

# AGENDA SUPPLEMENT (1)

**Meeting:** Standards Committee

**Place:** Kennet Room - County Hall, Bythesea Road, Trowbridge, BA14 8JN

**Date:** Wednesday 19 April 2023

**Time:** 2.30 pm

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**The Agenda for the above meeting was published on 11 April 2023. Additional documents are now available and are attached to this Agenda Supplement.**

Please direct any enquiries on this Agenda to Lisa Alexander of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01722 434560 or email [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@wiltshire.gov.uk)

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

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

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6 **Status Report on Code of Conduct Complaints** *(Pages 3 - 8)*

7 **Dispensations Policy** *(Pages 9 - 16)*

8 **Constitutional Changes** *(Pages 17 - 278)*

DATE OF PUBLICATION: 13 and 15 April 2023
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**Wiltshire Council**

**Standards Committee**

**19 April 2023**

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## **Code of Conduct Complaints – Status Report**

### **Purpose**

1. To provide an update on the Code of Conduct complaints received by the council since the Committee's last meeting.

### **Statutory background**

2. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
  - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
  - The registration and disclosure of pecuniary and other interests.
3. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a town or parish council within the council area, has failed to comply with the relevant code of conduct.

### **Council Code of Conduct procedures**

4. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
5. On receipt of such a complaint the Monitoring Officer will consider the complaint and, if appropriate, prepare a report for the Assessment Sub-Committee (ASC). The Monitoring Officer (MO) may at this point decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
6. Valid code of conduct complaints are determined by the Assessment Sub-Committee, following receipt of the report from the Monitoring Officer. The Assessment Sub-Committee may conclude that no further action should be taken, it may refer the complaint for investigation, or it may recommend that an alternative resolution be explored with the parties.
7. If the Assessment Sub-Committee determines that a formal investigation should be undertaken, an Investigating Officer is appointed by the Monitoring Officer. If the recommendation of the Investigating Officer is that there has been a substantial

breach of the Code of Conduct, and that alternative resolution is not appropriate, then the Monitoring Officer, after consultation with the Independent Person, will refer the matter to a Standards Hearing Sub-Committee.

8. The Standards Hearing Sub-Committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council.
9. There is no right of appeal of the decision of the Assessment Sub-Committee or the Hearing Sub-Committee.
10. The Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

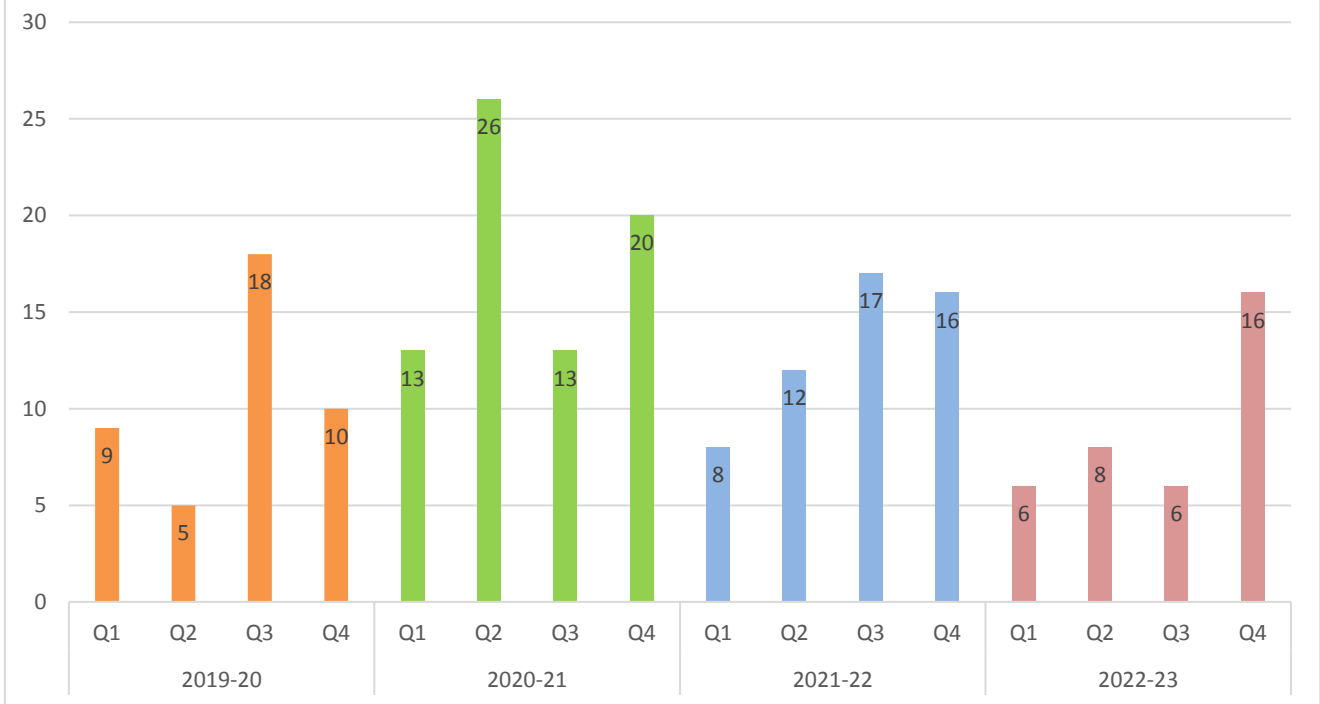
### **Summary of committee meetings**

11. The last Standards Committee meeting took place on 5 October 2022. Since that meeting there have been:
  - 4 meetings of the Standards Assessment Sub-Committee;
  - 0 meetings of the Standards Hearing Sub-Committee.
12. The next meeting of the Standards Assessment Sub-Committee is scheduled for 18 April 2023.

### **Summary of complaints received since 27 September 2022 (following publication of the 5 October 2022 meeting agenda)**

13. Between 27 September 2022 and 5 April 2023, the Monitoring Officer received **22 complaints** under codes of conduct:
  - 7 were determined No Further Action by Assessment Sub-Committee;
  - 6 were determined No Further Action by the Monitoring Officer;
  - 1 was resolved via Informal Resolution;
  - 2 were referred for Investigation by Assessment Sub-Committee;
  - 1 was dismissed as 'out of time' by the Monitoring Officer.
  - 2 are to be determined by Assessment Sub-Committee on 18 April 2023;
  - 3 await initial assessment by the Monitoring Officer at the time of writing;
14. The Monitoring Officer determines No Further Action under paragraph 4.6 of Protocol 11 – Arrangements for dealing with Code of Conduct Complaints. This is applied where the Monitoring Officer determines that, on the information available, the complaint appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest for further action to be taken, including particularly the efficient use of resources.
15. **Chart 1** shows the code of conduct complaints received since 2019:

**Chart 1 - Code of Conduct complaints received 2019-23**



Quarterly average: 11  
2019-20 total: 42

Quarterly average: 18  
2020-21 total: 72

Quarterly average: 13  
2021-22 total: 52

Quarterly average: 9  
2022-23 total: 36

### Types of complaint

14. The 22 code of conduct complaints received between 27 September 2022 and 5 April 2023 can be broken down as follows:

NFA = No Further Action  
 IR = Informal Resolution  
 RFI = Referred for Investigation  
 MO = Monitoring Officer  
 ASC = Assessment Sub-Committee

- 6 were complaints against **Wiltshire Councillors**, for the following reasons:
  - Not acting on an issue of public safety (NFA by ASC)
  - Bullying and harassment (IR by MO)
  - Comments in an email (NFA by MO)
  - Comments regarding a neighbourhood dispute (to be assessed)
  - Not responding to emails (NFA by MO)
  - Not declaring an interest at a committee meeting (to be assessed)
- 5 were against **city councillors**;
  - Conflicts of interest regarding a charity (NFA by ASC)
  - Comments on social media (4) (2 x NFA by MO, 2 x to be assessed)
- 1 was against a **town councillor**:

- Misuse of position to obtain a confidential document (NFA by MO)
- 10 were against **parish councillors**:
  - Interests and meeting behaviour (RFI by ASC)
  - Threatening behaviour (NFA by ASC)
  - Bullying, disrespect, integrity and use of council resources (2) (NFA by ASC)
  - Email comments (NFA by ASC)
  - Email comments and chairing of a meeting (NFA by ASC)
  - Council staff resignations (NFA by MO)
  - Gendered language and inappropriate laughing (NFA by ASC)
  - Untrue statements about a charity (RFI by ASC)
  - Cutting a hedge without permission (to be assessed)

### **Complaint resolution speed**

16. Under Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, the council aims to assess all such complaints within **5 working days** of receiving the subject member’s response. This is a challenging target as complaints can be complex, require legal input and include a large amount of background information that must be reviewed.
17. During the period reported, **6 complaints** were assessed by or on behalf of the Monitoring Officer, within **an average of 11 working days**. The delays have been due to these complaints all being received within a compressed period.
18. Complaints referred to Assessment Sub-Committee cannot usually meet the 5 working day timescale for assessment due to the need for a scheduled meeting. However, the council endeavours to inform complainants and subject members that the complaint will be assessed in this way, and of the meeting date, as quickly as possible. During the period reported, **12 complaints** have been assessed or allocated for assessment by the Assessment Sub-Committee, with the parties informed of the Assessment Sub-Committee meeting date after an average of **4 working days** from the Subject Member’s response being received.
19. All **12** of the complaints assessed by Assessment Sub-Committee were considered at the next scheduled meeting after the Subject Member’s response was received (taking into account the required notice period regarding agenda publication).
20. **2** complaints were referred for investigation during this period. One investigation was completed after **50 working days**. The target timescale set out in Protocol 11 is **45 working days**. In this case, starting the investigative process was delayed due to one of the parties involved being unavailable for several weeks due a family issue. The other investigation commenced on 6 April 2023 and is ongoing.

### **Dip Sampling**

15. A table of current cases was provided to the Chairman of Standards Committee on 6 December 2022, 11 January 2023, 14 February 2023 and 4 March 2023 for a dip

sample to be undertaken to enable oversight.

### **Proposal**

16. The Committee are asked to note the current position on code of conduct complaints.

**Perry Holmes, Director of Legal & Governance and Monitoring Officer**

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Report Author: Henry Powell, Democracy and Complaints Manager,  
[complaints@wiltshire.gov.uk](mailto:complaints@wiltshire.gov.uk)

### **Appendices**

None.

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## Wiltshire Council

### Standards Committee

19 April 2023

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## Dispensation Policy

### Purpose of Report

1. This report asks the Standards Committee to approve an updated version of the Dispensations Policy relating to Member Interests.

### Background

2. The Council may grant dispensations under S.33(2) of the Localism Act 2011, to enable Members to take part in business for which they would otherwise be prohibited under the Code of Conduct or by law.
3. The Standards Committee has responsibility for granting dispensations to elected and Co-Opted Members as set out in Paragraph 2.5.7 of Part 3B of the Constitution.
4. At its meeting on 18 October 2022 Full Council adopted a revised Code of Conduct and Guidance. This provided additional categories of disclosable interests, which would necessitate some updates to the Dispensations Policy.

### Main Considerations

5. Under present arrangements any requests for a dispensation relating to an interest must be determined by a Dispensation Sub-Committee.
6. Prior to adoption of the revised Code of Conduct, dispensations could only have been requested for Disclosable Pecuniary Interests (DPI), where involvement without a dispensation would be a criminal offence.
7. The new Code defines other categories of interest, namely Other Registerable Interests (ORI) and Non-Registerable Interests (NRI). The Local Government Association advises that a similar process as that provided by S.33 should be applied in respect of these categories of lesser interests. The Policy therefore specified that it applies to all three categories.
8. ORIs includes membership of a city, town or parish council. In the case of Area Boards, all or nearly all Members of some Boards would therefore have such an interest to declare. However, the Code also requires Members to leave the room for final debate and voting for all three categories of interest. Without a dispensation, this would result in many meetings being inquorate.
9. To convene a Dispensation Sub-Committee requires at least 5 clear working days. Given the number of dispensations that may be required or considered reasonable and appropriate, it is proposed that the Dispensations Policy allow instead for the Monitoring Officer to approve requests for ORIs, NRIs, and urgent DPis. This would require

amendment to the current constitution, which is proposed in a separate report also to be taken to this meeting.

10. The remainder of the Policy sets out timescales by which Members are advised or mandated to submit their requests, the reasons by which a dispensation may be granted, considerations to be taken by a Sub-Committee or the Monitoring Officer when determining a request, and the scope of any determination which may be granted.

11. The Policy is included at **Appendix A**.

#### **Overview and Scrutiny Engagement**

12. Not applicable.

#### **Safeguarding Implications**

13. There are no safeguarding implications.

#### **Public Health Implications**

14. There are no public health implications.

#### **Procurement Implications**

15. There are no procurement implications at present.

#### **Equalities Impact of the Proposal**

16. There are no equalities implications.

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

17. There are no environmental or climate change implications.

#### **Risks that may arise if the proposed decision is not taken**

18. The policy would be out of date and lead to confusion.

#### **Risks that may arise if the proposed decision is taken**

19. No risks have been identified.

#### **Finance Implications**

20. There are no financial implications arising from this report.

#### **Legal Implications**

21. There are no legal implications.

## **Workforce Implications**

22. There are no workforce implications.

## **Conclusion**

23. The proposed revisions update the policy in accordance with recent decisions of council and provide clear guidance on how dispensations should be considered and determined.

## **Proposal**

24. To approve the revised Dispensation Policy as set out in **Appendix A**.

## **Perry Holmes - Director, Legal and Governance**

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Report Author: Kieran Elliott, Democracy Manager (Democratic Services)

11 April 2023

## **Appendices**

Appendix A – Dispensation Policy

## **Background Papers**

None

## **Wiltshire Council Dispensation Policy**

### **Introduction**

1. The Standards Committee is responsible for determining requests for dispensation by Members of Wiltshire Council under Section 33(2) of the Localism Act 2011.
2. This note explains:
  - the purpose and effect of dispensations;
  - the procedure for requesting dispensations;
  - the criteria which the Standards Committee apply in determining dispensation requests;

### **Dispensations**

3. In certain circumstances Members may be granted a dispensation which enables them to take part in Council business where this would otherwise be prohibited under the Code of Conduct or by law.
4. Provided Members act within the terms of their dispensation there is deemed to be no breach of the Code of Conduct.
5. Members may request a dispensation relating to Disclosable Pecuniary Interests, Other Registerable Interests, and Non-Registerable Interests, as defined in Part 12 of the Constitution – Members' Code of Conduct.
6. Under Para 2.5.7 of Part 3B of the Constitution the Standards Committee is responsible for granting dispensations.
7. Under Para 2.5.17 of Part 3B a Dispensation Sub-Committee will determine requests for dispensation relating to Disclosable Pecuniary Interests.
8. Under Paras 2.5.18-2.5.19 of Part 3B the Monitoring Officer has authority to determine requests for dispensation relating to Other Registerable Interests, Non-Registerable Interests, and urgent requests for Disclosable Pecuniary Interests.
9. The Monitoring Officer and any Dispensation Sub-Committee will determine requests for dispensation in accordance with this procedure, which has been approved by the Standards Committee.

### **Process for Making Requests**

10. Any Member who wishes to apply for a dispensation must complete the attached form at Appendix A and submit it for attention of the Monitoring Officer.
11. In order to avoid delay Members must ensure that they give full details of the grounds for their request and are advised to submit it for attention of the Monitoring Officer as soon as they become aware that a dispensation is necessary.
12. For a Disclosable Pecuniary Interest this should be submitted at least 15 clear working

days before the meeting for which the dispensation is required. For other types of interest it is requested that Members submit any request as soon as practical in advance of a meeting, where possible at least 10 clear working days in advance and not later than 3 clear working days in advance. However, the Monitoring Officer may determine urgent requests relating to Other Registerable Interests and Non-Registerable Interests relating to a matter that cannot reasonably be delayed or appropriately determined by another method.

13. The Monitoring Officer will arrange a meeting of the Dispensation Sub-Committee to consider requests relating to Disclosable Pecuniary Interests at the earliest opportunity.
14. In accordance with Para 2.5.19 of Part 3B, in the event a Disclosable Pecuniary Interest dispensation request from a Member is received where there is insufficient time to convene a Dispensations Sub-Committee, and in relation to a matter which is urgent and cannot reasonably be delayed or appropriately determined by another method, the Monitoring Officer will have authority to determine the request.
15. A request for dispensation must be made on an individual basis. Group applications are not permitted.
16. Meetings of the Dispensation Sub-Committee will normally be open to the public, except in the case of a sensitive interest, and any member who has submitted a request will have the opportunity to attend and make representations in support of their application.

#### **Criteria for Determination of Requests**

17. In accordance with S33 of the Localism Act 2011 the Dispensation Sub-Committee or Monitoring Officer may grant a dispensation where they:
  - a) considers that without the dispensation the number of persons prohibited from participating in any particular business would be so great a proportion of the body transacting the business as to impede the transaction of the business;
  - b) considers that without the dispensation the representation of different political groups on the body transacting any particular business would be so upset as to alter the likely outcome of any vote relating to the business;
  - c) considers that granting the dispensation is in the interests of persons living in the authority's area;
  - d) considers that without the dispensation each member of the authority's executive would be prohibited from participating in any particular business to be transacted by the authority's executive; or,
  - e) considers that it is otherwise appropriate to grant a dispensation.
18. In reaching a decision on a dispensation request the Dispensation Sub-Committee or Monitoring Officer will consider each request on its own merits and take into account:
  - a) the nature of the member's interest;

- b) the need to maintain public confidence in the conduct of the Council's business:
- c) the need for efficient and effective conduct of the Council's business;
- d) any other relevant circumstances.

### **Terms of Dispensation**

19. The Dispensation Sub-Committee or Monitoring Officer may grant a dispensation:

- a) for one meeting; or,
- b) for a period not exceeding 4 years.

20. Dispensations may be granted to allow the Member:

- a) to participate in discussion of the matter to which the interest relates;
- b) to participate in the vote on the matter to which the interest relates.

21. If a dispensation is granted the Member may remain in the room during consideration of the matter to which the interest relates.

### **Notification of Decision**

22. The Monitoring Officer will notify the Member of their or the Sub-Committee's decision and reasons in writing at the earliest opportunity and in any event within 5 working days of the meeting.

23. Any Member who has been granted a dispensation must declare the existence, nature and extent of the dispensation before the commencement of any business to which it relates.

24. A copy of the dispensation will be retained by the council with the Register of Members' Interests and made publicly available.

## Request for a Dispensation

*Please complete the following details and give as much information as possible.*

- 1. Please summarise the matter to which your interest relates:**
  
  
  
  
  
  
  
  
  
  
- 2. What is the nature of your interest?**
  
  
  
  
  
  
  
  
  
  
- 3. For which meeting(s) or period are you seeking a dispensation?**
  
  
  
  
  
  
  
  
  
  
- 4. Please set out in detail the reason(s) why you consider you should be granted a dispensation.**

Name	Date

When completed this form should be sent for attention of the Monitoring Officer at [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk)

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## Wiltshire Council

### Standards Committee

19 April 2023

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## Proposed Changes to the Constitution

### Purpose of Report

1. This report asks the Standards Committee to consider proposed changes to the following sections of the Constitution:
  - Part 1 – Summary and Contents
  - Part 2 – Articles of the Constitution
  - Part 3 – Responsibility for Functions and Schemes of Delegation
  - Part 4 – Council Rules of Procedure
2. The Standards Committee is asked to make recommendations as it considers appropriate to Full Council.

### Background

3. The Standards Committee has responsibility for oversight of the Council's constitution and making recommendations to Council.
4. The Standards Committee has established the Constitution Focus Group to review sections of the Constitution and present it with proposals to consider.
5. The Focus Group met on 26 September 2022, 7 March, 4 April, and 11 April 2023.

### Main Considerations

#### Part 1

6. The current Part 1 of the Constitution is titled as Summary and Explanation. In practice it only summarised limited sections of the wider constitution, and duplicated details set out elsewhere.
7. In reviewing Part 1, the Focus Group determined it would be more useful as an introductory section to list every Part of the Constitution, and in particular highlight the purpose of each section. This would better enable Members, Officers, and the Public, to have an understanding of what each contained.
8. The Part has therefore been entirely rewritten, with the only major piece of information, relating to key decisions, moved into Part 2, which was a more appropriate placement for the information.
9. The revised Part 1 is set out in **Appendix A**.

#### Part 2

10. Part 2 sets out major rules and statutory responsibilities for the rest of the Constitution.

11. The Focus Group propose changes as set out in **Appendix B** including:

- Updating references relating to the business plan;
- General clarifications and changes in order to be consistent;
- Inclusion of Key Decision definitions;
- Further details relating to Overview and Scrutiny;
- Management structure and statutory post updates.

12. A tracked change and clean version of the proposed Part 2 is included.

### Part 3

13. Part 3 includes details of the terms of reference for council committees, schemes of delegation, and other decision making processes.

14. The Focus Group propose changes as set out in **Appendix C** including:

- Adjustments to terms of reference of committees for clarity and consistency;
- Minor clarifications relating to schemes of delegation;
- Updates in relation to Area Boards procedure following completion of the Area Board handbook;

15. Specific changes are also proposed in relation to determining requests for dispensations relating to Member Interests.

16. Following approval of Part 12 of the Constitution on 18 October 2022 Members are required to seek dispensations relating to Other Registerable Interests and Non-Registerable Interests in order to remain in a meeting room. This had a particular impact for Area Boards, where in some cases every or nearly every Member would not be able to remain in the room without a dispensation being granted, for example due to membership of local town or parish councils. A Dispensation Sub-Committee, as a formal Sub-Committee, could only meet to consider a dispensation request after 5 clear working days notice.

17. In order to expedite such requests, it is proposed that only requests for dispensations relating to Disclosable Pecuniary Interests remain for decision by a Dispensation Sub-Committee, as was already previously the case. Request for dispensation relating to Other Registerable Interests and Non-Registerable Interests would be determined by the Monitoring Officer.

18. A tracked change and clean version of the proposed Part 3 is included.

### Part 4

19. Part 4 sets out rules of procedure for Full Council and most council committees.

20. The Focus Group propose changes as set out in **Appendix D** including:

- General clarifications and consistency updates;
- Guidance on notices of motion and council questions;
- Procedural clarifications on debate processes.

21. A revised schedule to expand indemnity to include Members as well as officers is also included, subject to any further comments from the Focus Group ahead of the meeting.
22. A tracked change and clean version of the proposed Part 3 is included.

### **Overview and Scrutiny Engagement**

23. A representative from the Overview and Scrutiny Management Committee is appointed to the Constitution Focus Group.

### **Safeguarding Implications**

24. There are no safeguarding implications.

### **Public Health Implications**

25. There are no public health implications.

### **Procurement Implications**

26. There are no procurement implications at present.

### **Equalities Impact of the Proposal**

27. There are no equalities implications.

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

28. There are no environmental or climate change implications.

### **Risks that may arise if the proposed decision is not taken**

29. The Constitution would remain out of date or not as effective as it could be.

### **Risks that may arise if the proposed decision is taken**

30. No risks have been identified.

### **Finance Implications**

31. There are no financial implications arising from this report.

### **Legal Implications**

32. There are no legal implications.

### **Workforce Implications**

33. There are no workforce implications.

## **Conclusions**

34. The Focus Group has engaged with officers and met on several occasions to propose minor and significant changes to ensure the Constitution continues to be effective.

## **Proposal**

35. To recommend Full Council approve changes to the following sections of the Constitution:

- Part 1 – Summary and Contents
- Part 2 – Articles of the Constitution
- Part 3 – Responsibility for Functions and Schemes of Delegation
- Part 4 – Council Rules of Procedure

## **Perry Holmes - Director, Legal and Governance**

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Report Author: Kieran Elliott, Democracy Manager (Democratic Services)

## **Appendices**

Appendix A – Proposed Part 1 of the Constitution

Appendix B1 – Proposed Part 2 of the Constitution (clean version)

Appendix B2 – Proposed Part 2 of the Constitution (tracked changes version)

Appendix C1 – Proposed Part 3 of the Constitution (clean version)

Appendix C2 – Proposed Part 3 of the Constitution (tracked changes version)

Appendix D1 – Proposed Part 4 of the Constitution (clean version)

Appendix D2 – Proposed Part 4 of the Constitution (tracked changes version)

## **Background Papers**

None

**Wiltshire Council  
Constitution  
Part 1  
Summary and Contents**

# SUMMARY

Wiltshire Council is the principal local authority for most of the county of Wiltshire, with the exception of the area represented by Swindon Borough Council. It is also referred to as a Unitary Authority, as it is responsible for all principal local government functions within its area. It is responsible for more than 300 services, such as adult social care, looked-after children, and highways maintenance. The Council was formed in 2009 from a merger of Wiltshire County Council and the four district councils: Kennet, North Wiltshire, Salisbury, and West Wiltshire.

Wiltshire Council is made up of 98 Councillors, also known as Members. Each Member represents a specific Electoral Division, but is also responsible for the wider community. Each also sits on an Area Board, which is a committee based on a small geographic area, to provide a focus for community leadership, local influence, and delegated decision making.

Wiltshire Council operates a Leader and Cabinet model. This means that the Members appoint a Leader of the Council, who is responsible for carrying out the functions of the Council which are not the responsibility of some other part of the local authority. The Leader then appoints other Members to the Cabinet to assist in that role.

This Constitution sets out how the Council operates, how decisions are made, and what procedures have to be followed. It details the powers and responsibilities of the Council and of its Committees, Members, and Officers. This summary and contents will provide a description of each section of the Constitution.

There are also 253 parishes within the Wiltshire Council area, with around 230 having their own city, town, or parish council. These councils are the most local form of governance for a community, making decisions and representing their area, made up of elected or co-opted local residents. These councils are accountable to their local community, not to Wiltshire Council, but will often be consulted and engaged with regarding matters which affect their communities.

# CONTENTS

## **Part 1 – Summary and Contents**

This Part includes a brief summary of Wiltshire Council and the purpose and contents of this Constitution.

## **Part 2 – Articles of the Constitution**

This Part includes the broad details of the powers of the council, specific bodies of the council including statutory committees, and officers of the council. It includes references to more detailed information elsewhere in the Constitution, and the definition of a Key decision.

## **Part 3 – Responsibility for Functions and Schemes of Delegation**

This Part includes terms of reference for most council committees and some other bodies, setting out their membership details, responsibilities, and other relevant information. It specifies those matters which are required to be decided by a meeting of Full Council, such as the Budget and the Policy Framework.

It includes details of the Electoral Divisions and Parishes assigned to each Area Board

It also includes sections on the delegated powers for the Executive, including the areas of responsibility for each Cabinet Member, as well as Corporate Directors and Directors, and other specific officers and functions, for example relating to Planning and Licensing.

## **Part 4 – Council Rules of Procedure**

This Part includes details of how members of the public can submit questions or make statements at council committees, and how to submit petitions to the council.

It also includes rules and procedures for how most committee debates and discussions will be conducted, with details such as substitute member arrangements, proposal of motions and amendments, questions from council members, and voting.

## **Part 5 – Access to Information Procedure Rules**

This Part includes rules on publication of agendas and reports, retention periods for meeting information, as well as specific requirements relating to Executive decisions such as public notice periods and procedures relating to confidential or exempt information.

## **Part 6 – Budget and Policy Framework**

This Part sets out procedural requirements for decisions relating to the Budget and the Policy Framework.

## **Part 7 – Cabinet Procedure Rules**

This Part sets out specific rules relating to the procedure for meeting of the Cabinet.

## **Part 8 – Overview and Scrutiny Procedure Rules**

This Part sets out specific rules relating to the procedure for meetings of Overview and Scrutiny Committees.

It also includes details of how decisions of Cabinet may be ‘called-in’ for review by the Overview and Scrutiny Management Committee.

## **Part 9 – Financial Regulations**

This Part sets out the framework for managing the council's financial affairs. It sounds out the objectives and principles of the regulations, and the rules regarding financial accountabilities and responsibilities of council bodies and officers.

## **Part 10 – Contract and Procurement Rules**

This Part sets out the standing orders which apply to the acquisition of all supplies, services and works by or on behalf of the council. This includes council controlled schools and where the council acts as lead commissioner on behalf of a third party using external funds.

## **Part 11 – Roles and Responsibilities for Members**

This Part includes information of roles that Members can perform, for example in order to champion their division, be a community leader, keeping in touch with constituents, participate in council decision making and other responsibilities.

It also includes at Part 11A and 11B terms of reference for the Corporate Parenting Panel and the Safeguarding Children and Young People Panel.

## **Part 12 – Code of Conduct for Members**

This Part is the Code of Conduct for Members and Co-Opted Members of Wiltshire Council. It includes approved guidance on interpretation of the Code.

If someone feels a Member has breached a requirement of the Code, a complaint may be submitted. The details on how such complaints are assessed is set out at Protocol 11.

## **Part 13 – Members' Allowances Scheme**

This Part details the allowances scheme for Members of the Council and Co-Opted Members. This includes details of the basic allowance, special responsibility allowances, and expenses which can be claimed.

## **Part 14 – Officer Employment Procedure Rules**

This Part includes procedures relating to the appointment, dismissal, or disciplining of certain senior officers.

## **Part 15 – Human Resources Code of Conduct**

This Part sets out the Code of Conduct for council employees.

## **Part 16 – Management Structure**

Delete this part.

## **Protocol 1 – Member/Officer Relations**

This Protocol includes details of how expectations for Members and Officers when working together, as well as examples of information which Officers should ensure Members are informed of within their Divisions.

It also includes further details on how Members may access confidential or exempt information.

## **Protocol 2 – Terms of Reference for Wiltshire Pension Fund Committee and Local Pension Board**

This Protocol sets out the detailed procedures and rules for the Wiltshire Pension Fund Committee and Local Pension Board.



### **Protocol 3 – Guidance for Members on Outside Bodies**

This Protocol sets out the main issues Members should consider when appointed by the council to serve on an outside body, such as a trust, company, charity, or a community or other body.

### **Protocol 4 – Planning Code of Good Practice**

This Protocol provides advice to Members on how they should conduct themselves for matters relating to planning applications and other planning issues.

It includes details on how Members may request ‘call-in’ of an application to be determined by a planning committee instead of by officers.

It also links to the rules on how the public may participate at those committees and the procedures to be followed at those committee meetings.

### **Protocol 5 – Leader’s Protocol on Individual Decision Making**

This Protocol details the procedure approved by the Leader of the Council for how Cabinet Members may make decisions relating to their areas of responsibility.

### **Protocol 6 – Corporate Complaints Procedure**

This Protocol provides details of how to submit complaints regarding a council service. It clarifies what is not covered by the procedure, and that where possible the complaints team will advise of the appropriate route available to a complainant.

### **Protocol 7 – Media Relations Protocol**

This Protocol provides details of the role of the councils Communication Team and general rules regarding publicity.

It also includes guidance regarding use of social media and webcasting of council meetings.

### **Protocol 8 – Monitoring Officer**

This Protocol provides further details on the role of the Monitoring Officer.

### **Protocol 9 – Local Code of Corporate Governance**

This Protocol includes a statement of principles of good governance and the council’s Local Code of Corporate Governance.

### **Protocol 10 – Governance Reporting Arrangements**

This Protocol provides a table setting out which council body or post is responsible for a particular governance areas, and other committees and bodies who may be involved in monitoring and reviewing that areas.

### **Protocol 11 – Arrangements for Code of Conduct Complaints**

This Protocol sets out the detailed procedures and rules for the submission, assessment and determination of complaints regarding the conduct of Members of Wiltshire Council or Members of City, Town, and Parish Councils.

### **Protocol 12 – Wiltshire Police and Crime Panel Procedures and Panel Arrangements**

Part 1

Last Updated 16 May 2023

This Protocol sets out the detailed procedures and rules for the Wiltshire Police and Crime Panels.

**Wiltshire Council  
Constitution  
Part 2  
Articles of the Constitution**

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# PART 2

## ARTICLES OF THE CONSTITUTION

### Article 1 - Main provisions of the Constitution

#### Powers of the Council

1. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

#### The Constitution

2. This Constitution, and all its Parts and Protocols, is the Constitution of the Wiltshire Council.

#### Purpose of the Constitution

3. The purpose of the Constitution is to:
  - 3.1 enable decisions to be taken efficiently and effectively;
  - 3.2 support the active involvement of members of the public in the process of local authority decision making, and protect the rights of the public including as set out at Article 3;
  - 3.3 enable the Council to provide clear leadership to the community of Wiltshire in partnership with residents of the local authority area, businesses and other organisations;
  - 3.4 help Members represent their constituents more effectively;
  - 3.5 create a powerful and effective means of holding decision-makers to public account;
  - 3.6 ensure that no-one will review or scrutinise a decision in which they were directly involved;
  - 3.7 ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
  - 3.8 provide a means of improving the delivery of services to the community.

4. The Council's goals are to:

- deliver high quality, low cost, customer-focused services;
- ensure local, open, honest decision making and;
- work together to support Wiltshire's communities.

5. The Council will adopt a Business Plan setting out any specific missions or themes.

#### Interpretation and review of the Constitution

6. Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.
7. The Council will monitor and evaluate the operation of the Constitution and amend it to reflect current legislation and best practice.

## **Article 2 - Members of the Council**

### **Composition and eligibility**

1. The Council will comprise 98 Councillors, known as Members, with each Member representing one electoral division.
2. Only those over 18 years of age who are either registered voters of the Wiltshire Council area, or who live, work or occupy land there will be eligible to hold the office of Member.

### **Election and terms of office of members**

3. Members were first elected to the Council on 4 June 2009 and regular election of members will be held on the first Thursday in May every four years thereafter unless this is varied by order of the appropriate Secretary of State.
4. The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.
5. With the exception that the Chairman of the Council continues in office until their successor is appointed at the annual meeting of Council.

### **Roles and functions of all Members**

6. All Members elected to Wiltshire Council will be guided by the Role and Responsibilities of Members, which forms Part 11 of this Constitution.
7. The key roles and responsibilities of Members are to:
  - 7.1 champion their division;
  - 7.2 be a community leader;
  - 7.3 keep in touch with constituents and help resolve their problems;
  - 7.4 attend meetings and contribute to the decision-making process;
  - 7.5 be a 'corporate parent' for looked-after children;
  - 7.6 represent the Council on Outside Bodies;
  - 7.7 undertake training required for any particular function

### **Rights and duties**

8. Members will have a right of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
9. Members will not make public, information which is exempt or confidential without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it.
10. For these purposes, "confidential information" and "exempt information" are defined in the access to information rules in Part 5 of this Constitution. The Members Code of Conduct provides further guidance on disclosure of such information at Part 12 of the Constitution.



## **Conduct**

11. Members will at all times adhere to
  - 11.1 the Code of Conduct as set out in Part 12 of this Constitution;
  - 11.2 other codes of practice as approved from time to time by the Council;
  - 11.3 Protocol 1 of this Constitution on Member/Officer relations.

## **Allowances**

12. Members and Co-opted Members will be entitled to receive allowances in accordance with the Members' allowances scheme set out in Part 13 of this Constitution.

## **Article 3 - Members of the public and the Council**

### **Rights of members of the public**

1. Members of the public have rights as set out in this article. They have further rights relating to access to information details of which appear in the access to information rules in Part 5 of this Constitution.

### Voting and petitions

2. Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum on whether Wiltshire Council should adopt a different form of governance, such as changing from the Leader and Cabinet model currently adopted.
3. The public can petition the Council to take specified actions. Such petitions will be dealt with under the Council's Petitions Scheme, which is set out in Part 4A of the Constitution.

### Information

4. Members of the public have the right:
  - 12.1 To contact the Council by telephone, post, email, fax or in person. An acknowledgement will be sent within 2 working days, and a full response to all written correspondence within 15 working days from the day correspondence is received. Where legislation dictates otherwise, for example Freedom of Information requests, different timescales may apply. If it is not possible to provide a response by the timescales an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent;
  - 12.2 To contact their local Member about any matters of concern to them;
  - 12.3 To view the register of Members' interests;
  - 12.4 To obtain a copy of the Constitution on payment of a fee or access it online or by request from the library service;
  - 12.5 To attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed;
  - 12.6 To attend meetings of the Cabinet when key decisions are being considered except those parts where confidential or exempt information is likely to be disclosed;

- 12.7 To find out from the forward plan what key decisions will be taken by the Cabinet and when;
- 12.8 To see reports and background papers, and any records of decisions made by the Council and the Cabinet, except where a document contains confidential and/or exempt information;
- 12.9 To inspect the Council's accounts and make their views known to the external auditor.

### Participation

5. Members of the public have the right to participate in the Council's meetings as set out in at Part 4 of this Constitution (Council rules of procedure).

### Complaints

6. Members of the public have the right to complain to:
  - 6.1 The Council under its complaints procedure, as set out in Protocol 6 of this Constitution, for complaints regarding council services;
  - 6.2 The Local Government and Social Care Ombudsman for complaints covered by the ombudsman scheme;
  - 6.3 The Monitoring Officer about alleged breaches of a Code of Conduct by elected Members and Co-opted Members of Wiltshire Council, and Members of City, Town and Parish Councils within its area, as set out in Protocol 11 of this Constitution.

### **Responsibilities of members of the public**

7. Members of the public must not be violent, abusive or threatening to Members or officers and must not wilfully harm property owned by the Council, Members or officers.

## **Article 4 - The Full Council**

### **Meanings**

#### Policy Framework

1. The Policy Framework means the plans and strategies set out in Part 3B of this Constitution.

#### Budget

2. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax, and making decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### **Functions of the Full Council**

3. Only the Full Council will exercise the following functions:
  - 3.1 adopting and changing the Constitution;
  - 3.2 approving, adopting or amending the policy framework and the budget;

- 3.3 subject to the urgency procedure contained in the access to information procedure rules in Part 5 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget, where such a decision would fall outside the policy framework or budget;
- 3.4 appointing and removing the leader of the Council;
- 3.5 agreeing or amending the terms of reference for committees of the Council, other than joint committees, deciding on their composition, and making appointments to them;
- 3.6 appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council to an officer;
- 3.7 adopting a Members' allowances scheme;
- 3.8 changing the name of the Wiltshire Council area
- 3.9 confirming the designation of the Head of Paid Service and other statutory officer posts;
- 3.10 making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- 3.11 agreeing the cycle of Full Council meetings;
- 3.12 all local choice functions set out in Part 3B of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- 3.13 all other matters which, by law, must be reserved to Council.

### **Council meetings**

- 4. There are three types of Council meeting:
  - 4.1 the annual meeting;
  - 4.2 ordinary meetings;
  - 4.3 extraordinary meetings;
- 5. They will be conducted in accordance with the procedure rules set out in Part 4 of this Constitution.

### **Responsibility for functions**

- 6. The Council will maintain the tables in Part 3B of this Constitution, setting out the responsibilities for the Council's functions which are not the responsibility of the Cabinet.
- 7. Details of the Council's committee structure are set out at Part 2 Schedule 1.

## **Article 5 - Chairing the Council**

### **Role and function of the Chairman**

- 1. The Chairman will be elected by the Council annually.
- 2. The Chairman of the Council, and in their absence, the Vice-Chairman, will have the following roles and functions:
  - 2.1 To uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary on advice from the Chief Executive or Monitoring Officer;

- 2.2 To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of members of the Council and the interests of the community;
- 2.3 To ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not Members of the Cabinet are able to hold the Cabinet to account;
- 2.4 To promote public involvement in the Council's activities;
- 2.5 To attend, or nominate some other non-Cabinet member to attend, such civic functions as they determine appropriate, taking account of the essentially ceremonial character of the office, and acknowledging that representation on matters of a political nature is more appropriately handled by the Leader of the Council or another member of the Cabinet;
- 2.6 To agree matters of special urgency to the extent permitted by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as amended.
- 2.7 To be consulted on the order of items on council agendas.

## **Article 6 - Overview and Scrutiny Committees**

### **Overview and Scrutiny**

1. There are Overview and Scrutiny committees which support the work of the Cabinet and the Council as a whole.
2. They may review matters of local concern. Reviews may lead to reports and recommendations which advise the Cabinet and the Council on policies, budget and service delivery, or other relevant matters.
3. The Overview and Scrutiny committees also monitor the decisions of the Cabinet. They can 'call-in' a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision has been taken in accordance with the principles of decision making in this constitution. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

### **Appointment**

4. The Council will annually constitute and appoint an Overview and Scrutiny Management Committee and any other Select Committees in accordance with the agreed structure at schedule 1, each comprising at least seven Members, to discharge the functions conferred by the Local Government Act 2000, as amended, and associated regulations.

### **Terms of reference**

5. The Overview and Scrutiny Management Committee will be responsible for:
  - 5.1 Overall management of the overview and scrutiny function in line with this article and the Overview and Scrutiny Procedure Rules set out in Part 8 of the Constitution, including call-in of Executive decisions and Member requests for reviews;
  - 5.2 Co-ordination of the overall Overview and Scrutiny work programme, aligned to the Council's priorities;

- 5.3 Leading the working relationship with the Cabinet on the basis of agreed core values;
  - 5.4 Establishing any sub-committees, endorsing the formation of task groups, rapid scrutiny exercises, appointing representatives to project boards and delegating responsibility as appropriate;
  - 5.5 Assigning dedicated overview and scrutiny resources (officer team and budget);
  - 5.6 Overview, policy development and scrutiny of policy framework and other corporate and organisational matters;
  - 5.7 Overview and Scrutiny engagement on budget setting, budget monitoring and the Medium Term Financial Strategy (MTFS);
  - 5.8 Overview, policy development and scrutiny of the Council's Business Plan;
  - 5.9 Preparing an annual report and undertaking periodic performance monitoring;
  - 5.10 developing appropriate overview and scrutiny operational protocols.
6. The Management Committee has the power of direction over the Select Committees. Its membership should where possible include the Chairman of each of the standing Select Committees.
  7. The Select Committees will deliver that part of the overall work programme relevant to their service areas under the direction of the Management Committee. They will report to the Management Committee on its work, seek approval for establishment of any Task Groups or rapid scrutiny exercises, and make recommendations as they consider necessary or appropriate.
  8. The Management Committee and Select Committees will together:
    - 8.1 Perform all overview and scrutiny functions on behalf of the Council;
    - 8.2 Review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
    - 8.3 Make reports and recommendations as appropriate to the Full Council and the Cabinet or relevant Cabinet Member and any relevant partner in connection with the discharge of any functions;
    - 8.4 Foster and encourage an inclusive, structured, non-partisan and non-adversarial approach to overview and scrutiny which is reliant on evidence rather than anecdote.
  9. The Management Committee will also work with the Audit and Governance Committee to refer matters of governance and/or the control environment for further review. Likewise, the Audit and Governance Committee can refer matters arising from its remit that have a specific impact or risk to the Council's policy or operation to the Management Committee to consider the need for review.
  10. In addition to the above, the committee responsible for health scrutiny will:
    - 10.1 Review and scrutinise any matter relating to the planning, provision and operation of health services in Wiltshire, including any significant change to service provision and those jointly commissioned or delivered by the Council;
    - 10.2 Require the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health services in Wiltshire;

- 10.3 Require a local NHS body to provide information about the planning, provision and operation of health services in Wiltshire, subject to the exemptions outlined in the Health and Social Care Act 2001;
- 10.4 Participate in cross-boundary overview and scrutiny of health services with other local authorities, including the establishment of joint committees, or the delegation of functions to another local authority;
- 10.5 Report to the secretary of state for health:
  - 10.5.1 where the committee is concerned that consultation on substantial variation or development of services has been inadequate;
  - 10.5.2 where the committee considers that the proposal is not in the interests of the local health service;
- 10.6 maintain an overview of the Council's responsibilities and role in relation to health and wellbeing.

## **Finance**

11. The Overview and Scrutiny Management Committee will exercise overall responsibility for the finances made available to the overview and scrutiny function

## **Proceedings of Overview and Scrutiny Committees**

12. The Overview and Scrutiny Management Committee and Select Committees will conduct their proceedings in accordance with the overview and scrutiny procedure rules set out in Part 8 of this Constitution.

## **Article 7 - The Executive/Cabinet**

### **Role**

1. The Executive of the Council shall be known as 'The Cabinet'.
2. The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

### **Form and composition**

3. The Cabinet will consist of the Leader of the Council together with at least two, but not more than nine members of the Council appointed to the Cabinet by the Leader
4. The Leader of the Council will report all Cabinet appointments or changes, including alteration of portfolio responsibilities, to the first available meeting of the Council.

### **Leader and Deputy Leader of the Council**

5. The Council will operate a Leader and Cabinet Executive in accordance with the Localism Act 2011 with the following Executive arrangements:
  - 5.1 Appointment by the Council of an Executive Leader of the Council, hereafter to be referred to as the Leader, for a term of four years, commencing with the day of election as Leader;
  - 5.2 The Leader to determine the number of Members who may be appointed to the Cabinet, subject to a minimum of two and a maximum of nine (excluding the Leader);

- 5.3 The Leader to appoint one of the members of the Cabinet to be their deputy;
  - 5.4 The Deputy Executive Leader, hereafter to be referred to as the Deputy Leader, to hold office until the end of the term of office of the Leader, unless the Deputy Leader resigns as deputy, or ceases to be a member of the Council;
  - 5.5 The Leader to have power to remove the Deputy Leader from office if they think fit;
  - 5.6 The Leader to appoint a Deputy Leader when a vacancy occurs in that office;
  - 5.7 The Deputy Leader to act in place of Leader if for any reason the Leader is unable to act, or the office of Leader is vacant;
  - 5.8 The Cabinet to act, or arrange for a member of the Cabinet to act, if for any reason both the Leader and the Deputy Leader are unable to act, or their respective offices are vacant;
  - 5.9 In the event of the office of Leader of the Council becoming vacant, the Deputy Leader, if eligible, shall assume the office of Leader until the vacancy is filled by the Council for the remainder of the council term.
6. The Leader of the Council will hold office until:
- 6.1 They resign from the office; or
  - 6.2 They are no longer a Member; or
  - 6.3 They are removed from office by resolution of the Council.

#### **Other Cabinet Members, Cabinet Committees, and Portfolio Holders**

7. Other Cabinet Members shall hold office until:
- 7.1 they resign from office; or
  - 7.2 they are no longer Members; or
  - 7.3 they are removed from office by the Leader, who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.
8. As set out in Part 3C Cabinet Committees may be established such as the Cabinet Shareholder Committee, in relation to Council owned companies.
9. The Leader may also appoint other Members as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.
10. Portfolio Holders are not Members of the Cabinet, and cannot exercise or be delegated any executive functions.

#### **Proceedings of the Cabinet**

11. Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part 7 of this Constitution.
12. Meetings of the Cabinet will be chaired by the Leader. No substitutes are permitted on Cabinet.

### **Responsibility for functions**

13. The Leader will maintain a list in Parts 3C and 3D of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers, or joint arrangements, are responsible for the exercise of particular Executive functions.
14. Any changes in these functions are to be reported by the Leader to the first available Council meeting.

### **Article 8 - Regulatory functions and other committees**

1. The Council will appoint the committees set out in Part 3B of this Constitution (responsibility for Council functions) to discharge the functions detailed under each committee.

### **Article 9 - The Standards Committee**

#### **Standards Committee**

1. The Council will establish a Standards Committee and appoint elected members to it annually.
2. The Standards Committee will have the roles and functions set out in Part 3B of this Constitution.

### **Article 10 - Area Committees**

3. For the purposes of this Constitution Area Boards as appointed by the Council under section 102 of the Local Government Act 1972 are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive

#### **Area Committees - access to information**

4. Any Area committees, such as Area Boards, will comply with the access to information procedure rules in Part 5 of this Constitution.
5. Agenda and notices for area committee meetings will clearly state which items on the agenda relate to the functions of the Cabinet and which do not relate to Cabinet functions.

#### **Cabinet Members on Area Committees**

6. A Member of the Cabinet may serve on an Area Committee if otherwise eligible to do so as a Member.

#### **Area Boards**

7. The Council will establish 18 Area Boards to promote the development of stronger and more resilient communities across Wiltshire.



## **Role and function**

8. The purpose of Area Boards is to promote the development of stronger and more resilient communities across Wiltshire's community areas.
9. Area Boards will have the role, procedure, and functions set out in Part 3B of this Constitution.

## **Composition**

10. The Area Boards will be constituted as area committees to enable them to exercise local, efficient, transparent and accountable decision making in accordance with arrangements delegated by the Leader
11. Each Area Board will comprise membership as set out in Part 3B of the Constitution.

## **Decision-making**

12. Only the elected unitary Members on the Area Board may vote on matters involving the discharge of Executive functions within the scope of the delegation to Area Boards. However, Area Boards will where appropriate seek the views of any other participants before the final decision is made by the unitary Members.

## **Procedure Rule and Guidance**

13. Area Boards will follow such procedures rules and guidance as issued from time to time by the Leader.

## **Access to information**

14. Area Boards are subject to the access to information procedure rules in Part 5 of this Constitution.

## **Article 11 - Joint arrangements**

### **Arrangements to promote wellbeing**

1. The Leader/Cabinet, in order to promote the economic, social or environmental wellbeing of Wiltshire, may:
  - 1.1 enter into arrangements or agreements with any person or body;
  - 1.2 co-operate with, or facilitate, or co-ordinate the activities of any person or body;
  - 1.3 exercise on behalf of that person or body any functions of that person or body.

### **Joint arrangements**

2. The Council may establish joint arrangements with one or more local authorities and to exercise functions which are not Cabinet functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities, such as the Police and Crime Panel or Wiltshire Pension Fund Committee.

3. The Leader/Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. Such arrangements may involve the appointment of joint committees with these other local authorities.
4. Except as set out below, the Leader / Cabinet may appoint only Cabinet Members to such a joint Committee and those members need not reflect the political composition of the local authority as a whole.
5. The Leader/Cabinet may appoint non-Cabinet members to a joint committee in the following circumstances:
  - 5.1 The joint committee has functions for only part of Wiltshire, and that area is smaller than two-fifths of Wiltshire by area or population. In such cases, the Leader/Cabinet may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area;
  - 5.2 The joint committee relates to functions of the Cabinet of the Council. In such cases, the Cabinet of the Council may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area.
6. In both of these cases the political balance requirements do not apply to such appointments.
7. Details of any joint arrangements including any delegations to joint committees will be found or summarised in the Council's scheme of delegations in Part 3 of this Constitution.

#### **Access to information**

8. The access to information procedure rules in Part 5 of this Constitution apply to any joint committee.
9. If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
10. If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

#### **Delegation to and from other local authorities**

11. The Council may delegate non-Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances (Section 101 of the Local Government Act 1972 The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012).
12. The Leader/Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.
13. The decision whether or not to accept such a delegation from another local authority shall be referred to a meeting of Council for approval.

## Contracting out

14. The Cabinet may contract out to another body or organisations Cabinet functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994 or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 12 - Officers

### Management structure

#### General

1. The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

#### Senior Leadership Structure

2. The Head of Paid Service will determine and publicise a description of the Senior Leadership Structure of the Council.

#### Chief Executive

3. The Council will engage a Chief Executive who will fulfil the statutory role of Head of Paid Service for the purposes of Section 4(1) of the Local Government and Housing Act 1989 and whose responsibilities shall include:
  - 3.1 Overall responsibility for running the Council within the policies currently adopted by the Council and for managing the Council to achieve its aims;
  - 3.2 Authority over all other employees of the Council subject to the officer employment procedure rules as set out in Part 14 of the Constitution;
  - 3.3 Being the Proper Officer for all statutory purposes unless otherwise determined by him/her except as otherwise provided in this Constitution.

#### Statutory posts

4. The Council will designate the following statutory posts as shown:

Designation	Legal reference	Post
Head of Paid Service	Local Government and Housing Act 1989, section 4	Chief Executive
Monitoring Officer	Local Government and Housing Act 1989, section 5	Director - Legal and Governance
Chief Finance Officer	Local Government Act 1972, section 151	Corporate Director, Resources / Deputy Chief Executive

Director of Children's Services	Children Act 2004, section 18	Corporate Director, People
Director of Public Health	National Health Service Act 2006, section 73A (1)	Director of Public Health
Director of Adult Social Services	Local Authority Social Services Act 1970, section 6 (A1)	Director - Adult Social Care
Returning Officer/Counting Officer, and Electoral Registration Officer	Representation of the People Act 1983, section 8 and section 35	Chief Executive
Deputy Electoral Registration Officers	Section 52(2) Elections Act 2022	Director - Legal and Governance, Electoral Services Specialist Manager, Head of Democracy, Governance, and Customer Services
Designated Scrutiny Officer	Local Government Act 2000, section 9FB	Democracy and Complaints Manager
Data Protection Officer	Data Protection Act 2018, sections 69-71	Data Protection Lead

5. Such posts will have the functions described in paragraphs 6 - XX below.

### **Functions of the Head of Paid Service**

#### Discharge of functions by the Council

6. The Head of Paid Service will report to the Full Council on the manner in which the discharge of the Council's functions is co-ordinated.

#### Restrictions on functions

7. The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

### **Functions of the Monitoring Officer**

#### Maintaining the Constitution

8. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members of the Council, staff and the public.

#### Ensuring lawfulness and fairness of decision making

9. After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council, or to the Cabinet in relation to a

Cabinet function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

#### Supporting the Standards Committee

10. The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
11. They will be responsible for all Monitoring Officer functions in respect of parish and town Councils within the area of the authority, and for making arrangements in conjunction with the Standards Committee for the provision of advice and training to members of the Council and members of parish and town Councils on the ethical framework.

#### Conducting investigations

12. The Monitoring Officer will conduct investigations into matters referred under the Council's arrangements for dealing with complaints under the Code of conduct.

#### Advising whether Cabinet decisions are within the Budget and Policy Framework

13. The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

#### Providing advice

14. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members of the Council.

#### Complaints

15. The Monitoring Officer will act as corporate complaints officer and generally advise the Chief Officers of the Council in this regard.

#### Restrictions on posts

16. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

### **Functions of the Chief Finance Officer/Section 151 Officer**

#### Ensuring lawfulness and financial prudence of decision making

17. After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

#### Administration of financial affairs

18. The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council including:

- 18.1 The proper administration of the authority's financial affairs, including the Wiltshire Pension Fund and trust funds vested in the Council;
  - 18.2 Setting and monitoring compliance with financial management standards;
  - 18.3 Advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
  - 18.4 Providing financial information;
  - 18.5 Preparing the revenue budget and capital programme;
  - 18.6 The maintenance of an adequate and effective internal audit
  - 18.7 Treasury management.
19. Regulation 5 of the Audit and Accounts (England) Regulations 2011 requires the Chief Finance Officer to determine the accounting records, and accounting control systems and to ensure that the accounting control systems are observed and that accounting records are kept up to date.
20. Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council, the Cabinet and external auditor if the authority or one of its officers:
- 20.1 Has made, or is about to make, a decision which involves incurring unlawful expenditure;
  - 20.2 Has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority;
  - 20.3 Is about to make an unlawful entry in the authority's accounts.

#### Contributing to corporate management

21. The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### Providing advice

22. The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members of the Council and will support and advise Members of the Council and officers in their respective roles.

#### Give financial information

23. The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### Financial Regulations and Financial Procedure Rules

24. The Chief Finance Officer shall be responsible for the Financial Regulations and Procedure Rules as set out at Part 9 of this Constitution

#### **Functions of the Director of Children's Services**

25. To:
- 25.1 Participate in the corporate management of the Council;
  - 25.2 Direct the children and education teams in the provision of educational services and childcare services in support of the Council's corporate goals;

- 25.3 Ensure the Council meets its statutory obligations under the Children Acts 1989 and 2004 and Section 75 of the National Health Service Act 2006 and as Local Education Authority;
- 25.4 Acts as the Council's statutory Director of Children's Services under section 18 of the Children Act 2004.

### **Functions of the Director of Public Health**

- 26. To act as the Council's statutory Director of Public Health under section 73A of the National Health Service Act 2006.

### **Functions of the Director of Adult Social Services**

- 27. To:
  - 27.1 Participate in the corporate management of the Council;
  - 27.2 Direct the adult social care teams in the provision of adult care services, libraries, arts and heritage, community planning and governance and community safety services in support of the Council's corporate goals and manage its partnership arrangements with external bodies, particularly the voluntary sector and health service;
  - 27.3 Ensure that the Council meets its statutory obligations under adult social services and other legislation;
  - 27.4 Act as the Council's statutory director of adult social services under section 6 of the Local Authority Social Services Act 1970.

### **Functions of Electoral Registration Officer and Deputy Registration Officers**

- 28. To:
  - 28.1 Maintain an accurate and complete electoral register for the Wiltshire Council authority area;
  - 28.2 Be a data controller specifically for electoral data;;
  - 28.3 Structure the electoral register to implement and update boundary changes
  - 28.4 Carry out statutory duties in accordance with electoral legislation.

### **Functions of Returning Officer**

- 29. To:
  - 29.1 Organise and administer UK Parliamentary constituency elections, Police and Crime Commissioner Elections, Wiltshire Council Unitary Elections, City Town and Parish Council elections, Neighbourhood planning referenda, parish polls and any other elections or referenda as required within the Wiltshire Council authority area;
  - 29.2 Be a data controller specifically for electoral data;
  - 29.3 Carry out statutory duties in accordance with electoral legislation.

### **Functions of the Designated Scrutiny Officer**

- 30. To promote the role of the authority's Overview and Scrutiny Committees.
- 31. To provide support to the authority's Overview and Scrutiny Committees.

32. To provide support and guidance to:
- 32.1 Members of the authority;
  - 32.2 Members of the Executive of the authority, and;
  - 32.3 Officers of the authority.

in relation to the functions of the authority's Overview and Scrutiny Committees.

### **Functions of the Data Protection Officer (DPO)**

33. As follows:
- 33.1 Informing the Council, its employees and any data processors it engages, of their obligations in respect of data protection legislation;
  - 33.2 Providing advice on the completion and monitoring of requirements to conduct data protection impact assessments;
  - 33.3 Co-Operating with and acting as the contact point for the Information Commissioner;
  - 33.4 Monitoring compliance with policies in relation to the protection of personal data;
  - 33.5 Monitoring compliance with the data protection legislation;
  - 33.6 Reporting any significant issues to the council's corporate leadership team.

### **Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

34. The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### **Conduct**

35. Officers will comply with the Officers' Code of Conduct set out in Part 15 of this Constitution and the Protocol on Member-Officer Relations in Protocol 1 of this Constitution.

### **Employment**

36. The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 14 of this Constitution.

### **Politically Restricted Posts**

37. The council's position regarding roles which are politically restricted shall be set out in the [Politically Restricted Posts Policy and Procedure](#).

## **Article 13 - Decision Making**

### **Responsibility for decision making**

1. The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to



particular areas or functions. This record is set out in Parts 3, 3A, 3B, 3C and 3D of this Constitution.

### **Principles of decision making**

2. All decisions of the Council will be made in accordance with the following principles:
  - 2.1 To produce action that is proportionate to the desired outcome;
  - 2.2 To ensure open, fair and honest administration;
  - 2.3 To be clear over desired outcomes and aims;
  - 2.4 To record the options considered and discarded;
  - 2.5 To state the reasons for the action;
  - 2.6 To consult interested parties where appropriate and practicable;
  - 2.7 To consult appropriate officers and to seek their professional advice;
  - 2.8 To show due respect for human rights, and to provide equality of opportunity;
  - 2.9 To obtain best value and operate efficiently, effectively and economically;
  - 2.10 To serve Wiltshire communities and to work in partnership with other agencies having the same aim;
  - 2.11 To promote the economic, social, and environmental well-being of the county;
  - 2.12 To determine issues at the lowest level commensurate with their importance;
  - 2.13 To keep and sustain what is useful in the traditions of the authority and to reject any practices or services retained purely out of sentiment.

### **Decisions**

#### Decisions reserved to Full Council

3. Decisions relating to the functions set out in Article 4 will be made by the Full Council and not delegated without a decision of Full Council to do so.

#### **Decision making by the Full Council**

4. The Council meeting will follow the Council procedure rules set out in Part 4 of this Constitution when considering any matter.

#### **Decision making by the Cabinet**

5. The Cabinet will follow the Cabinet Procedure Rules set out in Part 7 of this Constitution when considering any matter.

#### Key decisions

6. When major decisions ("key decisions") are to be discussed or made, they are published in the Cabinet's forward work plan, in so far as they can be anticipated.
7. Wiltshire Council defines a key decision as:
  - 7.1 Any decision which would result in the closure of an amenity or total withdrawal of a service;
  - 7.2 any restriction of service greater than 5 per cent measured by reference to current expenditure or hours of availability to the public;

- 7.3 any action incurring expenditure or producing savings greater than 20 per cent of budget service areas against which the budget is determined by Full Council;
  - 7.4 any decision in accordance with the Council's Financial Regulations (Part 9), involving financial expenditure of £500,000 or above, with the exception of operational expenditure by the Chief Executive identified within the approved budget and policy framework;
  - 7.5 any proposal to change the policy framework;
  - 7.6 any proposal which would have a significant effect on communities living or working in an area comprising two or more electoral divisions;
  - 7.7 any contract (or programme) which:
    - 7.7.1 exceeds an annual value of £1 million or the total contract value exceeds £4million including any optional extension period;
    - 7.7.2 involves the transfer of 50 or more employees in or out of the council; or
    - 7.7.3 relates to a matter which is commercially, politically or strategically sensitive.
8. If key decisions are to be discussed with council officers at a meeting of the Cabinet, the meeting will be open for the public to attend except where matters of a confidential or exempt nature are to be discussed.
9. The Cabinet has to make decisions which are in line with the Council's budget and policy framework. If it considers that a decision is required which is outside the budget or policy framework, it must refer the matter to the whole council for a decision.

#### **Decision making by Overview and Scrutiny Committees**

10. Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 8 of this Constitution when considering any matter.

#### **Decision making by other committees and sub-committees established by the Council**

11. Other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **Decision making by Council bodies acting as tribunals**

12. The Council, a Member of the Council, or an officer acting as a tribunal or in a quasi-judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

### **Article 14 - Finance, contracts and legal matters**

#### **Financial management**

1. The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules and Financial Regulations set out in Part 9 of this Constitution.

## **Contracts**

2. Every contract made by the Council will comply with the contract regulations set out in Part 10 of this Constitution.

## **Legal proceedings**

3. The Solicitor to the Council, or other person authorised by him/her, is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

## **Authentication of documents**

4. Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council, or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person

## **Common Seal of the Council**

5. The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council.
6. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.
7. The Common Seal will be affixed to those documents which, in the opinion of the Solicitor to the Council, should be sealed.
8. The affixing of the Common Seal will be attested by the Solicitor to the Council or some other person authorised by him/her.

## **Article 15 - Review and revision of the Constitution**

### **Duty to monitor and review the Constitution**

1. The Standards Committee on the advice of the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### **Procedure for monitoring and review of the Constitution by the Monitoring Officer**

2. A key role for the Monitoring Officer is to monitor the effectiveness of the Constitution and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1, and otherwise ensure it remains up to date.
3. In undertaking this task the Monitoring Officer may:
  - 3.1 Observe any meetings of different parts of the Member and officer structure;

- 3.2 Undertake an audit trail of a sample of decisions;
- 3.3 Record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders
- 3.4 Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

## **Changes to the Constitution**

### Approval

4. Changes to the Constitution will usually be approved by the Full Council after consideration of any proposals by the Standards Committee and the Monitoring Officer.
5. The Monitoring Officer also has the delegated authority to amend the Constitution to
  - 5.1 Reflect decisions of Full Council;
  - 5.2 Reflect changes in the law;
  - 5.2 To correct errors or clarify ambiguities, where to do so does not alter (but gives further effect to) the Executive arrangements or the principles enshrined in the Constitution.
6. Any changes made by the Monitoring Officer under this delegated authority will be reported to the Standards Committee, or any body established by the Standards Committee for that purpose.

### Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa

7. The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up any proposals.

## **Article 16 - Suspension, interpretation and publication of the Constitution**

### **Limit to suspension**

1. The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the Full Council to the extent permitted within those rules and the law.

### **Procedure to suspend**

2. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members is present at Full Council. The extent and duration of any suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **Rules capable of suspension**

3. The Council's procedure rules, set out within Part 4 of the Constitution, refer to which of the following rules may be suspended.

## **Interpretation**

4. The ruling of the Chairman of the Council as to the interpretation or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

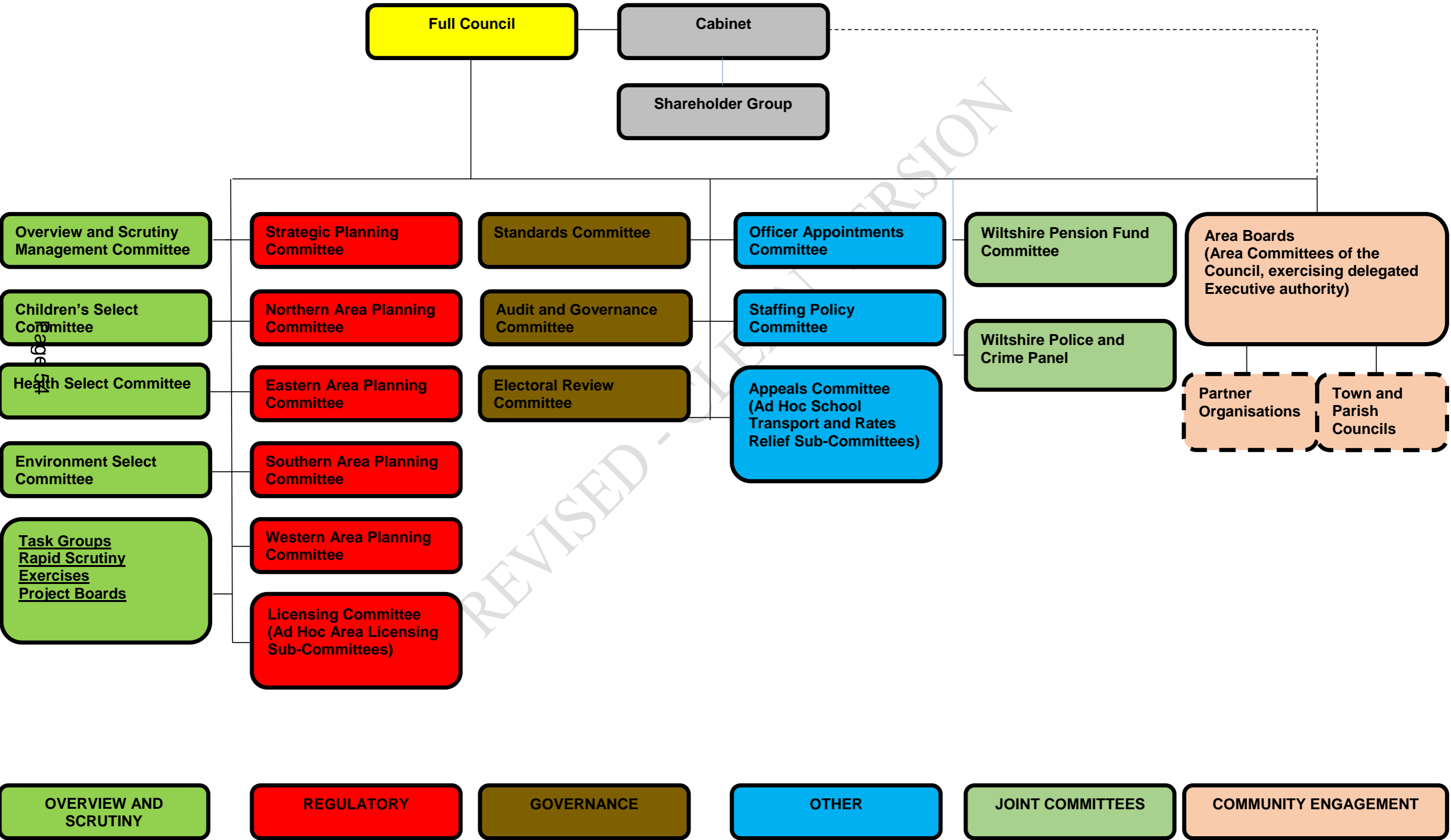
## **Publication**

5. The Monitoring Officer will make available an electronic copy of this Constitution to every Member of the authority upon delivery to them of that individual's declaration of acceptance of office on the Member's first being elected to the Council.
6. The Monitoring Officer will ensure that copies are available for inspection at Council offices, on the internet, and in other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.
7. Access by electronic means shall be sufficient for the purposes of this rule.

## **Article 17 - Description of Executive arrangements**

1. The following parts of this Constitution constitute the Executive arrangements:
  - 1.1 Overview and Scrutiny committees and the Overview and Scrutiny procedure rules (Part 8);
  - 1.2 The Cabinet and the Cabinet procedure rules (Part 7);
  - 1.3 Area Boards when discharging Executive functions;
  - 1.4 Joint executive arrangements – should any be established;
  - 1.5 Decision-making and the access to information procedure rules (Part 5);
  - 1.6 Parts 3C and 3D (responsibility for functions).

# PART 2 SCHEDULE 1 – WILTSHIRE COUNCIL COMMITTEE STRUCTURE



# Wiltshire Council Constitution Part 2 Articles of the Constitution

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# PART 2

## ARTICLES OF THE CONSTITUTION

### Article 1 - Main provisions of the Constitution

#### ~~1.1~~ **1. Powers of the Council**

~~1.1.1~~ **1.1** The Council will exercise all its powers and duties in accordance with the law and this Constitution.

#### ~~1.2~~ **2. The Constitution**

~~1.2.1~~ **2.1** This Constitution, and all its ~~appendices~~Parts and Protocols, is the Constitution of the Wiltshire Council.

#### ~~1.3~~ **3. Purpose of the Constitution**

~~1.3.1~~ **3.1** The purpose of the Constitution is to:

- 3.1.1 enable decisions to be taken efficiently and effectively;
- support the active involvement of members of the public in the process of local authority decision making, and protect the rights of the public including as set out at Article 3;
  - enable the Council to provide clear leadership to the community of Wiltshire in partnership with residents of the local authority area, businesses and other organisations;
  - ~~support the active involvement of members of the public in the process of local authority decision making;~~
  - help Members represent their constituents more effectively;
  - ~~enable decisions to be taken efficiently and effectively;~~
  - create a powerful and effective means of holding decision-makers to public account;
  - ensure that no-one will review or scrutinise a decision in which they were directly involved;
  - ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;
  - provide a means of improving the delivery of services to the community.

~~3.2~~ ~~1.3.2~~ ~~Our vision for the Council is to:~~

- ~~create stronger and more resilient communities.~~

1.3.3 ~~Our~~ The Council's goals are to:

- deliver high quality, low cost, customer-focused services;
- ensure local, open, honest decision making and;
- work together to support Wiltshire's communities.

The Council will adopt a Business Plan setting out any specific missions or themes

#### 1.4.1.1 Interpretation and review of the Constitution

- 1.4.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.
- 1.4.2 The Council will monitor and evaluate the operation of the Constitution and amend it to reflect current legislation and best practice.

### Article 2 - Members of the Council

#### 2.1 Composition and eligibility

- 2.1.1 The Council will comprise 98 Councillors, known as mMembers, with each ~~member~~ Member representing one electoral division.
- 2.1.2 Only those over 18 years of age who are either registered voters of the ~~local authority~~ Wiltshire Council area, or who live, work or occupy land there will be eligible to hold the office of Member.

#### 2.2 Election and terms of office of members

~~2.2.1~~ 2.2.1 —Members ~~will be~~ were first elected to the Council on 4 June 2009 and regular election of members will be held on the first Thursday in May every four years thereafter unless this is varied by order of the appropriate Secretary of State.

2.2.2 The terms of office of Members will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

2.2.3 ~~Except~~ With the exception that the Chairman of the Council continues in office until ~~his/her~~ their successor is appointed at the annual meeting of Council.

#### 2.3 Roles and functions of all Members

2.3.1 All Members elected to Wiltshire Council ~~are~~ will be guided by the Role and Responsibilities of Members, which forms Part ~~12-11~~ of this Constitution.

2.3.2 The key roles and responsibilities of Members are to:

- champion their division;
- be a community leader;
- keep in touch with constituents and help resolve their problems;
- attend meetings and contribute to the decision-making process;
- be a 'corporate parent' for looked-after children;
- represent the Council on Outside Bodies;
- undertake training ~~offered~~ required for any particular function-

#### Rights and duties

2.3.3 Members will have a right of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

2.3.4 Members will not make public, information which is exempt or confidential without the consent of the Council or divulge information given in confidence to anyone other than a Member or officer entitled to know it.

2.3.5 For these purposes, “confidential information” and “exempt information” are defined in the access to information rules in Part 5 of this Constitution. The Members Code of Conduct provides further guidance on disclosure of such information at Part 12 of the Constitution.

## 2.4 Conduct

~~2.4.1~~ ~~2.4.1~~—Members will at all times adhere to

~~2.4.2~~ the ~~Members’ Code of Conduct~~, ~~as~~ set out in Part 12 of this Constitution;

~~2.4.3~~ other codes of practice as approved from time to time by the Council, ~~and~~

~~2.4.4 Protocol 1 of the Constitution~~ ~~the protocol~~ on Member/~~e~~Officer relations ~~attached to this Constitution as Protocol 1.~~

## 2.5 Allowances

2.5.1 Members and ~~Ceo~~-opted ~~M~~members will be entitled to receive allowances in accordance with the Members’ allowances scheme set out in Part 13 of this Constitution.

## Article 3 - Members of the public and the Council

### 3.1 Rights of members of the public

3.1.1 Members of the public have ~~the following rights~~ rights as set out in this article. They have further rights relating to access to information details of which appear in the access to information rules in Part 5 of this Constitution.

#### Voting and petitions

3.1.2 Residents on the electoral roll for the area have the right to vote and sign a petition to request a referendum ~~for a mayoral form of governance for on whether~~ Wiltshire Council should adopt a different form of governance, such as changing from the Leader and Cabinet model currently adopted.

3.1.3 ~~Citizens~~ The public can petition the Council to take specified action(s). Such petitions will be dealt with under the Council’s Petitions Scheme, which is set out in Part 4A of the Constitution.

#### Information

3.1.4 Members of the public have the right ~~to~~:

- To contact the Council by telephone, post, email, fax or in person. An acknowledgement will be sent within 2 working days, and a full response to all written correspondence within 15 working days from the day ~~you~~ your correspondence is received. Where legislation dictates otherwise, ~~e.g. for~~

example Freedom of Information requests, different timescales may apply. If ~~that is not possible~~ it is not possible to provide a response by the timescales an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent;

- To contact their local Member about any matters of concern to them;
- To view the register of Members' interests;
- obtain a copy of the Constitution on payment of a fee or access it on-line or at by request from the library service~~local libraries~~;
- to attend meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed;
- to attend meetings of the Cabinet when key decisions are being considered except those parts where confidential or exempt information is likely to be disclosed;
- to find out from the forward plan what key decisions will be taken by the Cabinet and when;
- to see reports and background papers, and any records of decisions made by the Council and the Cabinet, except where a document contains confidential and/or exempt information;
- to inspect the Council's accounts and make their views known to the external auditor.

### Participation

- 3.1.5 Members' of the public have the right to participate in the Council's meetings as set out in ~~the guidance on public participation at meetings~~ at Part 4 of this Constitution (Council rules of procedure) ~~and in the Planning Code of Good Practice for Members as far as public participation at planning committees is concerned.~~

### Complaints

- 3.1.6 Members of the public have the right to complain to:
- the Council under its complaints procedure, ~~which appears as set out~~ in Protocol 6 of this Constitution for complaints regarding council services;
  - the Local Government and Social Care Ombudsman for complaints covered by the ombudsman scheme;
  - the Monitoring Officer about alleged breaches of ~~the eCode of Ceonduct for Members in respect of~~ by elected Members and Ceo-opted Members of Wiltshire Council, and Members of -and City, Ttown and pParish Councils within its area, as set out in Protocol 11 of this Constitution.

## 3.2 Responsibilities of members of the public

- 3.2.1 Members of the public must not be violent, abusive or threatening to Members or officers and must not wilfully harm property owned by the Council, Members or officers.

## Article 4 - The Full Council

### 4.1 Meanings

#### Policy Framework

4.1.1 The pPolicy Eframework means the plans and strategies set out in Part 3B of this Constitution.

#### Budget

4.1.2 The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council tax base, setting the Council tax, and making decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

### 4.2 **Functions of the Full Council**

4.2.1 Only the Full Council will exercise the following functions:

- adopting and changing the Constitution;
- approving, adopting or amending the policy framework and the budget;
- subject to the urgency procedure contained in the access to information procedure rules in Part 5 of this Constitution, making decisions about any matter in the discharge of a Cabinet function which is covered by the policy framework or the budget, where such a decision would fall outside the policy framework or budget;
- appointing and removing the leader of the Council;
- agreeing ~~and~~/or amending the terms of reference for committees of the Council, other than joint committees, deciding on their composition, and making appointments to them;
- appointing representatives to outside bodies unless the appointment is a Cabinet function or has been delegated by the Council to an officer;
- adopting a Members' allowances scheme;
- changing the name of the Wiltshire Council area;
- confirming the designation of the Head of Paid Service and other statutory officer posts;
- making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills
- agreeing the cycle of Full Council meetings;
- all local choice functions set out in Part 3B of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet;
- all other matters which, by law, must be reserved to Council.

### 4.3 **Council meetings**

4.3.1 There are three types of Council meeting:

- the annual meeting;
- ordinary meetings;
- extraordinary meetings;

4.3.2 They will be conducted in accordance with the ~~Council~~ procedure rules set out in Part 4 of this Constitution.

### 4.4 **Responsibility for functions**

4.4.1 ~~4.4.1~~—The Council will maintain the tables in Part 3B of this Constitution, setting out the responsibilities for the Council’s functions which are not the responsibility of the Cabinet.

4.4.2 Details of the Council’s committee structure are set out at Part 2 Schedule 1.

## Article 5 - Chairing the Council

### 5.1 Role and function of the Chairman

5.1.1 The Chairman will be elected by the Council annually.

5.1.2 The Chairman of the Council, and in his/her/their absence, the Vice-Chairman, will have the following roles and functions:

- to uphold and promote the purposes of the Constitution, and to interpret the Constitution when necessary on advice from the Chief Executive or Monitoring Officer;
- to preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of members of the Council and the interests of the community;
- to ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which ~~M~~members who are not ~~on~~Members of the Cabinet are able to hold the Cabinet to account;
- to promote public involvement in the Council’s activities;
- to attend, or nominate some other non-Cabinet member to attend, such civic functions as ~~he/she/they~~ determines appropriate, ~~given taking account of~~ the essentially ceremonial character of the office, and acknowledging that representation on matters of a political nature is more appropriately handled by the Lleader of the Council or another member of the Cabinet;
- to agree matters of special urgency to the extent permitted by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as amended.
- To be consulted on the order of items on council agendas.

## Article 6 - Overview and Scrutiny Committees

### 6. ~~Appointment~~Overview and Scrutiny

1.1 ~~6.1.1~~ There are Overview and Scrutiny committees which support the work of the Cabinet and the Council as a whole.

1.2 They may review matters of local concern. Reviews may lead to reports and recommendations which advise the Cabinet and the Council on policies, budget and service delivery, or other relevant matters.

1.3 The Overview and Scrutiny committees also monitor the decisions of the Cabinet. They can ‘call-in’ a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision has been taken in accordance with the principles of decision making in this constitution. They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.



## Appointment

The Council will annually constitute and appoint an Overview and Scrutiny Management Committee and any other Select Committees in accordance with the agreed structure at schedule 1, each comprising at least seven Members, to discharge the functions conferred by the Local Government Act 2000, as amended, and associated regulations.

### 6.2 Terms of reference

6.2.1 The Overview and Scrutiny Management Committee will be responsible for:

- Overall management of the overview and scrutiny function in line with this article and the Overview and Scrutiny Procedure Rules set out in Part 8 of the Constitution, including call-in of Executive decisions and Member requests for reviews;
- Co-ordination of the overall Overview and Scrutiny work programme, aligned to the Council's priorities;
- Leading the working relationship with the Cabinet on the basis of agreed core values;
- Establishing any sub-committees, endorsing the formation of task groups, rapid scrutiny exercises, appointing representatives to project boards and delegating responsibility as appropriate;
- Assigning dedicated overview and scrutiny resources (officer team and budget);
- Overview, policy development and scrutiny of policy framework and other corporate and organisational matters;
- Overview and Scrutiny engagement on budget setting, budget monitoring and the Medium Term Financial Strategy (MTFS);
- Overview, policy development and scrutiny of the Council's Business Plan;
- Preparing an annual review report and undertaking periodic performance monitoring;
- developing appropriate overview and scrutiny operational protocols.

6.2.2 The Management Committee has the power of direction over the standing Select Committees. Its membership should where possible include the Chairman of each of the standing Select Committees.

6.2.3 The Select Committees will deliver that part of the overall work programme relevant to their service areas under the direction of the Management Committee ~~and They~~ will report ~~back to the management~~ Management committee on its work, seek approval for establishment of any Task Groups or rapid scrutiny exercises, and make recommendations as necessary they consider necessary or appropriate.

6.2.4 The Management Committee and Select Committees will together:

- perform all overview and scrutiny functions on behalf of the Council;
- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

- make reports and recommendations as appropriate to the Full Council and the Cabinet or relevant Cabinet ~~M~~member and any relevant partner in connection with the discharge of any functions;
- foster and encourage an inclusive, structured, non-partisan and non-adversarial approach to overview and scrutiny which is reliant on evidence rather than anecdote.

6.2.4 The Management Committee will also work with the Audit and Governance Committee to refer matters of governance and/or the control environment for further review. Likewise, the Audit and Governance Committee can refer matters arising from its remit that have a specific impact or risk to the Council's policy or operation to the Management Committee to consider the need for review.

6.2.5 In addition to the above, the committee responsible for health scrutiny will:

- review and scrutinise any matter relating to the planning, provision and operation of health services in Wiltshire, including any significant change to service provision and those jointly commissioned or delivered by the Council;
- require the attendance of an officer of a local NHS body to answer questions and provide explanations about the planning, provision and operation of health services in Wiltshire;
- require a local NHS body to provide information about the planning, provision and operation of health services in Wiltshire, subject to the exemptions outlined in the Health and Social Care Act 2001;
- participate in cross-boundary overview and scrutiny of health services with other local authorities; ~~;~~ including the establishment of joint committees; ~~;~~ or the delegation of functions to another local authority;
- report to the secretary of state for health:
  - where the committee is concerned that consultation on substantial variation or development of services has been inadequate;
  - where the committee considers that the proposal is not in the interests of the local health service;
- maintain an overview of the Council's responsibilities and role in relation to health and wellbeing.

### 6.3 **Finance**

6.3.1 The Overview and Scrutiny Management Committee will exercise overall responsibility for the finances made available to the overview and scrutiny function;

### 6.4 **Proceedings of Overview and Scrutiny Committees**

6.4.1 The Overview and Scrutiny Management Committee and Select Committees will conduct their proceedings in accordance with the overview and scrutiny procedure rules set out in Part 8 of this Constitution.

## Article 7 - The Executive/Cabinet

### 7.1 **Role**

7.1.1 The Executive of the Council shall be known as 'The Cabinet'.

7.1.2 The Cabinet will carry out all of the Council's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

## 7.2 Form and composition

7.2.1 The Cabinet will consist of the Leader of the Council together with at least two, but not more than nine members of the Council appointed to the Cabinet by the ~~Leader of the Council~~.

7.2.2 The Leader of the Council will report all Cabinet appointments or changes, including alteration of portfolio responsibilities, to the first available meeting of the Council.

## 7.3 Leader and Deputy Leader of the Council

7.3.1 The Council will operate a Leader and Cabinet Executive in accordance with the Localism Act 2011 with the following Executive arrangements:

- appointment by the Council of an Executive Leader of the Council, hereafter to be referred to as the Leader, for a term of four years, commencing with the day of election as leader;
- the ~~Executive leader~~Leader to determine the number of Members who may be appointed to the ~~Executive Cabinet~~, subject to a minimum of two and a maximum of nine (excluding the Leader);
- the ~~Executive leader~~Leader to appoint one of the members of the ~~Cabinet Executive~~ to be ~~his or her~~ their deputy;
- the ~~deputy Deputy~~ Executive ~~leader~~Leader, hereafter to be referred to as the Deputy Leader, to hold office until the end of the term of office of the ~~Executive leader~~Leader, unless the ~~Deputy Leader~~deputy Executive leader resigns as deputy, or ceases to be a member of the Council;
- the ~~Executive leader~~Leader to have power to remove the ~~Deputy Leader~~deputy Executive leader from office if ~~he or she~~they thinks fit;
- the ~~Executive~~ ~~Leader~~ to appoint a ~~deputy Executive leader~~Deputy Leader when a vacancy occurs in that office;
- the ~~Deputy Leader~~ ~~deputy Executive leader~~ to act in place of ~~the Executive leader~~Leader if for any reason the ~~Executive leader~~Leader is unable to act, or the office of ~~Executive leader~~Leader is vacant;
- the ~~Executive Cabinet~~ to act, or arrange for a member of the ~~Executive Cabinet~~ to act, if for any reason both the ~~Executive leader~~Leader and the ~~Deputy Leader~~ ~~deputy Executive leader~~ are unable to act, or their respective offices are vacant;
- In the event of the office of Leader of the Council becoming vacant, the Deputy Leader, if eligible, shall assume the office of Leader until the vacancy is filled by the Council for the remainder of the council term.

7.3.2 The Leader of the Council will hold office until:

- ~~he/she~~They resigns from the office; or
- ~~he/she~~They are no longer a Member; or
- ~~he/she is~~They are removed from office by resolution of the Council.

## 7.4 **Other Cabinet Members, Cabinet Committees, and Portfolio Holders**

7.4.1 Other Cabinet Members shall hold office until:

- they resign from office; or
- they are no longer Members; or
- they are removed from office by the Lleader, who must give written notice of any removal to the Chief Executive. The removal will take effect two working days after receipt of the notice by the Chief Executive.

7.4.2 ~~The Leader of the Council shall appoint one of the members of the Cabinet as deputy leader.~~

7.4.3 ~~In the event of the office of Leader of the Council becoming vacant, the deputy leader, if eligible, shall assume the office of leader until the vacancy is filled by the Council for the remaining term.~~

As set out in Part 3C Cabinet Committees may be established such as the Cabinet Shareholder Committee, in relation to Councilowned companies.

The Leader may also appoint other Members as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.

Portfolio Holders are not Members of the Cabinet, and cannot exercise or be delegated any executive functions.

## 7.5 **Proceedings of the Cabinet**

~~7.5.1~~ 7.5.1—Proceedings of the Cabinet shall take place in accordance with the Cabinet Pprocedure Rules set out in Part 7 of this Constitution.

7.5.2 Meetings of the Cabinet will be chaired by the Lleader. No substitutes are permitted on Cabinet.

## 7.6 **Responsibility for functions**

7.6.1 The leader will maintain a list in Parts 3C and 3D of this Constitution setting out which individual members of the Cabinet, committees of the Cabinet, officers, or joint arrangements, are responsible for the exercise of particular ~~Cabinet~~ Executive functions.

7.6.2 Any changes in these functions are to be reported by the ~~leader~~ Leader to the first available Council meeting.

## **Article 8 - Regulatory functions and other committees**

8.1 The Council will appoint the committees set out in Part 3B of this Constitution (responsibility for Council functions) to discharge the functions detailed under each committee.

## Article 9 - The Standards Committee

### 9.1 Standards Committee

9.1.1 The Council will establish a Standards Committee and appoint elected members to it annually.

### ~~9.2 Composition~~

~~9.2.1 This Committee will comprise 13 elected Members, 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 Members from within the Council's area who are not Members or officers of the Council.~~

~~9.2.2 Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.~~

~~9.2.3 The term of office for co-opted non-voting members will normally be 4 years.~~

~~9.2.4 Co-opted non-voting members will be eligible for re-appointment for a second term.~~

~~9.2.5 Substitutes will be permitted in accordance with Part 4 of the Constitution.~~

9.2.6 The Standards Committee will have the roles and functions set out in Part 3 of this Constitution.

## Article 10 - Area Committees

10.1 For the purposes of this Constitution ~~Area Board~~ Area Boards as appointed by the Council under section 102 of the Local Government Act 1972 are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive s are Area Committees.

### ~~10.2 Conflicts of interest – membership of area committees and overview and scrutiny committees~~

#### Conflict of interest

~~10.2.1 If an overview and scrutiny committee is scrutinising specific decisions or proposals in relation to the business of an area committee of which the Member concerned is a member, then the member may not speak or vote at the overview and scrutiny committee meeting unless a dispensation to do so is given by the Standards Committee.~~

#### General policy reviews

~~10.2.2 Where the Overview and Scrutiny Committee is reviewing policy generally the Member must declare his/her interest before the relevant agenda item is reached, but need not withdraw.~~

### ~~10.3~~ 10.2 Area eCommittees - access to information

10.3.1 ~~Any~~ Area committees, ~~such as Area Boards~~, will comply with the access to information procedure rules in Part 5 of this Constitution.

10.3.2 Agenda and notices for area committee meetings will clearly state which items on the agenda relate to the functions of the Cabinet and which do not relate to Cabinet functions.

#### ~~10.4~~ **10.3 Cabinet Members on ~~A~~area ~~C~~Committees**

10.4.1 A ~~member~~ Member of the Cabinet may serve on an ~~A~~area ~~C~~committee if otherwise eligible to do so as a Member.

#### ~~10.5~~ **10.4 Area ~~B~~boards**

~~10.4.1~~ ~~10.5.1~~ The Council will establish 18 ~~area board~~ Area Boards to promote the development of stronger and more resilient communities across ~~the 20 community areas in~~ Wiltshire.

#### **10.5 Role and function**

~~10.8.1~~ The purpose of Area Boards is to promote the development of stronger and more resilient communities across Wiltshire's community areas.

Area Boards will have the role, procedure, and functions set out in Part 3B of this Constitution.

#### **10.6 Composition**

10.6.1 The ~~area board~~ Area Boards will be constituted as area committees to enable them to exercise local, efficient, transparent and accountable decision making in accordance with arrangements delegated by the ~~H~~Leader

10.6.2 Each ~~area board~~ Area Board will comprise membership as set out in Part 3B of the Constitution~~the following membership:~~

- ~~a) the elected unitary Members representing the electoral divisions covered by the area board;~~
- ~~b) an elected representative from each town or parish Council within the area covered by the area board;~~
- ~~c) representatives from the following groups and organisations:~~
  - ~~• local neighbourhood policing team (inspector with a sergeant as deputy);~~
  - ~~• Wiltshire National Health Service;~~
  - ~~• Dorset and Wiltshire Fire and Rescue Service;~~
  - ~~• Housing Association or housing officer;~~
  - ~~• Community Area Partnership and/or other groups representative of the local community;~~
  - ~~• Youth Advisory Group;~~

- d) ~~Other participants from the local community including (but not limited to) any of the following groups: the military, users' groups such as the Wiltshire and Swindon User Group, Healthwatch, partnership boards, minority ethnic groups, older people's groups, colleges, school Councils, governors, local businesses, Chamber of Commerce, cultural organisations, Area of Outstanding Natural Beauty groups.~~ A

## 10.7 Decision-making

- 10.7.1 Only the elected unitary Members on the ~~area board~~Area Board may vote on matters involving the discharge of Executive functions within the scope of the delegation to ~~area board~~Area Boards. However, ~~area board~~Area Boards will ~~seek to reach decisions by consensus where possible, involving all participants, where appropriate seek the views of any other participants~~ before the final decision is made by the unitary Members.

## ~~10.8~~ **Role and function**

- ~~10.8.1~~ ~~The area boards will have the role and functions set out in Part 3 of this Constitution.~~

## ~~10.9~~10.8 Procedure Rule and Guidance

- 10.9.1 ~~Area board~~Area Boards will follow such procedures rules and guidance as issued from time to time by the Leader.

## ~~10.10~~10.9 Access to information

- 10.10.1 ~~Area board~~Area Boards are subject to the access to information procedure rules in Part 5 of this Constitution.

## Article 11 - Joint arrangements

### 11.1 Arrangements to promote wellbeing

- 11.1.1 The Leader/Cabinet, in order to promote the economic, social or environmental wellbeing of Wiltshire, may:
- enter into arrangements or agreements with any person or body;
  - co-operate with, or facilitate, or co-ordinate the activities of any person or body;
  - exercise on behalf of that person or body any functions of that person or body.

### 11.2 Joint arrangements

- 11.2.1 The Council may establish joint arrangements with one or more local authorities and ~~/or their Cabinets~~ to exercise functions which are not Cabinet functions in any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities, such as the Police and Crime Panel or Wiltshire Pension Fund Committee.

11.2.2 The Leader/Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are Cabinet functions. -Such arrangements may involve the appointment of joint committees with these other local authorities.

11.2.3 Except as set out below, the Leader / Cabinet may appoint only Cabinet ~~M~~members to a such joint Committee and those members need not reflect the political composition of the local authority as a whole.

11.2.4 The Leader-/Cabinet may appoint non-Cabinet members to a joint committee in the following circumstances:

- the joint committee has functions for only part of Wiltshire, and that area is smaller than two-fifths of Wiltshire by area or population. In such cases, the Leader-/Cabinet may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area;
- the joint committee relates to functions of the Cabinet of the Council. In such cases, the Cabinet of the Council may appoint to the joint committee any Member who is a Member for an electoral division which is wholly or partly contained within the area.

11.2.5 In both of these cases the political balance requirements do not apply to such appointments.

11.2.6 Details of any joint arrangements including any delegations to joint committees will be found or summarised in the Council's scheme of delegations in Part 3 of this Constitution.

### 11.3 Access to information

11.3.1 The access to information procedure rules in Part 5 of this Constitution apply to any joint committee.

11.3.2 If all the members of a joint committee are members of the Cabinet in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.

11.3.3 If the joint committee contains members who are not on the Cabinet of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

### 11.4 Delegation to and from other local authorities

11.4.1 The Council may delegate non-Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances (Section 101 of the Local Government Act 1972 The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012).

11.4.2 The Leader-/Cabinet may delegate Cabinet functions to another local authority or the Cabinet of another local authority in certain circumstances.



11.4.3 The decision whether or not to accept such a delegation from another local authority shall be referred to ~~the Council meeting~~ a meeting of Council for approval.

## 11.5 Contracting out

11.5.1 The Cabinet may contract out to another body or organisations Cabinet functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

## Article 12 - Officers

### 12.1 Management structure

#### General

12.1.1 The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.

#### ~~Departmental Senior Leadership s~~Structure

12.1.2 The Head of Paid Service will determine and publicise a description of the ~~overall departmental structure~~ Senior Leadership Structure of the Council ~~showing the management structure and deployment of officers. This is set out at Part 16 of this Constitution.~~

#### Chief Executive

12.1.3 The Council will engage a Chief Executive who will fulfil the statutory role of ~~H~~head of ~~P~~paid ~~S~~service for the purposes of Section 4(1) of the Local Government and Housing Act 1989 and whose responsibilities shall include:

- overall responsibility for running the Council within the policies currently adopted by the Council and for managing the Council to achieve its aims.
- authority over all other employees of the Council subject to the officer employment procedure rules as set out in Part 14 of the Constitution.
- being the ~~P~~proper ~~O~~fficer for all statutory purposes unless otherwise determined by him/her except as otherwise provided in this constitution

#### Statutory posts

12.1.4 The Council will designate the following statutory posts as shown:

<u>Designation</u>	<u>Legal reference</u>	<u>Post</u>
<u>Head of Paid Service</u>	<u>Local Government and Housing Act 1989, section 4</u>	<u>Chief Executive</u>

<u>Monitoring Officer</u>	<u>Local Government and Housing Act 1989, section 5</u>	<u>Director - Legal and Governance</u>
<u>Chief Finance Officer</u>	<u>Local Government Act 1972, section 151</u>	<u>Corporate Director, Resources / Deputy Chief Executive</u>
<u>Director of Children's Services</u>	<u>Children Act 2004, section 18</u>	<u>Corporate Director, People</u>
<u>Director of Public Health</u>	<u>National Health Service Act 2006, section 73A (1)</u>	<u>Director of Public Health</u>
<u>Director of Adult Social Services</u>	<u>Local Authority Social Services Act 1970, section 6 (A1)</u>	<u>Director - Adult Social Care</u>
<u>Returning Officer/Counting Officer, and Electoral Registration Officer</u>	<u>Representation of the People Act 1983, section 8 and section 35</u>	<u>Chief Executive</u>
<u>Deputy Electoral Registration Officers</u>	<u>Section 52(2) Elections Act 2022</u>	<u>Director - Legal and Governance, Electoral Services Specialist Manager, Head of Democracy, Governance, and Customer Services</u>
<u>Designated Scrutiny Officer</u>	<u>Local Government Act 2000, section 9FB</u>	<u>Democracy and Complaints Manager</u>
<u>Data Protection Officer</u>	<u>Data Protection Act 2018, sections 69-71</u>	<u>Data Protection Lead</u>

12.1.5 Such posts will have the functions described in paragraphs 12.2 - 12.9 below.

## 12.2 **Functions of the Head of Paid Service**

### Discharge of functions by the Council

12.2.1 The Head of Paid Service will report to the Full Council on the manner in which the discharge of the Council's functions is co-ordinated.

### Restrictions on functions

12.2.2 The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if a qualified accountant.

## 12.3 **Functions of the Monitoring Officer**

### Maintaining the Constitution

- 12.3.1 The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members of the Council, staff and the public.

Ensuring lawfulness and fairness of decision making

- 12.3.2 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council, or to the Cabinet in relation to a Cabinet function, if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

Supporting the Standards Committee

- 12.3.3 The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.

- 12.3.4 ~~He/she~~They will be responsible for all Monitoring Officer functions in respect of parish and town Councils within the area of the authority, and for making arrangements in conjunction with the Standards Committee for the provision of advice and training to members of the Council and members of parish and town Councils on the ethical framework.

Conducting investigations

- 12.3.5 The Monitoring Officer will conduct investigations into matters referred under the Council's arrangements for dealing with complaints under the ~~code~~Code of conduct.

Advising whether Cabinet decisions are within the Budget and Policy Framework

- 12.3.6 The Monitoring Officer will advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

Providing advice

- 12.3.7 The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Members of the Council.

Complaints

- 12.3.8 The Monitoring Officer will act as corporate complaints officer and generally advise the Chief Officers of the Council in this regard.

Restrictions on posts

- 12.3.9 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

**12.4 Functions of the Chief Finance Officer/Section 151 Officer**

Ensuring lawfulness and financial prudence of decision making

- 12.7.1 After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any**

proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.

#### Administration of financial affairs

12.7.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council including:

- the proper administration of the authority's financial affairs, including the Wiltshire Pension Fund and trust funds vested in the Council;
- setting and monitoring compliance with financial management standards;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing financial information;
- preparing the revenue budget and capital programme;
- the maintenance of an adequate and effective internal audit
- treasury management.

12.7.3 Regulation 5 of the Audit and Accounts (England) Regulations 2011 requires the Chief Finance Officer to determine the accounting records, and accounting control systems and to ensure that the accounting control systems are observed and that accounting records are kept up to date.

12.7.4 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council, the Cabinet and external auditor if the authority or one of its officers:

- has made, or is about to make, a decision which involves incurring unlawful expenditure;
- has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority;
- is about to make an unlawful entry in the authority's accounts.

#### Contributing to corporate management

12.7.5 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### Providing advice

12.7.6 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members of the Council and will support and advise Members of the Council and officers in their respective roles.

#### Give financial information

12.7.7 The Chief Finance Officer will provide financial information to the media, members of the public and the community.

#### Financial Regulations and Financial Procedure Rules

12.7.8 The Chief Finance Officer shall be responsible for the Financial Regulations and Procedure Rules as set out at Part 9 of this Constitution

## 12.4 **12.5 Function of the Director of Children's Services**

12.4.1 To:

- participate in the corporate management of the Council;
- direct the children and education teams in the provision of educational services and childcare services in support of the Council's corporate goals;
- ensure the Council meets its statutory obligations under the Children Acts 1989 and 2004 and Section 75 of the National Health Service Act 2006 and as Local Education Authority;
- acts as the Council's statutory Director of Children's Services under section 18 of the Children Act 2004.

## 12.6 Function of the Director of Public Health

12.6.1 To act as the Council's statutory Director of Public Health under section 73A of the National Health Service Act 2006.

## 12.5 **12.7 Function of the Director of Adult Social Services**

12.5.1 To:

- participate in the corporate management of the Council
- direct the adult social care teams in the provision of adult care services, libraries, arts and heritage, community planning and governance and community safety services in support of the Council's corporate goals and manage its partnership arrangements with external bodies, particularly the voluntary sector and health service
- ensure that the Council meets its statutory obligations under adult social services and other legislation
- act as the Council's statutory director of adult social services under section 6 of the Local Authority Social Services Act 1970.

## ~~12.6 Function of the Director of Public Health~~

~~12.6.1 To act as the Council's statutory Director of Public Health under section 73A of the National Health Service Act 2006.~~

## ~~12.7 Functions of the Chief Finance Officer/Section 151 Officer~~

### ~~Ensuring lawfulness and financial prudence of decision making~~

~~12.7.1 After consulting the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council or to the Cabinet in relation to a Cabinet function and the Council's external auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.~~

### ~~Administration of financial affairs~~

~~12.7.2 The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council including:~~

- ~~the proper administration of the authority's financial affairs, including the Wiltshire Pension Fund and trust funds vested in the Council;~~
- ~~setting and monitoring compliance with financial management standards;~~
- ~~advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;~~
- ~~providing financial information;~~
- ~~preparing the revenue budget and capital programme;~~
- ~~the maintenance of an adequate and effective internal audit~~
- ~~treasury management.~~

~~12.7.3 Regulation 5 of the Audit and Accounts (England) Regulations 2011 requires the Chief Finance Officer to determine the accounting records, and accounting control systems and to ensure that the accounting control systems are observed and that accounting records are kept up to date.~~

~~12.7.4 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer to report to the Full Council, the Cabinet and external auditor if the authority or one of its officers:~~

- ~~has made, or is about to make, a decision which involves incurring unlawful expenditure;~~
- ~~has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the authority;~~
- ~~is about to make an unlawful entry in the authority's accounts.~~

#### Contributing to corporate management

~~12.7.5 The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.~~

#### Providing advice

~~12.7.6 The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all Members of the Council and will support and advise Members of the Council and officers in their respective roles.~~

#### Give financial information

~~12.7.7 The Chief Finance Officer will provide financial information to the media, members of the public and the community.~~

#### Financial Regulations and Financial Procedure Rules

~~12.7.8 The Chief Finance Officer shall be responsible for the Financial Regulations and Procedure Rules as set out at Part 9 of this Constitution~~

### Function of Electoral Registration Officer and Deputy Registration Officers

#### To:

- Maintain an accurate and complete electoral register for the Wiltshire Council authority area
- Be a data controller specifically for electoral data
- Structure the electoral register to implement and update boundary changes

- Carry out statutory duties in accordance with electoral legislation

### Function of Returning Officer

#### To:

- Organise and administer UK Parliamentary constituency elections, Police and Crime Commissioner Elections, Wiltshire Council Unitary Elections, City Town and Parish Council elections, Neighbourhood planning referenda, parish polls and any other elections or referenda as required within the Wiltshire Council authority area.
- Be a data controller specifically for electoral data
- Carry out statutory duties in accordance with electoral legislation

### 12.8 **Functions of the Designated Scrutiny Officer**

12.8.1 To promote the role of the authority's Overview and Scrutiny Committees.

12.8.2 To provide support to the authority's Overview and Scrutiny Committees.

12.8.3 To provide support and guidance to:

- Members of the authority;
- Members of the Executive of the authority, and;
- Officers of the authority.

in relation to the functions of the authority's Overview and Scrutiny Committees.

### 12.9 **Functions of the Data Protection Officer (DPO)**

12.2.3 As follows:

- Informing the Council, its employees and any data processors it engages, of their obligations in respect of data protection legislation;
- Providing advice on the completion and monitoring of requirements to conduct data protection impact assessments;
- Co-Operating with and acting as the contact point for the Information Commissioner;
- Monitoring compliance with policies in relation to the protection of personal data;
- Monitoring compliance with the data protection legislation;
- Reporting any significant issues to the council's corporate leadership team.

### 12.10 **Duty to provide sufficient resources to the Head of Paid Service, Monitoring Officer and Chief Finance Officer**

12.10.1 The Council will provide the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### 12.11 **Conduct**

12.11.1 Officers will comply with the Officers' Code of Conduct set out in Part 15 of this Constitution and the Protocol on Member-Officer Relations in Protocol 1 of this Constitution.

## 12.12 **Employment**

12.12.1 The recruitment, selection and dismissal of officers will comply with the Officer Employment Procedure Rules set out in Part 14 of this Constitution.

### **Politically Restricted Posts**

The council's position regarding roles which are politically restricted shall be set out in the Politically Restricted Posts Policy and Procedure

## **Article 13 - Decision Making**

### 13.1 **Responsibility for decision making**

13.1.1 The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Parts 3, 3A, 3B, 3C and 3D of this Constitution.

### 13.2 **Principles of decision making**

13.2.1 All decisions of the Council will be made in accordance with the following principles:

- to produce action that is proportionate to the desired outcome;
- to ensure open, fair and honest administration;
- to be clear over desired outcomes and aims;
- to record the options considered and discarded;
- to state the reasons for the action;
- to consult interested parties where appropriate and practicable;
- to consult appropriate officers and to seek their professional advice;
- to show due respect for human rights, and to provide equality of opportunity;
- to obtain best value and operate efficiently, effectively and economically;
- to serve Wiltshire communities and to work in partnership with other agencies having the same aim;
- to promote the economic, social, and environmental well-being of the county;
- to determine issues at the lowest level commensurate with their importance;
- to keep and sustain what is useful in the traditions of the authority and to reject any practices or services retained purely out of sentiment.

### 13.3 **Decisions**

#### **Decisions reserved to Full Council**

13.3.1 Decisions relating to the functions set out in Article 4 will be made by the Full Council and not delegated without a decision of Full Council to do so.

#### **Key decisions**



~~13.3.2 Key decisions are those described in Part 1 of this Constitution, or any decision defined as a key decision in legislation.~~

## 13.4 Decision making by the Full Council

13.4.1 The Council meeting will follow the Council procedure rules set out in Part 4 of this Constitution when considering any matter.

## 13.5 Decision making by the Cabinet

13.5.1 The Cabinet will follow the Cabinet Procedure Rules set out in Part 7 of this Constitution when considering any matter.

### Key decisions

#### 13.3.2

1.4 When major decisions ("key decisions") are to be discussed or made, they are published in the Cabinet's forward work plan, in so far as they can be anticipated.

1.5 Wiltshire Council defines a key decision as:

1.5.1 any decision which would result in the closure of an amenity or total withdrawal of a service;

1.5.2 any restriction of service greater than 5 per cent measured by reference to current expenditure or hours of availability to the public;

1.5.3 any action incurring expenditure or producing savings greater than 20 per cent of budget service areas against which the budget is determined by Full Council;

1.5.4 any decision in accordance with the Council's Financial Regulations (Part 9), involving financial expenditure of £500,000 or above, with the exception of operational expenditure by the Chief Executive identified within the approved budget and policy framework;

1.5.5 any proposal to change the policy framework;

1.5.6 any proposal which would have a significant effect on communities living or working in an area comprising two or more electoral divisions;

1.5.7 any contract (or programme) which:

- o exceeds an annual value of £1 million or the total contract value exceeds £4million including any optional extension period;
- o involves the transfer of 50 or more employees in or out of the council; or
- o relates to a matter which is commercially, politically or strategically sensitive.

1.6 If key decisions are to be discussed with council officers at a meeting of the Cabinet, the meeting will be open for the public to attend except where matters of a confidential or exempt nature are to be discussed.

1.7 The Cabinet has to make decisions which are in line with the Council's budget and policy framework. If it considers that a decision is required which is outside the budget or policy framework, it must refer the matter to the whole council for a decision.

## 13.6 Decision making by Overview and Scrutiny Committees

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- 13.6.1 Overview and Scrutiny Committees will follow the Overview and Scrutiny Procedures Rules set out in Part 8 of this Constitution when considering any matter.
- 13.7 **Decision making by other committees and sub-committees established by the Council**
- 13.7.1 Other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.
- 13.8 **Decision making by Council bodies acting as tribunals**
- 13.8.1 The Council, a Member of the Council, or an officer acting as a tribunal or in a quasi-judicial manner, or determining/considering (other than for the purposes of giving advice) the civil rights and obligations, or the criminal responsibility of any person, will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

## **Article 14 - Finance, contracts and legal matters**

### **14.1 Financial management**

- 14.1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules and Financial Regulations set out in Part 9 of this Constitution.

### **14.2 Contracts**

- 14.2.1 Every contract made by the Council will comply with the contract regulations set out in Part 10 of this Constitution.

### **14.3 Legal proceedings**

- 14.3.1 The Solicitor to the Council, or other person authorised by him/her, is authorised to institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests.

### **14.4 Authentication of documents**

- 14.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council, or other person authorised by him/her, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person

### **14.5 Common Seal of the Council**

~~14.5.1~~ ~~14.5.1~~ The Common Seal of the Council will be kept in a safe place in the custody of the Solicitor to the Council.

14.5.2 A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision.

14.5.3 The Common Seal will be affixed to those documents which, in the opinion of the Solicitor to the Council, should be sealed.

14.5.4 The affixing of the Common Seal will be attested by the Solicitor to the Council or some other person authorised by him/her.

## Article 15 - Review and revision of the Constitution

### 15.1 Duty to monitor and review the Constitution

15.1.1 The Standards Committee on the advice of the Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

### 15.2 ~~Protocol~~ Procedure for monitoring and review of the Constitution by the Monitoring Officer

15.2.1 A key role for the Monitoring Officer is to monitor the effectiveness of the Constitution and to make recommendations for ways in which it could be amended in order to better achieve ~~better~~ the purposes set out in Article 1, and otherwise ensure it remains up to date.

15.2.2 In undertaking this task the Monitoring Officer may:

- observe any meetings of different parts of the ~~M~~member and officer structure;
- undertake an audit trail of a sample of decisions;
- record and analyse issues raised with ~~him/her~~them by ~~members~~Members, officers, the public and other relevant stakeholders;
- compare practices in this authority with those in other comparable authorities, or national examples of best practice.

### 15.3 Changes to the Constitution

#### Approval

15.3.1 Changes to the Constitution will usually be approved by the Full Council ~~only~~ after consideration of ~~the any~~ proposals by the Standards Committee and the Monitoring Officer. ~~;~~

15.3.2 ~~An exception to this is that~~The the Monitoring Officer also has the delegated authority to amend the Constitution to

- ~~reflect~~ decisions of Full Council, ~~;~~
- Reflect changes in the law;

- any, to correct errors or clarify ambiguities, where to do so does not alter (but gives further effect to) the Executive arrangements or the principles enshrined in the Constitution.

Any changes made by the Monitoring Officer under this delegated authority will be reported to the Standards Committee, or any body established by the Standards Committee for that purpose.

Change from a Leader and Cabinet form of Executive to alternative arrangements, or vice versa

- 15.3.3 The Council must take reasonable steps to consult with local electors and other interested persons in the area when drawing up any proposals.

## **Article 16 - Suspension, interpretation and publication of the Constitution**

### **16.1 Limit to suspension**

- 16.1.1 The Articles of this Constitution may not be suspended. The rules specified below may be suspended by the Full Council to the extent permitted within those rules and the law.

### **16.2 Procedure to suspend**

- 16.2.1 A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of Members is present. The extent and duration of any suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution set out in Article 1.

### **16.3 Rules capable of suspension**

- 16.3.1 The Council's procedure rules, set out within Part 4 of the Constitution, refer to which of the following rules may be suspended.

### **16.4 Interpretation**

- 16.4.1 The ruling of the Chairman of the Council as to the interpretation or application of this Constitution, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

### **16.5 Publication**

- 16.5.1 The Monitoring Officer will ~~provide~~ make available an electronic ~~or printed~~ copy of this Constitution to every Member of the authority upon delivery to him/her/them of that individual's declaration of acceptance of office on the Member's first being elected to the Council.

- 16.5.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices, ~~libraries~~, on the internet, and in other appropriate locations, and

can be purchased by members of the local press and the public on payment of a reasonable fee.

16.5.3 ~~The Monitoring Officer will ensure that a summary of the Constitution is made widely available within the area and is updated as necessary.~~

16.5.4 Access by electronic means shall be sufficient for the purposes of this rule.

## Article 17 - Description of Executive arrangements

17.1 The following parts of this Constitution constitute the Executive arrangements:

17.1.1 overview and scrutiny committees and the overview and scrutiny procedure rules;

17.1.2 the Cabinet and the Cabinet procedure rules

~~17.1.3 area committees and forums – should any be appointed~~

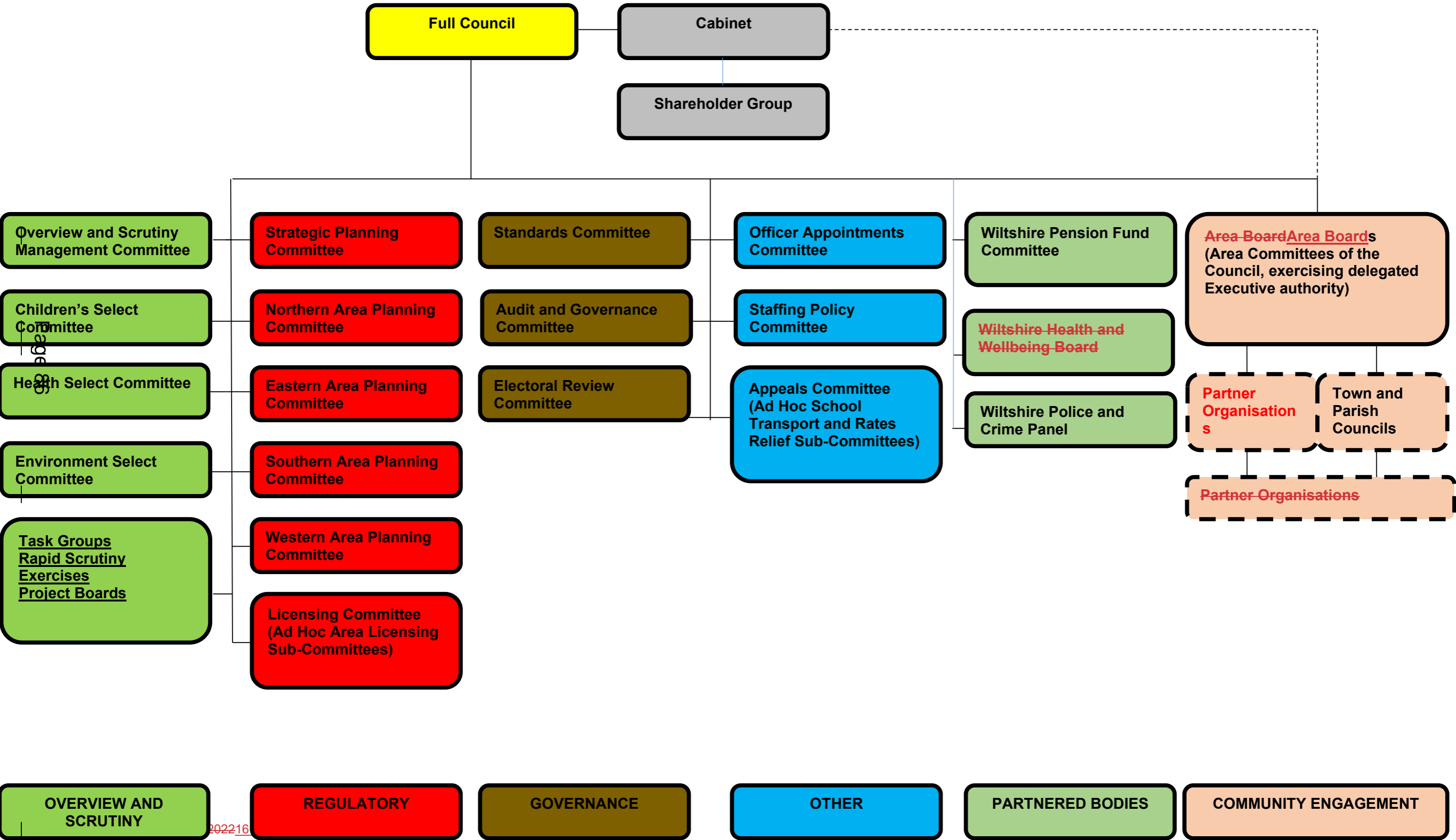
~~17.1.4~~ 17.1.3 ~~area board~~ **Area Boards** when discharging Executive functions

~~17.1.5~~ 17.1.4 joint executive arrangements – should any be established

~~17.1.6~~ 17.1.5 decision-making and the access to information procedure rules

~~17.1.7~~ 17.1.6 Parts 3C and 3D (responsibility for functions).

# PART 2 SCHEDULE 1 – WILTSHIRE COUNCIL COMMITTEE STRUCTURE



**Wiltshire Council  
Constitution  
Part 3  
Responsibility for Functions  
and Schemes of Delegation**

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# PART 3

## RESPONSIBILITY FOR FUNCTIONS

### SECTION A: GENERAL

1. **Introduction**
- 1.1 Part 3 of this Constitution deals with responsibility for functions and decision making.

2. **Definitions**
- 2.1 In this Part, the following words and phrases have the following meaning:

<b>Chief Executive</b>	The Head of Paid service. Note: the Chief Executive has chosen to appoint the Corporate Director, Resources as the Deputy Chief Executive, who may deputise for the Chief Executive as required on all corporate matters concerning the Council
<b>Corporate Director</b>	includes the Corporate Directors for People, Place and Resources and any Interim Corporate Director. For the purposes of any delegation arrangements the Director, Legal and Governance, shall be counted as a Corporate Director.
<b>Executive decision</b>	means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the Executive of a local authority.
<b>Incidental decision</b>	means a decision which relates to the day to day running of a service or the implementation of a decision made by Council, Cabinet or a Committee.
<b>Proper Officer</b>	means the Director, Legal and Governance, or such other officer as designated from time to time by the Chief Executive.
<b>Register</b>	means the register referred to in Part 3 Section D1 Paragraph 1.6 and stored and maintained on the Council's intranet.
<b>Regulations</b>	means the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

- 2.2 In this Part reference to any legislation includes reference to any successor legislation.

3. **Principles**
- 3.1 Wiltshire Council has a Leader and Cabinet Executive model and as a result reference should be made to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to determine whether a function is a council executive or non-executive function.

- 3.2 Section B of this Part 3 sets out the functions specifically reserved to the Council, Cabinet or Committees.

- 3.3 The Chief Executive, as Head of Paid service, has ultimate corporate leadership responsibility for the Council and its officers. He has chosen to be supported by the Corporate Directors and Directors, to help deliver organisational priorities and Council services.

- 3.4 Where a function has not been specifically reserved in accordance with Para 3.2 above, the Chief Executive and the Corporate Director within whose remit the matter falls are empowered to make decisions on behalf of the Council in accordance with Part 3 Section D1 of the Constitution.
- 3.5 The Chief Executive and Corporate Directors may authorise officers to take decisions on their behalf provided a written scheme of sub delegation is recorded.
- 3.6 The Chief Executive and Corporate Directors may decide that any sub delegations they grant to officers within their team under their scheme of sub delegation may be subject to financial limitations. Whilst they may wish to consider using the signing and authorisation limits set for various officers under the Council's Budget and Policy Framework, they are not limited in this regard. The signing and authorisation limits set under the Budget and Policy Framework are financial management controls. A scheme of sub delegation is the delegation by the Chief Executive or a particular Corporate Director to other officers within their areas of responsibility to make particular types of decision for and in their name and therefore such sub delegation can be given up to the maximum limits of their own powers.
- 3.7 Decisions made under delegated powers should be recorded in accordance with Part 3 Section D1 Paragraphs 2.3 and 2.4.
- 3.8 The Chief Executive and Corporate Directors must ensure that schemes of sub delegation for decision making for their areas of responsibility are in place. They are also responsible for ensuring valid instruments of appointment for any powers exercised by officers by virtue of any statutory appointments are in place. The Chief Executive and Corporate Directors must ensure that schemes of sub delegation and instruments of appointment are recorded on the Register of Sub-delegations.
- 3.9 Any decision taken by an officer on behalf of the Chief Executive or a Corporate Director shall remain the responsibility of the Chief Executive or Corporate Director as the case may be.
- 3.10 In making decisions officers will comply with all other requirements of this Constitution including but not limited to:
- 3.10.1 Articles of the Constitution (Part 2)
  - 3.10.2 Access to Information Procedure Rules (Part 5),
  - 3.10.3 Financial Regulations and Procedure Rules (Parts 9)
  - 3.10.4 Contract and Procurement Rules (Part 10)
  - 3.10.5 Leader's Protocol for Individual Decision Making by Cabinet Members (Protocol 5)
- 3.11 In deciding whether or not to exercise such delegated powers, officers should consider whether to consult the appropriate Cabinet Member(s) or committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate Member body where they consider it expedient to do so.

- 3.12 These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the Council's goals.

Revised - clean version

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION B: FUNCTIONS OF COUNCIL, COMMITTEES AND CABINET**

#### **1. The Council**

The Council will be responsible for the following functions, which it will exercise only in Full Council meetings:

- 1.1 Adopting the following statutory plans, strategies and documents as part of the policy framework of the Council:
  - 1.1.1 Emergency plans and civil contingency plans, as required by the Civil Contingencies Act 2004;
  - 1.1.2 Local Transport Plan, as required by the Transport Act 2000;
  - 1.1.3 Local development documents (including supplementary planning documents) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;
  - 1.1.4 Corporate Equality Plan, pursuant to the Public Sector Equality Duty under s149 of the Equality Act 2010;
  - 1.1.5 Homelessness Strategy, as required by the Homelessness Act 2002;
  - 1.1.6 Housing Renewal Strategy, as required by the Housing Act 2004;
  - 1.1.7 Licensing Authority Policy Statement, as required by the Licensing Act 2003;
  - 1.1.8 Gambling Act Statement of Principles, as required by the Gambling Act 2005;
  - 1.1.9 Pay Policy Statement, as required by the Localism Act 2011;
  - 1.1.10 Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006.
  - 1.1.11 Air Quality Strategy, as required by the Environment Act 1995;
  - 1.1.12 Contaminated Land Strategy, as required by Part2A of the Environmental Protection Act 1990.
- 1.2 Adopting the following non-statutory plans, strategies and documents which also form part of the policy framework of the Council:
  - 1.2.1 Corporate Parenting Policy;
  - 1.2.2 Business Plan;
  - 1.2.3 Treasury Management Policy;
  - 1.2.4 Capital Investment Strategy;
  - 1.2.5 Household Waste Management Strategy;
  - 1.2.6 Climate Strategy (including Carbon Reduction).
  - 1.2.7 Green and Blue Infrastructure Strategy
- 1.3 Approving the budget, including:
  - 1.3.1 Allocating financial resources to different services and projects;
  - 1.3.2 Establishing contingency funds;
  - 1.3.3 Setting the council tax;

- 1.3.4 Making decisions relating to the control of the Council's borrowing requirement;
  - 1.3.5 Setting virement limits;
  - 1.3.6 Annual Investment Strategy;
  - 1.3.7 Annual policy for making a Minimum Revenue Provision (MRP).
- 1.4 Approving and amending the constitution, except for changes approved by the Monitoring Officer as set out in Part 2 Article 15.3.2.
  - 1.5 Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 5 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework, or the budget, where the decision maker is minded to make it in a manner which would be contrary to the policy framework, or contrary to/or not wholly in accordance with the budget.
  - 1.6 Appointing and removing the Leader of the Council from office.
  - 1.7 Agreeing and/or amending the terms of reference for committees other than joint committees, deciding on their composition and making appointments to them.
  - 1.8 Appointing Chairmen and Vice-Chairman of Committees, unless otherwise specified within this Constitution or where choosing to allow a committee to appoint its own Chairman and Vice-Chairman.
  - 1.9 Adopting a Members' allowances scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 following advice from an independent remuneration advisory panel comprising up to five non-elected Members. This would include making any amendments to such a scheme.
  - 1.10 Confirming the appointment of the Head of Paid Service.
  - 1.11 Appointing the returning officer and electoral registration officer.
  - 1.12 Submitting proposals to the appropriate secretary of state under the Representation of the People Act 2000.
  - 1.13 Carrying out community governance reviews and put in place or make changes to local community governance and electoral arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.
  - 1.14 Making, amending, revoking, re-enacting or adopting bylaws and promoting, or opposing, the making of local legislation or personal bills.
  - 1.15 Agreeing the cycle of Council meetings.
  - 1.16 Any function under a local act.
  - 1.17 Making appointments to the Police and Crime Panel in accordance with the relevant legislation and guidance.

## **2. Committees**

The Council will exercise the following functions by delegation of powers to the under-mentioned committees:

### **2.1 Strategic Planning Committee**

#### Composition

2.1.2 The size of the committee and appointments to it will be determined by council. Appointments will be made having regard to rules on political proportionality.

2.1.3 Substitutes will be permitted in accordance with Part 4 of this Constitution.

2.1.4 Members shall not participate as Members of the Strategic Planning Committee until they have received appropriate training in respect of their functions on the committee.

#### Role and Functions

2.1.5 The committee will exercise the following functions, to make strategic planning decisions as follows:

2.1.5.1 To consider the following categories of applications for planning permission, if called in by Members, in accordance with Part 3D3 of the Constitution (Scheme of Delegation – Planning):

- Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues;
- Planning applications for minerals and waste development, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
- Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
- Applications called in by a Division Member that cross the boundary of two Area Planning Committees;
- To consider the implications of major developments outside of Wiltshire that could have an impact on local residents and respond to the determining authority where appropriate;

2.1.5.2 Any application where the Corporate Director, Place considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses;

2.1.5.3 Any application the Corporate Director, Place, has deems raises issues that should be dealt with by the Strategic Planning Committee.

2.1.5.4 To consider documents relating to the Local Development Framework and advise Cabinet where appropriate.

2.1.6 There shall be no referral down of applications from the Strategic Planning Committee to the Area Planning Committees.

### Public Participation

- 2.1.7 Details of the rules concerning public participation at the Strategic Planning Committee are referenced in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

## **2.2 Area Planning Committees**

- 2.2.1 There shall be four area planning committees with the following composition, role and functions.

### Composition

- 2.2.2 The size of the committees and appointments to them will be determined by Council. Appointments will be made having regard to rules on political proportionality and also having regard to the wishes of group leaders, who would be asked to nominate Members wherever possible on a geographical basis. The Corporate Director, Place, will be responsible for reviewing and updating the extent of the areas covered by each committee.
- 2.2.3 Substitutes will be permitted in accordance with Part 4 of this Constitution from those eligible, selected wherever possible on a geographical basis.
- 2.2.4 Members shall not participate as Members of the area planning committees until they have received appropriate training in respect of their functions on the committee.

### Planning Role and Functions

- 2.2.5 To consider planning applications not within the remit of the Strategic Planning Committee and not delegated to officers except where the Corporate Director, Place, considers it inappropriate to exercise delegated powers having considered public representations and consultee responses.
- 2.2.6 To consider matters of local importance within the area such as:
- 2.2.6.1 The designation and amendment of conservation areas;
  - 2.2.6.2 Village design statements where Council approval is required for them to be considered as material considerations in dealing with planning applications;
  - 2.2.6.3 Consideration of planning applications called to an area committee by division Members in accordance with Part 3D3 of the Constitution, with the exception of those that fall to be determined by the Strategic Planning Committee.
- 2.2.7 There shall be no referral up of applications from the area planning committees to the Strategic Planning Committee.
- 2.2.8 The Corporate Director, Place, after consultation with the relevant Cabinet Member, shall be responsible for determining whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee in accordance with the criteria set out above. Where requested to do so, the Corporate Director, Place shall be required to set out the reasons in writing.

### Other Roles and Functions

- 2.2.9 Where an objection has been received and that objection has not been resolved by officers, to consider matters of local importance for the following matters:



- 2.2.9.1 Registration of common land or town and village greens;
- 2.2.9.2 Variation of rights of common;
- 2.2.9.3 Determination of applications under the Manufacture and Storage of Explosives Regulations 2005;
- 2.2.9.4 Public rights of way, including modification of the definitive map and the regulation of the use of the highway.

#### Scheme of Delegation

- 2.2.10 The scheme of delegation to the Corporate Director, Place, is detailed in Part 3 Section D3 of this Constitution.

#### Public Participation

- 2.2.11 Details of the rules concerning public participation at the Area Planning Committees are referenced in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

### **2.3 Licensing Committee**

#### Composition

- 2.3.1 The size of the committee and appointments to it will be determined by Council with a Membership of between 10 and 15 Members. Appointments will be made having regard to the rules on political proportionality.
- 2.3.2 Substitutes will be permitted in accordance with Part 4 of this Constitution
- 2.3.3 Members shall not participate as Members of the Licensing Committee or any of its sub-committees in relation to Licensing Act and Gambling Act matters until they have received appropriate training in respect of their functions on the committee or sub-committees.

#### Role and Functions

- 2.3.4 Taxi, gambling, casino, gaming, entertainment, food, liquor and miscellaneous licensing.
- 2.3.5 To deal with all functions relating to licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to include all of the Council's responsibilities under the Licensing Act 2003, the Gambling Act 2005 and the Council's responsibilities in respect of licensing under the Criminal Justice and Police Act 2001 and the Violent Crime Reduction Act 2006 any other associated matters and any other similar licensing and registration functions.
- 2.3.6 The Licensing Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge its duties including those under the Licensing Act 2003 and the Gambling Act 2005.
- 2.3.7 Each Sub-committee will comprise three Members drawn from the Licensing Committee and appointed by the Proper Officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer, having regard to the following:

- 2.3.7.1 Availability of Members;

- 2.3.7.2 Members selected are not the representative for the area in which the premises subject to the hearing or review is situated;
- 2.3.7.3 Members do not have a disclosable or other interest in the matter to be determined;
- 2.3.7.4 Cross-party representation on all sub-committees is achieved where at all possible.

#### Scheme of Delegation

- 2.3.8 Sub-committees will have full delegated powers to determine contested applications and adjudicate over the review of licences. These will be undertaken by way of licensing hearings and conducted in accordance with relevant legislation.
- 2.3.9 Delegations relevant to the Licensing Committee, licensing sub-committees and officers are detailed in Part 3 Section D4 of this Constitution.

#### **2.4 Staffing Policy Committee**

##### Composition

- 2.4.1 The size of the committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.
- 2.4.2 Substitutes will be permitted in accordance with Part 4 of this Constitution.

##### Role and Function

- 2.4.3 To determine, monitor and review staffing policies and practices to secure the best use and development of the Council's staff, including the power to deal with all matters relating to staff terms and conditions.
- 2.4.4 The Staffing Policy Committee will establish the following sub-committees to deal with matters relating to the dismissal or disciplinary action against individual Members of staff and staff grievances.

##### Senior Officers' Employment Sub-Committee

- 2.4.5 This sub-committee is authorised to dismiss and take disciplinary action against the officers categorised below as defined within the associated "Chief Officer posts" document in accordance with the officer employment procedure rules:

- 2.4.5.1 The Head of Paid Service;
- 2.4.5.2 Statutory chief officers;
- 2.4.5.3 Non-statutory chief officers;
- 2.4.5.4 Deputy chief officers;
- 2.4.5.5 Assistants for political groups.

- 2.4.6 For this purpose, the sub-committee shall comprise at least three Members, at least one of whom shall be a Member of the Cabinet.
- 2.4.7 This sub-committee is also authorised to consider and respond to grievances raised by officers in the categories listed above under stage two to the Council's grievance procedure. For the determination of such grievances the sub-committee shall comprise at least three Members. There is no requirement for any of those Members to be a Member of the Cabinet.

#### Staffing Appeals Sub-Committee

2.4.8 This sub-committee is authorised to hear appeals against dismissal or disciplinary action:

- 2.4.8.1 By the Senior Officers' Employment Sub-Committee in relation to the senior officers specified above;
- 2.4.8.2 By the Head of Paid Service in relation to other staff.

2.4.9 The Staffing Appeals Sub-Committee has power in the case of an appeal against a warning to:

- 2.4.9.1 Dismiss the appeal;
- 2.4.9.2 Allow the appeal;
- 2.4.9.3 Allow the appeal and substitute a different warning (greater or lesser);
- 2.4.9.4 Dismiss the employee.

2.4.10 The Staffing Appeals Sub-Committee has power in the case of an appeal against dismissal to:

- 2.4.10.1 Dismiss the appeal;
- 2.4.10.2 Dismiss the appeal but offer to re-engage the employee in the same or another post with effect from a date to be determined;
- 2.4.10.3 Allow the appeal and reinstate;
- 2.4.10.4 Allow the appeal and reinstate with a written or final written warning.

2.4.11 In the case of any appeal against dismissal or disciplinary action in respect of a senior officer as identified above, the Staffing Appeals Sub-Committee shall comprise at least three Members, at least one of whom shall be a Member of the Cabinet.

2.4.12 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to the Staffing Appeals Sub-Committee.

#### Grievance Appeals Sub-Committee

2.4.13 This Sub-committee is authorised to hear appeals under stage two of the Council's grievance procedure.

2.4.14 The Sub-committee shall comprise at least three Members to hear an appeal. There is no requirement for any Member to be a Member of the Cabinet.

2.4.15 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to the Grievance Appeals Sub-Committee.

#### Relevant Officers Panel

2.4.16 This is an advisory sub-committee established in accordance with the requirements of the Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 for the purpose of advising on matters relating to the dismissal of relevant officers of the council as defined in Part 14 Officer Employment Procedure Rules.

2.4.17 The Panel shall comprise three members and at least two relevant independent persons who have accepted an invitation to be appointed to the Panel.

2.4.18 The Monitoring Officer shall be responsible for providing training to the Panel.

## 2.5 Standards Committee

### Composition

- 2.5.1 The size of the Standards Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality, but may not include., the Leader or any other Member of the Cabinet.
- 2.5.2 In addition to elected Members 4 co-opted non-voting Members shall be appointed, at least 2 of whom shall at appointment be serving town, parish or city Members from within the Council's area who are not Members or officers of the Council.
- 2.5.3 Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.
- 2.5.4 The term of office for co-opted non-voting Members will normally be 4 years.
- 2.5.5 Co-opted non-voting Members will be eligible for re-appointment for additional terms, but may not serve more than 2 consecutive terms.
- 2.5.6 Substitutes will be permitted in accordance with Part 4 of the Constitution.

### Roles and Function

- 2.5.7 The Standards Committee is responsible for:
  - 2.5.7.1 promoting and maintaining high standards of conduct by elected and co-opted Members and officers;
  - 2.5.7.2 assisting the elected and co-opted Members to observe the Members' code of conduct;
  - 2.5.7.3 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;
  - 2.5.7.4 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;
  - 2.5.7.5 advising on and where appropriate, 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, and to assist in promoting training and information for parish councils;
  - 2.5.7.6 granting dispensations to elected and co-opted Members from requirements relating to interests;
  - 2.5.7.7 overseeing the operation of the Council's arrangements for dealing with misconduct complaints against Members and Co-opted Members of Wiltshire Council, and Members of City, Town, and Parish councils;
  - 2.5.7.8 overview of the whistleblowing policy;
  - 2.5.7.9 overview of corporate complaints handling and Ombudsman investigations;
  - 2.5.7.10 reviewing the implementation of recommendations made by the Ombudsman;
  - 2.5.7.11 oversight of the Constitution.

### Standards Sub-Committees

- 2.5.8 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:

- 2.5.8.1 An Assessment Sub-Committee to assess complaints etc etc to take in respect of complaints regarding the conduct of Members of Wiltshire Council, or Members of city, town or parish councils under the Council's arrangements;
- 2.5.8.2 A Hearing Sub-Committee to determine Member misconduct complaints under the Council's arrangements;
- 2.5.8.3 A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.

2.5.9 For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected Members present.

#### Assessment Sub-Committee

2.5.10 As it shall consider multiple complaints per meeting this Sub-Committee shall comprise 5 elected Members from among the Standards Committee and its substitutes, in case of conflicts arising. The Standards Committee will appoint the members annually. The Sub-Committee will elect a Chairman and Vice-Chairman at their first meeting following their reappointment by Standards Committee after the annual meeting of Council. The Sub-Committee may include up to 2 non-voting co-opted Members of the Standards Committee on an ad-hoc basis. All other members and substitutes of the Standards Committee will serve as substitutes for the Sub-Committee.

2.5.11 The above Sub-Committee is not subject to the requirements of political balance but is subject to a requirement of a maximum of 4 elected Members from any political group. The co-opted members serving on the Sub-Committee will be determined by the proper officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer.

2.5.12 The above Sub-Committee shall meet on a monthly basis and make decisions on all Code of Conduct complaints in accordance with the Council's arrangements under Protocol 11.

2.5.13 Members, including co-opted members, may not serve on the Hearing Sub-Committee for a complaint they have previously considered on the Assessment Sub-Committee.

#### Hearing Sub-Committee and Dispensation Sub-Committee

2.5.14 In each case the above Sub-Committees shall comprise 3 elected Members from whom a chairman will be elected. The Sub-Committee may include up to 2 non-voting co-opted Members of the Standards Committee.

2.5.15 The above Sub-Committees are not subject to the requirements of political balance but are subject to the requirement of a maximum of 2 elected Members from any political group. The composition of any sub-committee will be determined by the proper officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer on the basis of Member availability, drawing from the Membership of the Committee and their substitutes.

2.5.16 The Hearing Sub-Committee shall make decisions where an investigation into a Code of Conduct Complaint makes a finding of a breach, in accordance with the Council's arrangements under Protocol 11.

2.5.17 The Dispensation Sub-Committee shall make decisions on requests for dispensations relating to Disclosable Pecuniary Interests in accordance with the Council's Dispensations Policy, which is to be approved by the Standards Committee.

2.5.18 Requests for dispensations relating to Other Registerable Interests and Non-Registerable Interests, as defined in Part 12 of the Constitution, shall be delegated to the Monitoring Officer to determine in accordance with the Dispensations Policy. It is the responsibility of the Member to submit a request, but the Monitoring Officer will have the authority to pro-actively engage with Members where it appears a dispensation may be appropriate or necessary.

2.5.19 In the event a Disclosable Pecuniary Interest dispensation request from a Member is received where there is insufficient time to convene a Dispensations Sub-Committee, in relation to a matter which is urgent and cannot reasonably be delayed or appropriately determined by another method, the Monitoring Officer will have authority to determine the request in accordance with the Dispensations Policy.

## 2.6 **Officer Appointments Committee**

2.6.1 This committee will comprise five Members to include at least one Member of Cabinet.

2.6.2 It will be responsible for:

2.6.2.1 Appointing the Head of Paid Service, subject to confirmation by the Council;

2.6.2.2 Appointing Directors, subject to the officer employment procedure rules as set out in Part 14 of this Constitution.

## 2.7 **Audit and Governance Committee**

### Composition

2.7.1 The size of the Audit and Governance Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.7.2 The Audit and Governance Committee will exclude Members of the Cabinet. The exception is that up to two, of the Leader of the Council and the Cabinet Members with responsibility for finance and governance, will be appointed as non-voting Members of the Committee. As non-voting members they would not count toward the rules on political proportionality.

2.7.3 Substitute Members will be permitted in accordance with Part 4 of this Constitution.

2.7.4 In addition to the Elected Members on the Committee, the Committee can appoint up to 2 Independent Co-opted Members, who will be Non-Voting Members of the Committee. The Non-Voting Co-opted Independent Member(s) should have experience of audit and financial management, preferably with knowledge of local authorities.

2.7.5 Independent Co-opted Members will be appointed by a recruitment and selection process involving members of the Committee.

2.7.6 The term of office for Independent Co-opted Members will normally be 4 years.

2.7.7 Independent Co-opted Members will be eligible for re-appointment for a second term.

2.7.8 Independent Co-opted Members do not count towards the quorum of the committee.

### Role and Function

2.7.9 The Audit and Governance Committee will be responsible for:

#### External Audit Activity:

2.7.9.1 To receive and comment on the external audit plan;

2.7.9.2 To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;

2.7.9.3 To monitor accounting policies and any changes made during the year;

2.7.9.4 To comment on the scope and depth of external audit work and to ensure it gives value for money;

2.7.9.5 To monitor the implementation of management actions arising from external audit work.

#### Internal Audit Activity:

2.7.9.6 To approve the terms of reference and strategy for internal audit, and the annual internal audit plan and subsequent changes thereto;

2.7.9.7 To monitor and review the effectiveness of internal audit to ensure compliance with statutory requirements;

2.7.9.8 To consider the annual report, opinion, and summary on internal audit activity and the level of assurance it provides on the Council's corporate governance arrangements;

2.7.9.9 To consider specific internal audit reports as requested, and receive details where it is proposed not to accept internal audit recommendations, and monitor the implementation of agreed management actions.

#### Regulatory Framework:

2.7.9.10 To monitor and review the effective development and operation of corporate governance, risk and performance management and internal control, and to receive progress reports as required;

2.7.9.11 To oversee the process for production of the annual governance statement (AGS), to review the supporting evidence including the arrangements for governance of partnership working, and to approve the AGS;

2.7.9.12 To monitor the development and implementation of the Council's anti-fraud, bribery and corruption policy, anti-money laundering policy, and anti-tax evasion policy,

#### Financial Management and Accounts:

2.7.9.13 To ensure the Council's arrangements for financial management are adequate and effective, and, together with its accounting policies, are regularly reviewed;

2.7.9.14 To review and approve the annual statement of accounts;

2.7.9.15 To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## **2.8 Appeals Committee**

### Composition

2.8.1 The size of the committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.8.2 An Appeals Sub-Committee will comprise three Members, drawn by the Proper Officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer, from those Members of the Appeals Committee who have received appropriate training.

2.8.3 At each meeting of the Appeals Sub-Committee, one of its Members shall be elected to chair the appeals panel for the duration of that meeting.

#### Function

2.8.4 An Appeals Sub-Committee is empowered to determine appeals against the following decisions of the authority:

2.8.4.1 Education transport;

2.8.4.2 Imposition of penalty points which would result in suspension for licensed hackney carriage, taxi and private hire vehicle operators, drivers and vehicles;

2.8.4.3 Refusal of applications for discretionary rate relief and cases of exceptional hardship under the national non-domestic rating regulations, council tax and housing benefit regulations and Rates Relief Policies;

2.8.4.4 Suspension, removal or exclusion of providers from the Council's Directory of Registered Early Years Providers;

2.8.4.5 Any other function requiring an appeal to a Member body not specifically reserved to another body in the Constitution, or by the law.

2.8.5 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to a Sub-Committee hearing the appeal.

### **2.9 Electoral Review Committee**

#### Composition

2.9.1 The size of the Electoral Review Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.9.2 The Committee shall appoint a chairman and vice-chairman from among its membership.

#### Responsibilities

2.9.3 To oversee the provision of information required by the Local Government Boundary Commission for England (LGBCE) in carrying out any Electoral Review of Wiltshire, including any consultation arrangements with electors or stakeholder and To update Full Council on the progress of any Electoral Review.

2.9.4 To make recommendations to Full Council on proposed submissions to the LGBCE relating to:

2.9.4.1 The total number of councillors on Wiltshire Council;

2.9.4.2 The number and boundaries of electoral divisions within Wiltshire Council;

2.9.4.3 The number of councillors to be returned by any electoral division;

2.9.4.4 The name of any electoral division.

2.9.5 To provide such further advice and support as may be requested by the Council related to or impacted by any Electoral Review.



- 2.9.6 To oversee all details relating to any community governance reviews within the Wiltshire Council area, including contacting parishes or parties for proposals, setting the areas and scope for any review, its methodology including for any consultation arrangements, its timescales, and determining what if any changes to recommend as part of the review, and to conclude a review or part of a review where no changes are recommended. The Committee will prepare final recommendations for any changes for consideration by Full Council.
- 2.9.7 The Committee will consider whether it is appropriate to make, and is empowered to suggest for consultation and recommendation, changes to parish areas and parish electoral arrangements, to include:
- 2.9.7.1 The alteration, merging, creation or abolition of parishes;
  - 2.9.7.2 The naming of parishes and adoption of alternative styles for new parishes;
  - 2.9.7.3 Parish council size, number of councillors to be elected, and warding arrangements;
  - 2.9.7.4 Any other electoral arrangements.
- 2.9.8 Where it would be appropriate to do so the Committee may recommend that as a result of proposed parish changes a unitary division be amended so that it remains coterminous with that parish. Any such change would need to be agreed by the Local Government Boundary Commission for England if approved by Full Council.
- 2.9.9 Where it would be appropriate to do so, to make recommendations to Full Council on the composition (Electoral Divisions and Parishes) of Area Boards, following completion of an Electoral Review or Community Governance Review, or another reason. The Committee may undertake such processes as it considers appropriate when preparing its recommendations.
- 2.9.10 To oversee the provision of information required in carrying out Polling District and Polling Place Reviews, including any consultation arrangements with electors or other stakeholders.
- 2.9.11 To make decisions in respect of Polling District and Polling Place Reviews. The Returning Officer will also have authority to change a polling place where appropriate in the event of a by election or other unforeseen circumstances after consultation with the Chairman of the Committee, which will be reported to the Committee.
- 2.9.12 To receive reports in relation to the operation and delivery of Electoral Services and make recommendations or decisions as appropriate on electoral matters not reserved to Full Council.

### **3. Cabinet**

#### **3.1 General**

- 3.1.1 This section should be read in conjunction with the Cabinet Procedure Rules (Part 7).
- 3.1.2 The Leader, either directly or through Cabinet, will carry out within the Council's Budget and Policy Framework, all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

3.1.3 Without limiting the scope of paragraph 3.1.2, Cabinet either directly or by delegating its powers as set out in Part 3 Section C of this Constitution (Delegation of Executive Functions) has the following functions and responsibilities:

- 3.1.3.1 Proposing the budget to Council, including the preparation of estimates and the amount of the proposed precept and any reconsideration or revision of those estimates;
- 3.1.3.2 Agreeing the council tax base;
- 3.1.3.3 Controlling capital expenditure;
- 3.1.3.4 Proposing to Council new policies, or amendments to existing policies, which fall within the Policy Framework as defined in Paragraph 1 of Part 3 of this Constitution;
- 3.1.3.5 Adopting on behalf of Wiltshire Council any plans, policies or strategies which do not form part of the policy framework and are not the responsibility of any other part of the local authority;
- 3.1.3.6 Implementing and delivering the agreed Budget and Policy Framework.

## 3.2 Local Choice Options

3.2.1 In regard to local choice options, the following will be the responsibility of the Cabinet:

- 3.2.1.1 Making arrangements pursuant to the School Standards and Framework Act 1998 for appeals against exclusion of pupils; admission appeals; and appeals by governing bodies;
- 3.2.1.2 The appointment of any individual to any office other than an office in which he is employed by the authority to any body other than the authority and to any committee or sub-committee of such a body and the revocation of any such appointment.

3.2.2 The Cabinet elects to delegate the following local choice options as follows:

- 3.2.2.1 Corporate Director, Place - the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land;
- 3.2.2.2 Solicitor to the Council - the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
- 3.2.2.3 Solicitor to the Council - the making of agreements for the execution of highways works.

## 3.3 Cabinet Members

3.3.1 The Leader of the Council chairs meetings of the Cabinet and is the principal spokesman for the Council.

3.3.2 The role of Leader within the Budget and Policy Framework set by the Council includes but is not limited to:

- 3.3.2.1 Setting strategic direction;
- 3.3.2.2 Ensuring the needs and aspirations of Wiltshire people are known;
- 3.3.2.3 Management initiatives;
- 3.3.2.4 Identifying priorities and setting targets;
- 3.3.2.5 Setting priorities;
- 3.3.2.6 Probity and financial monitoring and risk management;

- 3.3.2.7 Communication policy;
- 3.3.2.8 Monitoring performance of Members of his or her Cabinet;
- 3.3.2.9 Promoting the Council;
- 3.3.2.10 Relationships with other political group leaders and the chairman of the Council.

3.3.3 The provisions above are without prejudice to the statutory duties of the Head of Paid Service, the Monitoring Officer and Solicitor to the Council, the Director of Children's Services, the Director of Adult Social Services, the Section 151 Officer, the designated Scrutiny Officer or any other statutory Council officers as set out in Part 2 of the Constitution, or other council officers.

3.3.4 The Leader will appoint individual Cabinet Members as he or she thinks appropriate subject to reporting appointments to the first available meeting of the Council.

3.3.5 Individual Cabinet Members will have power within any scheme of delegation determined by the Leader in accordance with:

- 3.3.5.1 Article Seven of Part 2 (Articles of the Constitution)
- 3.3.5.2 Part 3 Section C (Delegation of Executive Functions)
- 3.3.5.3 Part 7 (Cabinet Procedure Rules).

3.3.6 In addition to the delegation of authority to individual Members, the Cabinet may choose to delegate functions further to an Area Board, joint arrangements, or an officer.

#### **4. Area Boards**

##### **Role and functions of Area Board**

4.1 The purpose of Area Boards is to promote the development of stronger and more resilient communities across Wiltshire's community areas through:

- 4.1.1 Efficient, transparent and accountable decision making;
- 4.1.2 Effective collaboration with public, voluntary and private sector partners locally to meet the aspirations of local people;
- 4.1.3 Shaping the delivery of local services;
- 4.1.4 Addressing local issues;
- 4.1.5 Building community leadership and local engagement.

4.2 Each Area Board will have the following functions in conjunction with their local area:

- 4.2.1 To provide a focus for community leadership, local influence and delegated decision-making, through the democratic mandate of elected Members;
- 4.2.2 To influence the allocation of resources and delivery of public services in the community area in order to pursue local priorities and issues;
- 4.2.3 To develop a strong, well established and highly functioning network of local partners, organisations and residents
- 4.2.4 To generate an in-depth understanding of their local community and the issues faced by the residents, including through use of Joint Strategic Needs Assessment data.
- 4.2.5 To empower and facilitate community led action, by recognising and encouraging the talents, expertise and knowledge of our communities, trusting and supporting them to co-deliver local services.
- 4.2.6 To effectively share data and intelligence at a local level

- 4.2.7 To determine budget priorities and spend within the revenue budget allocated by the Cabinet, including approval of funding recommended by any working groups such as Local Highways and Footway Improvement Groups;
- 4.2.8 To provide a local platform for local engagement and conversation including through the use of working groups such as Health and Wellbeing Groups and Local Youth Networks and to agree a framework for any consultations carried out in the community area on behalf of the Council;
- 4.2.9 To allocate project funding for identified community priorities;
- 4.2.10 To develop participatory budgeting processes and to be instrumental in supporting and developing funding applications to external bodies and funding streams;
- 4.2.11 To provide excellent two-way communications for the community area about public service provision and to the Council and Cabinet about the implementation and effectiveness of policies;
- 4.2.12 To publish and maintain a forward plan of forthcoming agenda items to give Members, the public, parishes and the media adequate notice of the issues that are to be considered;
- 4.2.13 To consider issues referred to the Area Board by town and parish councils, partners and the public.

#### Composition

- 4.3 The Area Boards are appointed by the Council under section 102 of the Local Government Act 1972 and are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive as set out below.
- 4.4 In the event of a Member being elected following a by-election, the Director, Legal and Governance has delegated authority to appoint the Member to the relevant Area Board
- 4.5 Marlborough, Pewsey and Tidworth Area Boards are established as a single area committee known as the Eastern Wiltshire Area Committee. This shall appoint three sub-committees, each of which shall operate as an Area Board, known as Marlborough Area Board, Pewsey Area Board and Tidworth Area Board respectively.

#### Membership and Representation

- 4.6 Each Area Board's Membership shall comprise of the elected unitary Members representing the electoral divisions covered by the Area Board, as set out in Schedule 1 of Part 3B.
- 4.7 The following representatives may also participate as partners in Area Boards:
  - 4.7.1 An elected representative from each town or parish council within the area covered by the Area Board as detailed in Schedule 1 of Part 3B;
  - 4.7.2 Representatives are also encouraged from the following groups and organisations:
    - 4.7.3 Voluntary, community and social enterprise sector organisations (regional, countywide and local level)
    - 4.7.4 Wiltshire Police
    - 4.7.5 Dorset and Wiltshire Fire and Rescue Service
    - 4.7.6 Ministry of Defence
    - 4.7.7 Bath, Swindon and Wiltshire Partnership, Healthwatch, Local Health Representatives
    - 4.7.8 Local businesses, Chambers of Commerce

- 4.7.9 Schools
- 4.7.10 Housing Associations
- 4.7.11 Faith and cultural groups
- 4.7.12 Residents and resident action groups
- 4.7.13 Any other relevant groups

4.8 The Chairman and Vice-Chairman of an Area Board will be appointed at the first meeting of an Area Board, which takes place after the annual meeting of the Council, by the unitary Members on each Area Board. Except in an election year, where after the first meeting of Full Council a special meeting of each Area Board will take place to appoint a Chairman and a Vice-Chairman.

#### Election of Chairs Procedure

- 4.9 The Democratic Services representative will call for nominations for the position of Chairman of the Area Board and preside over the election. A Member's nomination must be seconded to be valid. A Member shall not be nominated in their absence without their written consent.
- 4.10 In the event of only one valid nomination being received the person presiding will declare the nominated Member elected.
- 4.11 In the case of two valid nominations the Democratic Services representative will ask for a show of hands from those Members in favour of each Member and declare the candidate receiving the majority of votes of the Members present and voting, to be the winner.
- 4.12 In the case of an equality of votes for the two candidates, the Democratic Services representative shall draw lots, or an equivalent method to break the tie, to determine the winner of the election and then declare the result.
- 4.13 In the case of three or more valid nominations being made, the Democratic Services Representative will call for a show of hands for each of the candidates. The Democratic Services representative will then announce the candidate with the least number of votes and that candidate will be eliminated (in the case of a tie for the least number of votes, the Democratic Services representative shall draw lots or use an equivalent method to determine which candidate to be eliminated). A further vote shall be taken for the remaining candidates and after each vote the candidate with the least number of votes shall be eliminated until only two candidates remain and a final vote taken.
- 4.14 The newly elected Chairman of the Area Board shall then preside over the election of the Vice Chairman in the manner described above with the ability to use a casting vote in the event of an equality of votes.
- 4.15 With the exception of an election year, the Chairman and Vice-Chairman of an Area Board shall remain in post until their successors are appointed.

#### Other Representation

- 4.16 A Member of Wiltshire Council's Cabinet will attend upon request those Area Boards which do not have a Cabinet Member as a standing Member of the Area Board. Cabinet Members attending the Area Board will not have voting rights. For the

avoidance of doubt a Cabinet Member is entitled to vote as a standing Member of the Area Board in which their electoral division is located.

- 4.17 Directors from Wiltshire Council will attend as and when required. Their role is to advise and assist the Area Board.
- 4.18 No substitutes are permitted for unitary Members on Area Boards except as set out at Paragraph 4.19.
- 4.19 The Eastern Wiltshire Area Committee will appoint substitutes for the Members on the Pewsey Area Board, Tidworth Area Board, and Marlborough Area Boards drawn from the Members of the Eastern Wiltshire Area Committee.

#### Voting

- 4.20 Only the elected unitary Members on the Area Board may vote at an Area Board..
- 4.21 Voting is by a majority of the elected Members present. The Chairman of the Area Board has the casting vote.
- 4.22 Area Boards will where appropriate seek the views of any other participants. The Area Board may decide to test opinion by a show of hands before the unitary Members make their decision.

#### Quorum

- 4.23 The quorum for each Area Board is one quarter of its total voting Membership, subject to a minimum number of three voting Members.

#### Delegation

- 4.24 Decisions involving the discharge of executive functions will be made by the local Area Board, provided the decision does not:
  - 4.24.1 Have a significant impact outside of the area concerned;
  - 4.24.2 Have a significant impact on the overall resources of the Council;
  - 4.24.3 Contradict any policy or service standard set by the Council;
  - 4.24.4 Involve the taking of regulatory or quasi-judicial decisions;
  - 4.24.5 Relate to the exercise of functions in respect of any particular person, including any individual Member of staff.
- 4.25 Area Boards must operate within the Council's Budget and Policy Framework and in accordance with the requirements of this Constitution. In accordance with Para 4.2.11 they may provide local views on the effective implementation of a council policy, but are not able to make resolutions contrary to the Budget and Policy Framework of the Council.
- 4.26 Each Area Board will receive delegated funding as determined from time to time by the Leader.
- 4.27 Area Boards will allocate their delegated funds in accordance with any rules and guidance issued by the Leader.

- 4.28 For the avoidance of doubt the delegation arrangements for Area Boards will operate in conjunction with the scheme of delegation to Cabinet Members and the Council's scheme of delegation to officers.
- 4.29 Area Boards will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The Area Boards will also be consulted where significant changes, reductions or closures of a service are planned in their area.
- 4.30 Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the Area Board.
- 4.31 Area Boards must not be directly involved in deciding planning applications. However, they may be involved in the following in relation to their area:
- 4.31.1 Consideration of the impacts of larger developments;
  - 4.31.2 Pre-application discussions relating to major developments;
  - 4.31.3 Consideration of planning briefs;
  - 4.31.4 Development of Local Development Framework policies.

#### Procedure Rules and Guidance

- 4.32 Area Boards will follow any procedure rules and guidance as issued from time to time by the Leader.

#### Agenda setting

- 4.33 An agenda will be prepared for each meeting after consultation with the Chairman of the Area Board.
- 4.34 Members may request that specific items be included on an agenda subject to the delegation rules and within the powers and role of the Board as set out in this constitution. A request should take the form of a proposed topic for discussion, request for a briefing or partner event or other similar requests.
- 4.35 Any proposed subjects and proposed actions must be in accordance with the rules set out in this constitution.
- 4.36 Subject to Paragraph 4.35, and so long as sufficient notice to prepare as appropriate is given, if a majority of Board Members support an item being included on an agenda it will be included for discussion in an appropriate form.

#### Access to Information

- 4.37 Area Boards are subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

### **Joint Committees**

#### **5. Wiltshire Police and Crime Panel**

##### Terms of Reference

- 5.1 To review and make a report or recommendation on the draft police and crime plan, or draft variation, given to the panel by the Police and Crime Commissioner.

- 5.2 To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the commissioner's annual report.
- 5.3 To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.
- 5.4 To review and make a report on the proposed appointment of the Chief Constable.
- 5.5 To review and make a report and recommendation (as necessary) on the proposed police precept.
- 5.6 To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.
- 5.7 To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.
- 5.8 To support the effective exercise of the functions of the Police and Crime Commissioner.
- 5.9 To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.
- 5.10 To appoint an Acting Police and Crime Commissioner if necessary.
- 5.11 To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

#### Procedure Rules and Panel Arrangements

- 5.12 The Police and Crime Panel Procedure Rules and Panel Arrangements are set out in Protocol 12 of this Constitution.

### **6. Wiltshire Pension Fund Committee**

- 6.1 This joint committee will comprise five Members from Wiltshire Council and other Members as follows:
  - 6.1.1 Two voting Members from Swindon Borough Council;
  - 6.1.2 Two co-opted voting Employer Representatives;
  - 6.1.3 Two co-opted non-voting employee representatives, one representing Wiltshire Council employees, and one representing Swindon Borough Council employees.
- 6.2 It will exercise the functions of the Council as administering authority under the Local Government Superannuation Acts and Regulations and deal with all matters relating thereto. The committee will publish meetings attendance records.



- 6.3 The voting Employer Representatives will serve a four-year fixed term from appointment. On expiry of the four-year term, applications for the position will be sought (from the incumbent and the applicable employer bodies) and an appointment process will be undertaken by the committee should more than one application be received for the role.
- 6.4 The full terms of reference for the Wiltshire Pension Fund Committee can be found at Protocol 2A. Terms of reference for the Local Pensions Board, whose purpose is to assist the administering authority in its role as a scheme manager of the Scheme, can be found at Protocol 2B.

### **Other Bodies**

## **7. Health and Wellbeing Board**

### **Composition**

#### **7.1 Voting Members:**

- 7.1.1 1 Leader of the Council and 1 Deputy Leader of the Council
- 7.1.2 1 healthcare clinical professional director (NHS BSW ICB) and 1 GP clinical lead (Wiltshire Integrated Care Alliance)
- 7.1.3 1 Police and Crime Commissioner (PCC);
- 7.1.4 1 representative from Healthwatch Wiltshire;

#### **7.2 Non-voting Members:**

- 7.2.1 1 NHS England representative.
- 7.2.2 Other Wiltshire Council Cabinet Members with responsibility for Children, Adults and Public Health; 1 Wiltshire Council portfolio holder for Adult Care and Public Health; 1 Member of Wiltshire Council who is not a Member of the ruling group(s) on the Council;
- 7.2.3 Wiltshire Council Chief Executive
- 7.2.4 Place Director for Wiltshire (NHS BSW ICB) or nominated ICB Exec Director lead as sub
- 7.2.5 Wiltshire Council officers with statutory responsibility for Children, Adults and Public Health services;
- 7.2.6 Acute Hospital Trusts representatives (Salisbury Hospital FT, Great Western Hospital FT and Bath RUH FT);
- 7.2.7 1 South West Ambulance Service (SWAS) representative;
- 7.2.8 1 Avon and Wiltshire Mental Health Partnership (AWP) representative;
- 7.2.9 1 Wiltshire Police Chief Constable representative;
- 7.2.10 1 Wessex Local Medical Committee representative;
- 7.2.11 1 Dorset and Wiltshire Fire and Rescue Service;
- 7.2.12 1 Adult community health services provider (WHC);
- 7.2.13 1 Children's community health services provider (VirginCare);
- 7.2.14 1 Child and adolescent mental health services provider (Oxford Health);
- 7.2.15 1 Voluntary Community Sector (VCS) representative

### **Voting**

- 7.3 Voting is by a majority of the voting Members present. The Chair of the Board has the casting vote. However, the Board will seek to reach decisions by consensus, where possible involving all participants.

## Roles and Functions

7.4 The statutory functions of the Health and Wellbeing Board contained within the Health and Social Care Act 2012 and Health and Care Act 2022 are:

- 7.4.1 to prepare Joint Strategic Needs Assessments (JSNAs) and Joint Local Health and Wellbeing Strategies (JLHWSs), which is a duty of local authorities and NHS Integrated Care Boards working through the Board;
- 7.4.2 a duty to encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under Section 75 of the National Health Service Act 2006 (i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services;
- 7.4.3 a power to encourage close working between commissioners of health related services and the board itself;
- 7.4.4 a power to encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.

7.5 The Board is supported in its activities by requirements in legislation for the ICB to consult the Board on its annual report and for the ICB to include a statement of compliance from the Health and Wellbeing Board on how well the JLHWS is reflected in its forward plans.

7.6 Full Council reserves the right to delegate any other additional functions under section 196(2) of the Health and Social Care Act 2012.

## Access to Information

7.7 The Health and Wellbeing Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

## **8. Local Pension Board**

8.1 The purpose of the Board is to assist the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:

- 8.1.1 Secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme; and,
- 8.1.2 To ensure the effective and efficient governance and administration of the Scheme.
- 8.1.3 This may include making recommendations it considers appropriate to the committee.

## Composition

8.2 The Board shall consist of 6 voting Members, as follows:

- 8.2.1 3 Member Representatives; and,
- 8.2.2 3 Employer Representatives.

8.3 There shall be an equal number of Member and Employer Representatives.

8.4 There shall also be an independent chairman who is not entitled to vote.

### Quorum

- 8.5 A meeting is only quorate when at least 50% of both Member and employer representatives are present.
- 8.6 A meeting that becomes inquorate may continue but any decisions will be non-binding.

### Access to Information

- 8.7 The Local Pension Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

### Terms of Reference

- 8.8 The full terms of reference for the Local Pension Board can be found at Protocol 2B.

## **9. Local Authority Panels**

### Channel Panel

9.1 The Channel Panel uses a multi-agency approach to protecting people vulnerable to being drawn into terrorism. The Channel Panel was established in line with the Counter-Terrorism and Security Act 2015.

9.2 The Channel Panel forms part of the council's Prevent Duty. The relevant Cabinet Member attends meetings of the Prevent Board.

9.3 The Channel Panel is required to:

- 9.3.1 Identify individuals at risk;
- 9.3.2 Assess the nature and extent of that risk;
- 9.3.3 Develop the most appropriate support plan for the individuals concerned.

9.4 The key requirements of the Channel Panel:

- 9.4.1 The local authority is the Channel Panel Chair;
- 9.4.2 Membership of the panel must include the local authority and the police as they have principal responsibility for Channel in their area;
- 9.4.3 Minimum membership of the panel includes:
  - 9.4.3.1 The local authority representative as chair
  - 9.4.3.2 Counter Terrorism Policing South West Prevent Officer
  - 9.4.3.3 Safeguarding representation (as determined by the age of the case)
  - 9.4.3.4 Mental Health representation if mental health concerns are present (service dependant on age of case)
  - 9.4.3.5 Minute taker
- 9.4.4 Additional members from agencies relevant to the case are requested which could include education providers, voluntary community groups, probation services or others as appropriate.
- 9.4.5 The panel to develop a support plan for individuals accepted as channel cases.
- 9.4.6 The panel to consider alternative forms of support, including health and social services, where Channel is not appropriate.
- 9.4.7 The panel to ensure that the council's functions to safeguard and promote the welfare of children under section 11 of the Children Act 2004 are discharged;

- 9.4.8 All partners of a panel, so far as appropriate and reasonably practicable, to cooperate with the police and the panel in the carrying out of their functions;
- 9.4.9 Each case is handled separately; people deemed appropriate to receive support will have a tailored package developed for them, according to their identified vulnerabilities.
- 9.4.10 Where the panel is unable to make a unanimous decision, the question must be decided by a majority of the panel. Where the panel is unable to make a majority decision, the question must be decided by the Channel Panel Chair. In certain circumstances the Chair may wish to escalate the question internally through the agreed governance route.

Revised - clean version

# PART 3 SECTION B

## SCHEDULE 1

### AREA BOARDS: ELECTORAL DIVISION AND PARISH ALLOCATIONS

<b>Bradford-on-Avon Area Board</b>
<b>Electoral Divisions (4)</b> Bradford on Avon North, Bradford on Avon South, Holt, Winsley and Westwood.
<b>Parishes</b> Atworth, Bradford on Avon, Holt, Limpley Stoke, Monkton Farleigh, South Wraxall, Staverton, Westwood, Wingfield, Winsley.
<b>Calne Area Board</b>
<b>Electoral Divisions (5)</b> Calne Central, Calne Chilvester and Abberd, Calne North, Calne Rural, Calne South.
<b>Parishes</b> Bremhill, Calne, Calne Without, Cherhill, Compton Bassett, Heddington, Hilmarton.
<b>Chippenham and Villages Area Board</b>
<b>Electoral Divisions (10)</b> By Brook, Chippenham Cepen Park and Derriards, Chippenham Cepen Park and Hunters Moon, Chippenham Hardenhuish, Chippenham Hardens and Central, Chippenham Monkton, Chippenham Lowden and Rowden, Chippenham Pewsham, Chippenham Sheldon, Kington.
<b>Parishes</b> Biddestone, Castle Combe, Chippenham, Chippenham Without, Christian Malford, Grittleton, Hullavington, Kington Langley, Kington St Michael, Langley Burrell Without, Nettleton, North Wraxall, Seagry, Stanton St Quintin, Sutton Benger, Yatton Keynell.
<b>Corsham Area Board</b>
<b>Electoral Divisions (4)</b> Box and Colerne, Corsham Ladbrook, Corsham Pickwick, Corsham Without.
<b>Parishes</b> Box, Colerne, Corsham, Lacock.
<b>Devizes Area Board</b>
<b>Electoral Divisions (7)</b> Bromham, Rowde and Roundway, Devizes East, Devizes North, Devizes Rural West, Devizes South, The Lavingtons, Urchfont and Bishops Cannings.
<b>Parishes</b>

Bishops Cannings, Bromham, Bulkington, Cheverell Magna, Coulston, Devizes, Easterton, Erlestoke, Etchilhampton, Little Cheverell, Market Lavington, Marston, Potterne, Poulshot, Rowde, Seend, Stert, Urchfont, West Lavington, Worton.

#### **Malmesbury Area Board**

##### **Electoral Divisions (4)**

Brinkworth, Malmesbury, Minety, Sherston.

##### **Parishes**

Ashton Keynes, Brinkworth, Brokenborough, Charlton (nr Malmesbury), Crudwell, Dauntsey, Easton Grey, Great Somerford, Hankerton, Lea and Cleverton, Leigh, Little Somerford, Luckington, Malmesbury, Minety, Norton, Oaksey, Sherston, Sopworth, St Paul Malmesbury Without.

#### **Marlborough Area Board**

##### **Electoral Divisions (3)**

Aldbourne and Ramsbury, Marlborough East, Marlborough West.

##### **Parishes**

Aldbourne, Avebury, Baydon, Berwick Bassett, Chilton Foliat, East Kennett, Fyfield, Marlborough, Mildenhall, Ogbourne St Andrew, Ogbourne St George, Preshute, Ramsbury, Savernake, West Overton, Winterbourne Monkton.

#### **Melksham Area Board**

##### **Electoral Divisions (6)**

Bowerhill, Melksham East, Melksham Forest, Melksham South, Melksham Without North and Shurnhold, Melksham Without West and Rural.

##### **Parishes**

Broughton Gifford, Great Hinton, Keevil, Melksham, Melksham Without, Semington, Steeple Ashton.

#### **Pewsey Area Board**

##### **Electoral Divisions (3)**

Pewsey, Pewsey Vale East, Pewsey Vale West.

##### **Parishes**

All Cannings, Alton, Beechingstoke, Burbage, Buttermere, Charlton, Chirton, Easton, Froxfield, Grafton, Great Bedwyn, Ham, Little Bedwyn, Manningford, Marden, Milton Lilbourne, North Newnton, Patney, Pewsey, Rushall, Shalbourne, Stanton St Bernard, Tidcombe and Fosbury, Upavon, Wilcot, Huish and Oare, Wilsford, Woodborough, Wootton Rivers.

#### **Royal Wootton Bassett and Cricklade Area Board**

##### **Electoral Divisions (6)**

Cricklade and Latton, Lyneham, Purton, Royal Wootton Bassett East, Royal Wootton Bassett North, Royal Wootton Bassett South and West.

##### **Parishes**

Braydon, Broad Town, Broad Hinton, Clyffe Pypard, Cricklade, Latton, Lydiard Milicent, Lydiard Tregoze, Lyneham and Bradenstoke, Marston Maisey, Purton, Royal Wootton Bassett, Tockenham, Winterbourne Bassett.

### **Salisbury Area Board**

#### **Electoral Divisions (8)**

Salisbury Bemerton, Salisbury Fisherton and Bemerton Village, Salisbury Harnham East, Salisbury Harnham West, Salisbury St Edmund's, Salisbury St Francis and Stratford, Salisbury Milford, Salisbury St Paul's.

#### **Parishes**

Salisbury

### **Southern Wiltshire Area Board**

#### **Electoral Divisions (6)**

Alderbury and Whiteparish, Downton and Ebble Valley, Laverstock, Old Sarum and Lower Bourne Valley, Redlynch and Landford, Winterslow and Upper Bourne Valley.

#### **Parishes**

Alderbury, Allington, Britford, Cholderton, Clarendon Park, Coombe Bissett, Downton, Firsdow, Grimstead, Idmiston, Landford, Laverstock & Ford, Newton Tony, Odstock, Pitton and Farley, Redlynch, West Dean, Whiteparish, Winterbourne, Winterslow.

### **South West Wiltshire Area Board**

#### **Electoral Divisions (5)**

Fovant & Chalke Valley, Mere, Nadder Valley, Tisbury, Wilton

#### **Parishes**

Alvediston, Ansty, Barford St Martin, Berwick St John, Berwick St Leonard, Bishopstone, Bowerchalke, Broadchalke, Burcombe Without, Chicklade, Chilmark, Compton Chaberlayne, Dinton, Donhead St Andrew, Donhead St Mary, East Knoyle, Ebbesborne Wake, Fonthill Bishop, Fonthill Gifford, Fovant, Hindon, Kilmington, Mere, Netherhampton, Quidhampton, Sedgell and Semley, Steeple Langford, Stourton with Gasper, Stratford Tony, Sutton Mandeville, Swallowcliffe, Teffont, Tisbury, Tollard Royal, West Knoyle, West Tisbury, Wilton, Wyllye, Zeals.

### **Stonehenge Area Board**

#### **Electoral Divisions (6)**

Amesbury East and Bulford, Amesbury West, Amesbury South, Avon Valley, Durrington, Till Valley.

#### **Parishes**

Amesbury, Berwick St James, Bulford, Durnford, Durrington, Enford, Figheldean, Fittleton cum Haxton, Great Wishford, Milston, Netheravon, Orcheston, Shrewton, South Newton, Stapleford, Tilshead, Wilsford cum Lake, Winterbourne Stoke, Woodford.

Alvediston, Ansty, Barford St Martin, Berwick St John, Berwick St Leonard, Bishopstone, Bowerchalke, Broadchalke, Burcombe Without, Chicklade, Chilmark, Compton Chaberlayne, Dinton, Donhead St Andrew, Donhead St Mary, East Knoyle, Ebbesborne Wake, Fonthill Bishop, Fonthill Gifford, Fovant, Hindon, Kilmington, Mere, Netherhampton, Quidhampton, Sedgehill and Semley, Steeple Langford, Stourton with Gasper, Stratford Tony, Sutton Mandeville, Swallowcliffe, Teffont, Tisbury, Tollard Royal, West Knoyle, West Tisbury, Wilton, Wylde, Zeals.

#### **Tidworth Area Board**

##### **Electoral Divisions (3)**

Tidworth North and West, Tidworth East and Ludgershall South, Ludgershall North and Rural.

##### **Parishes**

Chute, Chute Forest, Collingbourne Ducis, Collingbourne Kingston, Everleigh, Ludgershall, Tidworth.

#### **Trowbridge Area Board**

##### **Electoral Divisions (9)**

Hilperton, Southwick, Trowbridge Adcroft, Trowbridge Central, Trowbridge Drynham, Trowbridge Grove, Trowbridge Lambrok, Trowbridge Park, Trowbridge Paxcroft.

##### **Parishes**

Hilperton, North Bradley, Southwick, Trowbridge, West Ashton.

#### **Warminster Area Board**

##### **Electoral Divisions (5)**

Warminster Broadway, Warminster North and Rural, Warminster East, Warminster West, Wylde Valley.

##### **Parishes**

Bishopstrow, Boyton, Brixton Deverill, Chapmanslade, Chitterne, Codford, Corsley, Heytesbury, Horningsham, Kingston Deverill, Knook, Longbridge Deverill, Maiden Bradley with Yarnfield, Norton Bavant, Sherrington, Stockton, Sutton Veny, Upton Lovell, Upton Scudamore, Warminster.

#### **Westbury Area Board**

##### **Electoral Divisions (4)**

Ethandune, Westbury East, Westbury North, Westbury West.

##### **Parishes**

Bratton, Dilton Marsh, Edington, Heywood, Westbury.



# PART 3

## RESPONSIBILITY FOR FUNCTIONS

### SECTION C:

## DELEGATION OF EXECUTIVE FUNCTIONS

#### 1. **General**

- 1.1 The Leader will decide how arrangements for the discharge of cabinet functions are to be exercised except insofar as they are already set out in the cabinet arrangements adopted by the Council.
- 1.2 This scheme of delegation records the arrangements made by the Leader or the Cabinet for the discharge of executive functions by:
- 1.2.1 the Cabinet as a whole;
  - 1.2.2 a committee of the Cabinet;
  - 1.2.3 an individual Member of the Cabinet;
  - 1.2.4 an Area Board;
  - 1.2.5 an officer;
  - 1.2.6 joint arrangements or;
  - 1.2.7 another local authority.

#### 2. **Cabinet as a whole**

- 2.1 In accordance with the terms of reference of Cabinet as set out at paragraph 3 of Part 3B of this Constitution, the Leader either directly or through Cabinet will carry out within the Council's Budget and Policy Framework all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under this Constitution.
- 2.2 Cabinet is defined at Article 7 of Part 2 of this Constitution. The procedure rules governing meetings of Cabinet are set out at Part 7 of this Constitution.

#### 3. **A Committee of the Cabinet**

- 3.1 The Leader may appoint a committee of the Cabinet for the discharge of executive functions.
- 3.2 At present the following cabinet committees have been appointed:
- 3.2.1 Shareholder Group

#### 4. **An individual Member of the Cabinet**

- 4.1 Cabinet Members may exercise any executive functions within their allocated areas of responsibility, as set out in Appendix 2 of Part 3C. The Monitoring Officer has delegated authority to amend Appendix 2 from time to time to reflect the decision of the Leader.
- 4.2 This does not include executive functions which are specifically reserved by law or this constitution to the Council, the Leader and/or Cabinet, or officers.

4.3 In exercising delegated functions Cabinet Members must have regard to the Leader's Protocol for individual decision making, Protocol 5 of this Constitution, which promotes good practice and ensures transparency and consistency in the decision-making process.

4.4 Cabinet Members may in consultation with the Leader refer matters to the Cabinet for decision if they consider that it is more appropriate to do so.

4.5 Where a Cabinet Member is unable to act because of absence, a conflict of interest or any other reason, the Leader may nominate another Member of the Cabinet to exercise the function on their behalf.

## **5. Portfolio Holders**

5.1 The Leader may also appoint other Members as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.

5.2 Portfolio Holders are not Members of the Cabinet, and cannot exercise or be delegated any executive functions.

5.3 As Members of the administration involved in formulation of policy, Portfolio Holders cannot serve on Overview and Scrutiny Committees, Task Groups or Rapid Scrutiny Exercises unless called as witnesses.

## **6. An Area Board**

6.1 This scheme of delegation records the arrangements made by the Leader for the discharge of executive functions by each of the 18 Area Boards constituted in accordance with paragraph 4 of Part 3 Section B of this Constitution.

6.2 Area Boards may exercise the following executive functions within their geographical areas of responsibility subject to compliance with paragraph 4.24 – 4.31 of Part 3B of this Constitution and specifically:

6.2.1 The approval of applications from community and voluntary groups and town and parish councils for grant funding through the Area Boards grant scheme.

6.2.2 The approval of applications for the disposal of non-strategic assets with a value below £250,000 provided that each application is supported by robust and appropriate business cases that benefit local communities in accordance with the council's Community Asset Transfer Policy.

## **7. Officers**

7.1 The discharge of executive functions as delegated by the Leader having regard to the Scheme of Delegation to Officers as set out at Part 3 Section D of this Constitution.

## **8. Joint Arrangements**

8.1 The discharge of executive functions under joint arrangements with one or more local authority as described at Article 11 of Part 2 of this constitution.

8.2 At present the following Joint Arrangements have been established:

8.2.1 None

**9. Another local authority**

9.1 Cabinet may delegate cabinet functions to another local authority or the cabinet of another local authority in certain circumstances as described at Article 11.4 of Part 2 of this Constitution.

**10. Decisions**

10.1 Those delegated to take decisions within this scheme of delegation must:

10.1.1 act within the council's Budget and Policy Framework;

10.1.2 comply with the council's Constitution, including particularly its Financial Regulations and Procedure Rules (Part 9) and Procurement and Contract Rules (Part 10), and all relevant legislation, guidance and codes of practice

10.1.3 follow the principles of decision making in Article 13.2 of Part 2 of this constitution.

10.1.4 consider the implication of any council policy, initiative, strategy or procedure

10.1.5 consider the staffing, financial, legal and environmental implications of any proposal

10.1.6 consider the assessment of any risks associated with a proposal in accordance with the council's risk management strategy

10.2 This scheme may be varied at any time in accordance with paragraph 4 of the Cabinet Procedure Rules (Part 7).

# Part 3 Section C

## Appendix 1 - Cabinet Committees and Joint Committees

### Cabinet Committees

#### Shareholder Group Terms of Reference

1. **Overview**
  - 1.1 The Shareholder Group will exercise the Council's role as shareholder in any company, limited by shares wholly or partly owned by the Council for the purposes of service provision and/or trading activities including any joint venture.
  - 1.2 The Shareholder Group acts with the delegated authority of Cabinet to ensure the performance of any such company is satisfactory. Some actions in relation to the Council's companies are reserved to the Cabinet. These are set out below.
  - 1.3 Any reference in these terms of reference to a "company" or "companies" is defined as a company in which the Council holds shares.
  - 1.4 The Shareholder Group may also decide, from time to time, whether to accept proposals to submit a bid to provide goods and / or services which, if successful would commit the council to the establishment of a new company (which may include a joint venture company). In these instances, the decision of the Shareholder Group would be referred to the Cabinet for final approval.
2. **Matters reserved to Cabinet**
  - 2.1 None
3. **Membership**
  - 3.1 The Membership shall be as follows:
    - Leader of the Council (Chairman)
    - Cabinet Member for Finance, Development Management, and Strategic Planning–
    - Cabinet Member for Housing, Strategic Assets, Asset Transfer
  - 3.2 The Chief Executive, Corporate Director, Resources and Deputy Chief Executive, and the Director, Legal & Governance may attend the Shareholder Group to provide advice. Additional advisors may be invited to attend the Group as required.
  - 3.3 Changes to the Membership of the Shareholder Group will be agreed by the Leader of the Council and given effect by the Director, Legal & Governance.
  - 3.4 The Leader may appoint any other Member of the Cabinet as a substitute.
4. **Purpose**
  - 4.1 The Shareholder Group will:
    - 4.1.1 Have the power to appoint and remove Company Directors;
    - 4.1.2 Approve and monitor Company Business Plans;
    - 4.1.3 Approve the allotment of further shares in a Company (whether to third party shareholders or the Council);

- 4.1.4 Exercise any reserved powers in the Articles of a Company and any Shareholder Agreement with a Company;
  - 4.1.5 Endorse any amendments to Company Business Plans;
  - 4.1.6 Periodically evaluate financial performance of a Company;
  - 4.1.7 Agree significant capital or revenue investments proposed by a Company;
  - 4.1.8 Determine the distribution of any surplus or the issue of any dividends from a Company;
  - 4.1.9 Consider any recommendation from Company Directors to cease trading;
  - 4.1.10 Report to the Council annually on trading activity;
  - 4.1.11 Review the risks associated with trading activities.
- 4.2 The Shareholder Group will not have operational control over Companies. All decisions regarding the day-to-day operation of each Company, its business developments and commercial opportunities, staff terms and conditions and the development and implementation of its internal procedures, rest with the Directors of each Company.
- 5. Relationship to Scrutiny**
- 5.1 Select Committees will retain their scrutiny function in relation to the Shareholder Board. The Overview and Scrutiny Management Committee will be able to call the Shareholder Group to account for progress in relation to any Company for which the Council is a shareholder and any returns it is making.
- 6. Scope**
- 6.1 In respect of Teckal-compliant companies the Shareholder Group will:
- 6.1.1 Monitor Teckal compliance at least annually.
  - 6.1.2 Ensure the Business Plan of a Teckal compliant Company is aligned to the corporate objectives of the Council.
- 6.2 In respect of non Teckal-compliant wholly Council-owned companies the Shareholder Group will:
- 6.2.1 Seek to achieve appropriate returns on investment from trading activities.
  - 6.2.2 Ensure trading activities are conducted in accordance with the values of the Council.
- 6.3 In respect of any shareholding and/or joint ventures the Shareholder Group will:
- 6.3.1 Evaluate the return and benefits of the shareholding against the values of the Council.
  - 6.3.2 Where appropriate, exercise influence over the company and /or joint ventures in accordance with the values of the Council.
- 6.4 In respect of the submission of a bid which will commit the council to the establishment of a company (or Joint Venture) the Shareholder Group will:
- 6.4.1 Evaluate the return and benefits of the proposal, including an evaluation of the proposed profit share in a Joint Venture.
  - 6.4.2 Seek to achieve appropriate returns on investment from trading activities.
  - 6.4.3 Ensure trading activities are conducted in accordance with the values of the Council.

## **7. Operation of the Shareholder Group**

- 7.1 Subject to the matters reserved to Cabinet stated above, the Cabinet has delegated to the Shareholder Group the authority to take decisions in respect of 100% of the Council's shareholding in any Company.
- 7.2 The Shareholder Group will meet quarterly, or as required.
- 7.3 The quorum for a meeting of the Shareholder Group is a minimum of two members, one of whom must be the Leader, who will chair the meeting.
- 7.4 The Shareholder Group may take decisions outside of a Company's general meeting as follows:
- 7.4.1 At meetings of its members by consensus of those present, unless any member of the Group requires a vote, in which event a majority decision will be taken with each member of the Shareholder Group present having a single vote. The Chairman of the meeting has a casting vote in the event that there is no clear majority; or
  - 7.4.2 In cases of urgency, by a decision made by the Leader in consultation with the Chief Executive.
- 7.5 Any decisions made by the Shareholder Group in accordance with 7.4.1 or 7.4.2 above, must be notified to the relevant Company's directors and the other Members of the Shareholder Group as soon as reasonably practicable following such decision being taken.
- 7.6 If a general meeting of a Company is called, the Shareholder Group will be required to nominate a corporate representative to attend the general meeting of a Company and vote on any resolutions proposed. In advance of any general meeting, the Shareholder Group may convene a meeting to discuss and determine any resolutions to be proposed at a general meeting. In such circumstances, decision making may be taken in accordance with the principles set out in 7.4.1 above. In cases of urgency, decision making may be taken in accordance with the principles set out in 7.4.2 above including, for the avoidance of doubt, the appointment of a corporate representative.
- 7.7 The Chairman approves the agenda for each meeting. The agenda and papers for consideration are circulated at least five working days before the meeting. After each meeting, the Chairman approves the meeting notes and actions and signs any resolutions agreed by the Shareholder Group.
- 7.8 The Shareholder Group will review the Terms of Reference annually.

### Joint Committees

- 7.9 No joint executive committees have currently been appointed.

# Part 3 Section C

## Appendix 2 - Individual Members of Cabinet

Cabinet Member Post	Responsibilities	Cabinet Member(s)
<b>Leader</b>  <b>(Climate Change, Military-Civilian Integration, Economic Development, Heritage, Arts, Tourism and Health and Wellbeing)</b>	<ul style="list-style-type: none"> <li>• Setting strategic direction, priorities and targets</li> <li>• Ensuring the needs and aspirations of Wiltshire people are known</li> <li>• Management initiatives</li> <li>• Promoting the council</li> <li>• Relationships with other political group leaders and the Chairman of the Council</li> <li>• Environment and Climate Change</li> <li>• Economic Development</li> <li>• Local Enterprise Partnership</li> <li>• Military Covenant</li> <li>• Communication Policy</li> <li>• Cultural development including heritage, museums and arts</li> <li>• Tourism</li> <li>• Canals</li> </ul>	<b>Cllr Richard Clewer</b>  Downton & Ebbles Valley Division  Correspondence address:  Leader of the Council Wiltshire Council Bythesea Road Trowbridge BA14 8JN
<b>Deputy Leader and Cabinet Member for Children's Services, Education and Skills</b>	<ul style="list-style-type: none"> <li>• Performance of children's social services including child protection, fostering and adoption, children's homes and special educational needs</li> <li>• Relations with other organisations, especially the health service and voluntary organisations regarding children's services</li> <li>• Partnership with Wiltshire's school governors and headteachers on education matters including school performance, outcomes, funding, curriculum, buildings and admissions</li> <li>• Performance of the youth development service and early years provision and youth justice</li> <li>• Skills and Social Mobility</li> </ul>	<b>Cllr Laura Mayes</b>  Bromham, Rowde & Roundway Division  Correspondence address:  Wiltshire Council Bythesea Road, Trowbridge BA14 8JN
<b>Cabinet Member for Finance, Development</b>	<ul style="list-style-type: none"> <li>• Development management services including planning enforcement and conservation</li> </ul>	<b>Cllr Nick Botterill</b>  By Brook Division

<p><b>Control and Strategic Planning</b></p>	<ul style="list-style-type: none"> <li>• Strategic planning including the Local Development Framework</li> <li>• Wiltshire and Swindon minerals and waste local plans</li> <li>• Finance</li> <li>• Probity and financial management</li> <li>• Revenues and Benefits</li> <li>• Welfare reform</li> <li>• Performance</li> <li>• Risk</li> <li>• Audit</li> <li>• Pensions</li> <li>• Investment</li> <li>• Procurement and Commissioning</li> </ul>	<p>Correspondence address: Wiltshire Council Bythesea Road, Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Transport, Waste, Street Scene and Flooding</b></p>	<ul style="list-style-type: none"> <li>• Flooding</li> <li>• Performance of waste management including collection, disposal and recycling</li> <li>• Highways maintenance and improvements</li> <li>• Rights of way</li> <li>• Public conveniences</li> <li>• Grounds and open space management including allotments</li> <li>• Cemeteries and markets</li> <li>• Litter and cleansing activities and environmental enforcement including abandoned vehicles, fly tipping etc</li> <li>• Traffic management including car parking, road safety and passenger transport</li> <li>• Performance and strategy for transport including the Local Transport Plan and related strategies and policies</li> <li>• Areas of Outstanding Natural Beauty</li> </ul>	<p><b>Cllr Dr Mark McClelland</b></p> <p>Salisbury St Francis &amp; Stratford Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Adult Social Care, SEND, Transition and Inclusion</b></p>	<ul style="list-style-type: none"> <li>• Performance of adult care services including services for people with learning disability, mental health problems or a physical impairment and for older people</li> <li>• Adult Social Care Transformation</li> <li>• Relations with other organisations, especially the health service and voluntary organisations regarding social care services</li> </ul>	<p><b>Cllr Jane Davies</b></p> <p>Marlborough West Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge</p>



		BA14 8JN
<b>Cabinet Member for Housing, Strategic Assets and Asset Transfer</b>	<ul style="list-style-type: none"> <li>• Housing</li> <li>• Provision of Gypsy and traveller services</li> <li>• Strategic Asset Management</li> <li>• County Farms</li> <li>• Strategic Housing</li> </ul>	<p><b>Cllr Phil Alford</b></p> <p>Melksham Without North &amp; Shurnhold Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<b>Cabinet Member for Public Health and Public Protection, Leisure, Libraries, Facilities Management, Operational Assets</b>	<ul style="list-style-type: none"> <li>• Public health and Public Protection</li> <li>• Facilities Management</li> <li>• Operational Assets</li> <li>• Leisure and Sports</li> <li>• Libraries</li> </ul>	<p><b>Cllr Ian Blair-Pilling</b></p> <p>Avon Valley Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<b>Cabinet Member for Governance, IT, Broadband, Digital, Licensing, Staffing, Communities and Area Boards</b>	<ul style="list-style-type: none"> <li>• Electoral Reviews</li> <li>• Statutory Governance including information management</li> <li>• Registration Services and coroners</li> <li>• Legal</li> <li>• Democratic Services</li> <li>• Member Development</li> <li>• Human Resources and organisational development</li> <li>• Equality and Diversity</li> <li>• Customer Care</li> <li>• Community Development in local areas including Area Boards</li> <li>• Campus Development</li> <li>• Community safety</li> <li>• Environmental health</li> <li>• Trading Standards</li> <li>• Licensing</li> <li>• Emergency Planning</li> <li>• Broadband</li> <li>• IT and Digital</li> </ul>	<p><b>Cllr Ashley O'Neill</b></p> <p>Calne Rural Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION D: SCHEME OF DELEGATION TO OFFICERS**

This Section should be read in conjunction with the principles set out in Part 3 Section A.

#### **D1 SCHEME OF DELEGATION**

1. Scheme of Delegation to Directors
2. Decision Making
3. Record Keeping
4. Emergency Powers
5. Solicitor to the Council

#### **D2 SCHEME OF SUB DELEGATION**

#### **D3 SCHEME OF DELEGATION SPECIFIC TO PLANNING**

#### **D4 SCHEME OF DELEGATION SPECIFIC TO LICENSING**

Schedule 1 - Indemnity to Officers and Members

# PART 3 SECTION D1

## SCHEME OF DELEGATION

### 1. Scheme of Delegation to Directors

- 1.1 This Scheme of Delegation authorises the Chief Executive and Corporate Directors to exercise the functions of Wiltshire Council as set out in this document. It repeals and replaces all previous schemes of delegation.
- 1.2 This scheme is without prejudice to the exercise of the council's functions by the Council, the Cabinet, and the Council's Committees, Sub-Committees and Panels.
- 1.3 Full Council, its Committees and the Cabinet will make decisions on matters of significant policy. The Chief Executive and Corporate Directors have express authority to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
- 1.4 In relation to all delegated authority conferred on the Chief Executive and Corporate Directors by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as he or she thinks fit.
- 1.5 Where a Director is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing and an announcement circulated to Members of the Council as soon as practicable.
- 1.6 The Monitoring Officer will maintain a central record of all delegations under this scheme and make this available for public inspection pursuant to section 100G Local Government Act 1972.
- 1.7 Without prejudice to the generality of the foregoing, the Chief Executive and Corporate Directors shall have the power:
  - 1.7.1 To take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy and to comply with statutory obligations within their areas of responsibility and within approved budget. This shall include, but not exhaustively:
    - 1.7.1.1 Invitation and acceptance of tenders;
    - 1.7.1.2 Submission of bids for funding;
    - 1.7.1.3 Write-off of irrecoverable debts;
    - 1.7.1.4 Virement (within the budget framework);
    - 1.7.1.5 Disposal and acquisition of assets;
    - 1.7.1.6 Service and placing of any necessary statutory or other notices (other than those expressly reserved to Full Council, Committee or Cabinet);
    - 1.7.1.7 After consultation with the Solicitor to the Council, authorising the institution, defence, settlement or participation in criminal or civil

proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council;

- 1.7.2 To put in place management arrangements, which define the area of responsibility of all officers under their service area.
- 1.7.3 To determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of Paid Service after consultation with the Director for HR and Organisational Development and in conformance with Council policies and the Finance Regulations and Procedure Rules (Part 9).
- 1.7.4 To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.
- 1.8 Any Member of the Council may request that decisions taken by officers under delegated powers are scrutinised by the overview and scrutiny management committee.
- 1.9 For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive after consultation with the Monitoring Officer.
- 1.10 The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to them for any action, costs, claim or liability incurred by them as set out in Schedule 1.

## **2. Decision Making**

- 2.1 In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with paragraph 2.2 below, to use the most efficient and effective means available (including the deployment of staffing and other resources within their control and the procurement of other resources necessary) whether within or outside the Council.
- 2.2 In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:
  - 2.2.1 A key decision should be taken in accordance with the relevant requirements as set out in this Constitution (Part 1) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;
  - 2.2.2 The views of the relevant Cabinet Member(s), Committee Chairman, Area Board(s) as appropriate;
  - 2.2.3 The implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant Cabinet Members(s) or Committee Chairman, from any affected portfolio, and local Members, where the issue relates to a specific area, should take place;
  - 2.2.4 Consultation in accordance with the Council's consultation guidance and the views emanating from that process;

- 2.2.5 The range of available options;
- 2.2.6 The staffing, financial and legal implications;
- 2.2.7 The assessment of any associated risks in accordance with the Council's risk management strategy;
- 2.2.8 The involvement of appropriate statutory officers and/or other Corporate Directors and Directors;
- 2.2.9 The relevance of any regional or national guidance from other bodies;
- 2.2.10 The Council's Constitution, including the Procurement and Contract Rules (Part 10) and the Financial Regulations and Procedure Rules (Part 9), all relevant guidance, legislation, codes of practice and protocols.

### **3. Record Keeping**

3.1 In taking any Executive decision, the officer concerned must prepare a record of officer decision report setting out the following:

- 3.1.1 A record of the decision including the date it was made;
- 3.1.2 A record of reasons for the decision;
- 3.1.3 Details of any alternative options considered and rejected by the officer when making the decision;
- 3.1.4 A record of any conflict of interest declared by any executive Member who is consulted by the officer which relates to the decision;
- 3.1.5 In respect of any declared conflict of interest, a note of dispensation.
- 3.1.6 The record of officer decision must be made available, as soon as reasonably practicable, at the Council main hub offices and on its website unless it contains confidential information or exempt information as defined in the Regulations and set out in Part 5.

3.2 In taking any Incidental decision, the officer concerned must consider whether a record of officer decision report is required having regard to guidance from the Monitoring Officer.

### **4. Emergency Powers**

- 4.1 The Chief Executive and Corporate Directors are empowered to take all necessary decisions in cases of emergency;
- 4.2 For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual or that the interests of the Council may be compromised.

### **5. Solicitor to the Council**

5.1 The Solicitor to the Council is authorised:

- 5.1.1 To take any action to implement any decision taken by or on behalf of the Council, including the signature and service of statutory and other notices and any document;
- 5.1.2 To institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in

any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests;

5.1.3 To instruct counsel, solicitors and other experts in relation to legal proceedings, public inquiries, and other matters involving the Council;

5.1.4 To enter objections to any proposal affecting the county, the Council or the inhabitants of the county.

Revised - clean version

## **PART 3 SECTION D2**

# **SCHEME OF SUB DELEGATION**

1. The Chief Executive and Corporate Directors may authorise officers in their areas of responsibility to exercise, on their behalf, powers delegated under this Part 3 and Part 3 Section D1 by way of a Scheme of Sub Delegation.
2. Any decision pursuant to a Scheme of Sub Delegation must be taken in the officer's name for and on behalf of the Chief Executive and Corporate Directors as the case may be.
3. The Chief Executive and Corporate Directors are responsible for recording all delegations under this part, in writing, in such form as the Monitoring Officer may prescribe.
4. The Chief Executive and Corporate Directors shall be responsible for ensuring that their Schemes of Sub Delegation are valid and up to date in line with guidance from the Monitoring Officer.
5. All Schemes of Sub Delegation must be recorded on the Register maintained by the Monitoring Officer. The Chief Executive and Corporate Directors shall send updated Schemes of Sub Delegation to the Monitoring Officer as he/she directs.
6. Any decision taken by an Officer under a Scheme of Sub Delegation must be made in accordance with Paragraph 2 of Part 3 Section D1 and recorded in as required in Paragraph 3 of Part 3 Section D1.

# PART3 SECTION D3

## SCHEME OF DELEGATION SPECIFIC TO PLANNING

1. The Corporate Director, Place (and any officers designated by that officer under a Scheme of Sub Delegation) is authorised to:
  - 1.1 determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications);
  - 1.2 deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control);
  - 1.3 deal with all types of appeal and their format;
  - 1.4 where an appeal has been lodged against a planning decision and counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the Council's case and time constraints prevent the matter being brought back to Committee, officers, in consultation with the Committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the Council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee;
  - 1.5 make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters;
  - 1.6 determining any applications made under the high hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action;
  - 1.7 deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;
  - 1.8 determine the requirements for, and amend when necessary the local validation list for planning applications;
  - 1.9 make and confirm Article 4 directions restricting or removing permitted development rights;
  - 1.10 nominate officers to represent the council on forums and working parties;
  - 1.11 authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;
  - 1.12 enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);
  - 1.13 make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision. Any such



changes will be reported back to a subsequent Committee for Members' information;

- 1.14 annually recommend to the budget process all planning fees and charges;
- 1.15 refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis;
- 1.16 institute and defend judicial reviews and statutory challenges in consultation with the Director of Legal and Governance;
- 1.17 Make and serve Building Preservation Notices;
- 1.18 determine whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee, after consultation with the relevant cabinet Member.

2. With the following exceptions:

2.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.

2.2 Reference to Committee by Wiltshire Council Division Member - Division Members can request in writing/email that a planning application, or an application for Permission in Principle for Minor Residential Development, within their Division proceed to determination by way of a Planning Committee. This is known as a call-in request.

2.2.1 Any request relating to a planning application must be received within 21 days of the circulation of the weekly list of 'applications received' in which it appears, and any request relating to an application for Permission in Principle must be received within 15 calendar days of the despatch of the email notification of the application to the Division Member. In both cases, Members must set out the material planning consideration(s) which warrant the application going before committee. Officers will confirm what action is being taken following receipt of the request.

2.2.2 Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the Council, will not be eligible for call-in and will be dealt with under delegated powers.

2.2.3 Where it has not been possible or appropriate to call an application in within this time, call in requests will be accepted in the following circumstances:

- a) An application has not been determined and it can still go to Committee and be determined within the target date.
- b) The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to Committee will make no difference to performance.

2.2.4 Where neither of the above apply, and the Division Member thinks there is a strong case to delay the determination of the application and take it to committee, they can discuss the case with Head of Development Management

who will arrange for (or discuss with the Corporate Director, Place or Chief Planning Officer prior to arranging for) an informed decision whether or not to exercise delegated powers.

2.3 If private applications are made by:

- a) a Member or their close relations;
- b) The Chief Executive, a Corporate Director, or a Director of the Council or their close relations; or
- c) a planning officer and objections are received raising material planning considerations the application will be determined by a committee.

3. It is perfectly acceptable for Members to nominate a substitute(s) to undertake their planning responsibilities, including application 'call in', if they have a conflict of interest or during periods of absence such as holidays or illness.
4. There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Corporate Director, Place or Chief Planning Officer considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases, the applications will be determined by an appropriate planning committee.

## 5. Definitions

- 5.1 Planning application means any application submitted to the Council for determination and included within the Government's planning application statistical returns. (This is a statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.)
- 5.2 'Large scale major development' means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2ha, as defined by the Government in the planning application statistical returns.
- 5.3 Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's planning application statistical returns.
- 5.4 Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 notices.
- 5.5 A private application is one which has no connection with a Member or officer's council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application.
- 5.6 A close relation is defined as spouse, partner, sibling, parent or offspring.
- 5.7 Minor residential development means housing led development of between one and nine dwellings.

# PART 3 SECTION D4 SCHEME OF DELEGATION SPECIFIC TO LICENSING

**Licensing Act 2003: Table of Delegations of Licensing Functions**

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for personal licence with unspent convictions		If a police Objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application.
Application for provisional statement		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary premises licence/club registration certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary designated personal licence holder		If a police Objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of a premises licence		If a police Objection	All other cases

Application for interim authorities		If a police Objection	All other cases
Application to review premises licence / club premises registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a representation to a temporary event notices		All cases	
Determination of Film Classification requests		Appeal against officer decision	All cases initially

### Gambling Act 2005: Table of Delegations of Licensing Functions

Matter to be dealt with	Full Council	Licensing Committee or Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting – when appropriate	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X

Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an interested party			X
Determination as to whether representations are relevant			X
Determination as whether a representation is frivolous, vexatious or repetitive			X

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**Table of Delegated Functions - Miscellaneous**

<b>Matter to be dealt with</b>	<b>Licensing Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as required by the sex establishments policy)	The Licensing Committee or Sub Committee will determine any application	The Licensing Committee or Sub Committee will determine any application	To determine Renewals where no objections have been received
Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 (Consent street trading)	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	In all other cases
<p>Powers to grant licences and permits under the following legislation:</p> <p>Town Police Clauses Act 1847 as amended Sections 47, 57, 58, 60 and 79 of Local Government (Miscellaneous Provisions) Act 1976 (Hackney carriages)</p> <p>Section 13 – 17 Local Government (Miscellaneous Provisions) Act 1982 (acupuncture, tattooing, ear Piercing and electrolysis)</p> <p>Zoo Licensing Act 1981</p> <p>House to house collections Act 1939</p>	<p>For all these functions there is no role for the committee as there is a statutory right of appeal to the Magistrates' Court</p> <p>The Licensing Committee will determine any application made by an officer or Member of the Council.</p>	<p>For all these functions there is no role for the sub - committee as there is a statutory right of appeal to the Magistrates' Court</p>	<p>In all other cases</p>

Dangerous Wild Animals Act 1976			
Lotteries and Amusements Act 1976			
Hypnotism Act 1952 (as amended) and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982			
The Animal Welfare (Licensing of activities involving animals) (England) Regulations 2018			All other cases  Appeals to Head of Service or Licensing Manager

**Criminal Justice and Police Act 2001 and Violent Crime Reduction Act 2006  
Table of Delegations of Licensing Functions**

<b>Matter to Be Dealt With</b>	<b>Full Council</b>	<b>Licensing Committee or Sub-Committee</b>	<b>Officers (Corporate Director Place)</b>
Making Designated Public Places Orders (DPPOs)		X	



# **PART 3 SECTION D5**

## **Indemnity to Officers and Members**

1. Under section 265 of the Public Health Act 1875 (“the 1875 Act”) councillors and local authority officers, when acting in the course of their duties and in good faith, have statutory immunity and are not personally liable for actions they take.
2. The Local Authorities (Indemnities for Members and Officers) Order 2004 (“the 2004 Order”) gives a specific power for authorities to grant indemnities to cover the potential liability of members and officers in a wider range of circumstances than under the 1875 Act.
3. Section 111(1) of the Local Government Act 1972 provides ancillary powers to local authorities which may permit them to indemnify members and officers in relation to particular decisions or acts if to do so would facilitate, or is incidental, or conducive to the discharge of a function of the authority.
4. Reference to member in this Part 3 Section D means an elected Member of the Council, a co-opted Member of a Committee or an Independent Person appointed under S27 of the Localism Act 2011.

### **5. Terms of Indemnity**

5.1 Wiltshire Council will, subject to the exceptions set out below at paragraph 6:

5.2 indemnify its members and officers against claims made against them (including costs awarded and reasonable costs incurred); and

5.2.1 will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its members and officers under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the members and officers)

5.2.2 occasioned by any neglect, act, error or omission committed by them in his or her capacity as a member or officer of the Council or failure to act in his or her capacity as a member or officer of the Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent.

5.3 The indemnity is effective to the extent that the member or officer in question:

5.3.1 believed that the action, or failure to act, in question was within the powers of the Council; or

5.3.2 where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for the member or officer to hold that belief at the time when they acted or failed to act] [provided that it shall not extend to any act or omission which is beyond the powers of any external body even where the action was taken in the reasonable belief that it was within the outside bodies powers]

## **6. Exceptions**

6.1 The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

- 6.1.1 fraud, dishonesty, deliberate wrongdoing or recklessness on the part of the member or officer;
- 6.1.2 subject to the provisions of paragraph 6.3, a criminal offence on the part of the member or officer;
- 6.1.3 any neglect, error or omission by the members or officer otherwise than in the course of his duties;
- 6.1.4 liability in respect of losses certified by the appropriate auditor as caused by wilful misconduct;
- 6.1.5 subject to the provisions of paragraph 6.3, failures by the member to comply with the Code of Conduct.

6.2 No indemnity may be provided in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against them.

6.3 Notwithstanding paragraph 6.1.2 and 6.1.5 this indemnity does extend to:

- 6.3.1 the defence of any criminal proceedings brought against the member or officer; and
- 6.3.2 any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

6.4 Provided that:

- 6.4.1 In the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following appeal the indemnity shall not apply. In any such cases the officer or member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity and those sums shall be recoverable by the Council as a civil debt, and
- 6.4.2 In the case of any proceedings pursuant to Section 34 Chapter 7 of the Localism Act 2011 (meaning any investigation, report, reference, adjudication or any other proceeding):
  - 6.4.2.1 If a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following appeal the indemnity shall not apply, or

- 6.4.2.2 If the member admits that they have failed to comply with the Code of Conduct that member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity and those sums shall be recoverable by the Council as a civil debt.
- 6.4.3 The indemnity will not apply if a member or officer, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the member or officer had acted with reckless disregard for the consequences.
- 6.4.4 The Indemnity will not cover any loss or expense for which the member or officer can obtain reimbursement from any other source, including insurance, whether taken out by the Council, Member, Officer or by any other person.
- 6.4.5 Any decision as to whether or not this indemnity applies will be undertaken, and if applicable authorised, by the Chief Executive in consultation with the Chief Finance Officer and the Monitoring Officer.

## **7. Notification obligations**

7.1 The indemnity contained in this Part 3 Section D is subject to the Officer or Member:

- 7.1.1 notifying the Director, Legal and Governance as soon as possible of any claim being made or intimated against him or her, and of any circumstances arising which may give rise to a claim.
- 7.1.2 giving the Director, Legal and Governance and its professional advisors access at reasonable times to any relevant documents and records within the power and control of the officer or member so as to enable the Director, Legal and Governance and its professional advisors to examine them and take copies for the purpose of assessing the claim.

## **8. General**

- 8.1 The indemnity contained in this Part 3 Section D is without prejudice to the right of the Council to take or institute disciplinary or other suitable action against a member or officer in respect of any neglect, act, error or omission.
- 8.2 The indemnity shall only extend to cover actual loss and expense incurred and evidenced by the member or officer to the satisfaction of the Director of Legal and Governance.
- 8.3 These indemnities shall continue to apply (on the terms set out in this Part 3 Section D) after the member or officer has ceased to be a member or officer of the Council where it relates to any act or failure to act during the time the member or officer was a member or officer of the Council.

- 8.4 Nothing in this Part 3 Section D restrict or limit the officer and members general obligation at law to mitigate any loss it may suffer or incur as a result of any event that may give rise to a claim.
- 8.5 The indemnity shall not extend to any loss or damage directly or indirectly arising from any motor vehicle claims in which an officer using his or her own private vehicle on the Council's business has been involved in an accident.
- 8.6 The Council or its insurers will be entitled to take over and conduct in the name of the member or officer the defence of any proceedings brought against the member or officer.

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# Wiltshire Council Constitution Part 3 Responsibility for Functions

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# PART 3

## RESPONSIBILITY FOR FUNCTIONS

### SECTION A: GENERAL

1. **Introduction**

1.1 Part 3 of this Constitution deals with responsibility for functions and decision making.

2. **Definitions**

2.1 In this Part, the following words and phrases have the following meaning:

<b>Chief Executive</b>	The Head of Paid service. Note: the Chief Executive has chosen to appoint the Corporate Director <del>for</del> Resources as the Deputy Chief Executive, who may deputise for the Chief Executive as required on all corporate matters concerning the Council
<b>Corporate Director</b>	includes the Corporate Directors for People, Place and Resources and any Interim Corporate Director. <u>For the purposes of any delegation arrangements the Director, Legal and Governance, shall be counted as a Corporate Director.</u>
<b>Executive decision</b>	means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the <del>executive</del> Executive of a local authority.
<b>Incidental decision</b>	means a decision which relates to the day to day running of a service or the implementation of a decision made by Council, Cabinet or a Committee.
<b>Proper Officer</b>	means the Director, Legal and Governance, or such other officer as designated from time to time by the Chief Executive.
<b>Register</b>	means the register referred to in Part 3 Section D1 Paragraph 1.6 and stored and maintained on the Council's intranet.
<b>Regulations</b>	means the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

2.2 In this Part ~~3~~ reference to any legislation includes reference to any successor legislation.

3. **Principles**

3.1 Wiltshire Council has a Lleader and Cabinet Executive model and as a result reference should be made to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to determine whether a function is a council executive or non-executive function.

3.2 Section B of this Part 3 sets out the functions specifically reserved to the Council, Cabinet or Committees.

3.3 The Chief Executive, as Head of Paid service, has ultimate corporate leadership responsibility for the Council and its officers. He has chosen to be supported by the Corporate Directors and Directors, to help deliver organisational priorities and Council services.



- 3.4 Where a function has not been specifically reserved in accordance with [Principle Para 3.2](#) above, the Chief Executive and the Corporate Director within whose remit the matter falls are empowered to make decisions on behalf of the Council in accordance with Part 3 Section D1 of the Constitution.
- 3.5 The Chief Executive and Corporate Directors may authorise officers to take decisions on their behalf provided a written scheme of sub delegation is recorded.
- 3.6 The Chief Executive and Corporate Directors may decide that any sub delegations they grant to officers within their team under their scheme of sub delegation may be subject to financial limitations. Whilst they may wish to consider using the signing and authorisation limits set for various officers under the Council's Budget and Policy Framework, they are not limited in this regard. The signing and authorisation limits set under the Budget and Policy Framework are financial management controls. A scheme of sub delegation is the delegation by the Chief Executive or a particular Corporate Director to other officers within their areas of responsibility to make particular types of decision for and in their name and therefore such sub delegation can be given up to the maximum limits of their own powers.
- 3.7 Decisions made under delegated powers should be recorded in accordance with Part 3 Section D1 Paragraphs [2.3](#) and [2.4](#).
- 3.8 The Chief Executive and Corporate Directors must ensure that schemes of sub delegation for decision making for their areas of responsibility are in place. They are also responsible for ensuring valid instruments of appointment for any powers exercised by officers by virtue of any statutory appointments are in place. The Chief Executive and Corporate Directors must ensure that schemes of sub delegation and instruments of appointment are recorded on the Register [of Sub-delegations](#).
- 3.9 Any decision taken by an officer on behalf of the Chief Executive or a Corporate Director shall remain the responsibility of the Chief Executive or Corporate Director as the case may be.
- 3.10 In making decisions officers will comply with [all other r](#)requirements of this Constitution including but not limited to:
- 3.10.1 [Articles of T](#)he Constitution (Part 2)
  - 3.10.2 Access to Information Procedure Rules (Part 5),
  - 3.10.3 Financial Regulations and Procedure Rules (Parts 9)
  - 3.10.4 Contract and Procurement Rules (Part 10)
  - 3.10.5 Leader's Protocol for Individual Decision Making by Cabinet Members (Protocol 5)
- 3.11 In deciding whether or not to exercise such delegated powers, officers should consider whether to consult the appropriate Cabinet Member(s) or committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate Member body where they consider it expedient to do so.

- 3.12 These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the Council's goals.

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION B: FUNCTIONS OF COUNCIL, COMMITTEES AND CABINET**

#### **1. The Council**

The Council will be responsible for the following functions, which it will exercise only in Full Council meetings:

- 1.1 Adopting the following statutory plans, strategies and documents as part of the policy framework of the Council:
  - 1.1.1 Emergency plans and civil contingency plans, as required by the Civil Contingencies Act 2004;
  - 1.1.2 Local Transport Plan, as required by the Transport Act 2000;
  - 1.1.3 Local development documents (including supplementary planning documents) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;
  - 1.1.4 Corporate Equality Plan, pursuant to the Public Sector Equality Duty under s149 of the Equality Act 2010;
  - 1.1.5 Homelessness Strategy, as required by the Homelessness Act 2002;
  - 1.1.6 Housing Renewal Strategy, as required by the Housing Act 2004;
  - 1.1.7 Licensing Authority Policy Statement, as required by the Licensing Act 2003;
  - 1.1.8 Gambling Act Statement of Principles, as required by the Gambling Act 2005;
  - 1.1.9 Pay Policy Statement, as required by the Localism Act 2011;
  - 1.1.10 Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006.
  - 1.1.11 Air Quality Strategy, as required by the Environment Act 1995;
  - 1.1.12 Contaminated Land Strategy, as required by Part2A of the Environmental Protection Act 1990.
- 1.2 Adopting the following non-statutory plans, strategies and documents which also form part of the policy framework of the Council:
  - 1.2.1 Corporate Parenting Policy;
  - 1.2.2 Business Plan;
  - 1.2.3 Treasury Management Policy;
  - 1.2.4 Capital Investment Strategy;
  - 1.2.5 Household Waste Management Strategy;
  - 1.2.6 Climate Strategy (including Carbon Reduction).
  - 1.2.7 Green and Blue Infrastructure Strategy
- 1.3 Approving the budget, including:
  - 1.3.1 Allocating financial resources to different services and projects;
  - 1.3.2 Establishing contingency funds;
  - 1.3.3 Setting the council tax;

- 1.3.4 Making decisions relating to the control of the Council's borrowing requirement;
- 1.3.5 Setting virement limits;
- 1.3.6 Annual Investment Strategy;
- 1.3.7 Annual policy for making a Minimum Revenue Provision (MRP).

1.4 Approving and amending the constitution, except for changes approved by the Monitoring Officer as set out in Part 2 Article 15.3.2.)

1.5 Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 5 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework, or the budget, where the decision maker is minded to make it in a manner which would be contrary to the policy framework, or contrary to/or not wholly in accordance with the budget.

1.6 Appointing and removing the Leader of the Council from office.

~~1.7~~ Agreeing and/or amending the terms of reference for committees other than joint committees, deciding on their composition and making appointments to them.

~~4.71.8~~ Appointing Chairmen and Vice-Chairman of Committees, unless otherwise specified within this Constitution or where choosing to allow a committee to appoint its own Chairman and Vice-Chairman.

~~4.81.9~~ Adopting a Members' allowances scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 following advice from an independent remuneration advisory panel comprising up to five non-elected Members. This would include making any amendments to such a scheme.

~~4.91.10~~ Confirming the appointment of the Head of Paid Service.

~~4.101.11~~ Appointing the returning officer and electoral registration officer.

~~4.111.12~~ Submitting proposals to the appropriate secretary of state under the Representation of the People Act 2000.

~~4.121.13~~ Carrying out community governance reviews and put in place or make changes to local community governance and electoral arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.

~~4.131.14~~ Making, amending, revoking, re-enacting or adopting bylaws and promoting, or opposing, the making of local legislation or personal bills.

~~4.141.15~~ Agreeing the cycle of Council meetings.

~~4.151.16~~ Any function under a local act.

~~1.16~~ Making arrangements for questions on the discharge of the functions of the Police and Crime Panel and the Fire Authority to be put at Council meetings.

1.17 Making appointments to the Police and Crime Panel in accordance with the relevant legislation and guidance.

## 2. Committees

The Council will exercise the following functions by delegation of powers to the under-mentioned committees:

### 2.1 Strategic Planning Committee

#### Composition

~~2.1.1~~ 2.1.1 — The size of the committee and appointments to it will be determined by council. Appointments will be made having regard to rules on political proportionality.

2.1.2 — Substitutes will be permitted in accordance with Part 4 of this Constitution.

2.1.3 Members shall not participate as Members of the Strategic Planning Committee until they have received appropriate training in respect of their functions on the committee.

#### Role and Functions

2.1.2 The committee will exercise the following functions, ~~to~~ to make strategic planning decisions as follows:

- ~~• The implications of major developments outside of Wiltshire that could have an impact on local residents;~~
- To consider the following categories of applications for planning permission, if called in by Members, in accordance with Part 3D3 of the Constitution (Scheme of Delegation – Planning), by Members:
  - Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues;
  - Planning applications for mineral extraction or waste disposal minerals and waste development, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
  - Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
  - Applications called in by a Division Member that cross the boundary of two Area Planning Committees;
- ~~• To consider the implications of major developments outside of Wiltshire that could have an impact on local residents and respond to the determining authority where appropriate~~ The implications of major developments outside of Wiltshire that could have an impact on local residents;

- Any application where the Corporate Director, Place considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses;
  - Any application the Corporate Director, Place, ~~has determined~~ deems raises issues that should be dealt with by the Strategic Planning Committee.
- To Consider ~~consider~~ documents relating to the Local Development Framework and advise Cabinet where appropriate.

2.1.4 There shall be no referral down of applications from the Strategic Planning Committee to the Area Planning Committees.

#### Public Participation

2.1.5 Details of the rules concerning public participation at the Strategic Planning Committee are ~~documented~~ referenced in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

## 2.2 Area Planning Committees

2.2.1 There shall be four area planning committees with the following composition, role and functions.

#### Composition

2.2.2 The size of the committees and appointments to them will be determined by Council. Appointments will be made having regard to rules on political proportionality. ~~Appointment to each of the area planning committees will be politically proportional also~~ having regard to the wishes of group leaders, who would be asked to nominate Members wherever possible on a geographical basis. The Corporate Director, Place, will be responsible for reviewing and updating the extent of the areas covered by each committee.

2.2.3 Substitutes will be permitted in accordance with Part 4 of this Constitution from those eligible, selected wherever possible on a geographical basis.

2.2.4 Members shall not participate as Members of the area planning committees until they have received appropriate training in respect of their functions on the committee.

#### Planning Role and Functions

2.2.5 To consider planning applications not within the remit of the Strategic Planning Committee and not delegated to officers except where the Corporate Director, Place, ~~Corporate Director, Place~~ considers it inappropriate to exercise delegated powers having considered public representations and consultee responses.

2.2.6 To consider matters of local importance within the area such as:

- The designation and amendment of conservation areas;

- Village design statements ~~and parish plans~~ where Council approval is required for them to be considered as material considerations in dealing with planning applications;
- Consideration of planning applications called to an area committee by division Members ~~in accordance with Part 3D3 of the Constitution~~, with the exception of those that fall to be determined by the Strategic Planning Committee.

2.2.7 There shall be no referral up of applications from the area planning committees to the Strategic Planning Committee.

2.2.8 The Corporate Director, Place-, after consultation with the relevant ~~Ce~~cabinet Member, shall be responsible for determining whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee in accordance with the criteria set out above. Where requested to do so, the Corporate Director, Place -shall be required to set out the reasons in writing.

### Other Roles and Functions

2.2.9 Where an objection has been received and that objection has not been resolved by officers, to consider matters of local importance ~~within for the area such as~~following matters:

- Registration of common land or town and village greens;
- Variation of rights of common;
- Determination of applications under the Manufacture and Storage of Explosives Regulations 2005;
- Public rights of way, including modification of the definitive map and the regulation of the use of the highway.

### Scheme of Delegation

2.2.10 The scheme of delegation to the Corporate Director, Place, ~~Corporate Director, Place~~ is detailed in Part 3 Section D3 of this Constitution.

### Public Participation

2.2.11 Details of the rules concerning public participation at the Area Planning Committees are ~~documented~~referenced in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

## 2.3 **Licensing Committee**

### Composition

2.3.1 The size of the committee and appointments to it will be determined by Council with a Membership of between 10 and 15 Members. Appointments will be made having regard to the rules on political proportionality.

2.3.2 Substitutes will be permitted in accordance with Part 4 of this Constitution

2.3.3 Members shall not participate as Members of the Licensing Committee or any of its sub-committees in relation to Licensing Act and Gambling Act matters until they

have received appropriate training in respect of their functions on the committee or sub-committees.

### Role and Functions

2.3.4 Taxi, gambling, casino, gaming, entertainment, food, liquor and miscellaneous licensing.

2.3.5 To deal with all functions relating to licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to include all of the Council's responsibilities under the Licensing Act 2003, the Gambling Act 2005 and the Council's responsibilities in respect of licensing under the Criminal Justice and Police Act 2001 and the Violent Crime Reduction Act 2006 any other associated matters and any other similar licensing and registration functions.

2.3.6 The Licensing Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge its duties including those under the Licensing Act 2003 and the Gambling Act 2005.

2.3.7 Each sub-committee will comprise three Members drawn from the Licensing Committee and appointed by the Proper Officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer, having regard to the following:

- Availability of Members;
- Members selected are not the representative for the area in which the premises subject to the hearing or review is situated;
- Members do not have a disclosable or other personal or prejudicial interest in the matter to be determined;
- Cross-party representation on all sub-committees is achieved where at all possible.

### Scheme of Delegation

2.3.8 Sub-committees will have full delegated powers to determine contested applications and adjudicate over the review of licences. These will be undertaken by way of licensing hearings and conducted in accordance with relevant legislation.

2.3.9 Delegations relevant to the Licensing Committee, licensing sub-committees and officers are detailed in Part 3 Section D4 of this Constitution.

## **2.4 Staffing Policy Committee**

### Composition

2.4.1 The size of the committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.4.2 Substitutes will be permitted in accordance with Part 4 of this Constitution.



### Role and Function

- 2.4.3 To determine, monitor and review staffing policies and practices to secure the best use and development of the Council's staff, including the power to deal with all matters relating to staff terms and conditions.
- 2.4.4 The Staffing Policy Committee will establish the following sub-committees to deal with matters relating to the dismissal or disciplinary action against individual Members of staff and staff grievances.

### Senior Officers' Employment Sub-Committee

2.4.5 This sub-committee is authorised to dismiss and take disciplinary action against the officers categorised below as defined within the associated "Chief Officer posts" document in accordance with the officer employment procedure rules:

- The Head of Paid Service;
- Statutory chief officers;
- Non-statutory chief officers;
- Deputy chief officers;
- Assistants for political groups.

2.4.6 For this purpose, the sub-committee shall comprise at least three Members, at least one of whom shall be a Member of the Cabinet.

2.4.7 This sub-committee is also authorised to consider and respond to grievances raised by officers in the categories listed above under stage two to the Council's grievance procedure. For the determination of such grievances the sub-committee shall comprise at least three Members. There is no requirement for any of those Members to be a Member of the Cabinet.

### Staffing Appeals Sub-Committee

2.4.8 This sub-committee is authorised to hear appeals against dismissal or disciplinary action:

- By the Senior Officers' Employment Sub-Committee in relation to the senior officers specified above;
- By the Head of Paid Service in relation to other staff.

2.4.9 The Staffing Appeals Sub-Committee has power in the case of an appeal against a warning to:

- Dismiss the appeal;
- Allow the appeal;
- Allow the appeal and substitute a different warning (greater or lesser);
- Dismiss the employee.

2.4.10 The Staffing Appeals Sub-Committee has power in the case of an appeal against dismissal to:

- Dismiss the appeal;
- Dismiss the appeal but offer to re-engage the employee in the same or another post with effect from a date to be determined;
- Allow the appeal and reinstate;
- Allow the appeal and reinstate with a written or final written warning.

2.4.11 In the case of any appeal against dismissal or disciplinary action in respect of a senior officer as identified above, the Staffing Appeals Sub-Committee shall comprise at least three Members, at least one of whom shall be a Member of the Cabinet.

2.4.12 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to the Staffing Appeals Sub-Committee.

#### Grievance Appeals Sub-Committee

2.4.13 This sub-committee is authorised to hear appeals under stage two of the Council's grievance procedure.

2.4.14 The sub-committee shall comprise at least three Members to hear an appeal. There is no requirement for any Member to be a Member of the Cabinet.

2.4.15 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to the Grievance Appeals Sub-Committee.

#### Relevant Officers Panel

2.4.16 This is an advisory sub-committee established in accordance with the requirements of the Local Authorities (Standing Orders) (England)(Amendment) Regulations 2015 for the purpose of advising on matters relating to the dismissal of relevant officers of the council as defined in Part 14 Officer Employment Procedure Rules.

2.4.17 The Panel shall comprise three members and at least two relevant independent persons who have accepted an invitation to be appointed to the Panel.

2.4.18 The Monitoring Officer shall be responsible for providing training to the Panel

### 2.5 **Standards Committee**

#### Composition

~~2.5.1 2.5.1 — The size of the Standards Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality, but may not include. This Committee will comprise up to 13 elected Members, other than the Leader or any other Member of the Cabinet, and.~~

~~2.5.2 In addition to elected Members up to 84~~ co-opted non-voting Members shall be appointed, at least 50%<sup>2</sup> of whom shall at appointment be serving town, parish or city Members from within the Council's area who are not Members or officers of the Council.

~~2.5.3~~ ~~2.5.2~~—Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.

~~2.5.4~~ ~~2.5.3~~—The term of office for co-opted non-voting Members will normally be 4 years.

~~2.5.5~~ ~~2.5.4~~—Co-opted non-voting Members will be eligible for re-appointment for ~~a second additional~~ terms, but may not serve more than 2 consecutive terms.

~~2.5.6~~ ~~2.5.5~~—Substitutes will be permitted in accordance with Part 4 of the Constitution.

### Roles and Function

~~2.5.7~~ ~~2.5.6~~—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, on and where appropriate 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, and to assist in promoting training and information for parish councils;
- 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~~Co-opted Members of Wiltshire Council, and Members of City, Town, and Parish~~parish, town and city~~ councils 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.

### Standards Sub-Committees

~~2.5.8~~ ~~2.5.7~~—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:

- An Assessment Sub-Committee to determine what action~~assess complaints etc~~ etc to take in respect of Member complaints~~complaints regarding the conduct of~~

Members of Wiltshire Council, or Members of city, town or parish councils under the Council's arrangements;

- A Hearing Sub-Committee to determine Member misconduct complaints under the Council's arrangements;
- A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.

~~2.5.9~~ ~~2.5.8~~ — For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected Members present.

#### Assessment Sub-Committee

~~2.5.10~~ ~~2.5.9~~ — As it shall consider multiple complaints per meeting this Sub-Committee shall comprise 5 elected Members from among the Standards Committee and its substitutes, in case of conflicts arising. The Standards Committee will appoint the members annually, ~~along with a Chairman and Vice-Chairman for the Sub-Committee.~~ The Sub-Committee will elect a Chairman and Vice-Chairman at their first meeting following their reappointment by Standards Committee after the annual meeting of Council. The Sub-Committee may include up to 2 non-voting co-opted Members of the Standards Committee on an ad-hoc basis. All other members and substitutes of the Standards Committee will serve as substitutes for the Sub-Committee.

~~2.5.11~~ ~~2.5.10~~ — The above Sub-Committee is not subject to the requirements of political balance but is subject to a requirement of a maximum of 4 elected Members from any political group. The co-opted members serving on the Sub-Committee will be determined by the proper officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer.

~~2.5.12~~ ~~2.5.11~~ The above Sub-Committee shall meet on a monthly basis and make decisions on all Code of Conduct complaints in accordance with the Council's arrangements under [Protocol 11](#).

~~2.5.13~~ ~~2.5.12~~ — Members, including co-opted members, may not serve on the Hearing Sub-Committee for a complaint they have previously considered on the Assessment Sub-Committee.

#### Hearing Sub-Committee and Dispensation Sub-Committee

~~2.5.14~~ ~~2.5.13~~ — In each case the above Sub-Committees shall comprise 3 elected Members from whom a chairman will be elected. The Sub-Committee may include up to 2 non-voting co-opted Members of the Standards Committee.

~~2.5.15~~ ~~2.5.14~~ — The above Sub-Committees are not subject to the requirements of political balance but are subject to the requirement of a maximum of 2 elected Members from any political group. The composition of any sub-committee will be determined by the proper officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer on the basis of Member availability, drawing from the Membership of the Committee and their substitutes.

~~2.5.16~~ ~~2.5.15~~—The Hearing Sub-Committee shall make decisions where an investigation into a Code of Conduct Complaint makes a finding of a breach, in accordance with the Council's arrangements under Protocol 11.

2.5.17 The Dispensation Sub-Committee shall make decisions on requests for dispensations relating to Disclosable Pecuniary Interests in accordance with the Council's Dispensations Policy, which is to be approved by the Standards Committee.

2.5.18 Requests for dispensations relating to Other Registerable Interests and Non-Registerable Interests, as defined in Part 12 of the Constitution, shall be delegated to the Monitoring Officer to determine in accordance with the Dispensations Policy. It is the responsibility of the Member to submit a request, but the Monitoring Officer will have the authority to pro-actively engage with Members where it appears a dispensation may be appropriate or necessary.

2.5.19 In the event a Disclosable Pecuniary Interest dispensation request from a Member is received where there is insufficient time to convene a Dispensations Sub-Committee, in relation to a matter which is urgent and cannot reasonably be delayed or appropriately determined by another method, the Monitoring Officer will have authority to determine the request in accordance with the Dispensations Policy.

## 2.6 Officer Appointments Committee

2.6.1 This committee will comprise five Members to include at least one Member of Cabinet. It will be responsible for:

- Appointing the Head of Paid Service, subject to confirmation by the Council;
- Appointing Directors, subject to the officer employment procedure rules as set out in Part 14 of this Constitution.

## 2.7 Wiltshire Pension Fund Committee

2.7.1 This joint committee will comprise five Members from ~~the authority~~ Wiltshire Council and ~~co-opted~~ other Members as follows:

- Two voting Members from Swindon Borough Council;
- Two co-opted voting Employer Representatives;
- Two co-opted non-voting employee representatives, one representing Wiltshire Council employees, and one representing Swindon Borough Council employees.

2.7.2 It will exercise the functions of the Council as administering authority under the Local Government Superannuation Acts and Regulations and deal with all matters relating thereto. The committee will publish meetings attendance records ~~in an~~ Annual Report.

2.7.3 The voting Employer Representatives will serve a four-year fixed term from appointment. On expiry of the four-year term, applications for the position will be

sought (from the incumbent and the applicable employer bodies) and an appointment process will be undertaken by the committee should more than one application be received for the role.

2.7.4 The full terms of reference for the Wiltshire Pension Fund Committee can be found at Protocol 2A. Terms of reference for the Local Pensions Board, whose purpose is to assist the administering authority in its role as a scheme manager of the Scheme, can be found at Protocol 2B.

## 2.8 **Audit and Governance Committee** Composition

2.8.1 The size of the Audit and Governance Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.8.2 The Audit and Governance Committee will exclude Members of the Cabinet. The exception is that up to two, of the Leader of the Council and the Cabinet Members with responsibility for finance and governance, will be appointed as non-voting Members of the Committee. As non-voting members they would not count toward the rules on political proportionality.

2.8.3 Substitute Members will be permitted in accordance with Part 4 of this Constitution.

2.8.4 In addition to the Elected Members on the Committee, the Committee can appoint up to 2 Independent Co-opted Members, who will be Non-Voting Members of the Committee. The Non-Voting Co-opted Independent Member(s) should have experience of audit and financial management, preferably with knowledge of local authorities.

2.8.5 Independent Co-opted Members will be appointed by a recruitment and selection process involving members of the Committee.

2.8.6 The term of office for Independent Co-opted Members will normally be 4 years.

2.8.7 Independent Co-opted Members will be eligible for re-appointment for a second term.

2.8.8 Independent Co-opted Members do not count towards the ~~Q~~quorum of the committee.

### Role and Function

2.8.9 The Audit and Governance Committee will be responsible for:

#### 2.8.10 External Audit Activity:

- To receive and comment on the external audit plan;
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;
- To monitor accounting policies and any changes made during the year;

- To comment on the scope and depth of external audit work and to ensure it gives value for money;
- To monitor the implementation of management actions arising from external audit work.

#### 2.8.11 Internal Audit Activity:

- To approve the terms of reference and strategy for internal audit, and the annual internal audit plan and subsequent changes thereto;
- To monitor and review the effectiveness of internal audit to ensure compliance with statutory requirements;
- To consider the annual report, opinion, and summary on internal audit activity and the level of assurance it provides on the Council's corporate governance arrangements;
- To consider specific internal audit reports as requested, and receive details where it is proposed not to accept internal audit recommendations, and monitor the implementation of agreed management actions.

#### 2.8.12 Regulatory Framework:

- To monitor and review the effective development and operation of corporate governance, risk and performance management and internal control, and to receive progress reports as required;
- To oversee the process for production of the annual governance statement (AGS), to review the supporting evidence including the arrangements for governance of partnership working, and to approve the AGS;
- To monitor the development and implementation of the Council's anti-fraud, bribery and corruption policy, anti-money laundering policy, and anti-tax evasion and strategy policy.

#### 2.8.13 Financial Management and Accounts:

- To ensure the Council's arrangements for financial management are adequate and effective, and, together with its accounting policies, are regularly reviewed;
- To review and approve the annual statement of accounts;
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

### 2.9 **Appeals Committee**

#### Composition

2.9.1 The size of the committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.9.2 An Appeals panel Sub-Committee will comprise three Members, drawn by the Proper Officer, who in this instance would be a Democratic Services Officer on behalf of the Monitoring Officer, from those Members of the Appeals Committee who have received appropriate training.

2.9.3 At each meeting of the Appeals panel Sub-Committee, one of its Members shall be elected to chair the appeals panel for the duration of that meeting.

#### Function

2.9.4 An Appeals ~~Panel~~ Sub-Committee is empowered to determine appeals against the following decisions of the authority:

- Education transport;
- Imposition of penalty points which would result in suspension for licensed hackney carriage, taxi and private hire vehicle operators, drivers and vehicles;
- Refusal of applications for discretionary rate relief and cases of exceptional hardship under the national non-domestic rating regulations, council tax and housing benefit regulations and Rates Relief Policies;
- Suspension, removal or exclusion of providers from the Council's Directory of Registered Early Years Providers;
- Any other function requiring an appeal to a Member body not specifically reserved to another body in the Constitution, or by the law.

2.9.5 No Member who was involved in determining a matter which is the subject of an appeal will be appointed to a ~~panel~~ Sub-Committee hearing the appeal.

## 2.10 Electoral Review Committee

### Composition

2.10.1 ~~The size of the Electoral Review Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality. The Committee shall consist of ten members appointed in accordance with the rules on political proportionality.~~

2.10.2 The Committee shall appoint a chairman and vice-chairman from among its membership.

### Responsibilities

To oversee the provision of information required by the Local Government Boundary Commission for England (LGBCE) in carrying out any Electoral Review of Wiltshire, including any consultation arrangements with electors or stakeholder ~~and s.~~ To update Full Council on the progress of any Electoral Review.

2.10.3

~~2.10.4 To update Full Council on the progress of any Electoral Review.~~

~~2.10.5~~ 2.10.4 To make recommendations to Full Council on proposed submissions to the LGBCE relating to:

- The total number of councillors on Wiltshire Council;
- The number and boundaries of electoral divisions within Wiltshire Council;
- The number of councillors to be returned by any electoral division;
- The name of any electoral division.

~~2.10.6~~ 2.10.5 To provide such further advice and support as may be requested by the Council related to or impacted by any Electoral Review.



~~2.10.7~~2.10.6 To oversee all details relating to any community governance reviews within the Wiltshire Council area, including contacting ~~all~~ parishes or parties for proposals, setting the areas and scope for any review, its methodology including for any consultation arrangements, and its timescales, and determining what if any changes to recommend as part of the review, and to conclude a review or part of a review where no changes are recommended. The Committee will prepare final recommendations for any changes for consideration by Full Council.

~~2.10.8~~2.10.7 The Committee will consider whether it is appropriate to make, and is empowered to suggest for consultation and recommendation, changes to parish areas and parish electoral arrangements, to include:

- The alteration, merging, creation or abolition of parishes;
- The naming of parishes and adoption of alternative styles for new parishes;
- Parish council size, number of councillors to be elected, and warding arrangements;
- Any other ~~electorate~~ electoral arrangements.

~~2.10.9~~2.10.8 Where it would be appropriate to do so the Committee may recommend that as a result of proposed parish changes a unitary division be amended so that it remains coterminous with that parish. Any such change would need to be agreed by the Local Government Boundary Commission for England if approved by Full Council.

~~2.10.10~~2.10.9 Where it would be appropriate to do so, to make recommendations to Full Council on the composition (Electoral Divisions and Parishes) of Area Boards, following completion of an Electoral Review or Community Governance Review, or another reason. The Committee may undertake such processes as it considers appropriate when preparing its recommendations.

~~2.10.11~~2.10.10 To oversee the provision of information required in carrying out Polling District and Polling Place Reviews, including any consultation arrangements with electors or other stakeholders.

~~2.10.12~~2.10.11 To make decisions in respect of ~~proposed~~ Polling District and Polling Place Reviews. The Returning Officer will also have authority to change a polling place where appropriate in the event of a by election or other unforeseen circumstances after consultation with the Chairman of the Committee, which will be reported to the Committee.

~~2.10.13~~2.10.12 To receive reports in relation to the operation and delivery of Electoral Services and make recommendations or decisions as appropriate on electoral matters not reserved to Full Council.

### 3. Cabinet

#### 3.1 General

3.1.1 This section should be read in conjunction with the Cabinet Procedure Rules (Part 7).

3.1.2 The Leader, either directly or through Cabinet, will carry out within the Council's ~~Policy and Budget~~Budget and Policy Framework, all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

3.1.3 Without limiting the scope of paragraph 3.1.2, Cabinet either directly or by delegating its powers as set out in Part 3 Section C of this Constitution (Delegation of Executive Functions) has the following functions and responsibilities:

- Proposing the budget to Council, including the preparation of estimates and the amount of the proposed precept and any reconsideration or revision of those estimates;
- Agreeing the council tax base;
- Controlling capital expenditure;
- Proposing to Council new policies, (or amendments to existing policies), which fall within the Policy Framework as defined in paragraph 1 of Part 3 of this Constitution;
- Adopting on behalf of Wiltshire Council any plans, policies or strategies which do not form part of the policy framework and are not the responsibility of any other part of the local authority;
- Implementing and delivering the agreed Budget and Policy Framework.

## 3.2 Local Choice Options

3.2.1 In regard to local choice options, the following will be the responsibility of the Cabinet:

- Making arrangements pursuant to the School Standards and Framework Act 1998 for appeals against exclusion of pupils; admission appeals; and appeals by governing bodies;
- The appointment of any individual to any office other than an office in which he is employed by the authority to any body other than the authority and to any committee or sub-committee of such a body and the revocation of any such appointment.

3.2.2 The Cabinet elects to delegate the following local choice options as follows:

- Corporate Director, Place - the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land;
- Solicitor to the Council - the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
- Solicitor to the Council - the making of agreements for the execution of highways works.

## 3.3 Cabinet Members

3.3.1 The Leader of the Council chairs meetings of the Cabinet and is the principal spokesman for the Council. The role of Leader within the Budget and Policy Framework set by the Council includes but is not limited to:

- Setting strategic direction;
- Ensuring the needs and aspirations of Wiltshire people are known;
- Management initiatives;
- Identifying priorities and setting targets;
- Setting priorities;
- Probity and financial monitoring and risk management;
- Communication policy;
- Monitoring performance of Members of his or her Cabinet;
- Promoting the Council;
- Relationships with other political group leaders and the chairman of the Council.

3.3.2 The provisions above are without prejudice to the statutory duties of the Head of Paid Service, the Monitoring Officer and Solicitor to the Council, the Director of Children’s Services, the Director of Adult Social Services, the Section 151 Officer, the designated Scrutiny Officer or any other statutory Council officers as set out in Part 2 of the Constitution, or other council officers.

3.3.3 The Leader will appoint individual Cabinet Members as he or she thinks appropriate subject to reporting appointments to the first available meeting of the Council.

3.3.4 Individual Cabinet Members will have power within any scheme of delegation determined by the Leader in accordance with:

- Article Seven of Part 2 (Articles of the Constitution)
- Part 3 Section C (Delegation of Executive Functions)
- ~~Paragraphs Two to Ten of the~~ Part 7 (Cabinet Procedure Rules).

3.3.5 In addition to the delegation of authority to individual Members, the Cabinet may choose to delegate functions further to an ~~area board~~Area Board, joint arrangements, or an officer.

#### 4. ~~Area Board~~Area Boards

##### Role and functions of ~~Area Board~~Area Boards

4.1 The purpose of ~~area board~~Area Boards is to promote the development of stronger and more resilient communities across Wiltshire’s community areas through:

- 4.1.1 Efficient, transparent and accountable decision making;
- 4.1.2 Effective collaboration with public, voluntary and private sector partners locally to meet the aspirations of local people;
- 4.1.3 Shaping the delivery of local services;
- 4.1.4 Addressing local issues;
- 4.1.5 Building community leadership and local engagement.

4.2 Each ~~area board~~Area Board will have the following functions in conjunction with their local area:

- 4.2.1 To provide a focus for community leadership, local influence and delegated decision-making, through the democratic mandate of elected Members;

- 4.2.2 To influence the allocation of resources and delivery of public services in the community area in order to pursue local priorities and issues;
- ~~4.2.3 To develop a strong, well established and highly functioning network of local partners, organisations and residents~~
- ~~4.2.4 To generate an in-depth understanding of their local community and the issues faced by the residents, including through use of Joint Strategic Needs Assessment data.~~
- ~~4.2.5 To empower and facilitate community led action, by recognising and encouraging the talents, expertise and knowledge of our communities, trusting and supporting them to co-deliver local services.~~
- ~~4.2.6 To effectively share data and intelligence at a local level~~
- ~~4.2.3 To bring together key service providers and the local community into a coherent cycle, linked to budget and decision-making processes;~~
- ~~4.2.4 To consider current conditions and future priorities through an annual state of the community area debate;~~
- ~~4.2.5 To publish a local area assessment setting out the agreed priorities for action arising from the state of the community area debate;~~
- ~~4.2.6~~ 4.2.7 To determine budget priorities and spend within the revenue budget allocated by the Cabinet, including approval of funding recommended by any working groups such as Local Highways and Footway Improvement Groups;
- ~~4.2.7~~ 4.2.8 To provide a local platform for local engagement and conversation including through the use of working groups such as Health and Wellbeing Groups and Local Youth Networks and ~~t~~o agree a framework for any consultations carried out in the community area on behalf of the Council;
- ~~4.2.8 To provide feedback on major statutory consultations on behalf of the community area;~~
- 4.2.9 To allocate ~~core funding for the operation of the community area partnership~~ and project funding for identified community priorities;
- 4.2.10 To develop participatory budgeting processes and to be instrumental in supporting and developing funding applications to external bodies and funding streams;
- 4.2.11 To provide excellent two-way communications for the community area about public service provision and to the Council and Cabinet about the implementation and effectiveness of policies;
- 4.2.12 To publish and maintain a forward plan of forthcoming agenda items to give Members, the public, parishes and the media adequate notice of the issues that are to be considered;
- ~~4.2.13~~ 4.2.13 To consider issues referred to the ~~area board~~ Area Board by town and parish councils, partners and the public; ~~L~~
- ~~4.2.14 To establish task and finish groups to examine specific issues.~~

### Composition

- 4.3 The ~~area board~~ Area Boards are appointed by the Council under section 102 of the Local Government Act 1972 and are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive as set out below.
- 4.4 In the event of a Member being elected following a by-election, the Director ~~of~~ Legal and Governance has delegated authority to appoint the Member to the

relevant ~~area board~~Area Board and council will be asked to ratify the appointment at its next available meeting.

4.5 ~~Area boards are established for the areas shown on the map at schedule one and named as set out in that schedule.~~

4.6 Marlborough, Pewsey and Tidworth Area Boards are established as a single area committee known as the Eastern Wiltshire Area Committee. ~~This shall appoint with~~ three sub-committees, each of which shall operate as an ~~area board~~Area Board, known as Marlborough ~~Area Board~~Area Board, Pewsey ~~Area Board~~Area Board and Tidworth ~~Area Board~~Area Board respectively.

#### Membership and Representation

4.7 Each ~~area board~~Area Board's Membership shall comprise of the elected unitary Members representing the electoral divisions covered by the ~~area board~~Area Board, as set out in schedule 1.

4.8 The following representatives ~~will~~may also participate as partners in ~~area board~~Area Boards:

4.8.1 An elected-representative from each town or parish council within the area covered by the ~~area board~~Area Board as ~~shown detailed~~ in schedule 1;

4.8.2 Representatives are also encouraged from the following groups and organisations:

- ~~• Local neighbourhood policing team (inspector with a sergeant as deputy);~~
- ~~• Clinical Commissioning Group;~~
- ~~• Housing Association or housing officer;~~
- ~~• Community Area Partnership and/or other groups representative of the local community;~~
- ~~• Dorset and Wiltshire Fire and Rescue Service;~~
- ~~• Local Youth Network;~~
- ~~• Campus Operation Group (or equivalent).~~
- Voluntary, community and social enterprise sector organisations (regional, countywide and local level)
- Wiltshire Police
- Dorset and Wiltshire Fire and Rescue Service
- Ministry of Defence
- Bath, Swindon and Wiltshire Partnership, Healthwatch, Local Health Representatives
- Local businesses, Chambers of Commerce
- Schools
- Housing Associations
- Faith and cultural groups
- Residents and resident action groups
- Any other relevant groups

4.8.3 ~~Other participants from the local community including (but not limited to) any of the following groups: the military, users groups such as the Wiltshire and Swindon User Group, Healthwatch, partnership boards, minority ethnic groups, older people's groups, colleges, school councils, governors, local~~

~~businesses, Chamber of Commerce, cultural organisations, Area of Outstanding Natural Beauty groups.~~

~~4.26~~ ~~4.9~~—The ~~e~~C~~h~~airman and ~~V~~ice-~~C~~hairman of an ~~A~~area ~~B~~oard will be appointed at the first meeting of an ~~S~~~~A~~area ~~b~~oard~~A~~rea Board, which takes place after the annual meeting of the Council, by the unitary Members on each ~~area board~~Area Board; ~~e~~Except in an election year, where after the first meeting of Full Council a special meeting of each ~~area board~~Area Board will take place to appoint a ~~C~~hairman and a ~~V~~ice-~~C~~hairman.

#### Election of Chair~~s~~men Procedure

4.9.1 The Democratic Services representative will call for nominations for the position of ~~e~~C~~h~~airman of the ~~area board~~Area Board and preside over the election. A Member's nomination must be seconded to be valid. A Member shall not be nominated in ~~his/her~~their absence without their written consent.

4.9.2 In the event of only one valid nomination being received the person presiding will declare the nominated Member elected.

4.9.3 In the case of two valid nominations the Democratic Services representative will ask for a show of hands from those Members in favour of each Member and declare the candidate receiving the majority of votes of the Members present and voting, to be the winner.

4.9.4 In the case of an equality of votes for the two candidates, the Democratic Services representative shall draw lots, or an equivalent method to break the tie, to determine the winner of the election and then declare the result.

4.9.5 In the case of three or more valid nominations being made, the Democratic Services Representative will call for a show of hands for each of the candidates. The Democratic Services representative will then announce the candidate with the least number of votes and that candidate will be eliminated (in the case of a tie for the least number of votes, the Democratic Services representative shall draw lots or use an equivalent method to determine which candidate to be eliminated). A further vote shall be taken for the remaining candidates and after each vote the candidate with the least number of votes shall be eliminated until only two candidates remain and a final vote taken.

4.9.6 The newly elected Chairman of the ~~Area Board~~Area Board shall then preside over the election of the Vice Chairman in the manner described above with the ability to use a casting vote in the event of an equality of votes.

4.9.7 With the exception of an election year, the ~~C~~hairman and ~~V~~ice-~~e~~C~~h~~airman of an ~~area board~~Area Board shall remain in post until their successors are appointed.

#### Other Representation

~~4.26~~ ~~4.10~~—A Member of Wiltshire Council's Cabinet will attend upon request those ~~area board~~Area Boards which do not have a Cabinet Member as a standing Member of the ~~area board~~Area Board. Cabinet Members attending the ~~area~~

~~board~~Area Board will not have voting rights. For the avoidance of doubt a Cabinet Member is entitled to vote as a standing Member of the ~~area board~~Area Board in which their electoral division is located.

- 4.11 Directors from Wiltshire Council will attend as and when required. Their role is to advise and assist the ~~area board~~Area Board.
- 4.12 No substitutes are permitted for unitary Members on ~~area board~~Area Boards except as set out at Para 4.13.
- 4.13 ~~However The~~The Eastern Wiltshire Area Committee will appoint substitutes for the Members on the Pewsey ~~Area Board~~Area Board, Tidworth ~~Area Board~~Area Board, and Marlborough ~~Area Board~~Area Boards drawn from the ~~Area Boards~~ part~~Members~~ of the Eastern Wiltshire Area Committee.

#### Voting

- 4.14 Only the elected unitary Members on the ~~area board~~Area Board may vote ~~on matters involving the discharge of executive functions within the scope of the delegation to area boards set out below~~ at an Area Board.
- 4.14 Voting is by a majority of the ~~voting-elected~~ Members present. The ~~Ce~~chairman of the ~~area board~~Area Board has the casting vote.
- 4.16 ~~Area board~~Area Boards will where appropriate seek the views of any other participants~~seek to reach decisions by consensus, where possible involving all participants~~. The ~~area board~~Area Board may decide to test opinion by a show of hands before the unitary Members make their decision.

#### Quorum

- 4.17 The quorum for each ~~area board~~Area Board is one quarter of its total voting Membership, subject to a minimum number of three voting Members.

#### Delegation

~~4.26~~ 4.18—Decisions involving the discharge of executive functions will be made by the local ~~area board~~Area Board, provided the decision does not:

- 4.18.1 Have a significant impact outside of the area concerned;
- 4.18.2 Have a significant impact on the overall resources of the Council;
- 4.18.3 Contradict any policy or service standard set by the Council;
- 4.18.4 Involve the taking of regulatory or quasi-judicial decisions;
- 4.18.5 Relate to the exercise of functions in respect of any particular person, including any individual Member of staff.

- 4.19 ~~Area board~~Area Boards must operate within the Council's Budget and Policy Framework and in accordance with the requirements of this Constitution. In accordance with Para 4.2.9 they may provide local views on the effective implementation of a council policy, but are not able to make resolutions contrary to the Budget and Policy Framework of the Council.

- ~~4.26~~ ~~4.20~~ — Each ~~area board~~Area Board will receive delegated funding as determined from time to time by the Leader.
- 4.21 ~~Area board~~Area Boards will allocate their delegated funds in accordance with any rules and guidance issued by the Leader.
- 4.22 For the avoidance of doubt the delegation arrangements for ~~area board~~Area Boards will operate in conjunction with the scheme of delegation to Cabinet Members and the Council's scheme of delegation to officers.
- 4.23 ~~Area board~~Area Boards will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The ~~area board~~Area Boards will also be consulted where significant changes, reductions or closures of a service are planned in their area.
- 4.24 Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the ~~area board~~Area Board.
- 4.25 ~~Area board~~Area Boards must not be directly involved in deciding planning applications. However, they ~~should~~may be involved in the following in relation to their area:
- 4.25.1 Consideration of the ~~benefits~~impacts of larger developments;
  - 4.25.2 Pre-application discussions relating to major developments;
  - 4.25.3 Consideration of planning briefs;
  - 4.25.4 Development of Local Development Framework policies.

#### 4.25.4

#### Procedure Rules and Guidance

- 4.26 ~~Area board~~Area Boards will follow any procedure rules and guidance as issued from time to time by the Leader.

#### Agenda setting

- 4.26 An agenda will be prepared for each meeting after consultation with the Chairman of the Area Board.
- 4.27 Members may request that specific items be included on an agenda subject to the delegation rules and within the powers and role of the Board as set out in this constitution. A request should take the form of a proposed topic for discussion, request for a briefing or partner event or other similar requests.
- 4.28 Any proposed subjects and proposed actions must be in accordance with the rules set out in this constitution.



4.29 Subject to 4.28, and so long as reasonable notice to prepare as appropriate is given, if a majority of Board Members support an item being included on an agenda it will be included for discussion in an appropriate form.

#### Access to Information

4.278 ~~Area Board~~Area Boards are subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

### 5 **Wiltshire Police and Crime Panel**

#### Terms of Reference

5.15.1—To hold to account etc

5.2To review and make a report or recommendation on the draft police and crime plan, or draft variation, given to the panel by the Police and Crime Commissioner.

5.2 To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the commissioner's annual report.

5.3 To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.

5.4 To review and make a report on the proposed appointment of the Chief Constable.

5.5 To review and make a report and recommendation (as necessary) on the proposed police precept.

5.6 To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.

5.7 To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.

5.8 To support the effective exercise of the functions of the Police and Crime Commissioner.

5.9 To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.

5.10 To appoint an Acting Police and Crime Commissioner if necessary.

5.11 To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

#### Procedure Rules and Panel Arrangements

5.12 The Police and Crime Panel Procedure Rules and Panel Arrangements are set out in Protocol 12 of this Constitution.

### Wiltshire Pension Fund Committee

2.7.1 This joint committee will comprise five Members from Wiltshire Council and other Members as follows:

- Two voting Members from Swindon Borough Council;
- Two co-opted voting Employer Representatives;
- Two co-opted non-voting employee representatives, one representing Wiltshire Council employees, and one representing Swindon Borough Council employees.

2.7.2 It will exercise the functions of the Council as administering authority under the Local Government Superannuation Acts and Regulations and deal with all matters relating thereto. The committee will publish meetings attendance records.

2.7.3 The voting Employer Representatives will serve a four-year fixed term from appointment. On expiry of the four-year term, applications for the position will be sought (from the incumbent and the applicable employer bodies) and an appointment process will be undertaken by the committee should more than one application be received for the role.

2.7.4 The full terms of reference for the Wiltshire Pension Fund Committee can be found at Protocol 2A. Terms of reference for the Local Pensions Board, whose purpose is to assist the administering authority in its role as a scheme manager of the Scheme, can be found at Protocol 2B.

### Other Bodies

## **6 Health and Wellbeing Board**

### Composition

#### 6.1 Voting Members:

6.1.1 1 Leader of the Council

6.1.2 ~~and~~ 1 Deputy Leader of the Council

6.1.3 1 healthcare clinical professional director (NHS BSW ICB)

6.1.4 ~~and~~ 1 GP clinical lead (Wiltshire Integrated Care Alliance)

6.1.5 1 Police and Crime Commissioner (PCC);

6.1.6 1 representative from Healthwatch Wiltshire;

#### 6.2 Non-voting Members:

6.2.1 1 NHS England representative.

6.2.2 Other Wiltshire Council Cabinet Members with responsibility for Children, Adults and Public Health; 1 Wiltshire Council portfolio holder for Adult Care and Public Health; 1 Member of Wiltshire Council who is not a Member of the ruling group(s) on the Council;

6.2.3 Wiltshire Council Chief Executive

6.2.4 Place Director for Wiltshire (NHS BSW ICB) or nominated ICB Exec Director lead as sub

- 6.2.5 Wiltshire Council officers with statutory responsibility for Children, Adults and Public Health services;
- 6.2.6 Acute Hospital Trusts representatives (Salisbury Hospital FT, Great Western Hospital FT and Bath RUH FT);
- 6.2.7 1 South West Ambulance Service (SWAS) representative;
- 6.2.8 1 Avon and Wiltshire Mental Health Partnership (AWP) representative;
- 6.2.9 1 Wiltshire Police Chief Constable representative;
- 6.2.10 1 Wessex Local Medical Committee representative;
- 6.2.11 1 Dorset and Wiltshire Fire and Rescue Service;
- 6.2.12 1 Adult community health services provider (WHC);
- 6.2.13 1 Children's community health services provider (VirginCare);
- 6.2.14 1 Child and adolescent mental health services provider (Oxford Health);
- 6.2.15 1 VCS representative

6.1 Voting Members:

- ~~6.1.1 4 Elected representatives: The Leader of the Council and up to 2 Wiltshire Council Cabinet Members with responsibility for Children, Adults and Public Health; And 1 Member of Wiltshire Council who is not a Member of the ruling group(s) on the Council;~~
- ~~6.1.2 4 clinical representatives from the CCG/ICB;~~
- ~~6.1.3 1 representative from Healthwatch;~~
- ~~6.1.4 1 The Police and Crime Commissioner (PCG);~~
- ~~6.1.5 1 NHS England representative.~~

6.2 Non-voting Members:

- ~~6.2.1 Wiltshire Council officers with statutory responsibility for Children, Adults and Public Health services;~~
- ~~6.2.2 Chief Officer / Chief Finance Officer of the Clinical Commissioning Group;~~
- ~~6.2.3 Acute Hospital Trusts representatives (Salisbury Hospital FT, Great Western Hospital FT and Bath RUH FT);~~
- ~~6.2.4 1 South West Ambulance Service (SWAS) representative;~~
- ~~6.2.5 1 Avon and Wiltshire Mental Health Partnership (AWP) representative;~~
- ~~6.2.6 1 Wiltshire Police Chief Constable representative;~~
- ~~6.2.7 1 Wessex Local Medical Committee representative;~~
- ~~Wiltshire Council portfolio holders for Adult Care and Public Health.~~
- ~~6.2.8 Wiltshire Council Chief Executive~~
- ~~6.2.9 Bath and North East Somerset, Swindon and Wiltshire CCG Locality Manager~~
- ~~6.2.10 1 Dorset and Wiltshire Fire and Rescue Service representative~~
- ~~6.2.11 1 Adult community health services provider (WHC) representative~~
- ~~6.2.12 1 Children's community health services provider (VirginCare) representative~~
- ~~6.2.13 1 Child and adolescent mental health services provider (Oxford Health) representative~~

~~6.3 In addition, the NHS Commissioning Board (known NHS England) must appoint a representative for the purposes of participating in the preparation of the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy and will join the Board when it is considering these matters.~~

Voting

6.4 Voting is by a majority of the voting Members present. The ~~chair~~Chair of the ~~board~~Board has the casting vote. However, the ~~board~~Board will seek to reach decisions by consensus, where possible involving all participants.

6.5 The quorum for the meeting will be a quarter of the total membership.

### Roles and Functions

6.5 The statutory functions of the Health and Wellbeing Board contained within the Health and Social Care Act 2012 and Health and Care Act 2022 are:

6.5.1 to prepare Joint Strategic Needs Assessments (JSNAs) and Joint Local Health and Wellbeing Strategies (JLHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs) NHS Integrated Care Boards working through the Board;

6.5.2 a duty to encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under Section 75 of the National Health Service Act 2006 (i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services;

6.5.3 a power to encourage close working between commissioners of health related services and the board itself;

6.5.4 a power to encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services.

The Board is supported in its activities by requirements in legislation for the ICB to consult the Board on its annual report and for the ICB to include a statement of compliance from the Health and Wellbeing Board on how well the JLHWS is reflected in its forward plans.

6.6 Full Council reserves the right to delegate any other additional functions under section 196(2) of the Health and Social Care Act 2012.

### Access to Information

6.7 The Health and Wellbeing Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

## **7 Local Pension Board**

8.1 The purpose of the Board is to assist the Administering Authority in its role as a scheme manager of the Scheme. Such assistance is to:

8.1.1 Secure compliance with the Regulations, any other legislation relating to the governance and administration of the Scheme, and requirements imposed by the Pensions Regulator in relation to the Scheme and;

8.1.2 To ensure the effective and efficient governance and administration of the Scheme.

This may include making recommendations it considers appropriate to the committee.

#### Composition

8.2 The Board shall consist of 6 voting Members, as follows:

8.2.1 3 Member Representatives; and

8.2.2 3 Employer Representatives.

7.3 There shall be an equal number of Member and Employer Representatives.

7.4 There shall also be an independent chairman who is not entitled to vote.

#### Quorum

7.5 A meeting is only quorate when at least 50% of both Member and employer representatives are present.

7.6 A meeting that becomes inquorate may continue but any decisions will be non-binding.

#### Access to Information

7.7 The Local Pension Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

#### Terms of Reference

7.8 The full terms of reference for the Local Pension Board can be found at Protocol 2B.

## **8 Local Authority Panels**

#### Channel Panel

8.1 The Channel Panel uses a multi-agency approach to protecting people vulnerable to being drawn into terrorism. The Channel Panel was established in line with the Counter-Terrorism and Security Act 2015.

8.2 The Channel Panel forms part of the council's Prevent Duty. The relevant Cabinet Member attends meetings of the Prevent Board.

8.3 The Channel Panel is required to:

8.3.1 Identify individuals at risk

8.3.2 Assess the nature and extent of that risk;

8.3.3 Develop the most appropriate support plan for the individuals concerned.

8.4 The key requirements of the Channel Panel:

8.4.1. The local authority is the Channel Panel Chair;

8.4.2. Membership of the panel must include the local authority and the police as they have principal responsibility for Channel in their area;

8.4.3. Minimum membership of the panel includes:

- The local authority representative as chair
- Counter Terrorism Policing South West Prevent Officer
- Safeguarding representation (as determined by the age of the case)
- Mental Health representation if mental health concerns are present (service dependant on age of case)
- Minute taker

Additional members from agencies relevant to the case are requested which could include education providers, voluntary community groups, probation services or others as appropriate.

8.4.4. The panel to develop a support plan for individuals accepted as channel cases.

8.4.5. The panel to consider alternative forms of support, including health and social services, where Channel is not appropriate.

8.4.6. The panel to ensure that the council's functions to safeguard and promote the welfare of children under section 11 of the Children Act 2004 are discharged;

8.4.7. All partners of a panel, so far as appropriate and reasonably practicable, to cooperate with the police and the panel in the carrying out of their functions;

8.4.8. Each case is handled separately; people deemed appropriate to receive support will have a tailored package developed for them, according to their identified vulnerabilities.

8.4.9. Where the panel is unable to make a unanimous decision, the question must be decided by a majority of the panel. Where the panel is unable to make a majority decision, the question must be decided by the Channel Panel Chair. In certain circumstances the Chair may wish to escalate the question internally through the agreed governance route.

# PART 3 SECTION B

## SCHEDULE 1

### AREA BOARDS: ELECTORAL DIVISION AND PARISH ALLOCATIONS

<b>Bradford-on-Avon Area Board</b>
<p><b>Electoral Divisions (4)</b> Bradford on Avon North, Bradford on Avon South, Holt, Winsley and Westwood.</p>
<p><b>Parishes</b> Atworth, Bradford on Avon, Holt, Limpley Stoke, Monkton Farleigh, South Wraxall, Staverton, Westwood, Wingfield, Winsley.</p>
<b>Calne Area Board</b>
<p><b>Electoral Divisions (5)</b> Calne Central, Calne Chilvester and Abberd, Calne North, Calne Rural, Calne South.</p>
<p><b>Parishes</b> Bremhill, Calne, Calne Without, Cherhill, Compton Bassett, Heddington, Hilmarton.</p>
<b>Chippenham and Villages Area Board</b>
<p><b>Electoral Divisions (10)</b> By Brook, Chippenham Cepen Park and Derriards, Chippenham Cepen Park and Hunters Moon, Chippenham Hardenhuish, Chippenham Hardens and Central, Chippenham Monkton, Chippenham Lowden and Rowden, Chippenham Pewsham, Chippenham Sheldon, Kington.</p>
<p><b>Parishes</b> Biddestone, Castle Combe, Chippenham, Chippenham Without, Christian Malford, Grittleton, Hullavington, Kington Langley, Kington St Michael, Langley Burrell Without, Nettleton, North Wraxall, Seagry, Stanton St Quintin, Sutton Benger, Yatton Keynell.</p>
<b>Corsham Area Board</b>
<p><b>Electoral Divisions (4)</b> Box and Colerne, Corsham Ladbroke, Corsham Pickwick, Corsham Without.</p>
<p><b>Parishes</b> Box, Colerne, Corsham, Lacock.</p>

**Devizes Area Board****Electoral Divisions (7)**

Bromham, Rowde and Roundway, Devizes East, Devizes North, Devizes Rural West, Devizes South, The Lavingtons, Urchfont and Bishops Cannings.

**Parishes**

Bishops Cannings, Bromham, Bulkington, Cheverell Magna, Coulston, Devizes, Easterton, Erlestoke, Etchilhampton, Little Cheverell, Market Lavington, Marston, Potterne, Poulshot, Rowde, Seend, Stert, Urchfont, West Lavington, Worton.

**Malmesbury Area Board****Electoral Divisions (4)**

Brinkworth, Malmesbury, Minety, Sherston.

**Parishes**

Ashton Keynes, Brinkworth, Brokenborough, Charlton (nr Malmesbury), Crudwell, Dauntsey, Easton Grey, Great Somerford, Hankerton, Lea and Cleverton, Leigh, Little Somerford, Luckington, Malmesbury, Minety, Norton, Oaksey, Sherston, Sopworth, St Paul Malmesbury Without.

**Marlborough Area Board****Electoral Divisions (3)**

Aldbourne and Ramsbury, Marlborough East, Marlborough West.

**Parishes**

Aldbourne, Avebury, Baydon, Berwick Bassett, Chilton Foliat, East Kennett, Fyfield, Marlborough, Mildenhall, Ogbourne St Andrew, Ogbourne St George, Preshute, Ramsbury, Savernake, West Overton, Winterbourne Monkton.

**Melksham Area Board****Electoral Divisions (6)**

Bowerhill, Melksham East, Melksham Forest, Melksham South, Melksham Without North and Shurnhold, Melksham Without West and Rural.

**Parishes**

Broughton Gifford, Great Hinton, Keevil, Melksham, Melksham Without, Semington, Steeple Ashton.

**Pewsey Area Board****Electoral Divisions (3)**

Pewsey, Pewsey Vale East, Pewsey Vale West.



## Parishes

All Cannings, Alton, Beechingstoke, Burbage, Buttermere, Charlton, Chirton, Easton, Froxfield, Grafton, Great Bedwyn, Ham, Little Bedwyn, Manningford, Marden, Milton Lilbourne, North Newnton, Patney, Pewsey, Rushall, Shalbourne, Stanton St Bernard, Tidcombe and Fosbury, Upavon, Wilcot, Huish and Oare, Wilsford, Woodborough, Wootton Rivers.

## Royal Wootton Bassett and Cricklade Area Board

### Electoral Divisions (6)

Cricklade and Latton, Lyneham, Purton, Royal Wootton Bassett East, Royal Wootton Bassett North, Royal Wootton Bassett South and West.

### Parishes

Braydon, Broad Town, Broad Hinton, Clyffe Pypard, Cricklade, Latton, Lydiard Milicent, Lydiard Tregoze, Lyneham and Bradenstoke, Marston Maisey, Purton, Royal Wootton Bassett, Tockenham, Winterbourne Bassett.

## Salisbury Area Board

### Electoral Divisions (8)

Salisbury Bemerton, Salisbury Fisherton and Bemerton Village, Salisbury Harnham East, Salisbury Harnham West, Salisbury St Edmund's, Salisbury St Francis and Stratford, Salisbury Milford, Salisbury St Paul's.

### Parishes

Salisbury

## Southern Wiltshire Area Board

### Electoral Divisions (6)

Aldbury and Whiteparish, Downton and Ebbel Valley, Laverstock, Old Sarum and Lower Bourne Valley, Redlynch and Landford, Winterslow and Upper Bourne Valley.

### Parishes

Aldbury, Allington, Britford, Cholderton, Clarendon Park, Coombe Bissett, Downton, Firsdown, Grimstead, Idmiston, Landford, Laverstock & Ford, Newton Tony, Odstock, Pitton and Farley, Redlynch, West Dean, Whiteparish, Winterbourne, Winterslow.

## South West Wiltshire Area Board

### Electoral Divisions (5)

Fovant & Chalke Valley, Mere, Nadder Valley, Tisbury, Wilton

### Parishes

Alvediston, Ansty, Barford St Martin, Berwick St John, Berwick St Leonard, Bishopstone, Bowerchalke, Broadchalke, Burcombe Without, Chicklade, Chilmark, Compton Chaberlayne, Dinton, Donhead St Andrew, Donhead St Mary, East Knoyle, Ebbesborne Wake, Fonthill Bishop, Fonthill Gifford, Fovant, Hindon, Kilmington, Mere, Netherhampton, Quidhampton, Sedgehill and Semley, Steeple Langford, Stourton with Gasper, Stratford Tony, Sutton Mandeville, Swallowcliffe, Teffont, Tisbury, Tollard Royal, West Knoyle, West Tisbury, Wilton, Wyllye, Zeals.

### **Stonehenge Area Board**

#### **Electoral Divisions (6)**

Amesbury East and Bulford, Amesbury West, Amesbury South, Avon Valley, Durrington, Till Valley.

#### **Parishes**

Amesbury, Berwick St James, Bulford, Durnford, Durrington, Enford, Figheldean, Fittleton cum Haxton, Great Wishford, Milston, Netheravon, Orcheston, Shrewton, South Newton, Stapleford, Tilshead, Wilsford cum Lake, Winterbourne Stoke, Woodford.

Alvediston, Ansty, Barford St Martin, Berwick St John, Berwick St Leonard, Bishopstone, Bowerchalke, Broadchalke, Burcombe Without, Chicklade, Chilmark, Compton Chaberlayne, Dinton, Donhead St Andrew, Donhead St Mary, East Knoyle, Ebbesborne Wake, Fonthill Bishop, Fonthill Gifford, Fovant, Hindon, Kilmington, Mere, Netherhampton, Quidhampton, Sedgehill and Semley, Steeple Langford, Stourton with Gasper, Stratford Tony, Sutton Mandeville, Swallowcliffe, Teffont, Tisbury, Tollard Royal, West Knoyle, West Tisbury, Wilton, Wyllye, Zeals.

### **Tidworth Area Board**

#### **Electoral Divisions (3)**

Tidworth North and West, Tidworth East and Ludgershall South, Ludgershall North and Rural.

#### **Parishes**

Chute, Chute Forest, Collingbourne Ducis, Collingbourne Kingston, Everleigh, Ludgershall, Tidworth.

### **Trowbridge Area Board**

#### **Electoral Divisions (9)**

Hilperton, Southwick, Trowbridge Adcroft, Trowbridge Central, Trowbridge Drynham, Trowbridge Grove, Trowbridge Lambrok, Trowbridge Park, Trowbridge Paxcroft.

#### **Parishes**

Hilperton, North Bradley, Southwick, Trowbridge, West Ashton.

### **Warminster Area Board**

#### **Electoral Divisions (5)**

Warminster Broadway, Warminster North and Rural, Warminster East, Warminster West, Wylde Valley.

**Parishes**

Bishopstrow, Boyton, Brixton Deverill, Chapmanslade, Chitterne, Codford, Corsley, Heytesbury, Horningsham, Kingston Deverill, Knook, Longbridge Deverill, Maiden Bradley with Yarnfield, Norton Bavant, Sherrington, Stockton, Sutton Veny, Upton Lovell, Upton Scudamore, Warminster.

**Westbury Area Board**

**Electoral Divisions (4)**

Ethandune, Westbury East, Westbury North, Westbury West.

**Parishes**

Bratton, Dilton Marsh, Edington, Heywood, Westbury.

# PART 3

## RESPONSIBILITY FOR FUNCTIONS

### SECTION C:

## DELEGATION OF EXECUTIVE FUNCTIONS

#### 1. General

1.1 The Leader will decide how arrangements for the discharge of cabinet functions are to be exercised except insofar as they are already set out in the cabinet arrangements adopted by the Council.

1.2 This scheme of delegation records the arrangements made by the Leader or the Cabinet for the discharge of executive functions by:

- 1.2.1 the Cabinet as a whole;
- 1.2.2 a committee of the Cabinet;
- 1.2.3 an individual Member of the Cabinet;
- 1.2.4 an Area Board;
- 1.2.5 an officer;
- 1.2.6 joint arrangements or;
- 1.2.7 another local authority.

#### 2. Cabinet as a whole

2.1 In accordance with the terms of reference of Cabinet as set out at paragraph 3 of Part 3B of this Constitution, the Leader either directly or through Cabinet will carry out within the Council's Budget and Policy Framework all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under this Constitution.

2.2 Cabinet is defined at Article 7 of Part 2 of this Constitution. The procedure rules governing meetings of Ccabinet are set out at Part 7 of this Constitution.

#### 3. A Committee of the Cabinet

3.1 The Leader may appoint a committee of the Cabinet for the discharge of executive functions.

3.2 ~~To date~~At present the following cabinet committees have been appointed:

3.2.1 Shareholder Group

#### 4. An individual Member of the Cabinet

4.1 Cabinet Members may exercise any executive functions within their allocated areas of responsibility, as set out in Appendix 2 of Part 3C. The Monitoring Officer has delegated authority to amend Appendix 2 from time to time to reflect the decision of the Leader.

4.2 This does not include executive functions which are specifically reserved by law or this constitution to the Council, the Leader and/or Cabinet, or officers.

4.3 In exercising delegated functions Cabinet Members must have regard to the Leader's Protocol for individual decision making, Protocol 5 of this Constitution, which promotes good practice and ensures transparency and consistency in the decision-making process.

4.4 Cabinet Members may in consultation with the Leader refer matters to the Cabinet for decision if they consider that it is more appropriate to do so.

4.5 Where a Cabinet Member is unable to act because of absence, a conflict of interest or any other reason, the Leader may nominate another Member of the Cabinet to exercise the function on their behalf.

## 5. ~~Cabinet~~ Portfolio Holders

5.1 The Leader may also appoint other Members as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.

5.2 Portfolio Holders are not Members of the Cabinet, and cannot exercise or be delegated any executive functions.

5.3 As Members of the administration involved in formulation of policy, Portfolio Holders cannot serve on Overview and Scrutiny Committees, Task Groups or Rapid Scrutiny Exercises unless called as witnesses.

## 6. An Area Board

6.1 This scheme of delegation records the arrangements made by the Leader for the discharge of executive functions by each of the 18 Area Boards constituted in accordance with paragraph 4 of Part 3 Section B of this Constitution.

6.2 Area Boards may exercise the following executive functions within their geographical areas of responsibility subject to compliance with paragraph 4. ~~17~~ 18 – 4.24-25 of Part 3 Section B of this Constitution and specifically:

6.2.1 The approval of applications from community and voluntary groups and town and parish councils for grant funding through the Area Boards grant scheme.

6.2.2 The approval of applications for the disposal of non-strategic assets with a value below £250,000 provided that each application is supported by robust and appropriate business cases that benefit local communities in accordance with the council's Community Asset Transfer Policy.

## 7. Officers

7.1 The discharge of executive functions as delegated by the Leader having regard to the Scheme of Delegation to Officers as set out at Part 3 Section D of this Constitution.

## 8. Joint Arrangements

8.1 The discharge of executive functions under joint arrangements with one or more local authority as described at Article 11.2 of Part 2 of this constitution.

8.2 ~~To date~~At present the following Joint ~~Committees~~Arrangements have been ~~appointed~~established:

8.2.1 None

## 9. Another local authority

9.1 Cabinet may delegate cabinet functions to another local authority or the cabinet of another local authority in certain circumstances as described at Article ~~12~~11.4 of Part 2 of this Constitution.

## 10. Decisions

10.1 Those delegated to take decisions within this scheme of delegation must:

10.1.1 act within the council's Budget and Policy Framework;

10.1.2 comply with the council's Constitution, including particularly its Financial Regulations and Procedure Rules (Part 9) and Procurement and Contract Rules (Part 10), and all relevant legislation, guidance and codes of practice

10.1.3 follow the principles of decision making in Article ~~14~~13.2 of Part 2 of this constitution.

10.1.4 consider the implication of any council policy, initiative, strategy or procedure

10.1.5 consider the staffing, financial, legal and environmental implications of any proposal

10.1.6 consider the assessment of any risks associated with a proposal in accordance with the council's risk management strategy

10.2 This scheme may be varied at any time in accordance with paragraph 4 of the Cabinet Procedure Rules (Part 7).

# Part 3 Section C

## Appendix 1 - Cabinet Committees and Joint Committees

### Cabinet Committees

#### Shareholder Group Terms of Reference

#### 1. Overview

- 1.1 The Shareholder Group will exercise the Council's role as shareholder in any company, limited by shares wholly or partly owned by the Council for the purposes of service provision and/or trading activities including any joint venture.
- 1.2 The Shareholder Group acts with the delegated authority of Cabinet to ensure the performance of any such company is satisfactory. Some actions in relation to the Council's companies are reserved to the Cabinet. These are set out below.
- 1.3 Any reference in these terms of reference to a "company" or "companies" is defined as a company in which the Council holds shares.
- 1.4 The Shareholder Group may also decide, from time to time, whether to accept proposals to submit a bid to provide goods and / or services which, if successful would commit the council to the establishment of a new company (which may include a joint venture company). In these instances, the decision of the Shareholder Group would be referred to the Cabinet for final approval.

#### 2. Matters reserved to Cabinet

- 2.1 None

#### 3. Membership

- 3.1 The Membership shall be as follows:
  - Leader of the Council (Chairman) —~~Cllr Richard Clewer~~
  - Cabinet Member for Finance, Development Management, and Strategic Planning & Procurement, IT, Digital and Commercialisation — ~~Cllr Pauline Church~~
  - Cabinet Member for Housing, Strategic Assets, Asset Transfer —~~Cllr Phil Alford~~
- 3.2 The Chief Executive, Corporate Director ~~for~~ Resources and Deputy Chief Executive, and the Director ~~of~~ Legal & Governance may attend the Shareholder Group to provide advice. Additional advisors may be invited to attend the Group as required.
- 3.3 Changes to the Membership of the Shareholder Group will be agreed by the Leader of the Council and given effect by the Director, ~~of~~ Legal & Governance.

~~3.3.3~~ 3.4 The Leader may appoint any other Member of the Cabinet as a substitute.

#### 4. Purpose

- 4.1 The Shareholder Group will:
- 4.1.1 Have the power to appoint and remove Company Directors;
  - 4.1.2 Approve and monitor Company Business Plans;
  - 4.1.3 Approve the allotment of further shares in a Company (whether to third party shareholders or the Council);
  - 4.1.4 Exercise any reserved powers in the Articles of a Company and any Shareholder Agreement with a Company;
  - 4.1.5 Endorse any amendments to Company Business Plans;
  - 4.1.6 Periodically evaluate financial performance of a Company;
  - 4.1.7 Agree significant capital or revenue investments proposed by a Company;
  - 4.1.8 Determine the distribution of any surplus or the issue of any dividends from a Company;
  - 4.1.9 Consider any recommendation from Company Directors to cease trading;
  - 4.1.10 Report to the Council annually on trading activity;
  - 4.1.11 Review the risks associated with trading activities.
- 4.2 The Shareholder Group will not have operational control over Companies. All decisions regarding the day-to-day operation of each Company, its business developments and commercial opportunities, staff terms and conditions and the development and implementation of its internal procedures, rest with the Directors of each Company.

## 5. Relationship to Scrutiny

- 5.1 Select Committees will retain their scrutiny function in relation to the Shareholder Board. The Overview and Scrutiny Management Committee will be able to call the Shareholder Group to account for progress in relation to any Company for which the Council is a shareholder and any returns it is making.

## 6. Scope

- 6.1 In respect of Teckal-compliant companies the Shareholder Group will:
- 6.1.1 Monitor Teckal compliance at least annually.
  - 6.1.2 Ensure the Business Plan of a Teckal compliant Company is aligned to the corporate objectives of the Council.
- 6.2 In respect of non Teckal-compliant wholly Council-owned companies the Shareholder Group will:
- 6.2.1 Seek to achieve appropriate returns on investment from trading activities.
  - 6.2.2 Ensure trading activities are conducted in accordance with the values of the Council.
- 6.3 In respect of any shareholding and/or joint ventures the Shareholder Group will:
- 6.3.1 Evaluate the return and benefits of the shareholding against the values of the Council.
  - 6.3.2 Where appropriate, exercise influence over the company and /or joint ventures in accordance with the values of the Council.
- 6.4 In respect of the submission of a bid which will commit the council to the establishment of a company (or Joint Venture) the Shareholder Group will:



- 6.4.1 Evaluate the return and benefits of the proposal, including an evaluation of the proposed profit share in a Joint Venture.
- 6.4.2 Seek to achieve appropriate returns on investment from trading activities.
- 6.4.3 Ensure trading activities are conducted in accordance with the values of the Council.

## 7. Operation of the Shareholder Group

- 7.1 ~~The~~ Subject to the matters reserved to Cabinet stated above, ~~the~~ Cabinet has delegated to the Shareholder Group the authority to take decisions in respect of 100% of the Council's shareholding in any Company.
- 7.2 The Shareholder Group will meet quarterly, or as required.
- 7.3 The quorum for a meeting of the Shareholder Group is a minimum of two members, one of whom must be the Leader, who will chair the meeting.
- 7.4 The Shareholder Group may take decisions outside of a Company's general meeting as follows:
  - 7.4.1 At meetings of its members by consensus of those present, unless any member of the Group requires a vote, in which event a majority decision will be taken with each member of the Shareholder Group present having a single vote. The Chairman of the meeting has a casting vote in the event that there is no clear majority; or
  - 7.4.2 In cases of urgency, by a decision made by the Leader in consultation with the Chief Executive.
- 7.5 Any decisions made by the Shareholder Group in accordance with 7.4.1 or 7.4.2 above, must be notified to the relevant Company's directors and the other Members of the Shareholder Group as soon as reasonably practicable following such decision being taken.
- 7.6 If a general meeting of a Company is called, the Shareholder Group will be required to nominate a corporate representative to attend the general meeting of a Company and vote on any resolutions proposed. In advance of any general meeting, the Shareholder Group may convene a meeting to discuss and determine any resolutions to be proposed at a general meeting. In such circumstances, decision making may be taken in accordance with the principles set out in 7.4.1 above. In cases of urgency, decision making may be taken in accordance with the principles set out in 7.4.2 above including, for the avoidance of doubt, the appointment of a corporate representative.
- 7.7 The Chairman approves the agenda for each meeting. The agenda and papers for consideration are circulated at least five working days before the meeting. After each meeting, the Chairman approves the meeting notes and actions and signs any resolutions agreed by the Shareholder Group.
- 7.8 The Shareholder Group will review the Terms of Reference annually.

### Joint Committees

7.9 No ~~Joint~~joint executive committees have currently been appointed.

## Part 3 Section C

### Appendix 2 - Individual Members of Cabinet

Cabinet Member Post	Responsibilities	Cabinet Member(s)
<b>Leader</b>  ( <del>Climate Change,</del> <u>Economic Development,</u> <b>Military-Civilian Integration,</b> <u>Economic Development,</u> <b>Heritage, Arts, Tourism, and Health and Wellbeing)</b>	<ul style="list-style-type: none"> <li>• Setting strategic direction, priorities and targets</li> <li>• Ensuring the needs and aspirations of Wiltshire people are known</li> <li>• Management initiatives</li> <li>• Promoting the council</li> <li>• Relationships with other political group leaders and the Chairman of the Council</li> <li>• <del>Environment and Climate Change</del></li> <li>• Economic Development</li> <li>• Local Enterprise Partnership</li> <li>• Military Covenant</li> <li>• Communication Policy</li> <li>• Cultural development including heritage, museums and arts</li> <li>• Tourism</li> <li>• Canals</li> </ul>	<b>Cllr Richard Clewer</b>  Downton & Ebbles Valley Division  Correspondence address:  Leader of the Council Wiltshire Council Bythesea Road Trowbridge BA14 8JN
<b>Deputy Leader and Cabinet Member for Children's Services, Education and Skills</b>	<ul style="list-style-type: none"> <li>• Performance of children's social services including child protection, fostering and adoption, children's homes and special educational needs</li> <li>• Relations with other organisations, especially the health service and voluntary organisations regarding children's services</li> <li>• Partnership with Wiltshire's school governors and headteachers on education matters including school performance, outcomes, funding, curriculum, buildings and admissions</li> <li>• Performance of the youth development service and early years provision and youth justice</li> <li>• Skills and Social Mobility</li> </ul>	<b>Cllr Laura Mayes</b>  Bromham, Rowde & Roundway Division  Correspondence address:  Wiltshire Council Bythesea Road, Trowbridge BA14 8JN

<p><b>Cabinet Member for Finance, Development Control and Strategic Planning</b></p>	<ul style="list-style-type: none"> <li>• Development management services including planning enforcement and conservation</li> <li>• Strategic planning including the Local Development Framework</li> <li>• Wiltshire and Swindon minerals and waste local plans</li> <li>• Finance</li> <li>• Probity and financial management</li> <li>• Revenues and Benefits</li> <li>• Welfare reform</li> <li>• Performance</li> <li>• Risk</li> <li>• Audit</li> <li>• Pensions</li> <li>• Investment</li> <li>• Procurement and Commissioning</li> </ul>	<p><b>Cllr Nick Botterill</b></p> <p>By Brook Division</p> <p>Correspondence address: Wiltshire Council Bythesea Road, Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Transport, <del>Waste</del>, Street Scene and Flooding</b></p>	<ul style="list-style-type: none"> <li>• Flooding</li> <li>• <del>Performance of waste management including collection, disposal and recycling</del></li> <li>• Highways maintenance and improvements</li> <li>• Rights of way</li> <li>• Public conveniences</li> <li>• Grounds and open space management including allotments</li> <li>• Cemeteries and markets</li> <li>• <del>Litter and cleansing activities and environmental enforcement including abandoned vehicles, fly tipping etc</del></li> <li>• Traffic management including car parking, road safety and passenger transport</li> <li>• Performance and strategy for transport including the Local Transport Plan and related strategies and policies</li> <li>• Areas of Outstanding Natural Beauty</li> </ul>	<p><b><u>Cllr Caroline Thomas</u></b></p> <p><u>Marlborough East Division</u></p> <p><b><u>Cllr Dr Mark McClelland</u></b></p> <p><del>Salisbury St Francis &amp; Stratford Division</del></p> <p>Correspondence address:  Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Adult Social Care, SEND, Transition and Inclusion</b></p>	<ul style="list-style-type: none"> <li>• Performance of adult care services including services for people with learning disability, mental health problems or a physical impairment and for older people</li> <li>• Adult Social Care Transformation</li> </ul>	<p><b>Cllr Jane Davies</b></p> <p>Marlborough West Division</p> <p>Correspondence address:</p>

	<ul style="list-style-type: none"> <li>• Relations with other organisations, especially the health service and voluntary organisations regarding social care services</li> </ul>	<p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Housing, Strategic Assets and Asset Transfer</b></p>	<ul style="list-style-type: none"> <li>• Housing</li> <li>• Provision of Gypsy and traveller services</li> <li>• Strategic Asset Management</li> <li>• County Farms</li> <li>• Strategic Housing</li> </ul>	<p><b>Cllr Phil Alford</b></p> <p>Melksham Without North &amp; Shurnhold Division</p> <p>Correspondence address:</p> <p>Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Public Health and Public Protection, Leisure, Libraries, Facilities Management, Operational Assets</b></p>	<ul style="list-style-type: none"> <li>• Public health <del>and</del> Public Protection</li> <li>• Facilities Management</li> <li>• Operational Assets</li> <li>• Leisure and Sports</li> <li>• Libraries</li> </ul>	<p><b>Cllr Ian Blair-Pilling</b></p> <p>Avon Valley Division</p> <p>Correspondence address: Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>
<p><b>Cabinet Member for Governance, IT, Broadband, Digital, Licensing, Staffing, Communities and <del>Area Board</del>Area Boards</b></p>	<ul style="list-style-type: none"> <li>• Electoral Reviews</li> <li>• Statutory Governance including information management</li> <li>• Registration Services and coroners</li> <li>• Legal</li> <li>• Democratic Services</li> <li>• Member Development</li> <li>• Human Resources and organisational development</li> <li>• Equality and Diversity</li> <li>• Customer Care</li> <li>• Community Development in local areas including <del>area board</del>Area Boards</li> <li>• Campus Development</li> <li>• Community safety</li> <li>• Environmental health</li> <li>• Trading Standards</li> <li>• Licensing</li> <li>• Emergency Planning</li> <li>• Broadband</li> <li>• IT and Digital</li> </ul>	<p><b>Cllr Ashley O'Neill</b></p> <p>Calne Rural Division</p> <p>Correspondence address: Wiltshire Council Bythesea Road Trowbridge BA14 8JN</p>

**Cabinet Member  
for Climate  
Change and  
Environment**

- Environment
- Climate Change
- Canals
- Waste
- Performance of waste management including collection, disposal and recycling
- Litter and cleansing activities and environmental enforcement including abandoned vehicles, fly tipping etc
- Public Protection

**Cllr Nick Holder**

Bowerhill Division

Correspondence  
address:

Wiltshire Council  
Bythesea Road  
Trowbridge  
BA14 8JN

# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION D: SCHEME OF DELEGATION TO OFFICERS**

This Section should be read in conjunction with the Principles set out in Part 3 Section A.

#### **D1. SCHEME OF DELEGATION**

1. Scheme of Delegation to Directors
2. Decision Making
3. Record Keeping
4. Emergency Powers
5. Solicitor to the Council

#### **D2. SCHEME OF SUB DELEGATION**

#### **D3. SCHEME OF DELEGATION SPECIFIC TO PLANNING**

#### **D4. SCHEME OF DELEGATION SPECIFIC TO LICENSING**

Schedule 1. Indemnity to Staff

# PART 3 SECTION D1

## SCHEME OF DELEGATION

### 1. Scheme of Delegation to Directors

- 1.1 This Scheme of Delegation authorises the Chief Executive and Corporate Directors to exercise the functions of Wiltshire Council as set out in this document. It repeals and replaces all previous schemes of delegation.
- 1.2 This scheme is without prejudice to the exercise of the council's functions by the Council, the Cabinet, and the Council's Committees, Sub-Committees and Panels.
- 1.3 Full Council, its Committees and the Cabinet will make decisions on matters of significant policy. The Chief Executive and Corporate Directors have express authority to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
- 1.4 In relation to all delegated authority conferred on the Chief Executive and Corporate Directors by this scheme, the Chief Executive may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as he or she thinks fit.
- 1.5 Where a Director is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Chief Executive. This nomination should be formally recorded in writing and an announcement circulated to Members of the Council as soon as practicable.
- 1.6 The Monitoring Officer will maintain a central record of all delegations under this scheme and make this available for public inspection pursuant to section 100G Local Government Act 1972.
- 1.7 Without prejudice to the generality of the foregoing, the Chief Executive and Corporate Directors shall have the power:
- 1.7.1 To take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy and to comply with statutory obligations within their areas of responsibility and within approved budget. This shall include, but not exhaustively:
- Invitation and acceptance of tenders;
  - Submission of bids for funding;
  - Write-off of irrecoverable debts;
  - Virement (within the budget framework and financial regulations);
  - Disposal and acquisition of assets;
  - Service and placing of any necessary statutory or other notices (other than those expressly reserved to Full Council, Committee or Cabinet);

- After consultation with the Solicitor to the Council, authorising the institution, defence, settlement or participation in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council;

1.7.2 To put in place management arrangements, which define the area of responsibility of all officers under their service area.

1.7.3 To determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of Paid Service after consultation with the Director for HR and Organisational Development and in conformance with Council policies and the Finance Regulations and Procedure Rules (Part 9).

1.7.4 To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.

1.8 Any Member of the Council may request that decisions taken by officers under delegated powers are scrutinised by ~~the appropriate~~ the overview and scrutiny management committee.

1.9 For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a Proper Officer for the purpose of any statutory function, will be determined by the Chief Executive after consultation with the Monitoring Officer.

1.10 The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to him for any action, costs, claim or liability incurred by him or her as set out in Schedule 1.

## 2 Decision Making

2.1 In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with paragraph 2.2 below, to use the most efficient and effective means available (including the deployment of staffing and other resources within their control and the procurement of other resources necessary) whether within or outside the Council.

2.2 In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:

2.2.1 A key decision should be taken in accordance with the relevant requirements as set out in this Constitution (Parts ~~1 and 2~~) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;

2.2.2 The views of the relevant Cabinet Member(s), Committee Chairman, ~~Area Board~~ Area Board(s) as appropriate following the application of the consultation criteria set out in paragraph 2.2.3 below;

~~2.2.3 Consideration of the Area Boards and delegated decision checklist for officers on the issue in deciding when and how to involve local Members and Area Boards in decisions about local services;~~



~~2.2.4~~2.2.3 The implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant Cabinet Members(s) or Committee Chairman, from any affected portfolio, and local Members, where the issue relates to a specific area, should take place;

~~2.2.5~~2.2.4 Consultation in accordance with the Council's consultation guidance and the views emanating from that process;

~~2.2.6~~2.2.5 The range of available options;

~~2.2.7~~2.2.6 The staffing, financial and legal implications;

~~2.2.8~~2.2.7 The assessment of any associated risks in accordance with the Council's risk management strategy;

~~2.2.9~~2.2.8 The involvement of appropriate statutory officers and/or other Corporate Directors and Directors;

~~2.2.10~~2.2.9 The relevance of any regional or national guidance from other bodies;

~~2.2.11~~2.2.10 The Council's Constitution, including the Procurement and Contract Rules (Part 10) and the Financial Regulations and Procedure Rules (Part 9), all relevant guidance, legislation, codes of practice and protocols.

### 3 Record Keeping

3.1 In taking any Executive decision, the officer concerned must prepare a record of officer decision report setting out the following:

3.1.1 A record of the decision including the date it was made;

3.1.2 A record of reasons for the decision;

3.1.3 Details of any alternative options considered and rejected by the officer when making the decision;

3.1.4 A record of any conflict of interest declared by any executive Member who is consulted by the officer which relates to the decision;

3.1.5 In respect of any declared conflict of interest, a note of dispensation.

3.1.6 The record of officer decision must be made available, as soon as reasonably practicable, at the Council main hub offices and on its website unless it contains confidential information or exempt information as defined in the Regulations and set out in Part 5.

3.2 In taking any Incidental decision, the officer concerned must consider whether a record of officer decision report is required having regard to guidance from the Monitoring Officer.

### Emergency Powers

4.1 The Chief Executive and Corporate Directors are empowered to take all necessary decisions in cases of emergency;

4.2 For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual or that the interests of the Council may be compromised.

### Solicitor to the Council

5.15.3 The Solicitor to the Council is authorised:

- 5.1.1 To take any action to implement any decision taken by or on behalf of the Council, including the signature and service of statutory and other notices and any document;
- 5.1.2 To institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests;
- 5.1.3 To instruct counsel, solicitors and other experts in relation to legal proceedings, public inquiries, and other matters involving the Council;
- 5.1.4 To enter objections to any proposal affecting the county, the Council or the inhabitants of the county.

# **PART 3 SECTION D2**

## **SCHEME OF SUB DELEGATION**

1. The Chief Executive and Corporate Directors may authorise officers in their areas of responsibility to exercise, on their behalf, powers delegated under this Part 3 and Part 3 Section D1 by way of a Scheme of Sub Delegation.
2. Any decision pursuant to a Scheme of Sub Delegation must be taken in the officer's name for and on behalf of the Chief Executive and Corporate Directors as the case may be.
3. The Chief Executive and Corporate Directors are responsible for recording all delegations under this part, in writing, in such form as the Monitoring Officer may prescribe.
4. The Chief Executive and Corporate Directors shall be responsible for ensuring that their Schemes of Sub Delegation are valid and up to date in line with guidance from the Monitoring Officer.
5. All Schemes of Sub Delegation must be recorded on the Register maintained by the Monitoring Officer. The Chief Executive and Corporate Directors shall send updated Schemes of Sub Delegation to the Monitoring Officer as he/she directs.
6. Any decision taken by an Officer under a Scheme of Sub Delegation must be made in accordance with paragraph 2 of Part 3 Section D1 and recorded in as required in paragraph 3 of Part 3 Section D1.

# PART3 SECTION D3

## SCHEME OF DELEGATION SPECIFIC TO PLANNING

1. The Corporate Director, Place (and any officers designated by that officer under a Scheme of Sub Delegation) is authorised to:

- determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications);
- deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control);
- deal with all types of appeal and their format;
- where an appeal has been lodged against a planning decision and counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the Council's case and time constraints prevent the matter being brought back to Committee, officers, in consultation with the Committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the Council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee;
- make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters;
- determining any applications made under the high hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action;
- deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;
- determine the requirements for, and amend when necessary the local validation list for planning applications;
- make and confirm Article 4 directions restricting or removing permitted development rights;
- nominate officers to represent the council on forums and working parties;
- authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;
- enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);
- make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision. Any such changes will be reported back to a subsequent Committee for Members' information;
- annually recommend to the budget process all planning fees and charges;
- refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the

timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis;

- institute and defend judicial reviews and statutory challenges in consultation with the Director of Legal and Governance;
- Make and serve Building Preservation Notices;
- determine whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee, after consultation with the relevant cabinet Member.

With the following exceptions:

- 1.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.
- 1.2 Reference to Committee by Wiltshire Council Division Member - Division Members can request in writing/email that a planning application, or an application for Permission in Principle for Minor Residential Development, within their Division proceed to determination by way of ~~aan~~Area Planning Committee. This is known as a call-in request.

Any request relating to a planning application must be received within 21 days of the circulation of the weekly list of 'applications received' in which it appears, and any request relating to an application for Permission in Principle must be received within 15 calendar days of the despatch of the email notification of the application to the Division Member. In both cases, Members must set out the material planning consideration(s) which warrant the application going before committee. Officers will confirm what action is being taken following receipt of the request.

Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the Council, will not be eligible for call-in and will be dealt with under delegated powers.

Where it has not been possible or appropriate to call an application in within this time, ~~officers will accept~~ call in requests will be accepted in the following circumstances:

- a) An application has not been determined and it can still go to Committee and be determined within the target date.
- b) The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to Committee will make no difference to performance.

Where neither of the above apply, and the Division Member thinks there is a strong case to delay the determination of the application and take it to committee, they can discuss the case with the Head of Development Management who will arrange for ~~a~~ (or discuss with the Corporate Director,

Place or Chief Planning Officer prior to arranging for) an informed decision whether or not to exercise delegated powers.

1.3 If private applications are made by:

- a Member or their close relations;
- The Chief Executive, a Corporate Director, or a Director of the Council or their close relations; or
- a planning officer

and objections are received raising material planning considerations the application will be determined by a committee.

2. It is perfectly acceptable for Members to nominate a substitute(s) to undertake their planning responsibilities, including application 'call in', if they have a conflict of interest or during periods of absence such as holidays or illness.

3. There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Corporate Director, Place or Chief Planning Officer considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases, the applications will be determined by an appropriate planning committee.

~~4. The following applications, if called in, shall be dealt with by the Strategic Planning Committee:~~

- ~~• Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues;~~
- ~~• Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;~~
- ~~• Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;~~
- ~~• Applications called in by a Division Member that cross the boundary of two Area Planning Committees;~~
- ~~• Any application that the Corporate Director, Place deems raises issues that should be considered by the Strategic Planning Committee.~~

### Definitions

- Planning application means any application submitted to the Council for determination and included within the Government's planning application statistical returns. (This is a statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.)

- 'Large scale major development' means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2ha, as defined by the Government in the planning application statistical returns.
- Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's planning application statistical returns.
- Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 notices.
- A private application is one which has no connection with a Member or officer's council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application.
- A close relation is defined as spouse, partner, sibling, parent or offspring.
- Minor residential development means housing led development of between one and nine dwellings.

# PART 3 SECTION D4 SCHEME OF DELEGATION SPECIFIC TO LICENSING

**Licensing Act 2003: Table of Delegations of Licensing Functions**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence with unspent convictions		If a police Objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application.
Application for provisional statement		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary premises licence/club registration certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary designated personal licence holder		If a police Objection	All other cases
Request to be removed as designated personal licence holder			All cases



Application for transfer of a premises licence		If a police Objection	All other cases
Application for interim authorities		If a police Objection	All other cases
Application to review premises licence / club premises registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a representation to a temporary event notices		All cases	
<u>Determination of Film Classification requests</u>		<u>Appeal against officer decision</u>	<u>All cases initially</u>

## Gambling Act 2005: Table of Delegations of Licensing Functions

Matter to be dealt with	Full Council	Licensing Committee or Sub-Committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting – when appropriate	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X

Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an interested party			X
Determination as to whether representations are relevant			X
Determination as to whether a representation is frivolous, vexatious or repetitive			X

## Table of Delegated Functions - Miscellaneous

Matter to be dealt with	Licensing Committee	Sub-Committee	Officers
Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as required by the sex establishments policy)	The Licensing Committee or Sub Committee will determine any application	The Licensing Committee or Sub Committee will determine any application	To determine Renewals where no objections have been received
Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 (Consent street trading)	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	In all other cases
<p>Powers to grant licences and permits under the following legislation:</p> <p>Town Police Clauses Act 1847 as amended Sections 47, 57, 58, 60 and 79 of Local Government (Miscellaneous Provisions) Act 1976 (Hackney carriages)</p> <p>Section 13 – 17 Local Government (Miscellaneous Provisions) Act 1982 (acupuncture, tattooing, ear Piercing and electrolysis)</p> <p>Zoo Licensing Act 1981</p> <p>House to house collections Act 1939</p>	<p>For all these functions there is no role for the committee as there is a statutory right of appeal to the Magistrates' Court</p> <p>The Licensing Committee will determine any application made by an officer or Member of the Council.</p>	<p>For all these functions there is no role for the sub - committee as there is a statutory right of appeal to the Magistrates' Court</p>	<p>In all other cases</p>

Dangerous Wild Animals Act 1976			
Lotteries and Amusements Act 1976			
Hypnotism Act 1952 (as amended) and Schedule 3 Local Government (Miscellaneous Provisions) Act 1982			
The Animal Welfare (Licensing of activities involving animals) (England) Regulations 2018			All other cases  Appeals to Head of Service or Licensing Manager

**Criminal Justice and Police Act 2001 and Violent Crime Reduction Act 2006  
Table of Delegations of Licensing Functions**

Matter to Be Dealt With	Full Council	Licensing Committee or Sub-Committee	Officers (Corporate Director Place)
Making Designated Public Places Orders (DPPOs)		X	

## **PART 3 SECTION D5** **Indemnity to Officers and Members**

1. Under section 265 of the Public Health Act 1875 (“the 1875 Act”) councillors and local authority officers, when acting in the course of their duties and in good faith, have statutory immunity and are not personally liable for actions they take.
2. The Local Authorities (Indemnities for Members and Officers) Order 2004 (“the 2004 Order”) gives a specific power for authorities to grant indemnities to cover the potential liability of members and officers in a wider range of circumstances than under the 1875 Act.
3. Section 111(1) of the Local Government Act 1972 provides ancillary powers to local authorities which may permit them to indemnify members and officers in relation to particular decisions or acts if to do so would facilitate, or is incidental, or conducive to the discharge of a function of the authority.

4. Reference to member in this Part 3 Section D means an elected Member of the Council, a co-opted Member of a Committee or an Independent Person appointed under S27 of the Localism Act 2011.

## **5. Terms of Indemnity**

5.1 Wiltshire Council will, subject to the exceptions set out below at paragraph 6:

5.2 indemnify its members and officers against claims made against them (including costs awarded and reasonable costs incurred); and

5.2.1 will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its members and officers under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the members and officers)

5.2.2 occasioned by any neglect, act, error or omission committed by them in his or her capacity as a member or officer of the Council or failure to act in his or her capacity as a member or officer of the Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent.

5.3 The indemnity is effective to the extent that the member or officer in question:

5.3.1 believed that the action, or failure to act, in question was within the powers of the Council; or

5.3.2 where the action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the Council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for the member or officer to hold that belief at the time when they acted or failed to act] [provided that it shall not extend to any act or omission which is beyond the powers of any external body even where the action was taken in the reasonable belief that it was within the outside bodies powers]

## **6. Exceptions**

6.1 The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:

6.1.1 fraud, dishonesty, deliberate wrongdoing or recklessness on the part of the member or officer;

6.1.2 subject to the provisions of paragraph 6.3, a criminal offence on the part of the member or officer;

6.1.3 any neglect, error or omission by the members or officer otherwise than in the course of his duties;

6.1.4 liability in respect of losses certified by the appropriate auditor as caused by wilful misconduct;

6.1.5 subject to the provisions of paragraph 6.3, failures by the member to comply with the Code of Conduct.

6.2 No indemnity may be provided in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against them.

6.3 Notwithstanding paragraph 6.1.2 and 6.1.5 this indemnity does extend to:

6.3.1 the defence of any criminal proceedings brought against the member or officer; and

6.3.2 any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

6.4 Provided that:

6.4.1 In the case of criminal proceedings, if the member or officer in question is convicted or a criminal offence and that conviction is not overturned following appeal the indemnity shall not apply. In any such cases the officer or member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity and those sums shall be recoverable by the Council as a civil debt, and

6.4.2 In the case of any proceedings pursuant to Section 34 Chapter 7 of the Localism Act 2011 (meaning any investigation, report, reference, adjudication or any other proceeding):

6.4.2.1 If a finding is made in those proceedings that the member in question has failed to comply with the Code of Conduct and that finding is not overturned following appeal the indemnity shall not apply, or

6.4.2.2 If the member admits that they have failed to comply with the Code of Conduct that member shall reimburse the Council for any sums expended by it in relation to those proceedings pursuant to the indemnity and those sums shall be recoverable by the Council as a civil debt.

6.4.3 The indemnity will not apply if a member or officer, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the member or officer had acted with reckless disregard for the consequences.

6.4.4 The Indemnity will not cover any loss or expense for which the member or officer can obtain reimbursement from any other source, including insurance, whether taken out by the Council, Member, Officer or by any other person.

6.4.5 Any decision as to whether or not this indemnity applies will be undertaken, and if applicable authorised, by the Chief Executive in consultation with the Chief Finance Officer and the Monitoring Officer.

## **7. Notification obligations**

7.1 The indemnity contained in this Part 3 Section D is subject to the Officer or Member:

7.1.1 notifying the Director, Legal and Governance as soon as possible of any claim being made or intimated against him or her, and of any circumstances arising which may give rise to a claim.

7.1.2 giving the Director, Legal and Governance and its professional advisors access at reasonable times to any relevant documents and records within the power and control of the officer or member so as to enable the Director, Legal and Governance and its professional advisors to examine them and take copies for the purpose of assessing the claim.

## **8. General**

8.1 The indemnity contained in this Part 3 Section D is without prejudice to the right of the Council to take or institute disciplinary or other suitable action against a member or officer in respect of any neglect, act, error or omission.

8.2 The indemnity shall only extend to cover actual loss and expense incurred and evidenced by the member or officer to the satisfaction of the Director of Legal and Governance.

8.3 These indemnities shall continue to apply (on the terms set out in this Part 3 Section D) after the member or officer has ceased to be a member or officer of the Council where it relates to any act or failure to act during the time the member or officer was a member or officer of the Council.

8.4 Nothing in this Part 3 Section D restrict or limit the officer and members general obligation at law to mitigate any loss it may suffer or incur as a result of any event that may give rise to a claim.

8.5 The indemnity shall not extend to any loss or damage directly or indirectly arising from any motor vehicle claims in which an officer using his or her own private vehicle on the Council's business has been involved in an accident.

8.6 The Council or its insurers will be entitled to take over and conduct in the name of the member or officer the defence of any proceedings brought against the member or officer.





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**Wiltshire Council  
Constitution  
Part 4  
Rules of Procedure:  
Council**

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# **PART 4 - RULES OF PROCEDURE: COUNCIL**

## **1. Application to Committees and Sub-Committees**

- 1.1 All of the Council rules of procedure apply to meetings of Full Council. Only paragraphs 16.27 and 23.10 apply to meetings of the Cabinet. Only paragraphs 7.1-16.21; 17.1-17.24; 19.1-22.8; 23.2-23.6; 23.9; 24.1-24.2 apply to meetings of Committees and Sub-Committees.

## **2. Annual meeting of the Council**

- 2.1 In a year when there is an ordinary election of Members, the annual meeting will take place within 21 days of the retirement of the outgoing Members. In any other year, the annual meeting will take place in March, April or May (Local Government Act 1972, Schedule 12, paragraph 2).

### **2.2 The annual meeting will:**

- 2.2.1 elect a person to preside if the Chairman of Council is not present;
- 2.2.2 elect the Chairman of Council (Local Government Act 1972, s.4);
- 2.2.3 elect the Vice-Chairman of Council (Local Government Act 1972, s.5);
- 2.2.4 approve the minutes of the last meeting;
- 2.2.5 receive any announcements from the Chairman and/or Head of Paid Service;
- 2.2.6 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 Full Council nor are Cabinet functions (as set out in Part 3 of this Constitution) (Local Government and Housing Act 1989, s.15);
- 2.2.7 appoint chairmen and vice-chairmen of committees, as set out in Part 3 of this constitution;
- 2.2.8 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);
- 2.2.9 approve a programme of ordinary meetings of the Full Council for the year; and
- 2.2.10 consider any business set out in the notice convening the meeting.
- 2.2.11 in an election year, elect the Leader;

## **3. Election of Chairman, Vice-Chairman and Leader of the Council**

- 3.1 The election of the Chairman and the appointment 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).
- 3.2 The election of the Chairman, Vice-Chairman and Leader shall be determined by a show of hands unless at least 10 Members request a secret ballot. Where a secret ballot is requested it shall be conducted by the person presiding in accordance with the following procedure:
- 3.2.1 the person presiding at the meeting shall invite nominations for Chairman, Vice-Chairman and Leader (as appropriate) from those present at the meeting;

- 3.2.2 a Member must be proposed and seconded to be eligible;
- 3.2.3 a Member shall not be nominated in their absence for the position of Chairman, Vice-Chairman or Leader without their written consent;
- 3.2.4 the Chairman, Vice-Chairman or Leader shall be elected from among the Members of the Council duly nominated unless any Member nominated withdraws their name, in which case the election shall be from among the remaining nominees;
- 3.2.5 the Chairman, Vice-Chairman or Leader shall be elected by the vote of a majority of those Members present and voting (Local Government Act 1972 Schedule 12, paragraph 39);
- 3.2.6 each Member shall vote by writing the name of one of the Members nominated upon a ballot paper which shall then be placed in the ballot box;
- 3.2.7 when, in the opinion of the person presiding at the election, each Member 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 their casting vote in accordance with 3.2.11;
- 3.2.8 the ballot papers shall then be counted by the person presiding at the election;
- 3.2.9 if only one Member 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(2));
- 3.2.10 if more than two Members are nominated, the person presiding shall announce the name of the Member with the lowest number of votes and that Member shall be eliminated. A further ballot or ballots shall then be taken and after each ballot the Member receiving the lowest number of votes shall be eliminated, in accordance with the foregoing procedure, until only two Members remain which shall be submitted to the final vote;
- 3.2.11 in the event of an equality of votes in any of the ballots, the person presiding shall give a second or casting vote and where there are three or more Members with an equal number of votes the person presiding shall give a second casting vote to each of such Members except one (Local Government Act 1972, Schedule 12, paragraph 39(2)).

#### **4. Selection of Members to serve on Committees and outside bodies**

- 4.1 At the annual meeting, the Council will:
  - 4.1.1 decide which Committees to establish for the municipal year;
  - 4.1.2 decide the size and terms of reference for those Committees;
  - 4.1.3 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);
  - 4.1.4 receive nominations of Members to serve on each committee and appoint to those Committees
  - 4.1.5 Agree that appointments to outside bodies will be made by the Leader of Council, Cabinet, Area Boards or a meeting of group leaders as appropriate.

#### **5. Ordinary meetings**

- 5.1 Ordinary meetings of the Council will take place in accordance with a programme decided by Council.

## 5.2 Ordinary meetings will:

- 5.2.1 elect a person to preside if the Chairman and Vice-Chairman are not present;
- 5.2.2 elect a Leader if there is a vacancy;
- 5.2.3 approve the minutes of the last meeting;
- 5.2.4 receive any declarations of interest from Members;
- 5.2.5 receive any announcements from the Chairman, Leader, Members of the Cabinet, Committee Chairmen or the Head of Paid Service;
- 5.2.6 receive questions from and provide answers to Members of the Council and the public on any matters in relation to which the Council has powers or duties or which affects the Council's administrative area, which are not included in a report to the Council;
- 5.2.7 deal with any business from the last Council meeting;
- 5.2.8 receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- 5.2.9 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 5.2.10 consider motions on notice; and
- 5.2.11 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.

## 6. Extraordinary meetings

### 6.1 Those listed below may request the Proper Officer to call Council meetings in addition to the scheduled ordinary meetings:

- 6.1.1 the Council by resolution;
- 6.1.2 the Chairman of the Council (Local Government Act 1972, Schedule 12, paragraph 3(1));
- 6.1.3 the Monitoring Officer or the Head of Paid Service (Local Government and Housing Act 1989 s.4 and s.5); or
- 6.1.4 any five Members if they have signed a requisition and presented it to the Chairman of the Council and the Chairman 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)).

### 6.2 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.

## 7. Appointment of Substitute Members of Committees and Sub-Committees

### Allocation

### 7.1 As well as allocating seats on Committees, the Council will allocate seats in the same manner for substitute Members.

## Number

- 7.2 For each Committee, the Council will appoint up to four named substitutes for each political group which holds seats on that Committee.
- 7.3 For any Sub-Committees, the establishing Committee will be able to appoint any or all members of that Committee as substitutes, subject to any specific rules in their terms of reference .

## Powers and duties

- 7.4 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.

## Notification of Substitution

- 7.5 Substitute Members may attend meetings in that capacity only:
- 7.5.1 to take the place of the ordinary Member for whom they are the designated substitute;
  - 7.5.2 where the ordinary Member will be absent in their capacity as a committee member for the whole of the meeting; and,
  - 7.5.3 where notification of the intended substitution has been given in writing to the Proper Officer before the start of the meeting by the member who is to be substituted, or by their group leader. Exceptionally, in cases of urgency, such notification may be made verbally in person or by telephone to the Proper Officer and confirmed subsequently in writing.
  - 7.5.4 The Proper Officer for these purposes is the Democratic Services Officer supporting the meeting.

## **8. Declaration of disclosable pecuniary interests and other interests**

- 8.1 Where a Member has declared a disclosable pecuniary interest in an item on an agenda, they must withdraw from the meeting room for the duration of that item, and not speak or vote on the item unless a dispensation has been granted.
- 8.2 Part 12 of the Constitution, Code of Conduct, sets out details of when a Member may remain in the room or speak if they have declared other types of interest.

## **9. Time and place of meetings**

- 9.1 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) (annual meeting) and 2(2) (all other meetings of the Council)).
- 9.2 With the exception of an extraordinary meeting requisitioned by Members in accordance with paragraph 6, the Proper Officer may cancel a meeting in the event of the below circumstances following consultation with the Chairman, or in their absence the Vice-Chairman, and giving reasonable notice of its cancellation:



- 9.2.1 Inclement weather;
- 9.2.2 Where there is reason to believe the meeting would not be quorate;
- 9.2.3 Insufficient business for the meeting to be viable;
- 9.2.4 Other reasonable unforeseen circumstances.

## **10. Notice of and summons to meetings**

- 10.1 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).
- 10.2 For Full Council 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, or if the Member has consented, via email.
- 10.3 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 as amended by The Local Government (Electronic Communications) (England) Order 2015).

## **11. Chair of meeting**

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

## **12. Quorum**

- 12.1 The quorum of any meeting will be one quarter of its total voting Membership, subject to a minimum number of three voting Members.
- 12.2 If during any meeting, upon request, the Chairman counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately.
- 12.3 Remaining business will be considered at a time and date fixed by the Chairman. If they do not fix a date, the remaining business will be considered at the next ordinary meeting (Local Government Act 1972, Schedule 12, paragraph 6).

## **13. Public participation at meetings**

- 13.1 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.
- 13.2 This rule applies to Council and most committee meetings. Paragraphs 16.25-16.27 refer to the application of this rule at Cabinet, Planning Committees and Area Boards.

## **14. Petitions**

- 14.1 The Council has adopted a Petitions Scheme which is set out in Part 4A of this Constitution.
- 14.2 This sets out the purpose of a petition, the eligibility criteria and relevant thresholds for making, submitting or presenting petitions, and the procedure and review mechanisms for petitions.

## **15. Statements**

- 15.1 Up to three speakers are permitted to speak for up to three minutes each on any agenda item, although this may be extended at the Chairman's discretion.
- 15.2 Those wishing to make a statement must register to do so at least ten minutes prior to the meeting by contacting Democratic Services.
- 15.3 Statements must be relevant to the powers and duties of the Council and be clear and concise.
- 15.4 A statement must not:
  - 15.4.1 be defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 15.4.2 relate to any non-determined planning or licensing application;
  - 15.4.3 name or identify individual service users, Members of staff or Members of staff of partner agencies.

## **16. Public Questions**

- 16.1 At ordinary meetings of Full Council, questions can be asked of the Chairman of Council, Members of Cabinet and Chairmen of Committees. At meetings of Committees questions can be asked of the Chairman.
- 16.2 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

- 16.3 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.
- 16.4 In order to be guaranteed receipt of a written response prior to the meeting questions must be delivered in writing or by email to the Proper Officer or their designated representative no later than 5pm four clear working days before the meeting. The period of notice is to allow sufficient time for a response to be formulated.
- 16.5 Any questions received between 5pm four clear working days before the meeting and 5pm two clear working days before the meeting, may only receive an oral response at the meeting. Any questions received after 5pm two clear working days before the meeting will be received at the next meeting

- 16.6 In exceptional circumstances and in cases of urgency the Chairman may allow questions without the full period of notice having been given where they are satisfied there is sufficient justification. In these circumstances, there is no guarantee that a full reply will be given at the meeting.
- 16.7 Notice of each question must include the name 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

- 16.8 The question must be relevant to the powers and duties of the Council, or the Committee to which the question has been submitted, and be clear and concise. A question will be rejected where it:
- 16.8.1 does not relate to a matter for which the Council/Committee has a responsibility or which affects the Council's administrative area;
  - 16.8.2 is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 16.8.3 relates to any non-determined planning or licensing application;
  - 16.8.4 requires the disclosure of confidential or exempt information;
  - 16.8.5 names or identifies individual service users, Members of staff or Members of staff of partner agencies;
  - 16.8.6 is considered by the Chairman to be inappropriate for the particular meeting.
- 16.9 The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.
- 16.10 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 16.8.
- 16.11 For the avoidance of doubt, questions amended in this way, must be delivered within the timescale referred to at paragraphs 16.4-16.5.
- 16.12 If a question has been submitted to a Committee at which it is not relevant, it may be referred to an appropriate Member, Officer, or Committee for a direct response.
- 16.13 In the case of extraordinary meetings, questions must relate to the subject(s) under consideration at that meeting.

#### At the meeting

- 16.14 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.
- 16.15 The Chairman may choose to take questions as read. However, if a questioner wishes to ask their question at the meeting, they will be given one minute to ask each question as it has been submitted. If the questioner prefers, the question may be asked on their behalf by their local division Member if they consent to this.

- 16.16 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.
- 16.17 Subject to time constraints, questions which are submitted by the deadlines will be answered at the meeting. However, the Chairman in consultation with the Proper 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.
- 16.18 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. A copy of the response will be made available to all Members.
- 16.19 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. A copy of the response will be provided to all Members.

#### Supplementary questions

- 16.20 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.
- 16.21 The Chairman may reject the supplementary question on the grounds listed in paragraph 16.8 above (reasons for rejection). A supplementary question may not include an additional preceding statement.
- 16.22 The person to whom the question has been put or another Member on their behalf, shall answer the supplementary question if they are 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

- 16.23 A response may take the following forms:
- 16.23.1 a direct oral answer;
  - 16.23.2 where the answer is contained within a publication of the Council or in any report or minutes by reference to those documents;
  - 16.23.3 a written reply.

#### No debate on questions

- 16.24 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 Full 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

- 16.25 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 Members.
- 16.26 Copies of questions received in accordance with these rules will be provided to all Members or Members of the Committee as appropriate prior to the meeting.
- 16.27 Copies of responses where available, will be circulated to Members the day before the meeting unless this is not possible due to exceptional circumstances.

#### Record of questions

- 16.28 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

- 16.29 In respect of public participation at the Strategic Planning Committee and Area Planning Committees, the provisions referenced in the Planning Code of Good Practice for Members of Wiltshire Council Protocol will apply - Protocol 4 to this constitution.
- 16.30 In respect of public participation at Cabinet meetings, to the provisions set out in Part 7 Cabinet Procedure Rules will apply.
- 16.31 In respect of Area Boards, public engagement is encouraged throughout the meeting. The procedure, rules and guidance are at the discretion of the Chairman subject to any guidance as issued from time to time by the Leader.

### **17. Members' Questions**

- 17.1 A Member of the Council may ask the Leader, or any other Member of the Cabinet, the 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 Full Council.

#### Questions on notice

- 17.2 At ordinary meetings of Full Council, a Member of the Council may ask a question of:
- 17.2.1 the Chairman
  - 17.2.2 the Leader
  - 17.2.3 a Cabinet Member; or
  - 17.2.4 Chairman of a Committee or Sub-Committee;
- on any matters in relation to which the Council has powers or duties or which affects the Council's administrative area which are not included in a report to the Council.

- 17.3 In respect of an ordinary Committee or Sub-Committee meeting, a Member of the Council may ask a question of the Chairman on any matter in relation to the powers and duties of that Committee on matters which are not included in a report to that Committee or Sub-Committee.
- 17.4 In the case of extraordinary meetings, questions must relate to the subject(s) under consideration at that meeting.

#### Notice of questions by Members

- 17.5 In order to be guaranteed of receipt of written response prior to a Full Council meeting, questions must be delivered in writing or by email to the Proper Officer or their designated representative no later than 5pm nine clear working days before the meeting. The period of notice is to allow sufficient time for a written response to be formulated.
- 17.6 Any question received between 5pm nine clear working days before the meeting and no later than 5pm four clear working days before the meeting, may only receive an oral response at the meeting. Any questions received after this deadline will be received at the next meeting.
- 17.7 In exceptional circumstances the Chairman may allow questions without the full period of notice having been given where they are satisfied there is sufficient justification. In these circumstances, there is no guarantee that a full or written reply will be given at the meeting.
- 17.8 For Committee meetings, the same timescales as set out for public questions would apply.
- 17.9 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

- 17.10 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:
- 17.10.1 does not relate to a matter for which the Council/Committee has a responsibility or which does not affect the Council's administrative area;
  - 17.10.2 is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 17.10.3 relates to any non-determined planning or licensing application;
  - 17.10.4 requires the disclosure of confidential or exempt information;
  - 17.10.5 names or identifies individual service users, Members of staff or Members of staff of partner agencies;
  - 17.10.6 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.
  - 17.10.7 is considered by the Chairman to be inappropriate for the particular meeting.
- 17.11 The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.

- 17.12 Where a question is rejected on the above grounds, the Member shall be advised of the reasons for rejection. Time permitting, the Member will be given an opportunity to submit an amended question that will be considered afresh against the criteria in paragraph 17.10 (reasons for rejection).
- 17.13 For the avoidance of doubt, questions amended in this way, must be delivered within the timescales referred to at paragraph 17.5-17.6 above.

#### At the meeting

- 17.14 No more than 20 supplementary questions will be answered at a meeting. Any question which receives an oral 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 Members or Members of the committee as appropriate and also attached to the minutes.
- 17.15 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.
- 17.16 Questions will be taken as read. If a Member 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 Member's behalf or indicate that a reply will be given in writing within five working days of the meeting.

#### Supplementary question

- 17.17 For each question submitted, a Member 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 17.12. The Chairman may reject the supplementary question on the grounds listed in paragraph 17.9 above (reasons for rejection). A supplementary question may not include an additional preceding statement.
- 17.18 Subject to paragraph 17.13, 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.
- 17.19 The person to whom the question has been put or another Member on their behalf, shall answer the supplementary question if they is able to do so at the time. If this is not possible, a written response will be provided to the Member where possible within five working days of the meeting.

#### Form of response

- 17.20 A response may take the following forms:
- 17.20.1 a direct oral answer, unless the question has been submitted nine clear working days prior to the meeting;
  - 17.20.2 where the answer is contained within a publication of the Council or in any report or minutes by reference to those documents;

17.20.3 a written reply.

#### No debate on Member questions

17.21 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 Member questions and responses

17.22 Upon receipt, copies of questions will be circulated to the Chairman and Vice-Chairman of Council or Committee as appropriate, the Leader and the Member of Council to whom the question is to be put and any other relevant Members.

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

17.24 Copies of responses where available, will be circulated to Members the day before the meeting unless this is not possible due to exceptional circumstances.

17.25 Copies of all questions and responses will be attached to the minutes of the meeting unless already published prior to the meeting.

#### Record of Member questions

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

### **18. Motions on notice**

#### Notice

18.1 Except for motions which can be moved without notice under paragraph 19, written notice of every motion signed by at least two Members of Council must be delivered to the Proper Officer or their designated representative 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.

18.2 In exceptional circumstances and in cases of urgency, the Chairman may accept motions without the full period of notice having been given.

18.3 Delivery can be by electronic means provided that the Proper Officer is satisfied that it has been sent by the Members concerned.

18.4 Notices of motion may be moved at the Annual Meeting or any ordinary meeting of Full Council.

18.5 Notices of motion may be moved at extraordinary meetings of the Council but only if the notice of motion relates to the subject matter of that extraordinary meeting.



18.6 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

18.7 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:

18.7.1 do not relate to a matter for which the Council has a responsibility or which do not affect the Council's administrative area or those living in that area;

18.7.2 are defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;

18.7.3 relate to any non-determined planning or licensing application;

18.7.4 name or identify individual service users, Members of staff or Members of staff of partner agencies; or

18.7.5 are considered by the Chairman to be inappropriate for the particular meeting or undermines the purposes of the constitution.

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

18.9 Where a motion is rejected, the Members concerned will be advised as soon as possible giving reasons for rejection. Where time permits, the Members concerned may submit an amended motion which will be considered afresh against the criteria in paragraph 18.7.

18.10 For the avoidance of doubt, motions amended in this way must be delivered within the timescale referred to at paragraph 18.1.

18.11 A motion may contain preamble or introductory text to provide context and explanation to the action or resolution which is proposed. For the avoidance of doubt, when moved at the meeting only the formal resolution or action requested would be moved unless stated otherwise by the mover.

#### Recording of motions

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

18.13 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 Members giving notice state in writing that they propose to move it at a later meeting or withdraw it.

#### At the meeting

18.14 The Chairman will invite the proposer, or one of the Members who has given notice of the motion, to move the motion. Where these Members are not available at the meeting, the motion can be moved and seconded by any other Members.

- 18.15 A notice of motion must be moved at the meeting, and 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.
- 18.16 Once moved and seconded at the meeting, the Member proposing the motion will be given up to five minutes in which to present their motion.
- 18.17 The Chairman will give the relevant Cabinet Member an opportunity to respond to the motion giving them up to five minutes in which to do so. The Cabinet Member will also later have the opportunity to respond to points raised during the debate, if one occurs, prior to the mover of the motion exercising their right of reply.
- 18.18 On considering a notice of motion and subject to paragraphs 18.18-18.23 below, the following options shall then be open to the Council:
- 18.18.1 debate the motion and vote on it;
  - 18.18.2 refer it to an appropriate Member body with or without debate;
  - 18.18.3 refer it to the Leader with or without debate.
- 18.19 The Chairman will move one of the options above. This will be seconded by the Vice-Chairman, or in their 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.
- 18.20 If the motion relates to a function exercisable only by Full Council, then Full Council will debate the motion and on consideration of a report determine the motion or refer it to a future meeting of Full Council.
- 18.21 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.
- 18.22 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.
- 18.23 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.
- 18.24 If the notice of motion relates to an executive function, the motion will be referred to the Leader. The Leader will write to the proposers of the motion with a copy to all Members of the Council, advising them what steps they propose to take.
- 18.25 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.

## **19. Motions without notice**

19.1 The following motions may be moved without notice:

- 19.1.1 to elect a Chairman of the meeting at which the motion is moved;
- 19.1.2 in relation to the accuracy of the minutes;
- 19.1.3 to change the order of business in the agenda;
- 19.1.4 to refer something to an appropriate body or individual;
- 19.1.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 19.1.6 to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- 19.1.7 to withdraw a motion;
- 19.1.8 to amend a motion;
- 19.1.9 that the question be now put;
- 19.1.10 to adjourn a debate;
- 19.1.11 to adjourn a meeting;
- 19.1.12 to suspend a particular Council procedure rule capable of being suspended
- 19.1.13 to exclude the public and press in accordance with the access to information procedure rules;
- 19.1.14 not to hear further a Member named under paragraph 23.15 or to exclude them from the meeting under paragraph 23.16;
- 19.1.15 to give the consent of the Council where its consent is required by this constitution.

## **20. Rules of debate**

### No speeches until motion seconded

20.1 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

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

### Secunder's speech

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

### Content and length of speeches

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

### When a Member may speak again

20.5 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- 20.5.1 to speak once on an amendment moved by another Member;
- 20.5.2 to move a further amendment if the motion has been amended since they last spoke;
- 20.5.3 if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
- 20.5.4 in exercise of a right of reply;
- 20.5.5 on a point of order;
- 20.5.6 by way of personal explanation.

#### Amendments to motions

- 20.6 An amendment to a motion must be relevant to the motion and will be one of the following:
- 20.6.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - 20.6.2 to leave out words;
  - 20.6.3 to leave out words and insert or add others or;
  - 20.6.4 to insert or add words

so long as the effect of the amendments is not to negate the motion. The ruling of the Chairman, following consultation with the Monitoring Officer or their designated representative, on effect of the amendment will be final.

- 20.7 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 resolved. This would not prevent the mover or the meeting consenting to altering the proposed amendment, for example in response to a suggestion raised during debate, in accordance with 20.11-20.12, as a friendly alteration to their motion or amendment.
- 20.8 If an amendment is not carried, other amendments to the original motion may be moved.
- 20.9 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.
- 20.10 After an amendment has been carried, the Chairman if appropriate will read out the amended motion before accepting any further amendments, or if there are none, putting the substantive motion to the vote.

#### Alteration of motions or amendments

- 20.11 A Member may alter a motion or amendments of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.
- 20.12 A Member may alter a motion or amendments which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

20.13 Only alterations which could be made as an amendment may be made.

#### Withdrawal of motion

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

#### Right of reply

20.15 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.

20.16 If an amendment is moved, the mover of the original motion will be asked if they wish to accept the amendment as part of their motion, if the seconder of the motion also consents. They will indicate this without a speech or discussion. The mover of the original motion will then have the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

20.17 The mover of the amendment has the right of reply as the penultimate speaker, prior to the mover of the original motion, at the end of the debate on their amendment.

#### Motions which may be moved during debate

20.18 When a motion is under debate, no other motion may be moved except the following procedural motions:

20.18.1 to withdraw the motion;

20.18.2 to amend the motion;

20.18.3 that the question be now put;

20.18.4 to adjourn a debate;

20.18.5 to adjourn a meeting;

20.18.6 to exclude the public and press in accordance with the Access to Information Procedure Rules; or

20.18.7 not to hear further a Member named under paragraph 23.15, or to exclude them from the meeting under paragraph 23.16.

#### Closure motions

20.19 A Member may move, without comment, the following motions at the end of a speech of another Member:

20.19.1 that the question be now put;

20.19.2 to adjourn the debate or;

20.19.3 to adjourn a meeting.

20.20 If a motion that the question be now put is seconded and the Chairman considers the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

- 20.21 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, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### Point of order

- 20.22 A Member 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 Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chairman on the matter will be final.

#### Personal explanation

- 20.23 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member 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.

### **21. Previous decisions and motions**

#### Motion to rescind a previous decision

- 21.1 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 ten Members (or a quarter of the Members of a committee).

#### Motion similar to one previously rejected

- 21.2 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 ten 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.

### **22. Voting**

#### Majority

- 22.1 Unless this constitution provides otherwise, any matter will be decided by a simple majority of those Members 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

- 22.2 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

- 22.3 Unless a ballot or recorded vote is taken under paragraphs 22.4-22.7, the Chairman will take the vote by the affirmation of the meeting.

### Ballots

- 22.4 The vote will take place by ballot if ten 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

- 22.5 With the exception of the paragraph 22.6, if ten Members (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.
- 22.6 Recorded votes shall be taken on all decisions of Full Council in respect of:
- 22.6.1 Setting the authority's budget and determining the level of Council tax to be levied;
  - 22.6.2 Policy Framework Items;
  - 22.6.3 Member Motions on Notice, including any proposed amendments to the motions; and
  - 22.6.4 other significant issues as determined by the Chairman following consultation with the Proper Officer.
- 22.7 The names for and against the motion or amendment or abstaining from voting on these matters will be recorded and attached to the minutes.

### Right to require individual vote to be recorded

- 22.8 Where any Member 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

- 22.9 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. The person presiding unless stated otherwise in the Constitution will have a casting vote if there is a tie for the least number of votes, or if there is a tie for the final two people nominated.

## **23. Minutes**

### Signing the minutes

- 23.1 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

- 23.2 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

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

## **24. Attendance, exclusions and other matters**

### Record of Attendance

- 24.1 All Members present during the whole or part of a meeting must sign their names on the attendance sheets, where one is used, before the conclusion of every meeting to assist with the record of attendance (Local Government Act 1972, Schedule 12, paragraph 40).
- 24.2 A record will be kept of when a Member of the Council leaves the meeting at any time before the meeting is closed or adjourned.

### Members' attendance

- 24.3 Subject to paragraph 23.9, if a Member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, they 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)).
- 24.4 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)).
- 24.5 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. (Local Government Act 1972 s102 (2-4))

24.6 If a Member of the Cabinet fails throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Cabinet, they 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) and s.85(2B)).

24.7 For the avoidance of doubt, virtual attendance at a meeting does not count toward form attendance for the purposes of the Local Government Act 1972.

#### Exclusion of the Public

24.8 Members of the public and press may only 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).

#### Standing to speak

24.9 When a Member speaks at Full Council they must stand unless exempted by the Chairman.

24.10 If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### Chairman standing

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

#### Addressing the Chair

24.12 When a Member of the Council speaks they must address the Council through the Chairman.

#### Member not to be heard further

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

#### Member to leave the meeting

24.14 If the Member continues to behave improperly after a motion under paragraph 23.15 is carried, the Chairman may move that either the Member 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

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

### **25. Disturbance by the public**

#### Removal of Member of the public

25.1 If a Member of the public interrupts proceedings, or their behaviour 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

25.2 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)).

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

#### Suspension

26.1 All of these Council rules of procedure except paragraphs 22.8 and 23.1 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

26.2 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 Full Council.

# Schedule 1 – Part 4A Wiltshire Council Petitions Scheme

## 1. Petitions

- 1.1 A petition is any communication which is signed by or sent to the Council on behalf of a number of people. This includes both written and electronic petitions (“e-petitions”).
- 1.2 The Council has set up a [Petitions Homepage](#) to provide further information and guidance to Members and the public.

## 2. Receipt and Registration

- 2.1 In order to be received all petitions must:
  - 2.1.1 contain the name and contact details of the petition organiser. Only the name of the organiser will be published;
  - 2.1.2 contain a clear and concise statement of the concern, and what action the petitioners wish the Council to take;
  - 2.1.3 be relevant to the role and responsibility of the Council;
  - 2.1.4 contain at least ten names or signatures, or at least 25 names or signatures to be reported or presented to Full Council;
  - 2.1.5 those names to be accompanied by a postcode and house number for paper petitions, and full address and email address for electronic petitions. Only the name and postcode will be displayed in any Council report;
  - 2.1.6 Not be defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 2.1.7 Not name or identify individual service users, members of staff or members of staff of partner agencies
- 2.2 Anyone who signs a petition must meet the following eligibility requirements:
  - 2.2.1 For a petition to be presented to Full Council, signatories must be aged 13 or above, live, work or study in Wiltshire, or have a direct connection to the service which is the subject of the petition. For the petition to be noted at Full Council it requires a minimum of 25 signatures.
  - 2.2.2 For a petition to be presented to an Area Board, signatories must be aged 13 or above, live, work or study within the relevant community area. For the petition to be noted at a meeting of an Area Board, it requires a minimum of 10 signatures.
- 2.3 Petitions in respect of non-determined planning or licensing applications will not be covered by this petitions scheme, and will be referred to the relevant service as formal representations. Petitions in respect of statutory petitions or on matters with existing right of appeal such as Council tax banding and non-domestic rates, are covered by other procedures.

## 3. Submission and Acknowledgement

- 8.1 Paper petitions can be sent to: Democratic Services, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, BA14 8JN.
- 8.2 A Wiltshire Council e-Petitions facility to allow the creating, signing and submission of e-petitions is available at [this link](#). This requires registration with the Council using a valid email address. The Council will review the content of the petition and approve it to go live within five working days.
- 8.3 The Council will accept e-petitions hosted on other sites, which can be sent to [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk) for consideration. The same eligibility requirements will apply.
- 8.4 All petitions provided to the Council will receive an acknowledgement within 2 working days of receipt, and a substantive response of how the Council will respond to the petition within 15 working days of receipt. If that is not possible, an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent.
- 8.5 Any response will set out what the Council plans to do with the petition. The Council will treat something as a petition if it is identified as such, or it seems that it is intended to be a petition.
- 8.6 The local Members will be informed of any petition and response for a petition relating to matters within their Area Board.

#### **4. Council Response**

- 4.1 The Council's response to a petition will depend on what it asks for and how many people have signed it, but may include one or more of the following:
- 4.1.1 taking the action requested in the petition;
  - 4.1.2 referring the petition to the relevant Council department for consideration in consultation with the relevant cabinet member and/or local member;
  - 4.1.3 referring the petition to the relevant Area Board Chairman;
  - 4.1.4 referring the petition to Full Council, a Committee or the Cabinet;
  - 4.1.5 consider the petition as a consultation response if received during a consultation period;
  - 4.1.6 holding an inquiry into the matter;
  - 4.1.7 undertaking research into the matter;
  - 4.1.8 holding a public meeting;
  - 4.1.9 holding a consultation;
  - 4.1.10 holding a meeting with petitioners;
  - 4.1.11 calling a referendum;
  - 4.1.12 writing to the petition organiser setting out the Council's views about the request in the petition;
  - 4.1.13 other suitable action.
- 4.2 If more than one petition is received on a similar subject matter the Chairman may determine that they be considered by the Council as a single matter and taken together.

- 4.3 A petition will not normally be considered for presentation or debate where it is received within six months of another petition being considered by the Council on the same matter. In exceptional circumstances the Chairman, after consultation with the Monitoring Officer, may determine that the context of the matter has materially changed since the initial consideration and agree to reconsider the matter for presentation or debate.
- 4.4 If a petition is received immediately before an election or referendum it may be necessary to deal with the petition differently, in which case the petition organiser will be contacted to discuss the course of action.
- 4.5 Actions taken on any validly received petition will be reported to Full Council to note.

## **5. Presentation of Petitions**

- 4.1 Petitions may be presented to Full Council provided they have received 25 signatures, if requested by the petition organiser.
- 4.2 Petitions may be presented to Cabinet or to a Committee, including Area Boards, if they have received ten signatures and are relevant to the remit of the Committee, and if requested by the petition organiser.
- 4.3 The petition organiser should submit their petition to Democratic Services at least ten clear working days before a meeting to ensure the petition is relevant to the remit of Council, or a Committee and to be registered.
- 4.4 Petitions submitted without notice at any meeting will be received by the Democratic Services Officer present to be registered and dealt with at the next meeting, if appropriate.
- 4.5 In these instances, the petition organiser will have up to three minutes to speak and the matter would not be debated. The petition will be taken as a public statement and recorded. Up to two other public speakers will be invited to speak for up to three minutes each.

## **6. Full Council Debates**

- 6.1 If a petition has been signed by at least 5000 people and is validly received, upon request of the petition organiser it will also be scheduled for a Council debate.
- 6.2 Any petition which is to be debated must be submitted and acknowledged at least ten working days before the Full Council meeting at which it will be debated.
- 6.3 The petition organiser will be invited to speak for up to five minutes. Up to two other public speakers will be invited to speak for up to three minutes each.
- 6.4 The relevant Cabinet Member will then respond to the petition.
- 6.5 The Chairman of the Council will then move a motion relating to the petition for Full Council to debate.

6.6 The period for debate on any petition or grouped series of petitions will normally be 30 minutes, not including the contribution of the Cabinet Member in response or Group Leaders.

6.7 Members will be limited to contributions of three minutes each during a Full Council debate on a petition.

## **7. Area Board Debates**

7.1 If relevant to the remit and powers of an Area Board a petition may be presented or debated at that Area Board.

7.2 Any petition with more than ten signatures may be considered for debate at an Area Board. This would be granted at the discretion of the Chairman of the Area Board if submitted and acknowledged at least ten working days before the meeting. Any valid petition with more than 50 signatures submitted and acknowledged at least ten working days before a meeting will be granted a debate if requested by a petition organiser.

7.3 The arrangements for a debate will be at the discretion of the Chairman of the Area Board, subject to consultation with the Monitoring Officer or their representatives and considering the remit and powers of the Area Board.

## **8. Complaints**

8.1 If a petition organiser considers that their petition has not been dealt with properly, they may submit a complaint to the council's Complaints Service.

8.2 Any complaint should be made within twenty working days from the Council response to the petition organiser.

8.3 Any complaint must set out in what way it is considered that the petition has not been dealt with properly. Any review undertaken would consider whether the steps taken by the Council in response to the petition were adequate, not whether the decision on how to respond to the petition was correct.

# Schedule 2 – Part 4B Guidance on Amendments to Motions

1. The requirements concerning amendments to motions are contained in the Council's Rules of Procedure in Part 4 of the Constitution. Paragraph 20.6 provides:

*20.6 An amendment to a motion must be relevant to the motion and will be one of the following:*

  - 20.6.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;*
  - 20.6.2 to leave out words;*
  - 20.6.3 to leave out words and insert or add others or;*
  - 20.6.4 to insert or add words*

*so long as the effect of the amendment is not to negate the motion.*
2. The Chairman will determine the validity of any proposed amendment under this paragraph, after taking advice from the Monitoring Officer. The Chairman's decision on any proposed amendment is final.
3. In exercising judgment on the validity or otherwise of any proposed amendment, the Chairman will have regard to the following principles:
  - 3.1. the overriding principle of fairness in the conduct of the Council's business;
  - 3.2. the amendment is relevant to the motion;
  - 3.3. the proposed amendment does not negate the motion; this can be secured more appropriately by voting against the original motion.
  - 3.4. The content of the proposed amendment is proportionate to the original motion in nature and extent;
  - 3.5. The proposed amendment does not amount to a device to frustrate the purpose of the original motion or to raise a late motion.
4. Members are encouraged, where practicable, to seek advice from the Monitoring Officer in connection with any proposed amendment in advance of the meeting at which it is to be moved.

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**Wiltshire Council  
Constitution  
Part 4  
Rules of Procedure:  
Council**

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# PART 4 - RULES OF PROCEDURE: COUNCIL

## 1. Application to Committees and Sub-Committees

- 1.1 All of the Council rules of procedure apply to meetings of Full Council. Only paragraphs 16.27 and 23.10 apply to meetings of the Cabinet. Only paragraphs 7.1-16.21; 17.1-17.24; 19.1-22.8; 23.2-23.6; 23.9; 24.1-24.2 apply to meetings of Committees and Sub-Committees.

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## 2. Annual meeting of the Council

- 2.1 In a year when there is an ordinary election of Members, the annual meeting will take place within 21 days of the retirement of the outgoing Members. In any other year, the annual meeting will take place in March, April or May (Local Government Act 1972, Schedule 12, paragraph 2).
- 2.2 The annual meeting will:
- 2.2.1 elect a person to preside if the Chairman of Council is not present;
  - 2.2.2 elect the Chairman of Council (Local Government Act 1972, s.4);
  - 2.2.3 ~~appoint~~ elect the Vice-Chairman of Council (Local Government Act 1972, s.5);
  - 2.2.4 approve the minutes of the last meeting;
  - 2.2.5 receive any announcements from the Chairman and/or Head of Paid Service;
  - 2.2.6 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 Full Council nor are Cabinet functions (as set out in Part 3 of this Constitution) (Local Government and Housing Act 1989, s.15);
  - ~~2.2.6~~ 2.2.7 appoint chairmen and vice-chairmen of committees, as set out in Part 3 of this constitution;
  - ~~2.2.7~~ 2.2.8 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);
  - ~~2.2.8~~ 2.2.9 approve a programme of ordinary meetings of the Full Council for the year; and
  - ~~2.2.9~~ 2.2.10 consider any business set out in the notice convening the meeting.
  - ~~2.2.10~~ in an election year;
  - ~~2.2.11~~ 2.2.10 elect the Leader;

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

- 3.1 The election of the Chairman and the appointment 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).
- 3.2 The election of the Chairman, Vice-Chairman and Leader shall be determined by a show of hands unless at least 10 Members request a secret ballot. Where a secret ballot is requested it shall be conducted by the person presiding in accordance with the following procedure:

- 3.2.1 the person presiding at the meeting shall invite nominations for Chairman, Vice-Chairman and Leader (as appropriate) from those present at the meeting;
- 3.2.2 a Member must be proposed and seconded to be eligible;
- 3.2.3 a Member shall not be nominated in their absence for the position of Chairman, Vice-Chairman or Leader without their written consent;
- 3.2.4 the Chairman, Vice-Chairman or Leader shall be elected from among the Members of the Council duly nominated unless any Member nominated withdraws their name, in which case the election shall be from among the remaining nominees;
- 3.2.5 the Chairman, Vice-Chairman or Leader shall be elected by the vote of a majority of those Members present and voting (Local Government Act 1972 Schedule 12, paragraph 39);
- 3.2.6 each Member shall vote by writing the name of one of the Members nominated upon a ballot paper which shall then be placed in the ballot box;
- 3.2.7 when, in the opinion of the person presiding at the election, each Member 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 their casting vote in accordance with 3.2.11;
- 3.2.8 the ballot papers shall then be counted by the person presiding at the election;
- 3.2.9 if only one Member 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(2));
- 3.2.10 if more than two Members are nominated, the person presiding shall announce the name of the Member with the lowest number of votes and that Member shall be eliminated. A further ballot or ballots shall then be taken and after each ballot the Member receiving the lowest number of votes shall be eliminated, in accordance with the foregoing procedure, until only two Members remain which shall be submitted to the final vote;
- 3.2.11 in the event of an equality of votes in any of the ballots, the person presiding shall give a second or casting vote and where there are three or more Members with an equal number of votes the person presiding shall give a second casting vote to each of such Members except one (Local Government Act 1972, Schedule 12, paragraph 39(2)).

#### **4. Selection of Members to serve on Committees and outside bodies**

- 4.1 At the annual meeting, the Council will:
  - 4.1.1 decide which Committees to establish for the municipal year;
  - 4.1.2 decide the size and terms of reference for those Committees;
  - 4.1.3 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);
  - 4.1.4 receive nominations of Members to serve on each committee and appoint to those Committees
  - 4.1.5 ~~Agree that~~ Appointments to outside bodies will be made by the Leader of Council, Cabinet, Area Boards or a meeting of group leaders as appropriate.

#### **5. Ordinary meetings**

5.1 Ordinary meetings of the Council will take place in accordance with a programme decided by Council.

~~5.1.5.2~~ Ordinary meetings will:

- ~~5.1.15.2.1~~ elect a person to preside if the Chairman and Vice-Chairman are not present;
- ~~5.1.25.2.2~~ elect a Leader if there is a vacancy;
- ~~5.1.35.2.3~~ approve the minutes of the last meeting;
- ~~5.1.45.2.4~~ receive any declarations of interest from Members;
- ~~5.1.55.2.5~~ receive any announcements from the Chairman, Leader, Members of the Cabinet, ~~e~~C~~o~~mmittee ~~e~~C~~h~~airmen or the ~~H~~ead of ~~p~~aid ~~S~~ervice;
- ~~5.1.65.2.6~~ receive questions from and provide answers to Members of the Council and the public on any matters in relation to which the Council has powers or duties or which affects the Council's administrative area, which are not included in a report to the Council in relation to matters which in the opinion of the person presiding at the meeting are relevant to the business of the meeting;
- ~~5.1.75.2.7~~ deal with any business from the last Council meeting;
- ~~5.1.85.2.8~~ receive reports from the Cabinet and the Council's Committees and receive questions and answers on any of those reports;
- ~~5.1.95.2.9~~ receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- ~~5.1.105.2.10~~ consider motions on notice; and
- ~~5.1.115.2.11~~ consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's ~~B~~udget and ~~P~~olicy ~~F~~ramework and reports of the ~~O~~verview and ~~S~~crutiny Committees for debate.

~~5.2 Members wishing to ask a question in relation to the reports of the Dorset and Wiltshire Fire Authority are required to give written notice (including details of the question) to the Proper Officer no later than Four clear working days before the Council meeting.~~

## 6. Extraordinary meetings

### Calling an extraordinary meeting

6.1 Those listed below may request the Proper Officer to call Council meetings in addition to the scheduled ordinary meetings:

- ~~6.1~~
- 6.1.1 the Council by resolution;
- 6.1.2 the Chairman of the Council (Local Government Act 1972, Schedule 12, paragraph 3(1));
- 6.1.3 the Monitoring Officer or the Head of Paid Service (Local Government and Housing Act 1989 s.4 and s.5); or
- 6.1.4 any five Members if they have signed a requisition and presented it to the Chairman of the Council and the Chairman 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)).

6.2 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.

## 7. Appointment of Substitute Members of Committees and Sub-Committees

### Allocation

7.1 As well as allocating seats on Committees, the Council will allocate seats in the same manner for substitute Members.

### Number

7.2 For each Committee, the Council will appoint ~~a maximum of up to~~ four ~~named~~ substitutes for each political group which holds seats on that Committee.

~~7.2.3 For any Sub-Committees, the establishing Committee will be able to appoint any or all members of that Committee as substitutes, subject to any specific rules in their terms of reference .~~

### Powers and duties

~~7.3.4~~ 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.

### Notification of Substitution

~~7.4.5~~ Substitute Members may attend meetings in that capacity only:

~~7.4.17.5.1~~ to take the place of the ordinary Member for whom they are the designated substitute;

~~7.4.27.5.2~~ where the ordinary Member will be absent in their capacity as a committee member for the whole of the meeting; and

~~7.4.37.5.3~~ where notification of the intended substitution has been given in writing to the Proper Officer before the start of the meeting by the member who is to be substituted, or by their group leader. Exceptionally, in cases of urgency, such notification may be made verbally in person or by telephone to the Proper Officer and confirmed subsequently in writing.

~~7.5.4~~ The Proper Officer for these purposes is the Democratic Services Officer supporting the meeting.

~~7.4.4~~

### **Declaration of disclosable pecuniary interests and other interests**

8.1 Where a Member has declared a disclosable pecuniary interest in an item on an agenda, they must withdraw from the meeting room for the duration of that item, and not speak or vote on the item unless a dispensation has been granted.

8.2 Part 12 of the Constitution, Code of Conduct, sets out details of when a Member may remain in the room or speak if they have declared other types of interest.

## 8. Time and place of meetings

8.1 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) (annual meeting) and 2(2) (all other meetings of the Council)).

8.2 With the exception of an extraordinary meeting requisitioned by Members in accordance with paragraph 6, the Proper Officer may cancel a meeting in the event of the below circumstances following consultation with the Chairman, or in their absence the Vice-Chairman, and giving reasonable notice of its cancellation:

8.2.1 Inclement weather;

8.2.2 Where there is reason to believe the meeting would not be quorate;

8.2.3 Insufficient business for the meeting to be viable;

8.2.4 Other reasonable unforeseen circumstances.

## 9. Notice of and summons to meetings

9.1 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).

9.2 ~~For Full Council As~~ 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, or if the Member has consented, via email.

~~9.4~~9.3 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 as amended by The Local Government (Electronic Communications) (England) Order 2015).

## 10. Chair of meeting

10.1 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.

## 11. Quorum

11.1 The quorum of any meeting will be one quarter of its total voting Membership, subject to a minimum number of three voting Members. If during any meeting, 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 they do not fix a date, the remaining business will be considered at the next ordinary meeting (Local Government Act 1972, Schedule 12, paragraph 6).

## 12. Public participation at meetings

12.1 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.

12.2 This rule applies to Council and most committee meetings ~~other than planning Committees~~. Paragraphs 16.25-16.27 refer to the application of this rule at Cabinet, ~~P~~lanning Committees and ~~a~~Area ~~b~~Boards.

### 13. Petitions

~~13.1~~ 13.1 The Council has adopted a Petitions Scheme which is set out in Part 4A of this Constitution.

~~13.4~~13.2 This sets out the purpose of a petition, the eligibility criteria and relevant thresholds for making, submitting or presenting petitions, and the procedure and review mechanisms for petitions.

### 14. Statements

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

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

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

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

### 15. Public Questions

~~15.1~~ 15.1 At ordinary meetings of Full Council, questions can be asked of the Chairman of Council, Members of Cabinet and Chairmen of Committees. At meetings of Committees questions can be asked of the Chairman.

~~15.4~~15.2 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

~~15.2~~15.3 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.

~~15.3~~15.4 In order to be guaranteed receipt of a written response prior to the meeting questions must be delivered in writing or by email to the Proper Officer or their designated representative no later than 5pm four clear working days before the meeting. The period of notice is to allow sufficient time for a response to be formulated.

~~15.4~~15.5 Any questions received between 5pm four clear working days before the meeting and 5pm two clear working days before the meeting, may only receive an oral response at the meeting. Any questions received after 5pm two clear working days before the meeting will be received at the next meeting



~~15.5~~15.6 In exceptional circumstances and in cases of urgency the Chairman may allow questions without the full period of notice having been given where they are satisfied there is sufficient justification. In these circumstances, there is no guarantee that a full reply will be given at the meeting.

~~15.6~~15.7 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

~~15.7~~15.8 The question must be relevant to the powers and duties of the Council, or the Committee to which the question has been submitted, and be clear and concise. A question will be rejected where it:

~~15.7.4~~15.8.1 does not relate to a matter for which the Council/Committee has a responsibility or which affects the Council's administrative area;

~~15.7.2~~15.8.2 is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;

~~15.7.3~~15.8.3 relates to any non-determined planning or licensing application;

~~15.7.4~~15.8.4 requires the disclosure of confidential or exempt information;

~~15.7.5~~15.8.5 names or identifies individual service users, Members of staff or Members of staff of partner agencies;

~~15.7.6~~15.8.6 is considered by the Chairman to be inappropriate for the particular meeting.

~~15.8~~15.9 The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.

15.10 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 16.7.

15.11 For the avoidance of doubt, questions amended in this way, must be delivered within the timescale referred to at paragraphs 16.3-16.4.

15.12 If a question has been submitted to a Committee at which it is not relevant, it may be referred to an appropriate Member, Officer, or Committee for a direct response.

15.13 In the case of extraordinary meetings, questions must relate to the subject(s) under consideration at that meeting.

~~15.9~~

#### At the meeting

~~15.10~~15.14 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.

~~15.14~~15.15 The Chairman may choose to take questions as read. However, if a questioner wishes to ask their question at the meeting, ~~he or she~~they will be given ~~up to three minutes~~one minute to ask each question as it has been submitted. If the questioner

prefers, the question may be asked on their behalf by their local division Member if they consent to this.

~~45.12~~15.16 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.

~~45.13~~15.17 Subject to time constraints, questions which are submitted by the deadline~~s~~ will be answered at the meeting. However, the Chairman in consultation with the ~~Monitoring Proper~~ 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.

~~45.14~~15.18 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. A copy of the response will be ~~provided be made~~ available to all Members.

~~45.15~~15.19 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. A copy of the response will be provided to all Members.

#### Supplementary questions

~~45.16~~15.20 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.

~~45.17~~15.21 The Chairman may reject the supplementary question on the grounds listed in paragraph 16.~~7-8~~ above (reasons for rejection). A supplementary question may not include an additional preceding statement.

~~45.18~~15.22 The person to whom the question has been put or another Member on their behalf, shall answer the supplementary question if ~~he or she~~they are 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

~~45.19~~15.23 A response may take the following forms:

~~45.19.1~~15.23.1 a direct oral answer;

~~45.19.2~~15.23.2 where the answer is contained within a publication of the Council or in any report or minutes by reference to those documents;

~~45.19.3~~15.23.3 a written reply.

#### No debate on questions

~~15.20~~15.24 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 Full 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

~~15.21~~15.25 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 Members.

~~15.22~~15.26 Copies of questions received in accordance with these rules will be provided to all Members or Members of the ~~C~~committee as appropriate prior to the meeting.

~~15.23~~15.27 Copies of responses where available, will be circulated to Members ~~the two~~ days before the meeting unless this is not possible due to exceptional circumstances.

#### Record of questions

~~15.24~~15.28 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

~~15.25~~15.29 In respect of public participation at the Strategic Planning Committee and Area Planning Committees, the provisions ~~set out~~referenced in the Planning Code of Good Practice for Members of Wiltshire Council Protocol. (Protocol 4 to this constitution) will apply.

~~15.26~~15.30 In respect of public participation at Cabinet meetings, to the provisions set out in Part 7- Cabinet Procedure Rules will apply.

~~15.27~~15.31 In respect of Area Boards, ~~where~~ public engagement is ~~welcomed and~~ encouraged throughout the meeting. ~~The~~ procedure, rules and guidance are at the discretion of the Chairman subject to any guidance as issued from time to time by the Leader.

### **16. Members' Questions**

16.1 A Member of the Council may ask the Leader, or any other Member of the Cabinet, the 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 Full Council.

#### Questions on notice

16.2 At ordinary meetings of Full Council, a Member of the Council may ask a question of:  
16.2.1 the Chairman  
16.2.2 the Leader  
16.2.3 a Cabinet Member; or

16.2.4 Chairman of a Committee or Sub-Committee;  
on any matters in relation to which the Council has powers or duties or which affects the Council's administrative area which are not included in a report to the Council.

16.3 In respect of an ordinary Committee or Sub-Committee meeting, a Member of the Council may ask a question of the Chairman on any matter in relation to the powers and duties of that Committee on matters which are not included in a report to that Committee or Sub-Committee.

16.4 In the case of extraordinary meetings, questions must relate to the subject(s) under consideration at that meeting.

#### Notice of questions by Members

~~16.5~~ In order to be guaranteed of receipt of written response prior to ~~a Full Council~~<sup>the</sup> meeting, questions must be delivered in writing or by email to the Proper Officer or their designated representative no later than 5pm nine clear working days before the meeting. The period of notice is to allow sufficient time for a written response to be formulated.

16.6 Any question received between 5pm nine clear working days before the meeting and no later than 5pm four clear working days before the meeting, may only receive an oral response at the meeting. Any questions received after this deadline will be received at the next meeting.

~~16.7~~ In exceptional circumstances the Chairman may allow questions without the full period of notice having been given where they are satisfied there is sufficient justification. In these circumstances, there is no guarantee that a full or written reply will be given at the meeting.

~~16.7~~<sup>16.8</sup> For Committee meetings, the same timescales as set out for public questions would apply.

~~16.8~~<sup>16.9</sup> 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

~~16.9~~<sup>16.10</sup> The question must be relevant to the powers and duties of the Full Council/~~e~~Committee and be clear and concise. A question will be rejected where it:  
~~16.9.1~~<sup>16.10.1</sup> does not relate to a matter for which the Council/Committee has a responsibility or which does not affect the Council's administrative area;  
~~16.9.2~~<sup>16.10.2</sup> is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;  
~~16.9.3~~<sup>16.10.3</sup> relates to any non-determined planning or licensing application;  
~~16.9.4~~<sup>16.10.4</sup> requires the disclosure of confidential or exempt information;  
~~16.9.5~~<sup>16.10.5</sup> names or identifies individual service users, Members of staff or Members of staff of partner agencies;  
~~16.9.6~~<sup>16.10.6</sup> 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.

~~16.9.7~~16.10.7 is considered by the Chairman to be inappropriate for the particular meeting.

~~16.10~~16.11 The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.

16.12 Where a question is rejected on the above grounds, the Member shall be advised of the reasons for rejection. Time permitting, the Member will be given an opportunity to submit an amended question that will be considered afresh against the criteria in paragraph 17.9 (reasons for rejection).

~~16.11~~16.13 For the avoidance of doubt, questions amended in this way, must be delivered within the timescale referred to at paragraph 17.5-17.6 above.

#### At the meeting

~~16.12~~16.14 No more than 20 supplementary questions will be answered at ~~the a~~ meeting. Any question which receives an oral 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 Members or Members of the committee as appropriate and also attached to the minutes.

~~16.13~~16.15 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.

~~16.14~~16.16 Questions will be taken as read. If a Member 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 Member's behalf or indicate that a reply will be given in writing within five working days of the meeting.

#### Supplementary question

~~16.15~~16.17 For each question submitted, a Member 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 17.12. The Chairman may reject the supplementary question on the grounds listed in paragraph 17.9 above (reasons for rejection). A supplementary question may not include an additional preceding statement.

~~16.16~~16.18 Subject to paragraph 17.13, 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.

~~16.17~~16.19 The person to whom the question has been put or another Member on their behalf, shall answer the supplementary question if ~~he or she~~they is able to do so at the time. If this is not possible, a written response will be provided to the Member where possible within five working days of the meeting.

#### Form of response

~~46.18~~16.20 A response may take the following forms:

- ~~46.18.1~~16.20.1 a direct oral answer, unless the question has been submitted nine clear working days prior to the meeting;
- ~~46.18.2~~16.20.2 where the answer is contained within a publication of the Council or in any report or minutes by reference to those documents;
- ~~46.18.3~~16.20.3 a written reply.

#### No debate on Member questions

~~46.19~~16.21 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 Member questions and responses

~~46.20~~16.22 Upon receipt, copies of questions will be circulated to the Chairman and Vice-Chairman of Council or ~~committee~~ Committee as appropriate, the Leader and the Member of Council to whom the question is to be put and any other relevant Members.

~~46.21~~16.23 Copies of questions received in accordance with these rules will be provided to all Members or Members of the committee as appropriate prior to the meeting.

~~46.22~~16.24 Copies of responses where available, will be circulated to Members ~~two~~ ~~days~~the day before the meeting unless this is not possible due to exceptional circumstances.

~~46.23~~16.25 Copies of all questions and responses will be attached to the minutes of the meeting ~~unless already published prior to the meeting.~~

#### Record of Member questions

~~46.24~~16.26 The minutes of the meeting shall record the name of the Member asking the question, the subject matter, and the name of the Member replying.

### **17. Motions on notice**

#### Notice

17.1 Except for motions which can be moved without notice under paragraph 19, written notice of every motion signed by at least two Members of Council must be delivered to the Proper Officer or their designated representative 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.

17.2 In exceptional circumstances and in cases of urgency, the Chairman may accept motions without the full period of notice having been given.

- 17.3 Delivery can be by electronic means provided that the Proper Officer is satisfied that it has been sent by the Members concerned.
- 17.4 Notices of motion may be moved at the Annual Meeting or any ordinary meeting of Full Council.
- 17.5 Notices of motion may be moved at extraordinary meetings of the Council but only if the notice of motion relates to the subject matter of that extra-ordinary meeting.
- 17.6 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

- 17.7 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:
- 17.7.1 do not relate to a matter for which the Council has a responsibility or which do not affect the Council's administrative area or those living in that area;
  - 17.7.2 are defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 17.7.3 relate to any non-determined planning or licensing application;
  - 17.7.4 name or identify individual service users, Members of staff or Members of staff of partner agencies; or
  - 17.7.5 are considered by the Chairman to be inappropriate for the particular meeting or undermines the purposes of the constitution.
- 17.8 The Chairman's ruling on rejection of a motion will be final following consultation with the Monitoring Officer.
- ~~17.9~~ Where a motion is rejected, the Members concerned will be advised as soon as possible giving reasons for rejection. Where time permits, the Members concerned may submit an amended motion which will be considered afresh against the criteria in paragraph 18.7.
- ~~17.10~~ For the avoidance of doubt, motions amended in this way must be delivered within the timescale referred to at paragraph 18.1.
- ~~17.9~~~~17.11~~ A motion may contain preamble or introductory text to provide context and explanation to the action or resolution which is proposed. For the avoidance of doubt, when moved at the meeting only the formal resolution or action requested would be moved unless stated otherwise by the mover.

#### Recording of motions

- ~~17.10~~~~17.12~~ On receipt of notices of motion received in accordance with these rules, the Proper Officer will record the details of the motion and the time and date of receipt. This record shall be open for inspection by Members of the public during normal office hours.
- ~~17.11~~~~17.13~~ 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 Members giving notice state in writing that they propose to move it at a later meeting or withdraw it.

#### At the meeting

~~17.12~~17.14 The Chairman will invite the proposer, or one of the Members, who has given notice of the motion, to move the motion. Where these Members are not available at the meeting, the motion can be moved and seconded by any other Members. ~~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.~~

~~17.13~~17.15 A notice of motion must be moved at the meeting, and 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.

~~17.14~~17.16 Once moved and seconded at the meeting, the Member proposing the motion will be given up to five minutes in which to present their motion.

~~17.15~~17.17 The Chairman will give the relevant Cabinet Member an opportunity to respond to the motion giving them up to five minutes in which to do so. The Cabinet Member will also later have the opportunity to respond to points raised during the debate, if one occurs, prior to the mover of the motion exercising their right of reply.

~~17.16~~17.18 On considering a notice of motion and subject to paragraphs 18.18-18.23 below, the following options shall then be open to the Council:

~~17.16-17.18.1~~ 17.18.1 debate the motion and vote on it;

~~17.16-17.18.2~~ 17.18.2 refer it to an appropriate Member body with or without debate;

~~17.16-17.18.3~~ 17.18.3 refer it to the Leader with or without debate.

~~17.17~~17.19 The Chairman will move ~~that the motion either be debated on the day or referred to the appropriate Member body~~ one of the options above. This will be seconded by the Vice-Chairman, or in their 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.

~~17.18~~17.20 If the motion relates to a function exercisable only by Full Council, then Full Council will debate the motion and on consideration of a report, determine the motion or refer it to a future meeting of Full Council.

~~17.19~~17.21 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.

~~17.20~~17.22 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.



~~17.21~~17.23 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.

~~17.22~~17.24 If the notice of motion relates to an executive function, the motion will be referred to the Leader. The Leader will write to the proposers of the motion with a copy to all Members of the Council, advising them what steps they propose to take.

~~17.23~~17.25 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.

## **18. Motions without notice**

18.1 The following motions may be moved without notice:

- 18.1.1 to elect a Chairman of the meeting at which the motion is moved;
- 18.1.2 in relation to the accuracy of the minutes;
- 18.1.3 to change the order of business in the agenda;
- 18.1.4 to refer something to an appropriate body or individual;
- 18.1.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- 18.1.6 to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- 18.1.7 to withdraw a motion;
- 18.1.8 to amend a motion;
- 18.1.9 that the question be now put;
- 18.1.10 to adjourn a debate;
- 18.1.11 to adjourn a meeting;
- 18.1.12 to suspend a particular Council procedure rule capable of being suspended
- 18.1.13 to exclude the public and press in accordance with the access to information procedure rules;
- 18.1.14 not to hear further a Member named under paragraph 23.15 or to exclude them from the meeting under paragraph 23.16;
- 18.1.15 to give the consent of the Council where its consent is required by this constitution.

## **19. Rules of debate**

### No speeches until motion seconded

19.1 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

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

### Secunder's speech

- 19.3 When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

Content and length of speeches

- 19.4 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 Member may speak again

- 19.5 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:
- 19.5.1 to speak once on an amendment moved by another Member;
  - 19.5.2 to move a further amendment if the motion has been amended since they last spoke;
  - 19.5.3 if their first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which they spoke was carried);
  - 19.5.4 in exercise of a right of reply;
  - 19.5.5 on a point of order;
  - 19.5.6 by way of personal explanation.

Amendments to motions

- 19.6 An amendment to a motion must be relevant to the motion and will be one of the following:
- 19.6.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;
  - 19.6.2 to leave out words;
  - 19.6.3 to leave out words and insert or add others or;
  - 19.6.4 to insert or add words

so long as the effect of the amendments is not to negate the motion. The ruling of the Chairman, following consultation with the Monitoring Officer or their designated representative, on effect of the amendment will be final.

- 19.7 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~~ resolved. This would not prevent the mover or the meeting consenting to altering the proposed amendment, for example in response to a suggestion raised during debate, in accordance with 20.11-20.12, as a friendly alteration to their motion or amendment.
- 19.8 If an amendment is not carried, other amendments to the original motion may be moved.

19.9 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.

19.10 After an amendment has been carried, the Chairman if appropriate will read out the amended motion before accepting any further amendments, or if there are none, putting the substantive motion to the vote.

#### Alteration of motions or amendments

19.11 A Member may alter a motion or amendments of which they have given notice with the consent of the meeting. The meeting's consent will be signified without discussion.

19.12 A Member may alter a motion or amendments which they have moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.

19.13 Only alterations which could be made as an amendment may be made.

#### Withdrawal of motion

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

#### Right of reply

19.15 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.

19.16 If an amendment is moved, the mover of the original motion will be asked if they wish to accept the amendment as part of their motion, if the seconder of the motion also consents. They will indicate this without a speech or discussion. The mover of the original motion will then ~~has~~ have the right of reply at the close of the debate on the amendment, but may not otherwise speak on it.

19.17 The mover of the amendment has the right of reply as the penultimate speaker, prior to the mover of the original motion, at the end of the debate on their amendment.

#### Motions which may be moved during debate

19.18 When a motion is under debate, no other motion may be moved except the following procedural motions:

- 19.18.1 to withdraw the motion;
- 19.18.2 to amend the motion;
- 19.18.3 that the question be now put;
- 19.18.4 to adjourn a debate;
- 19.18.5 to adjourn a meeting;
- 19.18.6 to exclude the public and press in accordance with the Access to Information Procedure Rules; or

19.18.7 not to hear further a Member named under paragraph 23.15, or to exclude them from the meeting under paragraph 23.16.

#### Closure motions

19.19 A Member may move, without comment, the following motions at the end of a speech of another Member:

- 19.19.1 that the question be now put;
- 19.19.2 to adjourn the debate or;
- 19.19.3 to adjourn a meeting.

19.20 If a motion that the question be now put is seconded and the Chairman considers the item has been sufficiently discussed, they will put the procedural motion to the vote. If it is passed they will give the mover of the original motion a right of reply before putting their motion to the vote.

19.21 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, they will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

#### Point of order

19.22 A Member 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 Member must indicate the rule or law and the way in which they consider it has been broken. The ruling of the Chairman on the matter will be final.

#### Personal explanation

19.23 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the Member 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.

### **20. Previous decisions and motions**

#### Motion to rescind a previous decision

20.1 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 ten Members (or a quarter of the Members of a committee).

#### Motion similar to one previously rejected

20.2 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 ten 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.

## 21. Voting

### Majority

- 21.1 Unless this constitution provides otherwise, any matter will be decided by a simple majority of those Members 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

- 21.2 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

- 21.3 Unless a ballot or recorded vote is taken under paragraphs 22.4-22.7, the Chairman will take the vote by the affirmation of the meeting.

### Ballots

- 21.4 The vote will take place by ballot if ten 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

- 21.5 With the exception of the paragraph 22.6, if ten Members (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.

- 21.6 Recorded votes shall be taken on all decisions of Full Council in respect of:

21.6.1 Setting the authority's budget and determining the level of Council tax to be levied;

21.6.2 Policy Framework Items;

21.6.3 Member Motions on Notice, including any proposed amendments to the motions; and

21.6.4 other substantive-significant issues as determined by the Chairman following consultation with the Proper Officer.

- 21.7 The names for and against the motion or amendment or abstaining from voting on these matters will be recorded and attached to the minutes.

### Right to require individual vote to be recorded

- 21.8 Where any Member 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

- 21.9 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. The person presiding unless stated otherwise in the Constitution will have a casting vote if there is a tie for the least number of votes, or if there is a tie for the final two people nominated.

## **22. Minutes**

#### Signing the minutes

- 22.1 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

- 22.2 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

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

#### Attendance, exclusions and other matters

#### Record of Attendance

- 22.4 All Members present during the whole or part of a meeting must sign their names on the attendance sheets, where one is used, before the conclusion of every meeting to assist with the record of attendance (Local Government Act 1972, Schedule 12, paragraph 40).
- 22.5 A record will be kept of when a Member of the Council leaves the meeting at any time before the meeting is closed or adjourned.

#### Members' attendance

22.6 Subject to paragraph 23.9, if a Member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, he or she~~they~~ 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)).

22.7 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)).

22.8 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. (Local Government Act 1972 s102 (2-4))

22.9 If a Member of the Cabinet fails throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Cabinet, they 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) and s.85(2B)).

22.10 For the avoidance of doubt, virtual attendance at a meeting does not count toward form attendance for the purposes of the Local Government Act 1972.

#### Exclusion of the Public

22.622.11 Members of the public and press may only 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).

#### Members' attendance

~~22.73.1 Subject to paragraph 23.9, if a Member of the Council fails throughout a period of six consecutive months from the date of their last attendance to attend any meeting of the Council, he or she~~they~~ 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)).~~

~~22.93.1 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)).~~

~~22.03.1 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. (Local Government Act 1972 s102 (2-4))~~

~~22.103.1 If a Member of the Cabinet fails throughout a period of six consecutive months from the date of their last attendance, to attend any meeting of the Cabinet, they 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) and s.85(2B)).~~

#### Standing to speak

~~22.11~~ 22.12 When a Member speaks at Full Council they must stand unless exempted by the Chairman.

~~22.12~~ 22.13 If more than one Member stands, the Chairman will ask one to speak and the others must sit. Other Members must remain seated whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

#### Chairman standing

~~22.13~~ 22.14 When the Chairman stands during a debate, any Member speaking at the time must stop and sit down. The meeting must be silent.

#### Addressing the Chair

~~22.14~~ 22.15 When a Member of the Council speaks they must address the Council through the Chairman.

#### Member not to be heard further

~~22.15~~ 22.16 If a Member persistently disregards the ruling of the Chairman by behaving improperly, or offensively, or deliberately obstructs business, the Chairman may move that the Member not be heard further. If seconded, the motion will be voted on without discussion.

#### Member to leave the meeting

~~22.16~~ 22.17 If the Member continues to behave improperly after a motion under paragraph 23.15 is carried, the Chairman may move that either the Member 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

~~22.17~~ 22.18 If there is a general disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as they consider necessary (Public Bodies (Admission to Meetings) Act 1960 s.1(8)).



## **23. Disturbance by the public**

### Removal of Member of the public

- 23.1 If a Member of the public interrupts proceedings, or their behaviour 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

- 23.2 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)).

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

### Suspension

- 24.1 All of these Council rules of procedure except paragraphs 22.8 and 23.1 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

- 24.2 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 Full Council.

# **Schedule 1 – Part 4A Wiltshire Council Petitions Scheme**

## **1. Petitions**

- 1.1 A petition is any communication which is signed by or sent to the Council on behalf of a number of people. This includes both written and electronic petitions (“e-petitions”).
- 1.2 The Council has set up a [Petitions Homepage](#) to provide further information and guidance to Members and the public.

## **2. Receipt and Registration**

- 2.1 In order to be received all petitions must:
  - 2.1.1 contain the name and contact details of the petition organiser. Only the name of the organiser will be published;
  - 2.1.2 contain a clear and concise statement of the concern, and what action the petitioners wish the Council to take;
  - 2.1.3 be relevant to the role and responsibility of the Council;
  - 2.1.4 contain at least ten names or signatures, or at least 25 names or signatures to be reported or presented to Full Council;
  - 2.1.5 those names to be accompanied by a postcode and house number for paper petitions, and full address and email address for electronic petitions. Only the name and postcode will be displayed in any Council report;
  - 2.1.6 Not be defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 2.1.7 Not name or identify individual service users, members of staff or members of staff of partner agencies
- 2.2 Anyone who signs a petition must meet the following eligibility requirements:
  - 2.2.1 For a petition to be presented to Full Council, signatories must be aged 13 or above, live, work or study in Wiltshire, or have a direct connection to the service which is the subject of the petition. For the petition to be noted at Full Council it requires a minimum of 25 signatures.
  - 2.2.2 For a petition to be presented to an Area Board, signatories must be aged 13 or above, live, work or study within the relevant community area. For the petition to be noted at a meeting of an Area Board, it requires a minimum of 10 signatures.
- 2.3 Petitions in respect of non-determined planning or licensing applications will not be covered by this petitions scheme, and will be referred to the relevant service as formal representations. Petitions in respect of statutory petitions or on matters with existing right of appeal such as Council tax banding and non-domestic rates, are covered by other procedures.

## **3. Submission and Acknowledgement**

- 24.1 Paper petitions can be sent to: Democratic Services, Wiltshire Council, County Hall, Bythesea Road, Trowbridge, BA14 8JN.
- 24.2 A Wiltshire Council e-Petitions facility to allow the creating, signing and submission of e-petitions is available at [this link](#). This requires registration with the Council using a

valid email address. The Council will review the content of the petition and approve it to go live within five working days.

- 24.3 The Council will accept e-petitions hosted on other sites, which can be sent to [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk) for consideration. The same eligibility requirements will apply.
- 24.4 All petitions provided to the Council will receive an acknowledgement within 2 working days of receipt, and a substantive response of how the Council will respond to the petition within 15 working days of receipt. If that is not possible, an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent.
- 24.5 Any response will set out what the Council plans to do with the petition. The Council will treat something as a petition if it is identified as such, or it seems that it is intended to be a petition.
- 24.6 The local Members will be informed of any petition and response for a petition relating to matters within their Area Board.

#### **4. Council Response**

- 4.1 The Council's response to a petition will depend on what it asks for and how many people have signed it, but may include one or more of the following:
- 4.1.1 taking the action requested in the petition;
  - 4.1.2 referring the petition to the relevant Council department for consideration in consultation with the relevant cabinet member and/or local member;
  - 4.1.3 referring the petition to the relevant Area Board Chairman;
  - 4.1.4 referring the petition to Full Council, a Committee or the Cabinet;
  - 4.1.5 consider the petition as a consultation response if received during a consultation period;
  - 4.1.6 holding an inquiry into the matter;
  - 4.1.7 undertaking research into the matter;
  - 4.1.8 holding a public meeting;
  - 4.1.9 holding a consultation;
  - 4.1.10 holding a meeting with petitioners;
  - 4.1.11 calling a referendum;
  - 4.1.12 writing to the petition organiser setting out the Council's views about the request in the petition;
  - 4.1.13 other suitable action.
- 4.2 If more than one petition is received on a similar subject matter the Chairman may determine that they be considered by the Council as a single matter and taken together.
- 4.3 A petition will not normally be considered for presentation or debate where it is received within six months of another petition being considered by the Council on the same matter. In exceptional circumstances the Chairman, after consultation with the Monitoring Officer, may determine that the context of the matter has materially

changed since the initial consideration and agree to reconsider the matter for presentation or debate.

- 4.4 If a petition is received immediately before an election or referendum it may be necessary to deal with the petition differently, in which case the petition organiser will be contacted to discuss the course of action.
- 4.5 Actions taken on any validly received petition will be reported to Full Council to note.

## **5. Presentation of Petitions**

- 4.1 Petitions may be presented to Full Council provided they have received 25 signatures, if requested by the petition organiser.
- 4.2 Petitions may be presented to Cabinet or to a Committee, including Area Boards, if they have received ten signatures and are relevant to the remit of the Committee, and if requested by the petition organiser.
- 4.3 The petition organiser should submit their petition to Democratic Services at least ten clear working days before a meeting to ensure the petition is relevant to the remit of Council, or a Committee and to be registered.
- 4.4 Petitions submitted without notice at any meeting will be received by the Democratic Services Officer present to be registered and dealt with at the next meeting, if appropriate.
- 4.5 In these instances, the petition organiser will have up to three minutes to speak and the matter would not be debated. The petition will be taken as a public statement and recorded. Up to two other public speakers will be invited to speak for up to three minutes each.

## **6. Full Council Debates**

- 6.1 If a petition has been signed by at least 5000 people and is validly received, upon request of the petition organiser it will also be scheduled for a Council debate.
- 6.2 Any petition which is to be debated must be submitted and acknowledged at least ten working days before the Full Council meeting at which it will be debated.
- 6.3 The petition organiser will be invited to speak for up to five minutes. Up to two other public speakers will be invited to speak for up to three minutes each.
- 6.4 The relevant Cabinet Member will then respond to the petition.
- 6.5 The Chairman of the Council will then move a motion relating to the petition for Full Council to debate.
- 6.6 The period for debate on any petition or grouped series of petitions will normally be 30 minutes, not including the contribution of the Cabinet Member in response or Group Leaders.

6.7 Members will be limited to contributions of three minutes each during a Full Council debate on a petition.

## **7. Area Board Debates**

7.1 If relevant to the remit and powers of an Area Board a petition may be presented or debated at that Area Board.

7.2 Any petition with more than ten signatures may be considered for debate at an Area Board. This would be granted at the discretion of the Chairman of the Area Board if submitted and acknowledged at least ten working days before the meeting. Any valid petition with more than 50 signatures submitted and acknowledged at least ten working days before a meeting will be granted a debate if requested by a petition organiser.

7.3 The arrangements for a debate will be at the discretion of the Chairman of the Area Board, subject to consultation with the Monitoring Officer or their representatives and considering the remit and powers of the Area Board.

## **8. Complaints**

8.1 If a petition organiser considers that their petition has not been dealt with properly, they may submit a complaint to the council's Complaints Service.

8.2 Any complaint should be made within twenty working days from the Council response to the petition organiser.

8.3 Any complaint must set out in what way it is considered that the petition has not been dealt with properly. Any review undertaken would consider whether the steps taken by the Council in response to the petition were adequate, not whether the decision on how to respond to the petition was correct.

## **Schedule 2 – Part 4B Guidance on Amendments to Motions**

1. The requirements concerning amendments to motions are contained in the Council's Rules of Procedure in Part 4 of the Constitution. Paragraph 20.6

Part 4 - Last Updated ~~26 November 2019~~ 16 May 2023

provides:

*20.6 An amendment to a motion must be relevant to the motion and will be one of the following:*

*20.6.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;*

*20.6.2 to leave out words;*

*20.6.3 to leave out words and insert or add others or;*

*20.6.4 to insert or add words*

*so long as the effect of the amendment is not to negate the motion.*

2. The Chairman will determine the validity of any proposed amendment under this paragraph, after taking advice from the Monitoring Officer. The Chairman's decision on any proposed amendment is final.
3. In exercising judgment on the validity or otherwise of any proposed amendment, the Chairman will have regard to the following principles:
  - 3.1. the overriding principle of fairness in the conduct of the Council's business;
  - 3.2. the amendment is relevant to the motion;
  - 3.3. the proposed amendment does not negate the motion; this can be secured more appropriately by voting against the original motion.
  - 3.4. The content of the proposed amendment is proportionate to the original motion in nature and extent;
  - 3.5. The proposed amendment does not amount to a device to frustrate the purpose of the original motion or to raise a late motion.
4. Members are encouraged, where practicable, to seek advice from the Monitoring Officer in connection with any proposed amendment in advance of the meeting at which it is to be moved.