

Cheltenham Borough Council
Council- 17 February 2020
Update to the Constitution

Accountable member	Cabinet Member Corporate Services, Councillor Alex Hegenbarth
Accountable officer	Gareth Edmundson, Chief Executive
Ward(s) affected	n/a
Key/Significant Decision	Yes
Executive summary	This report sets out the recent work and recommendations of the Constitution Working Group for consideration by Council.
Recommendations	<p>That Council:</p> <ol style="list-style-type: none"> 1. Approves a change to Article 7, paragraph 7.2 of the Constitution to read “The Cabinet shall consist of the Leader of the Council together with at least two, but not more than nine Councillors”. 2. Notes the financial implications that will arise from Recommendation 1. 3. To note that the proposed change in size of Planning Committee will require Council approval at Annual and Selection Council on 18 May 2020 and once approved would have immediate effect. 4. Approves the use of the electronic voting system as an alternative to a show of hands currently required. 5. Approves the proposal to move the start time of Council meetings to 6 pm in the Council Diary for 2020/21. 6. Delegates to the Borough Solicitor authority to make any textual or other amendments which are necessary to ensure accuracy, consistency and legality of the Constitution when incorporating the revisions authorised by Council.

Financial implications	<p>The annual cost of one additional Cabinet member would be £13,723 (the Cabinet Member allowance) plus National Insurance payments of £1467, a total of £15,190.</p> <p>The two additional Cabinet members proposed would cost twice that amount i.e. £30,380 per annum. A 2% increase in allowances for next year would require funding for 2020/21 of £30,988.</p> <p>It is anticipated that the on-going cost from April 2020 will form part of the 2020/21 budget proposals which will come in front of Full Council for approval in February 2020.</p> <p>Contact officer: Martin Yates, martin.yates@publicagroup.uk, 01242 264200</p>
Legal implications	<p>Changes to the Constitution require Council approval (unless the changes are minor amendments) following a report from the Constitution Working Group.</p> <p>Under section 9C (3) Local Government Act 2000 the executive may consist of 2 or more councillors of the authority appointed to the executive by the executive leader. Under 9C(5) the number of members of a local authority executive may not exceed 10 or such other numbers as may be specified in regulations made by the Secretary of State.</p> <p>Contact officer: Sarah Farooqi, sarah.farooqi@tewkesbury.gov.uk, 01684 272012</p>
HR implications (including learning and organisational development)	<p>As employers, CBC will need to consider the implications from an HR perspective and review relevant policies and practices to reflect the implications of evening working to ensure the safety and welfare of its/our staff.</p> <p>Contact officer: Corry Ravenscroft, corry.ravenscroft@publicagroup.uk, 07827 895624</p>
Key risks	<p>There are no risks identified.</p>
Corporate and community plan Implications	<p>The changes proposed to the make-up of cabinet reflect the significance of the two priorities; climate change and cyber, to the council.</p> <p>Contact officer: Richard Gibson, richard.gibson@cheltenham.gov.uk, 01242 264280</p>
Environmental and climate change implications	<p>The creation of a cabinet lead with a portfolio dedicated to climate change is essential for enabling delivery of the council's climate emergency commitments and ensuring the agenda is properly considered across all the council's activities.</p> <p>Contact officer: Gill Morris, gill.morris@cheltenham.gov.uk, 01242 264222</p>
Property/Asset Implications	<p>The proposed recommendations will not have a direct impact of property matters.</p> <p>Contact officer: Simon Hodges, simon.hodges@cheltenham.gov.uk</p>

1. Background

1.1 The Constitution Working Group (CWG), which is the Member Group with responsibility for reviewing the Constitution, met on 27 January 2020. The Group is chaired by Councillor Dennis Parsons and supported by the Head of Law-Litigation and Business Development, One Legal, the Democratic Services Team Leader and officers from their teams.

2. Cabinet size

2.1 Under Article 7 of the Council's current Constitution provision is made for Cabinet to consist of the Leader and up to 7 Members.

2.2 In accordance with the Local Government and Public Involvement in Health Act 2007 Cheltenham Borough Council implemented the strong leader model in May 2012. This empowered the Leader to determine the number of Councillors who may be appointed to the Cabinet subject to the statutory minimum requirement of 2 and maximum of 10 as outlined in the Local Government Act 2000.

2.3 The Leader of the Council has expressed his intent to increase the size of his Cabinet to 9 Members (including himself as Leader). This is to provide specific leads to support the growing environmental / climate change agenda and the economic development / growth agenda. These two new portfolios are generating considerable additional workloads and are of growing local and national importance.

2.4 **Climate Change:** On 18 February 2019, the Council approved a motion to declare a Climate Change Emergency. Full Council called on the Cabinet to:

- Declare a 'Climate Emergency';
- Pledge to make Cheltenham carbon neutral by 2030, taking into account both production and consumption emissions;
- Call on Westminster to provide the powers and resources to make the 2030 target possible;
- Work with other governments (both within the UK and internationally) to determine and implement best practice methods to limit Global Warming to less than 1.5°C;
- Continue to work with partners across the town, county and region to deliver this new goal through all relevant strategies and plans;
- Report to Full Council within six months with the actions the Council will take to address this emergency.

2.5 In October 2019 the Council endorsed the 'Carbon Neutral Cheltenham – Leadership through Stewardship' report and roadmap. This commitment and roadmap will generate considerable additional workload. The importance of and focus on this agenda continues to grow and it is therefore important that a dedicated portfolio and cabinet lead is created.

2.6 **Economic Growth & Cyber Central:** In July 2018 the Council made a commitment to support the development of the West Cheltenham strategic allocation for the growth of the cyber industry and deliver housing. In June 2019, Homes England awarded Garden Community status for the 'Cyber Central Garden Community'. In August 2019, the Council announced that it had purchased two strategically important parcels of land covering 112 acres of land. Our corporate plan objective of making Cheltenham the cyber capital of the UK requires considerable resource and focus. This also links closely to the wider growth agenda and the important role Cheltenham has in the delivery of Gloucestershire's Local Industrial Strategy.

2.7 Cheltenham's Place Strategy sets out a vision for this to be a place where everyone thrives. Growing the economy and delivery of housing are important objectives. The West Cheltenham (Cyber Central) allocation will play a significant role in delivery of high value jobs and housing. This is an agenda that is growing, with the recent announcement of Cheltenham's (as part of

Gloucestershire) inclusion in the Western Gateway, the need to have a greater dedicated focus on growth and Economic development strengthens.

- 2.8** The Constitution Working Group oversees changes to the Constitution and consequently has considered and supported the proposal to recommend to Council – to approve a change to Article 7, paragraph 7.2 of the Constitution to read “The Cabinet shall consist of the Leader of the Council together with at least two, but not more than nine Councillors”. This amendment would bring the constitution in line with the Local Government Act 2000 which under section 9C(5) stipulates that the number of members of a local authority executive may not exceed 10.

3. Size of Planning Committee

- 3.1** A request was made to the Constitution Working Group in October 2019 to review the number of Members who sit on the Planning Committee. This was following a suggestion to reduce the numbers on the committee in order to see if a smaller committee might increase the effectiveness of the decision-making process. Having considered the average size of Planning Committee for other councils, the proposal from the Constitution Working Group, supported by Group Leaders, is to reduce the number of seats on the committee from 15 to 11 with a quorum of 6.
- 3.2** To facilitate the proposed change in size of Planning Committee Appendix B of the Constitution, which outlines committee membership, will require approval at Annual and Selection Council on 18 May 2020 and once approved would have immediate effect. Council is requested to note this timeline.

4. Implementation of Electronic Voting

- 4.1** The electronic voting system has now been installed within the audio visual system in the council chamber. With the agreement of the Chair of Planning and the Head of Planning, the system has been tested on two occasions at Planning Committee.
- 4.2** The law does not prescribe the method of voting at committees or sub-committees but currently under Paragraph 15.3 of Part 4C of the committee procedure rules the constitution provides this by show of hands. Full implementation of the electronic voting system would therefore require a change of the constitution to read “the Chairman will take the vote by show of hands or by use of the electronic voting system”.
- 4.3** The use of the electronic voting system should also satisfy the constitutional requirements for secret ballots (Paragraph 15.4 Part 4C committee procedure rules).
- 4.4** Group Leaders have been consulted on the use of the electronic voting system.
- 4.5** The Constitution Working Group is therefore requesting Council to approve the use of the electronic voting system.

5. Timings of meetings of full Council Meetings

- 5.1** Upon request of the Chair this was considered by the Constitution Working Group. Members felt that a 6 pm start time for meetings of Council would facilitate more public engagement and enable those Members in employment to attend more easily.
- 5.2** Acknowledging that the Council diary was currently out for consultation with Members, the Constitution Working Group wished to seek Council approval for this proposal prior to the approval of the Council diary 2020/21 at the March Council meeting.

5.3 The current Council procedure rules state the following with regard to the duration of meetings “Unless the majority of Members present vote for the Meeting to continue, any Meeting of the Council that has sat for four hours in total will immediately adjourn and the remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next Ordinary Meeting”.

6. Reasons for recommendations

- 6.1 To facilitate the Leader’s request to increase the size of his Cabinet to 9 Members.
- 6.2 To ensure that the Council’s Constitution is up to date and in accordance with current legislation.
- 6.3 To ensure the authority’s ability to do business in a timely and cost effective manner in order to deliver best value.

7. Alternative options considered

- 7.1 To retain the current numbers for Cabinet.

8. How this initiative contributes to the corporate plan

- 8.1 The changes proposed to the make-up of cabinet reflect the significance of the two priorities; climate change and cyber, to Cheltenham Borough Council.

9. Consultation and feedback

- 9.1 Group Leaders, Constitution Working Group, ELT, One Legal, Finance.

10. Performance management –monitoring and review

- 10.1 There are no performance management issues arising from this report.

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Appendices	1. Risk Assessment
Background information	1. Article 7, Cheltenham Borough Council Constitution 2. Local Government Act 2000-Local Authority Executives 3. Local Government and Public Involvement in Health Act 2007

The risk				Original risk score (impact x likelihood)			Managing risk					
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register	
	The cost for funding the additional cabinet posts cannot be accommodated as part of the 20/21 process.	Paul Jones	Nov 19	4	3	12	reduce	This would be prioritised as part of the budget process and would be considered against other growth items and workstreams	Feb 20	Gareth Edmundson		
	Failure to implement the proposals would minimise impact and delivery of CBC priorities - Climate Change and Growth agenda	Tim Atkins	Nov 19	4	2	8	accept	If not implemented other options would need to be considered, however this may have an impact on delivery.	Feb 20	Gareth Edmundson		
	If the Constitution is not regularly reviewed there is a risk of decisions being made outside of due process	Democratic Services Team Leader		2	2	4	reduce	Ensure robustness of the Decision Making processes in the Constitution	Feb 20	Democratic Services Team Leader		

Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close