

# Cheltenham Borough Council

**Council – 11 December 2023**

## Revisions to the Constitution

---

**Accountable member:**

Cllr Rowena Hay, Leader of the Council

**Accountable officer:**

Claire Hughes, Corporate Director and Monitoring Officer

**Ward(s) affected:**

n/a

---

**Key/Significant Decision:**

No

**Executive summary:**

This report sets out proposed revisions to the Constitution.

**Recommendations:**

That Council agrees to:

1. approve the revised Part 1: Summary and Explanation (Appendix 1)
  2. approve the budget protocol for inclusion into the Constitution (Appendix 2)
  3. approve the updated financial rules (part 4H)
  4. approve the revised financial limits in parts 3D and 3E
  5. approve the revised Planning Code of Conduct
  6. approve the revised Probity in Licensing document
  7. delete current appendices A, B, C, E and L from the Constitution
  8. give delegated authority to the Monitoring Officer to make the necessary changes to the Constitution to reflect these decisions.
- 

### Implications

#### 1.1 Financial, Property and Asset implications

There are no direct financial, property or asset implications arising from the recommendations.

**Signed off by:** Gemma Bell, Director of Finance and Assets, [gemma.bell@cheltenham.gov.uk](mailto:gemma.bell@cheltenham.gov.uk)

## 1.2 Legal implications

There are no specific legal implications arising from the recommendation 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, efficient and lawful decision making in a manner that also supports accountability, scrutiny, and transparency.

**Signed off by:** One Legal - [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk) Tel (01684) 272012

## 1.3 Environmental and climate change implications

There are no direct environmental or climate change implications arising from this report.

**Signed off by:** Claire Hughes, Corporate Director and Monitoring Officer

## 1.4 Corporate Plan Priorities

This report contributes to the following Corporate Plan Priorities:

- Being a more modern, efficient and financially sustainable council

## 1.5 Equality, Diversity and Inclusion Implications

An equality impact assessment is not required for this report.

---

## 2. Introduction

- 2.1 The Constitution is a living document which requires regular review and maintenance. The most recent set of revisions, as set out in this report were considered by the Constitution Working Group on 15 November, who approved all of the recommendations for consideration by Council.
- 2.2 The budget protocol was reviewed and approved for recommendation to Council by Group Leaders

## 3. Part 1 Summary and Explanation

- 3.1 Part 1 of the Constitution has been updated to reflect current practices and transferred into the new accessibility compliant format. The proposed changes are identified as tracked changes in Appendix 1.
- 3.2 Members should note that further to the Council resolution in June 2023 the remainder of the Constitution will be transferred into this format in due course.

## 4. Budget Protocol

- 4.1 Each year the Council is required to set its budget in accordance with the requirements of relevant legislation, particularly the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (referred to in this Protocol as "the Regulations").

- 4.2 Those Regulations require the budget to be presented to Full Council by way of a recommendation from the Cabinet.
- 4.3 During the budget setting meeting the Council has historically agreed a process which facilitates the suspension of a number of standing orders, for example in relation to the speaking time.
- 4.4 In order to bring clarity to the process and to ensure openness and transparency a draft protocol has been developed. A copy of which is attached an Appendix 2.
- 4.5 The protocol brings together the Councils current budget meeting custom and practice into a single document, providing a clear and definitive procedure to be followed.
- 4.6 It is recommended that Council adopt this protocol and that delegated authority be given to the Monitoring Officer to include it within the Council Procedure Rules in the Constitution.

## **5. Financial Rules and Limits**

- 5.1 The financial rules set out the framework for managing the councils' financial affairs. It is therefore important that they remain up to date and a regularly reviewed. The current set of rules have not been updated since the council bought finance services back in-house from Publica and are therefore due for review.
- 5.2 Since the last iteration there have been a number of significant changes economically including rising inflation and interest rates and increased costs. The rules and thresholds have therefore been updated in consultation with the Section 151 Officer and deputy to reflect the current economic position and to facilitate the most appropriate levels of decision making within the council.
- 5.3 Members can see the proposed amendments as tracked changes Part 3D, 3E and 4H of the Constitution, attached at Appendix 3

## **6. Planning Protocol**

- 6.1 In February 2023 the CWG considered a revised Planning Protocol and approved it for consultation with the Planning Committee. Following consultation further amendments were made and the revised version considered by the CWG on 15 November 2023.
- 6.2 The revised Protocol is now presented to Council for ratification. A copy of the revised Code highlighting all of the changes as tracked changes is attached at Appendix 4. For ease a clean copy in the accessibility compliant format is attached at Appendix 5

## **7. Probity in Licensing**

- 7.1 The Licensing Committee and its sub - committees consider various applications for new licences, variations and renewals, across a number of licensing schemes, but in particular under the Licensing Act 2003, with regard to the taxi and private hire licensing regimes and in relation to the sexual entertainment venue licensing scheme.
- 7.2 In addition, it hears complaints and reviews of existing licences, in particular in relation to taxi and private hire drivers.

- 7.3 Recent experiences at Licensing Committee and sub - committees have suggested that the council should revise certain elements of the procedures for such hearings and the Code of Conduct to improve the processes around the facilitation of hearings for licensing applications and the reviews of existing licences, and the related decision making following consideration of these cases.
- 7.4 The Probity at Appendix 6 shows the proposed amendments as approved by the CWG and Licensing Committee as tracked changes but in summary they are:-
- A move away from the notion of the Committee or sub - committee voting on cases, and instead Members sitting on such hearings coming to a consensus in their decision making, and the committee itself making the decision. This change would see Members retiring to carry out their debate and make their decision, accompanied only by the council's legal adviser and committee officer. This proposal is put forward to better support Members is having a full and open discussion about a case before them and is consistent with best practice.
  - The proposal that all hearings involving taxi drivers are held in closed session. This is because these matters tend to involve information of a highly confidential and/ or sensitive nature and the impact of such matters being discussed in public, potentially live streamed on the internet or directly reported in the media, could be disproportionately negative or damaging for a driver or even a complainant.
  - Additions and amendments in respect of receiving gifts and hospitality are put forward, along with the making of declarations of interest.
  - Further clarification in respect of lobbying of Members.
  - Important amendments to the procedure adopted for hearings determining licensing applications, with a much great emphasis on the rights of interested parties or other persons to speak. This added emphasis presents a level playing field between applicants for those licences and those persons or businesses that wish to support or object to those applications. It is felt these amendments remove the potential for interested parties and other persons to not be heard fully, particularly where certain issues may be discussed at the hearing itself.
  - There is proposed to be a much greater emphasis on the detail and information that should be contained within decision notices in relations to committee business.
- 7.5 It is accepted that some of the proposals could be considered as making such committees less open and less transparent to the parties to an application, and the wider public. However, it is considered that any such concerns will be mitigated fully by decision notices containing far more detail and clearly showing the deliberations and considerations of the committee concerned.
- 7.6 The decision notice will record fully the determination of the committee and importantly the considerations and reasons for coming to that conclusion. It will also record any requests for advice from the legal adviser and/ or any requests for clarification from parties or officers made by Members after they retire.

## **8. Review of Appendices**

- 8.1 As part of the continuing drive to make the Constitution more accessible and understandable a full review of all the appendices has been undertaken.
- 8.2 As can be seen from the table at Appendix 7 the Constitution has 14 appendices, although 2 of these are to be deleted following the approval of the last set of constitutional amendments in June 2023.

8.3 The CWG group considered the review of appendices at its meeting on 15 November and agreed to recommend to the Council the proposals set out in Appendix 7. If approved members are asked to note that the remaining appendices will be renumbered.

## **9. Reasons for recommendations**

9.1 To ensure that the councils Constitution remains up to date.

## **10. Alternative options considered**

10.1 None but Council could decide not to approve the revisions

## **11. Consultation and feedback**

11.1 Constitution Working Group and Group Leaders in respect of the Budget Protocol

## **12. Key risks**

12.1 None

---

### **Report author:**

Claire Hughes, Corporate Director and Monitoring Officer, [claire.hughes@cheltenham.gov.uk](mailto:claire.hughes@cheltenham.gov.uk)

### **Appendices**

1. Part 1: Summary and Explanation
2. Budget Council Protocol
3. Parts 3D, 3E and 4H of the Constitution
4. Planning Protocol – tracked changes
5. Planning Protocol – clean version
6. Probity in Licensing
7. Schedule of Appendices

### **Background information:**

[Cheltenham Borough Council Constitution](#)