the Constitution and to suggest any additional areas for review.</p>	Rob Ayliffe
<p>Membership – Cllr Richard Boyles, Cllr Mark Hawthorne MBE (Chair), Cllr Colin Hay, Cllr Nigel Moor, Cllr John Payne, Cllr Nigel Robbins OBE, Cllr Lynden Stowe, Cllr Lesley Williams MBE and Cllr Will Windsor-Clive</p>		

- (a) **DECLARATIONS OF INTEREST** – Members requiring advice or clarification about whether to make a declaration of interest are invited to contact the Monitoring Officer, Rob Ayliffe ☎01452 328472 / e-mail: Rob.Ayliffe@gloucestershire.gov.uk prior to the start of the meeting.
- (b) **INSPECTION OF PAPERS AND GENERAL QUERIES** - If you wish to inspect minutes or reports relating to any item on this agenda or have any other general queries about the meeting, please contact: Sophie Benfield, Democratic Services Adviser ☎:01452 324094/e-mail: sophie.benfield@gloucestershire.gov.uk
- (c) **GENERAL ARRANGEMENTS**
- 1 Members are required to sign the attendance list.
 - 2 Please note that substitution arrangements are in place for Scrutiny (see page 81 of the Constitution).
- (d) Please note that photography, filming and audio recording of Council meetings is permitted subject to the Local Government Access to Information provisions. Please contact Democratic Services (Tel 01452 324202) to make the necessary arrangements ahead of the meeting. If you are a member of the public and do not wish to be



photographed or filmed please inform the Democratic Services Officer on duty at the meeting.

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.



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CONSTITUTION COMMITTEE

MINUTES of a meeting of the Constitution Committee held on Monday 14 October 2019 at the Members' Room - Shire Hall, Gloucester.

PRESENT

Cllr Richard Boyles	Cllr Lynden Stowe
Cllr Mark Hawthorne MBE (Chairman)	Cllr Lesley Williams MBE
Cllr Colin Hay	Cllr Will Windsor-Clive
Cllr Nigel Moor	

Apologies: Cllr John Payne and Cllr Nigel Robbins OBE

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

2. MINUTES

The minutes of the meeting held on 29 May 2019 were confirmed and signed as a correct record.

3. PUBLIC QUESTIONS

No public questions had been received.

4. MEMBERS' QUESTIONS

No questions from members had been received.

5. MOTION 837 - PARENTAL LEAVE FOR COUNCILLORS

5.1 Simon Harper, Head of Democratic Services, gave a brief summary of the report for the Committee. It was explained that in forming the three options available for members, Democratic Services had reviewed the GCC employees parental leave policy, and other public sector schemes including specifically the LGA Labour Group Scheme.

5.2 It was noted that members were not paid employees of the Council and thus the employees existing policy could not simply be adopted for members as well. There had been examples of members being away from the Council for a period of time in the past and the relevant political group and Democratic Services have been able to put the necessary cover arrangements in place to ensure that enquiries from constituents were dealt with.

- 5.3 It was highlighted that any policy would have to reflect both the basic allowance and special responsibility allowance, whilst also taking into account elections, changes in administration and new appointments.
- 5.4 The Committee was asked to consider the three options summarised at the end of the report.
- 5.5 Members acknowledged the need for any policy for councillors to take account of the election process as outlined above, but were keen that it also should remain, as far as possible, consistent with the employees scheme and not create any preferential treatment for councillors.
- 5.6 There was a question in relation to a cabinet member being absent through parental leave or long term sick how their cabinet responsibilities will be covered. It was advised that whilst off, the cabinet member would still receive their Special Responsibility Allowance but another existing cabinet member would be delegated responsibility for their portfolio in their absence. It was requested that officers also consider a policy on long-term sickness for councillors.

ACTION DEMOCRATIC SERVICES

- 5.7 In responding to a question, officers advised that employees were only required to have 2 weeks off post the birth as a minimum. Employees also retained their entitlement to leave in the event of a still birth or miscarriage in line with legislation.
- 5.8 Members discussed the legal duty (under the Local Government Act 1972) of a member to attend a meeting of council within a 6 month period. It was advised that if a member was away longer than 6 months, there would have to be a resolution of Council excusing them from attending a meeting.
- 5.9 It was suggested that a sensible approach for the parental leave policy would be to add in an assumption that if a member was off due to parental leave, they would not be attending meetings within that set period. However, this would still require a motion approving that specific absence. It was advised that proxy voting did not currently exist.
- 5.10 If a member was on parental leave that ran through an election period then it would end at the election. If they were re-elected, any previous arrangements would 'reset' under a new council term.
- 5.11 Members were advised that there could be some difficulties with replicating the employee's policy for councillors, particularly in reference to weeks 19-30 being purely Statutory Maternity Pay which councillors were not entitled to claim as they were not employees of the Council.
- 5.12 A member suggested it may be useful for the Independent Remuneration Panel to be consulted on the development of a policy also.

ACTION: DEMOCRATIC SERVICES

- 5.13 The Committee agreed that officers would work on a policy, addressing all issues raised above and bring a draft policy to the next Constitution Committee.

ACTION DEMOCRATIC SERVICES

6. AUDIT AND GOVERNANCE COMMITTEE'S TERMS OF REFERENCE

- 6.1 The Chair requested that presenting officer Rob Ayliffe took items 6 and 7 together due to both being related to the Audit and Governance Committee.
- 6.2 It was advised that during the discussion at the Audit and Governance Committee on the amended terms of reference, it was requested a final amendment be made requiring regular compulsory training for members.
- 6.3 The Committee expressed concern about requiring members to attend training. Whilst they appreciated the importance of understanding for Audit and Governance, it was not a legal requirement as with some Committees and it could undermine Group Leaders role in appointing members to Committee if training was compulsory to sit.
- 6.4 It was agreed that the wording should be changed to reflect an expectation to attend training annually, rather than a compulsion. Officers assured members that they would make sure enough training sessions were made available to members throughout the year.

ACTION: ROB AYLIFFE

RESOLVED TO RECOMMEND TO THE COUNCIL that the changes to the Constitution in respect of the Audit and Governance Terms of Reference be ratified, subject to the following additional wording:

Members of the Audit and Governance Committee will be expected to attend training that will be provided at least annually.

7. AUDIT & GOVERNANCE COMMITTEE PROPOSED INDEPENDENT MEMBER RECRUITMENT PACK

- 7.1 Members discussed whether it was necessary to prevent certain people applying at first instance as referenced in Appendix 2.
- 7.2 It was suggested it may be more appropriate to advise applicants they are likely to be unsuccessful if they fell within the disqualifications, rather than excluding them from the outset. Members noted for example, there were examples in other Committees where members of other local authorities have worked well as independent involvement. In order to capture as wide a

field as possible, it would be best to keep the selection criteria as open as possible for initial applications.

- 7.3 The Committee was also asked to approve the interview panel as outlined in the report. It was noted that as drafted this would not result in the panel being politically balanced as it did not include a Conservative member.

RESOLVED TO APPROVE the recruitment pack and interview panel as presented, subject to the following changes:

- Remove section A of Appendix 2;
- Replace the final two paragraphs of page 6 with the following wording:

Given the independent nature of this role, it is unlikely that we would appoint a person who:

- *has within the period of five years immediately preceding the date of the appointment been a member or officer of Gloucestershire County Council*
- *is a serving member or officer of any other local authority, or*
- *is a relative of close friend of a member or officer of Gloucestershire County Council*

Please see appendix 2 for further details on Disqualifications for Appointment.

- *To increase the interview panel by one to include a member of the Conservative Group for political balance.*

8. SCHEME OF DELEGATION

RESOLVED TO RECOMMEND TO THE COUNCIL to ratify the changes to the Constitution made by the Monitoring Officer relating to the Scheme of Delegation, as set out in the report.

9. MONITORING OFFICER CHANGES TO THE CONSTITUTION

RESOLVED TO RECOMMEND TO THE COUNCIL to ratify the changes to the Constitution made by the Monitoring Officer.

10. MOTIONS AT FULL COUNCIL

- 10.1 Cllr Stowe introduced this item by explaining to members that there needed to be a review of the criteria for motions submitted to full Council. He emphasised that good decision making, members needed to fully understand any implications of a motion passing, with particular regard to costs, environmental impact and the effect on any protected group.
- 10.2 This would mean that both members proposing a motion and the wider membership of the Council understood its implications.

- 10.3 Some members highlighted some initial difficulties with the practicalities of introducing a scheme:
- If the motion was calling for a policy to be developed, implications would only be evident once the policy had been drafted by officers, and at the time of proposing the motion, it would be difficult to understand these fully.
 - The issue of 'on the day' amendments to motions. Some amendments could be quite significant to the conclusion of the motion and therefore might completely change the implications if passed in an amended form.
- 10.4 It was suggested an option could be for all motions to be referred to the relevant scrutiny committee for consideration before returning to Council, in order for the implications to be fully explored. In response, it was highlighted this might be an option for topic specific motions but would be difficult to apply when there were broad ranging statements of intent that might impact on a number of different areas.
- 10.5 It was advised that there are requirements within other local authorities that all motions were signed off by Section 151 officers/Chief Executives before being submitted.
- 10.6 The Committee requested that officers look into processes at other local authorities and return to the Committee with options.

ACTION: DEMOCRATIC SERVICES

CHAIR

Meeting concluded at 15:46.

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Constitution Committee – 30 January 2020

Parental leave for councillors

A Background

- A1 At the last meeting of the Constitution Committee members considered the motion passed by the Council in May 2019:

This Council notes

- a) *The under-representation of women at all levels of politics*
- b) *Nationally only 4% of councils have a policy on parental leave for councillors.*
- c) *Whilst proper parental leave is important to all parents, it has been particularly highlighted as an issue affecting women's participation in local government.*

Consequently this Council resolves to task the Constitution Committee to develop policies and, if necessary, constitutional amendments, to give councillors similar rights to parental and adoptive leave as members of staff.

- A2 There is no legal right to parental leave for people in elected public office. This applies to MPs as well as councillors and has been the subject of lengthy debate. Policies can therefore only currently be implemented on a voluntary basis.
- A3 The Council's Independent Remuneration Panel (IRP) has indicated support for the development of a local scheme for elected members.
- A4 At the meeting on 14 October 2019, members requested that officers develop a policy that was as close as possible to the arrangements in place for GCC staff. The proposed policy follows the provisions of the staff scheme but recognises that members are not employees and have no entitlement to statutory maternity pay.

B Proposed policy

1 Introduction

- 1.1 This policy sets out members' entitlement to maternity and adoption leave allowances.

- 1.2 The objective of the policy is to ensure that members are able to take appropriate leave at the time of 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.
- 1.3 Improved provision for new parents will contribute towards increasing the diversity of experience, age and background of councillors. It will also assist with retaining experienced councillors, particularly women, and making public office more accessible to individuals who might otherwise feel excluded.

2 Leave periods

- 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.
- 2.2 Members are entitled to take two weeks' paternity leave if they are the biological father or nominated carer of their partner/spouse following birth.
- 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.
- 2.4 Any member who takes leave retains their 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. The normal expectation is that Council will approve an absence period of more than six months.
- 2.5 Any member intending to take leave will be responsible for ensuring that they comply with the relevant notice requirements of the Council, both in terms of the point at which the leave starts and the point at which they return.
- 2.6 Any member taking leave should ensure that they respond to reasonable requests for information as promptly as possible, and they keep officers and colleagues informed and updated in relation to intended dates of return and requests for extension of leave.

3 Basic Allowance

- 3.1 All Members shall continue to receive their Basic Allowance in full whilst on leave.

4 Special Responsibility Allowances

- 4.1 In line with the GCC staff scheme, members entitled to a Special Responsibility Allowance (SRA) shall receive the following:
- Weeks 1 to 6 – 90% of SRA
 - Weeks 7 to 18 – 50% of SRA
 - Weeks 19 to 52 – no payment but retain the right to return to same position or an alternative position with equivalent status and remuneration.
- 4.2 SRA for up to two weeks' paternity leave will be paid at the full rate.
- 4.3 In the event of the political control of the Council changing and a member no longer holds the same position, the member's leave will end at that time.
- 4.4 Where a replacement is appointed to cover the period of absence that member shall receive an SRA for the period of the temporary appointment.

5 Resigning from office and elections

- 5.1 If a member decides not to return at the end of their leave they must notify the Council at the earliest opportunity. All allowances will cease from the effective resignation date.
- 5.2 If an election is held during the member's leave and they are not re-elected, or decide not to stand for re-election, their Basic Allowance and SRA if appropriate will cease from the Monday after the election date when they would have left office.

6 Representative role

- 6.1 Wherever possible, political groups will put arrangements in place to help with casework and related issues.
- 6.2 Democratic Services will provide help and advice where appropriate, and arrange for officers in service areas to respond to enquiries. For example, highways officers will be able to deal with enquiries relating to the condition of local roads or safety concerns.

7 Review

- 7.1 This policy will be reviewed to ensure that it continues to reflect the provisions in the relevant policies for Council staff.

7.2 Should any dispute arise over the interpretation of this policy, reference will be to the relevant GCC staff policies and the Monitoring Officer, in consultation with the Section 151 Chief Finance Officer, will determine the position.

C Recommendation

C1 To recommend that the Council adopt the proposed scheme and include it in Part 5 of the Council Constitution.

Simon Harper
Head of Democratic Services

Health and Wellbeing Board Current Terms of Reference

3.12 HEALTH AND WELLBEING BOARD

In accordance with the requirements of the Health & Social Care Act 2012 (“the Act”) the Council has established the Health and Wellbeing Board as a committee of the Council. Its duties/terms of reference are:

1.	For the purpose of advancing the health and wellbeing of the people of Gloucestershire to encourage persons who arrange for the provision or delivery of any health or social care services in the county to work in an integrated manner
2.	To encourage persons who arrange for the provision of any health or social care services in the county and persons who arrange for the provision or delivery of any health-related services in the county to work closely together.
3.	Pursuant to section 116 of the Local Government and Public Involvement in Health Act 2007 to prepare and publish a joint strategic needs assessment for the county
4.	To prepare and publish a strategy for meeting the needs identified in the joint strategic needs assessment and ensuring a strategic planning framework is in place
5.	To provide such advice assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 in connection with the provision of such services
6.	To encourage persons who arrange for the provision or delivery of any health-related services in the county to work closely with the Board

Membership of the Health and Wellbeing Board comprises:

- Chair of Clinical Commissioning Gloucestershire
- Additional Clinical Commissioning Gloucestershire member
- Accountable Officer of Clinical Commissioning Gloucestershire
- A District Council elected representative from Leadership Gloucestershire
- Four County Councillors, as appointed by the Leader of the County Council
- The Director of Adult Social Care , Gloucestershire County Council
- The Director of Children’s Services, Gloucestershire County Council
- Police and Crime Commissioner
- The Director of Public Health, Gloucestershire County Council
- A representative of the local Healthwatch
- A representative of the NHS Commissioning Board Local Area Team
- A District Council Chief Officer and link for housing related business
- Chair of Gloucestershire Care Services NHS Trust
- Chair of 2gether NHS Foundation Trust
- Chair of Gloucestershire Hospitals NHS Foundation Trust
- Chief Constable of Gloucestershire
- Chief Fire Officer for Gloucestershire

Note 1: Political proportionality will not be applied

Note 2: Voting – Individual members of the Board shall be non-voting. Instead each member organisation or group of organisations will have one vote. The nominee of each organisation

Health and Wellbeing Board Current Terms of Reference

must be present to vote. There will be no absence voting provision. The Chair will have the casting vote.

Voting organisations are:

- Gloucestershire Clinical Commissioning Group, Gloucestershire Care Services NHS Trust, Gloucestershire Hospitals NHS Foundations Trust and 2gether NHS Foundation Trust
- Gloucestershire County Council
- HealthWatch
- District Councils (one vote for all six)
- NHS England
- PCC and Gloucestershire Constabulary

Note 3: For the purpose of enabling it to carry out its functions the Health and Wellbeing Board may request the Council, the Local Healthwatch, the Clinical Commissioning Group or other member of the Board to supply it with information specified in the request.

Note 4: Terms of Office – Each term of office will run for the term of the County Council unless a member organisation advises otherwise.

Note 5: Substitutions: There will be no substitutions, if an organisation is unable to send its representative a named substitute may be nominated for that meeting only. Notice of this shall be given by the absent Board member to the committee administrator in advance of the meeting. Ideally a week's notice shall be given to allow all Board members to be advised of the substitution. Procedural Standing Order 28 shall not apply.

Note 6: Quorum: The quorum for meetings of the Health and Wellbeing Board is that one quarter of the membership be present and at least 4 be voting member organisations.

Constitution Committee - 27 January 2020

Motions at Full Council

1. Introduction

- 1.1 At the previous Constitution Committee meeting, the question arose as to how County Council can best ensure that members fully understand the implications of a motion passing, with particular regard to costs, environmental impact and the effect on any protected group.
- 1.2 This issue is most likely to arise with regard to motions concerning Executive functions. The Local Government Act 2000 and regulations made under the act distribute responsibility for the Council's functions between the full Council and the Executive (the Cabinet). In some cases, the distribution of functions is specified by law, in others, it is a matter of local choice, determined by the Council's constitution. In the event of any contradictions between the law and the constitution, the law prevails. Any functions not specified by the law or the constitution are, by default, the responsibility of the Cabinet. It is therefore important that decisions relating to any function of the Council are taken by the appropriate body in order to avoid that decision being open to challenge.
- 1.3 At the last meeting, officers were asked to review other councils' to explore the criteria used by other councils for motions submitted to County Council. This report summarises the findings of the review, which looked at the constitutions of all 26 county councils, and offers some options for members to consider.

2. Gloucestershire County Council process for motions

- 2.1 The approach taken to motions within Gloucestershire County Council has evolved over time with the current iteration of the constitution placing few restrictions on the ability of the full Council to debate matters.
- 2.2 The only restriction on the subject matter of motions is that they must relate to issues which are the responsibilities of the council or which affect the county. The constitution allows for motions to address executive or non-executive functions.

- 2.3 If a motion relates to an executive function, council may refer it to the Cabinet either direct or via the relevant Scrutiny Committee, but there is no requirement in the constitution for council to do so (though Council must ensure that any decision it takes is within its powers).
- 2.4 Motions have to be submitted 5 clear working days before the date of the meeting, and current practice is that they are not accompanied by an officer report or any other written advice.
- 2.5 Amendments to motions can be (and frequently are) made on the day, and although these are usually submitted to Democratic Services in writing in advance of the meeting, this is not an absolute requirement. The Chair can require that an amendment be written out before allowing it to be discussed.
- 2.6 A maximum of 2 hours is allowed for motions to be debated.

3. Processes at other County Councils

- 3.1 Gloucestershire County Council is not unusual in the existing approach it takes to motions. Most councils follow the same or broadly similar processes. However, there are a number of county councils that have processes which may help to ensure that the full implications of motions are understood before being passed. These fall broadly into three categories:
 - Providing written officer advice
 - Referring the motion to the Executive and/or relevant committee
 - Restricting the scope or subject matter of motions
- 3.2 Providing written officer advice - Two county councils have a mechanism written into the constitution for obtaining formal officer advice. At Buckinghamshire County Council, the Monitoring Officer has discretion to commission a technical investigation in response to any motion submitted, and to defer the motion to the following meeting if necessary, in order to allow that to be completed. The Monitoring Officer can also arrange a background briefing for members to provide advice on a motion. At West Sussex, the relevant Executive Director provides a briefing note to accompany all motions. However, it is worth noting that both these councils have a longer notice period for receipt of motions (8 days for Buckinghamshire; 17 days for West Sussex). Two potential forms of wording for the Constitution are provided at Appendix 1a and 1b (based on the Buckinghamshire and West Sussex constitutions respectively).

- 3.3 Section 100b of the Local Government Act 1972 requires that, in the interests of transparency in decision-making, all reports must be published at least 5 working days in advance of the Council meeting. As a result, if members were minded to implement this option, the deadline for submitting written notice of motions would need to be brought forward to allow officers the time to produce advice on the motion. 23 of the 26 county councils reviewed have a longer notice period for motions than Gloucestershire, ranging from 7 working days to 17 calendar days. Similarly, deferring items to later meetings (either of the County Council or of other council bodies) also provides additional time for officers to produce advice on the motion.
- 3.4 Referring the motion elsewhere - The default position of a number of Councils is that motions which relate to functions of the executive or another council committee are referred to that committee. In some councils, the decision as to whether to refer or discuss an item falls to the Chair. In others, there is an assumption towards referring an item, unless the council votes to discuss it.
- 3.5 For example, at Worcestershire County Council, when a motion that relates to an executive function is moved and seconded, the constitution allows for members to speak in support or against the motion, but following this debate, the motion is referred to Cabinet for consideration and determination. County Council can also refer motions about non-executive functions to the executive or the relevant council body in order for that body to consider the motion and report back to the next meeting of the Council. Appendix 1c provides a form of wording that would incorporate this procedure into Gloucestershire County Council's constitution.
- 3.6 Restricting the scope or subject matter - Other councils restrict the content of motions. Leicestershire County Council does not allow any motion which would have the effect of materially increasing the expenditure or reducing the revenue of the Council, unless in the form of a proposal that the matter be referred to the Executive. Staffordshire and Norfolk County Councils state that motions should not be about matters for which Cabinet is responsible (although in Norfolk's case the Leader may agree exceptions to this rule). East Sussex's constitution says that Council motions can only ask the cabinet to consider a particular course of action and must not bind cabinet.

4. Amendments to Motions

- 4.1 When considering how to ensure that members are aware of the implications of motions, members may also want to give consideration to the potential impact of amendments on those motions.

4.2 In Suffolk County Council, amendments to motions have to be submitted 2 days' in advance of the Council meeting. In all other cases, amendments can be made during the debate (albeit with a requirement from some councils that these are made in writing).

4.3 However, many of the mechanisms described in section 3 above would also have the effect of helping to ensure that any amendments take account of the available information.

5. Options

5.1 The options available to the committee are:

- To recommend that Council amends the constitution to give the Chief Executive the discretion to commission a technical investigation or briefing on any motion received (using the wording provided in either Appendix 1a or 1b). If choosing this option, the committee may also wish to give consideration to extending the notice period for motions in order to allow time for such a report to be produced.
- To recommend that Council amends the constitution so that motions relating to executive functions are referred to the Cabinet for determination (using the wording provided at Appendix 1c).
- To leave the constitution unchanged
- To ask that officers develop other mechanisms than those set out in this report.

**Appendix 1a:
Changes required to introduce the option of Written Officer Advice on Motions
– Option A**

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 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 has received a Notice of Motion, he/she will:

a) determine whether the issue requires a technical investigation which cannot be completed by the time of the Council meeting, in which case he/she will notify the Member or Members who have submitted the notice of motion that he/she has commissioned such an investigation and that the notice of motion will now be considered at the next but one meeting of the Council, and he/she will report for information to the next meeting of the Council the receipt of the notice of motion and the commissioning of the investigation;

b) where consideration of the notice of motion is not deferred for a technical investigation, determine whether a background briefing would be of assistance to Members and, if so, arrange its preparation and distribution to all Members with the agenda for the meeting or as soon as possible thereafter.

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.

**Appendix 1b:
Changes required to introduce the option of Written Officer Advice on Motions
– Option B**

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~~ ten 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 The relevant Strategic Director shall prepare a full briefing note on factual background information to the motion and shall circulate it to all members of the County Council not later than ten working days before the County Council meeting.

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.

**Appendix 1c:
Changes required to introduce referral of motions in relation to executive functions – Option C**

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 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 Motion set out in the agenda for a meeting

10.2.1 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;

10.2.2 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);

10.2.3 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.

10.3 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.

~~10.4 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).~~

- ~~10.5~~ If the motion relates to an executive function and whether or not it is discussed at full Council at that time, full Council may:
- ~~10.5.1~~ 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
 - ~~10.5.2~~ 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.
- 10.64 If a motion is in relation to the exercise of an executive function, and it has been moved and seconded, it may be discussed by the Council if Council so wishes but ordinarily only the mover, seconder, and Group Leaders or their nominees will speak to it, and the motion will in any event stand referred to the Cabinet for consideration and decision. The Cabinet will consider the motion in the light of the Council's views (if any) and advise the Council of its decision in a subsequent report.
- 10.5 If a motion is in relation to the exercise of a non-executive function that the Council has delegated to another Council Body and it has been moved and seconded, the Council may decide that the motion be considered at that meeting, debated and voted upon. Otherwise, the motion will stand referred to that Council Body which after consideration of it will report to the next available meeting of Council incorporating any advice as to how the Council should determine the motion.
- 10.6 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 may not vote unless a Member of the Cabinet or other Council body.
- ~~10.7~~ ~~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.~~
- 10.87 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.

- 10.89 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.

11. MOTIONS WITHOUT NOTICE

11.1 The following motions may be moved without notice:

- 11.1.1 To appoint a Chair of the meeting;
- 11.1.2 Concerning the accuracy of the minutes;
- 11.1.3 To change the order of business in the agenda;
- 11.1.4 To appoint a Council body or Member to a Council body arising from an item on the agenda for the meeting;
- 11.1.5 To receive or adopt reports and recommendations of the Cabinet, Leader of the Council, Cabinet Member, a Scrutiny Committee, or, as appropriate, any other Council body or from Officers and any decision following from them;
- 11.1.6 To amend or withdraw a motion but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.7 To adjourn the meeting but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.8 To adjourn the debate but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.9 To proceed to the next business but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.10 That the question be put but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;

- 11.1.11 By the Chair not to allow another contribution to the debate from a Member named or to exclude a Member from the meeting under the Procedural Standing Order relating to Members' conduct;
 - 11.1.12 To exclude the public and media in accordance with the Access to Information Procedure Rules;
 - 11.1.13 ~~That the subject of debate be referred to the Cabinet or appropriate Council body;~~ That a motion be debated at Council in pursuance of Procedural Standing Order 10.4 or 10.5.
 - 11.1.14 To extend the time limit for speeches;
 - 11.1.15 That a Member be invited to remain at the meeting under the Procedural Standing Order relating to Members' interests;
 - 11.1.16 To suspend a Procedural Standing Order except Procedural Standing Order 10.8;
 - 11.1.17 To give the consent of the Council where such consent is required.
- 11.2 Standing Order 12 shall not apply to motions moved under this Procedural Standing Order, which shall be proposed, seconded and voted upon without debate, save that:
- 11.2.1 The proposer of a motion may speak for up to three minutes to explain why they have moved their motion;
 - 11.2.2 If a motion is moved under this Procedural Standing Order during a debate, the Chair may consent to one other Member speaking for up to three minutes against the motion moved under this Procedural Standing Order.

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Constitution Committee - 27 January 2020

Procedure for Motions without Notice

1. The constitution allows for members to move certain motions without notice at a County Council meeting. This provision relates to certain procedural motions – ie. motions which affect the way in which business is conducted at the meeting and the rules of debate.
2. Following recent County Council meetings when members have moved such Motions without Notice, a request was made for the Constitution Committee to review the relevant section of the constitution in order to clarify the procedure and ensure it is being properly applied.
3. The relevant procedures are set out in Procedural Standing Order 11 of Part 2 of the Constitution (replicated at appendix 1). Section 11.1 lists the range of procedural motions that can be moved without notice and section 11.2 sets out that the procedure to be followed. This is that the motion is to be proposed, seconded and voted upon without debate, save that:
 - The proposer may speak for up to three minutes to explain why they have moved their motion (i.e. the speech is in support of the procedural motion, not the substantive motion itself)
 - The chair may consent to one other Member speaking for up to three minutes against the procedural motion.
4. This procedure is summarised in the flowchart at Appendix 2. Members are asked to review and comment on the flowchart in order to ensure that it offers sufficient clarity on the process to be followed.

Appendix 1: Extract from the Constitution – Procedural Standing Order 11

11. MOTIONS WITHOUT NOTICE

11.1 The following motions may be moved without notice:

- 11.1.1 To appoint a Chair of the meeting;
- 11.1.2 Concerning the accuracy of the minutes;
- 11.1.3 To change the order of business in the agenda;
- 11.1.4 To appoint a Council body or Member to a Council body arising from an item on the agenda for the meeting;
- 11.1.5 To receive or adopt reports and recommendations of the Cabinet, Leader of the Council, Cabinet Member, a Scrutiny Committee, or, as appropriate, any other Council body or from Officers and any decision following from them;
- 11.1.6 To amend or withdraw a motion but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.7 To adjourn the meeting but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.8 To adjourn the debate but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.9 To proceed to the next business but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.10 That the question be put but a Member who has already spoken on a motion being debated may not, during that debate, move or second a motion to this effect;
- 11.1.11 By the Chair not to allow another contribution to the debate from a Member named or to exclude a Member from the meeting under the Procedural Standing Order relating to Members' conduct;
- 11.1.12 To exclude the public and media in accordance with the Access to Information Procedure Rules;

- 11.1.13 That the subject of debate be referred to the Cabinet or appropriate Council body;
 - 11.1.14 To extend the time limit for speeches;
 - 11.1.15 That a Member be invited to remain at the meeting under the Procedural Standing Order relating to Members' interests;
 - 11.1.16 To suspend a Procedural Standing Order except Procedural Standing Order 10.8;
 - 11.1.17 To give the consent of the Council where such consent is required.
- 11.2 Standing Order 12 shall not apply to motions moved under this Procedural Standing Order, which shall be proposed, seconded and voted upon without debate, save that:
- 11.2.1 The proposer of a motion may speak for up to three minutes to explain why they have moved their motion;
 - 11.2.2 If a motion is moved under this Procedural Standing Order during a debate, the Chair may consent to one other Member speaking for up to three minutes against the motion moved under this Procedural Standing Order.

Appendix 2

**FLOW CHART
Procedural Motions moved under
Procedural Standing Order 11 – Motions without Notice**

