

CONSTITUTION COMMITTEE

MINUTES of a meeting of the Constitution Committee held on Monday 9 October 2017 at the Members' Room - Shire Hall, Gloucester.

PRESENT

Cllr Mark Hawthorne MBE	Cllr John Payne Cllr Rachel Smith
Cllr Colin Hay	Cllr Lynden Stowe
Cllr Paul Hodgkinson	Cllr Ray Theodoulou
Cllr Nigel Moor	

Apologies: Cllr Will Windsor-Clive

Substitutes: Cllr Tim Harman

Officers: Jane Burns, Director of Strategy and Challenge and Monitoring Officer
Gillian Parkinson, Head of Legal Services
Simon Harper, Head of Democratic Services
Laura Powick, Democratic Services Adviser

30. ELECTION OF CHAIRMAN

Cllr Mark Hawthorne MBE was appointed as Chairman for the Civic Year (2017/18).

31. ELECTION OF VICE-CHAIRMAN

Following a vote, Cllr Nigel Moor was appointed as Vice-Chairman for the Civic Year (2017/18).

32. APOLOGIES FOR ABSENCE

Apologies were received from Cllr Will Windsor Clive.

Cllr Tim Harman substituted at the meeting for Cllr Windsor Clive.

33. MINUTES

The minutes of the previous meeting of 16 January 2017 were agreed as a correct record and signed by the Chairman.

34. PUBLIC QUESTIONS

No public questions were received.

35. MEMBERS' QUESTIONS

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

No questions from members were received.

36. ROLES AND RESPONSIBILITIES OF THE CONSTITUTION COMMITTEE

Jane Burns, Director of Strategy and Challenge and Monitoring Officer, advised members on the role and responsibilities of the Constitution Committee, and attention was drawn to the terms of reference for the Committee within the Constitution.

In response to a query on the process for allegations of Member misconduct, it was explained that a hearings panel, drawn from members of the Audit and Governance Committee, would be established to assess and review the allegations.

37. ARRANGEMENT FOR THE CHAIR OF THE AUDIT AND GOVERNANCE COMMITTEE

The Committee considered the following recommendation, which was agreed by members of the Overview and Scrutiny Management Committee (OSMC) at its meeting on 17 March 2017:

That the arrangement for the Chair of the Audit and Governance Committee to be a member of the opposition group be formalised.

There was a discussion as to whether members of the party in control of the administration should be allowed to vote at full Council where there was more than one nomination for the Chair of Audit and Governance. It was recognised that every councillor had the right to vote at full Council where there was more than one nomination. It was agreed that a protocol for opposition groups to decide on one nomination for the Chair of Audit and Governance Committee be considered at the next Group Leaders' meeting.

Action – Simon Harper

The Committee agreed with the spirit of the recommendation by OSMC and agreed to amend the recommendation, so that it was:

RESOLVED TO RECOMMEND TO THE COUNCIL *that the Constitution be amended to include the arrangement for the Chair of Audit and Governance Committee to be a member drawn from outside the group or groups forming the administration.*

38. GLOUCESTERSHIRE ECONOMIC GROWTH SCRUTINY COMMITTEE - PROPOSED CHANGES TO THE TERMS OF REFERENCE

Cllr David Norman MBE, Chairman of Gloucestershire Economic Growth Scrutiny Committee (GEGSC), presented a proposal for an amendment to the GEGSC terms of reference.

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Members noted that GEGSC had also considered several other suggestions to improve its efficiency, and noted that Gloucestershire Economic Growth Joint Committee had agreed for a standing item to be included on its agenda for the Chairman of GEGSC to report on the scrutiny committee's work.

Members discussed the proposed changes. It was suggested that the amendment to the GEGSC terms of reference be revised to include the requirement for GEGSC to review the decisions, plans and policies of the Gloucestershire Economic Growth Joint Committee. The Committee considered and agreed the revised amendment to the GEGSC terms of reference.

RESOLVED TO RECOMMEND TO THE COUNCIL that the terms of reference for Gloucestershire Economic Growth Scrutiny Committee be amended to the following:

- 1) To review the decisions, plans and policies of the Gloucestershire Economic Growth Joint Committee and*
- 2) To review the overall impact and delivery outcomes of the Gloucestershire Strategic Economic Plan and to make recommendations to the Gloucestershire Local Enterprise Community Interest Company and Gloucestershire Economic Growth Joint Committee on issues and improvements.*

39. GLOUCESTERSHIRE HEALTH AND WELLBEING BOARD - PROPOSED CHANGES TO THE TERMS OF REFERENCE

The Committee considered the proposed changes to the Gloucestershire Health and Wellbeing Board (GHWB) terms of reference.

It was clarified that, under legislation, nominations for elected members to the Health and Wellbeing Board were made by the leader of the local authority where executive arrangements were in operation. Political proportionality was not applied.

The Committee noted the proposed changes to the GHWB terms of reference in relation to the membership of the Board, particularly that the portfolios of the four Cabinet Members nominated to the Board by the Leader had been added to the membership. It was suggested that this amendment to the terms of reference be revised to state that four county councillors were members of the Board, as appointed by the Leader of the County Council.

The Leader's decision not to nominate opposition group members to the Board was queried. Several members expressed their view that the presence of opposition group members on the GHWB would allow for healthy challenge.

The Leader explained his wish for the Cabinet Members with relevant portfolios to attend GHWB meetings. Several members commented that scrutiny of the Board

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could be pursued through the Health and Care Overview and Scrutiny Committee (HCOSC), and the distinct roles of the GHWB and HCOSC were highlighted. Members were reminded that individual members on the Board were non-voting, and that instead, each member organisation or group of organisations had one vote.

On being put to a vote, the revised amendment to the GHWB terms of reference was agreed.

RESOLVED TO RECOMMEND TO THE COUNCIL that the revised terms of reference for the Gloucestershire Health and Wellbeing Board be amended under the membership for the Board to be approved and adopted:

- 1. The removal of the County Council Cabinet Member for Health and Wellbeing, Gloucestershire County Council (or equivalent) (Chair), and the County Council Cabinet Member for Vulnerable Families, Gloucestershire County Council;*
- 2. The removal of the Liberal Democratic and Labour Spokespersons for Public Health and Communities;*
- 3. The addition of 'Four county councillors, as appointed by the Leader of the County Council'; and*
- 4. The addition of the Chief Fire Officer for Gloucestershire.*

40. ORAL QUESTIONS AT COUNCIL

Cllr Mark Hawthorne MBE explained to the Committee that, under the current arrangements in the Constitution, an oral question could be asked by a member of the public at each ordinary meeting of the full Council, providing that notice of the question was given to the Chief Executive at least 30 minutes prior to the start of the meeting.

Cllr Hawthorne MBE suggested that 30 minutes notice was too short to enable the Cabinet member responding to the question the time to provide a comprehensive answer. It was noted, in reference to the report attached to the agenda, that none of the six district councils within the County, and only one of the four neighbouring authorities researched, detailed any arrangements in their constitutions for the asking of oral questions, and only in exceptional circumstances.

The Committee considered whether the Procedural Standing Order for the asking of oral questions by members of the public should be amended or removed.

One member felt that the opportunity for members of the public to ask oral questions at meetings of full Council was an important part of democratic engagement. Another member suggested that it was important to give members of the public the flexibility to ask questions at the last minute, where questions were of an urgent and topical nature.

Several members expressed the view that having earlier notification of oral questions would allow the necessary research to be carried out for more detailed

written answers to be provided. The Committee was also reminded that chairs of committees, in addition to Cabinet members, could also be asked questions by members of the public.

One member queried whether written answers to the questions that were unable to be answered orally at full Council could be shared with all members. It was agreed that these written answers could be published on the Council website alongside the minutes of the meeting.

Action – Simon Harper

Following a detailed discussion, Cllr Colin Hay proposed an amendment to the Constitution which determined that an oral question could be asked by a member of the public, provided that he or she gave notice of the question to the Chief Executive by 8am on the day of the meeting.

The Committee voted on the proposal by Cllr Hay, which was defeated.

Cllr Hawthorne MBE proposed that the Constitution be amended to state that members of the public may ask an urgent question which the Chairperson of the Council considers could not have been reasonably submitted by the deadline for the receipt of written questions, provided that he or she gave written notice of the question to the Chief Executive by 12 noon the day before the meeting. This would replace the current Procedural Standing Order which allowed for oral questions to be asked by members of the public, providing that notice was given to the Chief Executive at least 30 minutes prior to the start of the meeting.

The Committee voted on the proposal by Cllr Hawthorne MBE, which was upheld.

RESOLVED TO RECOMMEND TO THE COUNCIL that the Constitution be amended under Part 4, section 9, Procedural Standing Orders, to state that members of the public may ask an urgent question which the Chairperson of the Council considers could not have been reasonably submitted by the deadline for the receipt of written questions, providing that he or she gives written notice of the question to the Chief Executive by 12 noon the day before the meeting.

41. MOTIONS AT MEETINGS OF THE FULL COUNCIL

Cllr Paul Hodgkinson informed the Committee that he had asked for an item on motions at meetings of full Council to be included on the agenda for discussion at this meeting. He explained that at the full Council meeting on 13 September 2017, a number of motions could not be considered due to insufficient time, despite indicative timings for each motion having been agreed prior to the meeting at the Chairman's briefing.

Cllr Hodgkinson asked the Committee to consider either a change in protocol which determined that the Chairman of the Council must stick to the indicative timings

agreed, or a change to the Constitution to increase the amount of time allocated for motions to be debated at meetings of full Council.

One member commented that it would not be in the interest of democracy to stop members from speaking on a motion should they wish to, if the time that had been agreed to debate that motion had already been reached.

Cllr Hodgkinson acknowledged that the indicative timings agreed at the Chairman's briefing could not be rigidly stuck to, however suggested that, as far as possible, timings should be kept to.

One member highlighted that the 2 hour limit for the consideration of motions helped constrain the length of full Council meetings. The Committee noted that prior to 2013, each political group was allocated 30 minutes for their motions to be debated within the overall limit of 2 hours.

There was a discussion regarding the suspension of the Procedural Standing Order for the time spent on motions and the role of the Chairman of the Council in managing the debate on motions. Reference was made to 'Knowles on Local Authority Meetings: A Manual of Law and Practice.'

One member expressed their concern over any further limitations to the time allocated for the consideration of motions, highlighting that opposition groups had only 5 opportunities per civic year to bring motions for debate. It was clarified that that the order in which motions were taken at full Council was the order in which they were received by Democratic Services.

The Committee discussed the options for handling the timing of motions at meetings of full Council in detail, and it was agreed that the issue be referred to Group Leaders for their consideration.

Action – Simon Harper

42. CHANGES TO THE EMPLOYEE CODE OF CONDUCT

Jane Burns informed the Committee that she had committed to regularly reviewing the Employee Code of Conduct.

The Committee noted that there had been minor changes to the Employee Code of Conduct, specifically a recommendation for staff to wear the ID badges provided and references to standard forms for gifts and hospitality. It was also noted that further changes to the Code were anticipated in respect of the Whistleblowing Policy, which was currently being reviewed by the external charity Public Concern at Work as part of a wider piece of work looking at the Council's culture.

In response to a query, it was explained that it was recommended that members wear their ID badges, however it could not be enforced.

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RESOLVED TO RECOMMEND TO THE COUNCIL that the revised Employee Code of Conduct be approved and adopted.

43. MONITORING OFFICER CHANGES TO THE CONSTITUTION

RESOLVED TO RECOMMEND TO THE COUNCIL to ratify the changes to the Constitution, as set out in the reports, by the Monitoring Officer under delegated powers.

CHAIRMAN

Meeting concluded at 4.20 pm