

Gloucester City Council

Meeting:	Council	Date:	23 July 2015
Subject:	Various Constitutional amendments		
Report Of:	Monitoring Officer		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Tanya Davies, Democratic and Electoral Services Manager		
	Email: tanya.davies@gloucester.gov.uk	Tel: 39-6125	
Appendices:	<ol style="list-style-type: none">1. Extracts from Constitution 2015-16 showing proposed changes required as a result of legislation2. Proposed changes to Organisational Development Committee Terms of Reference3. Proposed changes to Meetings of the Council4. Proposed changes to Council Procedure Rules		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To seek approval to various constitutional changes and to note potential contractual changes required to comply with legislation on the dismissal of the Head of Paid Service, Chief Finance Officer and Monitoring Officer (the 'statutory officers').

2.1 Recommendations

- 2.1 Council is asked to **RESOLVE** that

- (1) The changes to the Constitution shown in Appendix 1 be approved.
- (2) The changes to the Constitution shown in Appendix 2 be approved.
- (3) The changes to the Constitution shown in Appendix 3 be approved and the Cabinet Members for Communities and Neighbourhoods and Performance and Resources be asked to consider reviewing the Council's approach to People Impact Assessments.
- (4) The changes to the Constitution shown in Appendix 4 be approved.

3.0 Background and Key Issues

Changes required by legislation (Appendix 1)

- 3.1 The Council's statutory officers (the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer) have statutory responsibilities to discharge to the

Council. In order to enable these officers to discharge their responsibilities within the political environment of local government, the Local Authorities (Standing Orders) (England) Regulations 2001 included statutory protection for these officers by requiring the appointment of a Designated Independent Person (DIP) to investigate any allegation of misconduct against these senior officers.

- 3.2 The Department for Communities and Local Government (DCLG) expressed concerns that the DIP process was complex and expensive in practice and was of the view that it placed councils as the employer at a great disadvantage in comparison to the position of the employee, given that the recommendation of the DIP had to be followed. The DCLG also felt that the DIP process could also be time consuming in cases where the Council and the relevant officer could not agree on a DIP.
- 3.3 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 came into force on 11 May 2015. The Regulations require local authorities to incorporate in their Standing Orders provisions set out in a Schedule to the Regulations and to modify existing Standing Orders so that they conform with those provisions. The authority has to do this no later than the first ordinary meeting of the authority after the Regulations come into force.
- 3.4 In summary:
- a) the Regulations provide that the final decision to dismiss any statutory officer (i.e. the Head of Paid Service, the Chief Finance Officer and the Monitoring Officer) must be taken by full Council. The previous Regulations applied to dismissal of the Head of Paid Service only.
 - b) There is no longer any requirement to appoint a Designated Independent Person (DIP) before dismissing or disciplining a statutory officer.
 - c) Before taking any decision to dismiss a statutory officer, the Council must invite at least two Independent Persons (as appointed to deal with standards matters under Section 28(7) of the Localism Act 2011) to be members of a Panel, and the Council must take into account any recommendation of that Panel before taking a decision to appoint or dismiss the statutory officer.
 - d) The Panel is a committee of the authority and is therefore subject to all the usual requirements for committees, including the proportionality rules.
 - e) The Independent Persons invited to be appointed to the Panel are to be appointed in a priority order and may include independent persons appointed by another authority or authorities.
- 3.5 The Constitution includes Standing Orders on the procedure for disciplining and dismissing officers, as required by the Local Authorities (Standing Orders) (England) Regulations 2001 and these are set out in the Officer Employment Procedure Rules at Part 4 of the Constitution. Appendix 1 sets out the relevant parts of the Constitution, with proposed deletions shown as 'struck through' text (e.g. ~~struck through~~) and additions shown in **bold underlined font**.

Changes to the Organisational Development Committee Terms of Reference (Appendix 2)

- 3.6 Under the current Constitutional provisions, any change to staffing structure (e.g. in terms of the number of posts or the types of posts) including structure proposals which have no financial impact (cost or saving), require Organisational Development Committee (ODC) approval before they can be implemented. This adds to the timescale for implementation of proposed restructures and could have a knock-on impact on achievement of the Council's savings targets over the coming months.
- 3.7 ODC previously considered amending the terms of reference in February 2014, but at that time there were a number of service reviews and restructure proposals going through and the Committee decided that it should retain the power to approve all changes to staffing structures; however, recently the Committee has been required to approve changes to structures, which in reality are minor and need not be delayed by the requirement for Committee approval.
- 3.8 Council is therefore asked to consider what level of restructure should be reported to Committee and what restructuring ought to be delegated to officers to determine. It is suggested that the Committee be called upon to agree restructures affecting two or more staff or any posts at Grade 1 or above; all other changes to staff structures would be agreed by the Head of Paid Service.
- 3.9 Additionally, it is proposed that the frequency of ODC meetings be amended to reflect the reality, which is that four meetings take place each year and are agreed as part of the annual programme of meetings.
- 3.10 Appendix 2 shows the changes proposed.

Changes to Meetings of the Council

- 3.11 Appendix 3 proposes the dissolution of the Equality Champions Group (ECG). The Group, although appointed to each year at Annual Council, has not met for at least four years and there has been no pressure from Members for the ECG to meet. The Council's approach to equalities has evolved since the establishment of the ECG, along with the allocation of staffing resources, and it is considered that the requirement for a formally constituted body has ceased to exist.
- 3.12 The Constitutional and Electoral Working Group supports the recommendation to dissolve the ECG and asks that the Cabinet Members for Communities and Neighbourhoods and Performance and Resources consider reviewing the Council's approach to People Impact Assessments.

Changes proposed to Council Procedure Rules

- 3.13 Appendix 4 proposes changes to two Council Procedure Rules: ordinary meetings order of business and questions by Members. The amendments are proposed in order to streamline the business of Council meetings and make efficient use of the time available.

3.14 It is proposed that the time period for spontaneous oral questions from Members is reduced to 30 minutes and the order of business be altered to bring oral questions by Members up the agenda and move written questions by Members to the end of the agenda. For clarity, the proposed order of business at ordinary Council meetings is:

1. Apologies
2. Minutes
3. Declarations of Interest
4. Public Question Time (15 minutes)
5. Petitions and Deputations
6. Announcements
7. Oral Questions by Members
 - a. Leader and Cabinet Member's Question Time (30 minutes)
 - b. Questions to Chairs of Meetings (15 minutes)
8. Issues for decision by Council (reports)
9. Notices of Motion
10. Written Questions by Members

4.0 Alternative Options Considered

- 4.1 There are no alternative options relevant to the amendments to the procedure for the dismissal of statutory officers.
- 4.2 Alternatives may be proposed in respect of Appendices 2-4.

5.0 Reasons for Recommendations

- 5.1 In respect of Appendix 1, the Council Officer Employment Procedure Rules and other parts of the Constitution require amendment to comply with the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015.
- 5.2 In respect of the proposals outlined in Appendices 2-4, it is considered that the amendments will effectively streamline the business of Council meetings.

6.0 Future Work and Conclusions

- 6.1 The changes proposed to the procedure for the dismissal of statutory officers are required to ensure that the Council's Standing Orders comply with the relevant legislation.
- 6.2 The other constitutional amendments proposed will take immediate effect if they are approved by the full Council.

7.0 Financial Implications

- 7.1 The Regulations limit the remuneration that should be paid to Independent Persons on the Panel to the level of remuneration which they would normally receive as an Independent Person in the conduct regime. In the case of the Council, this is £300 per annum (based on attendance at 4 meetings).

- 7.2 There are no financial implications associated with the other constitutional amendments proposed.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 These are mainly as set out in the report. Additionally, where contracts of employment for statutory officers incorporate the previous DIP process, the Council will need to seek variations to those contracts to avoid being in breach of contract as a result of these changes.

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 As the Council has only appointed 1 Independent Person, it will need to either seek to appoint another Independent Person or invite Independent Persons appointed by another or other authorities if and when any Panel is required, in order to ensure that the Panel contains at least 2 Independent Persons.

10.0 People Impact Assessment (PIA):

- 10.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 There are no community safety implications.

Sustainability

- 11.2 There are no sustainability implications.

Staffing & Trade Union

- 11.3 If the employment contracts of the Head of Paid Service, Chief Finance Officer or Monitoring Officer contain contractual terms that are affected by the 2015 Regulations, those terms and conditions will need to be changed.

Background Documents: None.