

## Constitution Committee

### Changes to the Council Constitution

Date: 16 January 2023

Agenda Item:

<b>Title of Report</b>	Changes to the Council Constitution
<b>Purpose of Report</b>	To seek the Committee's approval for various changes to the Constitution
<b>Recommendations</b>	<p>That the Constitution Committee:</p> <ol style="list-style-type: none"><li>1. Recommends that County Council agrees the following changes to the Council's constitution<ol style="list-style-type: none"><li>a. The addition to the terms of reference of Audit and Governance Committee as set out in paragraph 4 of this report.</li><li>b. The amendment to the terms of reference of Corporate Overview and Scrutiny Committee as set out in paragraph 7 of this report.</li><li>c. That the Protocol for the Attendance of Members and Officers at Meetings of Other Public Authorities (as appended to this report) is included in Part 5 of the Council's constitution</li><li>d. The amendment to the Scheme of Delegation (Part 3, Section 5.12 of the constitution) as set out in paragraphs 11, 12 and 13 of this report.</li><li>e. The amendment to Article 14.04 of the constitution as set out in paragraph 14 of this report</li><li>f. The addition to Contract Procedure Rules as set out in paragraph 16 of this report</li></ol></li><li>2. Notes the changes to the constitution made by the Monitoring Officer as set out in paragraphs 15 and 16 of this report.</li></ol>
<b>Officer Contact</b>	Rob Ayliffe Director of Policy, Performance and Governance Tel: 01452 328506;

1. The purpose of this report is to consider a number of proposed minor changes to the Council's Constitution as set out below.

**Audit and Governance Committee Terms of Reference:**

2. Until recently, a Health and Safety report was brought to Council on an annual basis. Following a review of the arrangements for engaging and consulting with council employees on health and safety matters, some benchmarking was undertaken of other council's practices. This showed that Gloucestershire was unusual in this respect. A number of Councils had no arrangements in place for reporting Health and Safety matters to members. However, where arrangements were in place, those reports were taken to the equivalent of our Audit and Governance Committee.
3. Doing so has the potential to increase members' oversight of health and safety matters. While taking it to Audit and Governance Committee exposes it to a smaller audience of members, it is likely to lead to more discussion of the issues.
4. For those reasons, it is recommended that Audit and Governance Committee's Terms of Reference are amended to include the following under Section 2: Governance, Risk and Control

*"To monitor the effectiveness of GCC's Health & Safety policy"*

**Corporate Overview and Scrutiny Committee Terms of Reference:**

5. Corporate Overview and Scrutiny Committee's Terms of Reference include the following:

*"3. Carry out the scrutiny functions of the County Council delivering the roles set out in Article 8 of the Constitution by scrutinising those County Council functions not covered by other Scrutiny Committees. These include support services included within the Core Council group."*

6. The reference to 'Core Council group' is clearly out of date, but was missed during the recent end-to-end review of the constitution.
7. It is recommended that this is amended as follows:

*“ 3. Carry out the scrutiny functions of the County Council delivering the roles set out in Article 8 of the Constitution by scrutinising those County Council functions not covered by other Scrutiny Committees. These include support services included within the ~~Core Council~~ group Corporate Resources Directorate.”*

## **Protocol on Member and Officer attendance at meetings of other public authorities**

8. Stroud District Council has recently drawn attention to the existence of a protocol on Member and Officer attendance at meetings of other public authorities. This protocol, which is appended to this report, was agreed between Gloucestershire County Council and the six district councils within Gloucestershire in 2009, with the intention of each council including it within its constitution. In Gloucestershire County Council’s case, the protocol doesn’t appear to have ever been considered by the Constitution Committee.
  
9. The provisions within the protocol provide a helpful framework for responding to such requests whilst respecting each council’s right to determine whether to agree or not. On that basis, it is recommended that the Protocol be included in Part 5 of the Council Constitution.

## **Scheme of Delegation**

10. Following changes to the senior management structure within the Economy, Environment and Infrastructure directorate, a review has been undertaken of the Scheme of Delegation as it relates to these areas. This has identified an omission in that the scheme currently makes no reference to two areas within that directorate:
  - ecology, archaeology and flooding
  - adult education, employment and skills.
  
11. In order to ensure that the Executive Director is able to exercise the executive functions relating to those areas, the following amendment to the Scheme of Delegation is proposed:

<b>Decision Category Number</b>	<b>Function, duty or power to be delegated</b>	<b>Appropriate Officer</b>	<b>Consultation under paragraph 5.4</b>
DEE17	To exercise all other <u>executive</u> functions relating to the areas of responsibility of the following services:	Executive Director of Economy, Environment and Infrastructure	Relevant Cabinet Member for all decisions with financial

	Development, Planning & <u>Natural Environment</u> , Transport & Community Infrastructure, Road Safety, Registration, Libraries, <u>Adult Education</u> , <u>Employment &amp; Skills</u> and Waste Management except decision categories ADLS 1 to 3 (although, in cases when only an Officer other than the Assistant Director of Legal Services may institute proceedings, the Director of Economy, Environment and Infrastructure may institute a prosecution once it has been authorised under ADLS2).		implications over £250,000
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12. The same review as also highlighted a typographical error which needs to be corrected as follows:

<b>Decision Category Number</b>	<b>Function, duty or power to be delegated</b>	<b>Appropriate Officer</b>	<b>Consultation under paragraph 5.4</b>
DEE15	To exercise the functions falling within Planning Committee terms of reference 1 to 14 and 16 to <u>26</u> , except decision categories ADLS1 to 3 of this Scheme of Delegation.	Executive Director of Economy, Environment and Infrastructure. (Note: Where the Executive Director is an Officer whose responsibilities include any aspect of the management of any land or building to which an application made by the Council relates, or is responsible for a function (other than as planning authority) materially affected by any planning matter, this power is delegated to the appropriate senior officer).	Assistant Director of Legal Services.

13. Also, following the transfer of the Safety, Health and Environment team from the Director of Policy, Performance and Governance to the Assistant Director

of Asset Management and Property Services, the following changes to the scheme of delegation are required:

Decision Category Number	Function, duty or power to be delegated	Appropriate Officer	Consultation under paragraph 5.4
<del>DPPG4</del> <u>AMPS1</u>	The functions of the Safety & Licensing Committee under paragraphs 2 and 3 of its terms of reference	<del>Director of Policy, Performance &amp; Governance</del> <u>Assistant Director of Asset Management and Property Services</u>	N/A
<del>DPPG2</del> <u>DPPG1</u>	To publish standards for the whole Council which will secure the efficient processing of information	Director of Policy, Performance & Governance	N/A

## Articles of the Constitution

14. Article 14.04 of the constitution includes an advisory note which refers to Contract Standing Order 13. This reference is out of date, given that these were replaced with the current Contract Procedure Rules in January 2022, and the equivalent reference would be to Contract Procedure Rule 14 (which, amongst other things, sets out the minimum requirements for the signing or sealing of contracts. It is therefore recommended that the reference be updated as follows:

### 14.04 Authentication of documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or other person authorised by them, unless any enactment or the Constitution otherwise authorises or requires, or the Council has given Authority to some other person.

*Note: ~~Contract Standing Order 13~~ Contract Procedure Rules 14.8, 14.9 and 14.10 imposes additional authentication requirements in certain circumstances*

## Contract Procedure Rules

15. Contract Procedure Rules (formerly called Contract Standing Orders) were completely reviewed and updated in January 2022. The previous version included an exemption which allowed the Council to award contracts for legal representation and advice without competition under certain circumstances. This exemption is provided for under Regulation 10(1)(d) of the Public

Contract Regulations 2015 in recognition of the specialist nature of such advice.

16. Having reviewed the various drafts of the Contract Procedure Rules that were produced, it appears that this omission was unintended. It is therefore proposed that this exemption be reinstated by inserting the following provision under Part 5 – Exemptions to these Contract Procedure Rules.

5.4 Any requirement under these Contract Procedure Rules to seek more than one tender or quotation shall not apply where arrangements are being made for the appointment of counsel or other experts by the Assistant Director of Legal Services, who must be satisfied that the fee to be paid is relative to the level of advice and expertise required.

### **Monitoring Officer changes to the constitution**

17. In exercise of the powers of the Monitoring Officer in Article 15.02.1 of the Council Constitution, in order to secure the convenient, efficient and effective discharge of any function, I have recently made the following changes to the constitution:

- Under article 13.01.02 to identify Stephen Bace as the Council's Statutory Scrutiny Officer, following his recent appointment to the post of Head of Democratic Services role.
- Under the Gloucestershire County Council Petition Scheme in Part 5 of the constitution, to identify Stephen Bace as the point of contact for anyone wishing to organise a petition.

These changes follow Stephen Bace's recent appointment to the role of Head of Democratic Services, which includes these areas of responsibility.

18. In exercise of the powers of the Monitoring Officer in Article 15.02.1 of the Council Constitution, in order to give effect to a decision of the Leader of the Council, I have recently made the following changes to Section 4.4 of Part 3 of the Council's Constitution, which sets out Cabinet Members' areas of responsibility.

- To remove the role of Cabinet Member for Public Health and Communities;
- To reassign to the Leader the areas of responsibility previously held within that portfolio;
- To include under the Leader's portfolio "Equality, Diversity and Inclusion"

ENDS

## Appendix

### PROTOCOL FOR THE ATTENDANCE OF OFFICERS AND MEMBERS OF ONE PUBLIC AUTHORITY AT MEETINGS OF ANOTHER PUBLIC AUTHORITY

This protocol is agreed by:-

Gloucestershire County Council  
Cotswold District Council  
Tewkesbury Borough Council  
Cheltenham Borough Council  
Forest of Dean District Council  
Stroud District Council  
Gloucester City Council

1. An Authority may request through its Head of Paid Service officers and/or members of another Authority to attend at a meeting or meetings of the Authority or any of its committees, subcommittees, boards, panels or other gatherings being held at its offices. The purpose of such attendance is limited to assisting that Authority in the conduct of its business including reviewing the effects of, but not scrutinising, decisions of another Authority.
2. All such requests shall be made in writing to the Head of Paid Service of the Authority, normally at least 10 working days before the date of requested attendance (although time limits in an Authority's constitution may affect this period of notice) and shall include the following information.
  - The date, time, location and anticipated duration of the attendance requested.
  - The name of the person(s) whose attendance is requested.
  - If a particular person's presence is requested the reason for selecting that person.
  - A summary of the matter in respect of which attendance is requested.
  - All questions which reasonably can be anticipated will be put to any person(s) attending (it is accepted that answers to questions may lead to further questions).
  - The names of the person(s) who will be putting questions.
  - A list of the names of all other persons expected to attend.
  - The name and telephone number of the responsible officer as a point of contact for the person attending.
3. The Head of Paid Service receiving such a request shall respond to the request within five working days stating:
  - Whether anyone will attend.
  - Whether attendance will be as requested or that alternative arrangements will be necessary.

- Whether the particular person(s) whose presence is requested will attend and/or whether in their place, or in addition, some other person will attend and who that person will be.
  - Whether the questions specified in the request will be answered either at all or to some limited extent (in which case reasons will be given) or fully. In the event that there will be no attendance, whether and if so how and when, the questions notified will be responded to.
4. All questions shall relate to facts and not opinion although the person attending may express opinions.
  5. The person(s) attending may only decline to answer any question on the grounds of competence or knowledge.
  6. All reasonable expenses relating to the attendance(s) will be met by the Authority responding to the request.
  7. All persons attending in response to a request shall at all times be treated with the highest standards of courtesy and respect and shall not under any circumstances be bullied, harassed or abused.