

STROUD DISTRICT COUNCIL

COUNCIL

THURSDAY, 14 DECEMBER 2023

Report Title	Updates to the Constitution			
Purpose of Report	This report brings forward proposed amendments to the Constitution as recommended by the Constitution Working Group.			
Decision(s)	Council RESOLVES to: <ol style="list-style-type: none">1. note the position regarding members attendance and agrees that the wording in paragraph 2.3 of this report is added to Article 2 of the Constitution;2. agree to adopt the updated process for the allocation of seats on committees as set out in paragraph 3, with effect from May 2024;3. agree that, with effect from May 2024 the number of seats on the Audit and Standards Committee shall increase by two, to a total of 11 members4. agree at the Annual General Meeting in May 2024 Council are asked to agree that that Audit and Standards Committee should not be subject to the rules of political proportionality, noting that this will need to be the subject of a nem con vote to become effective.			
Consultation and Feedback	Constitution Working Group			
Report Author	Claire Hughes, Corporate Director (Monitoring Officer) Email: claire.hughes@stroud.gov.uk			
Options	Council can decide not to approve all or some of the recommendations			
Background Papers	Constitution			
Appendices	None			
Implications (further details at the end of the report)	Financial	Legal	Equality	Environmental
	No	Yes	No	No

1. Introduction

- 1.1 The Constitution is a live document which requires regular review and revision. As part of its ongoing review the Constitution Working Group (CWG) met on 21 September 2023 to consider proposed changes.
- 1.2 This report sets out the recommendations from the CWG to Council.

2. Member Attendance

- 2.1 The CWG received a report from the Monitoring Officer regarding the interpretation of section 85 of the Local Government Act 1972 which disqualifies Councillors if they fail to

attend a meeting for a continuous period of 6 months unless the authority has agreed to an extension of that period prior to its expiry.

- 2.2 After consideration of the report, the CWG noted that whilst it was difficult to be completely definitive, it would be beneficial for the Constitution to provide some information as to what constitutes attendance for the purposes of section 85.
- 2.3 The CWG therefore recommends that Article 2 (Members of Council) of the Constitution should be updated to include a new 2.7 as follows:

Article 2.7 Attendance

In accordance with Section 85 of the Local Government Act 1972 a member will automatically be disqualified from being a Councillor if they fail to attend a meeting of the authority for a continuous period of 6 months, unless the authority has agreed to an extension of that period prior to its expiry. The authority considers that the following constitutes attendance for this purpose:

- Attendance at Full Council
- Attendance at a Committee whether as a member of the committee or observer
- Attendance at any working group or task and finish group whether as a member of the committee or observer
- Attendance at member training events
- Attendance at any other events/meetings which the Monitoring Officer, after taken into account all the relevant circumstances, determines as constituting 'attendance' for the purposes of section 85 of the Local Government Act 1972

3. Political Balance and Allocation of Committee Seats

- 3.1 The Council must allocate seats on committees so as to give effect to the political balance rules unless there is a decision to the contrary with no member voting against (a nem con vote).
- 3.2 The allocation of seats shall conform to the principles of proportionality contained in sections 15 and 16 of the Local Government and Housing Act 1989 (except in the case of the statutory Licensing Committee where there is an exemption to the rules). There is a duty to give effect to the following principles, as far as reasonably practicable, in the order shown:
 - a) Not all the seats on the body are allocated to the same political group;
 - b) A majority of the seats on a body are allocated to a group if it comprises a majority of the total membership of the authority;
 - c) Subject to (a) and (b) above, that the number of seats on ordinary committees allocated to each group bears the same proportion to the total of all seats on ordinary committees as is borne by the number of members of that group to the total membership of the authority; and
 - d) Subject to (a) to (c) above, that the number of seats on a body allocated to each group bears the same proportion to the number of seats on that body as is borne by the number of members of that group to the total membership of the authority.
- 3.3 For political balance, a group is required to have at least two members in order to be formally constituted as a political group.

- 3.4 The political proportionality rules that apply in allocating seats on Committees etc. set out in Section 15 and 16 of the Local Government and Housing Act 1989 apply only to political groups.

Section 15(3) of the Act states as follows:

“15(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.”

- 3.5 However, where the Council has members who are non-aligned, this section has words inserted/modified by regulation 16 of the Local Government (Committee and Political Groups) Regulations 1990 to read as follows: *“15(3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review to determine the allocation to each of those groups of such of the seats which fall to be filled by appointments made from time to time by that authority or committee as bear to the total of all of those seats the same proportion as is borne by the number of members of that group to the membership of the authority.”*

- 3.6 Additionally, where there are non-aligned members, section 16(2A) of the Local Government and Housing Act 1989 has effect. The Regulations also insert the following:

“Where appointments fall to be made to seats on a body to which section 15 applies otherwise than in accordance with a determination under that section, it shall be the duty of the authority or the committee, as the case may be, so to exercise their power to make appointments as to secure that the persons appointed to those seats are not members of any political group”

- 3.7 The implications of these changes to paragraph 15(3) taken with section 16(2A) is that the Council must allocate seats to the political parties in accordance with the four principles set out above (a-d) but that if there are any seats left over, they must then make appointments to the non-aligned groups.
- 3.8 After considering the above the CWG agreed that seat allocations should take account of non-aligned members and that these should be factored into the process for the allocation of committee seats with effect from May 2024.

4. Audit and Standards Committee

- 4.1 Recently there has been a need to cancel a meeting of the Audit and Standards Committee due to it not being quorate. The CWG therefore considered whether increasing the size of the committee would assist in preventing this occurring again in the future. They also considered the need for the committee to be politically balanced and felt that attendance may be higher if the committee was made of members who had a genuine interest in the subject. The CWG therefore recommend to Council that:

- a) with effect from May 2024 the number of seats on the Audit and Standards Committee is increased from 9 to 11; and
- b) that at the Annual General Meeting in May 2024 Council are asked to agree that that Audit and Standards Committee should not be subject to the rules of political proportionality, noting that this will need to be the subject of a nem con vote to become effective.

5. Implications

5.1 Financial Implications

There are no financial implications arising from this decision.

Andrew Cummings, Strategic Director of Resources

Tel: 01453 754115 Email: andrew.cummings@stroud.gov.uk

5.2 Legal Implications

The relevant legal implications are contained within the body of the report.

One Legal

Tel: 01684 272012 Email: legalservices@onelegal.org.uk

5.3 Equality Implications

There are not any specific changes to service delivery proposed within this decision.

5.4 Environmental Implications

There are no significant implications within this category.