

# STROUD DISTRICT COUNCIL

## COUNCIL

THURSDAY, 27 APRIL 2023

<b>Report Title</b>	<b>Update to the Constitution</b>			
<b>Purpose of Report</b>	This report brings forward to Council a number of proposed amendments to the Constitution.			
<b>Decision(s)</b>	<b>The Council RESOLVES to:</b> a) <b>Approve the amended Councillor Call for Action (Appendix A)</b> b) <b>Approve the amended Whistleblowing Policy (Appendix B)</b> c) <b>Agree to the deletion of section 9 of the Constitution (Members Relation Document) (Appendix C)</b> d) <b>Approve the revised Planning Code of Conduct(Appendix D)</b> e) <b>Approve the use of electronic signatures and seals</b> f) <b>Amend delegation C3A.9 in the officer scheme of delegation as set out in part 7 of this report</b> g) <b>Approve the amended Councillor Role Profiles (Appendix E)</b> h) <b>Give delegated authority to the Monitoring Officer to make the necessary amendments to the Constitution</b>			
<b>Consultation and Feedback</b>	The decisions and associated documents were considered and agreed for recommendation to Council by the Constitution Working Group on 1 February 2023. The Planning Code of Conduct was also considered by the Development Control Committee on 7 March 2023 and Group Leaders on 19 April 2023.			
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<b>Options</b>	Council could decide not to approve the amendments.			
<b>Background Papers</b>	None			
<b>Appendices</b>	Appendix A – Councillor Call for Action Appendix B – Whistleblowing Policy Appendix C – Section 9, Members Relations Document Appendix D – Planning Code of Conduct Appendix E - Councillor Role Profiles			
<b>Implications (further details at the end of the report)</b>	Financial	Legal	Equality	Environmental
	No	Yes	No	No

### 1. INTRODUCTION / BACKGROUND

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 1 February 2023 to

consider several proposed changes. These changes were all approved for recommendation to Council.

- 1.2 This report seeks to bring forward the recommendations of the CWG and asks Council to approve them for implementation.
- 1.3 Members should note that changes proposed by the Monitoring Officer are identified as tracked changes throughout the Appendices. Changes marked in green indicate the changes requested by the CWG.

## **2. COUNCILLOR CALL FOR ACTION**

- 2.1 The Councillor Call for Action (CCfA) is a mechanism that provides councillors with a mechanism to raise local issues which they have not been able to resolve via other methods at a committee of the Council.
- 2.2 In accordance with the Local Government and Public Involvement in Health Act 2007 the provisions came into effect on 1 April 2009 and the Council last reviewed its scheme in May 2013.
- 2.3 The existing CCfA remains largely relevant, however some amendments are proposed to bring clarity to the process. A tracked change version of the document is attached at Appendix A.

## **3. WHISTLEBLOWING POLICY**

- 3.1 The existing policy has been reviewed in accordance with the review period and updated to reflect any changes in legislation and best practice. The proposed changes also bring the policy in line with the other Gloucestershire districts.
- 3.2 Prior to presenting the revised document to the CWG it was approved by ARA the Councils internal auditors. A version showing the tracked changes is attached at Appendix B.

## **4. MEMBERS RELATIONS DOCUMENT**

- 4.1 Section 9 of the Constitution consists of a Member Relations Document (copy attached at Appendix C). This document purports to set out the expectations around member conduct, particularly in relation to each other and makes reference to political group meetings which sit outside of the Councils remit.
- 4.2 In light of the recently revised Code of Conduct, The Member/Officer Protocol and the supplementary Member's Code on Planning this section is no longer deemed necessary and the recommendation is that it should be removed from the Constitution.

## **5. PLANNING CODE OF CONDUCT (MEMBERS CODE ON PLANNING)**

- 5.1 The current Members Code on Planning was adopted in April 2000 and whilst it has been updated a few times it is due for a review.
- 5.2 The existing Code remains largely fit for purpose, however there are some additional sections recommended which would bring it into line with best practice.
- 5.3 The amendments to the document include:
  - 5.3.1 Inclusion of a new introductory paragraph and clarity around the role of the committee (paragraphs 1 and 2)

- 5.3.2 Introduction of a requirement for all applications made by planning staff and those staff in politically restricted posts for to come before committee for determination (paragraph 5.3)
- 5.3.3 Introduction of a requirement for all applications made by the Council itself to come before committee for determination (paragraph 5.5)
- 5.3.4 The addition of some wording to assist members who also sit on town/parish councils (paragraph 6.4)
- 5.3.5 Introduction of a section (paragraph 10) setting out the process for public speaking
- 5.3.6 Confirmation that members should not vote on an application unless they have been present for the whole presentation and debate (paragraph 11)
- 5.3.7 Clarification that members with an interest should not take part in the site visit in relation to that application (paragraph 12.4)
- 5.3.8 Confirmation that members must attend the mandatory training prior to sitting on the committee and must attend at least one follow up training session every year thereafter (paragraph 15)
- 5.4 As this Code relates specifically to the Development Control Committee a copy has been shared with members of that committee and a session was held on 7 March to receive their feedback. It was also considered by Group Leaders on 19 April 2023.
- 5.5 Key points of feedback from the CWG and DCC were as follows:
  - 5.5.1 Despite a recommendation from the Planning Peer Review to amend the name of the DCC to remove the word control there is no member support for this change;
  - 5.5.2 A concern was raised regarding the requirement to bring Councillor and some Officer applications to committee. Those concerns centred around safeguarding and that bringing these applications to committee would highlight individuals private address and other details (e.g. the layout of their homes). However, it is important to note that this is common practice throughout councils and represents the most transparent method of determining such applications. Members will also be aware that the information is already within the public domain as it will be available on the website. Therefore, the recommendation to make this change remains.
  - 5.5.3 The initial proposal to limit speaking times on applications was not agreed by the CWG, however they were minded to include a guideline of 5-10 minutes. This was considered by DCC who took the view that the chair should be able to exercise discretion over the length of speeches and members should be discouraged from speaking at length.
- 5.6 A copy of the updated protocol showing the tracked changes is attached at Appendix D.

## **6. USE OF ELECTRONIC SIGNATURES AND SEALS**

- 6.1 In recent times there has been a mounting trend towards developing a paperless working environment by making more use of electronic means of communication and document retention. As a result the use of electronic signatures became more common.
- 6.2 The Electronic Communication Act 2000 and the Electronic Signature Regulations 2002 deal with the admissibility and authenticity of electronic signatures.
- 6.3 With the move towards more remote/hybrid working it is now necessary to accept and formally recognise the validity of electronic signatures on documents such as contracts, agreements, leases, deeds, minutes, resolutions and register of interest forms when used

by both the Council and those with whom it enters into a contract or other legally binding deeds and documents.

**6.4** In addition, remote working does cause some difficulties in affixing the Council's Common Seal to contracts and other documents. The Common Seal is currently held by One Legal in accordance with the Constitution. In the present circumstances it is necessary for physical attendance and signature to affix and witness the affixing of the Common Seal. It is proposed that where possible mobile sealing will be permissible provided that the software being used is secure, reputable and effective in allowing both the Council and other parties to easily sign documents with a strong audit trail to confirm who has performed the signature.

**6.5** In order to effect this change some amendments to the Constitution will be required. For example, the addition of the following additional paragraphs:

6.5.1 Electronic signatures may be used by both the Council and the Supplier in accordance with the Electronic Signature Regulations 2002 provided the sufficiency of security arrangements has been approved by the Director of One Legal.

6.5.2 Electronic signatures will, in accordance with the Electronic Communication Act 2000, be accepted as a fair representation of a willingness to enter into a contract by and with the Council, insofar as the e-signature is a true representation of the authorised person's written signature and (i) and (ii) below apply (to the supplier) in which case an e-signature and a signature will be referred to as the same.

- i) the Contract will be entered into in relation to being either under seal or under hand; and
- ii) is supported with a contemporaneous document of authenticity and authorisation from the Supplier.

## **7. REVIEWS AGAINST DECISIONS**

**7.1** After the meeting of the CWG discussions have been ongoing between the Monitoring Officer and One Legal with regards to reviews against housing decisions. At present the information provided to the tenant states that a review hearing will be held by a member of the Audit and Standards Committee and someone from One Legal. However, the Constitution provides that such hearings must be heard by a member of the Audit and Standards Committee and the Monitoring Officer.

**7.2** Acknowledging the short timeframes in which hearings must be held, the fact that the position of the Monitoring Officer is shared, and the small number of councillors on the Audit and Standards Committee it is recommend that the scheme of delegation (C3A.9) be amended to make provision for these hearings to be conducted by One Legal and any member, provided that they have had the necessary training and are not a member of the Housing Committee.

## **8. COUNCILLOR ROLE PROFILES**

**8.1** The Councillor profiles were last updated in April 2019 so were due for review. They remain largely fit for purpose, but some minor amendments are required including the addition of a section on member champions, linking it to the Member Champion Protocol.

**8.2** The revised document, as attached at Appendix E, was considered by the CWG on 28 March 2023 who approved it for recommendation to Full Council.

## **9. IMPLICATIONS**

### **9.1 Financial Implications**

There are no significant implications within this category.

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### **9.2 Legal Implications**

There are no specific legal implications arising from the recommendations of the report. Any decision to amend the Constitution rests with Full Council. The Constitution should be kept under review and amended where necessary to provide a clear governance framework that will support effective and lawful decision making in a manner that also supports accountability, scrutiny and transparency.

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### **9.3 Equality Implications**

An EIA is not required because There are not any specific changes to service delivery proposed within this decision.

### **9.4 Environmental Implications**

There are no significant implications within this category.