

# AGENDA

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**Meeting:** Standards Committee

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

**Date:** Tuesday 20 June 2023

**Time:** 2.00 pm

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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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## Membership:

Cllr Paul Oatway QPM (Chairman)  
Cllr Allison Bucknell (Vice-Chairman)  
Cllr Andrew Davis  
Cllr Matthew Dean  
Cllr Ruth Hopkinson  
Cllr Bill Parks  
Cllr Sam Pearce-Kearney  
Cllr Pip Ridout

Cllr Mike Sankey  
Cllr Iain Wallis  
Cllr Derek Walters  
Gordon Ball (non-voting)  
Kathy Barnes (non-voting)  
Joanne Cetti (non-voting)  
Julie Phillips (non-voting)

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## Substitutes:

Cllr Richard Britton  
Cllr Trevor Carbin  
Cllr Ernie Clark  
Cllr Howard Greenman  
Cllr Jon Hubbard

Cllr Mel Jacob  
Cllr Gordon King  
Cllr Kathryn Macdermid  
Cllr Dr Nick Murry  
Cllr Graham Wright

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## **Public Participation**

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

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For assistance on these and other matters please contact the officer named above for details

# AGENDA

## Part I

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

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes of the Previous Meeting** (*Pages 5 - 12*)

To confirm the minutes of the meeting held on 18 April 2023.

3 **Declarations of Interest**

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

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation**

The Council welcomes contributions from members of the public.

Statements

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

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than 5pm on Tuesday 13 June 2023, in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on Thursday 15 June 2023. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

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

6 **Status Report on Code of Conduct Complaints** (*Pages 13 - 16*)

To note the Status Report on the current position on Code of Conduct Complaints.

7 **Appointment of Members to the Sub-Committees and Working Groups**  
(Pages 17 - 22)

To consider a report from the Director, Legal and Governance.

8 **Recommendations from the Constitution Focus Group on Proposed Changes to the Constitution** (Pages 23 - 110)

To consider the recommendations of the Constitution Focus Group.

9 **Date of the Next Meeting**

To confirm the date of the next meeting as 28 September 2023.

10 **Urgent Items**

**Part II**

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

## Standards Committee

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**MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 19 APRIL 2023 AT KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.**

**Present:**

Cllr Paul Oatway QPM (Chairman), Cllr Allison Bucknell (Vice-Chairman), Cllr Andrew Davis, Cllr Matthew Dean, Cllr Ruth Hopkinson, Cllr Bill Parks, Cllr Pip Ridout, Cllr Mike Sankey, Cllr Iain Wallis, Cllr Derek Walters and Gordon Ball

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58 **Apologies for Absence**

Apologies were received from:

- Julie Phillips (non-voting)
- Joanne Cetti (non-voting)
- Kathy Barnes (non-voting)

59 **Minutes**

The minutes of the meeting held on 5 October 2022 were presented for consideration.

It was;

**Resolved**

**To approve and sign the minutes as a true and correct record.**

60 **Declarations of Interest**

There were no declarations.

61 **Chairman's Announcements**

Joint SLCC and LGRC survey on Local Government

The Society Of Local Council Clerks (SLCC) had collaborated with the Local Governance Research Centre (LGRC) at De Montfort University (DMU) [to conduct a survey of parish, town and community council clerks across England and Wales](#). This was the first comprehensive, national survey of the local council sector in more than thirty years.

The report, compiled by the research team at DMU in collaboration with colleagues from Staffordshire University and the Open University, highlights changes and challenges, making recommendations about the future of local councils, particularly around revisiting antiquated legislation, sector professionalisation, the importance of better collaboration with national government and further improvements on standards. It also made suggestions about improved democratic representation, better discourse with principal authorities, more focused engagement with young people and made a call for a strategic review of the sector and its role within local government.

An update would be provided to a future meeting should the input of the Committee be required at a further stage of the work.

#### Wiltshire Council Code of Conduct and Positive Conduct, Positive Democracy campaign

All town and parish councils had been informed that Wiltshire Council had adopted a new Code of Conduct for members, modelled on that produced by the Local Government Association. In doing so, town and parish councils had been reminded that all local authorities must have a Code of Conduct in place. These codes could be locally determined but must reflect the seven principles of ethics in public life.

A reminder of Wiltshire Council's Positive Conduct, Positive Democracy Charter was also recently circulated. The Charter was part of a wider campaign to promote and support positive local democracy in Wiltshire. All local councillors and clerks had been encouraged to sign up to the Charter, to show their commitment to being a positive conduct ambassador and to promoting high standards in public life. When councillors and clerks sign the Charter and email Wiltshire Council to confirm they had done so, they are sent a special email signature banner to use, demonstrating that they are a Charter signatory.

#### Re-Appointment to Assessment Sub Committee

The Standards Committee would re-appoint the membership of the Assessment Sub-Committee at the next meeting on 20 June. Members would be approached by email for expressions of interest ahead of the meeting.

## 62 **Public Participation**

### Statements:

Cllr John Hughes of Clyffe Pypard Parish Council read a statement to the Committee on matters relating to Clyffe Pypard Parish Council.

### Questions:

Cllr John Hughes of Clyffe Pypard Parish Council asked two questions to the Committee. Details of the questions and answers are attached to these minutes.

### 63 **Status Report on Code of Conduct Complaints**

The Committee received the status report, updating on the number and outcome of Code of Conduct complaints received since the last meeting on 27 September 2022 and providing a summary of the complaints considered by the Assessment Sub-Committee (ASC).

There had been 22 Code of Conduct complaints received by the Monitoring Officer during that period. Of these, 6 were determined No Further Action (NFA) by the Monitoring Officer, 7 were determined NFA by the ASC, 1 was resolved via Informal Resolution, 2 were referred for Investigation by the ASC, 1 was dismissed as 'out of time' by the Monitoring Officer, 2 were due to be assessed by the ASC at its next meeting and 3 were awaiting assessment by the Monitoring Officer.

A table of current cases had been provided to the Chairman on 6 December 2022, 11 January, 14 February and 4 March 2023 for a dip sample of cases to be undertaken to enable oversight.

The Committee discussed the level of complaints received and the time in which they had been processed, noting that each complaint needed to be measured on its own merits and to allow for flexibility when dealing with the more complex complaints.

The Committee agreed that it would be useful to monitor the statistics over a longer period of time to establish whether any changes were required to the process.

The Chairman of the Standards Assessment Sub-Committee noted that there was no correlation between the newly adopted Code of Conduct and the increase in number of complaints received, as the complaints process dealt with complaints against Councillors across Wiltshire at parish and town council level, not just Wiltshire Council members, and as such this meant that the code of conducts varied due to there being no requirement for town and parish councils to adopt the same code of conduct as Wiltshire Council.

After a discussion, it was,

**Resolved:**

**To note the position on Code of Conduct Complaints.**

### 64 **Dispensations Policy**

The Committee received a report on an updated version of the Dispensations Policy relating to Members Interests.

The Committee discussed an option where the Monitoring Officer would have the function to decide all dispensation requests rather than needing to schedule a meeting of a Dispensation Committee.

It was advised that a change to the council's Constitution would be required should that process be adopted and therefore it may be necessary to delegate the wording to the Officer.

Cllr Dean moved the motion that all dispensation requests be decided by the Monitoring Officer. This motion was not seconded.

The Chairman moved the motion in line with the Officer recommendation as set out in the report. This was seconded by Cllr Hopkinson.

**Resolved:**

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

65 **Constitutional Changes**

Kieran Elliott, Democracy Manager (Democratic Service) presented a report on proposed changes to Parts 1, 2, 3 and 4 of the Constitution, following review by the Constitution Focus Group This included updates to committee terms of reference, debate procedural rules and decision making procedures.

The Officer outlined some further minor changes, which had been made since publication of the agenda in relation to Director sub-delegations and licensing committee responsibilities.

The Committee supported the changes with additional amendments as presented. At the conclusion of debate, it was;

**Resolved:**

**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**

66 **LGSCO decision on the Council's handling of a CoC complaint**

The Committee received an update on the decision of the Local Government and Social Care Ombudsman (LGSCO) not to investigate a complaint about the council's handling of a Code of Conduct complaint.

The Committee discussed the process for taking a complaint to the LGSCO. It was also clarified that the complaint in question had been to the Assessment Sub-Committee for consideration and that the Subject Member had taken the matter to the LGSCO because they had not agreed with the content of the Decision Notice.



It was;

**Resolved:**

**To note the LGSCO's decision not to investigate a complaint regarding the council's handling of a Code of Conduct complaint.**

67 **Urgent Items**

There were no urgent items.

**Questions**

(Duration of meeting: 2.30 - 4.07 pm)

The Officer who has produced these minutes is Lisa Alexander of Democratic Services, direct line 01722 434560, e-mail [lisa.alexander@wiltshire.gov.uk](mailto:lisa.alexander@wiltshire.gov.uk)

Press enquiries to Communications, direct line 01225 713114 or email [communications@wiltshire.gov.uk](mailto:communications@wiltshire.gov.uk)

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Questions:

Cllr John Hughes of Clyffe Pypard Parish Council asked two questions to the Committee:

1. Please could the Committee advise me as to how many code of conduct complaints have been raised by members of the Clyffe Pypard Parish community (councillors and members of the public) to Wiltshire Council by other members of the Clyffe Pypard Parish community (councillors and members of the public) in the past three years (May 2020 - May 2023), and how many of these have been upheld?
2. At a recent Wiltshire Council Standards Assessment Sub-Committee hearing there were, I believe, 15 separate individuals (including the subject member) present in the West Wiltshire Room and, I believe, at least another 2 individuals attending the meeting remotely. Please could the Committee provide me with an estimate (to the nearest £1000) of the total cost to the Wiltshire tax payer of dealing with all Clyffe Pypard Parish originating code of conduct complaints during the period May 2020 - May 2023, and separately an estimate (to the nearest £1000) of the total cost to the Wiltshire tax payer of dealing specifically with the Wiltshire Council Code of Conduct complaints nos. COC128187, COC142984, COC142986?

Response provided by email on 24 April 2023:

1. In the last 3 years, Wiltshire Council has received 11 Code of Conduct complaints about members of Clyffe Pypard Parish Council. All of these have either been dismissed by the Monitoring Officer under paragraph 4.6 of Protocol 11 – Arrangements for Handling Code of Conduct Complaints, or have been determined as requiring no further action by a Standards Sub-Committee.
2. Wiltshire Council does not hold this information. The cost of officer time is included in the Legal and Governance directorate's annual budget. The council does not record the hours spent on, or cost of, individual complaints and it would not represent an efficient use of resources to calculate this.

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## **Wiltshire Council**

### **Standards Committee**

**20 June 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.

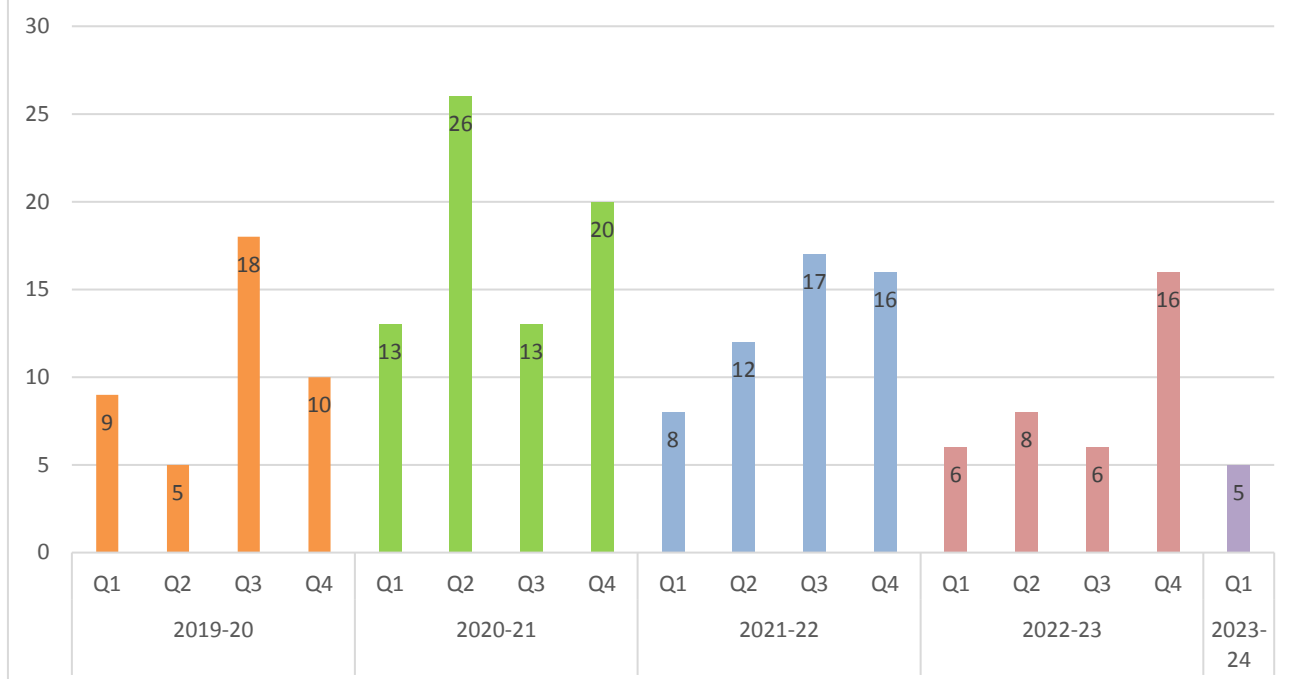
### **Summary of committee meetings**

11. The last Standards Committee meeting took place on 19 April 2022. Since that meeting there have been:
  - 1 meeting 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 20 June 2023.

### **Summary of complaints received since 11 April 2022 (following publication of the 19 April 2022 meeting agenda)**

13. Between 19 April and 8 June 2023, the Monitoring Officer received **4 complaints** under codes of conduct:
  - 1 was determined No Further Action by the Monitoring Officer;
  - 1 was resolved via Informal Resolution
  - 2 are to be determined by Assessment Sub-Committee on 20 June 2023;
14. The Monitoring Officer can determine 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

16. The 4 code of conduct complaints received between 19 April and 8 June 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

- All 4 were against **parish councillors**:
  - Not declaring an interest (NFA by MO)
  - Bullying, bringing the council into disrepute and seeking to intimidate someone involved in Code of Conduct proceedings (to be determined by ASC)
  - Falsely accusing others of lying (to be determined by ASC)
  - Shutting down correspondence (IR)

### Complaint resolution speed

17. 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.

18. During the period reported, **1 complaint** was assessed by or on behalf of the Monitoring Officer and this took **5 working days**.
19. 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, **2 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 **1.5 working days** from the Subject Member's response being received.
20. All **2** 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).
21. **0** complaints were referred for investigation during this period.

### **Dip Sampling**

22. A table of current cases was provided to the Chairman of Standards Committee on 12 April 2023 for a dip sample to be undertaken to enable oversight. The next session is scheduled for 14 June 2023.

### **Proposal**

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

### **Perry Holmes - Director, 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



## Wiltshire Council

### Standards Committee

15 June 2021

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### Appointment of Members to the Sub-Committees and Working Groups

#### Purpose of Report

1. To appoint the membership of the Standards Assessment Sub-Committee for the forthcoming year.
2. To confirm the terms of reference for the Constitution Focus Group and the standards representative on the Focus Group for the forthcoming year.

#### Background

3. Under paragraph 2.5.8.1 of Part 3B of the Constitution sets out that the Standards Committee will appoint an Assessment Sub-Committee to assess complaints 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.
4. Under paragraph 2.5.10 of Part 3B of the Constitution the Standards Committee will appoint the members of the above Sub-Committee annually. Following updates to the constitution by Council on 16 May 2023, the Sub-Committee will be responsible for electing its own Chair and Vice-Chair following its reappointment by the Committee.
5. The Constitution Focus Group is a cross party working group established by the Standards Committee to review the Constitution and make proposals for consideration by the Committee before they are recommended to Full Council.

#### Main Considerations

##### Assessment Sub-Committee

6. The Sub-Committee is comprised of five Members or Substitute Members of the Standards Committee, with all other Members or Substitute Members acting as substitutes for the Sub-Committee. Once appointed, up to two Co-opted Members of the Standards Committee attend the Sub-Committee on a rotating ad hoc basis.
7. The Sub-Committee is not subject to the requirements of political balance but is subject to a requirement of a maximum of four elected Members from any political group.
8. The terms of reference for the Sub-Committee are set out at Appendix A.
9. The current membership of the Sub-Committee is set out below:

Cllr Richard Britton  
Cllr Ernie Clark (Vice-Chair)  
Cllr Ruth Hopkinson (Chair)

Cllr Gordon King  
Cllr Sam Pearce-Kearney

10. On 17 May 2023 and 6 June 2023 all members of the Standards Committee were emailed requesting expressions of interest to serve on the Standards Assessment Sub-Committee.
11. The Committee will be updated on those who have submitted an interest to serve on the Assessment Sub-Committee at the meeting on 20 June 2023, and will then make appointments accordingly.

#### Constitution Focus Group

12. The updated terms of reference of the Focus Group are attached at Appendix B.
13. The membership continues to include representatives of each political group on the Council, as well as representatives of the Standards, Audit and Governance, and Overview and Scrutiny Management Committees, as well as the Chair of the Council.
14. The Committee is requested to confirm the terms of reference of the Focus Group, and to select a member or substitute of the Committee to serve as the representative on it.

#### **Safeguarding Implications**

15. There are no safeguarding issues arising from this report.

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

16. There are no equalities impacts arising from this report.

#### **Risk Assessment**

17. There are no risk issues arising from this report.

#### **Financial Implications**

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

#### **Public Health Impact of the Proposals**

19. There are no public health impacts arising from this report.

#### **Environmental Impact of the Proposals**

20. There are no environmental impacts arising from this report.

#### **Legal Implications**

21. There are no legal implications.

#### **Proposal**

22. **To appoint five members to the Standards Assessment Sub-Committee for the forthcoming year as follows.**
23. **To agree the terms of reference for the Constitution Focus Group, and appoint a Standards Committee representative.**

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

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Report Author: Kieran Elliott, Democracy Manager (Democratic Services), 01225 718504, [kieran.elliott@wiltshire.gov.uk](mailto:kieran.elliott@wiltshire.gov.uk)

## **Appendices**

Appendix A – Terms of Reference of the Assessment Sub-Committee

Appendix B – Terms of Reference of the Constitution Focus Group

## **Background Papers**

[Protocol 11 of the Constitution](#)

## **Appendix A - Standards Assessment Sub-Committee Terms of Reference (Part 3B of the Constitution)**

### 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 Chair and Vice-Chair 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.

## Appendix B – Constitution Focus Group Terms of Reference

### Function

To undertake the following:

- ongoing review work on the constitution as and when required;
- producing user friendly summaries of the relevant parts of the constitution for use by members of the public and members of the Council on request, and specifically to review the constitution in light of any changes in the legislation
- To consider the views of (as appropriate):
  - elected and co-opted members of the Council
  - officers
  - decision making bodies of the Council
  - town, parish and city councils and
  - members of the publicascertained through appropriate methods of communication and make appropriate recommendations
- To offer a councillor perspective on and accordingly to influence key issues within the constitution.
- To advise the Standards Committee of final recommendations on any changes to the constitution for consideration and onward recommendation to Council.

### Membership

- (i) a member from each political group on the Council nominated by group leaders;

**Conservative: Ashley O'Neill**  
**Liberal Democrat: Ian Thorn**  
**Independent: Graham Wright**  
**Labour: Ricky Rogers**

- (ii) a member or substitute of the Overview and Scrutiny Management Committee:  
**Jon Hubbard**

- (iii) a member or substitute of the Audit and Governance Committee: **Stuart Wheeler (TBC)**

- (iv) A member or substitute of the Standards Committee: **Richard Britton**

- (v) The Chairman of the Council: **James Sheppard**

And that appropriate Councillors and Officers are invited to attend as and when requested by the Focus Group or its Chair to assist it in its work.

### Chair

A Chair will be selected annually by the Focus Group from among its membership.

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## Wiltshire Council

### Standards Committee

20 June 2023

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## Recommendations from the Constitution Focus Group on 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 12 – Code of Conduct
  - Protocol 4 – Planning Code of Good Conduct
  - Protocol 12 – Wiltshire Police and Crime Panel Protocol
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 3 May, 19 May, and 7 June 2023 to consider the above sections of the Constitution.

### Main Considerations

#### Part 12

6. Following review by a working group and recommendation from the Committee, Full Council adopted a revised Code of Conduct, including within the constitutional text associated guidance, at its meeting on 18 October 2022.
7. The new Code has been in operation for approximately 6 months, and a number of practical considerations have arisen which the Focus Group has reviewed.
8. The Code is principally focused with setting out standards to which Members are to adhere, and guidance as to how to determine if behaviour rises to a level of a breach of those standards. However, it also includes various procedural requirements in the event of declaration of certain types of interest.
9. In particular, the adapted Local Government Association Code and guidance includes requirements to for Members to leave the room if a matter relating to an interest arises at a meeting. As membership of a town or parish council would be considered a disclosable interest under the new Code, this in effect requires a significant increase in

Members being required to leave a room, or a dispensation in order to remain, with a particular impact upon Area Boards. By their nature as area committees, the possibility of a local matter arising in which some or all of the Members are members of a local council is quite high.

10. Full Council adopted revised arrangements for the granting of dispensations in such a circumstance on 16 May 2023, in order to provide an expedited process given the increase in non-pecuniary interest dispensations that would be required.
11. The Focus Group reviewed the procedural aspects further, noting the focus of the working group on behavioural aspects. They concluded it would be reasonable to amend the Code and its guidance to enable Members to remain in the room when they had an interest which was not a disclosable pecuniary interest. This would obviate the need for a dispensation purely to resolve issues of quorum which would obstruct reasonable decision making processes.
12. They also considered that with over half the members of the council being members of city, town, or parish councils, and with dispensations being a necessity in order to transact business at Area Boards where such an interest would frequently arise, that it would be reasonable to set out a standing dispensation for Members with such an interest.
13. The result would be that dispensations could still be requested for other interests which would prevent voting participation if considered appropriate, but that there would no requirement to leave the room unless the Member considered this reasonable in the circumstances, and the level of dispensations required would be significantly reduced.
14. Since the meeting of Council on 16 May 2023 11 requests for dispensations have been requested under the Dispensations Policy, with 10 relating to membership of a city, town, or parish council.
15. The revisions, if adopted, would therefore retain the majority of the Code as recommended by Standards Committee and approved by Council, but would update its procedural requirements to be more efficient and effective. They seek to do this by:
  - Providing a general exemption for those with town and parish council membership from the requirement to seek a dispensation to remain in the room, participate, or vote on matters relating to that council.
  - Removing the requirement to leave the room for any category of interest other than Disclosable Pecuniary Interest – thus removing any impact on quoracy and reducing the need for many dispensation requests.
  - Including an updated flowchart within the body of the constitution to assist Members in understanding what to do in what circumstances.
  - Reiterating that voluntary declarations do not require further action, e.g., leaving the room.
  - Other general clarifications or updates for consistency.
16. The proposed revised Part 12 is set out in **Appendix A**.



#### Protocol 4

17. Protocol 4 provides rules and guidance to Members for involvement in planning matters and planning committees specifically.
18. The Focus Group reviewed the Protocol across a number of meetings and propose changes as set out in **Appendix B** including:
- Updates to align to the Code of Conduct, including subject to proposals to Part 12;
  - Strengthening advice on informing local members of dates of committees;
  - Updates relating to the procedure at planning committees, in the related procedure document linked from Protocol 4;
  - Other general clarifications and updates.
19. The Focus Group noted that there had been a recent planning peer review which would be making recommendations in respect of the service area, which might lead to further need to review the protocol. It would therefore revisit to consider further changes later in the year. In particular, the Focus Group wished to undertake further work on proposals relating to Member requests for call-in, without holding up other changes.

#### Protocol 12

20. Protocol sets out the panel arrangements and procedure for the Wiltshire Police and Crime Panel, which is a joint committee with Swindon Borough Council.
21. The protocol has not been updated since 2014. The Chair of the Panel undertook a review of the arrangements with officers and other Panel members, and then attended a meeting of the Focus Group to discuss the changes.
22. The Focus Group noted that the Panel was required to agree to any changes to its arrangements, and that Wiltshire Council and Swindon Borough Council would also then need to agree any changes.
23. The Focus Group was satisfied with the revisions proposed by the Chair of the Panel, and content that Standards and Council should approve the changes subject to any changes the Panel might make at its meeting on 13 June 2023 or subsequently.
24. It was therefore recommended that the Committee support recommending approval of Protocol 12 to Council, in whatever form the Panel, as a distinct body of both authorities, considered appropriate.
25. Changes within the Protocol included:

#### General Changes

- The order has been changed to place the panel arrangements before the rules of procedure as it is the more strategic document.
- General updated for clarification, fewer sections to aid readability.

#### Panel Arrangements

- An overview of the powers of the Panel has been included.
- It is stated explicitly that the Panel is not responsible for scrutinising operational police matters.

- The documents have been updated to reflect that Swindon Borough Council has a fourth Panel member.
- The restriction in appointing members for a maximum of two four-year terms has been removed.
- Detail on the process for the appointment of members has been updated to reflect the Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012.
- The measures to promote the Panel have been streamlined to remove the specific requirement to provide briefing notes and host a dedicated website – however, there is continued intention to provide greater briefing information and updated website material on hosted sites such as on the lead authority.
- There is a commitment to publish minutes and agendas on the host authority’s (Wiltshire Council’s) website.

### Rules of Procedure

- There has been a greater focus on the procedures specific to the Police and Crime Panel. The procedure rules which apply to all of Wiltshire Council’s committees have been referenced from Part 4 of Wiltshire Council’s constitution allowing much of the existing text to be removed.
- Co-opted Panel members are now eligible to be Chair. Under the existing Protocol the Chair must be drawn from the councillors on the Panel.
- Public participation deadlines have been brought in line with those of Wiltshire Council’s other committees, i.e., four working days to be guaranteed of a written response and two for a verbal response.
- The requirement to provide statements in writing has also been removed, as per Wiltshire Council’s other committees.
- The document has been updated to reflect the Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, including timelines and confirmation that the Panel is only able to veto the Commissioner’s first precept proposal and nomination for Chief Constable.
- Guidance is included about the process for further scrutiny should the Panel exercise its vetoes.
- Clarification is provided that the Panel must make a recommendation about the appointment of the Deputy PCC, Chief Executive of the OPCC and Chief Financial Officer of the OPCC, as well as of the Chief Constable. The Panel only has a veto over the appointment of the Chief Constable.

26. Proposed and current versions of the Protocol are included at **Appendix C**.

### **Overview and Scrutiny Engagement**

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

### **Safeguarding Implications**

28. There are no safeguarding implications.

### **Public Health Implications**

29. There are no public health implications.

### **Procurement Implications**

30. There are no procurement implications at present.

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

31. There are no equalities implications.

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

32. There are no environmental or climate change implications.

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

33. 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**

34. No risks have been identified.

### **Finance Implications**

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

### **Legal Implications**

36. There are no legal implications.

### **Workforce Implications**

37. There are no workforce implications.

### **Conclusions**

38. The Focus Group has engaged with officers and met on several occasions to propose changes to improve the effectiveness of the Constitution.

### **Proposal**

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

- Part 12 – Code of Conduct
- Protocol 4 – Planning Code of Good Practice
- Protocol 12 – Wiltshire Police and Crime Panel Protocol

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

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

### **Appendices**

Appendix A – Proposed Part 12 of the Constitution

Appendix B – Proposed Protocol 4 of the Constitution and Planning Committee Procedure

Appendix C1 – Proposed Protocol 12 of the Constitution

Appendix C2 – Current Protocol 12 of the Constitution

### **Background Papers**

[Minutes of the meeting of Council on Tuesday 18 October 2022](#)

**Wiltshire Council  
Constitution  
Part 12A  
Wiltshire Council Code of  
Conduct for Members**

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# PART 12

## WILTSHIRE COUNCIL CODE OF CONDUCT FOR MEMBERS

As a Member or Co-opted Member of Wiltshire Council, I shall have regard to the following principles:

- **Selflessness**
- **Integrity**
- **Objectivity**
- **Accountability**
- **Openness**
- **Honesty**
- **Leadership**

To uphold these principles, I will follow the below Code of Conduct whilst carrying out my role.

### 1. **Respect**

- 1.1 I treat other Councillors and members of the public with respect.
- 1.2 I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

### 2. **Bullying, harassment, and discrimination**

- 2.1 I do not bully any person.
- 2.2 I do not harass any person.
- 2.3 I promote equality and do not discriminate unlawfully against any person.

### 3. **Impartiality of officers of the council**

- 3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

### 4. **Confidentiality and access to information**

- 4.1 I do not disclose information:
  - 4.1.1 given to me in confidence by anyone;
  - 4.1.2 acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
    - 4.1.2.1 I have received the consent of a person authorised to give it;
    - 4.1.2.2 I am required by law to do so;

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4.1.2.3 The disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or

4.1.2.4 The disclosure is:

- a) Reasonable and in the public interest; and
- b) made in good faith and in compliance with the reasonable requirements of the local authority; and
- c) I have consulted the Monitoring Officer prior to its release.

4.2 I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests

4.3 I do not prevent anyone from getting information that they are entitled to by law

**5. Disrepute**

5.1 I do not bring my role or local authority into disrepute

**6. Use of position**

6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

6.2 I do not place myself under a financial or other obligation to outside individuals or organisations that might seek to influence me in the performance of my official duties.

**7. Use of local authority resources and facilities**

7.1 I do not misuse council resources.

7.2 I will, when using the resources of the local authority or authorising their use by others:

7.2.1 act in accordance with the local authority's requirements; and

7.2.2 ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

**8. Complying with the Code of Conduct**

8.1 I undertake Code of Conduct training provided by my local authority.

8.2 I cooperate with any Code of Conduct investigation and/or determination.

8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.



8.4 I comply with all sanctions imposed on me and any recommendations agreed to be undertaken by me following a finding that I have breached the Code of Conduct and any undertakings that I have agreed to fulfil as part of the informal/alternative resolution of any alleged breach of the Code of Conduct.

## 9. Interests

9.1 I register and disclose my interests **as defined under Part 12B.**

**Commented [EK1]:** For clarification - council approved the Code and guidance as one document in two parts, 12A and 12B is simply a formatting approach for consistency with the rest of the constitution.

## 10. Gifts and Hospitality

10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority, or from persons who may apply to the local authority for any permission, licence or other significant advantage.

10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £50 within 28 days of its receipt.

10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept

## 11. Taking Decisions

11.1 When carrying out my public duties, I make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

11.2 I am as open as possible about my decisions and actions and the decisions and actions of my authority, and am prepared to give reasons for those decisions and actions.

11.3 I am accountable for my decisions to the public and will co-operate fully with whatever scrutiny is appropriate to my office.

This Code of Conduct sets out the minimum standards of conduct required of you as a Councillor.

**This Code of Conduct should be read in conjunction with the guidance set out in this constitution as well as the following appendices:**

Appendix 1 – [Roles and Responsibilities of Members](#)

Appendix 2 – [Wiltshire Council EPIC Values](#)

## **Appendix 1 – Roles and Responsibilities of Members (Part 11 of the Constitution)**

### **1. Purpose and background**

- 1.1 This is a description of the role that all Members will be expected to perform. Members may have additional regulatory, licensing or scrutiny responsibilities or be a member of the Cabinet – there will be specific role descriptions drawn up for them, and each of these responsibilities is likely to attract additional time commitments.

### **2. Size of the role**

- 2.1 The number of voters in each division from 2021 onwards will be in the order of 4,268; you will be accountable to them for any issue relating to the council's activities and, through the area boards, for the much broader concerns of the community.

### **3. Breadth of the role**

- 3.1 Members will be responsible for helping constituents to resolve problems associated with, amongst other things:

- 3.1.1 Planning
- 3.1.2 Housing
- 3.1.3 Licensing
- 3.1.4 Environmental health
- 3.1.5 Car parking and enforcement
- 3.1.6 Protecting the environment
- 3.1.7 Leisure
- 3.1.8 Refuse collection and recycling
- 3.1.9 Community planning
- 3.1.10 Council tax collection
- 3.1.11 Housing benefit
- 3.1.12 Education
- 3.1.13 Social services
- 3.1.14 Libraries
- 3.1.15 Roads
- 3.1.16 Consumer protection
- 3.1.17 Children's services
- 3.1.18 Health scrutiny
- 3.1.19 Transport
- 3.1.20 Economic development

### **4. Allowances**

- 4.1 Allowances to Members are as set out in Part 13 – Members' Allowances Scheme.

### **5. Anticipated hours required to perform the role**

- 5.1 The time unitary Members will need to carry out the role will depend on many things:

- 5.1.1 If you have a rural division, you will spend more time travelling;
- 5.1.2 If you are a new Member you will have to spend a lot of time being trained to enable you to carry out the role;
- 5.1.3 If you have a particular interest you may choose to become more involved in committees associated with these matters;
- 5.1.4 If there are important or controversial issues in your division they may occupy a lot of your time.

5.2 National figures show that unitary Members spend on average 27 hours a week on the role. There are formal meetings you will be expected to attend, but much of the work will be in your division when constituents contact you with a problem. The work includes:

- 5.2.1 Resolving problems raised by your constituents;
- 5.2.2 Attending council and policy making meetings;
- 5.2.3 Being a member of an area board;
- 5.2.4 Attending Town and Parish council meetings in your division;
- 5.2.5 Representing the council on outside bodies.

5.3 Members who have additional regulatory, licensing or scrutiny responsibilities or who are on the Cabinet will be expected to work additional hours.

## 6. **Timing of meetings**

6.1 Daytime meetings at Trowbridge:

- 6.1.1 Attendance at council meetings four-five times a year;
- 6.1.2 Attendance at Cabinet, quasi-judicial and regulatory meetings when items of interest to the division are under discussion;
- 6.1.3 Approximately two meetings a month.

6.2 Afternoon or evening meetings within an area or on a district basis:

- 6.2.1 Attendance at bi-monthly area boards;
- 6.2.2 Attendance at planning committees and other regulatory committees when items of interest to the division are under discussion;
- 6.2.3 Attendance at town and/or parish meetings;
- 6.2.4 Attendance at meetings of outside bodies, some of these might be in the day
- 6.2.5 Approximately four meetings a month.

## 7. **Principal roles**

7.1 To champion the division:

- 7.1.1 To represent constituents and to act as the link between them and the council;
- 7.1.2 To keep up-to-date with local concerns, including those of hard to reach groups;
- 7.1.3 To identify and help to resolve local concerns.

7.2 To be a community leader:

- 7.2.1 To mediate fairly and constructively between people and groups with conflicting needs;
- 7.2.2 To create effective partnerships with all sections of the community;
- 7.2.3 To work with partners to build strong and cohesive communities with a long-term vision and direction;
- 7.2.4 Act as the focus for consultation and discussion of local issues.

7.3 To keep in touch with constituents:

- 7.3.1 To communicate regularly with the community using newsletters, emails, phone, or local media and through local surgeries and meetings;
- 7.3.2 To create opportunities to communicate, including hard-to-reach groups;
- 7.3.3 To provide regular feedback.

7.4 To contribute to decision making:

- 7.4.1 By contributing to and informing debate at council meetings;
- 7.4.2 Through membership of a community area board;
- 7.4.3 By influencing and shaping services;
- 7.4.4 By monitoring performance of local services to ensure that they are held to account;
- 7.4.5 By providing for more effective working between the council and partners.

7.5 To fulfil responsibilities as a 'Corporate Parent' for children and young people in the care of the local authority:

- 7.5.1 By having an understanding of the profile and needs of the children in the care of the local authority;
- 7.5.2 By being aware of the impact on looked-after children of all council decisions;
- 7.5.3 By considering whether this would be good enough for their own child;
- 7.5.4 By ensuring that action is taken to address shortcomings in the service and to improve outcomes for looked-after children.
- 7.5.5 By being aware of the work and aims of the Corporate Parenting Panel and, if nominated by a group leader, attend meetings of the Corporate Parenting Panel as a panel member.

7.6 The Council has established a Corporate Parenting Panel, whose role is to secure Member involvement and commitment throughout the council to deliver better outcomes for children and young people who are looked after. The Terms of Reference are attached at Part 11A, and the Terms of Reference of the Safeguarding Children and Young People Panel at Part 11B.

7.7 To represent the council externally by sitting on outside bodies and attending seminars on behalf of the council.

7.8 Unitary Members will be expected to:

- 7.8.1 Commit to a programme of continuing learning and development provided by the council;

7.8.2 Comply with the Council's Code of Conduct and other protocols set out within the Constitution and to maintain the highest; standards of conduct and ethics in the performance of your duties

7.8.3 To acknowledge any enquiries normally within four working days of receipt, and provide a substantive response, where required, within fifteen working days, if possible.

## 8. **Personal Skills**

8.1 To fulfil the role of an effective unitary Member, candidates should have:

8.1.1 Knowledge of current issues for constituents;

8.1.2 Good advocacy and listening skills;

8.1.3 Good communication, presentation skills, mediation and conflict resolution skills;

8.1.4 Integrity and the ability to set aside own views and act impartially;

8.1.5 Good awareness of equality and diversity issues;

8.1.6 An understanding of the roles of officers and Members;

8.1.7 Knowledge of meetings rules and conventions;

8.1.8 The ability to challenge ideas and contribute positively to policy;

8.1.9 A desire to learn.

# EPIC VALUES

Supporting us to build stronger communities



As an organisation we are continually having to adapt to new ways of working to deliver our services to the residents of Wiltshire.

Our values define who we are, what we stand for and how we are expected to work to deliver our priorities.







Whilst we work in different professions and teams, our values are what we have in common. They are there to support us in creating positive ways of working across the organisation regardless of the challenges or changes, or the teams we are working with.

It's about how we respond to colleagues, situations and challenges in our culture of empowering people, innovation and collaboration to deliver our vision of strong communities.

We are all expected to understand what these values mean to us and ensure we reflect on them within our teams.

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Wiltshire Council

EPIC values				
	Trust and respect 	Excellence 	Responsibility 	Engaged leaders
Empowering people 	We value and encourage others to share their ideas and opinions and trust in their capability to take decisions within their roles.	We focus on developing our skills to empower our colleagues and deliver great services in our communities.	We take responsibility for our actions and ensure we protect the council, we learn from our challenges and share our experiences to continually improve our services.	We give our teams responsibility and trust them to deliver great service. We give our teams the support and encouragement they need and take the time to understand their strengths and how to get the best out of them. We are open and honest and share information and the council's expectations, ensuring there is transparent decision making.
Innovation 	We respect, consider and value different opinions, perspectives and ideas to drive innovation in our services.	We continually look to identify new creative and commercial opportunities to improve how we work and deliver our services.	We identify and drive digital and creative improvements to ensure that our customers get the best value from our services.	We create an environment where teams can take informed risks and are encouraged to learn and develop. We inspire our teams to find new ways of working to improve the customer experience and to maximise service delivery. We listen and allow everyone to participate, ensuring all voices are heard.
Collaboration 	We collaborate in an open and honest way, recognising each other's challenges and contributions, and celebrating successes. We are respectful and supportive of each other and work together to find solutions.	We expect and encourage high standards from ourselves and others and share ideas and information to improve the delivery of services in our communities and how we work together.	We share knowledge, constructively challenge and feedback with each other, and take ownership to ensure we all deliver the best outcomes in our communities.	We role model excellent communication and teamwork with other teams and our partners to build effective working relationships in order to deliver a great service and our corporate priorities.

LIVE·WORK·INNOVATE

Wiltshire Council

**Wiltshire Council  
Constitution  
Part 12B  
Wiltshire Council Code of  
Conduct Guidance for  
Members**



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Appendix 2 – Openness and transparency on personal interests – a guide for Members

Appendix 3 – Standards and Complaints Assessment Criteria

# PART 12B

## WILTSHIRE COUNCIL CODE OF CONDUCT GUIDANCE FOR MEMBERS

### 1. Purpose

- 1.1 This guidance is intended to assist you in meeting your obligations under the Council's Code of Conduct.
- 1.2 You are encouraged to seek advice from the Monitoring Officer if you are unclear about any aspect of the Code or how it applies in your particular situation.
- 1.3 The statutory framework for standards in local government is contained in Part 7 of the Localism Act 2011, which can be found at:  
<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

### 2. The Principles of Public Life

#### 2.1 Selflessness

Holders of public office should act solely in terms of the public interest.

#### 2.2 Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work.

They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

#### 2.3 Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### 2.4 Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

#### 2.5 Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

#### 2.6 Honesty

Holders of public office should be truthful.

#### 2.7 Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

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### 3. Application of the Code of Conduct

- 3.1 The Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Member or attend your first meeting as a Co-opted Member and continues to apply to you until you cease to be a Member.
- 3.2 This Code of Conduct applies to you when you are acting in your capacity as a Member which may include when:
  - 3.2.1 you misuse your position as a Member;
  - 3.2.2 Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Member.
- 3.3 The Code applies to all forms of communication and interaction, including:
  - 3.3.1 at face-to-face meetings;
  - 3.3.2 at online or telephone meetings;
  - 3.3.3 in written communication;
  - 3.3.4 in verbal communication;
  - 3.3.5 in non-verbal communication;
  - 3.3.6 in electronic and social media communication, posts, statements and comments.
- 3.4 You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.
- 3.5 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to your Code of Conduct.

### 4. Code of Conduct Guidance

- 4.1 This section sets out further guidance relating to your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.
- 4.2 Guidance is included to help explain the reasons for the obligations set out in the Code of Conduct and how they should be followed.
- 4.3 **Respect**
  - 4.3.1 Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.
  - 4.3.2 In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public’s expectations and confidence in Members.
  - 4.3.3 In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any

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conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under the Member Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Member-Officer protocol.

#### 4.3-14.4 Bullying, harassment, and discrimination

4.4.1 The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

4.4.2 The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

4.4.3 Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

4.4.4 The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

4.4.5 An objective test is applied in determining whether conduct amounts to bullying or intimidation; in other words the conduct will be looked at through the eyes of a notional reasonable member of the public with knowledge of all the facts, and who looks at the conduct objectively.

#### 4.3-24.5 Impartiality of officers of the council

4.5.1 Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

#### 4.3-34.6 Confidentiality and access to information

4.6.1 Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

#### 4.3.44.7 Disrepute

4.7.1 As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Members and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

4.7.2 You are able to hold the local authority and fellow Members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

#### 4.3.54.8 Use of position

4.8.1 Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you must not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

#### 4.3.64.9 Use of local authority resources and facilities

4.9.1 You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Member.

4.9.2 Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

4.9.3 These are given to you to help you carry out your role as a Member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

#### 4.3.74.10 Complying with the Code of Conduct

4.10.1 It is extremely important for you as a Member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

##### 4.10.2 Complaints Procedure

The Council's arrangements for dealing with complaints under the Code of Conduct are set out in Protocol 11 of the Council's Constitution.

##### 4.10.3 Local Assessment Criteria

Complaints under the Code are assessed or reviewed in accordance with the criteria attached at Appendix 3.

#### 4.3-84.11 Interests

4.11.1 Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

4.11.2 You need to register your interests so that the public, local authority employees and fellow Members know which of your interests might give rise to a conflict of interest.

4.11.3 The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable.

4.11.4 You are personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise.

4.11.5 It is also important that the public know about any interest that might have to be disclosed by you or other Members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

4.11.6 You should note that failure to register or disclose a disclosable pecuniary interest as set out in Table 1, is a criminal offence under the Localism Act 2011.

4.11.7 The Register of Interests section below sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

#### 4.3-94.12 Gifts and hospitality

4.12.1 In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a Member.

4.12.2 -The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered.

4.12.3 However, you do not need to register gifts and hospitality which are not related to your role as a Member, such as Christmas gifts from your friends and family.

4.12.4 It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Member. If you are unsure, do contact your Monitoring Officer for guidance.

#### 4.3-104.13 Taking decisions

4.13.1 The decisions you take whilst undertaking your public duties should be made on an objective basis, using the best information available whilst avoiding discrimination, or bias.

4.13.2 To ensure public confidence in the decision-making process, you should be willing to make the reasons for your decisions, as well as those of Wiltshire Council, publicly available.

4.13.3 Information about why decisions have been taken should only be withheld in cases where there are clear and lawful reasons for doing so. As a holder of public office, you must be accountable for your decisions and actions and must submit yourself to the level of scrutiny commensurate with your position. It is important that the public are able to constructively challenge and express concern about the process by which decisions are made.

#### 4.14 Bias and Predetermination

4.14.1 Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias.

4.14.2 The test is whether a fair minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Member was biased.

4.14.3 In particular, under the Council's Code of Conduct for Members, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties. The rules on registration and declaration of interests are intended to protect Members against allegations of bias and predetermination.

4.14.4 The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

4.14.5 The Act makes it clear that a Member is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A Member is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

4.14.6 The general position, however, remains that, whatever their views, Members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

4.14.7 Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a Member advice should be sought at an early stage and in any event before the decision concerned is made.

## 5. Register of Interest

5.1 Your registration of personal interests should be guided by your duty to act in conformity with the Principles of Public Life.

5.2 The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting their own financial affairs from being a councillor.

5.3 You should consider your obligations in respect of registering and declaring interests within this context. As a general rule, if you are in any doubt about your situation you should

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register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.

- 5.4 Your register of interests is a public document available on the Council's web site and should contain sufficient details to ensure that the nature of your interest is clear to members of the public. In the case of an interest in land this should include a sufficient description of the land to enable it to be identified.
- 5.5 Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.
- 5.6 "**Disclosable Pecuniary Interest**" means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.
- 5.7 "**Partner**" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.
- 5.8 You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
- 5.9 A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.
- 5.10 Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

#### Declaration of Interests at Meetings

- 6.1 This section sets out actions which must be taken if a matter arises at a meeting in which you have a Disclosable Pecuniary Interest (DPI), Other Registerable Interest (ORI), or Non-Registerable Interest (NRI).
- 6.2 There may be occasions where you have an interest which does not fall into any of the categories above, such as if you have previously expressed opinions or campaigned on an issue, or being acquainted with persons or groups relevant to the matter, without being a close associate.
- 6.3 You are encouraged to consider whether it is appropriate to declare such an interest at a meeting in the interests of openness and transparency.
- 6.4 If making such a declaration you would not be prevented from remaining in the room, participating, or voting, unless you considered it would be appropriate in the circumstances in accordance with the principles of conduct in public life.

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Non-participation in case of Disclosure of Disclosable Pecuniary Interests

6.5 Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest.

6.6 ~~You must and~~ not participate in any discussion or vote on the matter and must not remain in the room for the entirety of the item unless you have been granted a dispensation.

6.7 If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest.

6.4.6.8 Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5.4.6.9 Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6.10 Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests as set out in **Table 2**, you must disclose the interest.

6.5.6.11 ~~You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room~~ unless you have been granted a dispensation. You must withdraw from the meeting in your capacity as a councillor but may remain in the room, unless you consider it appropriate to leave the room in the circumstances in accordance with the principles of conduct in public life.

6.6 ~~6.12~~ If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of non-registerable interests

6.13 Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest.

6.14 You may speak on the matter only if members of the public are also allowed to speak at the meeting. ~~Q, but~~ otherwise you must not take part in any discussion or vote on the matter ~~and must not remain in the room~~ unless you have been granted a dispensation. You must withdraw from the meeting in your capacity as a councillor but may remain in the room, unless you consider it appropriate to leave the room in the circumstances in accordance with the principles of conduct in public life.

5.3.6.15 If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

5.4.6.16 Where a matter arises at a meeting which affects rather than directly relates to:

5.4.16.16.1 your own financial interest or well-being and is not a Disclosable Pecuniary Interest set out in Table 1;

5.4.26.16.2 a financial interest or well-being of a relative or close associate; or

**Commented [EK1]:** As detailed in Protocol 4, not being able to speak even as a member of the public, was the position of the government in its guidance on the Act, in the 'Openness and Transparency on Personal interests'.

The Monitoring Officer has confirmed the council takes a strict interpretation of what constitutes a Disclosable Pecuniary Interest, given the potential criminal sanctions involved. That is, the matter being discussed/determined must be *about* the DPI, not simple relating to it in some way, which might be a lesser form of interest

Other interests would not have to leave the room under these changes

**Commented [EK2]:** This would mean people have to make declarations, and have to have a dispensation to vote (not to include town or parish council membership), but can remain for discussion, debate and vote - and can speak in any public section.

Town and parish council membership not included - see table 2 - only that it be declared.

Withdraw in capacity as a councillor was the standard from the old code

**Commented [EK3]:** So wording is consistent with the above. Eg it is the planning application of an old business associate.

'Withdrawing in your capacity as a councillor' mirrors pre Oct 2022 wording

**Commented [EK4]:** To draw attention to the distinction from above - affects could mean a planning application which impacts on your own property, but is not a DPI as it is not *about* your property

~~5.4.36.16.3~~ a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

~~5.5.16.17~~ Where a matter (referred to in paragraph ~~5.4.36.16~~ above) affects the financial interest or well-being:

~~5.5.16.17.1~~ to a greater extent than it affects the financial interests of the majority of inhabitants of the ~~ward~~ Division for which you have been elected or otherwise of the authority's administrative area affected by the decision and;

~~5.5.26.17.2~~ a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest.

You may speak on the matter only if members of the public are also allowed to speak at the meeting. ~~but~~ otherwise you must not take part in any discussion or vote on the matter ~~and must not remain in the room~~ unless you have been granted a dispensation. You must withdraw from the meeting in your capacity as a councillor but may remain in the room, unless you consider it appropriate to leave the room in the circumstances in accordance with the principles of conduct in public life.

If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

6.18 You may participate, vote and remain in the room if the matter does not affect the financial interest or wellbeing set out in the tests at Paragraphs 6.17.1 and 6.17.2. The provisions of the Localism Act 2011, as summarised at Paragraph 4.14, should be taken into account in any such assessment.

#### Cabinet

~~5.4.6.18~~ Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as a Cabinet Member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it

#### Table 1 – Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the [Relevant Authorities \(Disclosable Pecuniary Interests\) Regulations 2012](#).

**Commented [EK5]:** Adapted from Durham Code - more precise in the event of a non-local decision

**Commented [EK6]:** So wording is consistent with the above.

**Commented [EK7]:** For avoidance of doubt - ie if a reasonable member knowing the facts would not think it would affect your view of the wider interest, you can participate.

Basically this bookends the opening section about voluntary declarations

Table 1: Disclosable Pecuniary Interests

Subject	Description
<b>Employment, office, trade, profession or vocation</b>	Any employment, office, trade, profession or vocation carried on for profit or gain.
<b>Sponsorship</b>	<p>Any payment or provision of any other financial benefit (other than from the council) made to the Councillor during the previous 12-month period for expenses incurred by him/her in carrying out his/her duties as a Councillor, or towards his/her election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
<b>Contracts</b>	<p>Any contract made between the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council —</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>

Table 1: Disclosable Pecuniary Interests

Subject	Description
<b>Land and property</b>	Any beneficial interest in land which is within the area of the council.  'Land' excludes an easement, servitude, interest or right in or over land which does not give the Councillor or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
<b>Licenses</b>	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
<b>Corporate tenancies</b>	Any tenancy where (to the Councillor's knowledge)— (a) the landlord is the council; and (b) the tenant is a body that the Councillor, or his/her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.
<b>Securities</b>	Any beneficial interest in securities* of a body where— (a) that body (to the Councillor's knowledge) has a place of business or land in the area of the council; and (b) either— (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the Councillor, or his/ her spouse or civil partner or the person with whom the Councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

\* 'director' includes a member of the committee of management of an industrial and provident society.

\* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

**Table 2 – Other Registerable Interests**

You must register as an Other Registerable Interest:

- a) Any unpaid directorships;
- b) Any body of which you are a member or are in a position of general control or management, and to which you are nominated or appointed by your authority;
- c) Any body:
  - i) exercising functions of a public nature;
  - ii) directed to charitable purposes; or,
  - iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Membership of a City, Town, or Parish Council must be included on your register as an interest in accordance with c)i) above. This must be declared at any meeting which relates to it.

However, other provisions relating to Other Registerable Interests at paragraph 6 shall not apply, and you may participate fully and vote without a dispensation, and remain in the room, unless you consider it appropriate not to do so in the circumstances in accordance with the principles of conduct in public life.

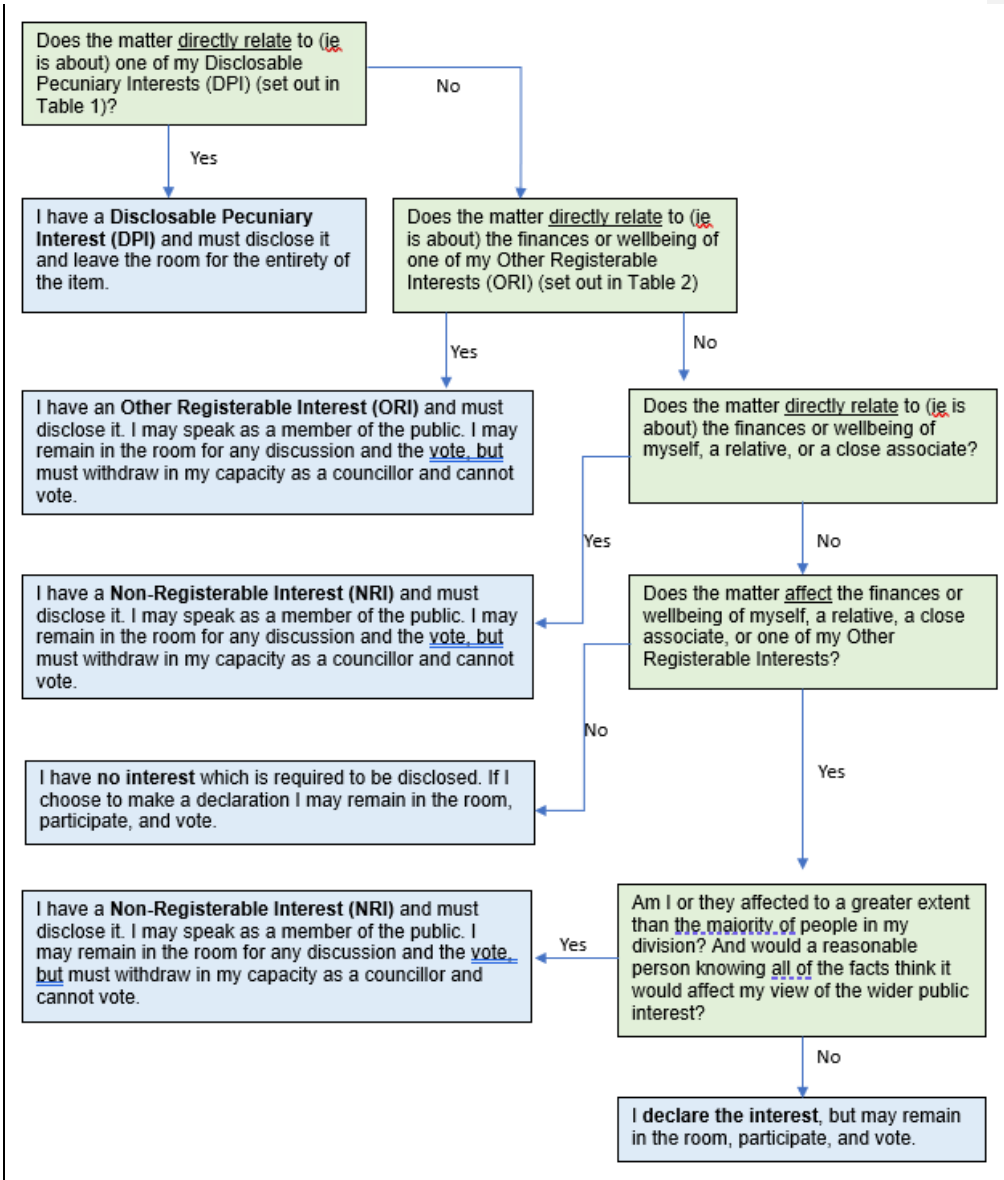
**Commented [EK8]:** To apply in effect a blanket dispensation on Members for being members of a town or parish council.

They would need to declare their membership at a meeting where it was relevant, and would then state whether they intended to participate or vote or leave the room.

This reverts to the previous position of being able to participate unless they decide otherwise - the only difference being 'must' declare rather than 'should'

**Flowchart on Interests**

**Commented [EK9]:** Adapted from Briefing Note 23-05, to align to proposed new position on leaving the room etc



**Wiltshire Council  
Constitution  
Protocol 4  
Planning Code of Good  
Practice**

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# PROTOCOL 4 – PLANNING CODE OF GOOD PRACTICE

## 1. Purpose of Protocol

- 1.1 The purpose of this Code of Good Practice is to give advice to Members that will preserve the integrity of the Planning system as open and fair to all parties, whilst avoiding rigid and overbearing procedural rules.

## 2. When this Code of Good Practice Applies

- 2.1 This code applies at all times when Members are involved in the planning process, including:

- 2.1.1 As a Member representing your division's constituents;
- 2.1.2 As a Member responsible for overseeing the planning framework for Wiltshire; or
- 2.1.3 As a Member responsible for deciding planning applications at an area or strategic planning committee;
- 2.1.4 Planning enforcement matters;
- 2.1.5 Involvement in local and neighbourhood plans;
- 2.1.6 Occasional involvement in appeals.

## 3. Relationship to Wiltshire Council's Members' Code of Conduct

- 3.1 The Members' Code of Conduct must be complied with at all times when you are acting in your capacity as a Member. This Planning Code of Good Practice constitutes guidance for Members of Planning Committees. However, you are advised that if you do not abide by this Code of Good Practice, you may put the Council at risk of proceedings on the legality of any related decision or a complaint of maladministration to the Local Government Ombudsman, ~~and yourself at risk of a complaint under the Members' Code of Conduct, and may put yourself at risk.~~
- 3.2 In the event of a conflict between this Planning Code of Good Practice and the Members' Code of Conduct the latter will prevail.
- 3.3 If you have any doubts about the application of this Code or Wiltshire Council's Code of Conduct for Members to your own circumstances, and in particular where you may have a disclosable pecuniary interest in any planning matter, you should seek advice early from a representative of the Monitoring Officer ~~or one of his/her staff, and~~ preferably well before any meeting takes place.

## 4. Development proposals and interests under the Members' Code of Conduct

- 4.1 It is a fundamental point of principle that those who have a material interest in the outcome of a planning decision should not take part in the decision-making process.

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Members should disclose the existence and nature of their interest at any relevant meeting. ~~This could, including include at~~ informal meetings or discussions with officers and other Members. Such interests should also be declared at the start of the committee meeting where known, or as soon as the interest becomes apparent.

**Commented [EK1]:** Occasionally an interest might only become apparent during a meeting

4.2 In the event of a ~~an~~ Member having any material interest or the application concerns a property in the near vicinity of their own property then the member should seek guidance from the Monitoring Officer.

4.3 The requirements for the registration and declaration of interests are set out in Part 12 of the Constitution, Wiltshire Council's Members' Code of Conduct, and in the underlying legislation contained in the Localism Act 2011, and the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

4.4 If you have a disclosable pecuniary interest in any planning matter you must not participate in any discussion of the matter or vote on it at the meeting of the Committee unless you have obtained a dispensation from ~~the a~~ Standards Dispensation Sub-Committee. Otherwise you must withdraw from the meeting room when business relating to your interest is being debated, determined. This means you must not be present for the entirety of the Item.

**Commented [EK2]:** This is the position of the government in respect of Disclosable Pecuniary Interests in its 'Openness and Transparency on Interests' guidance - that you cannot speak as a member of the public, and must leave the room if the council's standing orders require it

4.5 In addition, you should:

4.5.1 Consider employing an agent to act on your behalf in dealing with officers and any public speaking at Committee;

4.5.2 Consider Ask asking another elected member to represent any division views;

4.5.3 Not participate in ~~the processing of the application or the making of~~ any decision-making on the matter by the Council;

4.5.4 Not seek or accept any preferential ~~treatment ??or place yourself in a position that could lead the public to think you are receiving preferential treatment ??~~because of your position as a Member.

**Commented [EK3]:** Otherwise suggests you definitely should ask them, rather than just consider asking them

4.6 If you have another form of disclosable interest, ~~you should consult Part 12 of the Constitution, Code of Conduct, to determine if you may speak or remain in the room, then in accordance with Part 12 of the Constitution you may speak as a member of the public, and may remain in the room unless you consider it would be inappropriate in the circumstances.~~

**Commented [EK4]:** This covers during processing etc, so removal of reference above does not mean members may interfere there, just that it is not unreasonably proscriptive.

**Commented [EK5]:** If the changes to Part 12 are recommended.

4.7 It is acceptable for Members to nominate an alternative Member to undertake their planning responsibilities, including application 'Member request for call-in', if they have a conflict of interest or during periods of absence such as holidays or illness. -In the case of death or incapacity the group leader will nominate a stand in inMember to have responsibility for call-in for that Division, in consultation with the relevant Chairman.

**Commented [EK6]:** Clearer

## 5. Your role as a Member of the Planning Authority

- 5.1 To ensure that planning decisions are made openly, impartially, with sound judgment and for justifiable planning reasons.

## 6. The purpose of the Planning system

- 6.1 Planning has a positive and proactive role to play at the heart of local government in Wiltshire:
- 6.1.1 It helps the Council to stimulate growth whilst looking after important environmental assets.
  - 6.1.2 It can help translate goals into action
  - 6.1.3 It balances social, economic and environmental needs to achieve sustainable development.
- 6.2 Planning decisions are based on balancing many competing interests and making an informed judgement against a local policy (~~ie eg~~ local plan and neighbourhood plan) and national planning policy framework.
- 6.3 The decision-making process is open and transparent. Decisions can be controversial. The risk of controversy and conflict are heightened by:
- 6.3.1 the openness of a system which invites public opinion before taking decisions; and
  - 6.3.2 the legal nature of the development plan and decision notices.
- 6.4 In other words, ~~members~~ Members have to take into account not only relevant planning policy when making decisions, but they also have to be aware of the legal framework in which the planning system operates.

## 7. How the Planning system works

- 7.1 Planning applications registered by the Council are uploaded to the planning pages of the Council's web site, including details of the plans and reports submitted by applicants; ~~representations received by the Council~~ and consultation responses.
- 7.2 Each week; a list of applications that have been registered by the Council in the week leading up to publication ('the weekly list') is sent to Members. This contains a description of the proposal, including its location and the name of the ~~Planning Officer~~ case officer handling the application.
- 7.3 The Council receives ~~over 5,000~~ thousands of planning applications each year. To deal with this workload as efficiently and effectively as possible, the vast majority of these are dealt with by planning officers under delegated powers.

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7.4 The Scheme of Delegation to Officers ([Part 3D3 of the Constitution](#)) sets out the remits of the Strategic Planning Committee and Area Planning Committees and the rules relating to referring applications to a planning committee.

7.5 However, as a Member, you can request that a planning application in your division be referred to a planning committee and not be dealt with under delegated powers. This is known as a 'Member request for call-in' and is dealt with in [Section 12.2 – 12.10 below](#). There are a few exceptions, such as tree applications, that cannot be called-in and these are set out the Scheme of Delegation.

## 8. Procedure if the application is decided at committee

8.1 The committee procedure details [to be followed](#) are included at [this link](#).

## 9. Bias and Predetermination

9.1 Members of a planning committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application. This is because a planning decision may be challenged and ruled unlawful on the ground of bias. The test is:

*whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Member was biased.*

9.2 In particular, under the Council's Code of Conduct for Members, bias would occur if you place yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties.

9.3 The integrity of and public support for the planning process relies on Members of planning committees making decisions that are open, transparent and above board. To participate in decision-making on planning matters, it is essential that you do not have a closed mind and that you make your final decision only when you have seen and heard all the evidence and arguments presented, including the Officer's report and representations on both sides.

9.4 The [Localism Act 2011 Section 25](#) sets out the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This could, for example, occur where a Member clearly expresses an intention to vote in a particular way before a meeting. This can lead to legal challenges and planning decisions being set aside.

9.5 The Act makes it clear that a member is not deemed to have had a closed mind on an issue where they make it clear that they are willing to listen to all considerations presented at the committee before deciding on how to vote. A ~~M~~member may not, for

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example, be automatically prevented from participating in discussion of an issue or voting on it if they have made public statements about their approach to it. Advice should be sought from [representatives of](#) the Monitoring Officer in these circumstances.

- 9.6 The general position, however, remains that, whatever their views, Members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations ([a summary of these can be found at this link](#)), and must be prepared to change their views in light of all the information presented at the meeting if persuaded that they should.
- 9.7 If you are a Member of a Wiltshire Council planning committee and also a Member of a parish, town or city council, you can still take part in debates on planning proposals at parish/town/city council meetings, provided that:
- 9.7.1 You make it clear at the parish/town or city council meeting that any views you express are based on the limited information before you only and that you will not in any way commit yourself as to how you or others may vote when the proposal comes before a Wiltshire Council planning committee;
  - 9.7.2 You make it clear that you must reserve judgement and the independence to make up your own mind on each separate proposal, based on your overriding duty to the whole community and not just to the people in that parish, as and when it comes before the Committee and you hear all of the relevant information;
  - 9.7.3 When the development proposal comes up for consideration at a Wiltshire Council Planning Committee, you should disclose your interest regarding your membership or role at the town/city or parish council.

## **10. Discussions and contact with applicants, developers and objectors**

- 10.1 Discussions between a potential applicant and the Council can benefit both parties and are encouraged as a way of gathering information. They are not to be seen as a means of influencing Members.
- 10.2 Whilst potential applicants may seek the professional advice of planning officers in relation to relevant planning policies and material planning considerations, on major applications ([ieeg](#), sites of ten houses or developments of above 1000 square metres floorspace) officers will always encourage potential applicants to discuss their proposals with the local parish, town or city council before submitting a planning application.
- 10.3 Members have an important role to play in such pre-application discussions, bringing your local knowledge and expertise along with an understanding of community views.
- [10.4](#) As a community leader and local representative, you may want to be involved in relevant public meetings and discussions to help make sure that issues of local concern don't come to light for the first time at a planning committee meeting.

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~~40.4~~10.5 You can involve yourself as a Member in discussions with developers and others about planning matters provided you keep to the following guidelines, which also apply to officers:

~~40.4.1~~10.5.1 Where developers organise a public exhibition, or display of their proposals, or arrange a meeting with a parish, town or city council to which you are invited you can:

- visit/attend to examine the proposals;
- ask questions of the developers to ensure that you are fully informed of the nature of the proposals;
- feed in your own and your local community's concerns and issues;
- engage in discussion provided that you always make it clear that any views you express are personal and provisional and will not bind the Council to making a particular decision if an application is subsequently submitted.

~~40.4.2~~10.5.2 Where developers or prospective applicants approach you for an individual meeting you can attend an informal meeting subject to the following caveats:

- avoid giving separate advice on the development plan or material considerations;
- avoid being drawn into negotiations;
- refer those who approach you for planning, procedural or technical advice to officers;
- Advise those looking for policy guidance to examine the policies in adopted local plans, Neighbourhood Plans and the Local Development Framework. These are all available on the [Council's website](#).
- Avoid putting yourself in a position where you appear to favour a person, company or group.

~~40.5~~10.6 Irrespective of any position adopted in advance of a planning committee meeting you must have and be seen to have an open mind at the point of decision-making and base your decision on the information available at that time.

## 11. Lobbying and Members

11.1 Lobbying is a normal and proper part of the political process. Those who may be affected by a planning decision will often seek to influence it through an approach to their Division Member or to a member of the planning committee. However, it is important for Members to protect their impartiality and integrity in planning matters.

11.2 This Code of Good Practice recognises the value of listening to or receiving viewpoints from residents or other interested parties provided that you make it clear that your final position will be determined at the end of the planning process when you are aware of all of the material considerations.

11.3 Members' attention is drawn to the following advice:

- 11.3.1 **Do not** place yourself under a financial or other obligation to any person involved or affected by a planning proposal;
- 11.3.2 **Consider** referring any correspondence that you receive to the relevant Development Management Team Leader or the case officer at the earliest opportunity;
- 11.3.3 **Do not** put pressure on or lobby officers for a particular recommendation or decision;
- 11.3.4 **Do not** do anything which compromises or is likely to compromise the officer's impartiality or professional integrity;
- 11.3.5 **Do** promptly refer to the relevant Development Management Area Team Leader any offers made to you of planning gain or constraint of development, through a Section 106 Planning Obligation or otherwise;
- 11.3.6 **Do** Inform the Monitoring Officer where you feel that you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) who will in turn advise the appropriate officers to follow the matter up.
- 11.3.7 Planning decisions **cannot** be made on a party political basis. Political groups should never dictate how Members should vote on a planning issue and Members should not excessively lobby fellow Members regarding concerns or views, nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

Can I remain a member of an amenity society when it makes representations on planning matters?

11.4 There are many general interest groups who concentrate on issues beyond particular planning proposals. These include bodies such as the National Trust; CPRE; Wiltshire Archaeology and Natural History Society; Ramblers Association; local civic societies. It is acceptable to be members of these societies and participate fully in a meeting, provided that:

11.4.1 an interest is declared when that organisation has made representations on a particular proposal;

11.4.2 you make it clear that you have reserved judgement and the independence to make up your own mind on each separate proposal.

11.4.211.4.3 Your interest is not an Other Registerable Interest(ORI) or Non-Registerable Interest (NRI) as defined by Table 2 of Part 12B of the Constitution.

11.5 ~~However, if you lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals, y~~ou should seek the advice of the Monitoring Officer about any decisions to be made affecting ~~that an~~ organisation of which you are a member.

## 12. Decision making

12.1 By law, the council has to make decisions in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan includes the Wiltshire Core Strategy and any made Neighbourhood Plans. The National Planning Policy Framework (NPPF) sets out Government planning policy and is also a material planning consideration.

### Member request for Call-in

12.2 As a Member, you can request that a planning application in your division be referred to a planning committee and not be dealt with under delegated powers. This is known as a 'Member request for call-in'. There are a few exceptions, such as tree applications, that cannot be called-in and these are set out in the Scheme of Delegation (Part 3D3 of the Constitution).

12.3 Before deciding whether to request call-in of any application, you should seek to discuss the matter with the Planning Officer handling the application, or in their absence, with one of the Area Team Leaders overseeing applications in your division.

12.4 If you are in agreement with their likely course of action, it will seldom be necessary for the application to be placed before a planning committee. If you are not in agreement, then you will need to activate the Member request for call-in procedure.

12.5 While you may be requested by an agent, applicant or parish council to call an application to committee, it is important to carefully consider each request on its planning merits and discuss with the planning officer before agreeing to request a call-in.

12.6 To request call-in of an application, you need to complete the [on-line call-in request form](#). The proforma must record the planning reasons why the committee should deal with the application.

12.7 Requests to call-in an application **must be received within 21 days of the circulation of the weekly list** on which the application is recorded, although there are some very limited exceptions to this time limit detailed in the Scheme of Delegation. For example, the time limit is 15 days for applications for Permissions in Principle.

~~12.8~~ The reason for this is that the Government lays down strict time limits for the determination of planning applications, and if these are exceeded applicants may appeal to the Secretary of State, taking the matter out of the hands of the Council.

12.8 As applications may be amended during the consultation process, often dealing with issues that have been raised, Members may withdraw their requested call-in at any time up until a committee agenda is published containing a report on the called-in application. Once a report on an application has been published on a committee agenda, the committee will proceed to determine the application (unless the application is withdrawn by the applicant or their agent before the meeting takes place).

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12.9 Members ~~can request to will~~ be kept advised as to the likely date when the application they have requested to be called-in will be put before a planning committee for determination, where possible 10 working days prior to the meeting, or no later than when the applicant is notified of the likely date, whichever is earlier. However, as any date may not be able to be confirmed for all parties until close to the publication date for a committee meeting as details are finalised, 5 clear working days prior to a meeting. Members are requested not to publicise the likely date until the confirmation is received.

**Commented [EK7]:** This has been worded because formal confirmation of an item being on an agenda is often right on the wire, as more information comes in all the time - applicants will have an idea of the likely date, and this wording firms up that local members should also be given an idea of the likely date, but they do not get formal notification until the agenda is about to be published.

The wording sets out 'where possible' 10 working days to encourage that indicative date to members as soon as can be managed, whilst acknowledging that confirmation is not able to occur until later.

12.10 While there is a strong presumption that the Division Member's request for call in should prevail, if another Member (~~ieeg~~, one from a neighbouring division which is materially affected by the development) thinks an application should go to committee, they can make that request in the same way as a request within their own division.

#### Meeting Reports

12.11 Members should arrive at meeting with an open mind and make a decision only after due consideration of all the information reasonably required to make that decision including any matters reported at the meeting.

12.12 Members should expect to receive officer reports that are accurate and include the substance of any objections and consultation responses. The reports should contain a clear assessment of the proposal against the relevant policies of the development plan and any other material planning considerations, with a written recommendation for a decision to be made. If the report's recommendation is contrary to the provisions of the development plan, the material considerations that justify the departure must be clearly stated.

12.13 If you feel that there is insufficient information before you to make an informed decision, you should request such further information. In the absence of such further information it may be necessary for the application to be deferred or even refused.

#### Site Visits

12.14 See [Schedule 1 – Wiltshire Council Planning Site Visit Protocol](#) – for full details.

12.15 Members will be expected to be familiar with the site and the issues surrounding the application when they arrive at a committee meeting. It is acceptable to visit the site and surrounding properties that may be affected by the proposal as an individual Member before the meeting, although Members should not enter onto a site without the consent of the owner.

12.16 On no account should Members express a view on the merits of the application to anyone, including the applicant, owner or any third party.

12.17 The Head of Development Management may, after consultation with the chairman of the relevant committee, arrange for an organised site visit before the committee meeting by

the committee where this is considered necessary for major and/or controversial applications, or other exceptional circumstances.

12.18 The committee reports, and officer presentations should provide ample information for Members to determine applications. If there has been no organised site visit prior to the meeting Members at a committee may, exceptionally, feel that a site visit is appropriate to assess the implications of the development.

12.19 In these cases, Members must give reasons for the site visit before consideration of the application for deferral pending the visit. The site visit will be arranged by officers and although the owner's permission will be required, there should be no dialogue with members of the public or applicant/owner during the visit. The application will then be re-listed on ~~the following a future agenda, usually for the next meeting.~~

**Commented [EK8]:** In case there is a good reason for a longer delay

#### Public Speaking at Meetings

12.20 The council has an established procedure in respect of public participation at planning meetings [as linked to at section 8](#). This should be complied with in the interests of equity.

12.21 In particular, it is not permissible during meetings for members of the public to communicate with members either orally or in writing once debate has commenced, as it could be seen as seeking to influence a member improperly and may give the appearance of bias.

#### Decisions Contrary to Officer Recommendation

12.22 Planning committees can, and often do, make a decision which is different from the officer recommendation. Sometimes this will relate to conditions, or sometimes it will change the outcome, from an approval to a refusal or vice versa. This will usually reflect a difference in the assessment of how a policy has been complied with, or different weight ascribed to material considerations.

12.23 If a Member is concerned about an officer recommendation, it may be helpful to discuss their areas of difference and the reasons for that with officers in advance of the committee meeting. A better mutual understanding of each other's reasons may avoid misunderstandings at the meeting.

12.24 In circumstances where Members are proposing a decision contrary to the officer recommendation, ~~Members they~~ should be prepared to give a full explanation of their planning reasons, including reference to relevant policies, for not agreeing with the officer's recommendation. This is because the applicant and members of the public should be clear about why a decision has been made. The reasons for the decision must be given prior to the vote and be recorded in the minutes.

12.25 The Planning Officer should also be given an opportunity to explain the implications of any contrary decision, including an assessment of any reasons put forward for refusal, or conditions suggested for approval. Where a refusal is proposed, this may include an

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assessment of a likely appeal outcome and chances of a successful award of costs against the Council, should one be made.

12.26 In exceptional circumstances, the meeting may be briefly adjourned, or the application may be deferred to the next available meeting, to enable proper consideration to be given to the wording needed to achieve members' objectives or Members may delegate to the officers the imposition of and detail of suitable conditions.

12.27 Reasons for refusal against officer advice must be:

- 12.27.1 planning related;
- 12.27.2 clear;
- 12.27.3 evidence based.

This is because at any subsequent appeal, should one be lodged, a Planning Inspector will carefully scrutinise the reasons and the evidence relied upon.

12.28 In cases where members have overturned a recommendation and the applicant lodges an appeal, most appeals will be defended by the Planning Officers employed by the Council. However, there may be rare cases at hearings or public inquiries where planning officers are unable to defend the reasons put forward by Members and no external professional can be called upon.

12.29 In these circumstances, Members may be required to defend that decision, appearing as the Council's witness. Officers will assist and support but may not be able to give evidence. This is because if they have taken a different stance on the application leading up to the decision, cross examination of them as witnesses at any subsequent appeal will weaken the Council's case

### 13. Training

13.1 Planning is a complex area, but one that generates a great deal of interest amongst local residents and is at the heart of much of the activity of the Council. Great care needs to be taken over procedural matters and to ensure that consideration of applications takes place in a clear and open manner and that decisions are based on sound planning principles.

13.2 For these reasons, it is mandatory for all elected members of Wiltshire Council to undergo training in planning matters prior to sitting on a planning committee. All elected ~~M~~members will be able to attend this training and it will be arranged immediately after each election. For those elected at by-elections, similar training will be made available.

13.3 The legislation surrounding planning matters is often subject to change. Officers will provide ongoing training, which is also mandatory, including updates through written briefings, e-learning and training events and will be happy to answer questions that Members may raise on planning matters.

#### 14. The role of officers

- 14.1 Officers and members work together to deliver the right development at the right place at the right time, whilst protecting the built and natural environment. It is therefore essential that there is mutual trust and understanding between officers and members.
- 14.2 Officers will advise and assist members in their formulation of planning advice and the determination of applications and will provide:
  - 14.2.1 Impartial and professional advice;
  - 14.2.2 Committee reports that include a clear and accurate analysis of the issues in the context of the relevant development plan and other material considerations;
  - 14.2.3 Details of the representations and views of those who have been consulted; and
  - 14.2.4 a clear recommendation of action.

# SCHEDULE 1 TO PROTOCOL 4– WILTSHIRE COUNCIL PLANNING SITE VISIT PROTOCOL

## 1. Arranging the visit

1.1 When Members have decided in committee that they would like to visit a site, they will be asked to agree a time and date at the end of the meeting. If this is not possible, or a site visit has been determined to be appropriate by the Director, Planning or Head of Development Management, a schedule for the visit will be agreed between the ~~chairman~~ Chairman and officers.

**Commented [EK9]:** Protocol 4 sets out site visit may be agreed prior to a meeting

1.2 ~~Democratic services Officers~~ will then notify the applicant or their agent of the time and date of the site visit and seek authority for Members and offices to visit the site. Where the application site is on private land, the applicant or agent will be requested to be in attendance only to facilitate access.

1.3 All members of the relevant committee, ~~(including any substitutes)~~, will be invited to attend the site visit as will the local division member should ~~he or she~~ they not be on the committee. Where a proposal would have a significant impact on an adjoining division, the adjoining division member will similarly be invited to attend.

1.4 On occasion, officers of other services such as highways or drainage may be invited ~~(by the Head of Development Management or the relevant Area Team Leader)~~ to attend a site visit to clarify factual matters.

~~4.1.5~~ Local City, Town or Parish Councillors, or any other parties, are not permitted to attend the Committee site visit.

**Commented [EK10]:** This is already the case as they are not listed in this schedule, but included for avoidance of doubt.

~~4.5.1.6~~ Members are reminded that they have no right of entry to private land except by permission of the owner and that they and officers should not enter a private site until all are present and an officer has made contact with the landowner/operator/applicant.

This is because the purpose of the visit is to assist the committee who are to determine the application, it is not a general information briefing for any interested party

~~4.6.1.7~~ In the unlikely event that the landowner will not give permission to enter a private site, the site will have to be viewed from public highway.

## 2. Conduct of the visit

2.1 The purpose of the site visit is to enable Members to familiarise themselves with the site and its surroundings in order to understand the planning issues related to the proposal more clearly when considering the application at committee.

2.2 While it may be necessary for an applicant or his agent to be present on the site (e.g. to provide access or for safety reasons), it is important that discussions between Members and the applicant or their agent or any third party should be avoided and they will be strongly advised that lobbying of Members is unacceptable. Factual information regarding the site should only be provided by the planning officer as detailed at 2.5.

**Commented [EK11]:** Strengthen wording

2.3 At the request of the Chairman, and after taking a note of the Members present for the site visit, the planning officer will describe the proposal to Members and will display and/or circulate appropriate plans or drawings of the proposal. (It is expected that Members will already be familiar with the planning officer's report)

2.4 The planning officer will indicate matters of fact in relation to the proposal and surrounding land which Members should take into account when the application is brought back before them for determination.

2.5 Questions by Members should be addressed to the planning officer and be of a factual nature, for example, distances to adjoining or objectors' properties; the landscape features to be retained; the status of any nearby heritage assets. If it is necessary to seek information from the applicant or agent on site this will be done by an officer.

2.6 At no time during the site visit should Members debate or comment on the planning merits or otherwise of a proposal. The application will be debated in public at a subsequent planning committee meeting.

2.7 On occasion, it may be helpful to Members to view the site from a neighbouring property. This should only be done where consent has been obtained by officers from the landowner concerned and again, at no time should Members debate or comment on the planning merits of the proposal.

2.8 The role of the local division member at the site visit will be limited to drawing attention to features of the site and its surroundings that he/she considers relevant to the committee's understanding of the site, its surroundings and the proposal. The local member will not be permitted to make representations on the merits or otherwise of the application.

### **3. General**

3.1 Members should avoid being separated; it is essential that they should not allow themselves to be lobbied at the site visit or enter into a debate about the application with any third party, including applicant, agent, supporters or objectors, as this could create a perception of bias.

3.2 Members should ensure that they have seen all aspects of the site suggested by the accompanying officer or the Chairman during the visit.

3.3 Members will not make any decision at the site visit and individual Members should keep an open mind about the merits or otherwise of the proposal to which the site visit relates.

3.4 The application will usually be the first item on the agenda of the following Planning Committee meeting where the decision will be made.

### **4. Record of the visit**

4.1 A record of the visit will be retained on the planning application file. The record will include the timetable for the meeting, attendees and what matters were viewed on site.

4.15.

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## **5.6. Notes**

**5.16.1** Officers will identify relevant health and safety issues for all site visits. All health and safety instructions, as issued by the site owner/operator must be strictly followed.

**5.26.2** Where appropriate, protective clothing e.g. visibility jackets, hard hats will be provided for Members on arrival at the site. Members should, however, be aware of the need to wear appropriate footwear.

**5.36.3** In the interests of sustainability and highway safety, it is recommended that car-sharing opportunities be used where practical to minimise travelling and parking.

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## Planning Committee Meeting Procedure and Public Speaking

1. This procedure for all planning committee meetings is provided for in respect of Paragraph 8 of Protocol 4 (Planning Code of Good Practice) to the Constitution.

**Commented [EK1]:** To clarify that this procedure is linked to from the Protocol, as the formal procedure to be followed.

2. In the interests of fairness, consistency and transparency, the procedure below should be complied with by each planning committee. Members of the public in particular should note that it is not permissible during meetings to communicate with members debating the proposal either orally or in writing, as this may give the appearance of bias. Any participation in the meeting and regarding the application should be as set out below in this procedure.

### Agenda Order

4.3. Applications will be determined in the order they appear on the agenda unless the Chairman, with the agreement of the Committee, has valid reasons for changing the order.

**Commented [EK2]:** To avoid argument over what constitutes a valid reason

2.4. Officers will seek to ensure that applications which are likely to attract large numbers of attendees appear earlier in the agenda.

3.5. If the order is changed, this will be announced at the start of the meeting.

### Meeting Procedure

4.1. In the interests of fairness, consistency and transparency, the procedure below should be complied with by each planning committee. Members of the public in particular should note that it is not permissible during meetings to communicate with members debating the proposal either orally or in writing, as this may give the appearance of bias. Any participation in the meeting should be as set out below.

6. For each application or item to be determined at the meeting the Planning Officer or another officer will introduce the application and the key issues involved, as well as the reasoning behind the recommendation as set out in their report.

**Commented [EK3]:** To clarify the same procedure used for items like rights of way

5.7. They will also set out any representations, amended plans or material considerations which have been received or come to light in the period between the publication of the agenda and the committee meeting, including those contained within any agenda supplement. Representations should be provided no later than noon the day prior to the meeting, in order to ensure officers have opportunity to assess and validate the materials for summary to Committee Members.

**Commented [EK4]:** This was included for clarity when the procedure was updated for remote planning committees

6.8. Committee Members may then ask the officer to clarify any factual or other points and ask technical questions regarding the application or item.

**Commented [EK5]:** This wording is proposed to encourage people to submit relevant late material with sufficient time for it to be properly assessed. However, it is a 'should' not a 'must', so any very urgent new information from any party could still be considered if necessary or appropriate.



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~~7-9.~~ Members of the public who wish to make representations opposing the application will then be invited to do so. Up to three speakers will be invited for up to three minutes each.

~~8-10.~~ Members of the public who wish to make representations in support of the application will then be invited to do so. This section includes the applicant, the agent, and any other professionals employed by the applicant. Up to three speakers will be invited for up to three minutes each.

~~9-11.~~ Statutory Consultees who wish to make representations will then be invited to do so for up to three minutes each, whether in support or in objection to the application.

~~10-12.~~ ~~The A city, town, or~~ parish council representative for the area in which the applications sits, if present, will then be invited to make a representation of up to four minutes. This must be the formal view of the ~~parish-relevant~~ council, not an individual representation. If the application is on the edge of several parishes which are directly affected, the Chairman may allow ~~representatives for~~ other parishes, to a maximum of three total, to speak for up to four minutes each. Other members of a ~~city, town, or~~ parish council may register to speak, ~~whether in agreement or disagreement with the formal view of the relevant council~~, but would need to utilise a public speaking slot.

~~13.~~ The ~~U-nitary D-ivision M-ember~~ for the application, ~~if present~~, will then be invited to make a representation. ~~They will not be restricted to a five minute representation.~~

~~14-14.~~ The Chairman may allow a neighbouring or any other ~~M-ember~~ of the ~~C-ouncil~~ to make a representation at this time if they consider it appropriate. ~~Non-committee members should give notification to the Chairman prior to the meeting if they wish to speak. In these circumstances the Member will have up to five minutes to make a representation. The Chairman may choose to take additional Members prior to the Local Member's comments.~~

~~15-15.~~ The ~~P-lanning O-fficer or another officer~~ will then have an opportunity to respond to comments or provide clarification of ~~fn~~ any points raised by the public or ~~M-embers~~.

~~16-16.~~ The Committee will then debate the application. The first ~~M-ember~~ to speak will be expected to move a proposal for deliberation. The rules of debate as detailed in Part 4 of the Constitution will ~~apply~~.

**Commented [EK6]:** Was included for clarity when the procedure was updated for remote planning committees

**Commented [EK7]:** Suggested to be explicit that local members may speak for longer than 5 minutes, as under general procedural rules it is at discretion of chairman to allow more than 5.

Additional element to encourage some concision?

**Commented [EK8]:** Was included for clarity when the procedure was updated for remote planning committees

**Commented [EK9]:** Suggested to preserve the status of the local member, who explicitly has more time than the standard debate time limit.

**Commented [EK10]:** This would suggest limitation to 5 minutes speaking without consent of the chairman - so they do have the power to ask even local members to wrap up. Propose to update para 13, so to make explicit local members are not so restricted

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### **General Public Participation Registration and Details**

~~44-17.~~ In the case of all public speaking ~~categories~~slots, speakers must register with Democratic Services no later than 10 minutes before the start of the meeting. ~~Public Participants~~ are encouraged to contact Democratic Services sooner in order to register, ~~but not prior to the publication of the agenda~~after publication of the agenda.

~~18.~~ If more than three persons wish to speak ~~in opposition or support on of~~ an application, they will be listed on a first come first served basis, ~~and if~~ at the registration deadline a speaker does not confirm their attendance in person, the opportunity to speak will be offered to ~~someone else if appropriate~~the next person in the list.

~~45-19.~~ Prior to the meeting speakers will be advised to coordinate themselves where possible and, regardless of order of registration, if they are in agreement any chosen three may speak in whichever order they wish. In the absence of agreement, the Chairman will usually take the speakers in the order as registered. Exceptionally, the Chairman may select speakers in a different order than as registered, for example if the first three speakers registered were all from the same organisation or household, in order to ensure a broad inclusion of views.

**Commented [EK11]:** The remote meeting procedure included a provision like this, to give some guidance to the chairman on applying discretion in the rare event it may be appropriate to take speakers in a different order

~~46-20.~~ While the Chairman of a committee has discretion over the timings and number of speakers in the case of controversial or large-scale applications, in the interests of natural justice it is imperative that any increase is applied equally between those speaking for and against the application.

~~47-21.~~ No contributions from the public will be accepted outside the public speaking slots detailed above.

### **Questions and Petitions**

~~22.~~ Submitted questions and petitions on non-determined planning applications are excluded from the usual council procedures at Part 4 of the Constitution.

~~48-23.~~ This means that any questions or petitions in relation to an agenda item at a meeting will be logged by planning officers as a representation and addressed in their introduction of the item.

**Wiltshire Council  
Constitution  
Protocol 12  
Police and Crime Panel  
Arrangements and  
Procedure Rules**

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# PROTOCOL 12A

## WILTSHIRE POLICE AND CRIME PANEL

### ARRANGEMENTS

#### 1. Purpose

- 1.1 Wiltshire Council and Swindon Borough Council have agreed the following arrangements to establish and maintain a Police and Crime Panel ('the Panel') for their police force area as per the requirements of The Police Reform and Social Responsibility Act 2011 ('The Act')<sup>1</sup>
- 1.2 The purpose of this arrangement is to support the functions of the Panel as specified in the Act and as agreed by respective Full Council meetings of both Authorities. These functions are outlined in Part 3 Section 5 of Wiltshire Council's Constitution.
- 1.3 Both Authorities and each Member of the Panel must comply with these Panel arrangements.
- 1.4 Both Authorities must agree to any modification to the Panel arrangements.<sup>2</sup>
- 1.5 The Panel is a joint committee of the Authorities.<sup>3</sup> The Panel may not exercise any functions other than those conferred to it by the Police Reform and Social Responsibility Act 2011.<sup>4</sup>
- 1.6 The Panel has been given authority by the Act to review and scrutinise the decisions and actions taken by the Police and Crime Commissioner for Wiltshire ('the Commissioner') in connection with the discharge of the Commissioner's functions. These give it certain powers including:
  - 1.6.1 To review the draft Police and Crime Plan and make recommendations to the Commissioner, who must consider them.
  - 1.6.2 To review the Commissioner's annual report, on the progress made towards their plan, and make recommendations at a public meeting, which the Commissioner must attend.
  - 1.6.3 Responsibility for complaints about the Commissioner, although serious complaints and conduct matters must be passed to the Independent Office for Police Conduct in line with legislation.
  - 1.6.4 To require the Commissioner to attend the Panel to answer questions.
  - 1.6.5 To veto the Commissioner's proposed precept, the amount people pay through their council tax for policing, by a two-thirds majority of its total Membership.
  - 1.6.6 To veto by a two-third's majority of its total Membership the Commissioner's proposed candidate for Chief Constable

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<sup>1</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 2, Para 3 (2)

<sup>2</sup> Ibid Schedule 6, Part 2, Para 3 (3)

<sup>3</sup> Ibid, Schedule 6, Part 2, Para 4 (5b)

<sup>4</sup> Ibid, Schedule 6, Part 2, Para 4 (6)

- 1.6.7 To appoint an acting Commissioner where the incumbent Commissioner is incapacitated, resigns or is disqualified.
  - 1.6.8 To make recommendations about the appointment of the Deputy Commissioner as well as the Chief Executive and Chief Financial Officer of the Commissioner's Office.
  - 1.6.9 To support the effective exercise of the functions of the Commissioner.
- 1.7 The Panel is not responsible for the scrutiny of operational police matters.
- 1.8 The Panel must have regard to the Policing Protocol Order 2011, or any successor Protocol, which sets out the ways in which the Home Secretary, the Commissioner, the Chief Constable and the Panel should exercise, or refrain from exercising, functions.
- 1.9 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Act, and any Regulations made in accordance with it, and in the event of any conflict between the Act or Regulations, and these arrangements, the requirements of the legislation will prevail.

## **2. Membership and Political Balance**

- 2.1 A person may not be a Member of the Panel if they are the following:
- 2.1.1 The Commissioner.<sup>5</sup>
- 2.2 A person may not be a Co-opted Member if they are also any of the following:
- 2.2.1 A Member of Parliament.
  - 2.2.2 A Member of the National Assembly for Wales.
  - 2.2.3 A Member of the Scottish Parliament.
  - 2.2.4 A Member of the Office of the Commissioner.
  - 2.2.5 A Member of the civilian staff of Wiltshire Police.
  - 2.2.6 A Member of the European Parliament.<sup>6</sup>
- 2.3 The balanced appointment objective requires that the Local Authority Members of the Panel (which includes Members appointed by the Authorities and Co-opted Members who are elected Members of any of the Authorities) should:
- 2.3.1 represent all parts of the police force area;
  - 2.3.2 represent the political make-up of the Authorities; and,
  - 2.3.3 taken together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.<sup>7</sup>
- 2.4 The Panel shall consist of 11 Members appointed by the Authorities in accordance with the requirements of the balanced appointment objective contained within the Act, as follows:
- 2.4.1 Wiltshire Council - seven Members

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<sup>5</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4 (21)

<sup>6</sup> Ibid, Schedule 6, Part 4 (22)

<sup>7</sup> Ibid, Schedule 6, Part 4, Para 31 (5)

## 2.4.2 Swindon Borough Council - four Members

- 2.5 The Panel shall also include a minimum of two independent Members Co-opted by the Panel.
- 2.6 Co-opted Members shall serve for a period of four years on the Panel. There is no restriction on the number of terms that any Co-opted Member can serve.
- 2.7 The validity of the proceedings of the Panel is not affected by a vacancy in the Membership of the Panel or a defect in appointment.<sup>8</sup>
- 2.8 All Members shall observe the Code of Conduct of the host authority. Swindon Borough Council Members are also bound by their own Code.

### 3. Appointment, Resignation and Removal of Members

#### Appointment

- 3.1 The Panel shall put in place arrangements to ensure that appointments of Co-opted Members are undertaken following public advertisement in accordance with the following principles:
  - 3.1.1 The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;
  - 3.1.2 The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre-determined criteria; and,
  - 3.1.3 The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.
- 3.2 Appointments of elected Members to the Panel shall be made by each of the Authorities in accordance with their own procedures and with a view to ensuring that the balanced appointment objective of the Act is met so far as is reasonably practicable. All Members of the Authorities are eligible to be Members of the Panel. The Host Authority shall take steps to coordinate the Authorities with a view to ensuring that the balanced appointment objective is achieved.<sup>9</sup>
- 3.3 The Authorities shall both nominate elected Members to be Members of the Panel. If a nominated Member agrees to the appointment the Authority may appoint the Member as a Member of the Panel.

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<sup>8</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 30

<sup>9</sup> Ibid, Schedule 6, Part 2, Para 4a and  
Ibid, Schedule 6, Part 3, Para 13 (2)

- 3.4 If an Authority fails to nominate a Member within 21 days of either their annual Full Council, or after the first meeting of the Authority to be held after the power to nominate arose, they must notify the Home Office.<sup>10</sup>
- 3.5 The relevant Authority must notify the Home Office where they fail to appoint a Councillor to the Panel within 14 days of the Councillor accepting nomination to the Panel.<sup>11</sup>
- 3.6 In the event that an Authority does not appoint a Member or Members in accordance with their procedures, and there are fewer than 10 Members on the Panel appointed by the Authorities the Secretary of State must appoint a Member to the Panel from the defaulting Authority/Authorities in accordance with the provisions in the Act.<sup>12</sup>
- 3.7 In the event that an Authority does not appoint a Member in accordance with their procedures, and there are 10 Members on the Panel appointed by the Authorities the Secretary of State may appoint a Member to the Panel to achieve the balance appointment objective.
- 3.8 The Panel must from time to time decide whether the Panel should exercise its power to change the number of Co-opted Members of the Panel to enable the balanced appointment objective to be met, or be more effectively met, and if so, it must exercise that power accordingly.<sup>13</sup>
- 3.9 The Panel may resolve to have more than two Co-opted Members, subject to the agreement of the Secretary of State and as long as the total Membership of the Panel, including Co-opted Members, would not exceed 20.<sup>14</sup>
- 3.10 An elected Member of any of the Authorities may not be a Co-opted Member of the Panel where the number of Co-opted Members is two. If the Panel has three or more Co-opted Members an elected Member of any of the Authorities may be a Co-opted Member of the Panel provided that at least two of the other Co-opted Members are not elected Members of any of the Authorities.<sup>15</sup>
- 3.11 Additional elected Members may be requested to ensure the Panel represents all parts of the relevant police area and the political make-up of the relevant local authorities.<sup>16</sup> Co-option of individual additional Local Authority Members must be unanimously agreed by the Panel.<sup>17</sup> An increase in Membership from 11 elected Members would also require agreement by both Authorities to the amendment to these Panel Arrangements to reflect the new total.

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<sup>10</sup> The Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 Guidance, pg.1

<sup>11</sup> Ibid, pg.2

<sup>12</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 3, Para 18

<sup>13</sup> Ibid, Schedule 6, Part 4, Para 31 (4a)

<sup>14</sup> Ibid, Schedule 6, Part 2, Para 4 (4)

<sup>15</sup> Ibid, Schedule 6, Part 4, Para 23 (2)

<sup>16</sup> Ibid, Schedule 6, Part 2, Para 5 and

<https://www.gov.uk/government/publications/police-and-crime-Panels/police-fire-and-crime-Panels-guidance#Panels-in-england>

<sup>17</sup> The Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 Guidance, pg.1



### Resignation and Removal

- 3.12 A Member may resign from the Panel by giving written notice to the Proper Officer at Wiltshire Council.
- 3.13 In the event that an appointed Member resigns or is removed from the Panel, the relevant Authority shall immediately take steps to nominate and appoint an alternative Member to the Panel.
- 3.14 Where a Co-opted Panel Member fails to attend at least two meetings of the Panel over a six-month period then the Lead authority shall recommend that due consideration is given to removing the Member from the Panel and to the appointment of a replacement Member.
- 3.15 If they are a Co-opted Member, then the Panel shall make arrangements to appoint a replacement. The only exception to this would be if the Panel were to have more than two Co-opted Members and wished to reduce the number of Co-opted Members. Should the Panel wish to change the number of Co-opted Members it must notify the Home Office.<sup>18</sup>
- 3.16 An Authority may decide in accordance with their procedures to remove their appointed Member from the Panel at any point and on doing so shall give notice to the Proper Officer at Wiltshire Council.
- 3.17 The Panel may decide to terminate the appointment of a Co-opted Member of the Panel if at least two-thirds of the persons, present and voting, who are Members of the Panel at the time when the decision is made, vote in favour of making that decision at any time for the reasons set out below and on doing so shall give written notice to the Co-opted Member:
- 3.17.1 if the Co-opted Member has been absent from the Panel for more than six months, missing at least two meetings during that time, without the consent of the Panel;
  - 3.17.2 if the Co-opted Member has been convicted of a criminal offence but not automatically disqualified;
  - 3.17.3 if the Co-opted Member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a Co-opted Member of the Panel; or,
  - 3.17.4 if the Co-opted Member's Membership of the Panel no longer achieves the meeting of the balanced appointment objective.

## **4. The Host Authority**

- 4.1 Wiltshire Council shall be the host authority for the Panel and shall provide such administrative and other support as will be necessary to enable the Panel to undertake its functions.

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<sup>18</sup> The Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012 Guidance, pg.2)

4.2 Support and guidance will be provided to Members and Officers at both Authorities as well as Co-opted Members of the Panel in relation to the Panel's functions.<sup>19</sup>

## **5. Promotion of the Panel**

5.1 The Panel shall take measures to promote its role including through the publication of its minutes and agendas on the host Authority's website.

5.2 A copy of the Panel Arrangements and Procedure Rules is to be made available on the part of the host Authority's website relating to the Panel.

## **6. Budget and Costs of the Panel**

6.1 The annual costs of the Panel shall be contained within the Home Office grant.

6.2 The payment of a responsibility allowance to Panel Members shall be considered and a recommendation sought from the Independent Remuneration Panel of each council as to whether the payment of such an allowance is appropriate.

6.3 Reasonable expenses will be reimbursed by each authority with the host Authority reimbursing the expenses of the Co-opted independent Members.

## **7. Modification of the Procedure Rules**

7.1 The Rules of Procedure shall not be amended unless notification of a proposed amendment is received by the Proper Officer Wiltshire Council at least 10 working days prior to a Panel meeting.

7.2 A report on the implications of the proposed amendment shall be considered by the Panel and the amendment shall require the agreement of at least two thirds of the persons who are Members of the Panel at the time when the decision is made.

7.3 No amendment may be considered by the Panel which does not comply with the Act, relevant Regulations or Panel Arrangements.

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<sup>19</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 29

# **PROTOCOL 12B**

## **WILTSHIRE POLICE AND CRIME PANEL**

### **RULES OF PROCEDURE**

#### **1. Meetings of the Police and Crime Panel**

- 1.1 The Police and Crime Panel (The Panel) will follow the procedure rules of the Host Authority, found in Part 4 of Wiltshire Council's Constitution.
- 1.2 Where the Procedure Rules differ from those of the Host Authority then the Panel's Procedure Rules shall apply in place of those of the Host.
- 1.3 The Panel's agendas and minutes will be published in accordance with the statutory requirements set out in Section 100 Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (as reflected in Part 5 of Wiltshire Council's Constitution).
- 1.4 The Panel shall hold a minimum of four meetings per year.
- 1.5 An extraordinary meeting may be called by the Chairman or by four Members of the Panel, or the Monitoring Officer of Wiltshire Council.
- 1.6 Any Member of the Panel shall be entitled to give notice to the Director, Legal and Governance, Wiltshire Council, that they wish an item relevant to the functions of the Panel to be included on the agenda for the next available meeting.
- 1.7 Items will be rejected where they do not relate to a matter for which the Panel has a responsibility for, require confidential information to be disclosed or are deemed improper or inappropriate for the meeting.
- 1.8 The Chairman's ruling will be final.

#### **2. The Chairman**

- 2.1 The Chairman and Vice-Chairman of the Panel will be appointed at the first meeting of the Panel following the annual confirmation of Members to the Panel by the constituent councils. Any Member of the Panel, including Co-opted Members, may be elected as Chairman or Vice-Chairman.
- 2.2 In the event of the resignation of the Chairman or removal of the Chairman, a new Chairman will be appointed.
- 2.3 The Chairman may be removed by a majority vote of the Panel. In the event the Chairman is removed, the Panel will vote to appoint a replacement.
- 2.4 The Panel will elect a person to preside at a meeting if the Chairman and Vice-Chairman are not present.

### **3. Public Participation**

- 3.1 Members of the public are able to ask questions or make a statement in relation to the responsibilities and functions of the Panel at each meeting.
- 3.2 A question will be rejected where it:
  - 3.2.1 does not relate to the responsibilities and functions of the Panel;
  - 3.2.2 directly relates to operational Police matters;
  - 3.2.3 is defamatory, frivolous, offensive, vexatious, unlawful or otherwise improper;
  - 3.2.4 relates to any non-determined planning or licensing application;
  - 3.2.5 requires the disclosure of confidential or exempt information;
  - 3.2.6 names or identifies individual service users, Members of staff or Members of staff of partner agencies, other than the Police and Crime Commissioner ('the Commissioner') or Chief Constable;
  - 3.2.7 is considered by the Chairman to be inappropriate for the particular meeting.
- 3.3 The Chairman's ruling on rejection of a question will be final following consultation with the Monitoring Officer.
- 3.4 The rules and deadlines relating to public participation contained within Part 4 of Wiltshire Council's Constitution will apply.
- 3.5 The Chairman may reject a supplementary question on the grounds listed in paragraph 3.2 above (reasons for rejection). A supplementary question may not include an additional preceding statement.
- 3.6 Ordinarily, no debate shall be allowed on questions presented or responses given. In exceptional circumstances only, the Chairman may allow discussion.

### **4. Decision Making**

- 4.1 All Panel Members may vote in the proceedings of the Panel.<sup>20</sup>
- 4.2 The rules of debate of the Panel shall be governed by the rules relating to meetings of Wiltshire Council committees in Part 4 of Wiltshire Council's constitution.

### **5. Special Functions of the Panel**

- 5.1 The Panel has the below special functions derived from the Police Reform and Social Responsibility Act 2011:<sup>21</sup>
  - 5.1.1 Scrutiny of the Commissioner's draft Police and Crime Plan.<sup>22</sup>
  - 5.1.2 Scrutiny of the Commissioner's annual report.<sup>23</sup>
  - 5.1.3 Scrutiny of senior appointments in the Office of the Commissioner.<sup>24</sup>

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<sup>20</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 26

<sup>21</sup> Ibid, Schedule 6, Part 4, Para 27 (2)

<sup>22</sup> Ibid, Part 1, Chapter 4, Section 28 (3)

<sup>23</sup> Ibid, Part 1, Chapter 4, Section 28 (4)

<sup>24</sup> Ibid, Schedule 1, Paras 10 and 11

5.1.4 Scrutiny of Precepts.<sup>25</sup>

5.1.5 Scrutiny of the appointment of the Chief Constable.<sup>26</sup>

## **6. Police and Crime Plan**

6.1 The Panel must review the draft Police and Crime Plan, or draft variation, given to the Panel by the Commissioner and make a report or recommendations on the draft plan or variation to them.<sup>27</sup>

## **7. Annual Report**

7.1 The Commissioner must produce an annual report about the exercise of his/her functions in the financial year and progress in meeting police and crime objectives in the year. The report must be sent to the Panel for consideration.<sup>28</sup>

7.2 The Panel must comment upon the annual report of the Commissioner, and for that purpose must:

7.2.1 Arrange for a public meeting of the Panel to be held as soon as practicable after the Panel receives the annual report.

7.2.2 require the Commissioner to attend the meeting to present the annual report and answer questions about the annual report as the Members of the Panel think appropriate.

7.2.3 make a report or recommendations on the annual report to the Commissioner.<sup>29</sup>

## **8. Senior Appointments**

8.1 The Panel must review the Commissioner's proposed appointments of the:

8.1.1 Chief Constable

8.1.2 Deputy Commissioner

8.1.3 Chief Executive of the Commissioner's Office

8.1.4 Chief Finance Officer of the Commissioner's Office<sup>30</sup>

8.2 In each case, the Panel is required, within three weeks of notification of the proposed appointment by the Commissioner, to hold a confirmation hearing in public. It will be requested that the candidate appears, either virtually or in person, for the purposes of answering questions relating to their employment.<sup>31</sup>

8.3 After holding the confirmation hearing, but still within three weeks of notification of the proposed appointment by the Commissioner, the Panel must make a report on the

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<sup>25</sup> Police Reform and Social Responsibility Act 2011, Schedule 5

<sup>26</sup> Ibid, Schedule 8, Part 1

<sup>27</sup> Ibid, Chapter 4, Section 28 (3)

<sup>28</sup> Ibid, Chapter 3, Section 12 (2)

<sup>29</sup> Ibid, Part 1, Chapter 4, Section 28 (4)

<sup>30</sup> Ibid, Part 1, Chapter 4, Section 28 (5)

<sup>31</sup> Ibid, Schedule 8, Part 1, Paragraph 6 (3) for the Chief Constable and Ibid, Schedule 1, Part 11 for other senior appointments

proposed senior appointment including a recommendation as to whether the candidate should be appointed.<sup>32</sup> The Panel must publish its report to the Commissioner.

- 8.4 For the purposes of calculating three weeks any relevant post-election period is to be ignored. For that purpose, “relevant post-election period” means the period that begins with the day of the poll at an ordinary Commissioner’s election and ends with the day on which the person elected as Commissioner delivers their declaration of acceptance of office.<sup>33</sup>
- 8.5 In the cases of the appointment of the Deputy Commissioner, Chief Executive of the Commissioner’s Office or Chief Finance Officer of the Commissioner’s Office the Commissioner may accept or reject the Panel’s recommendation as to whether the candidate should be appointed. The Commissioner must notify the Panel of their decision whether to accept or reject the recommendation.<sup>34</sup>

#### Veto of the Chief Constable’s Appointment

- 8.6 In the case of the Chief Constable the Panel may, having reviewed the proposed appointment, veto the appointment of the candidate if at least two-thirds of the persons who are Members of the Panel at the time when the decision is made vote in favour of making that decision. The Panel will lose its veto if it fails to make a recommendation within three weeks of notification of the proposed appointment (excluding any relevant post-election period).<sup>35</sup>
- 8.7 Where the Panel exercises its veto within the required timeframe, the Commissioner shall propose another person for appointment as chief constable (“a reserve candidate”).<sup>36</sup> Within the period of three weeks, beginning with the day on which the Panel receives notification of the proposed reserve candidate, the Panel shall review the proposed appointment following the same procedure as for the original candidate.
- 8.8 The Panel must hold a confirmation hearing and make a report to the Commissioner containing a recommendation as to whether the reserve candidate should be appointed.<sup>37</sup>
- 8.9 The Panel does not have authority to veto a reserve candidate for Chief Constable.<sup>38</sup> However, the Commissioner must have regard to the Panel’s report and notify the Panel of their decision as to whether they accept or reject their recommendation.<sup>39</sup>

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<sup>32</sup> Police Reform and Social Responsibility Act 2011, Schedule 8, Part 1, Paragraph 4 (6) for the Chief Constable and Ibid, Schedule 1, Part 10 (2:5) for other senior appointments

<sup>33</sup> Ibid, Schedule 8, Part 1, Paragraph 4 (10) for the Chief Constable and Ibid, Schedule 1, Part 10 (9) for other senior appointments

<sup>34</sup> Ibid, Schedule 1, Part 12

<sup>35</sup> Ibid, Schedule 8, Part 1, Paragraph 5

<sup>36</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 3, Paragraph 9

<sup>37</sup> Ibid, Part 3, Paragraph 10, pg. 2 [Police and crime Panel scrutiny of chief constable appointments - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

<sup>38</sup> Police and Crime Panels – Scrutiny of Chief Constable Appointments Guidance

<sup>39</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 3, Paragraph 11

## 9. Precepts

- 9.1 The Commissioner will notify the Panel of the precept which the Commissioner is proposing to issue for the forthcoming financial year by 1 February.<sup>40</sup> The Panel must review the proposed precept and make a report on whether to accept the proposals by 8 February.<sup>41</sup>
- 9.2 Having considered the precept, the Panel will do one of the following:
- 9.2.1 support the precept without qualification or comment;
  - 9.2.2 support the precept and make recommendations, or
  - 9.2.3 veto the proposed precept (by the required majority of at least two thirds of the persons who are Members of the Panel at the time when the decision is made).
- 9.3 If the Panel fails to report to the Commissioner by 8 February the scrutiny process comes to an end, even if the Panel have voted to veto the proposed precept, and the Commissioner may issue the proposed precept.

### If the Panel Does Not Use its Veto

- 9.4 The Commissioner will have regard to the Panel's report and publish their response. The Commissioner may then issue to proposed precept as the precept for the financial year. Alternatively, the Commissioner may issue a different precept but only if it is in accordance with the recommendation/s made in the Panel's report.<sup>42</sup>

### If the Panel Vetoes the Precept

- 9.5 If the Panel vetoes the proposed precept, the report to the Commissioner must include a statement that the Panel has vetoed the proposed precept with reasons. The Panel will require a response to its report, which the Commissioner must publish by 15 February.<sup>43</sup> The Commissioner's response shall include details of a revised proposed precept.<sup>44</sup> It is for the Panel to determine the manner in which the response to its report or recommendations is to be published.<sup>45</sup>
- 9.6 Where the Panel's report:
- 9.6.1 indicates that the Panel vetoes the proposed precept because it is too high, the revised precept shall be lower than the proposed precept;

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<sup>40</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 2 Paragraph 3

<sup>41</sup> Ibid, Part 2, Paragraph 4 (1)

<sup>42</sup> Police Reform and Social Responsibility Act 2011, Schedule 5, Para 5 (3)

<sup>43</sup> Scrutiny of Precept Guidance [Police and crime Panel scrutiny of the precept - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/234567/Police_and_crime_Panel_scrutiny_of_the_precept_-_GOV.UK_(www.gov.uk).pdf) pg.1

<sup>44</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 2, Para 5(2)

<sup>45</sup> Police Reform and Social Responsibility Act 2011, Schedule 5, Part 6(4)

9.6.2 indicates that the Panel vetoes the proposed precept because it is too low, the revised precept shall be higher than the proposed precept.<sup>46</sup>

9.7 Upon receiving the Commissioner's revised precept, the Panel shall, by 22 February, review it and make a report which may indicate whether the Panel accepts or rejects the revised precept and make recommendations about whether the precept should be issued for the forthcoming financial year.<sup>47</sup>

9.8 The Panel is not able to veto the revised precept, but the Commissioner must have regard to their report, and any recommendations they make, and publish a response to it as long as the Panel's report is published by 22 February. The Commissioner should publish their response by 1 March.<sup>48</sup>

## 10. Complaints

10.1 Criminal and non-criminal complaints in relation to the Commissioner or other office holders will be dealt with and/or delegated in accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 and Policing and Crime Act 2017.

10.2 The process for dealing with complaints about the Commissioner shall be undertaken in accordance with the arrangements published on Wiltshire Council's website, with the implementation of the complaints process delegated to the Monitoring Officer at Wiltshire Council.

10.3 The Panel will maintain oversight of and retain ultimate responsibility for the complaints procedure.

## 11. Suspensions

### The Commissioner

11.1 Panel may suspend the Commissioner if it appears to the Panel that:

11.1.1 the Commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and

11.1.2 the offence is one which carries a maximum term of imprisonment exceeding two years.<sup>49</sup>

11.2 The suspension of the Commissioner ceases to have effect upon the occurrence of the earliest of these events:

11.2.1 the charge being dropped;

11.2.2 the Commissioner being acquitted of the offence;

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<sup>46</sup> The Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, Part 2, Para 5 (3)

<sup>47</sup> Ibid, Part 2, Para 6 (2)

<sup>48</sup> Ibid, Part 2, Para 7

<sup>49</sup> Police Reform and Social Responsibility Act 2011, Part 1, Chapter 4, Section 30 (1)



11.2.3 the Commissioner being convicted of the offence but not being disqualified under section 66 by virtue of the conviction;

11.2.4 the termination of the suspension by the Panel.<sup>50</sup>

### Chief Constable

- 11.3 If the Commissioner proposes to call upon the Chief Constable to retire or resign they must also notify the Panel in writing of their proposal together with a copy of the reasons given to the Chief Constable in relation to that proposal.<sup>51</sup>
- 11.4 The Commissioner must provide the Panel with a copy of any representations from the Chief Constable about the proposal to call for their resignation or retirement.<sup>52</sup>
- 11.5 If the Commissioner is still proposing to call upon the Chief Constable to resign, they must notify the Panel accordingly (the 'further notification').<sup>53</sup>
- 11.6 Within six weeks from the date of receiving the further notification the Panel must make a recommendation in writing to the Commissioner as to whether they should call for the retirement or resignation. Before making any recommendation, the Panel may consult the Chief Inspector of Constabulary, and must hold a scrutiny meeting.<sup>54</sup> The Panel must publish its recommendation.
- 11.7 For the purposes of calculating six weeks any relevant post-election period is to be ignored. For that purpose, "relevant post-election period" means the period that begins with the day of the poll at an ordinary Commissioner's election and ends with the day on which the person elected as Commissioner delivers their declaration of acceptance of office.<sup>55</sup>
- 11.8 The scrutiny hearing which must be held by the Panel is a Panel meeting in private to which the Commissioner and Chief Constable are entitled to attend to make representations.<sup>56</sup>
- 11.9 The Commissioner must consider the Panel's recommendation and may accept or reject it, notifying the Panel accordingly.
- 11.10 The Commissioner may not call upon the Chief Constable to retire or resign until the end of the scrutiny process which will occur:
- 11.10.1 at the end of six weeks (excluding the relevant post-election period) from the Panel having received notification if the Panel has not by then given the Commissioner a recommendation as to whether they should call for the retirement or resignation, or

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<sup>50</sup> Police Reform and Social Responsibility Act 2011, Part 1, Chapter 4, Section 30 (2)

<sup>51</sup> Ibid, Schedule 8, Part 2, Para 13 (3)

<sup>52</sup> Ibid, Schedule 8, Part 2, Para 13 (5b)

<sup>53</sup> Ibid, Schedule 8, Part 2, Para 14

<sup>54</sup> Ibid, Schedule 8, Part 2, Para 15

<sup>55</sup> Ibid, Schedule 8, Part 2, Para 15 (8)

<sup>56</sup> Ibid, Schedule 8, Part 2, Para 15

11.10.2 the Commissioner notifies the Panel of a decision about whether they accept the Panel's recommendations in relation to the Chief Constable's resignation or retirement.<sup>57</sup>

11.10.3

## **12. Appointment of an Acting Commissioner**

12.1 The Panel must appoint a Member of the Commissioner's staff to act as Commissioner if:

12.1.1 no person holds the office of Commissioner

12.1.2 the Commissioner is incapacitated, or

12.1.3 the Commissioner is suspended.<sup>58</sup>

12.2 In appointing a person as acting Commissioner in a case where the Commissioner is incapacitated, the Panel must have regard to any representations made by the Commissioner in relation to the appointment.

12.3 The appointment of an acting Commissioner ceases to have effect upon the occurrence of the earliest of these events:

12.3.1 the election of a person as Commissioner;

12.3.2 the termination by the Panel, or by the acting Commissioner, of the appointment of the acting Commissioner;

12.3.3 in a case where the acting Commissioner is appointed because the Commissioner is incapacitated, the Commissioner ceasing to be incapacitated, or

12.3.4 in a case where the acting Commissioner is appointed because the P Commissioner is suspended, the Commissioner ceasing to be suspended.<sup>59</sup>

12.4 There is a six-month time limit on how long the Commissioner can be incapacitated before their role becomes vacant. Once the six-month limit has been reached, a by-election would need to be conducted to fill the vacancy.<sup>60</sup>

## **13. Sub Committees and Task Groups**

13.1 Sub-committees or time limited task groups may be established from time to time by the Panel to undertake specific task-based work.

13.2 The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

13.3 The special functions of the Panel, as defined in Section 5, may not be discharged by a sub-committee or a task group, of the Panel.<sup>61</sup>

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<sup>57</sup> Police Reform and Social Responsibility Act 2011, Schedule 8, Part 2, Para 15

<sup>58</sup> Ibid, Chapter 6, Section 62 (1)

<sup>59</sup> Ibid, Chapter 6, Section 62 (6)

<sup>60</sup> [Police, fire and crime Panels guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/364242/Police_fire_and_crime_Panels_guidance_-_GOV.UK_(www.gov.uk).pdf)

<sup>61</sup> Police Reform and Social Responsibility Act 2011, Schedule 6, Part 4, Para 27 (1)

**Wiltshire Council  
Constitution  
Protocol 12  
Police and Crime Panel  
Procedure Rules and Panel  
Arrangements**

# **PROTOCOL 12**

## **POLICE AND CRIME PANEL**

### **PROCEDURE RULES AND PANEL ARRANGEMENTS**

#### **1. Chairman Of The Police And Crime Panel:**

- The chairman of the Police and Crime Panel will be appointed in June of each year or at the first meeting of the panel following the annual appointment of members to the panel by constituent councils. The chairman will be drawn from amongst the councillors sitting on the panel.
- The vice-chairman will be appointed in June of each year or at the first meeting of the panel following the annual appointment of members to the panel by constituent councils and will be drawn from amongst the councillors sitting on the panel.
- In the event of the resignation of the chairman or removal of the chairman, a new chairman will be appointed and will be drawn from amongst the councillors sitting on the panel.
- The chairman may be removed by the agreement of a majority of the whole membership of the panel and in that event the panel will appoint a replacement chairman from amongst the councillors sitting on the panel.
- The panel will elect a person to preside at a meeting if the chair and vice-chairman are not present.

#### **2. Meetings Of The Police And Crime Panel:**

- There shall be a minimum of four ordinary meetings of the Police and Crime Panel held in public in each municipal year to carry out the functions of the panel. In addition, extraordinary meetings may be called from time to time.
- An extraordinary meeting may be called by the chairman or by four members of the panel.
- An extraordinary meeting may also be called by the Monitoring Officer to the panel.
- Ordinary meetings will take place in accordance with a programme decided by the panel, and will start at the time decided by the panel.
- Ordinary meetings of the panel will:
  - receive any declarations of interest from members
  - approve the minutes of the last meeting
  - consider reports from officers and panel members

- Panel members will be notified of the time and place at least 5 clear working days before an ordinary meeting, and as soon as known in the event of an extraordinary meeting. Public notice of Panel meetings will be given in accordance with the normal arrangements for local authority meetings including the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **3. Quorum**

- A meeting of the Police and Crime Panel cannot take place unless one third of the whole number of its members is present.

### **4. Voting**

- Voting will normally be by a show of hands.
- All panel members may vote in the proceedings of the panel.
- All matters to be considered by the Police and Crime Panel shall be decided by a majority of the members of the Police and Crime Panel present and voting at the meeting. This will be done following the moving of a motion by any member of the Police and Crime Panel. A simple majority is required to confirm a decision, except in the specific circumstances of the PCP seeking to veto the Police and Crime Commissioner's proposed precept or the Police and Crime Commissioner's proposed appointment of a Chief Constable or as otherwise specified in these Procedure Rules.
- Any member may request a recorded vote and, if one quarter of the members present signifies its support, such a vote will be taken.
- In the event of a tie in voting, the Chairman of the meeting shall have a second or casting vote.

### **5. Work Programme**

- The Police and Crime Panel will be responsible for setting its own work programme taking into account the priorities defined by the Police and Crime Commissioner. In setting the work programme the Police and Crime Panel will also take into account the wishes of its members.
- The work programme must include the functions described in the terms of reference for the panel.

### **6. Agenda Items**

- The Panel agenda will be issued to Panel members at least 5 clear working days before the meeting. It will also be published on the Panel's website and by sending copies to each of the authorities and by any other means the panel considers appropriate.

- Any member of the Panel shall be entitled to give notice to the Head of Democratic Services at Wiltshire Council that he or she wishes an item relevant to the functions of the panel to be included on the agenda for the next available meeting.
- Items will be rejected where they do not relate to a matter for which the panel has a responsibility for, require confidential information to be disclosed or are deemed improper or inappropriate for the meeting. The Chairman will take this decision, and their decision is final.

## **7. Reports from the Police and Crime Panel**

- Where the Police and Crime Panel makes a report to the Police and Crime Commissioner, it may publish the report or recommendations.
- The Police and Crime Panel must by notice in writing require the Police and Crime Commissioner, as appropriate, within one month of the date on which it receives the report or recommendations to:
  - Consider the report or recommendations.
  - Respond to the Police and Crime Panel indicating what (if any) action the Police and Crime Commissioner proposes to take.
  - Where the Police and Crime Panel has published the report or recommendations, publish the response.
  - Where the Police and Crime Panel has provided a copy of the report or recommendations to a member, provide a copy of the response to the member.
- The publication of reports or recommendations is subject to the exclusion of any exempt or confidential information as defined in the rules on access to information in the Local Government Act 1972 (as amended).
- If the Police and Crime Panel cannot unanimously agree on one single final report to the Police and Crime Commissioner then one separate report may be prepared and submitted for consideration along with the majority report.

## **8. Police and Crime Commissioner and Officers Giving Account**

- The Police and Crime Panel may scrutinise and review decisions made or actions taken in connection with the Police and Crime Commissioner's role. As well as reviewing documentation, in fulfilling its scrutiny role it may require the Police and Crime Commissioner, and members of that commissioner's staff, to attend before the panel (at reasonable notice) to answer any questions which appear to the panel to be necessary in order to carry out its functions.
- Where the Police and Crime Commissioner, or a member of that commissioner's staff, is required to attend the panel under this provision the chairman will inform them in writing giving, where practical, 15 days notice of the meeting. The notice will state the nature of the item on which

he or she is required to attend to give account and whether any papers are required for production for the panel. Where it is necessary to produce a report, sufficient time will be given to allow preparation of that report.

- Where, in exceptional circumstances, the Police and Crime Commissioner is unable to attend on the required date, then an alternative date for attendance may be arranged following consultation with the chairman of the panel.
- If the Police and Crime Panel require the Police and Crime Commissioner to attend before the panel, the panel may (at reasonable notice) request the Chief Constable to attend before the panel on the same occasion to answer any questions which appears to the panel to be necessary in order for it to carry out its functions.

## **9. Attendance by others**

- The Police and Crime Panel may invite people other than those referred to above to address it, discuss issues of local concern and/or answer questions. It may, for example, wish to hear from residents, stakeholders, councillors who are not members of the panel and officers in other parts of the public sector and may invite such people to attend.

## **10. Sub-Committees and Task Groups**

- Sub Committees or time limited task groups may be established from time to time by the Police and Crime Panel to undertake specific task based work.
- The special functions of the Police and Crime Panel may not be discharged by a sub-committee of the panel or a task group.
- In this paragraph 'special functions' means the functions conferred on a Police and Crime Panel by:
  - Section 28(3) of Police Reform and Social Responsibility Act (scrutiny of Police and Crime Plan).
  - Section 28 (4) of Police Reform and Social Responsibility Act (scrutiny of annual report)
  - Paragraphs 10 and 11 of Schedule 1 of Police Reform and Social Responsibility Act (review of senior appointments).
  - Schedule 5 of Police Reform and Social Responsibility Act (issuing precepts)
  - Part 1 of Schedule 8 of Police Reform and Social Responsibility Act (scrutiny of appointment of the Chief Constable).
- The work undertaken by a sub-committee or task group will be scoped and defined beforehand, together with the timeframe within which the work is to be completed and the reporting time for the outcome of the work.

## 11. Carrying Out 'Special Functions'

Reports and recommendations made in relation to the special functions outlined in the terms of reference will be carried out in accordance with the procedure outlined at Section 5.18

- Police and crime plan
  - The panel is a statutory consultee on the development of the Police and Crime Commissioner's police and crime plan and will receive a copy of the draft police and crime plan, or a draft of any variation to it, from the Police and Crime Commissioner.
  - The panel must:
    - hold a public meeting to review the draft police and crime plan (or a variation to it), and
    - report or make recommendations on the draft plan which the PCC must take into account.
- Annual report
  - The Police and Crime Commissioner must produce an annual report about the exercise of his/her functions in the financial year and progress in meeting police and crime objectives in the year. The report must be sent to the panel for consideration.
  - The panel must comment upon the annual report of the Police and Crime Commissioner, and for that purpose must:
    - Arrange for a public meeting of the panel to be held as soon as practicable after the panel receives the annual report
    - require the Police and Crime Commissioner to attend the meeting to present the annual report and answer questions about the annual report as the members of the panel think appropriate
    - make a report or recommendations on the annual report to the PCC.
- Senior appointments
  - The panel has powers to review the Police and Crime Commissioner's proposed appointments of Chief Constable, Chief Executive, Chief Finance Officer and Deputy Police and Crime Commissioner. The panel is required to hold public confirmation hearings for these posts.



- The panel will be notified of the need for a confirmatory hearing in respect of proposed senior appointments made by the Police and Crime Commissioner. This will be held at the next available meeting of the panel unless the appointment timescale requires an earlier hearing, in which case an extraordinary meeting will be arranged.
- With regards to the appointment of the Chief Constable, the panel is required to hold a hearing within the period of three weeks from the day on which the panel receives notification from the Police and Crime Commissioner.
- Confirmatory hearings will be held in public, where the candidate is requested to appear for the purpose of answering questions relating to the appointment. Following this hearing, the panel is required to review the proposed appointment and make a report to the commissioner on the appointment.
- For a confirmatory hearing for the proposed appointment of the Chief Constable, in addition to the requirement to review and report, the panel has the requirement to make a recommendation on the appointment and the power to veto the appointment.
- Having considered the appointment, the panel will be asked to either:
  - support the appointment without qualification or comment;
  - support the appointment with associated recommendations, or
  - veto the appointment of the Chief Constable (by the required majority of at least two thirds of the persons who are members of the panel at the time when the decision is made).
- If the panel vetoes the appointment of the candidate, the report to the commissioner must include a statement that the panel has vetoed the appointment with reasons.
- Appointment of an Acting Police and Crime Commissioner
  - The Police and Crime Panel must appoint a person to act as Police and Crime Commissioner if:
    - no person holds the office of Police and Crime Commissioner
    - the Police and Crime Commissioner is incapacitated, or
    - the Police and Crime Commissioner is suspended.
  - The Police and Crime Panel may appoint a person as acting commissioner only if the person is a member of the Police and Crime Commissioner's staff at the time of the appointment.
  - In appointing a person as acting commissioner in a case where the Police and Crime Commissioner is incapacitated, the Police and Crime Panel must have regard to any representations made by the commissioner in relation to the appointment.

- The appointment of an acting commissioner ceases to have effect upon the occurrence of the earliest of these events:

- the election of a person as Police and Crime Commissioner;
- the termination by the Police and Crime Panel, or by the acting commissioner, of the appointment of the acting commissioner;

Note: this section may have to be varied in the light of Home Office Regulations expected in March on the exercise of the veto.

- in a case where the acting commissioner is appointed because the Police and Crime Commissioner is incapacitated, the commissioner ceasing to be incapacitated, or
- in a case where the acting commissioner is appointed because the Police and Crime Commissioner is suspended, the commissioner ceasing to be suspended.

- Proposed precept

- The Police and Crime Commissioner will notify the Police and Crime Panel of the precept which the commissioner is proposing to issue for the financial year. The panel must review the proposed precept and make a report including recommendations.
- Having considered the precept, the Police and Crime Panel will either:
  - support the precept without qualification or comment;
  - support the precept and make recommendations, or
  - veto the proposed precept (by the required majority of at least two thirds of the persons who are members of the panel at the time when the decision is made).
- If the panel vetoes the proposed precept, the report to the commissioner must include a statement that the panel has vetoed the proposed precept with reasons. The panel will require a response to the report and any such recommendations.

- Complaints

- Criminal and non-criminal complaints in relation to the Police and Crime Commissioner or other office holders should be dealt with and/or delegated in accordance with the Act and the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

- Suspension of the Police and Crime Commissioner

- A Police and Crime Panel may suspend the Police and Crime Commissioner if it appears to the panel that:
  - the commissioner has been charged in the United Kingdom, the Channel Islands or the Isle of Man with an offence, and

- the offence is one which carries a maximum term of imprisonment exceeding two years.
- The suspension of the Police and Crime Commissioner ceases to have effect upon the occurrence of the earliest of these events:
  - the charge being dropped
  - the Police and Crime Commissioner being acquitted of the offence (Note: this section may have to be varied in the light of Home Office Regulations expected in March on the exercise of the veto)
  - the Police and Crime Commissioner being convicted of
  - the offence but not being disqualified under Section 66 of the Police Reform and Social Responsibility Act by virtue of the conviction, or
  - the termination of the suspension by the Police and Crime Panel.
- In this section references to an offence which carries a maximum term of imprisonment exceeding two years are references to:
  - an offence which carries such a maximum term in the case of a person who has attained the age of 18 years, or
  - an offence for which, in the case of such a person, the sentence is fixed by law as life imprisonment.
- Suspension and removal of the Chief Constable
  - The panel will receive notification if the Police and Crime Commissioner suspends the Chief Constable.
  - The Police and Crime Commissioner must also notify the panel in writing of his/her proposal to call upon the Chief Constable to retire or resign together with a copy of the reasons given to the Chief Constable in relation to that proposal.
  - The Police and Crime Commissioner must provide the panel with a copy of any representations from the Chief Constable about the proposal to call for his/her resignation or retirement.
  - If the Police and Crime Commissioner is still proposing to call upon the Chief Constable to resign, she/he must notify the panel accordingly (the 'further notification').
  - Within six weeks from the date of receiving the further notification the panel must make a recommendation in writing to the Police and Crime Commissioner as to whether or not she/he should call for the retirement or resignation. Before making any recommendation the panel may consult the chief inspector of constabulary, and must hold a scrutiny meeting.

- The scrutiny hearing which must be held by the panel is a panel meeting in private to which the Police and Crime Commissioner and Chief Constable are entitled to attend to make representations in relation to the proposal to call upon the Chief Constable to retire or resign. Appearance at the scrutiny hearing can be by attending in person, or participating by telephone or video link.
- The panel must publish the recommendation it makes on its website and by sending copies to each of the authorities, and by any other means the panel considers appropriate.
- The Police and Crime Commissioner may not call upon the Chief Constable to retire or resign until the end of the scrutiny process which will occur:
  - at the end of six weeks from the panel having received notification if the panel has not by then given the Police and Crime Commissioner a recommendation as to whether or not she/he should call for the retirement or resignation, or
  - the Police and Crime Commissioner notifies the panel of a decision about whether she/ he accepts the panel's recommendations in relation to resignation or retirement.
- The Police and Crime Commissioner must consider the panel's recommendation and may accept or reject it, notifying the panel accordingly.
- In calculating the six week period, the period between the day of the poll at an ordinary election of a Police and Crime Commissioner and the day on which the Police and Crime Commissioner delivers a declaration of acceptance of office shall be ignored.

## **12. Public Participation**

- Members of the public are able to ask questions or make a statement in relation to the responsibilities and functions of the Panel at each meeting. A maximum of 30 minutes will be allocated to this at the start of each meeting, and each question or statement should last no longer than 3 minutes.
- Questions must be put in writing to the Democratic Services Officer on behalf of the Proper Officer at Wiltshire Council no later than 5 clear working days before the meeting, to allow a response to be formulated, and are limited to a maximum of 2 per person / organisation. A response will be given as either a direct oral answer or a written reply.
- The questioner is able to ask one supplementary question after receiving a response. There is usually no debate on questions; however this is at the Chairman's discretion.
- Statements must be given in writing and can be received up to 10 minutes before the start of the meeting.

### **13. Decision Making and Rules of Debate**

- Principles of Decision Making

These principles will underpin the way the Police and Crime Panel makes its decisions:

- Appropriate consultation will have been carried out and decisions will take account of its results and any professional advice given by officers
- The presumption that whenever possible, all decisions made by the Police and Crime Panel should be made in public and ensure open, fair and honest administration
- Decisions will be clear about what they aim to achieve and the results that can be expected
- Due respect for human rights will be shown and provision given to equality of opportunity
- Decisions will be efficient, effective and economic, and obtain best value
- Determination of decisions will be at the lowest level commensurate with their importance
- Decisions will produce action that is proportionate to the desired outcome, and state the reasons for the action
- All options considered and discarded when making a decision will be recorded

- Rules of Debate

The rules of debate of the Police and Crime Panel shall be governed by the rules relating to meetings of Council committees (section 102 to 106 of part 4 of the Council Constitution).

### **14. Minutes**

The Chairman will sign the minutes of the proceedings at the next meeting. The only part of the minutes that can be discussed is their accuracy and any question as to their accuracy must be raised by motion.

### **15. Members' Conduct**

- Speaking

When a member speaks at PCP meetings, he/she must address the meeting through the Chairman.

- **Chairman Requiring Silence**  
When the Chairman so indicates during a debate, any member speaking at the time must stop and the meeting must be silent.
- **Member not to be heard further**
  - 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 be not heard further. If seconded, the motion will be voted on without discussion.
  - If the member continues to behave improperly after such a motion has been carried, the Chairman may adjourn the meeting for a specified period or move that the member leaves the meeting. If seconded, the motion will be voted on without discussion. If the member continues to behave improperly, the Chairman may give such direction as he/she considers appropriate for the removal of the member and the restoration of order.

## **16. Disturbance**

- If there is a disturbance making orderly business impossible, the Chairman may adjourn the meeting for as long as he/she considers necessary, or if occurring in a part of the meeting room open to the public may call for that part to be cleared.
- If a member of the public interrupts proceedings, the Chairman will warn the person concerned. If he/she continues to interrupt, the Chairman will order his/her removal from the meeting room.

## **17. Suspension and Amendment of Procedure Rules**

- Suspension  
These rules may be suspended by motion on notice, or without notice if at least one half of the whole number of members of the PCP is present. Suspension can only be for the duration of the meeting. A motion to suspend any of these rules must specify the rule to be suspended and must be moved in terms limited to an explanation of the reasons for the suspension. It will be seconded in formal terms only and will be put to the Police and Crime Panel without debate. No suspension may be considered by the Police Crime Panel which does not comply with the Police Reform and Social Responsibility Act 2011, relevant Regulations, statutory guidance or the Panel Arrangements.
- Amendment  
The Rules of Procedure shall not be amended unless notification of a proposed amendment is received by the Proper Officer Wiltshire Council at least 10 working days prior to a PCP meeting. A report on the implications

of the proposed amendment shall be considered by the PCP and the amendment shall require the agreement of at least two thirds of the persons who are members of the PCP at the time when the decision is made vote in favour of it. No amendment may be considered by the PCP which does not comply with the Police Reform and Social Responsibility Act 2012, relevant Regulations or statutory guidance or Panel Arrangements.

## **18. Adjournment of Panel Meetings**

When the PCP adjourns, whether by resolution or by decision of the Chairman, the adjournment will by decision taken at that time be to a date, time and place specified, provided that where this is not practicable and a meeting is adjourned for an unspecified period and/or to an unspecified place, all members of the Police and Crime Panel will be notified of the new date, time and place when these have been determined.

## **19. Interpretation**

- The ruling of the Chairman as to the construction or application of these rules or as to the proceedings of the Police and Crime Panel will be final for the purposes of the meeting at which it is given.
- If there is any conflict in interpretation between these Rules and the Act or Regulations made under the Act, the Act and Regulations will prevail.

General Note: Various functions of the PCP are subject to Regulations that are not yet available and the content of the Rules may therefore need to change before the final version is determined

# Wiltshire Police and Crime Panel

## Panel Arrangements

This Agreement is dated 5 December 2012.

The Agreement is made between Wiltshire Council and Swindon Borough Council (“the Authorities”)

### 1.0 Background

1.1 The Police Reform and Social Responsibility Act 2011 (‘the Act’) introduces new structural arrangements for national policing, strategic police decision making, neighbourhood policing and police accountability.

1.2 The Act provides for the election of a Police and Crime Commissioner (‘the PCC’) for a police force area, responsible for securing an efficient and effective police force for their area, producing a police and crime plan, recruiting the Chief Constable for an area, and holding him/her to account, publishing certain information including an annual report, setting the force budget and police precept and requiring the Chief Constable to prepare reports on police matters. The PCC must co-operate with local community safety partners and criminal justice bodies.

1.3 The Act requires the local authorities in each police force area to establish and maintain a Police and Crime Panel (‘the Panel’) for its police force area. It is the responsibility of the Authorities for the police force area to make arrangements for the Panel (‘Panel Arrangements’).

1.4 The Authorities, as the relevant local authorities within the area must agree to the making and modification of the Panel Arrangements. Where an authority has refused to nominate a member to a panel, then the remaining councils in an area can agree the panel arrangements without the need to get the agreement of the council that is refusing to participate.

1.5 Each Authority and each Member of the Panel must comply with the Panel Arrangements.

1.6 The functions of the Panel must be exercised with a view to supporting the effective exercise of the functions of the PCC for that police force area.

1.7 The Panel must have regard to the Policing Protocol issued by the Home Secretary, which sets out the ways in which the Home Secretary, the PCC, the Chief Constable and the Panel should exercise, or refrain from exercising, functions so as to encourage, maintain or improve working



relationships (including co-operative working); and limit or prevent the overlapping or conflicting exercise of functions.

1. 8 The Panel is a scrutiny body with responsibility for scrutinising the PCC and promoting openness in the transaction of police business in the police force area.

1. 9 The Panel is a joint committee of the Authorities.

## **2.0 Lead Authority**

2. 1 Wiltshire Council shall be lead authority for the Panel and shall provide such administrative and other support as will be necessary to enable the Panel to undertake its functions.

## **3.0 Membership**

### 3.1 General

3. 2 Appointments of elected members to the Panel shall be made by each of the Authorities in accordance with their own procedures and with a view to ensuring that the balanced appointment objective of the Act is met so far as is reasonably practicable. All members of the Authorities are eligible to be members of the Panel. The Lead Authority shall take steps to coordinate the Authorities with a view to ensuring that the balanced appointment objective is achieved. The balanced appointment objective requires that the local authority Members of the Panel (which includes Members appointed by the Authorities and co-opted Members who are elected Members of any of the Authorities) should:

- a) represent all parts of the police force area;
  - b) represent the political make-up of the Authorities; and,
  - c) taken together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.
- Where an Authority fails to nominate, or having nominated then fails to appoint, a member to a panel the Lead authority shall notify the Home Office.

3. 3 In appointing co-opted Members who are not elected members of any of the Authorities, the Panel must secure, so far as is reasonably practicable that the appointed and co-opted Members of the Panel, together have the skills, knowledge and experience necessary for the Panel to discharge its functions effectively.

3. 4 The Panel shall consist of ten Members appointed by the Authorities in accordance with the requirements of the balanced appointment objective contained within the Act, as follows:

Wiltshire Council = 7 members

Swindon Borough Council = 3 members

3.5 The Panel shall also include two independent Members co-opted by the Panel.

3.6 The Panel may also resolve to co-opt further Members with the agreement of the Secretary of State provided that the number of co-opted Members included in the Membership of the Panel shall not exceed 10. A panel cannot co-opt a councillor unless all the panel members agree, and any councillor co-options have to be notified to the Home Office as do any resolutions to co-opt additional members.

3.7 The current arrangements that exist within the Authorities for the appointment of substitute members/deputies will apply to the Panel.

### 3.8 Appointed Members

3.9 The Authorities shall each nominate elected members to be Members of the Panel. If a nominated Member agrees to the appointment the Authority may appoint the Member as a Member of the Panel.

3.10 In the event that an Authority does not appoint a Member or Members in accordance with these requirements, the Secretary of State must appoint a Member to the panel from the defaulting authority in accordance with the provisions in the Act.

3.11 With a view to ensuring continuity of membership as far as possible, an appointed Member shall be a Member of the Panel for four years unless s/he ceases to be an elected Member, or is removed by their Authority.

3.12 An Authority may decide in accordance with their procedures to remove their appointed Member from the Panel at any point and on doing so shall give notice to the Proper Officer at Wiltshire Council.

3.13 Where a Panel member fails to attend meetings of the Panel over a six month period then the Lead authority shall recommend to the relevant authority that due consideration is given to removing the member from the Panel and to the appointment of a replacement member.

3.14 An appointed Member may resign from the Panel by giving written notice to the Proper Officer at Wiltshire Council and to their Authority.

3.15 In the event that any appointed Member resigns from the Panel, or is removed from the Panel by an Authority, the Authority shall immediately take steps to nominate and appoint an alternative Member to the Panel.

3.16 Members appointed to the Panel may be re-appointed to the Panel for a further term of four years provided that the balanced appointment objective is met by that re-appointment.

### 3. 17 Co-opted Members

3. 18 The following may not be co-opted Members of the Panel:

- a) the PCC for the Police Area.
- b) a member of staff of the PCC for the area.
- c) a member of the civilian staff of the Police Force for the area.
- d) a Member of Parliament.
- e) a Member of the National Assembly for Wales
- f) a Member of the Scottish Parliament.
- g) a Member of the European Parliament
- h) a serving police officer

3. 19 An elected member of any of the Authorities may not be a co-opted Member of the Panel where the number of co-opted Members is two.

3. 20 If the Panel has three or more co-opted Members an elected member of any of the Authorities may be a co-opted Member of the Panel provided that at least two of the other co-opted Members are not elected members of any of the Authorities.

3. 21 A co-opted Member shall be a Member of the Panel for four years.

3. 22 The Panel shall put in place arrangements to ensure that appointments of co- opted Members are undertaken following public advertisement in accordance with the following principles:

- a) The appointment will be made on merit of candidates whose skills, experience and qualities are considered best to ensure the effective functioning of the Panel;
- b) The selection process must be fair, objective, impartial and consistently applied to all candidates who will be assessed against the same pre determined criteria; and,
- c) The selection process will be conducted transparently with information about the requirements for the appointment and the process being publicly advertised and made available with a view to attracting a strong and diverse field of suitable candidates.

3. 23 A co-opted Member of the Panel may resign from the Panel by giving written notice to the Head of Democratic Services at Wiltshire Council.

3. 24 The Panel must from time to time decide whether the Panel should exercise its power to change the number of co-opted Members of the Panel to enable the balanced appointment objective to be met, or be more effectively met, and if so, it must exercise that power accordingly.

3. 25 The Panel may decide to terminate the appointment of a co-opted Member of the Panel if at least two-thirds of the persons, present and voting,

who are Members of the Panel at the time when the decision is made, vote in favour of making that decision at any time for the reasons set out below and on doing so shall give written notice to the co-opted Member:

- a) if the co-opted Member has been absent from the Panel for more than six months without the consent of the Panel;
- b) if the co-opted Member has been convicted of a criminal offence but not automatically disqualified;
- c) if the co-opted Member is deemed to be incapacitated by physical or mental illness or is otherwise unable or unfit to discharge his or her functions as a co-opted Member of the Panel;
- or,
- d) if the co-opted Member's membership of the Panel no longer achieves the meeting of the balanced appointment objective.

3.26 In the event that a co-opted Member resigns from the Panel or is removed from the Panel following a decision of the Panel, the Panel shall ensure that at least two independent co-opted Members remain appointed to the Panel, and in the absence of two such Members shall make arrangements to ensure that two co-opted Members are appointed.

3.27 Co-opted Members appointed to the Panel may be re-appointed for a further term of four years provided that the balanced appointment objective is met by that re-appointment.

#### 3.28 Behaviour

3.29 All Panel members, including co-opted members, shall observe the Code of Conduct in force for their respective authorities and for the co-opted members the Lead authority's code of conduct, and any related protocols agreed by the Panel.

### **4.0 Budget and Costs of the Panel**

4.1 The annual costs of the Panel shall be contained within the Home Office grant.

### **5.0 Rules of Procedure**

5.1 The Panel shall determine its Rules of Procedure which shall include arrangements in relation to the:

- a) the appointment and removal of the Chairman;
- b) the formation of sub-committees;
- c) the making of decisions;
- d) the arrangements for convening meetings; and,
- e) the circulation of information.

## **6.0 Allowances**

6.1 The payment of a responsibility allowance to Panel Members shall be considered and a recommendation sought from the Independent Remuneration Panel of each council as to whether the payment of such an allowance is appropriate.

6.2 Reasonable expenses will be reimbursed by each authority with the lead authority reimbursing the expenses of the co-opted independent members.

## **7.0 Promotion of the Panel**

7.1 The role and work of the Panel shall be promoted by:

- a) the establishment and maintenance of a dedicated open-access website including information about the role and work of the Panel, Panel Membership, all non-confidential Panel and sub-committee meeting papers, press releases and other publications;
- b) the issuing of regular press releases about the Panel and its work; and,
- c) the Authorities will each include information about the Panel on their websites, and will also include a link to the Panel website.

7.2 Support and guidance shall be provided to executive and non-executive elected members and officers of the Authorities in relation to the functions of the Panel as follows:

- a) by the provision of initial briefing sessions for elected members and relevant officers of the Authorities before the election of the PCC, and the provision of annual briefing sessions thereafter; and,
- b) by the provision of written briefing notes for elected members and relevant officers of the Authorities at least three times per year.

## **8.0 Validity of Proceedings**

8.1 The validity of the proceedings of the Panel shall not be affected by a vacancy in the Membership of the Panel or a defect in appointment.

8.2 The conduct of the Panel and the content of these arrangements shall be subject to the legislative provisions in the Police Reform and Social Responsibility Act 2011, and any Regulations made in accordance with that

Act, and in the event of any conflict between the Act or Regulations, and these arrangements, the requirements of the legislation will prevail.

Current Version