

Gloucester City Council

Meeting:	General Purposes Committee Council	Date:	19 June 2023 13 July 2023
Subject:	Constitutional Changes		
Report Of:	Head of Paid Service		
Wards Affected:	All		
Key Decision:	No	Budget/Policy Framework:	No
Contact Officer:	Alice McAlpine, Monitoring Officer Email: alice.mcalpine@gloucester.gov.uk		
Appendices:	1. Unified Gloucestershire Councils Member Code of Conduct 2. Revised Arrangements for dealing with Standards Allegations under the Localism Act 2011 2A. Comparison of revised Arrangements for dealing with Standards Allegations under the Localism Act 2011 against current Arrangements for dealing with Standards Allegations under the Localism Act 2011 3. New Officer/Member Protocol		

FOR GENERAL RELEASE

1.0 Purpose of Report

- 1.1 To propose changes to the Code of Conduct, Arrangements for dealing with Standards Allegations under the Localism Act 2011 and the Member/Employee Code of Conduct within the Council's constitution. The report also seeks authority to update the Part 3 of the Constitution (Scheme of Delegation) and the Overview and Scrutiny Procedure Rules in relation to the Call-In procedure.

2.0 Recommendations

- 2.1 General Purposes Committee is asked to **RECOMMEND TO COUNCIL** that:

- (1) The Unified Gloucestershire Code of Conduct as set out in Appendix 1 to the report is adopted.
- (2) The amended Arrangements for dealing with Standards Allegations under the Localism Act 2011 as set out in Appendix 2 is adopted.
- (3) The new Member/Officer Protocol as set out in Appendix 3 is adopted.
- (4) The Scheme of Delegation in Part 3 of the Constitution is amended in accordance with paragraph 3.8 of this report.

- (5) Rule 14 of the Overview and Scrutiny Procedure Rules is amended in accordance with paragraph 3.9 of this report.
- (6) Authority is delegated to the Monitoring Officer and Managing Director to correct references to the Council Solicitor throughout the Constitution to either the Director, One Legal or Monitoring Officer as appropriate and to make any other minor and consequential amendments arising from this decision.

2.2 Council is asked to **RESOLVE** that:

- (1) It adopts the Unified Gloucestershire Code of Conduct as set out in Appendix 1.
- (2) It adopts the amended Arrangements for dealing with Standards Allegations under the Localism Act 2011 as set out in Appendix 2.
- (3) It adopts the new Member/Officer Protocol as set out in Appendix 3.
- (4) The Scheme of Delegation in Part 3 of the Constitution is amended in accordance with paragraph 3.8 of this report.
- (5) Rule 14 of the Overview and Scrutiny Procedure Rules is amended in accordance with paragraph 3.9 of this report.
- (6) It delegates authority to the Monitoring Officer and Managing Director to make amendments arising from the senior staff restructure adopted on 15 May 2023 and to make any other minor and consequential amendments arising from this decision.

3.0 Background and Key Issues

Unified Gloucestershire Code of Conduct

- 3.1 The Monitoring Officers for the seven principal Gloucestershire Councils have worked together to draft a Gloucestershire wide Member Code of Conduct which has regard to the Local Government Association's model code of conduct but also takes into account the collective experience of the Monitoring Officers of the Gloucestershire councils both in operating their own codes of conduct and in having Members who are elected to more than one council.
- 3.2 There is considered to be a number of benefits to the council adopting the Unified Gloucestershire Code of Conduct and these include:
 - 3.2.1 for those elected to more than one council there will be a single code of conduct that applies across the councils;
 - 3.2.2 providing greater clarity and consistency for Members and the general public about the standards of behaviour that are expected of elected representatives when in their official capacity;
 - 3.2.3 where complaints are made against a Member the same considerations will apply irrespective of the council to which the complaint is made. This will reduce duplication and allow a single investigation of the complaint to be undertaken.
 - 3.2.4 enabling the sharing of experience and training resources across and between Gloucestershire councils.

- 3.3 As at the date of this report the Unified Gloucestershire Code of Conduct has been adopted by Cheltenham Borough Council; Cotswold District Council; Forest of Dean District Council; Gloucestershire County Council and Stroud District Council.
- 3.4 The key differences between the currently adopted code of conduct and the proposed Unified Gloucestershire Code of Conduct are:
- 3.4.1 it provides more detail on what the expected principles of behaviour mean and how these should be demonstrated.
- 3.4.2 it introduces new obligations in relation to compliance with the Council's ICT policy and following the Local Authority Code of Publicity.
- 3.4.3 the amended drafting in the Unified Gloucestershire Code of Conduct that relates to Members Registers of Interest adds clarity and the new wording should aid understanding of Members' responsibilities in relation to declaring interests.

Arrangements for dealing with Standards Allegations under the Localism Act 2011

- 3.5 Minor Amendments are proposed to the Arrangements for dealing with Standards Allegations under the Localism Act 2011. The amendments bring the arrangements into alignment with other council's arrangements and will demonstrate the importance of the code of conduct to Members and provide transparency to the process for those who make a complaint against a member which is upheld either following Local Resolution or a Local Hearing.
- 3.6 The differences between the current arrangements and the amended arrangements are shown as track changes at Appendix 2 A.

Member/Officer Protocol

- 3.7 Given the work undertaken in relation to the Unified Gloucestershire Code of Conduct, the review of the Arrangements for dealing with Standards Allegations under the Localism Act 2011 and following the LGA Corporate Peer Challenge and the approval of the Action Plan by Cabinet on 3 May 2023 it is proposed that a new Officer/Member Protocol is adopted. The new protocol has been drafted to clarify the mutual roles and responsibilities of Officers and Members to foster good working practices in relation to such matters as decision making, access to information and advice. The drafting is based on good practice and other councils commended on how the Members and Officers work together. It is to be noted that whereas the previous protocol referred to Employees and Members if is advised that the reference should be to Officers as this is considered to be more appropriate in the context of the Constitution.

Amendments to Part 3D: Officer Non-Executive Functions and Part 3E: Executive Arrangements

- 3.8 It is proposed that changes are made to Part 3D and Part 3E of the Constitution to ensure that any delegations of Officers set out in with non-Executive or Executive decisions revert to the Managing Director in the event that the specified Officer was absent or the Officer role was vacant.

- 3.8.1 Changes proposed to Line 2 of Table 3 of Part 3D under the heading of “Managing Director”.
Discharge any non-Executive Function which is delegated to an officer ~~under Part 3D.~~
- 3.8.2 Changes proposed to Line 1 of Table 5 of Part 3E under the heading of “Managing Director”.
Discharge any Executive Function which is delegated to an officer ~~under Part 3E.~~
- 3.8.3 These amendments are required for the efficient running of the Council and allow decisions to be taken in a timely way. The amendments are also considered to add clarity to these delegations.
- 3.9 It is proposed that the following clarifying amendment is made to Rule 14 of the Overview and Scrutiny Procedure Rules:
- 3.9.1 An additional sub paragraph be added as 14 (e) “Call in does not apply to decisions made by the Cabinet, an individual Cabinet Member or a Committee of the Cabinet, or an Executive decision made by an officer with delegated authority from the Cabinet, or an Area Committee or under joint arrangements that make recommendations to Council because those decisions are in fact recommendations and will not be implemented in any event until the matter has been considered and decided by Council”.

4.0 Social Value Considerations

- 4.1 Not applicable.

5.0 Environmental Implications

- 5.1 Not applicable.

6.0 Alternative Options Considered

- 6.1 Council could decide not to adopt the updated documents as part of the Constitution. This is not recommended as it is considered that the new code of conduct, the revised Arrangements for dealing with Standards Allegations under the Localism Act 2011 and the new Member/Officer Protocol provide additional clarity to the role of Members, transparency for Members of the public and addresses the recommendation of the LGA Corporate Peer Review to review of role of Members, specifically member/officer relations, member conduct, and clarity on roles and responsibilities.
- 6.2 Council could decide not to agree the proposed amendments to Part 3 of the Constitution and the Overview and Scrutiny Procedure Rules. This is not recommended as the proposed amendments support effective and timely decision making by the council.

7.0 Reasons for Recommendations

- 7.1 The adoption of the Unified Gloucestershire Code of Conduct, the amendments to the Arrangement for dealing with Standards Complaints under the Localism Act 2011 and the adoption of the new Member/Officer Protocol is considered to be good

practice as they take into consideration experience and guidance published since these parts of the constitution were last reviewed and revised.

7.2 The proposed amendments to Part 3 of the Constitution and to the Overview and Scrutiny Procedure Rules are considered to support efficient decision making.

8.0 Future Work and Conclusions

8.1 It is proposed that if the revised documents are adopted, they shall take effect at the close of the Council meeting. The changes will be made to the Constitution, which will be republished on the Council's website as soon as reasonably practicable.

8.2 Further reviews and proposed revisions will be made before the end of this municipal year specifically in relation to amendments to the Officer Code of Conduct and the adoption of a Social Media Protocol to reflect the changes in the new code of conduct and the new Officer/Member Protocol. The Constitution is an evolving document and there is a rolling programme of review and updating.

8.3 Training on the amended Code of Conduct and associated Protocols will be incorporated into the induction programme following the Council elections in May 2024. It is recommended that all Councillors, not only new Councillors, attend this training.

9.0 Financial Implications

9.1 There are no direct financial implications arising from the recommendations.

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

10.0 Legal Implications

10.1 The Council must have a constitution and the requirements of the constitution are set by statute. It is considered good practice to keep the Constitution under review and update is as appropriate to reflect changing legislation, practice and to ensure that it supports the efficient functioning of the Council.

10.2 The principal statutory provisions relating to standards of conduct for Members are set out in the Localism Act 2011 (the "2011 Act"). Section 27(1) of the 2011 Act provides that the Council must promote and maintain high standards of conduct by Members. Section 27 and 28 of the 2011 require the Council to adopt a Code of Conduct and have arrangements in place to investigate any complaints made against Members and make decisions on any complaints.

10.3 There are no legal implications arising from the proposed amendments to Part 3 of the Constitution and the Overview and Scrutiny Procedure Rules.

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

11.0 Risk & Opportunity Management Implications

11.1 Not Applicable

12.0 People Impact Assessment (PIA) and Safeguarding:

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

13.0 Community Safety Implications

13.1 Not applicable

14.0 Staffing & Trade Union Implications

14.1 Not applicable

Background Documents: None