

# AGENDA

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**Meeting:** Standards Committee  
**Place:** Kennet Room - County Hall, Trowbridge BA14 8JN  
**Date:** Wednesday 27 April 2016  
**Time:** 2.00 pm

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Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225) 713114/713115.

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## Membership:

Cllr Julian Johnson (Chairman)	Cllr Sheila Parker
Cllr Paul Oatway (Vice Chairman)	Cllr Horace Prickett
Cllr Desna Allen	Cllr Jerry Wickham
Cllr Allison Bucknell	Mr Philip Gill MBE JP (non-voting)
Cllr Rosemary Brown	Mr Paul Neale (non-voting)
Cllr Trevor Carbin	Mr John Scragg (non-voting)
Cllr Terry Chivers	Miss Pam Turner (non-voting)
Cllr Howard Greenman	

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## Substitutes:

Cllr George Jeans	Cllr Alan MacRae
Cllr Mary Douglas	Cllr John Smale
Cllr Dennis Drewett	Cllr Magnus Macdonald
Cllr Ernie Clark	Cllr Bob Jones MBE
Cllr Pip Ridout	Cllr Ian Thorn
Cllr Glenis Ansell	

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# AGENDA

## Part I

Items to be considered when the meeting is open to the public

1 **Apologies**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 5 - 16*)

i) To confirm the minutes of the meeting held on 16 September 2016

ii) To receive the minutes of the Standards Review Sub-Committee meeting held on 18 February 2016.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation and Questions**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of the agenda no later than 5pm on 20 April 2016. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

- 6        **Status Report on Complaints** (*Pages 17 - 20*)
- 7        **Appointment of Co-Opted Non-Voting Members of the Standards Committee** (*Pages 21 - 26*)
- 8        **Extension of Term of Appointment of Independent Persons** (*Pages 27 - 30*)
- 9        **Recommendations from the Constitution Focus Group** (*Pages 31 - 70*)
- a) Review of Part 12 and 12A – Corporate Parenting Panel
- b) Review of Part 4 – Council Procedure Rules (Public Questions and Notices of Motion)
- 10       **Forward Plan** (*Pages 71 - 72*)
- 11       **Urgent Items**

**Part II**

**Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed**

## **STANDARDS COMMITTEE**

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### **MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 16 SEPTEMBER 2015 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

#### **Present:**

Cllr Julian Johnson (Chairman), Cllr Paul Oatway (Vice Chairman), Cllr Desna Allen, Cllr Allison Bucknell, Cllr Rosemary Brown, Cllr Trevor Carbin, Cllr Sheila Parker, Cllr Jerry Wickham, Mr Philip Gill MBE JP, Mr John Scragg and Miss Pam Turner

#### **Also Present:**

Mrs Caroline Baynes (Independent Person), Cllr Tony Deane, Stuart Middleton (Independent Person) and Cllr Christopher Newbury

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#### **23 Apologies**

Apologies were received from Mr Paul Neale and Councillors Terry Chivers and Howard Greenman.

#### **24 Minutes**

The minutes of the Standards Committee meeting held on 24 July 2015, and the Standards Review Sub-Committee meetings held on 8 July, 9 July and 24 August 2015 were presented for consideration.

#### **Resolved:**

**To APPROVE and sign the minutes of the meeting held on 24 July 2015 as a true and correct record. And;**

**To receive the minutes of the Review Sub-Committee meetings held on 8 July, 9 July and 24 August 2015.**

#### **25 Declarations of Interest**

There were no declarations.

## 26 Chairman's Announcements

Through the Chairman, the Committee endorsed the following announcement::

*Nina Wilton, Head of Governance and Deputy Monitoring Officer left the council in August having decided she wishes to spend time pursuing her academic interests. Nina worked as Head of Governance from the creation of the unitary council in 2009 and previously worked for Wiltshire County Council in various roles from 2000. During this time Nina was involved in many aspects of the council's business ensuring that the council's governance arrangements are sound, including overseeing the implementation of the corporate complaints process, information legislation and the standards regime for councillors. Nina was closely involved in the work of the Standards Committee.*

*I am sure you will wish to join me in thanking Nina for her valuable contribution to the work of the Committee and to the Council and to wish her every success in the future.*

## 27 Public Participation and Questions

There were no questions submitted.

A statement from Mr Francis Morland in relation to Minute no.29 was received under that item.

## 28 Status Report on Complaints

The Monitoring Officer presented an update on the status of Code of Conduct complaints received under the arrangements provided in the council's constitution, as well as a summary of the types of complaints that had been received, and how many had been dismissed, investigated, withdrawn or concluded due to alternate resolutions.

It was noted that the council was on course to receive significantly fewer complaints against unitary, town and parish councillors than the previous year, and it was stated a partial explanation was that a high number had been submitted from multiple individuals in relation to a single or a few incidents, which may have inflated the figures, although the number for the current year was still above the years preceding 2014.

### **Resolved:**

**To note the update.**

## 29 **Review of Part 13 of the Constitution: Code of Conduct**

### Public Participation

Councillors Christopher Newbury and Tony Deane and Mr Francis Morland addressed the Committee regarding the proposed potential Code of Conduct changes.

### Background

The Chairman and the Monitoring Officer introduced a report on the review of Part 13 of the Constitution: Code of Conduct for Members. It was detailed that the new standards regime as required under the Localism Act 2011, including the current Code of Conduct, had been approved by Council on 26 June 2012. On 24 April 2014 and following more than 18 months of the new procedure and Code being in operation, the Committee received an update on the arrangements and operation since the beginning of the new regime and resolved:

*To arrange a seminar as soon as possible for Members of the Committee and any other Wiltshire Councillors who wish to attend, together with the council's three Independent Persons and Mr Paul Hoey of Hoey Ainscough Associates Ltd. to review the operation and effectiveness of the standards regime and consider whether any changes to the current system are appropriate.*

That seminar, open to all Members, was held on 23 July 2014. At the following meeting on 8 October 2014 the Committee received a further update and resolved:

*To task the Monitoring Officer with investigating the effectiveness of the Code of Conduct Complaints Procedure by collecting and analysing evidence on complaints received by Wiltshire Council, and to examine the Codes and procedures at other local authorities, and to bring a set of recommendations on any proposed changes to the Committee at its meeting on 21 January 2015.*

On 21 January 2015 the Committee received that report reviewing the effectiveness of the Council's Code of Conduct, determining that improvements could be made to address concerns as detailed in that report, and it was resolved:

*That the Monitoring Officer: 1) Draft proposals to strengthen the Code of Conduct, 2) Draft proposals for enabling the recording of gifts and hospitality at an appropriate level, and 3) Continue efforts to work with other Authorities to lobby central government to increase the level of sanctions available to councils, as soon as appropriate.*

Prior to the consideration by the Standards Committee the potential amendments to the Code had been assessed by the Constitution Focus Group at its meeting on 2 September 2015, with its comments included with the agenda papers.

### General Debate

Before discussing the specific potential amendments referred on by the Constitution Focus Group for further debate and determination, the Committee discussed the present Code and complaints procedure and assessed whether they considered changes proposed to be necessary to improve its effectiveness, where points including the following were raised:

- Members discussed the previous standards regime which had been abolished by the Coalition government, and the stated intentions of the new regime which included a recommended 'light-touch' Code which after consideration Wiltshire Council had adopted. It was stated most authorities had since adopted variations of different levels of detail from that Code, and the Committee considered whether they felt the evidence in Wiltshire was that adoption of similar additional provisions, some of which had been included under previous Codes, would enhance the current regime as they had requested at the meeting on 21 January 2015.
- Dissatisfaction with the old standards regime was raised by some Members in relation to bureaucratic delays and perceived lack of fairness toward subject Members, as well as a perceived excess of trivial complaints being referred for investigation not being in the public interest.

It was debated whether the new procedure for processing complaints, as detailed in [Protocol 12 of the Constitution](#), was sufficient in preventing trivial, or vexatious complaints from proceeding to costly investigations not in the public interest, such that even were additional provisions in the Code utilized for trivial matters, they would not cause any significant burden on resources of officers or Members.

- The language of the potential amendments was considered, and if compared to the current Code they offered further clarity and definition of behaviours that should be regarded as unacceptable.
- It was discussed if the perception of councillors being appropriately held to account for unacceptable behaviour would be improved by the potential amendments, and if so if they would be actually effective in moderating inappropriate behaviour.

The Committee also received comments on the current procedure and Code from two of the council's Independent Persons.

### Consideration of potential amendments

After general discussion on whether there would be a benefit to amending the Code, as detailed above, the Committee went through each potential amendment in turn as follows:

- *You must treat others with respect*



The Committee considered that as respect for other was fundamental to the role of being an elected representative, the specific provision requiring Members must treat others with respect should be included within the Code.

- *You must not:*(a) do anything which may cause your authority to breach the Equality Act 2010 or other relevant equality enactments. (b) bully or intimidate any person; (c) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of your authority.

In relation to point (a) above, the Committee determined that as it was already a legislative requirement to take account of relevant Equalities enactments, there was no further benefit to be obtained by including the requirement within the Code.

In relation to point (b) above, the Committee discussed if the provision on respect was sufficient to also cover allegations of bullying and intimidation, the definition of bullying in respect of complaints against councillors given the often robust nature of political debate and representative work, and at the conclusion of debate determined the provision should be included within the Code.

In relation to point (c) above, the Committee discussed the circumstances in which a Member might be regarded as compromising the impartiality of someone working for or on behalf of their authority, and if other provisions were sufficient to cover such behaviour, or if the inclusion might discourage Members from appropriate communications of their views and those of their electors to an officer. After debate, the Committee determined the provision should be included within the Code.

- *You must not:*

*(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:*

*(i) you have the consent of a person authorised to give it;*

*(ii) you are required by law to do so;*

*(iii) the disclosure is:*

*(aa) reasonable and in the public interest; and*

*(bb) made in good faith and in compliance with the reasonable requirements of your authority.*

*(b) prevent another person from gaining access to information to which that person is entitled by law.*

The Committee discussed whether it was necessary to include the provisions on breach of confidentiality, and determined that they should be included within the Code.

- *You must not conduct yourself in a manner which may reasonably be regarded as bringing your office or authority into disrepute.*

The Committee determined that the wording of the potential amendment was overly vague and open to misuse and that including provisions on bullying, intimidation, financial impropriety and more sufficiently defined specific behaviours to regulate Members to not bring their office or authority into disrepute. They therefore did not recommend the provision be included within the Code.

- *In addition, you must, within 28 days of taking office as a Member or co-opted Member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your authority has decided should be included in the register, including:*
  - (a) any body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by the authority;*
  - (b) any body exercising functions of a public nature of which you are a Member or in a position of general control or management;*
  - (c) any body directed to charitable purposes of which you are a Member or in a position of general control or management;*
  - (d) any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of general control or management.*

The Committee discussed at length whether additional non-pecuniary interests should be required to be included on a Members' Register of Interests, taking account that the Localism Act 2011 had defined specific pecuniary interests and no interests as statutorily necessary to be declared, which had been approved by Council when adopting the new regime in 2012.

It was also noted, however, that the Act had allowed discretion to Authorities to include non-pecuniary interests they felt should be required to be registered. A debate arose regarding on whether the current simple encouragement of Members to declare relevant non-pecuniary interests was, after several years of operation, seen as adequate, and whether it

would protect Members and their authority if further interests were required to be included on a register of interests form.

Members debated whether simple membership of a charitable organisation should be required to be declared, and if this would be considered onerous in particular to any Town or Parish Councils that might consider adopting Wiltshire's Code.

Members also discussed how new interests not present when a Member first took office needed to be registered, and emphasised the requirements of paragraph 11 of the Code, to declare any relevant pecuniary or non-pecuniary private interest that related to their public duties, and strongly felt that even where an interest was included on their register of interests, a Member should publicly declare that interest at a meeting if relevant to the business to be determined to be open, transparent, and protect the Member and Authority from any allegations or challenges.

At the conclusion of debate the Committee determined that the provisions above should be included within the Code.

- *You must within 28 days of receipt, notify the monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the authority. The monitoring officer will record your notification on your register of interests*

The Committee, having determined at its 21 January 2015 meeting to reintroduce a requirement to register gifts and hospitality, accepted the proposed wording with the removal of the final sentence as an administrative detail not a Member Code of Conduct matter.

Following final consideration of the proposed changes, it was stated that although there would not be a full consultation, the proposed amendments would be circulated to all Town and Parish Councils in Wiltshire for their attention, should they wish to comment or consider adopting the proposed revised Code themselves.

**Resolved:**

**To recommend at its meeting on 24 November 2015 that Council approve the amendments to the Code of Conduct for Members as detailed above and attached to these minutes.**

*Mr John Scragg left the meeting at 1505.*

30 **Forward Plan**

The Forward Work Programme was presented for consideration

**Resolved:**

**To approve the Forward Work Programme subject to the addition of items in relation to the Annual Letter on Complaints from the Local Government Ombudsman, and Review of the Council's Whistleblowing Policy.**

31 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 4.15 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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## **STANDARDS REVIEW SUB-COMMITTEE**

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**MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 18 FEBRUARY 2016 AT NORTH WILTSHIRE ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.**

**Present:**

Cllr Julian Johnson (Chairman), Cllr Sheila Parker, Cllr Bob Jones MBE and Miss Pam Turner(non-voting)

**Also Present:**

Mr Colin Malcolm (Independent Person), Mr Paul Taylor (Senior Solicitor on behalf of the Monitoring Officer)

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**1 Election of Chairman**

Councillor Julian Johnson was elected for this meeting only.

**2 Declarations of Interest**

There were no declarations.

**3 Exclusion of the Public**

**Resolved**

**To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Agenda Item Number 4 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.**

***Paragraph 1 - information relating to an individual***

**4 Review of an Assessment Decision: Reference WC-ENQ00124**

The Sub-Committee considered complaint WC-ENQ00124 from complainant Ms Alison Cross-Jones against Councillor Simon Killane of Wiltshire Council, in accordance with the approved arrangements adopted by Council on 26 June 2012. It was alleged that Councillor Killane posted to his website statements that were false and damaging about the complainant and as a result breached the Code of Conduct

**Preamble**

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced.

Upon going through the initial tests, it was agreed that the complaint related to the conduct of a member and that the member was in office at the time of the alleged incident. The Sub-Committee accepted the reasoning of the Deputy Monitoring Officer in his Initial Assessment that the blog post on the subject member's personal website, due to content and framing, was such that he was acting in his capacity as a councillor in making the post and therefore was subject to the Code of Conduct. They therefore needed to consider if the alleged actions of the subject member would amount to a breach of that Code, including failing to uphold the Nolan Principles.

It was noted that the Decision Notice produced by the Deputy Monitoring Officer had provided a lengthy and detailed summation of the law and his interpretation of the facts of the complaint. He had concluded that the comments, while unwise and likely to escalate the situation further, would not amount to a breach of the Code. In reaching this conclusion he had had regard to the nature of the political debate already occurring publicly within the community. He had considered whether the emotive language utilized by the subject member in his blog post had, in the context of that ongoing and connected wider political debate which had involved the complainant, progressed into the realm of a personal attack as opposed to retaining the enhanced legal protections on free speech afforded to political commentary.

Additionally, the Deputy Monitoring Officer had clarified that even if his assessment that the words did not amount to a breach of the Code was considered to be incorrect, he would still have determined that no further action should be taken in accordance with paragraph 5 of the assessment criteria adopted by the council, which states:

*A complaint will not be referred for investigation if, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.*

The Sub-Committee considered the arguments of the complainant in her request for a review of the Initial Assessment. She had disputed the interpretation of the Deputy Monitoring Officer, in particular she felt that the wider context of historic complaints and allegations should not have been regarded as relevant to her current complaint, and that the comments of the subject member directed at her should not be considered as part of a political debate ongoing within Malmesbury.

#### Committee Discussion

Whilst the Sub-Committee agreed that the comments of the subject member were extremely unwise and provocative, after considerable assessment of the evidence as presented it was nevertheless satisfied that even if the comments did not amount to politically protected speech, the Deputy Monitoring Officer's reasoning was correct that given the multitude of competing, interrelated and persistent complaints and counter complaints involving the subject member and the complainant among others in the community, the latest incident and subsequent complaint could rightly be considered connected. The incident at the source of the latest complaint was itself a response to previous complaints,

and part of a series of wider accusations from all parties, much of which, if not all, was widely publicised within the community along with the identities of the key individuals.

It was therefore considered reasonable and appropriate to regard the latest complaint as, to some extent, forming part of that publicised debate about political leadership and personal conduct of the subject member when assessing the nature of and therefore level of protection of the comments of the subject member.

The Sub-Committee accepted that there were personal comments from the subject member included as part of the complaint. However, many of these comments related directly to his words and actions as a community representative, and were responses to those criticising his words and actions as such. The Sub-Committee therefore accepted the reasoning of the Deputy Monitoring Officer that these comments were properly considered as being in respect of political leadership. Whilst not all comments made on social media would necessarily be considered as relating to a member's political leadership role, in this specific case, it was accepted that the nature of the comments did relate to such a role.

#### Conclusion

The Committee were therefore satisfied with the determination that, even if it was felt the comments of the subject member were not afforded the enhanced protections of political speech, under paragraph 5 of the local assessment criteria it was not in the public interest to investigate the complaint further, for the reasons as set out by the Deputy Monitoring Officer and above.

The Sub-Committee was also wholly supportive of the recommendation of the Deputy Monitoring Officer that attempts be made to mediate with the affected parties, in order to seek some kind of end to the circular divisiveness currently impacting upon the political and communal effectiveness, and subsequently the reputation of, the Malmesbury community.

#### Resolved

**In accordance with the approved arrangements for resolving standards complaints adopted by Council on 26 June 2012, which came into effect on 1 July 2012 and after hearing from the Independent Person, the Review Sub-Committee decided that no further action will be taken.**

(Duration of meeting: 1200-1300)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

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**Code of Conduct Complaints - Status Report**

	Cases received	Cases open (cumulative)	Assessed investigation	Assessed no further action	Assessed alternative resolution/ complaint withdrawn	Pending assessment	Cases closed
May – December 2012	25	11	1	24	0	0	14
January – December 2013	24	11	0	16	7	1	24
January – December 2014	79	17	1	62	16	0	73
<b>2015</b>							
January	1	10	1	0	0	0	8
February	9	15	0	7	2*	0	4
March	3	16	0	1	1**	1****	2
April	2	16	0	2	0	0	2
May	5	21	0	4	1***	0	0
June	8	22	0	6	2***	0	7
July	4	16	0	3	1***	0	10
August	2	15	0	0	2*	0	3
September	3	11	0	3	0	0	7
October	5	16	0	5	0	0	0
November	3	15	0	3	0	0	4
December	2	17	0	2	0	0	0
<b>Totals for 2015</b>	<b>47</b>	<b>N/A</b>	<b>1</b>	<b>36</b>	<b>9</b>	<b>1</b>	<b>47</b>

Appeals received
4 (not upheld)
5 (not upheld)
16 (14 not upheld & 2 upheld)
2 (not upheld)
3 (not upheld)
0
0
0
0
3 (not upheld)
1 (not upheld)
0
0
0
0
9

\* referred to Police  
 \*\* not Code of Conduct  
 \*\*\* full information not provided  
 \*\*\*\* assessed & decision notice being finalised

### Complaints referred for investigation since 1 January 2015

Case reference	Date of Assessment	Progress
WC-ENQ00081	19/02/2015	Finding of no breach - MO's endorsement of finding sent to all parties. No review - case closed 11/08/2015

The types of complaints received in 2015 are categorised as follows:

Type of complaint	Number
Inappropriate use of social media	12
Non-disclosure of interests/participating and voting at meetings	8
Inappropriate behaviour i.e. disrespect	10
Failing to respond to letter/emails or to provide information	6
Pre-determination of planning applications	2
Showing bias towards/against parishioners	2
Used position to restrict candidates for vacancy on parish council	2
Subject member not calling in planning application	1
Subject member influenced by neighbours of planning applicant	1
Subject member acting undemocratically towards complainant	1
Deliberate misrepresentation of facts	2

	Cases received	Cases open (cumulative)	Assessed investigation	Assessed no further action	Assessed alternative resolution/ complaint withdrawn	Pending assessment	Cases closed	Appeals received
<b>2016</b>								
January	4	17	0	3	0	1	4	0
February	4	18	1	1	0	2*	3	1 (not upheld)
March	9	22	0	1	0	8	5	0
April	2	24	0	0	0	2	0	2 (pending)
May								
June								
July								
August								
September								
October								
November								
December								
<b>Totals for 2015</b>	<b>19</b>	<b>N/A</b>	<b>1</b>	<b>5</b>	<b>0</b>	<b>13</b>	<b>12</b>	

\*assessed and decision notice being finalised

The types of complaints received in 2016 are categorised as follows:

Type of complaint	Number
Non-disclosure of interests/participating and voting at meetings	1
Inappropriate behaviour i.e. disrespect	4
Failing to respond to letter/emails or to provide information/lack of communication	2
Deliberate misrepresentation of facts	9
Spreading false rumours	2
Data breach	1

**Wiltshire Council**

**Standards Committee**

**27 April 2016**

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## **Appointment of Co-opted Non-Voting Members of the Standards Committee**

### **Purpose of Report**

1. (a) To recommend Council to confirm the appointment of the four current co-opted non-voting members of the Standards Committee at its Annual General Meeting on 10 May 2016 for their remaining term of office until the unitary and parish elections in May 2017;
- (b) To ask the Standards Committee to review the role, number and arrangements for appointment of non-voting co-opted members and make recommendations to the new council at its Annual General Meeting in May 2017.

### **Background**

2. At its meeting on 15 May 2012 the Council agreed to establish a new Standards Committee with terms of reference as set out at Appendix A.
3. In July 2012 the Council delegated responsibility to the Standards Committee to appoint 4 co-opted non-voting members for the period up to the unitary and parish elections in May 2013. On 24 October 2012 the Standards Committee appointed the following:
  - Mr Philip Gill MBE JP
  - Mr Paul Neale
  - Miss Pam Turner
  - Mr John Scragg
4. These members were re-appointed in May 2013 for a four year term of office in accordance with the Committee's terms of reference. Council has confirmed their appointment annually since.

### **Main Considerations**

5. The terms of reference for the Standards Committee provide for a politically balanced committee of 13 elected members and up to 8 non-voting co-opted

members, 50% of whom must be serving parish, town or city councillors who are not councillors or officers of the Council.

6. In July 2012 Council, however, determined that there should be 4 co-opted non-voting members appointed out of the maximum of 8 set in the terms of reference.
7. They also provide that the Hearing, Review and Dispensation Sub-Committees may, in addition to the 3 elected members, include 2 non-voting co-opted members, one of whom should be a parish representative where a complaint involves a parish councillor. Where possible co-opted members have therefore been attending Standards Review Sub-Committees.
8. The current co-opted members have made a valuable contribution to the work of the Standards Committee, including attendance at meetings of the Review Sub-Committee and the Constitution Focus Group.

#### **Environmental and Climate Considerations**

9. None arising from this report.

#### **Equalities Impact**

10. The arrangements are consistent with the Council's obligations under the Equality Act 2010.

#### **Risk Assessment**

11. There are no significant risks arising from this report.

#### **Financial Implications**

12. In accordance with the adopted recommendations of the Independent Remuneration Panel, the annual allowance for a co-opted non-voting member of the Standards Committee is £ 1,120, which is met from within the existing budget.

#### **Legal Implications**

13. The issues covered in this report form part of the standards framework, which is established under the Localism Act 2011.

**Recommendations:**

14. The Standards Committee is, therefore, asked to recommend full Council:

- (1) to confirm the appointment of the four current co-opted non-voting members of the Standards Committee at its Annual General Meeting on 10 May 2016 for their remaining term of office until the unitary and parish elections in May 2017.
  
- (b) to ask the Standards Committee to review the role, number and arrangements for appointment of non-voting co-opted members to the Committee and make recommendations to the new council in the light of the review at its Annual General Meeting in May 2017.

**Ian Gibbons, Associate Director, Legal and Governance and Monitoring Officer**

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Report Author: Ian Gibbons, [ian.gibbons@wiltshire.gov.uk](mailto:ian.gibbons@wiltshire.gov.uk), 01225 713052

Appendix A - Terms of reference of Standards Committee

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## **STANDARDS COMMITTEE**

### **TERMS OF REFERENCE**

#### **Composition**

1. This Committee will comprise 13 elected councillors, other than the Leader or any other member of the Cabinet, and up to 8 co-opted non-voting members, 50% of whom shall be serving town, parish or city councillors from within the Council's area who are not councillors or officers of the Council.
2. Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.
3. The term of office for co-opted non-voting members will normally be 4 years.
4. Co-opted non-voting members will be eligible for re-appointment for a second term.
5. Substitutes will be permitted in accordance with Part 4 of the Constitution.

#### **Role and Function**

6. The Standards Committee is responsible for:
  - promoting and maintaining high standards of conduct by elected and co-opted members and officers.
  - assisting the elected and co-opted members to observe the members' code of conduct.
  - advising the Council on the adoption or revision of the members' code of conduct and the arrangements for dealing with member complaints of misconduct which the Council is required to make under Section 28 of the Localism Act 2011.
  - monitoring and advising the Council about the operation of its code of conduct in the light of best practice and any changes in the law.
  - advising, and, through the Member Development Group, arranging to train elected and co-opted members on matters relating to the members' code of conduct and ensuring that members are aware of the standards expected of them under the code
  - granting dispensations to elected and co-opted members from requirements relating to interests.
  - overseeing the operation of the Council's arrangements for dealing with misconduct complaints against members and co-opted members of Wiltshire Council, and parish, town and city councillors in Wiltshire.
  - overview of the whistle blowing policy.
  - overview of corporate complaints handling and Ombudsman investigations.

- reviewing the implementation of recommendations made by the Ombudsman.
  - oversight of the constitution.
7. The Standards Committee has the power to appoint such sub-committees as may from time to time be necessary for the efficient discharge of its functions. In particular, the Committee will appoint:
    - a. a Hearing Sub-Committee to determine member misconduct complaints under the Council's arrangements.
    - b. a Review Sub-Committee to determine requests for review under the Council's arrangements.
    - c. A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.
  8. In each case the Sub-Committee shall comprise 3 elected members from whom a chairman will be elected. The Sub-Committee may include 2 non-voting co-opted members of the Standards Committee, one of whom shall be a parish, town or city council representative where the complaint concerns a parish, town or city councillor.
  9. The above Sub-Committees are not subject to the requirements of political balance. The composition of any sub-committee will be determined by the Monitoring Officer in consultation with the Chairman of the Standards Committee on the basis of member availability, drawing from the membership of the Committee and their substitutes and seeking to ensure cross party representation as far as possible.
  10. Members of the Review Sub-Committee may not serve on the Hearing Sub-Committee for the same or a linked complaint.
  11. For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected members present.

**Wiltshire Council**

**Standards Committee**

**27 April 2016**

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## **Extension of Term of Appointment of Independent Persons**

### **Purpose of Report**

1. To recommend Council to extend the term of appointment of the three current Independent Persons for a further year until May 2017.

### **Background**

2. At its meeting on 15 May 2012 the Council approved its Code of Conduct, Arrangements for dealing with Code of Conduct Complaints and other elements of the new standards framework, as required by the Localism Act 2011.
3. The Council is required under the 2011 Act to appoint at least one Independent Person (IP) whose views must be sought and taken into account before the Council makes a decision on an allegation it has decided to investigate. The views of the IP may also be sought on other allegations, and by a member who is the subject of an allegation.
4. The role of the IP includes:
  - advising and assisting the Council in discharging its duty to promote and maintain high standards of conduct by elected and co-opted members.
  - advising elected and co-opted members of Wiltshire Council and Parish, Town and City Councils in Wiltshire in connection with complaints made against them under their Code of Conduct.
  - advising the Monitoring Officer in connection with the initial assessment, review and hearing of member misconduct complaints in accordance with the Council's complaints procedure.
5. Council agreed to appoint three IPs to ensure that there would be sufficient cover available to fulfil these responsibilities within the timescales prescribed in the complaints process, and to ensure that an IP would be available to advise the Monitoring Officer and a member subject to a complaint without giving rise to a potential conflict of interest.

6. Following a selection process the three IPs were appointed by Council on 10 July 2012 as follows:

- Mr Stuart Middleton
- Mrs Caroline Baynes
- Mr Colin Malcolm

7. It was originally envisaged that the term of appointment of each of the three IPs would be staggered for a period of up to four years in order to maintain continuity of knowledge and experience. In practice, however, as the IPs have gained considerable experience and expertise in their role it has been beneficial to retain them for the full term.

### **Main Considerations**

8. The complaints status report at item 6 of this agenda summarises the range and volume of matters in which the IPs have been involved since they were appointed. They have each discharged their role successfully, fulfilling their own particular responsibilities with enthusiasm, commitment and excellence, and the wider responsibility of helping the Council meet its duty to promote and maintain high standards of conduct.

9. Members may recall that IPs were given an additional statutory role under regulations issued in May 2015 relating to the dismissal of statutory officers. Guidance is due to be issued shortly on the role which IPs are expected to fulfil in this respect.

10. In order to secure the current level of service and expertise we receive from the current IPs for the remaining period of this Council it is proposed to extend their term of appointment for a further year until the Annual General Meeting of the new Council in May 2017. A recruitment process will be undertaken in due course to recommend appointments to these positions.

### **Environmental and Climate Considerations**

11. None arising from this report.

### **Equalities Impact**

12. The arrangements are consistent with the Council's obligations under the Equality Act 2010.

### **Risk Assessment**

13. No significant risks arising from this report.

### **Financial Implications**

14. In accordance with the recommendation of the Independent Remuneration Panel, adopted by full Council, the remuneration for the role is £ 2,240 per year. This is met from existing budget.

### **Legal Implications**

15. The issues covered in this report form part of the standards framework established under the Localism Act 2011.

### **Recommendation:**

16. To recommend Council to extend the term of appointment of the three current Independent Persons for a further year until the Annual General Meeting of the new Council in May 2017 and to note that a recruitment process will be undertaken in advance of that date to recommend appointments to these positions.

**Ian Gibbons, Associate Director, Legal and Governance and Monitoring Officer**

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**Wiltshire Council**

**Standards Committee**

**27 April 2016**

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## **Review of Part 12 of the Constitution - Corporate Parenting**

### **Purpose**

1. To consider proposed changes to Part 12 of the Constitution - Roles and Responsibilities of Councillors

### **Background**

2. Part 12 of the Constitution describes various roles of elected members and expectations for those roles
3. Paragraphs 6.5-6.6 relate to an elected member's role as a 'corporate parent' and the Corporate Parenting Panel which exists to facilitate that role.

### **Main Considerations**

4. At its meeting on 26 January 2016 the Corporate Parenting Panel (CPP) approved a Corporate Parenting Strategy for 2016-2018, which had been created following an Ofsted inspection to clarify and strengthen the council's priorities and processes. This included revised terms of reference of the Panel within the approved strategy.
5. The proposed changes would amend paragraphs 6.5-6.6 of Part 12, and replace the existing Part 12A - Terms of Reference of the Corporate Parenting Panel - with the new strategy.
6. Part 12A currently also includes the terms and reference of the Safeguarding Children and Young People Panel. As such, if the proposed changes from the CPP are approved, this would result in a consequential change to move its terms of reference to a new Part 12B.
7. At its meeting on 22 March the Constitution Focus Group considered the changes and recommended amendments to ensure consistency with the rest of the Constitution, while accepting the principle of the proposals.
8. The Standards Committee is therefore asked to consider the proposed changes as detailed at appendix 1.

### **Recommendation**

9. To recommend that Council should approve the proposed changes to Part 12 of the Constitution detailed at Appendix 1.

### **Ian Gibbons**

**Associate Director, Legal and Governance and Monitoring Officer**

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**Background Papers:** None

**Appendix 1** - Revised Part 12 and 12A of the Constitution

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## PART 12 OF THE CONSTITUTION: ROLES AND RESPONSIBILITIES OF COUNCILLORS

- 6.5 To fulfill your responsibilities as a “corporate parent” for children and young people in the care of the local authority
- by having an understanding of the profile and needs of the children in the care of the local authority
  - by being aware of the impact on looked-after children of all council decisions
  - by considering whether this would be good enough for your own child
  - by ensuring that action is taken to address shortcomings in the service and to improve outcomes for looked-after children.
  - by being aware of the work and aims of the corporate parenting panel and, if nominated by your group leader, attend meetings of the corporate parenting panel as a committee member
- 6.6 The council has established a Corporate Parenting Panel, whose role is to secure councillor involvement and commitment throughout the council to deliver better outcomes for children and young people who are looked after. ~~The Corporate Parenting Strategy for 2016-2018. This is available~~ [The terms of reference are available](#) as an appendix to this section - Part ~~11A-12A – Role and Function of the Corporate Parenting and includes the~~ [Panel's functions and terms of reference.](#)
- 6.7 To represent the council externally
- By sitting on outside bodies and attending seminars on behalf of the council.

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**Wiltshire Council**

**Corporate**

**Parenting**

**Strategy**

**2016 – 2018**

## Why the Corporate Parenting Strategy is important

Hello and welcome to Wiltshire Council's Corporate Parenting Strategy, which is about what looked after children and care leavers expect our corporate parents to do and work towards to be good in their role.

That strategy is about us – the children and young people in and leaving Wiltshire Council's care. It's about how we are looked after and how things can be made better for us – not just while we are in care but also afterwards.

Within the strategy our corporate parents have set out a number of priorities which the Children in Care Council have been asked about and agreed on. This is important as it means we have had a say about the strategy.

As the Children in Care Council represent that voice of all looked after children and care leavers, it is really important to us that the strategy works, so that children and young peoples' experience of being in Wiltshire's care is a positive one and builds solid foundations for our future.

Also as part of the Children in Care Council we give a 100% but we need to feel that we get 100% out of all our Corporate Parents at the Corporate Parenting Meetings and the Shared Guardianship as we run this programme and we feel like you don't want to hear our voice.

- Children in Care Council members, January 2016

## 1. Introduction

We ~~Wiltshire Council (the “Council”)~~ recognises that Looked After Children and Care Leavers are among the most vulnerable children and young people in our society.

~~The Local Authority, its members and officers, The Council has~~ have a legal duty to act as a good and effective Corporate Parent to children and young people in its care.

~~The Council is guided in its duty as a Corporate Parent by~~ The National Children’s Bureau ~~has produced national guidance, which has produced guidance~~ supported by central government, including a summary of the legal and policy guidance that informs Corporate Parenting. ~~This strategy has been developed having regard to that guidance.~~

An effective Corporate Parent will ensure that ~~children~~ looked after ~~children~~ and care leavers have at least the same care, nurture, support and life chances as any other child in our society might expect. Where these opportunities are not provided Corporate Parents will have failed in their primary duty.

~~Every Corporate Parent will act as a responsible and reasonable parent; in discharging this responsibility~~ As a responsible and reasonable Corporate Parent, the Council we will ensure that we deliver on our Promise to looked after children ~~looked after~~ and care leavers This Promise was made following a meeting with the Children in Care Council who had talked to other children and young people in care to ask them what they wanted from their Corporate Parents. The wording below came direct from the young people themselves::

### Being in Care

- *A choice of when to move on from care.*
- *To try not to separate brother and sisters (however, if this is not possible, try to ensure brother’s and sister’s placements are close together and allow contact).*
- *To allow looked after children and young people to be involved in the choice of their placement from the start.*
- *To find a place where you feel comfortable and ‘at home’ and can stay until the end of your time in care.*

### Listening to Looked After Children and Young People

- *To listen to your views and act on them.*
- *To provide a social worker you can rely on who keeps to meetings, gives clear information, is honest and responds when needed.*
- *Make looked after children and young people aware of their rights and to train others in the rights of looked after children and young people.*
- *To ensure that children and young people are involved in the creation and regular review of their care plans.*

## Support

- *Better help getting into school or college whatever has happened.*
- *To provide support so looked after children and young people can see their family (i.e. transport)*
- *To use reliable transport for young people.*
- *To organise group activities for young people in care and those leaving care.*
- *That if bullying arises for any looked after child or young person it will be dealt with quickly and efficiently.*
- *To support young people in care to find training, education or a job that suits them when they leave school.*

~~We recognise in this strategy that work is required to strengthen our Corporate Parenting structures.~~ The aim of this strategy is to ensure that ~~the Council's~~ our Corporate Parenting functions support improvement in services and to ensure the best possible outcomes for children and young people ~~cared for by this Wiltshire Council.~~ In order ~~To~~ to achieve this, it is essential that Councillors:

- Understand their roles and responsibilities as Corporate Parents.
- Scrutinise and challenge how the Council performs in delivering its services as a Corporate Parent.
- Engage effectively, with energy, consistency, and confidence with children and young people so that their voice is heard and has influence.
- Support and enable children and young people to challenge where services need to improve.
- ~~Maintains~~ a comprehensive overview of the progress of looked after children ~~who are looked after~~ and for care leavers, ensuring they consistently scrutinising the quality, effectiveness and performance of the services that support them.

## **2. Corporate Parenting - Defined Responsibilities**

Services for looked after children and care leavers need to be co-ordinated, focused and effective. Responsibility for this rests at a corporate level with Councillors who will hold senior staff accountable for the implementation of strategies and services.

In 2009, The National Children's Bureau, funded by the Government, created a gold-standard approach to corporate parenting, with a range of resources available to Councillors to help them design the best-fit corporate parenting model for local needs and to understand and fulfil their corporate parenting roles. ~~This is called 'Putting Corporate Parenting into Practice' and This~~ has been updated year on year ~~and~~ This is available on the NCB website: <http://www.ncb.org.uk/corporate-parenting>

NCB publications identify three distinct levels of role responsibility for Councillors;

'universal', 'targeted' and 'specialist'. These responsibility levels ~~can~~ are defined below:

### Universal responsibility

Every elected member and manager within ~~the~~ Wiltshire Council, in conjunction with members of governing bodies of partner agencies, needs to:

- ~~Be aware of~~ Understand their 'Corporate Parenting' role
- Have ~~some~~ knowledge of the profile and needs of looked after children, ~~and~~ young – people and care leavers
- Understand the impact of council decisions on all looked after children and young people ~~of all council decisions~~
- ~~Receive~~ Examine information about current levels of quality of care and services ~~for young people children and young people are experiencing~~ and assess consider whether if this would be 'good enough' for their own child
- If shortcomings in services and support for young people are identified, ~~E~~ensure that action is ~~being~~ taken to address these any shortcomings ~~in services and support for looked after children and young people~~ and strive to continually improve outcomes.

### Targeted responsibility

For elected members who visit Children's Homes or who are members of the Corporate Parenting Panel, and for managers of children's services, their responsibilities are as above.

In addition they will also need to make sure, in partnership with those with lead responsibility in partner agencies, that they:

- Are aware of Government expectations regarding services ~~to~~ for looked after children and young people
- Have access to and examine qualitative and quantitative information about ~~this group of~~ children and young people in Wiltshire
- Consider how they are going to respond to and hear the voice of children and young people and their carers/parents
- Continually take action, in conjunction with officers and partner agencies, to improve services and respond to changing needs

### Specialist responsibility

This includes key roles of the Lead member for Children's Services, the Director of Children's Services, and the Chair of Corporate Parenting Panel. There is a responsibility for these individuals to:

- Provide leadership across ~~the Council the authority~~ in safeguarding and monitoring the welfare of looked after children and young people
- Ensure effective governance arrangements are in place
- Undertake regular in-depth analysis of the needs of looked after children and young people and the services required to meet these needs
- Ensure ~~the~~ strategic plans of ~~the Council the local authority~~ and joint plans with partner agencies reflect the needs of looked after children and young people, ~~particularly the Children and Young People's Plan, and the Directorate Children's Services Plan~~
- Keep up-to-date with national research and new performance indicators in relation to looked after children and young people

### 3. Corporate Parenting Panel – Functions and Terms of Reference

The Corporate Parenting Panel is the primary vehicle for Councillors to meet with key officers and to challenge and scrutinise the performance, quality and efficacy of ~~Wiltshire Council's the Local Authority's~~ services.

The Corporate Parenting Panel will comprise up to 8 Core Members drawn from elected Councillors politically balanced and nominated by group leaders. Group leaders will ensure that they appoint substitute members to cover absences.

Associate Members will include officers from the council and key partner agencies ~~and comprise of:- Current Associate Members comprise:~~

1. Corporate Director—~~Carolyn Godfrey~~
2. Associate Director – Children's Operational Services —~~Terence Herbert~~
3. Head of Care, Placements and EDS —~~Martin Davis~~
4. Senior Commissioning Officer – Children's Social Care (Voice and Influence)  
~~Leanne Field~~
5. ~~A~~ Representative from the Children in Care Council —~~TBC~~
6. Cabinet Member for Children's Services —~~Laura Mayes~~
7. Chair of Wiltshire Fostering Association —~~Sally Smith~~
8. Conference and Reviewing Service Manager —~~Janice Lightowler~~
9. Designed Doctor for Looked After Children —~~Dr Stuart Murray~~
10. Virtual School Headteacher —~~Karen Reid~~

If any of the core members are unable to attend a meeting they will send a substitute representative.



On behalf of all Councillors acting as Corporate Parents, the Corporate Parenting Panel will ensure delivery of the following seven strategic priorities:

1. Strengthen the Corporate Parenting Role and Corporate Parenting function across Wiltshire Council as a whole. ~~(Laura Mayes)~~
2. Continue to improve timeliness of permanency for looked after children across the range of permanency options. ~~(Andrew Davis and Sally Smith)~~
3. Ensure that there is sufficient accommodation for looked after children within Wiltshire which meets the needs of those children. Prioritise placement within Wiltshire. ~~(Pat Aves and Sally Smith)~~
4. Improve care leavers journey by ensuring an enhanced offer to care leavers across all areas: education, employment and training, independent living, housing options and health. ~~(Jacqui Lay and Pip Ridout)~~
5. Improve the educational outcomes for looked after children; closing the gap between looked after children and other children in the county. ~~(Phil Whalley)~~
6. Ensure that looked after children are protected from the risk of child sexual exploitation and reduce the frequency with which some looked after children and care leavers currently go missing. ~~(Anna Cuthbert)~~
7. Ensure that looked after children and care leavers have timely and easy access to mental health services. ~~(Jon Hubbard)~~

The Panel will appoint a Chairperson on an annual basis.

To ensure that strategic oversight and critical challenge is effective, each member of board will have a lead role in relation to delivery of one strategic priority. ~~Lead members are highlighted in bold in the list above.~~

#### **4. Quorum**

The quorum of the Corporate Parenting Panel will be 75% (6) Councillors, 70% (7) Associate Members in attendance. Where the meeting is not quorate, the Chairperson will adjourn the meeting.

#### **5. Frequency of meetings**

The Corporate Parenting Panel will meet bi-monthly with a minimum of 5 meetings a year.

#### **6. Reporting**

The Panel would report its work through the Wiltshire Council Children's Select Committee. Following each meeting the Chairperson will send a copy of the Panel minutes to the Chairman of Children's Select Committee. On a six monthly basis the Panel Chairperson will prepare a report for Chairman of the Children's Select Committee, addressing progress against each of the seven strategic priorities.

In addition to this the Chairperson of the Corporate Parenting Panel will present an annual report to Full Council which will be shared with the Children's Select Committee prior to submission.

## **7. Terms of Reference**

Corporate Parenting Panel will;

- Make a commitment to prioritising the needs of looked-after children and young people and their carers and demand that all departments within the Council prioritise the needs of this group
- Receive reports from the Children in Care Council and act on their views
- Provide clear strategic and political direction in relation to corporate parenting
- Show ambition and aspirations for all looked-after children and care leavers
- Ensure that all councillors and Wiltshire Council departments are fulfilling their roles and responsibilities as corporate parents proactively. This may involve, for example, the Corporate Parenting Panel organising specific education and training events for all members to ensure they are equipped with the knowledge and skills to be corporate parents
- Investigate on behalf of all Councillors ways in which the role of Corporate Parenting can be improved, using examples of research and effective practice from other local authorities
- Listen to the views of children, young people and their carers to involve them in the assessment and development of services
- Engage with children and young people who are looked after, or have left care, by inviting them to act as advisers to the Panel
- Monitor the performance, quality and outcomes of the Council's services in relation to children and young people in public care and identify any areas for improvement
- Scrutinise key performance indicators in relation to children and young people in the care of Wiltshire Council
- Meet with government inspectors, where appropriate, for their input into inspections

- Participate as members of the adoption and fostering panels
- Agree a work plan, review progress, membership of the panel and attainment of its role and terms of reference and report to the Cabinet and Children's Services Select Committee as appropriate, and in any case to the Full Council annually.

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**Review of Part 4 of the Constitution - Public Questions and Motions**

**Purpose**

1. To consider proposed changes to Part 4 of the Constitution - Council Procedure Rules.

**Background**

2. Part 4 of the Constitution details procedural rules in relation to Council and Council Committees. Cabinet, Overview and Scrutiny and Area Boards have specific rules of procedure contained in other sections of the Constitution.
3. The Constitution Focus Group had been requested to review two sections of Part 4, in relation to Public Questions to committees, and Cabinet Member right of reply in respect of Motions considered by Full Council.

**Main Considerations**

Public Questions

4. At its meeting on 17 November 2015 the Health Select Committee received queries regarding the deadline for submission of public questions to committees.
5. The existing deadline is currently four working days before a meeting, although in exceptional circumstances or urgency the Chairman of a meeting can exercise their discretion to allow receipt of questions without the full period of notice being given. In that situation there is no guarantee a full reply will be given at the meeting.
6. The deadline for publication of an agenda for a committee meeting is five clear working days. As such, a member of the public would have one working day under the current procedure to submit a question, if they required notice of the agenda before submission.
7. The Health Select Committee considered the above and resolved:

*To request that the Chairman of the Overview and Scrutiny Management Committee investigate the possibility of extending the deadline for questions submitted to Select Committees under Public Participation.*

8. The request was forwarded on to the Constitution Focus Group. At its meeting on 2 December 2015 the Focus Group considered the request. It was noted that the procedure for councillors' questions had recently been amended to include a two-tier deadline, one to ensure a guaranteed written response, and one for the question to still be received at the meeting but with a verbal response.

9. Following additional consultation with Group Leaders, the Focus Group considered proposed changes to wording at its meeting on 22 March 2016 and resolved to recommend them to the Standards Committee.
10. Suggested wording to Part 4 to effect such a change is included at appendix 1.

#### Motions

11. At its meeting on 2 December 2015 the Focus Group considered a suggestion from the Group Leader's meeting on 24 November 2015 in respect of the procedure for cabinet member responses to notices of motion.
12. Currently, the process of dealing with a motion on notice at Council is that provided a motion is moved and seconded, the mover of a motion is given up to 5 minutes to speak to their motion. The relevant cabinet member is then invited to respond. Should Council agree to debate a motion, the normal rules of debate apply. This allows for the mover of a motion to have a right of reply at the end of the debate before a motion is put to a vote.
13. To facilitate debate, the Chairman of Council has on occasions exercised his discretion by permitting the cabinet member to come back to respond to points made during the debate before the mover of the motion exercises his or her right of reply.
14. The suggestion from Group Leaders was to formalise the process currently exercised by discretion from the Chairman detailed in paragraph 12, by including it within the council's rules of procedures.
15. Whilst satisfied the Chairman of Council had discretion to permit cabinet members to respond in that fashion, the Focus Group had no objection to the suggestion this be formalised.
16. Suggested wording to Part 4 to effect such a change was considered and approved, as detailed at Appendix 1.

#### **Recommendation**

17. To recommend that Council should approve the proposed changes to Part 4 of the Constitution detailed at Appendix 1.

#### **Ian Gibbons**

#### **Associate Director, Legal and Governance and Monitoring Officer**

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**Background Papers:** None

**Appendix 1** - Revised Part 4 of the Constitution

# Part 4

## RULES OF PROCEDURE: COUNCIL

### Application to committees and sub-committees

1. All of the council rules of procedure apply to meetings of Full Council. Only paragraphs ~~48-49~~ and ~~141~~ apply to meetings of the cabinet. Only paragraphs ~~15-14~~ – ~~41-42~~~~47~~; ~~51-74~~; ~~95-96~~~~98-131~~ – ~~119~~~~120~~; ~~120-121~~ – ~~130~~; ~~132-134-137~~~~137~~~~138~~; ~~140-140~~ -; ~~147-148~~ ~~145-146~~ apply to meetings of committees and sub-committees.

### Annual meeting of the Council

2. In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May (Local Government Act 1972, Schedule 12, paragraph 2).
3. The annual meeting will:
  - elect a person to preside if the Chairman of Council is not present
  - elect the Chairman of Council (Local Government Act 1972, s.4)
  - elect the Vice-Chairman of Council
  - approve the minutes of the last meeting
  - receive any announcements from the Chairman and/or head of the paid service
  - in an election year, elect the Leader
  - appoint at least one overview and scrutiny committee, a standards committee and such other committees as the council considers appropriate to deal with matters which are neither reserved to the council nor are cabinet functions (as set out in part 3 of this constitution) (Local Government and Housing Act 1989, s.15)
  - agree the scheme of delegation or such part of it as the constitution determines it is for the council to agree (as set out in Part 3 of this constitution)
  - approve a programme of ordinary meetings of the council for the year and
  - consider any business set out in the notice convening the meeting.

### Election of Chairman, Vice-Chairman and Leader of the Council

4. The election of the Chairman and the election of the Vice-Chairman shall be the first and second items of business respectively transacted at the annual meeting of the council (Local Government Act 1972 s.4 and s.5).
5. The election of the Chairman, Vice-Chairman and Leader shall be determined by a show of hands unless at least 10 Councillors request a secret ballot which shall be conducted by the person presiding in accordance with the following procedure:
  - the person presiding at the meeting shall invite nominations for Chairman, Vice-Chairman and Leader from those present at the meeting
  - a Councillor's name must be proposed and seconded to be eligible
  - a Councillor shall not be nominated in his or her absence for the position of Chairman, Vice-Chairman or Leader without his or her written consent
  - the Chairman, Vice-Chairman or Leader shall be elected from among the Councillors duly nominated unless any Councillor nominated withdraws his or her name, in which case the election shall be from among the remaining nominees
  - the Chairman, Vice-Chairman or Leader shall be elected by the vote of a majority of those Councillors present and voting (Local Government Act 1972 s4(3))
  - each Councillor shall vote by writing the name of one of the Councillors nominated upon a ballot paper which shall then be placed in the ballot box
  - when, in the opinion of the person presiding at the election, each Councillor present has had a reasonable time in which to vote, the ballot box should be delivered to the person presiding whereupon the voting shall be deemed to have been completed except that this shall not preclude the person presiding from exercising his or her casting vote in accordance with the final bullet of this section
  - the ballot papers shall then be counted by the person presiding at the election
  - if only one Councillor is nominated, the person presiding shall declare that member elected as Chairman, Vice-Chairman or Leader as the case may be; and if two members are nominated the member receiving the vote of the majority of those members present and voting shall be declared elected (Local Government Act 1972, Schedule 12, paragraph 39)
  - if more than two Councillors are nominated, the person presiding shall announce the name of the Councillor with the smallest number of votes and that name shall be eliminated. A further ballot or ballots shall then be taken and after each ballot the name of the Councillor receiving the smallest number of votes shall be eliminated, in accordance with the foregoing procedure, until only two names remain which shall be submitted to the final vote



- in the event of an equality of votes in any of the ballots, the person presiding shall give a casting vote and where there are three or more members with an equal number of votes the person presiding shall give a casting vote to each of such members except one (Local Government Act 1972, Schedule 12, paragraph 39).

### **Selection of Councillors to serve on committees and outside bodies**

6. At the annual meeting, the council will:

- decide which committees to establish for the municipal year
- decide the size and terms of reference for those committees
- decide the allocation of seats and substitutes to political groups in accordance with the political balance rules (Local Government and Housing Act 1989 s.15(1))
- receive nominations of Councillors to serve on each committee and
- appoint to those committees
- Appointments to outside bodies will be made by the Leader of Council, Cabinet, Area Boards or a meeting of group leaders as appropriate.

### **Ordinary meetings**

7. Ordinary meetings of the council will take place in accordance with a programme decided by council. Ordinary meetings will:

- elect a person to preside if the Chairman and Vice-Chairman are not present
- elect a Leader if there is a vacancy
- approve the minutes of the last meeting
- receive any declarations of interest from members
- receive any announcements from the Chairman, Leader, members of the cabinet, committee chairmen or the head of paid service
- receive questions from and provide answers to members of the council and the public in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting
- deal with any business from the last council meeting
- receive reports from the cabinet and the council's committees and receive questions and answers on any of those reports
- receive reports about and receive questions and answers on the business of joint arrangements and external organisations
- consider motions and
- consider any other business specified in the summons to the meeting,

including consideration of proposals from the cabinet in relation to the council's budget and policy framework and reports of the overview and scrutiny committees for debate.

8. Councillors wishing to ask a question in relation to the reports of the Swindon and Wiltshire Fire Authority are required to give written notice (including details of the question) to the Proper Officer no later than five clear working days before the council meeting.

### **Extraordinary meetings**

#### Calling extraordinary meetings

9. Those listed below may request the Proper Officer to call council meetings in addition to ordinary meetings:
  - the council by resolution
  - the Chairman of the Council (Local Government Act 1972, Schedule 12, paragraph 3(1))
  - the monitoring officer or the head of paid service (Local Government and Housing Act 1989 s.4 and s.5) and
  - any five members of the council if they have signed a requisition and presented it to the Chairman of the Council and he/she has refused to call a meeting, or has failed to call a meeting within seven days of the presentation of the requisition (Local Government Act 1972, Schedule 12, paragraph 3(2)).
10. The notice for any extraordinary meeting must specify the business proposed to be transacted at the meeting with no consideration of previous minutes or reports from committees.

### **Appointment of substitute members of committees and sub-committees**

#### Allocation

11. As well as allocating seats on committees, the council will allocate seats in the same manner for substitute members.

#### Number

12. For each committee, the council will appoint up to a maximum of four substitutes for each political group which holds seats on that committee.

#### Powers and duties

13. Substitute members will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

#### Substitution

14. Substitute members may attend meetings in that capacity only:

- to take the place of the ordinary member for whom they are the designated substitute
- where the ordinary member will be absent for the whole of the meeting and
- after notifying the Proper Officer before the start of the meeting of the intended substitution.

#### Declaration of disclosable pecuniary interests

15. Where a member has declared a pecuniary interest in an item on an agenda, they must withdraw from the meeting in their capacity as a councillor for the duration of that item, and not speak or vote on the item with the exception of exercising their right to speak as a member of the public.

#### Time and place of meetings

16. The time and place of meetings will be determined by the Proper Officer and notified in the summons (Local Government Act 1972, Schedule 12, paragraphs 1(4) and 2(2)).

17. With the exception of an extraordinary meeting requisitioned by Councillors in accordance with paragraph 9, the Proper Officer may cancel a meeting in the under mentioned circumstances following consultation with the Chairman and giving reasonable notice of its cancellation:

- Inclement weather
- Where there is reason to believe the meeting would not be quorate
- Insufficient business for the meeting to be viable
- Other reasonable unforeseen circumstances

#### Notice of and summons to meetings

18. The Proper Officer will give notice to the public of the time and place of any meeting in accordance with the Part 5 of this Constitution (Access to Information Procedure Rules). At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her by post to every member of the council, or leave it at their usual place of residence. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available (Local Government Act 1972, Schedule 12, paragraph 4).

#### Chair of meeting

19. The person presiding at the meeting may exercise any power or duty of the Chairman. Where these rules apply to committee and sub-committee meetings, references to the Chairman also include the Chairman of committees and sub-committees.

## Quorum

20. The quorum of a meeting will be one quarter of its total voting membership, subject to a minimum number of three voting members. During any meeting if upon request the Chairman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting (Local Government Act 1972, Schedule 12, paragraph 6).

## Public participation at meetings

21. The council welcomes public participation from anyone who lives, works or studies in Wiltshire, or who has a direct connection to a service provided by the council. Public participation can take the form of presenting petitions, making statements or asking questions.

22. This rule applies to council and committee meetings other than planning committees. Paragraphs ~~47-48~~ – ~~49-50~~ refer to the application of this rule at cabinet, planning committees and area boards.

## **Petitions**

23. The council has adopted a Petitions Scheme which is set out in Part 4A of this Constitution. This sets out the purpose of a petition, the eligibility criteria and relevant thresholds for making petitions, the procedure and review mechanisms.

## **Statements**

24. Up to three speakers are permitted to speak for up to 3 minutes each on any agenda item although this may be extended at the Chairman's discretion.

25. Those wishing to make a statement must register to do so at least 10 minutes prior to the meeting by contacting Democratic Services.

26. Statements must be relevant to the powers and duties of the council and be clear and concise. A statement must not:

- be defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper
- relate to any non determined planning or licensing application
- name or identify individual service users, members of staff or members of staff of partner agencies

## **Questions**

27. At ordinary meetings of council, questions can be asked of the Chairman of Council, members of cabinet and Chairmen of committees, or chairmen of Committees (at committee meetings). The total time set aside for such

questions and answers will be limited to 15 minutes which can be extended at the Chairman's discretion.

#### Notice of questions

28. No person or organisation may submit more than two questions at any one meeting. No question may be sub-divided into more than two related parts.
29. In order to be guaranteed of receiving a written response prior to the meeting Questions must be delivered in writing or by electronic mail to the Proper Officer no later than 5pm four clear working days before the meeting. ~~This means that for a meeting held on a Tuesday, questions must be received by 5pm Tuesday of the preceding week (less any intervening bank holiday).~~ The period of notice is to allow sufficient time for a response to be formulated.
30. Any question received between the deadline in paragraph 29 and no later than 5pm two clear working days before the meeting, may only receive a verbal response at the meeting. Any questions received after this date will be received at the next meeting
31. In exceptional circumstances and in cases of urgency the Chairman may allow questions without the full period of notice having been given where he or she is satisfied there is sufficient justification. In these circumstances, there is no guarantee that a full reply will be given at the meeting.
32. Notice of each question must include the name and address of the questioner, (in respect of an organisation, the name of the organisation and the questioner's position within the organisation) and to whom the question is to be put.

#### Scope of questions

33. The question must be relevant to the powers and duties of the council and be clear and concise. A question will be rejected where it:
  - does not relate to a matter for which the local authority has a responsibility or which affects the council's administrative area
  - is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper
  - relates to any non determined planning or licensing application
  - requires the disclosure of confidential or exempt information
  - names or identifies individual service users, members of staff or members of staff of partner agencies
  - is considered by the Chairman to be inappropriate for the particular meeting.
34. The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.
35. Where a question is rejected on the above grounds, the questioner shall be advised of the reasons for rejection. Time permitting the questioner will be given an opportunity to submit an amended question that will be considered afresh

against the criteria in paragraph 3233. For the avoidance of doubt, questions amended in this way, must be delivered within the timescale referred to at paragraphs 29-30 above.

#### At the meeting

36. Questions will be dealt with in order of receipt subject to the Chairman's discretion to group together questions on the same or similar subject.
37. The Chairman may choose to take questions as read. However, if a questioner wishes to ask his or her question at the meeting, he or she will be given up to three minutes to ask each question. If the questioner prefers, the question may be asked on his or her behalf by his or her local division member if the local division member consents to this. If the questioner is not able to be present at the meeting and has not made arrangements for someone else to ask the question, the Chairman may ask the question on the questioner's behalf or indicate that a written reply will be given.
38. Subject to time constraints, questions which are submitted by the deadline will be answered at the meeting. However, the Chairman in consultation with the Monitoring Officer may refer a question to officers for a direct written response if they consider the question can be most appropriately handled in that way. Where a question is dealt with in this way, the questioner will be advised of this and provided with a response where possible within five working days of the meeting copied to all members of the council.
39. The relevant member of the Council or another member on their behalf will aim to provide a response in advance of, or at, the meeting and this will be followed up by a written copy of the response being sent to the questioner where possible within five working days of the meeting. Where it is not possible to provide a response at the meeting, a written response will be sent to the questioner where possible within five working days of the meeting.
40. Any questions which cannot be dealt with during the time allocated for questions will be dealt with by a written response sent to the questioner where possible within five working days of the meeting and copied to all members of the council.

#### Supplementary questions

41. For each question submitted, the questioner will be permitted to ask one supplementary question without notice which must be relevant to the original question or arise from the response given. The Chairman may reject the supplementary question on the grounds listed in paragraph 32 above (reasons for rejection). The person to whom the question has been put or another member on their behalf, shall answer the supplementary question if he or she is able to do so at the time. If this is not possible, a written response will be provided to the questioner where possible within five working days of the meeting.

#### Form of response

42. A response may take the following forms:

- a direct oral answer,
- where the answer is contained within a publication of the council or in any report or minutes by reference to those documents
- a written reply

#### No debate on questions

43. Ordinarily, no debate shall be allowed on questions presented or responses given. In exceptional circumstances only, the Chairman may allow discussion. No decision can be made arising from a question other than to refer it to council, cabinet or a committee by way of a motion which shall be moved, seconded and voted on without discussion.

#### Circulation of questions and responses

44. Upon receipt, copies of questions will be circulated to the Chairman and Vice-Chairman, Leader of the Council and to the member of council to whom the question is to be put and any other relevant councillors.

45. Copies of questions received in accordance with these rules will be provided to all councillors or members of the committee as appropriate prior to the meeting.

46. Copies of responses where available, will be circulated to councillors two days before the meeting unless this is not possible due to exceptional circumstances.

#### Record of questions

47. The minutes of the meeting shall record the name of the questioner (in respect of an organisation, the name of the organisation and the questioner's position within the organisation), the subject matter, and the name of the person replying.

#### Application at Planning Committees, Cabinet and Area Boards

48. In respect of public participation at the Strategic Planning Committee and Area Planning Committees, please refer to the Planning Code of Good Practice for Members of Wiltshire Council Protocol. (Protocol 4 to this constitution)

49. In respect of public participation at Cabinet meetings, please refer to Part 7- Cabinet Procedure Rules.

50. In respect of Area Boards where public engagement is welcomed and encouraged throughout the meeting, please refer to any procedure rules and guidance as issued from time to time by the Leader.

#### Councillors' Questions

51. A member of the Council may ask the Leader of the Council, any other member of the Cabinet or Chairman of a committee or sub-committee any question without notice on a report of the Cabinet, Cabinet member or a committee or sub-committee when that report is being received or under consideration by the Council.

#### Questions on notice

52. In respect of council meetings, a member of the council may ask

- the Chairman of Council
- Leader of the Council
- Cabinet member
- Chairman of a committee
- as appropriate, a question on any matter in relation to which the council has powers or duties or which affects the Council's administrative area at all ordinary meetings on matters which are not included in a report to the council.

53. In respect of committee meetings, a member of the council may ask a question of the Chairman of the committee a question on any matter in relation to the powers and duties of that committee at all ordinary meetings on matters which are not included in a report to that committee.

54. In the case of extraordinary meetings of council and committees, questions must relate to the subject(s) under consideration at the extraordinary meeting.

#### Notice of questions

55. In order to be guaranteed of receiving a written response prior to the meeting, questions must be delivered in writing or by electronic mail to the Proper Officer or their designated representative no later than 5pm nine clear working days before the meeting. ~~This means that for a meeting held on a Tuesday, questions must be received by 5pm Tuesday two weeks prior (less any intervening bank holiday).~~ The period of notice is to allow sufficient time for a written response to be formulated.

56. Any question received between the deadline in paragraph ~~54-55~~ and no later than 5pm four clear working days before the meeting, may only receive a verbal response at the meeting. This means for a meeting held on a Tuesday, questions must be received by 5pm Tuesday of the preceding week (less any intervening bank holiday). Any questions received after this date will be received at the next meeting.

57. In exceptional circumstances the Chairman may allow questions without the full period of notice having been given where he or she is satisfied there is sufficient justification. In these circumstances, there is no guarantee that a full or written



reply will be given at the meeting.

58. Notice of each question must include the name of the member asking the question and to whom the question is to be put and be listed in priority order

#### Scope of questions

59. The question must be relevant to the powers and duties of the Full Council/committee and be clear and concise. A question will be rejected where it:

- does not relate to a matter for which the Council/committee has a responsibility or which affects the council's administrative area
- is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper
- relates to any non determined planning or licensing application
- requires the disclosure of confidential or exempt information
- names or identifies individual service users, members of staff or members of staff of partner agencies
- Where a question submitted relates solely to operational issues unless the member does not receive a response from the relevant head or service or director or has not received a response they consider satisfactory.
- considered by the Chairman to be inappropriate for the particular meeting.

60. The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.

61. Where a question is rejected on the above grounds, the councillor shall be advised of the reasons for rejection. Time permitting, the councillor will be given an opportunity to submit an amended question that will be considered afresh against the criteria in paragraph 58-59 (reasons for rejection). For the avoidance of doubt, questions amended in this way, must be delivered within the timescale referred to at paragraph 54-5555-56 above.

#### At the meeting

62. No more than 20 supplementary questions will be answered at the meeting. Any question which receives a verbal response will also receive a written response from the appropriate member no later than five clear working days after the meeting and copied to all councilors or members of the committee as appropriate and also attached to the minutes.

63. Questions will be received in the order of receipt per member, but a member may not ask a second question until all other first questions from other members have been dealt with. The same principle applies to third and

subsequent questions subject to the Chairman's discretion.

64. Questions will be taken as read. If a councillor is not present to receive an answer to their question in the event they were to receive a verbal response, the Chairman may ask the question on the councillor's behalf or indicate that a reply will be given in writing within five working days of the meeting.

#### Supplementary question

65. For each question submitted, a councillor will be permitted to ask one supplementary question without notice which must be relevant to the original question or arise from the response given, subject to the limit of 20 questions presented at the meeting in paragraph 61. The Chairman may reject the supplementary question on the grounds listed in paragraph 58 above (reasons for rejection).

66. Subject to paragraph ~~62~~63, members should indicate prior to a meeting if they do not wish to ask a supplementary question to ensure that submitted question does not count toward the limit of 20 to be received at the meeting.

67. The person to whom the question has been put or another councillor on their behalf, shall answer the supplementary question if he or she is able to do so at the time. If this is not possible, a written response will be provided to the councillor where possible within five working days of the meeting.

#### Form of response

68. A response may take the following forms:

- a direct oral answer, unless the question has been submitted nine clear working days prior to the meeting
- where the answer is contained within a publication of the Council or in any report or minutes by reference to those documents
- a written reply

#### No debate on questions

69. Ordinarily, no debate shall be allowed on questions presented or responses given. In exceptional circumstances only the Chairman may allow discussion. No decision can be made arising from a question other than to refer it to council, cabinet or a committee by way of a motion which shall be moved, seconded and voted on without discussion.

#### Circulation of questions and responses

70. Upon receipt, copies of questions will be circulated to the Chairman and Vice-Chairman of Council or committee as appropriate, Leader of the Council and the member of council to whom the question is to be put and any other relevant councillors.

71. Copies of questions received in accordance with these rules will be provided to all councillors or members of the committee as appropriate prior to the meeting.
72. Copies of responses where available, will be circulated to councillors two days before the meeting unless this is not possible due to exceptional circumstances.
73. Copies of all questions and responses will be attached to the minutes of the meeting.

#### Record of questions

74. The minutes of the meeting shall record the name of the councillor asking the question, the subject matter, and the name of the councillor replying.

#### **Motions on notice**

##### Notice

75. Except for motions which can be moved without notice under paragraph [9495](#), written notice of every motion signed by at least two members of council must be delivered to the Proper Officer no later than ten clear working days before the date of the meeting. This is to ensure that where appropriate a report is prepared to assist Council in its consideration of the motion.
76. In exceptional circumstances and in cases of urgency, the Chairman may accept motions without the full period of notice having been given.
77. Delivery can be by electronic means provided that the Proper Officer is satisfied that it has been sent by the councillors concerned.
78. Notices of motion may be moved at the Annual Meeting or any ordinary meeting of the Council.
79. Notices of motion may be moved at extra-ordinary meetings of the Council but only if the notice of motion relates to the subject matter of that extra-ordinary meeting.
80. There is no limit on the number of notices of motion that may be submitted to each meeting. However, the Chairman will apply this rule in the context of the length of the agenda to ensure proper conduct of the business to be transacted.

##### Scope

81. Motions must be clear and concise and be about matters for which the council has a responsibility or which affect the council's administrative area.
  - Motions will be rejected where they:
  - do not relate to a matter for which the council has a responsibility or

which affect the council's administrative area or those living in that area

- are defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper
- relate to any non determined planning or licensing application
- name or identify individual service users, members of staff or members of staff of partner agencies
- considered by the Chairman to be inappropriate for the particular meeting or undermines the purposes of the constitution.

82. The Chairman's ruling on rejection of a motion will be final following consultation with the Monitoring Officer.

83. Where a motion is rejected, the councillors concerned will be advised as soon as possible giving reasons for rejection. Where time permits, the councillors concerned may submit an amended motion which will be considered afresh against the criteria in paragraph [77-78above](#). For the avoidance of doubt, motions amended in this way must be delivered within the timescale referred to at paragraph [71-72above](#).

#### Recording of motions

84. On receipt of notices of motion received in accordance with these rules, the Proper Officer will enter the details of the motion and the time and date of receipt in a book. This book shall be open for inspection by members of the public during normal office hours.

85. Motions received in accordance with these rules will be listed on the agenda in the order in which notice was received subject to the Proper Officer's discretion to group together motions on the same or similar subject, unless the councillors giving notice state in writing that they propose to move it to a later meeting or withdraw it.

#### At the meeting

86. The Chairman will invite the proposer, or one of the councillors, who has given notice of the motion to move the motion. Where these councillors are not available at the meeting, the motion can be moved and seconded by any other councillors. The cabinet member will also have the opportunity to respond to points raised during the debate, before the mover of the motion exercises their right of reply.

87. A notice of motion must be moved at the meeting, it must then be seconded. If the motion is not moved and seconded, it will, unless postponed by consent of the Council, be treated as abandoned and may not be moved without fresh notice.

88. Once moved and seconded at the meeting, the councillor proposing the motion will be given up to five minutes in which to present his or her motion.

89. The Chairman will give the relevant cabinet member an opportunity to respond to the motion giving him or her up to five minutes in which to do so.

90. On considering a notice of motion and subject to paragraphs ~~88-93~~89-94 below, the following options shall then be open to the council:

- debate the motion and vote on it
- refer it to an appropriate member body with or without debate
- refer it to the Leader of Council with or without debate

91. The Chairman will move that the motion either be debated on the day or referred to the appropriate member body. This will be seconded by the Vice-Chairman of Council or in his or her absence, another member of the council and put to the vote without discussion. On the question of referring the motion to an appropriate member body, the only amendment the Chairman will accept is to which member body the motion should be referred.

92. If the motion relates to a function exercisable only by the council then the council will debate the motion and on consideration of a report, determine the motion or refer it to a future meeting of the Council.

93. If the motion relates to a function that has been delegated to another member body then the council will vote without debate on whether to refer the motion to that member body.

94. If referred to another member body that member body must consider the motion at its next available meeting. The mover and seconder of the motion will be invited to attend that meeting if they are not already members of that body in order to present their motion but will not be able to vote unless they have voting rights. The member body must report back to the council as soon as practicable by way of the minutes of that meeting.

95. If the notice of motion is referred to another member body following debate at council, a summary of the debate at council together with any recommendation will be taken into account by the member body when considering the motion.

96. If the notice of motion relates to an executive function, the motion will be referred to the Leader of the Council. The Leader will write to the proposers of the motion with a copy to all members of the council, advising them what steps he or she proposes to take.

97. Any decision of council arising from a motion must comply with the principles of

decision making as set out in Part 2, paragraph 13.2 of this Constitution.

### Motions without notice

98. The following motions may be moved without notice:

- to appoint a Chairman of the meeting at which the motion is moved
- in relation to the accuracy of the minutes
- to change the order of business in the agenda
- to refer something to an appropriate body or individual
- to appoint a committee or member arising from an item on the summons for the meeting
- to receive reports or adoption of recommendations of committees or officers and any resolutions following from them
- to withdraw a motion
- to amend a motion
- to proceed to the next business
- that the question be now put
- to adjourn a debate
- to adjourn a meeting
- to suspend a particular council procedure rule capable of being suspended
- to exclude the public and press in accordance with the access to information procedure rules
- not to hear further a member named under paragraph 14~~5~~<sup>4</sup> or to exclude them from the meeting under paragraph ~~145~~<sup>146</sup>
- to give the consent of the council where its consent is required by this constitution.

### **Rules of debate**

#### No speeches until motion seconded

99. Once the mover has moved a proposal and explained its purpose, the motion must be seconded before any speeches may be made.

#### Right to require motion in writing

100. Unless notice of the motion has already been given, the Chairman may require it to be written down and handed to him/her before it is discussed.

#### Seconder's speech

101. When seconding a motion or amendment, a member may reserve their speech until later in the debate.

### Content and length of speeches

102. Speeches must be directed to the question under discussion or to a personal explanation or point of order. No speech may exceed five minutes without the consent of the Chairman.

### When a Councillor may speak again

103. A councillor who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- to speak once on an amendment moved by another member
  - to move a further amendment if the motion has been amended since he/she last spoke
  - if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried)
  - in exercise of a right of reply
  - on a point of order
  - by way of personal explanation.

### Amendments to motions

104. An amendment to a motion must be relevant to the motion and will be one of the following:
- to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - to leave out words;
  - to leave out words and insert or add others or;
  - to insert or add words
  - as long as the effect of the amendments is not to negate the motion.
105. Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
106. If an amendment is not carried, other amendments to the original motion may be moved.
107. If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
108. After an amendment has been carried, the Chairman will read out the amended motion before accepting any further amendments, or if there are none, put it to the

vote.

#### Alteration of motion

109. A Councillor may alter a motion of which he/she has given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
110. A Councillor may alter a motion which he/she has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
111. Only alterations which could be made as an amendment may be made.

#### Withdrawal of motion

112. A Councillor may withdraw a motion which he/she has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Councillor may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

#### Right of reply

113. The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
114. If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.
115. The mover of the amendment has no right of reply to the debate on his or her amendment.

#### Motions which may be moved during debate

116. When a motion is under debate, no other motion may be moved except the following procedural motions:
- to withdraw a motion
  - to amend a motion
  - to proceed to the next business
  - that the question be now put
  - to adjourn a debate
  - to adjourn a meeting
  - to exclude the public and press in accordance with the Access to Information Procedure Rules and
  - not to hear further a member named under paragraph [144145](#), or to exclude them from the meeting under paragraph [145146](#).



## Closure motions

117. A Councillor may move, without comment, the following motions at the end of a speech of another Councillor:
- to proceed to the next business
  - that the question be now put
  - to adjourn a debate or
  - to adjourn a meeting.
118. If a motion to proceed to next business is seconded and the Chairman thinks the item has been sufficiently discussed, he or she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.
119. If a motion that the question be now put is seconded and the Chairman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.
120. If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

## Point of order

121. A Councillor may raise a point of order at any time. The Chairman will hear them immediately. A point of order may only relate to an alleged breach of these council rules of procedure or the law. The Councillor must indicate the rule or law and the way in which he/she considers it has been broken. The ruling of the Chairman on the matter will be final.

## Personal explanation

122. A Councillor may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Councillor which may appear to have been misunderstood in the present debate. The ruling of the Chairman on the admissibility of a personal explanation will be final.

## **Previous decisions and motions**

### Motion to rescind a previous decision

123. A motion or amendment to rescind a decision made at a meeting of council within the past six months cannot be moved unless the notice of motion is signed by at least 10 Councillors (or a quarter of the members of a committee).

### Motion similar to one previously rejected

124. A motion or amendment in similar terms to one that has been rejected at a meeting of council in the previous six months cannot be moved unless the notice of motion or amendment is signed by at least 10 members (or a quarter of the members of a committee). Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **Voting**

#### Majority

125. Unless this constitution provides otherwise, any matter will be decided by a simple majority of those Councillors voting and present in the room at the time the question was put (Local Government Act 1972, Schedule 12, paragraph 39(1)).

#### Chairman's casting vote

126. If there are equal numbers of votes for and against, the Chairman will have a second or casting vote. There will be no restriction on how the Chairman chooses to exercise a casting vote (Local Government Act 1972, Schedule 12, paragraph 39(2)).

#### Affirmation

127. Unless a ballot or recorded vote is taken under paragraphs ~~125-128~~ and ~~126~~129, the Chairman will take the vote by ~~by~~ the affirmation of the meeting.

#### Ballots

128. The vote will take place by ballot if 10 members (or a quarter of the members of a committee) present at the meeting demand it or at the Chairman's discretion. The Chairman will announce the numerical result of the ballot immediately the result is known.

#### Recorded vote

129. With the exception of the ~~following~~ paragraph 130, if 10 Councillors (or a quarter of the members of a committee) present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be recorded in the minutes. A demand for a recorded vote will override a demand for a ballot.

130. Recorded votes shall be taken on all decisions in respect of setting the authority's budget and determining the level of council tax to be levied. The names for and against the motion or amendment or abstaining from voting on these matters will be recorded into the minutes.

#### Right to require individual vote to be recorded

131. Where any Councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the

motion or abstained from voting (Local Authorities (Standing Orders) Regulations 1993, Schedule 2, paragraph 1(1)).

#### Voting on appointments

132. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

### **Minutes**

#### Signing the minutes

133. The Chairman will sign the minutes of the proceedings at the next suitable meeting (Local Government Act 1972, Schedule 12, paragraph 41(1)). The Chairman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### No requirement to sign minutes of previous meeting at extraordinary meeting

134. Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of schedule 12 to the Local Government Act 1972 (an extraordinary meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of schedule 12 relating to signing of minutes.

#### Form of minutes

135. Minutes will contain all motions and amendments in the exact form and order the Chairman put them.

#### Record of Attendance

136. All Councillors present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance (Local Government Act 1972, Schedule 12, paragraph 40).

#### Exclusion of Public

137. Members of the public and press may be excluded only either in accordance with the Access to Information Rules in Part 5 of this constitution (Local Government Act 1972 s.100A and Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012 reg 4) (2)) or paragraph 147 (disturbance by public).

#### Councillors' attendance

138. Subject to paragraph ~~439~~140, if a member of the council fails throughout a period of six consecutive months from the date of his or her last attendance to attend any meeting of the council, he or she shall, unless the failure was due to some reason approved by the council before the expiry of that period, cease to be a member of the council (Local Government Act 1972 s.85(1)).

139. Attendance as a member at a meeting of any committee, sub-committee, area board, panel or working party of the council, or at a meeting or any joint committee, joint board or other body by whom for the time being any functions of the council are being discharged, or which was appointed to advise the council on any matter relating to the discharge of its functions and attendance as the council's representative on an outside body shall be deemed to be attendance (Local Government Act 1972 s.85(2)).

140. Any person (not being a member of the council) appointed by the council or a committee to serve on a committee, sub-committee or panel who is absent from all meetings of such committee, sub-committee or panel for a continuous period of six months except for some reason approved by the committee, sub-committee or panel before the expiry of that period shall at the end of that period cease to be a member of that committee, sub-committee or panel.

141. If a member of the cabinet fails throughout a period of six consecutive months from the date of his or her last attendance, to attend any meeting of the cabinet, he or she shall, unless the failure was due to some reason approved by the council before the expiry of that period, cease to be a member of the council (Local Government Act 1972 s.85(2A)).

#### Standing to speak

142. When a Councillor speaks at Full Council he/she must stand and address the meeting through the Chairman. If more than one Councillor stands, the Chairman will ask one to speak and the others must sit. Other Councillors must remain seated whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation.

#### Chairman standing

143. When the Chairman stands during a debate, any Councillor speaking at the time must stop and sit down. The meeting must be silent.

#### Councillor not to be heard further

144. If a Councillor persistently disregards the ruling of the Chairman by behaving improperly, or offensively, or deliberately obstructs business, the Chairman may move that the Councillor not be heard further. If seconded, the motion will be voted on without discussion.

#### Councillor to leave the meeting

145. If the Councillor continues to behave improperly after such a motion is carried,

the Chairman may move that either the Councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

#### General disturbance

146. If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she thinks necessary (Public Bodies (Admission to Meetings) Act 1960 s.1(8)).

#### **Disturbance by public**

##### Removal of member of the public

147. If a member of the public interrupts proceedings, or their behavior or attire is deemed by the Chairman to cause offence, the Chairman will warn the person concerned. If they continue to interrupt or continue to cause offence, the Chairman may order their removal from the meeting room (Local Government Act 1972 s.100A(8)) following consultation with the Monitoring Officer or their designated representative.

##### Clearance of part of meeting room

148. If there is a general disturbance in any part of the meeting room open to the public, the Chairman may call for that part to be cleared (Local Government Act 1972 s.100A(8)).

#### **Suspension and amendment of Council procedure rules**

##### Suspension

149. All of these Council rules of procedure except paragraphs 131 and 133 may be suspended by motion on notice, or without notice, if at least one half of the whole number of members of the council are present. Suspension can be only for the duration of the meeting (Local Government Act 1972, Schedule 12, paragraph 42).

##### Amendment

150. Any motion to add to, vary or revoke these Council rules of procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the council.

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## STANDARDS COMMITTEE FORWARD PLAN 2016

<u>Meeting Date</u>	<u>Items</u>	<u>Councillors Briefing</u>	<u>Council Date</u>
<u>29 June 2016</u>	Constitutional Changes - Part 11 Procurement Regulations Constitutional Changes - Part 9 Finance Regulations Annual Governance Statement Review of Whistleblowing Policy	<u>7 July 2016</u>	<u>12 July 2016</u>
<u>28 September 2016</u>	Status Report on Complaints Constitutional Changes - Protocol 4 Planning Code	<u>13 October 2016</u>	<u>18 October 2016</u>
<u>Future Items</u>	Review of Co-opted members Code of Conduct Training (Parish Councils)		

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