

AGENDA

Meeting: Standards Committee

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

Date: Thursday 18 April 2024

Time: 10.30 am

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

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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 Derek Walters

Substitutes:

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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AGENDA

Part 1

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

1 **Apologies for Absence**

2 **Minutes** (*Pages 5 - 8*)

To confirm the minutes of the meeting held on 3 October 2023.

3 **Declarations of Interest**

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

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 **Thursday 11 April 2024**, 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 **Monday 15 April 2024**. 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 9 - 16*)

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

7 **New Complaint Handling Codes from the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman (HO)** *(Pages 17 - 84)*

An overview on the implications of the two Ombudsmen's new Complaint Handling Codes on the processes followed by the council when handling relevant complaints.

8 **Constitutional Changes** *(Pages 85 - 142)*

The Committee is asked to consider the recommendations of the Constitution Focus Group relating to:

- Part 11A – Corporate Parenting Panel
- Part 5 – Access to Information Procedure Rules
- Part 7 – Cabinet Procedure Rules
- Part 8 – Overview and Scrutiny Procedure Rules

9 **Annual Update** *(Pages 143 - 146)*

To consider delegating authority to the Director, Legal and Governance, after consultation with the Chairman, to prepare an annual update to Full Council.

10 **Urgent Items**

Any other items which the Chairman agrees to consider as a matter of urgency.

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

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 3 OCTOBER 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, Gordon Ball and Julie Phillips

78 **Apologies for Absence**

There were no apologies.

79 **Minutes**

The minutes of the previous meeting held on 20 June 2023 were presented for consideration.

It was;

Resolved

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

80 **Declarations of Interest**

There were no declarations of interest.

81 **Chairman's Announcements**

The Chairman noted that two Standards Hearing Sub Committees were due to take place in the coming months.

82 **Public Participation**

The Chairman noted a request for information which had been submitted by Mr Gantlett which related to questions asked at the previous Standards meeting and an informal meeting the Chairman had attended earlier in the year. A response would be provided following the meeting.

83 **Wiltshire Council Annual Report Complaints 2022-23**

The Committee received the Annual Report on Complaints for the period of 2022-23

Key points regarding complaints activity compared with 2021-22:

- 12% increase in formal complaints on the previous year
- Rise in complaints relating to the SEND and Inclusion Service
- 35% rise in complaints resolved as 'service requests'.
- A decrease in the percentage complaints resolved at Stage 1
- 43% increase in complaints resolved at Stage 2.

The Committee noted the LGSCO's Annual Review Letter 2022-23, provided as Appendix 1 to the report. There had been a 2% reduction in complaints upheld by the Ombudsman. A breakdown of all Ombudsman's investigations and findings for the year were set out in the Letter.

If a service area showed a sudden spike in complaints, the Director would be made aware.

A number of actions would be put in place to improve the complaint handling procedure, including wider training across multiple service areas. In addition, a new IT system for complaints was currently being developed in house which would enable a wider range of data to be collated and used to analyse performance and speed the process up.

Stage 1 complaints were responded to by the relevant service area. Stage 2 was managed and responded to by the Complaints Team.

The Committee commended the work of the Complaints team for the progress in dealing with complaints.

It was;

Resolved:

To note the Wiltshire Council Annual Complaints Report 2022-23, and

To note the actions to further improve the council's complaints handling function over the next 12 months.

84 **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 20 June 2023 and providing a summary of the complaints considered by the Assessment Sub-Committee (ASC).

There had been 15 Code of Conduct complaints received by the Monitoring Officer during the period of 12 June – 22 September 2023. Of these, 3 were determined No Further Action (NFA) by the Monitoring Officer, 2 were determined NFA by the ASC, 1 was dismissed as 'out of time' by the Monitoring Officer, 9 were assessed by the ASC at its next meeting on 28 September

2023, 7 (linked complaints) of those were referred to Investigation and 2 were dismissed as no further action. There have been a further 5 complaints received since the publication of this agenda.

The report included a new section which detailed the speed of the investigation process. An Investigation Report was aimed to be completed with 35 days, with a further 10 days allowed for the parties to comment.

Previously the team had one officer to write Code of Conduct investigation reports, now all Complaints Officers had been trained to carry out the investigations, which it was believed would result in improved timescales.

A table of current cases had been provided to the Chairman on 14 June, 12 July, 8 August and 13 September 2023 for a dip sample of cases to be undertaken to enable oversight.

The Monitoring Officer noted that as the Complaints team was relatively small, he had taken the judgement to give priority to complaints submitted by members of the public about council services over those submitted about elected members.

It was noted that one complaint which had exceeded the target timescales for completion was being investigated externally, which showed that additional external resources did not always quicken the procedure and incurred a cost to the council. It was also recognised that many of the Complaints received were complex in nature and therefore it was not possible to process every complaint in line with set timescales.

After a discussion, it was,

Resolved:

To note the position on Code of Conduct Complaints.

85 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 2.40 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

Press enquiries to Communications, direct line 01225 713114 or email communications@wiltshire.gov.uk

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Wiltshire Council

Standards Committee

18 April 2024

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. Where the Monitoring Officer determines that there is sufficient evidence to suggest that a breach may have occurred, 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. However, parties are able to ask the Local Government and Social Care Ombudsman to review whether the council has followed its procedures correctly.
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

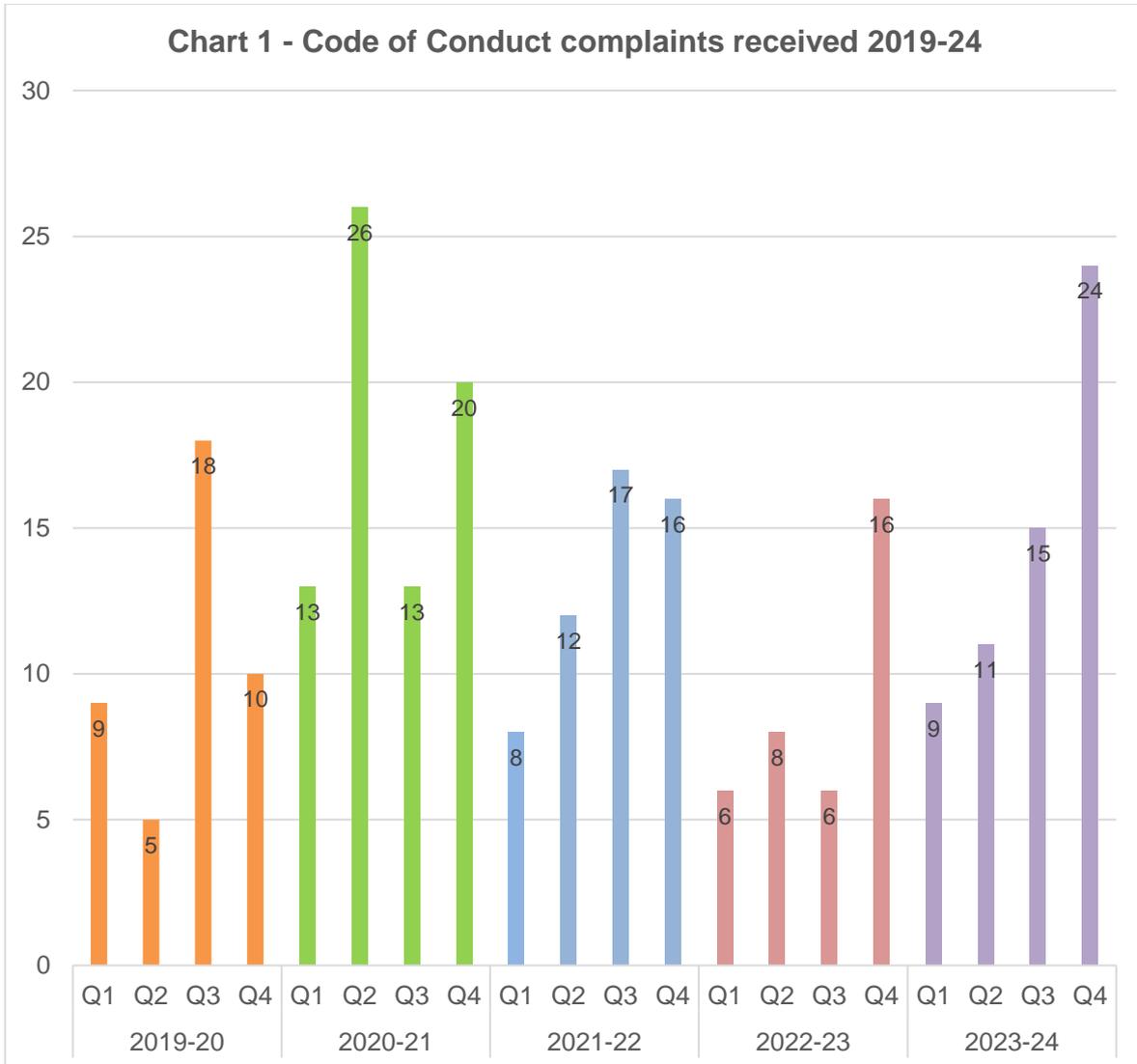
11. The last Standards Committee meeting took place on 3 October 2023. Since that meeting (and at the time of publication) there have been:
 - 3 meetings of the Standards Assessment Sub-Committee;
 - 3 meetings of the Standards Hearing Sub-Committee.
12. The next meeting of the Standards Assessment Sub-Committee is scheduled for 14 May 2023.

Summary of complaints received since 23 September 2023 (following publication of the 3 October 2023 meeting agenda)

13. Between 23 September 2023 and 8 April 2024, the Monitoring Officer received **44 complaints** under codes of conduct:
 - 4 were unable to proceed due to insufficient information being provided by the Complainant;
 - 2 were withdrawn by the Complainant;
 - 31 were determined as requiring No Further Action by the Monitoring Officer;
 - 1 was dismissed as 'out of time' by the Monitoring Officer;
 - 1 was resolved through Informal Resolution;
 - 2 were determined as requiring No Further Action by the Assessment Sub-Committee;
 - 3 were referred to the Monitoring Officer for Investigation, by the Assessment Sub-Committee.
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:



Quarterly avg: 11 Quarterly avg: 18 Quarterly avg: 13 Quarterly avg: 9 Quarterly avg: 15
 2019-20 total: 42 2020-21 total: 72 2021-22 total: 52 2022-23 total: 36 2023-24 total: 59

Types of complaint

14. The 44 code of conduct complaints received during the reported timeframe can be broken down as follows (some containing multiple allegations):

- 15 were against **parish councillors**:
 - 9 x conduct on social media
 - 3 x lying
 - 3 x comments in an email/message
 - 3 x non-disclosure of interests

- 3 x making derogatory remarks
 - Disclosure of personal data
 - Trespass
 - Not replying to emails
 - Refusing to address parishioner concerns
 - Making threats
 - Bullying a fellow councillor
- 12 were against **town councillors**
 - 6 x conduct on social media
 - 2 x inappropriate comments in a meeting
 - Physical altercation
 - Refusing to address parishioner concerns
 - Self-referral complaint
 - Non-disclosure of interests
- 7 were against **city councillors**
 - 6 x conduct on social media
 - Inappropriate comments in an email
- 10 were against **unitary councillors**
 - 4 x inappropriate comments on internet
 - Inappropriate comments in a local newsletter
 - Non-disclosure of an interest
 - Bad-mouthing complainant to a neighbour
 - Leaving a meeting early
 - Slander

15. Of the three complaints referred by the Assessment Sub-Committee for investigation, all three related to comments made on social media.

Breaches of the Code of Conduct

16. Of the three complaints where the Investigating Officer concluded that a breach of the Code of Conduct had occurred, the Hearing Sub-Committee reached the findings and recommended the sanctions below. Minutes of Hearing Sub-Committee meetings are available to view on the council website [here](#).

Hearing 1

Findings:

2.1 I do not bully any person – BREACH

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

8.2 I cooperate with any Code of Conduct investigation and/or determination – NO BREACH

Recommended sanctions:

- a) That the Parish Council arrange training for the Subject Member regarding Code of Conduct matters, in particular relating to the role of a Councillor and when they could be considered acting in an official capacity, and regarding interactions with the media.
- b) That the Subject Member not be appointed to or remain on any planning related sub-committees or working groups established by the Parish Council, until such training has taken place.
- c) That the Parish Council publish the findings of the Hearing Sub-Committee, in the form of the decision notice, in the minutes of the next Parish Council meeting.

Hearing 2

Findings:

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

Recommended sanctions:

Noting the mitigating factors in this case, the Sub-Committee recommended no sanctions.

Hearing 3

Findings:

1.1 He/she shall behave in such a way that a reasonable person would regard as respectful – BREACH

2.1 He/she shall not act in a way which a reasonable person would regard as bullying or intimidatory – BREACH

Recommended sanctions:

- a) To recommend the Censure of the Subject Member.
- b) To recommend the Hearing Sub-Committee minutes be published for information on the next Parish Council meeting agenda.

Complaint resolution speed

16. Under Protocol 11 – Arrangements for Dealing with Code of Conduct Complaints, the council aims to assess all such complaints within **5 working days** of receiving the subject member's response. This is a challenging target as complaints can be complex, require legal input and include a large amount of background information that must be reviewed.

17. During the period reported, **32 complaints** were assessed by or on behalf of the Monitoring Officer (excluding those where insufficient evidence was provided) and this took an average of **5.8 working days**.

18. Complaints referred to Assessment Sub-Committee cannot usually meet the 5 working day timescale for assessment due to the need for a scheduled meeting. However, the council endeavours to inform complainants and subject members that the complaint will be assessed in this way, and of the Sub-Committee meeting date, as quickly as possible. During the period reported, **5 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 **1.6 working days** from the Subject Member's response being received or from the expiry of the deadline for providing one.

19. All of the complaints assessed by Assessment Sub-Committee were considered at the next scheduled meeting after the Subject Member's response was received (taking into account the required notice period regarding agenda publication).

20. **3 complaints** were referred for investigation by the Assessment Sub-Committee during this period.

21. Under Protocol 11, the council aims to complete Code of Conduct investigations within a total of 45 working days. This comprises 35 working days for the investigation report and a further 10 working days for the parties to submit their comments on it. The table below sets out the time taken for investigations commenced or completed since the last meeting:

Complaint reference (completion date)	Investigator assigned Target: 5 working days	Investigator's report sent to parties Target: 35 working days	Investigator's report sent to Monitoring Officer Target: 10 further working days	Investigator's report completed – total Target: 45 working days
COC144873 (27 Sep 2023)	6	82	9	91
COC145647 (19 Sep 2023)	6	48	5	53
COC146700 (9 Jan 2024)	3	37	10	47
COC149256 (5 April 2024)	4	42	6	48
COC150777 (in progress)	6	In progress	-	-

22. The Committee will note that completing investigations within the prescribed timescales has been challenging. This is due to their complexity, together with wider work pressures. Overall, the trajectory is positive with timescales for completion gradually reducing. As reported to the previous meeting, the Complaints team has significantly improved performance in completing corporate complaint investigations within set timescales, rising from 60% completed on time in 2021-22 to 92% in 2023-24.

Dip Sampling

17. A table of current cases was provided to the Chairman of Standards Committee on 15 January 2024. The next session is scheduled for 8 May 2024.

Proposal

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

Perry Holmes, Director of Legal & Governance and Monitoring Officer

Report Author: Henry Powell, Democracy and Complaints Manager,
complaints@wiltshire.gov.uk

Appendices

None.

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Wiltshire Council

Standards Committee

18 April 2024

New Complaint Handling Codes from the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman (HO)

Purpose

1. To set out the implications of the two Ombudsmen's new Complaint Handling Codes on the processes followed by the council when handling relevant complaints.

Background

2. In February 2024, the Local Government and Social Care Ombudsman ([LGSCO](#)) and the Housing Ombudsman ([HO](#)) each published new Complaint Handling Codes. These are attached at **Appendix 1 and 2** respectively.
3. The two Ombudsmen originally consulted on the introduction of a single joint complaint handling code. However, following feedback from consultees regarding the two Ombudsmen's different powers, they have introduced similar but separate Codes that share the same approaches in key areas such as response times, timeliness and oversight.
4. The HO's 2024 Code became statutory from **1 April 2024**, meaning that member landlords are legally obliged to follow its requirements.
5. The LGSCO's 2024 Code is issued as "advice and guidance" for local councils in England under section 23(12A) of the Local Government Act 1974. This means that councils must consider the Code when developing complaint handling policies and procedures and when responding to complaints. If a council decides not to follow the Code, the LGSCO would expect it to provide a good reason for this.
6. The LGSCO encourages councils to adopt the Code as soon as they are able to do so, but it will start considering the Code as part of its processes from **April 2026** at the earliest. This is to give councils the opportunity to adopt the Code into working practices following feedback from councils during the consultation.
7. The new Codes **do not apply** to complaints processed under the statutory adult social care or statutory children's complaints procedures, which have their own requirements set out in legislation.

Main Considerations

8. The council already has a single Complaints Procedure (Protocol 6) that covers complaints about the council's actions as a local authority – which are overseen by the LGSCO – and the council's actions as a landlord – which are overseen

by the HO. This involves two stages, with a response to the complaint provided by the relevant service at Stage 1, and an independent investigation undertaken by the Complaints team at Stage 2. Following this, the complainant is able to request a review by the relevant Ombudsman if they remain dissatisfied.

9. In 2022, the council's Complaints Procedure was amended by Full Council to align with new requirements set out in the HO's Complaint Handling Code at the time. The latest HO Code has changed relatively little since then. As such, by virtue of the changes made in 2022, the council is now in a strong position to meet the requirements of the new LGSCO and HO Codes.
10. A table setting out the changes to this council's complaints processes required for full compliance with the new Codes is included at **Appendix 3**. Most of the changes involve relatively small adjustments to our existing practices.
11. The most significant change arrives in the LGSCO's new Code and is a reduction in the time permitted for responding to complaints at both Stages 1 and 2. This change provides new consistency between the LGSCO and HO Codes. The changes are set out below in **bold**:

Complaint stage	Wiltshire Council current practice	New LGSCO Code time limit
Complaint acknowledgement	2 working days	5 working days
Stage 1 response	20 working days	10 working days
Stage 1 extension (reasons required)	10 working days	10 working days
Stage 2 response	30 working days	20 working days
Stage 2 extension (reasons required)	20 working days	20 working days

12. Under the new LGSCO Code, services will therefore have 10 fewer working days to provide complaint responses at Stage 1. The Complaints team will see the same reduction for completing their independent investigations at Stage 2.
13. Under the new Codes, the timescale for responding to complaints only commences once the complaint has been acknowledged, with acknowledgment required within 5 working days. At present, the council treats response timescales as commencing from the date of receipt.
14. To give an indication of past performance, in 2023-24:
 - 59% of the council's **Stage 1** responses were provided within the **current** total timescale of 30 working days (including extension).
 - 92% of **Stage 2** responses were provided within the **current** total timescale of 40 working days (including extension).

15. All of the more minor changes required under the new Codes can be implemented immediately. However, the council must decide **when** it will reduce its timescales for responding to complaints falling under the LGSCO, as set out under paragraph 11.
16. The LGSCO has indicated that there is no requirement to implement its new Code in full until April 2026 at the earliest, though it encourages councils to do so as early as possible. Once the timescales are “in force”, councils will be expected to comply with them or explain why they are not doing so. Examples provided by the LGSCO of when non-compliance is permissible relate to temporary situations such as industrial action or a cyber-attack. It will therefore not be feasible to be non-compliant with the LGSCO’s Code on a long-term basis.
17. Having considered the operational impacts, the council’s Corporate Leadership Team (CLT) considers that implementation of the new timescales in Autumn 2024 will allow appropriate time for the promotion of the changes across the council and for services to adapt their processes and resources accordingly. This lead-in time will maximise the council’s ability to meet the new timescales consistently once they are introduced, minimising unnecessary frustration for complainants. Services will be supported to meet the new requirements through guidance and training on good complaint handling practices. Implementing the change far in advance of it becoming a formal requirement (in April 2026) demonstrates best practice and reflects the council’s commitment to valuing complaints. It is therefore proposed that Standards Committee receives an amended Protocol 6 – Complaints Procedure, reflecting the new complaint response timescales, on 3 October 2024, and recommends its adoption by Full Council on 21 October 2024.
18. The table below provides an indication of the current complaint response timescales in place at other local authorities. The number that meet the requirements set out in the new Codes will inevitably increase over the coming months and years. It is evident that this council’s current response timescales are slightly higher than average. However, anecdotal evidence suggests that many councils are further behind in achieving compliance with the new Codes more generally:

Council	Stage 1	Stage 2
	(not including any extension)	
BANES	15	20
Cornwall	10	20
Devon	20	20
Dorset	20	-
Durham	10	unknown
Gloucester	20	25
Hampshire	20	unknown
Shropshire	6 weeks	16 weeks
Somerset	10	20
Wiltshire	20	30

19. The HO's new Code requires the following complaint response timescales, with the single change required to this council's procedure in **bold**:

Complaint stage	Wiltshire Council current practice	New HO Code time limit
Stage 1 response	20 working days	10 working days
Stage 1 extension (reasons required)	10 working days	10 working days
Stage 2 response	20 working days	20 working days
Stage 2 extension (reasons required)	10 working days	20 working days

20. There is therefore an **increase** to the extension permitted for responding to complaints under the HO at Stage 2. As with the changes required by the LGSCO's Code, it is proposed that this change is made by Full Council in October 2024.

Proposal

21. To note the new Complaint Handling Codes published by the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman (HO) and the associated changes required to the council's complaint handling practices.

22. To note that the council's current complaint handling processes are already largely compliant with the new Codes and that all the changes required – excepting those relating to complaint response timescales – are being actioned immediately.

23. At its 3 October 2024 meeting, Standards Committee to consider an amended Protocol 6 – Complaints Procedure reflecting the complaint response timescales required under the new LGSCO and HO Codes (set out at paragraphs 11 and 19) and to recommend these for adoption by Full Council on 21 October 2024.

Perry Holmes, Monitoring Officer and Director for Legal and Governance

Report Author: Henry Powell, Democracy and Complaints Manager, complaints@wiltshire.gov.uk

Date of report: 10 April 2024

Appendices

Appendix 1 LGSCO Complaint Handling Code 2024

Appendix 2 Housing Ombudsman Complaint Handling Code 2024

Appendix 3 Changes to the council's processes required by the LGSCO and HO
Complaint Handling Codes 2024

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Local Government &
Social Care
OMBUDSMAN



Complaint Handling Code

Date published: February 2024
Page 23 Date applicable: April 2024

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Introduction

Good complaint handling requires effective procedures and well-trained staff alongside a positive complaints culture that enables those procedures to achieve maximum impact. This code sets out what an organisation should do procedurally to handle complaints.

Organisations should embrace complaints through increased transparency, accessibility, and complaint handling governance. Demonstrating that individuals are at the heart of its service delivery and good complaint handling is central to that.

Some organisations see complaints as a form of negative feedback. However, there are many benefits to be gained from having an effective and efficient complaints process:

- > Good complaint handling promotes a positive relationship between an organisation and service users.
- > Complaints allow an issue to be resolved before it becomes worse. Those issues not resolved promptly can take significant resource and time to remedy.
- > Involvement in complaint resolution develops staff ownership, decision-making and engagement.
- > Complaints provide senior staff with essential insight into day-to-day operations, allowing them to assess effectiveness and drive a positive complaint handling culture.
- > Data collected about complaints can be analysed and used to inform key business decisions to drive improvement in service provision.

The Complaint Handling Code ('the Code'), sets out a process for organisations that will allow them to respond to complaints effectively and fairly. The purpose of the Code is to enable organisations to resolve complaints raised by individuals promptly, and to use the data and learning from complaints to drive service improvements. It will also help to create a

positive complaint handling culture amongst staff and individuals.

The Code will act as a guide for individuals setting out what they may expect from an organisation when they make a complaint. Organisations should seek feedback from individuals in relation to their complaint handling as part of the drive to encourage a positive complaint and learning culture.

Organisations should have a single policy for dealing with complaints covered by the Code.

The principles, process and timescales in this Code are aligned with the Complaint Handling Code issued by the Housing Ombudsman. This means that organisations who fall under the jurisdiction of both Ombudsmen should be able to provide a co-ordinated complaint handling process across services covered by both Codes.

The Local Government and Social Care Ombudsman's powers and approach

The Code is issued under the Local Government and Social Care Ombudsman's powers to provide "guidance about good administrative practice" to organisations under section 23(12A) of the Local Government Act 1974. For the Local Government and Social Care Ombudsman, this Code constitutes important advice and guidance to councils, rather than instructions.

We have issued the Code for local councils in England. Other organisations in the Ombudsman's jurisdiction may find the Code helpful in setting out good practice.

We can recommend an organisation takes action to improve services or provide a personal remedy where it finds fault causing injustice to an individual or group of individuals. Unlike the Housing Ombudsman, we have no specific responsibility for monitoring compliance with the Code in addition to our role investigating complaints of maladministration and service failure.

Using the Code

We expect local councils to carefully consider the Code when developing policies and procedures. Where an organisation decides that it will depart from the Code, it should ensure local decision-making processes have been properly followed.

We may make a finding of maladministration where local councils' policies and procedures depart from the Code without sufficient explanation. We may also make a finding of maladministration where a local council, without good reason, does not meet the standards in the Code when responding to an individual complaint.

Where an organisation is unable to comply with its policies and procedures when dealing with an individual complaint, the individual should be provided with a suitable explanation and signposted to the Ombudsman.

The Code should be considered along with other guidance issued by the Local Government and Social Care Ombudsman.

The Code does not replace any existing statutory complaint processes such as The Children Act 1989 Representations Procedure (England) Regulations 2006 or Local Authority Social Services and National Health Service Complaints (England) Regulations 2009.

The Complaint Handling Code

1. Definition of a service request and complaint

- 1.1 Effective complaint handling enables individuals to be heard and understood. The starting point for this is a shared understanding of what constitutes a service request and what constitutes a complaint. In most cases organisations should be able to put things right through normal service delivery processes.
- 1.2 A service request may be defined as:
'a request that the organisation provides or improves a service, fixes a problem or reconsiders a decision.'
- 1.3 This provides organisations with opportunities to resolve matters to an individual's satisfaction before they become a complaint.
- 1.4 A complaint may be defined as:
'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual or group of individuals.'
- 1.5 An individual should not have to use the word 'complaint' for it to be treated as such. A complaint that is submitted via a third party or representative should still be handled in line with the organisation's complaints policy.
- 1.6 Organisations should recognise the difference between a service request and a complaint. This should be set out in their complaints policy.
- 1.7 Service requests are not complaints but may contain expressions of dissatisfaction. Organisations should have the opportunity to deal with a service request before a complaint is made. A complaint may be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. An organisation should not stop its efforts to address the service request if the individual complains.
- 1.8 Service requests should be recorded, monitored and reviewed regularly.

2. Exclusions

- 2.1 An organisation should accept a complaint unless there is a valid reason not to do so. If the organisation decides not to accept a complaint, it should be able to evidence its reasoning. Each complaint should be considered on its own merits.
- 2.2 Organisations should accept complaints referred to them within 12 months of the issue occurring, or the individual becoming aware of the issue. Organisations should consider whether to apply discretion to accept complaints made outside this time limit where there are good reasons to do so.
- 2.3 A complaints policy should set out the circumstances in which a matter might not be considered or escalated. Organisations should ensure that these are reasonable, and should not deny individuals access to redress.
- 2.4 If an organisation decides not to accept a complaint, an explanation should be provided to the individual setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the Ombudsman.
- 2.5 Organisations should not take a blanket approach to excluding complaints; they should consider the individual circumstances of each complaint.

3. Accessibility and awareness

- 3.1 Organisations should make it easy for individuals to complain by providing different channels through which they can make a complaint. Organisations must consider their duties under the Equality Act 2010 and anticipate the needs and reasonable adjustments of individuals who may need to access the complaints process.
- 3.2 Individuals should be able to raise their complaints in any way and with any member of staff. All staff should be aware of the complaints process and be able to pass details of the complaint to the appropriate person within the organisation.
- 3.3 High volumes of complaints should not be seen as a negative, as they can be indicative of a well-publicised and accessible complaints process. Low complaint volumes are potentially a sign that individuals are unable to complain.
- 3.4 Organisations should make their complaint policy available in a clear and accessible format for all individuals. This should detail the process, what will happen at each stage, and the timeframes for responding. The policy should also be published on the organisation's website.
- 3.5 The policy should explain how the organisation will publicise details of the complaints policy, including information about the Ombudsman and this Code.
- 3.6 Organisations should give individuals the opportunity to have a suitable representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with the organisation.
- 3.7 Organisations should provide individuals with information on their right to access the Ombudsman service and how the individual can engage with the Ombudsman about their complaint.
- 3.8 Where an organisation asks for feedback about its services through a survey, it should provide details of how individuals can complain so they can pursue any dissatisfaction if they so wish.

4. Complaint handling resources

- 4.1 Organisations should have designated, sufficient resource assigned to take responsibility for complaint handling, including liaison with the relevant Ombudsman and ensuring complaints are reported to the governing body (or equivalent).
- 4.2 Anyone responding to a complaint should have access to staff at all levels to facilitate the prompt resolution of complaints. They should also have the authority and autonomy to act to resolve disputes promptly and fairly.
- 4.3 Organisations are expected to prioritise complaint handling and a culture of learning from complaints. All relevant staff should be suitably trained in the importance of complaint handling. It is important that complaints are seen as a core service and resourced accordingly

5. The complaint handling process

- 5.1 Organisations should have a single policy for dealing with complaints covered by the Code.
- 5.2 The early and local resolution of issues between organisations and individuals is key to effective complaint handling. Organisations should not have extra named stages (such as 'stage 0' or 'informal complaint') as this causes unnecessary confusion.
- 5.3 When an individual expresses dissatisfaction that could meet the criteria for a complaint as set out in section 1 of the Code, they should be given the opportunity to make a complaint. Organisations should recognise that individuals may be reluctant to raise complaints out of fear it may impact services they receive in future.
- 5.4 The person responding to the complaint should:
- clarify with the individual any aspects of the complaint they are unclear about;
 - deal with complaints on their merits, act independently, and have an open mind;
 - give the individual a fair chance to set out their position;
 - take measures to address any actual or perceived conflict of interest; and
 - consider all relevant information and evidence carefully.
- 5.5 Where a response to a complaint will fall outside the timescales set out in this Code the organisation should inform the individual of when the response will be provided and the reason(s) for the delay.
- 5.6 Organisations must make reasonable adjustments for individuals where appropriate under the Equality Act 2010.
- Organisations should keep a record of any reasonable adjustments agreed. Any agreed reasonable adjustments should be kept under active review.
- 5.7 Organisations should not refuse to escalate a complaint through all stages of the complaints procedure unless there are valid reasons to do so. Organisations should clearly set out these reasons, and they should align with the approach to exclusions set out in section 2 of the Code.
- 5.8 A full record should be kept of the complaint, and the outcomes at each stage. This should include the original complaint and the date received, all correspondence with the individual, correspondence with other parties, and any relevant supporting documentation such as reports. This should be retained in line with the organisation's data retention policies.
- 5.9 Organisations should have systems in place to ensure that a complaint can be remedied at any stage of its complaints process. Organisations should ensure that appropriate remedies can be provided at any stage of the complaints process without the need for escalation to stage 2 or the Ombudsman.
- 5.10 Organisations should have policies and procedures in place for managing unacceptable behaviour from individuals and/or their representatives. Organisations should be able to evidence reasons for putting any restrictions in place and should keep an individual's restrictions under regular review.
- 5.11 Any restrictions placed on an individual's contact due to unacceptable behaviour should be proportionate and demonstrate regard for the provisions of the Equality Act 2010.

6. Complaints stages

Stage 1

- 6.1 Organisations should have processes in place to consider which complaints can be responded to as early as possible, and which require further consideration. Organisations should consider factors such as the complexity of the complaint and whether the individual is vulnerable or at risk. Most stage 1 complaints can be resolved promptly, and an explanation, apology or resolution provided to the individual.
- 6.2 Complaints should be acknowledged, and logged at stage 1 of the complaints procedure **within five working days of the complaint being received**.
- 6.3 Organisations should provide a full response to stage 1 complaints **within 10 working days** of the complaint being acknowledged.
- 6.4 Organisations should decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform individuals of the expected timescale for response. Any extension should be no more than 10 working days without good reason, and the reason(s) should be clearly explained to the individual.
- 6.5 When an organisation informs an individual about an extension to these timescales, they should be provided with the details of the relevant Ombudsman.
- 6.6 A complaint response should be provided to the individual when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions should still be tracked and actioned promptly, with appropriate updates provided to the individual.
- 6.7 Organisations should address all points raised in the complaint and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate. Organisations should be clear which aspects of the complaint they are, and are not, responsible for and clarify any areas where this is not clear.
- 6.8 At the conclusion of stage 1 organisations should provide details of how to escalate the matter to stage 2 if the individual is not satisfied with the response.
- 6.9 Where individuals raise additional complaints during stage 1, these should be incorporated into the stage 1 response if they are related, and the stage 1 response has not been provided. Where the stage 1 response has been provided, the new issues are unrelated to the issues already being considered, or it would unreasonably delay the response, the new issues should be logged as a new complaint.
- 6.10 Organisations should have systems in place to ensure that a complaint can be remedied at any stage of its complaints process. Individuals should not have to escalate a complaint in order to get an appropriate remedy.

Stage 2

- 6.11 If all or part of the complaint is not resolved to the individual's satisfaction at stage 1, it should be progressed to stage 2 of the organisation's procedure. Stage 2 is the organisation's final response..
- 6.12 Requests for stage 2 should be acknowledged and logged at stage 2 of the complaints procedure within **five working days of the escalation request being received**. Within the acknowledgement, organisations should set out their understanding of any outstanding issues and the outcomes the individual is seeking. If any aspect of the complaint is unclear, the individual should be asked for clarification.
- 6.13 Individuals should not be required to explain their reasons for requesting a stage 2 consideration. Organisations should make reasonable efforts to understand why an individual remains unhappy as part of its stage 2 response.
- 6.14 The person considering the complaint at stage 2 should not be the same person that considered the complaint at stage 1.
- 6.15 Organisations should issue a final response to the stage 2 **within 20 working days** of the complaint being acknowledged.
- 6.16 Organisations should decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform individuals of the expected timescale for response. Any extension should be no more than 20 working days without good reason, and the reason(s) should be clearly explained to the individual.
- 6.17 When an organisation informs an individual about an extension to these timescales they should be provided with the details of the relevant Ombudsman.
- 6.18 Organisations should confirm the following in writing to the individual at the completion of stage 2 in clear, plain language:
- the complaint stage;
 - the organisation's understanding of the complaint;
 - the decision on the complaint;
 - the reasons for any decisions made;
 - the details of any remedy offered to put things right;
 - details of any outstanding actions; and
 - details of how to escalate the matter to the Ombudsman if the individual remains dissatisfied.
- 6.19 Stage 2 should be the organisation's final response and should involve all suitable staff members needed to issue such a response.
- 6.20 A process with more than two stages will make the complaint process unduly long and delay access to the relevant Ombudsman. A process with a single stage means the organisation may lack the ability to check its response before an individual comes to the Ombudsman.
- 6.21 Where an organisation's complaint response is handled by a third party (e.g. a contractor) or independent adjudicator at any stage, it should form part of the two stage complaints process set out in this Code. Individuals should not be expected to go through two complaints processes.
- 6.22 Organisations are responsible for ensuring that any third parties handle complaints in line with the Code.

7. Putting things right

- 7.1 Where something has gone wrong an organisation should acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:
- > Apologising;
 - > Acknowledging where things have gone wrong;
 - > Providing an explanation, assistance or reasons;
 - > Taking action if there has been delay;
 - > Reconsidering or changing a decision;
 - > Amending a record or adding a correction or addendum;
 - > Providing a financial remedy;
 - > Changing policies, procedures or practices.
- 7.2 Any remedy offered should reflect the impact on the individual as a result of any fault identified.
- 7.3 The remedy offer should clearly set out what will happen and by when, in agreement with the individual where appropriate. Any remedy proposed should be followed through to completion.
- 7.4 If a proposed remedy cannot be delivered, the individual should be informed of the reasons for this, provided with details of any alternative remedy and reminded of their right to complain to the Ombudsman,
- 7.5 Organisations should take account of the good practice guides issued by the Ombudsman when deciding on appropriate remedies.

8. Performance reporting and self-assessment

- 8.1 Organisations should produce an annual complaints performance and service improvement report for scrutiny and challenge, which should include:
- a. an annual self-assessment against this Code to ensure its complaint handling policy remains in line with its requirements.
 - b. a qualitative and quantitative analysis of the organisation's complaint handling performance. This should also include a summary of the types of complaints the organisation has refused to accept;
 - c. any findings of non-compliance with this Code;
 - d. the service improvements made as a result of the learning from complaints;
 - e. the annual letter about the organisation's performance from the Ombudsman; and
 - f. any other relevant reports or publications produced by the Ombudsman in relation to the work of the organisation.
- 8.2 The annual complaints performance and service improvement report should be reported through the organisation's governance arrangements and published on the section of its website relating to complaints. The response to the report from the relevant governance arrangement should be published alongside this.
- 8.3 Organisations should also carry out a self-assessment following a significant restructure, merger and/or change in procedures.

9. Scrutiny & oversight: continuous learning and improvement

- 9.1 Organisations should look beyond the circumstances of the individual complaint and consider whether service improvements can be made as a result of any learning from the complaint.
- 9.2 A positive complaint handling culture is important to the effectiveness with which organisations resolve disputes. Organisations should use complaints as a source of intelligence to identify issues and introduce positive changes in service delivery.
- 9.3 Accountability and transparency are also integral to a positive organisational culture. Organisations should report back on wider learning and improvements from complaints to stakeholders, such as citizens' panels, staff and relevant committees.
- 9.4 The organisation should appoint a suitably senior person to oversee its complaint handling performance. This person should assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision.
- 9.5 In addition to this, organisations should assign lead responsibility for complaints in governance arrangements to support a positive complaint handling culture. We refer to this as the 'Member Responsible for Complaints' (the Member). This role could be carried out by an individual or committee depending on the governance arrangements in place.
- 9.6 The Member should receive regular information on complaints that provides insight on the organisation's complaint handling performance. The Member should have access to suitable information and staff to perform this role and report on their findings.
- 9.7 As a minimum, the Member should receive:
- regular updates on the volume, categories, and outcomes of complaints, alongside complaint handling performance
 - regular reviews of issues and trends arising from complaint handling; and
 - the annual complaints performance and service improvement report.
- 9.8 Organisations should have a standard objective in relation to complaint handling for all relevant employees or third parties that reflects the need to:
- > have a collaborative and co-operative approach towards resolving complaints, working with colleagues across teams and departments;
 - > take collective responsibility for any shortfalls identified through complaints, rather than blaming others; and
 - > act within the professional standards for engaging with complaints as set by any relevant professional body.

Appendix A: Self-assessment

A self-assessment should be completed and shared with the organisation's governance arrangements as part of the complaints performance and service improvement report.

Evidence should show how the organisation follows the Code and its own policies. It should also set out how well it is performing and provide information about service improvements which have been implemented following complaints.

For example, this could include records of quality assurance checks on complaint responses, exclusions and feedback from relevant staff. If the failure to meet an expectation only relates to one service area or department this should be made clear.

When completing the self-assessment, organisations should not focus on the number of complaints received. Recording a high number of complaints may be an indication that the organisation welcomes complaints and that individuals are able to access the complaints process easily. Organisations should focus on timescales for responding to complaints and complaint outcomes.

A suggested self-assessment format is included here, but organisations may adopt their own version to meet local needs and reporting requirements.

Example: Self-assessment against the requirements of the Code

Code section	Action	Do we follow the code Yes/No	Explanations and Commentary
1: Definition of a service request and complaint	We recognise the difference between a service request and a complaint and these are defined in our policies and procedures.		
2: Exclusions	Our complaints policy sets out circumstances where we would not consider a complaint. These are reasonable and do not deny individuals access to redress.		
3: Accessibility and awareness	We provide different channels through which individuals can make complaints. These are accessible and we are able to make reasonable adjustments where necessary.		
4: Complaint handling resources	We have designated, sufficient resource assigned to take responsibility for complaint handling. Complaints are viewed as a core service and resourced accordingly.		

Code section	Action	Do we follow the code Yes/No	Explanations and Commentary
5: The complaint handling process	We have a single policy for dealing with complaints covered by the Code and individuals are given the option of raising a complaint where they express dissatisfaction that meets the definition of the complaint in our policy.		
6: Complaints stages (Stage 1)	We process stage 1 complaints in line with timescales and processes set out in the Code.		
6: Complaints stages (Stage 2)	We process stage 2 complaints in line with timescales and processes set out in the Code.		
7: Putting things right	When something has gone wrong we take action to put things right.		
8: Performance reporting and self-assessment	We produce an annual complaints performance and service improvement report for scrutiny and challenge which includes a self-assessment against the Code.		
9: Scrutiny & Oversight	We have appropriate senior leadership and governance oversight of the complaints process and performance.		

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Housing

Ombudsman Service

Complaint Handling Code

Date published: 08 February 2024

Date applicable: 01 April 2024

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Foreword

The heartbeat of this Code is enabling a positive complaints culture across the social housing sector.

This positive culture matters regardless of size or type of landlord. It supports strong resident-landlord relationships. It means things can be put right for residents when they have gone wrong. It helps organisations to develop and improve services. And, perhaps above all, it supports the values of justice and fairness that embodies so much of the sector's social purpose.

This Code considers complaints to be more than transactions. Nonetheless, good complaint handling requires effective procedures and well-trained staff alongside a positive complaints culture that enables those procedures to achieve maximum impact. This Code sets out what landlords must do procedurally to handle complaints. Compliance with the Code is most effective within landlords that operate within established dispute resolution principles: to be fair, puts things right, and learn from outcomes.

Landlords must embrace complaints through increased transparency, accessibility, and complaint handling governance, demonstrating that residents are core to its service delivery and good complaint handling is central to that.

This Code aims to support the earliest resolution of complaints while the matters are still within the landlord's own procedure. This can avoid issues escalating with potentially prolonged detriment to the resident, as well as requiring significantly more time and resource by the landlord to remedy.

This Code provides a guide to residents of what to expect if they make a complaint, as well as improving access and awareness to the procedure when they need it. The adoption of this statutory Code and associated duties ensures residents do not experience a postcode lottery in complaint handling.

Embracing the Code can also empower staff. Involvement in complaint resolution develops staff ownership, decision-making and engagement, and should ensure appropriate resources and tools are deployed to handle complaints. It provides senior staff with essential insight into day-to-day operations, allowing them to assess effectiveness and identify any organisational risks or issues. Lastly, data collected about complaints can be analysed and used to inform key business decisions to drive improvement in service provision.

Landlords are expected to annually self-assess against the Code, to engage its governance in that exercise and to publish the outcome. We also encourage landlords to see this exercise as an opportunity to engage residents in setting their approach to complaints to drive a positive complaints and learning culture. This approach must be captured by the landlord in a single policy for handling complaints.

The positive engagement of landlords in the Code and its principles has brought focus on the importance of complaints and the advent of this statutory Code will drive further change to the benefit of both residents and landlords.

Introduction

Statutory powers

The Social Housing (Regulation) Act 2023 empowered the Ombudsman to issue a code of practice about the procedures members of the Scheme should have in place for considering complaints against them following consultation on the code.

It also placed a duty on the Ombudsman to monitor compliance with a code of practice that it has issued.

The Ombudsman consulted on the code and its intended approach to the duty to monitor in late 2023. This is the first statutory Complaint Handling Code ('the Code') and it will take effect from 1 April 2024; the duty to monitor compliance will go-live at the same time.

Compliance with the Code

The Ombudsman believes all members should comply with all provisions in the Code as this represents best practice in complaint handling.

We recognise, however, that there may be a small number of circumstances where landlords are unable to meet the requirements, for example, if they do not have a website. In these circumstances, we expect landlords to deliver the intentions of the Code in an alternative way, for example by publishing information in a public area so that it is easily accessible. We call this approach "comply or explain".

Where a landlord is unable to comply with the Code due to exceptional circumstances, such as a cyber incident, they must inform the Ombudsman and provide information to residents who may be affected, and publish this on their website. Landlords must provide a timescale for returning to compliance with the Code.

Where a landlord is unable to comply with the Code when dealing with a resident's complaint, the resident must be provided with a detailed explanation and signposted to the Ombudsman.

Monitoring compliance with the Code

The Ombudsman would like all landlords to have strong local complaint handling and a positive complaint handling culture – extending fairness to benefit all residents. These lead to better services and strengthen relationships with residents. We will use the duty to monitor compliance to further these aims by supporting better practice and providing opportunities to demonstrate improvement.

Support will be provided through our Centre for Learning, accessible via the website, which hosts an ever-growing range of tools targeted at complaints handlers, senior managers and governing bodies.

We will monitor compliance in three ways. This will involve ensuring the landlord:

- has scrutinised and challenged its compliance with the Code, complaints handling performance and learning from complaints at its governing body and published the outcome on its website;
- complies with the Code in policy, and that any deviations are explained and are reasonable; and
- complies with the Code in practice.

Where a landlord does not meet the requirements in any of the areas and does not move into compliance within a reasonable timescale, the Ombudsman will issue a Complaint Handling Failure Order (CHFO) and publish this.

The Complaint Handling Code

1. Definition of a complaint

- 1.1 Effective complaint handling enables residents to be heard and understood. The starting point for this is a shared understanding of what constitutes a complaint.
- 1.2 A complaint must be defined as:
'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the landlord, its own staff, or those acting on its behalf, affecting a resident or group of residents.'
- 1.3 A resident does not have to use the word 'complaint' for it to be treated as such. Whenever a resident expresses dissatisfaction landlords must give them the choice to make complaint. A complaint that is submitted via a third party or representative must be handled in line with the landlord's complaints policy.
- 1.4 Landlords must recognise the difference between a **service request** and a **complaint**. This must be set out in their complaints policy. A service request is a request from a resident to the landlord requiring action to be taken to put something right. Service requests are not complaints, but must be recorded, monitored and reviewed regularly.
- 1.5 A complaint must be raised when the resident expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. Landlords must not stop their efforts to address the service request if the resident complains.
- 1.6 An expression of dissatisfaction with services made through a survey is not defined as a complaint, though wherever possible, the person completing the survey should be made aware of how they can pursue a complaint if they wish to. Where landlords ask for wider feedback about their services, they also must provide details of how residents can complain.

2. Exclusions

- 2.1 Landlords must accept a complaint unless there is a valid reason not to do so. If landlords decide not to accept a complaint they must be able to evidence their reasoning. Each complaint must be considered on its own merits.
- 2.2 A complaints policy must set out the circumstances in which a matter will not be considered as a complaint or escalated, and these circumstances must be fair and reasonable to residents. Acceptable exclusions include:
 - The issue giving rise to the complaint occurred over twelve months ago.
 - Legal proceedings have started. This is defined as details of the claim, such as the Claim Form and Particulars of Claim, having been filed at court.

- Matters that have previously been considered under the complaints policy.
- 2.3 Landlords must accept complaints referred to them within 12 months of the issue occurring or the resident becoming aware of the issue, unless they are excluded on other grounds. Landlords must consider whether to apply discretion to accept complaints made outside this time limit where there are good reasons to do so.
 - 2.4 If a landlord decides not to accept a complaint, an explanation must be provided to the resident setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the Ombudsman. If the Ombudsman does not agree that the exclusion has been fairly applied, the Ombudsman may tell the landlord to take on the complaint.
 - 2.5 Landlords must not take a blanket approach to excluding complaints; they must consider the individual circumstances of each complaint.

3. Accessibility and awareness

- 3.1 Landlords must make it easy for residents to complain by providing different channels through which they can make a complaint. Landlords must consider their duties under the Equality Act 2010 and anticipate the needs and reasonable adjustments of residents who may need to access the complaints process.
- 3.2 Residents must be able to raise their complaints in any way and with any member of staff. All staff must be aware of the complaints process and be able to pass details of the complaint to the appropriate person within the landlord.
- 3.3 High volumes of complaints must not be seen as a negative, as they can be indicative of a well-publicised and accessible complaints process. Low complaint volumes are potentially a sign that residents are unable to complain.
- 3.4 Landlords must make their complaint policy available in a clear and accessible format for all residents. This will detail the two stage process, what will happen at each stage, and the timeframes for responding. The policy must also be published on the landlord's website.
- 3.5 The policy must explain how the landlord will publicise details of the complaints policy, including information about the Ombudsman and this Code.
- 3.6 Landlords must give residents the opportunity to have a representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with the landlord.
- 3.7 Landlords must provide residents with information on their right to access the Ombudsman Service and how the individual can engage with the Ombudsman about their complaint.

4. Complaint handling staff

- 4.1 Landlords must have a person or team assigned to take responsibility for complaint handling, including liaison with the Ombudsman and ensuring complaints are reported to the governing body (or equivalent). This Code will refer to that person or team as the 'complaints officer'. This role may be in addition to other duties.
- 4.2 The complaints officer must have access to staff at all levels to facilitate the prompt resolution of complaints. They must also have the authority and autonomy to act to resolve disputes promptly and fairly.
- 4.3 Landlords are expected to prioritise complaint handling and a culture of learning from complaints. All relevant staff must be suitably trained in the importance of complaint handling. It is important that complaints are seen as a core service and must be resourced to handle complaints effectively.

5. The complaint handling process

- 5.1 Landlords must have a single policy in place for dealing with complaints covered by this Code. Residents must not be treated differently if they complain.
- 5.2 The early and local resolution of issues between landlords and residents is key to effective complaint handling. It is not appropriate to have extra named stages (such as 'stage 0' or 'informal complaint') as this causes unnecessary confusion.
- 5.3 A process with more than two stages is not acceptable under any circumstances as this will make the complaint process unduly long and delay access to the Ombudsman.
- 5.4 Where a landlord's complaint response is handled by a third party (e.g. a contractor or independent adjudicator) at any stage, it must form part of the two stage complaints process set out in this Code. Residents must not be expected to go through two complaints processes.
- 5.5 Landlords are responsible for ensuring that any third parties handle complaints in line with the Code.
- 5.6 When a complaint is logged at Stage 1 or escalated to Stage 2, landlords must set out their understanding of the complaint and the outcomes the resident is seeking. The Code will refer to this as "the complaint definition". If any aspect of the complaint is unclear, the resident must be asked for clarification.
- 5.7 When a complaint is acknowledged at either stage, landlords must be clear which aspects of the complaint they are, and are not, responsible for and clarify any areas where this is not clear.
- 5.8 At each stage of the complaints process, complaint handlers must:
 - a) deal with complaints on their merits, act independently, and have an open mind;

- b) give the resident a fair chance to set out their position;
- c) take measures to address any actual or perceived conflict of interest; and
- d) consider all relevant information and evidence carefully.

- 5.9 Where a response to a complaint will fall outside the timescales set out in this Code the landlord must agree with the resident suitable intervals for keeping them informed about their complaint.
- 5.10 Landlords must make reasonable adjustments for residents where appropriate under the Equality Act 2010. Landlords must keep a record of any reasonable adjustments agreed, as well as a record of any disabilities a resident has disclosed. Any agreed reasonable adjustments must be kept under active review.
- 5.11 Landlords must not refuse to escalate a complaint through all stages of the complaints procedure unless it has valid reasons to do so. Landlords must clearly set out these reasons, and they must comply with the provisions set out in section 2 of this Code.
- 5.12 A full record must be kept of the complaint, and the outcomes at each stage. This must include the original complaint and the date received, all correspondence with the resident, correspondence with other parties, and any relevant supporting documentation such as reports or surveys.
- 5.13 Landlords must have processes in place to ensure that a complaint can be remedied at any stage of its complaints process. Landlords must ensure that appropriate remedies can be provided at any stage of the complaints process without the need for escalation.
- 5.14 Landlords must have policies and procedures in place for managing unacceptable behaviour from residents and/or their representatives. Landlords must be able to evidence reasons for putting any restrictions in place and must keep restrictions under regular review.
- 5.15 Any restrictions placed on contact due to unacceptable behaviour must be proportionate and demonstrate regard for the provisions of the Equality Act 2010.

6. Complaints stages

Stage 1

- 6.1 Landlords must have processes in place to consider which complaints can be responded to as early as possible, and which require further investigation. Landlords must consider factors such as the complexity of the complaint and whether the resident is vulnerable or at risk. Most stage 1 complaints can be resolved promptly, and an explanation, apology or resolution provided to the resident.
- 6.2 Complaints must be acknowledged, defined and logged at stage 1 of the complaints procedure **within five working days of the complaint being received.**

- 6.3 Landlords must issue a full response to stage 1 complaints **within 10 working days** of the complaint being acknowledged.
- 6.4 Landlords must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the resident of the expected timescale for response. Any extension must be no more than 10 working days without good reason, and the reason(s) must be clearly explained to the resident.
- 6.5 When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.
- 6.6 A complaint response must be provided to the resident when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.
- 6.7 Landlords must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.
- 6.8 Where residents raise additional complaints during the investigation, these must be incorporated into the stage 1 response if they are related and the stage 1 response has not been issued. Where the stage 1 response has been issued, the new issues are unrelated to the issues already being investigated or it would unreasonably delay the response, the new issues must be logged as a new complaint.
- 6.9 Landlords must confirm the following in writing to the resident at the completion of stage 1 in clear, plain language:
 - a) the complaint stage;
 - b) the complaint definition;
 - c) the decision on the complaint;
 - d) the reasons for any decisions made;
 - e) the details of any remedy offered to put things right;
 - f) details of any outstanding actions; and
 - g) details of how to escalate the matter to stage 2 if the individual is not satisfied with the response.

Stage 2

- 6.10 If all or part of the complaint is not resolved to the resident's satisfaction at stage 1, it must be progressed to stage 2 of the landlord's procedure. Stage 2 is the landlord's final response.
- 6.11 Requests for stage 2 must be acknowledged, defined and logged at stage 2 of the complaints procedure within **five working days of the escalation request being received**.

- 6.12 Residents must not be required to explain their reasons for requesting a stage 2 consideration. Landlords are expected to make reasonable efforts to understand why a resident remains unhappy as part of its stage 2 response.
- 6.13 The person considering the complaint at stage 2 must not be the same person that considered the complaint at stage 1.
- 6.14 Landlords must issue a final response to the stage 2 **within 20 working days** of the complaint being acknowledged.
- 6.15 Landlords must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the resident of the expected timescale for response. Any extension must be no more than 20 working days without good reason, and the reason(s) must be clearly explained to the resident.
- 6.16 When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.
- 6.17 A complaint response must be provided to the resident when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.
- 6.18 Landlords must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.
- 6.19 Landlords must confirm the following in writing to the resident at the completion of stage 2 in clear, plain language:
- a) the complaint stage;
 - b) the complaint definition;
 - c) the decision on the complaint;
 - d) the reasons for any decisions made;
 - e) the details of any remedy offered to put things right;
 - f) details of any outstanding actions; and
 - g) details of how to escalate the matter to the Ombudsman Service if the individual remains dissatisfied.
- 6.20 Stage 2 is the landlord's final response and must involve all suitable staff members needed to issue such a response.

7. Putting things right

- 7.1 Where something has gone wrong a landlord must acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:
- Apologising;

- Acknowledging where things have gone wrong;
 - Providing an explanation, assistance or reasons;
 - Taking action if there has been delay;
 - Reconsidering or changing a decision;
 - Amending a record or adding a correction or addendum;
 - Providing a financial remedy;
 - Changing policies, procedures or practices.
- 7.2 Any remedy offered must reflect the impact on the resident as a result of any fault identified.
- 7.3 The remedy offer must clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.
- 7.4 Landlords must take account of the guidance issued by the Ombudsman when deciding on appropriate remedies.

8. Self-assessment, reporting and compliance

- 8.1 Landlords must produce an annual complaints performance and service improvement report for scrutiny and challenge, which must include:
- a) the annual self-assessment against this Code to ensure their complaint handling policy remains in line with its requirements.
 - b) a qualitative and quantitative analysis of the landlord's complaint handling performance. This must also include a summary of the types of complaints the landlord has refused to accept;
 - c) any findings of non-compliance with this Code by the Ombudsman;
 - d) the service improvements made as a result of the learning from complaints;
 - e) any annual report about the landlord's performance from the Ombudsman; and
 - f) any other relevant reports or publications produced by the Ombudsman in relation to the work of the landlord.
- 8.2 The annual complaints performance and service improvement report must be reported to the landlord's governing body (or equivalent) and published on the on the section of its website relating to complaints. The governing body's response to the report must be published alongside this.
- 8.3 Landlords must also carry out a self-assessment following a significant restructure, merger and/or change in procedures.
- 8.4 Landlords may be asked to review and update the self-assessment following an Ombudsman investigation.
- 8.5 If a landlord is unable to comply with the Code due to exceptional circumstances, such as a cyber incident, they must inform the Ombudsman, provide information to residents who may be affected, and publish this on their

website. Landlords must provide a timescale for returning to compliance with the Code.

9. Scrutiny & oversight: continuous learning and improvement

- 9.1 Landlords must look beyond the circumstances of the individual complaint and consider whether service improvements can be made as a result of any learning from the complaint.
- 9.2 A positive complaint handling culture is integral to the effectiveness with which landlords resolve disputes. Landlords must use complaints as a source of intelligence to identify issues and introduce positive changes in service delivery.
- 9.3 Accountability and transparency are also integral to a positive complaint handling culture. Landlords must report back on wider learning and improvements from complaints to stakeholders, such as residents' panels, staff and relevant committees.
- 9.4 Landlords must appoint a suitably senior lead person as accountable for their complaint handling. This person must assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision.
- 9.5 In addition to this, a member of the governing body (or equivalent) must be appointed to have lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints ('the MRC').
- 9.6 The MRC will be responsible for ensuring the governing body receives regular information on complaints that provides insight on the landlord's complaint handling performance. This person must have access to suitable information and staff to perform this role and report on their findings.
- 9.7 As a minimum, the MRC and the governing body (or equivalent) must receive:
 - a) regular updates on the volume, categories and outcomes of complaints, alongside complaint handling performance;
 - b) regular reviews of issues and trends arising from complaint handling;
 - c) regular updates on the outcomes of the Ombudsman's investigations and progress made in complying with orders related to severe maladministration findings; and
 - d) the annual complaints performance and service improvement report.
- 9.8 Landlords must have a standard objective in relation to complaint handling for all relevant employees or third parties that reflects the need to:
 - a) have a collaborative and co-operative approach towards resolving complaints, working with colleagues across teams and departments;
 - b) take collective responsibility for any shortfalls identified through complaints, rather than blaming others; and

- c) act within the professional standards for engaging with complaints as set by any relevant professional body.

Appendix A: Self-assessment form

This self-assessment form should be completed by the complaints officer and it must be reviewed and approved by the landlord's governing body at least annually.

Once approved, landlords must publish the self-assessment as part of the annual complaints performance and service improvement report on their website. The governing body's response to the report must be published alongside this.

Landlords are required to complete the self-assessment in full and support all statements with evidence, with additional commentary as necessary.

We recognise that there may be a small number of circumstances where landlords are unable to meet the requirements, for example, if they do not have a website. In these circumstances, we expect landlords to deliver the intentions of the Code in an alternative way, for example by publishing information in a public area so that it is easily accessible.

Section 1: Definition of a complaint

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
1.2	<p>A complaint must be defined as:</p> <p><i>‘an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the landlord, its own staff, or those acting on its behalf, affecting a resident or group of residents.’</i></p>			
1.3	<p>A resident does not have to use the word ‘complaint’ for it to be treated as such. Whenever a resident expresses dissatisfaction landlords must give them the choice to make complaint. A complaint that is submitted via a third party or representative must be handled in line with the landlord’s complaints policy.</p>			
1.4	<p>Landlords must recognise the difference between a service request and a complaint. This must be set out in their complaints policy. A service request is a request from a resident to the landlord requiring action to be taken to put something right. Service requests are not complaints, but must be</p>			

	recorded, monitored and reviewed regularly.			
1.5	A complaint must be raised when the resident expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. Landlords must not stop their efforts to address the service request if the resident complains.			
1.6	An expression of dissatisfaction with services made through a survey is not defined as a complaint, though wherever possible, the person completing the survey should be made aware of how they can pursue a complaint if they wish to. Where landlords ask for wider feedback about their services, they also must provide details of how residents can complain.			

Section 2: Exclusions

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
2.1	Landlords must accept a complaint unless there is a valid reason not to do so. If landlords decide not to accept a complaint they must be able to evidence their reasoning. Each complaint must be considered on its own merits			
2.2	<p>A complaints policy must set out the circumstances in which a matter will not be considered as a complaint or escalated, and these circumstances must be fair and reasonable to residents. Acceptable exclusions include:</p> <ul style="list-style-type: none"> • The issue giving rise to the complaint occurred over twelve months ago. • Legal proceedings have started. This is defined as details of the claim, such as the Claim Form and Particulars of Claim, having been filed at court. 			

	<ul style="list-style-type: none"> Matters that have previously been considered under the complaints policy. 			
2.3	Landlords must accept complaints referred to them within 12 months of the issue occurring or the resident becoming aware of the issue, unless they are excluded on other grounds. Landlords must consider whether to apply discretion to accept complaints made outside this time limit where there are good reasons to do so.			
2.4	If a landlord decides not to accept a complaint, an explanation must be provided to the resident setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the Ombudsman. If the Ombudsman does not agree that the exclusion has been fairly applied, the Ombudsman may tell the landlord to take on the complaint.			
2.5	Landlords must not take a blanket approach to excluding complaints; they must consider the individual circumstances of each complaint.			

Section 3: Accessibility and Awareness

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
3.1	Landlords must make it easy for residents to complain by providing different channels through which they can make a complaint. Landlords must consider their duties under the Equality Act 2010 and anticipate the needs and reasonable adjustments of residents who may need to access the complaints process.			
3.2	Residents must be able to raise their complaints in any way and with any member of staff. All staff must be aware of the complaints process and be able to pass details of the complaint to the appropriate person within the landlord.			
3.3	High volumes of complaints must not be seen as a negative, as they can be indicative of a well-publicised and accessible complaints process. Low complaint volumes are potentially a sign that residents are unable to complain.			
3.4	Landlords must make their complaint policy available in a clear and accessible format for all residents. This will detail the two stage process, what			

	will happen at each stage, and the timeframes for responding. The policy must also be published on the landlord's website.			
3.5	The policy must explain how the landlord will publicise details of the complaints policy, including information about the Ombudsman and this Code.			
3.6	Landlords must give residents the opportunity to have a representative deal with their complaint on their behalf, and to be represented or accompanied at any meeting with the landlord.			
3.7	Landlords must provide residents with information on their right to access the Ombudsman service and how the individual can engage with the Ombudsman about their complaint.			

Section 4: Complaint Handling Staff

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
4.1	Landlords must have a person or team assigned to take responsibility for complaint handling, including liaison with the Ombudsman and ensuring complaints are reported to the governing body (or equivalent). This Code will refer to that person or team as the 'complaints officer'. This role may be in addition to other duties.			
4.2	The complaints officer must have access to staff at all levels to facilitate the prompt resolution of complaints. They must also have the authority and autonomy to act to resolve disputes promptly and fairly.			
4.3	Landlords are expected to prioritise complaint handling and a culture of learning from complaints. All relevant staff must be suitably trained in the importance of complaint handling. It is important that complaints are seen as a core service and must be resourced to handle complaints effectively.			

Section 5: The Complaint Handling Process

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
5.1	Landlords must have a single policy in place for dealing with complaints covered by this Code. Residents must not be treated differently if they complain.			
5.2	The early and local resolution of issues between landlords and residents is key to effective complaint handling. It is not appropriate to have extra named stages (such as 'stage 0' or 'informal complaint') as this causes unnecessary confusion.			
5.3	A process with more than two stages is not acceptable under any circumstances as this will make the complaint process unduly long and delay access to the Ombudsman.			
5.4	Where a landlord's complaint response is handled by a third party (e.g. a contractor or independent adjudicator) at any stage, it must form part of the two stage complaints process set out in this Code. Residents must not be			

	expected to go through two complaints processes.			
5.5	Landlords are responsible for ensuring that any third parties handle complaints in line with the Code.			
5.6	When a complaint is logged at Stage 1 or escalated to Stage 2, landlords must set out their understanding of the complaint and the outcomes the resident is seeking. The Code will refer to this as “the complaint definition”. If any aspect of the complaint is unclear, the resident must be asked for clarification.			
5.7	When a complaint is acknowledged at either stage, landlords must be clear which aspects of the complaint they are, and are not, responsible for and clarify any areas where this is not clear.			
5.8	At each stage of the complaints process, complaint handlers must: <ul style="list-style-type: none"> a. deal with complaints on their merits, act independently, and have an open mind; b. give the resident a fair chance to set out their position; c. take measures to address any actual or perceived conflict of interest; and 			

	d. consider all relevant information and evidence carefully.			
5.9	Where a response to a complaint will fall outside the timescales set out in this Code, the landlord must agree with the resident suitable intervals for keeping them informed about their complaint.			
5.10	Landlords must make reasonable adjustments for residents where appropriate under the Equality Act 2010. Landlords must keep a record of any reasonable adjustments agreed, as well as a record of any disabilities a resident has disclosed. Any agreed reasonable adjustments must be kept under active review.			
5.11	Landlords must not refuse to escalate a complaint through all stages of the complaints procedure unless it has valid reasons to do so. Landlords must clearly set out these reasons, and they must comply with the provisions set out in section 2 of this Code.			
5.12	A full record must be kept of the complaint, and the outcomes at each stage. This must include the original complaint and the date received, all correspondence with the resident, correspondence with other parties, and			

	any relevant supporting documentation such as reports or surveys.			
5.13	Landlords must have processes in place to ensure a complaint can be remedied at any stage of its complaints process. Landlords must ensure appropriate remedies can be provided at any stage of the complaints process without the need for escalation.			
5.14	Landlords must have policies and procedures in place for managing unacceptable behaviour from residents and/or their representatives. Landlords must be able to evidence reasons for putting any restrictions in place and must keep restrictions under regular review.			
5.15	Any restrictions placed on contact due to unacceptable behaviour must be proportionate and demonstrate regard for the provisions of the Equality Act 2010.			

Section 6: Complaints Stages

Stage 1

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
6.1	Landlords must have processes in place to consider which complaints can be responded to as early as possible, and which require further investigation. Landlords must consider factors such as the complexity of the complaint and whether the resident is vulnerable or at risk. Most stage 1 complaints can be resolved promptly, and an explanation, apology or resolution provided to the resident.			
6.2	Complaints must be acknowledged, defined and logged at stage 1 of the complaints procedure <u>within five working days of the complaint being received.</u>			
6.3	Landlords must issue a full response to stage 1 complaints <u>within 10 working days</u> of the complaint being acknowledged.			
6.4	Landlords must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the resident			

	of the expected timescale for response. Any extension must be no more than 10 working days without good reason, and the reason(s) must be clearly explained to the resident.			
6.5	When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.			
6.6	A complaint response must be provided to the resident when the answer to the complaint is known, not when the outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.			
6.7	Landlords must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.			
6.8	Where residents raise additional complaints during the investigation, these must be incorporated into the stage 1 response if they are related and the stage 1 response has not been issued. Where the stage 1 response has been issued, the new issues are unrelated to the issues already being			

	investigated or it would unreasonably delay the response, the new issues must be logged as a new complaint.			
6.9	Landlords must confirm the following in writing to the resident at the completion of stage 1 in clear, plain language: <ul style="list-style-type: none"> a. the complaint stage; b. the complaint definition; c. the decision on the complaint; d. the reasons for any decisions made; e. the details of any remedy offered to put things right; f. details of any outstanding actions; and g. details of how to escalate the matter to stage 2 if the individual is not satisfied with the response. 			

Stage 2

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
6.10	If all or part of the complaint is not resolved to the resident's satisfaction at stage 1, it must be progressed to stage 2 of the landlord's procedure. Stage 2 is the landlord's final response.			
6.11	Requests for stage 2 must be acknowledged, defined and logged at stage 2 of the complaints procedure			

	within five working days of the escalation request being received.			
6.12	Residents must not be required to explain their reasons for requesting a stage 2 consideration. Landlords are expected to make reasonable efforts to understand why a resident remains unhappy as part of its stage 2 response.			
6.13	The person considering the complaint at stage 2 must not be the same person that considered the complaint at stage 1.			
6.14	Landlords must issue a final response to the stage 2 <u>within 20 working days</u> of the complaint being acknowledged.			
6.15	Landlords must decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform the resident of the expected timescale for response. Any extension must be no more than 20 working days without good reason, and the reason(s) must be clearly explained to the resident.			
6.16	When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.			
6.17	A complaint response must be provided to the resident when the answer to the complaint is known, not when the			

	outstanding actions required to address the issue are completed. Outstanding actions must still be tracked and actioned promptly with appropriate updates provided to the resident.			
6.18	Landlords must address all points raised in the complaint definition and provide clear reasons for any decisions, referencing the relevant policy, law and good practice where appropriate.			
6.19	Landlords must confirm the following in writing to the resident at the completion of stage 2 in clear, plain language: <ul style="list-style-type: none"> a. the complaint stage; b. the complaint definition; c. the decision on the complaint; d. the reasons for any decisions made; e. the details of any remedy offered to put things right; f. details of any outstanding actions; and g. details of how to escalate the matter to the Ombudsman Service if the individual remains dissatisfied. 			
6.20	Stage 2 is the landlord's final response and must involve all suitable staff members needed to issue such a response.			

Section 7: Putting things right

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
7.1	<p>Where something has gone wrong a landlord must acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:</p> <ul style="list-style-type: none"> • Apologising; • Acknowledging where things have gone wrong; • Providing an explanation, assistance or reasons; • Taking action if there has been delay; • Reconsidering or changing a decision; • Amending a record or adding a correction or addendum; • Providing a financial remedy; • Changing policies, procedures or practices. 			
7.2	Any remedy offered must reflect the impact on the resident as a result of any fault identified.			
7.3	The remedy offer must clearly set out what will happen and by when, in agreement with the resident where appropriate. Any remedy proposed must be followed through to completion.			

7.4	Landlords must take account of the guidance issued by the Ombudsman when deciding on appropriate remedies.			
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Section 8: Putting things right

Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
8.1	<p>Landlords must produce an annual complaints performance and service improvement report for scrutiny and challenge, which must include:</p> <ul style="list-style-type: none"> a. the annual self-assessment against this Code to ensure their complaint handling policy remains in line with its requirements. b. a qualitative and quantitative analysis of the landlord's complaint handling performance. This must also include a summary of the types of complaints the landlord has refused to accept; c. any findings of non-compliance with this Code by the Ombudsman; d. the service improvements made as a result of the learning from complaints; e. any annual report about the landlord's performance from the Ombudsman; and f. any other relevant reports or publications produced by the Ombudsman in relation to the work of the landlord. 			

8.2	The annual complaints performance and service improvement report must be reported to the landlord's governing body (or equivalent) and published on the on the section of its website relating to complaints. The governing body's response to the report must be published alongside this.			
8.3	Landlords must also carry out a self-assessment following a significant restructure, merger and/or change in procedures.			
8.4	Landlords may be asked to review and update the self-assessment following an Ombudsman investigation.			
8.5	If a landlord is unable to comply with the Code due to exceptional circumstances, such as a cyber incident, they must inform the Ombudsman, provide information to residents who may be affected, and publish this on their website Landlords must provide a timescale for returning to compliance with the Code.			

Section 9: Scrutiny & oversight: continuous learning and improvement

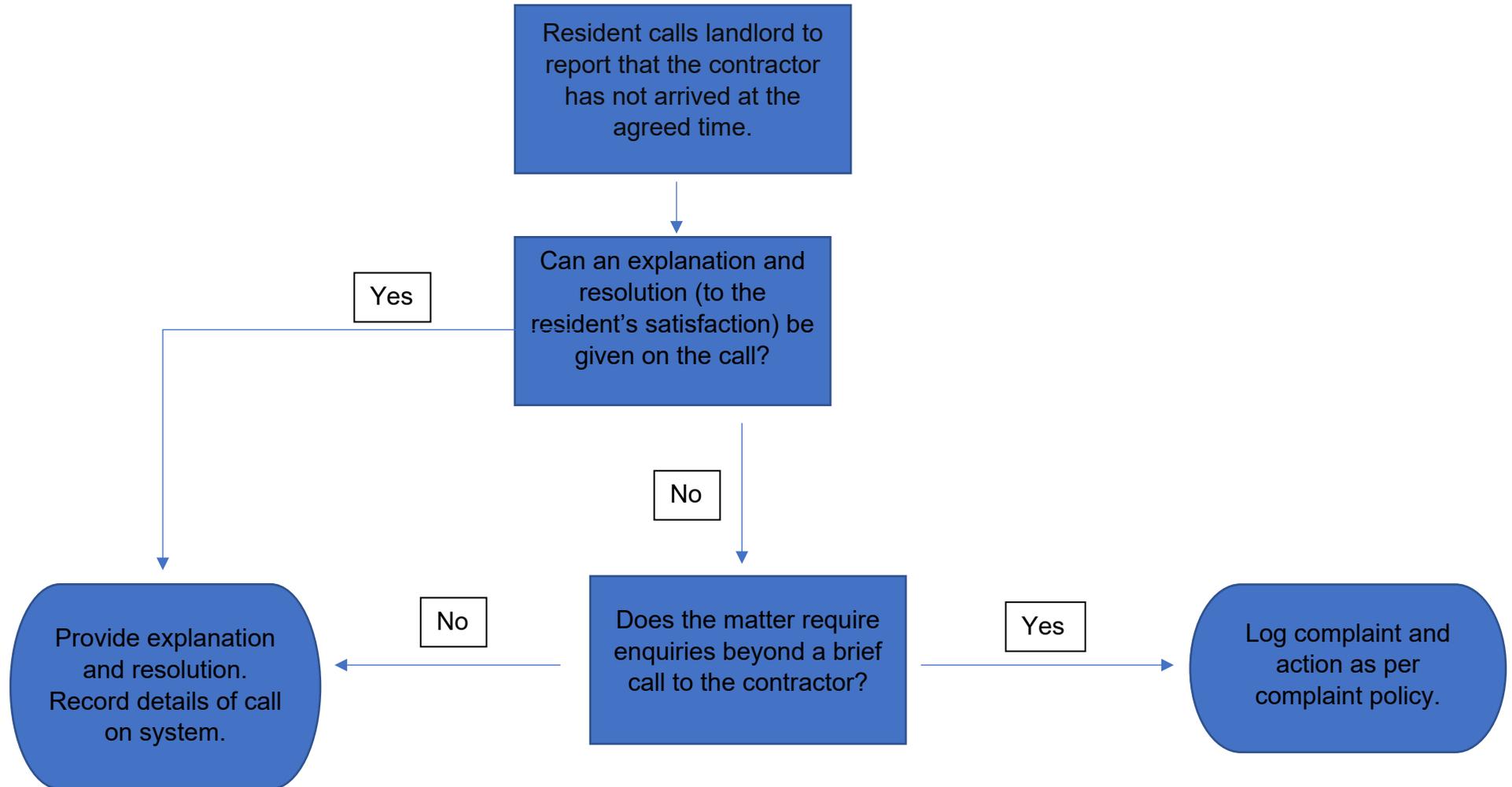
Code provision	Code requirement	Comply: Yes / No	Evidence	Commentary / explanation
9.1	Landlords must look beyond the circumstances of the individual complaint and consider whether service improvements can be made as a result of any learning from the complaint.			
9.2	A positive complaint handling culture is integral to the effectiveness with which landlords resolve disputes. Landlords must use complaints as a source of intelligence to identify issues and introduce positive changes in service delivery.			
9.3	Accountability and transparency are also integral to a positive complaint handling culture. Landlords must report back on wider learning and improvements from complaints to stakeholders, such as residents' panels, staff and relevant committees.			
9.4	Landlords must appoint a suitably senior lead person as accountable for their complaint handling. This person must assess any themes or trends to identify potential systemic issues, serious risks, or policies and procedures that require revision.			

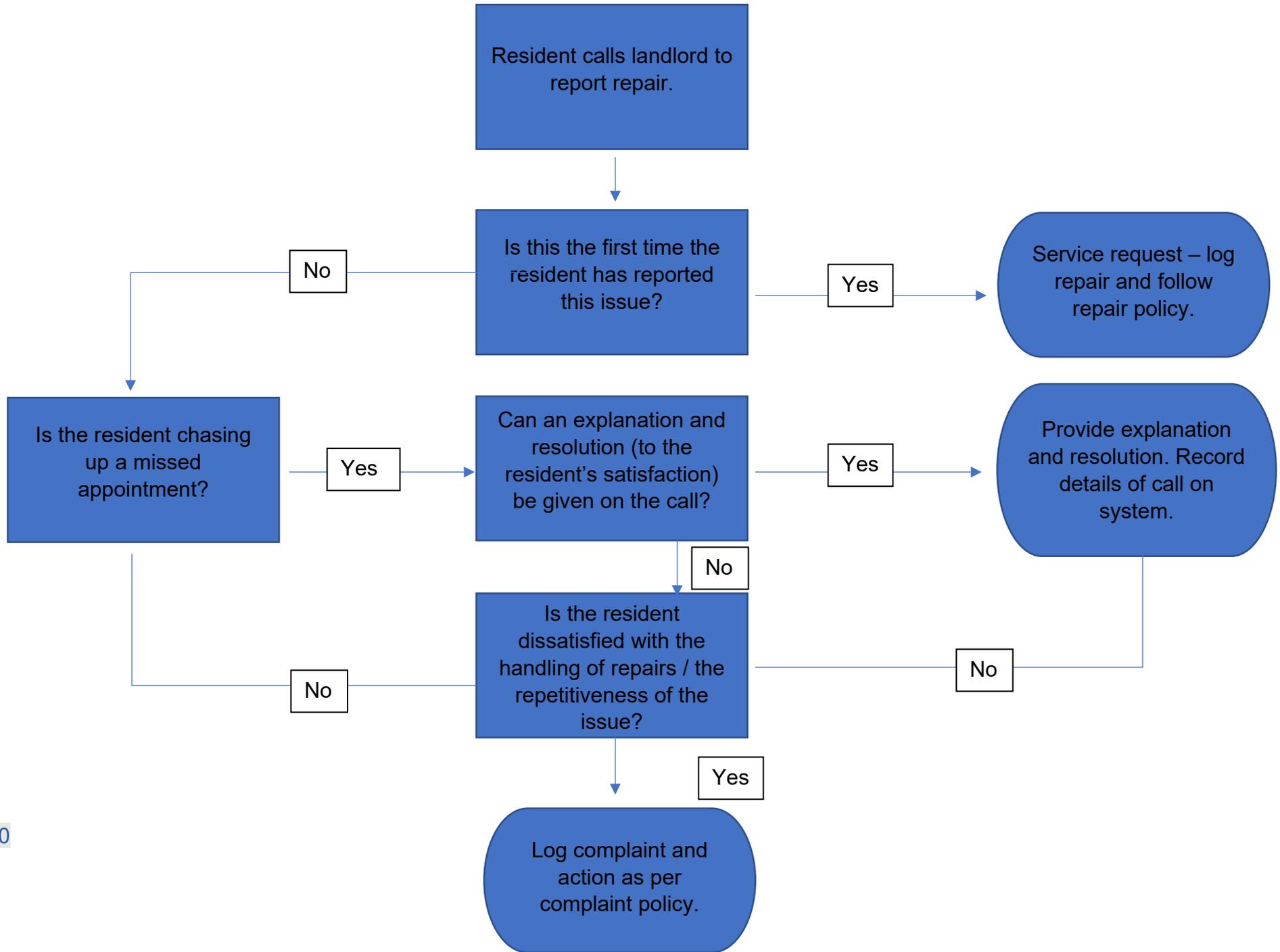
9.5	In addition to this a member of the governing body (or equivalent) must be appointed to have lead responsibility for complaints to support a positive complaint handling culture. This person is referred to as the Member Responsible for Complaints ('the MRC').			
9.6	The MRC will be responsible for ensuring the governing body receives regular information on complaints that provides insight on the landlord's complaint handling performance. This person must have access to suitable information and staff to perform this role and report on their findings.			
9.7	As a minimum, the MRC and the governing body (or equivalent) must receive: a. regular updates on the volume, categories and outcomes of complaints, alongside complaint handling performance; b. regular reviews of issues and trends arising from complaint handling; c. regular updates on the outcomes of the Ombudsman's investigations and progress made in complying with orders related to severe maladministration findings; and			

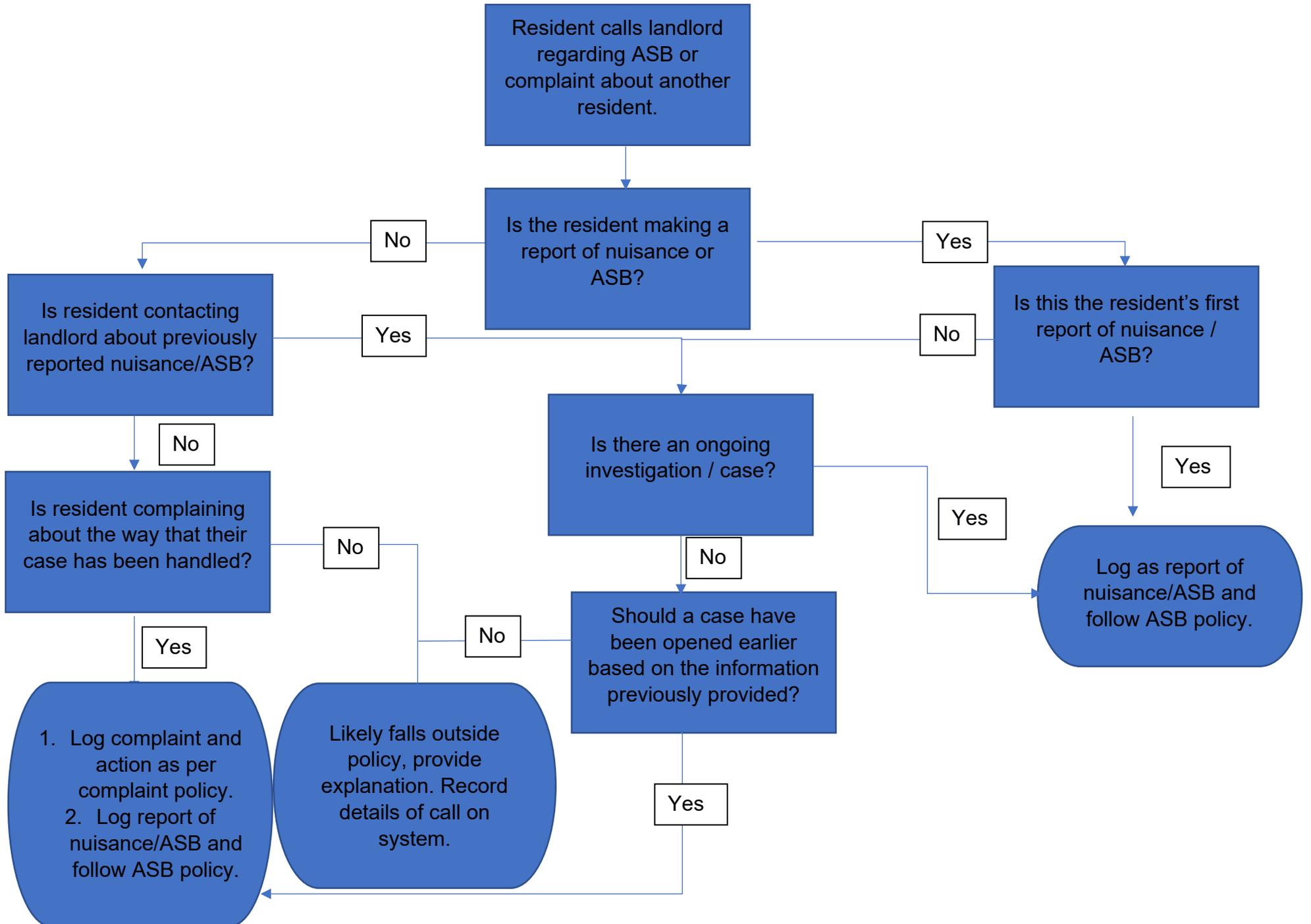
	d. annual complaints performance and service improvement report.			
9.8	Landlords must have a standard objective in relation to complaint handling for all relevant employees or third parties that reflects the need to: a. have a collaborative and co-operative approach towards resolving complaints, working with colleagues across teams and departments; b. take collective responsibility for any shortfalls identified through complaints, rather than blaming others; and c. act within the professional standards for engaging with complaints as set by any relevant professional body.			

Appendix B – Service request or complaint – flow charts

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Appendix 3 – Changes required to the Council’s complaints handling processes under the LGSCO and HO Codes 2024

1. Whenever a resident expresses dissatisfaction landlords must give them the choice to make complaint.
2. A complaint must be raised when the complainant/resident expresses dissatisfaction with the response to their service request.
3. All resident/customer surveys to include reference to the Complaints Procedure.
4. All staff must be aware of the complaints process and be able to pass details of the complaint to the appropriate person.
5. Complaints Procedure should explain how the organisation will publicise details of the complaints policy, including information about the Ombudsman and the Codes.
6. Complaints must be acknowledged, defined and logged at stage 1 of the complaints procedure within five working days of the complaint being received.
7. Landlords must issue a full response to stage 1 complaints within 10 working days of the complaint being acknowledged.
8. Requests for stage 2 must be acknowledged, defined and logged at stage 2 of the complaints procedure within five working days of the escalation request being received.
9. At Stage 2 of the Complaints Procedure, any extension must be no more than 20 working days without good reason, and the reason(s) must be clearly explained to the resident.
10. When an organisation informs a resident about an extension to these timescales, they must be provided with the contact details of the Ombudsman.
11. Council to advise complainants of the intervals for updates, where the timescales for extension exceed those set out in the Codes. (HO requirement only).
12. The annual complaints performance and service improvement report must be reported to the landlord’s governing body (or equivalent) and published on the on the section of its website relating to complaints. The governing body’s response to the report must be published alongside this.

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Wiltshire Council

Standards Committee

18 April 2024

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 11A – Corporate Parenting Panel (**Appendix A**)
 - Part 5 – Access to Information Procedure Rules (**Appendix B**)
 - Part 7 – Cabinet Procedure Rules (**Appendix C**)
 - Part 8 – Overview and Scrutiny Procedure Rules (**Appendix D**)
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 13 September 2023, 11 January 2024, and 3 April 2024 to consider the above sections of the Constitution.

Main Considerations

Part 11A

6. Following the adoption by Full Council of a revised Corporate Parenting Strategy on 17 October 2023, it was proposed to amend Part 11A of the Constitution, which sets out procedural and other arrangements for the Corporate Parenting Panel.
7. The proposed changes would be to align the constitution with the newly approved strategy, along with other minor changes to officer titles, panel membership, and lowering the necessary quorum for Panel meetings.
8. The Focus Group was supportive of the proposed changes, subject to minor wording clarifications.
9. The proposed revised Part 11A is set out at **Appendix A**.

Part 5

10. Part 5 of the Constitution provides details of procedural rules relating to publication of and access to committee papers and other information, as well as notification requirements, procedures relating to confidential and exempt information, and the rights of Members to access information.
11. To a large extent Part 5 reflects relevant legislative requirements, for example relating to publication of Key Cabinet decisions on the Forward Plan, or when an Executive meeting may be conducted wholly or in part in Private session.
12. The proposals considered and recommended by the Focus Group were to provide further clarification where required, as well as more closely mirroring legislative language where this was relevant, and to update sections in response to other constitutional changes such as in relation to dispensations.
13. The proposed revised Part 5 is set out at **Appendix B**.

Part 7

14. Part 7 of the Constitutions sets out the procedural rules which relate specifically to the Cabinet and meetings of the Cabinet. The document had not been updated since 2010.
15. A number of changes and clarifications were therefore proposed to update titles and posts, correct signposting to other relevant sections of the constitution, and other minor wording adjustments.
16. The proposed revised Part 7 is set out at **Appendix C**.

Part 8

17. Part 8 of the Constitutions sets out the procedural rules which relate specifically to the Overview and Scrutiny meetings and other related scrutiny matters such as call-in of Executive decisions. The document had not been updated since 2014.
18. The Focus Group reviewed the part in detail, reordering the document to improve the structure of the section. It proposed a series of changes including:
 - Additional detail on membership of committees and procedures for elections of chairmen;
 - Clarifications on development of the overview and scrutiny work programme;
 - Enhanced detail on referral of items for consideration by a scrutiny committee by individual members or others;
 - Updates relating to requiring senior officers and members to give account to scrutiny committees;
 - Increased detail on the process for submission of call-ins of executive decisions, and the process to be followed at a committee meeting, including if an item were referred further to Full Council.
19. The proposed revised Part 8 is set out at **Appendix D**.

Overview and Scrutiny Engagement

20. A representative from the Overview and Scrutiny Management Committee is appointed to the Constitution Focus Group as a standing member. In addition, all scrutiny committee chairmen were invited to a meeting of the Focus Group to discuss the proposals at an early stage.

Safeguarding Implications

21. There are no safeguarding implications.

Public Health Implications

22. There are no public health implications.

Procurement Implications

23. There are no procurement implications at present.

Equalities Impact of the Proposal

24. There are no equalities implications.

Environmental and Climate Change Considerations

25. There are no environmental or climate change implications.

Risks that may arise if the proposed decision is not taken

26. 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

27. No risks have been identified.

Finance Implications

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

Legal Implications

29. There are no legal implications.

Workforce Implications

30. There are no workforce implications.

Conclusions

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

Proposal

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

- Part 11A – Corporate Parenting Panel
- Part 8 – Access to Information Procedure Rules
- Part 7 – Cabinet Procedure Rules
- Part 8 – Overview and Scrutiny Procedure Rules

Perry Holmes - Director, Legal and Governance

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

Appendices

Appendix A – Proposed Part 11A of the Constitution

Appendix B – Proposed Part 5 of the Constitution

Appendix C – Proposed Part 7 of the Constitution

Appendix D1 – Proposed Part 8 of the Constitution (clean version)

Appendix D2 – Proposed Part 8 of the Constitution (tracked changes)

Background Papers

None

Wiltshire Council Constitution Part 11A Corporate Parenting Panel

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PART 11A - CORPORATE PARENTING PANEL

1. Functions

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

1.2 The Corporate Parenting Panel will comprise up to 8 Core Members drawn from elected Members politically balanced and nominated by group leaders. Group leaders will ensure that they appoint substitute members to cover absences. Associate Members will include officers from the council and key partner agencies and comprise of:

- Corporate Director – People/Director of Childrens Services
- Director – Families and Children
- ~~Head of Children in Care and Young People Care, Placements and EDS~~
- ~~Voice and Participation Manager Senior Commissioning Officer – Children's Social Care (Voice and Influence)~~
- A Representative from the Children in Care Council
- Cabinet Member for Children, Education and Skills
- ~~Chair-Representatives~~ of Wiltshire Fostering Association
- ~~Service Manager – Quality Outcomes Conference and Reviewing Service Manager~~
- Designed Doctor and Nurse for Children Looked After Children
- Virtual School Headteacher

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

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

1.4.1 That our children and young people feel safe and happy in a stable home and in their local community ~~Strengthen the Corporate Parenting Role and Corporate Parenting function across Wiltshire Council as a whole.~~

1.4.2 To support our children and young people to be the best that they can be, to achieve personally and educationally throughout their life and be supported to engage with training and employment opportunities ~~Continue to improve timeliness of permanency for looked after children across the range of permanency options.~~

1.4.3

~~1.4.3~~ Ensuring the physical and emotional wellbeing of our children and young people is supported and at a time and place that suits them ~~Ensure that there is sufficient accommodation for looked after children within Wiltshire which meets the needs of those children. Prioritise placement within Wiltshire.~~

1.4.4 To support our children and young people to have positive relationships with people who are important to them and for them to be part of their local community where

~~they~~ am trusted, respected, accepted and feel included ~~Improve care leavers journey by ensuring an enhanced offer to care leavers across all areas: education, employment and training, independent living, housing options and health.~~

1.4.5 ~~For the voices of our children and young people to be heard and for it to matter and influence decision making and drive change. Improve the educational outcomes for looked after children; closing the gap between looked after children and other children in the county.~~

~~1.4.6 Ensure that looked after children are protected from the risk of child sexual exploitation and reduce the frequency with which some looked after children and care leavers currently go missing.~~

~~1.4.7 Ensure that looked after children and care leavers have timely and easy access to mental health services.~~

1.5 The Panel will appoint a Chairperson on an annual basis.

1.6 To ensure that strategic oversight and critical challenge is effective, ~~each Panel~~ ~~Members~~ ~~member of board~~ will have a lead role in relation to delivery of ~~one the~~ strategic priorities.

2. Quorum

2.1 The quorum of the Corporate Parenting Panel will be ~~50%~~ ~~75%~~ (46) Members, ~~70%~~ (7) Associate Members in attendance. Where the meeting is not quorate, the Chairperson will adjourn the meeting.

3. Frequency of meetings

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

4. Reporting

4.1 The Panel ~~will~~ ~~not~~ report its work through the Children's Select Committee. Following each meeting the ~~Panel Clerk~~ ~~Chairperson~~ will send a copy of the Panel minutes ~~and action log~~ to the ~~Chairperson~~ ~~man~~ of Children's Select Committee.

4.2 On an ~~annual~~ ~~six-monthly~~ basis the Panel Chairperson will prepare a report for ~~Chairperson~~ ~~man~~ of the Children's Select Committee, addressing progress against each of the ~~seven~~ ~~five~~ strategic priorities.

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

5. Terms of Reference

~~The~~ Corporate Parenting Panel will:

- 5.1 Make a commitment to prioritising the needs of ~~looked after~~ children looked after care experienced and young people and their carers and ensure demand that all departments within the Council prioritise the needs of this group;
- 5.2 Receive reports from the Children in Care Council and act on their views;
- 5.3 Provide clear strategic and political direction in relation to corporate parenting;
- 5.4 Show ambition and aspirations for all our children looked after and ~~looked after children and~~ care experienced young people and adultsleavers;
- 5.5 Ensure that all Members and Wiltshire Council departments are fulfilling their roles and responsibilities as corporate parents proactively. This may involve, for example, the Corporate Parenting Panel organising specific education and training events for all members to ensure they are equipped with the knowledge and skills to be corporate parents;
- 5.6 Investigate on behalf of all Members ways in which the role of Corporate Parenting can be improved, using examples of research and effective practice from other local authorities;
- 5.7 Listen to the views of children, young people and their carers to involve them in the assessment and development of services;
- 5.8 Engage with children and young people who are looked after, or have left care, by inviting them to act as advisers to the Panel;
- 5.9 Monitor the performance, quality and outcomes of the Council's services in relation to children and young people in public care and identify any areas for improvement;
- 5.10 Scrutinise key performance indicators in relation to children and young people in the care of Wiltshire Council;
- 5.11 Meet with government inspectors, where appropriate, for their input into inspections;
- 5.12 Participate as members of the adoption and fostering panels;
- 5.13 Agree a work plan, review progress, membership of the panel and attainment of its role and terms of reference and report to the Cabinet and Children's Services Select Committee as appropriate, and in any case to the Full Council annually.

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**Wiltshire Council
Constitution
Part 5
Access to Information
Procedure Rules**

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PART 5

ACCESS TO INFORMATION PROCEDURE RULES

1. Wiltshire Council believes in public access to information in order to ensure that members of the public can exercise their rights to have a say about decisions and can understand what decisions have been taken and why. Although some information has to remain private, for example to respect personal privacy, commercial confidentiality or for legal reasons, the Council has adopted a presumption of openness that information will be available unless there is a substantial lawful reason why not.
2. This Part 5 reflects the current 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. These rules apply except where proceedings of the body concerned are governed by other specific legislation.

3. Definitions

- 3.1 Cabinet means Cabinet or a committee of Cabinet.
- 3.2 Full Council means Full Council or a committee of Full Council, including sub-committees.
- 3.3 Offices means the Council's three hub offices at County Hall, Trowbridge, Monkton Park, Chippenham and Bourne Hill, Salisbury.
- 3.4 Private Meeting means a meeting, or part of a meeting, of the decision-making body during which the public are excluded in accordance with relevant statutory provisions by virtue of paragraphs 14.1 or 14.3 below.
- 3.5 Proper Officer For this part means the Director ~~of~~ Legal and Governance, or such other officer as designated from time to time by the Chief Executive.

3.6 Days Unless where stated otherwise, days refers to working days

4. Scope

- 4.1 These rules apply to all meetings of Full Council or Cabinet unless stated otherwise.
- 4.1.2 They also apply to all meetings of a joint committee, where all the members of the joint committee are members of a local authority Executive/Cabinet, which is authorized to discharge the function to which an Executive decision relates.

5. Additional rights to information

- 5.1 These rules do not affect any more specific rights to information contained elsewhere in

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Last Updated ~~March 2019~~ May 2024

3

Commented [KE1]: From 2012 regs on what is a decision making body

this Constitution or the law.

6. Rights to attend meetings

- 6.1 Members of the public may attend all Full Council or Cabinet meetings subject only to the exceptions set out in these rules. Task groups and other informal gatherings of Members are not covered by these rules.

Commented [EK2]: As defined above (eg includes committees)
For avoidance of doubt, eg not anything called a meeting, only formal committee meetings

7. Notice of public meetings

- 7.1 The Council will give at least five clear working days' notice of any the time and place of a public meeting by posting details of the meeting at its Offices and on its website, or if a meeting is convened at less than five clear working days' notice, as soon as it is convened.

Commented [KE3]: More precisely matching S100A (6)(a) LGA 1972

8. Notice of private meetings

- 8.1 The Council will give at least 28 clear calendar days notice of its intention to hold a meeting of the Executive in private by posting a notice making a notice available at its Offices and publishing that notice on its website. The notice must include a statement of the reasons for the meeting to be held in private.
- 8.2 At least five clear working days before a private meeting the Council will post a further notice of its intention to hold a meeting in private, and make this available at its Offices and publish it on its website. The notice must include a statement of the reasons for the meeting to be held in private and details of any representations received about why the meeting should be open to the public and a statement of its responses to any such representations.
- 8.3 Where a meeting to be held in private is convened at less than 28 clear calendar days' notice the meeting may only be held in private with the agreement of:
- 8.3.1 the chairman Chairman of the Overview and Scrutiny Management Committee; or
 - 8.3.2 if there is no such person or the chairman Chairman of the Overview and Scrutiny Management Committee is unable to act, the chairman Chairman of Full Council; or
 - 8.3.3 where there is no chairman Chairman of either the Overview and Scrutiny Management Committee or of Full Council, the vice Vice-chairman Chairman of Full Council.
- 8.4 As soon as reasonably practicable after agreement has been given under this paragraph, the Council must post must make available at its Offices and publish on its website a notice setting out the reasons why the meeting is urgent and cannot be reasonable deferred.

Commented [MJ4]: 28 days reflects requirements of para 5 2012 Regulations

Commented [EK5]: Wording reflects the *Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 Para 5(2)(a)*.
Decision making body in those relate to exec meeting

Commented [EK6]: Wording reflects the 2012 Regs *Para 5(4)(a)*

Commented [EK7]: Wording reflects the 2012 Regs *Para 5(7)(a)*

9. Access to agenda and reports before a public meeting

- 9.1 The Council will make copies of the agenda and reports open to the public available for

inspection at its Offices and on its website at least five clear working days before the public meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available ~~to inspection to~~ the public as soon as the report is completed and sent to Members.

- 9.2 If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with these rules, the meeting is likely not to be open to the public. Such reports will be marked "not for publication" and state that they contain confidential or exempt information as defined in paragraphs 14.2 and 14.4 below.

10. Supply of copies

10.1 The council will supply copies of:

- 10.1.1 any agenda and reports which are open to public inspection;
- 10.1.2 any further statements or particulars necessary to indicate the nature of the items in the agenda and;
- 10.1.3 if the Proper Officer thinks fit, copies of any other documents supplied to Members in connection with an item,

to ~~any person, any news outlet~~ on payment of a charge for postage and any other costs.

~~10.2 Where a meeting is open to the public during the proceedings or any part of them, there shall be made available for the use of members of the public present at the meeting a reasonable number of copies of the agenda and of the reports for the meeting, and make a reasonable number of copies available at the public meeting (except in relation to any part of the meeting not open to the public).~~

Commented [EK8]: LGA 100B (7) says on request and payment of charge for benefit of any 'newspaper', not as a general requirement for the public. The exec regs define newspaper to include any organisation collecting news, for use on the internet etc

Commented [EK9]: Suggest putting this in its own section, as it is from 100B(6) and 10.1 is 100B(7)

11. Access to minutes etc. after the meeting

11.1 The Council will make available copies of the following for six years after a meeting:

- 11.1.1 the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, Council and its committees, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- 11.1.2 a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
- 11.1.3 the agenda for the meeting; and
- 11.1.4 reports relating to items when the meeting was open to the public.

12. Background papers

12.1 The relevant ~~Director or otherwise the lead officer listed for a report~~ will set out in every report a list of those documents (called background papers) relating to the subject

Commented [EK10]: To cover CDs or if a report is from a Head of Service etc

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Last Updated ~~March 2019~~ 21 May 2024

5

matter of the report which in ~~his/her~~their opinion:

- 12.1.1 disclose any facts or matters on which the report or an important part of the report is based and;
- 12.1.2 which have been relied on to a material extent in preparing the report;
- 12.1.3 but does not include published works or those which disclose exempt or confidential information (as defined in paragraphs 14.2 and 14.4) and in respect of cabinet reports, the advice of a political assistant.

Public inspection of background papers

12.2 The Council will make available for public inspection at its Offices and on its website for six years after the date of the meeting one copy of each of the documents on the list of background papers.

13. Summary of public's rights to attend meetings

13.1 A written summary of the public's rights to attend meetings and to inspect and copy documents will be kept at and be made available to the public at the Offices.

14. Exclusion of access by the public to meetings

~~13.2~~14.1 The following section is without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting.

Confidential information – requirement to exclude public

~~13.3~~14.2 The public shall be excluded from meetings during an item of business whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

~~13.4~~14.3 Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order or under any enactment.

Exempt information – discretion to exclude public

~~13.5~~14.4 The public may be excluded from meetings during an item of business whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

~~13.6~~14.5 Exempt information means information falling within the following seven categories (subject to any condition), as defined within Part I of Schedule 12A of the Local Government Act 1972:

- ~~13.6.1~~14.5.1 information relating to any individual;
- ~~13.6.2~~14.5.2 information which is likely to reveal the identity of an individual;
- ~~13.6.3~~14.5.3 information relating to the financial or business affairs of any

Commented [KE11]: general right to exclude 2012 Regs section 4 (5): (5) Without prejudice to any power of exclusion to suppress or prevent disorderly conduct or other misbehaviour at a meeting, the decision-making body is not to have the power to exclude members of the public from a meeting while it is open to the public.

particular person (including the authority holding that information);

~~13.6.4~~14.5.4 information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority;

~~13.6.5~~14.5.5 information in respect of which a claim to legal professional privilege could be maintained in legal proceedings;

~~13.6.6~~14.5.6 information which reveals that the authority proposes:
(a) to give under any enactment a notice by virtue of which requirements are imposed on a person, or
(b) to make an order or direction under any enactment.

~~13.6.7~~14.5.7 information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

~~13.7~~14.6 Information which falls into paragraphs 14.4.1 to 14.4.7 above is only exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

~~13.8~~14.7 Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

~~13.9~~14.8 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, as incorporated in the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

14.15. Application of rules to the Cabinet

~~14.4~~15.1 Paragraphs 8, and 16 to 27.5 only apply to the Cabinet. If the Cabinet meets to take a key-Key decision it must also comply with paragraphs 4-14.~~4-7~~ to unless paragraphs 17.1 to 17.3 and 18.1 to 18.3 (general exception) or 19.1(special urgency) apply. ~~A key decision is defined in Part 1 of this Constitution.~~

15.2 If the Cabinet ~~meets~~has a formal meeting to discuss a key-Key decision to be taken collectively, with an officer other than a political assistant present, within 28 clear calendar days of the date according to the forward plan by which it is to be decided, then it must also comply with paragraphs 4-14.4 unless paragraphs 17.1 to 17.3 and 18.1 to 18.3 (general exception) or paragraph 19.1(special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief Members-/co-opted members.

15.16. Procedure before taking key-Key decisions

16.1 A Key decision is defined at Article 13(7) of Part 2 of this Constitution.

~~15.4~~16.2 Subject to paragraphs 18.1 to 18.3 (general exception) and paragraph

Commented [MJ12]: Schedule 12A Part 2 Para 9

19.1(special urgency), a ~~key~~Key decision may not be taken unless:

~~45.1.4~~16.2.1 a notice (called here a forward plan) has been published in connection with the matter in question and made available to the public at its Offices and on its website;

~~45.1.2~~16.2.2 at least 28 clear calendar days have elapsed since the publication of the forward plan; and

~~45.1.3~~16.2.3 where the decision is to be taken at a meeting of the Cabinet, notice of the meeting has been given in accordance with paragraph 7.1 (notice of public meetings).

~~16.17.~~ The Forward Plan

~~46.4~~17.1 Forward plans will be prepared ~~by the Leader~~ to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

~~46.2~~17.2 The forward plan will contain matters which the ~~Leader~~Proper Officer has reason to believe will be subject of a ~~key~~Key decision ~~(as defined in Part 4 of this Constitution)~~ to be taken by the Cabinet, Individual Members of the Cabinet, officers, or under joint arrangements in the course of the discharge of a cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

~~46.2.4~~17.2.1 the matter in respect of which a decision is to be made;

~~46.2.2~~17.2.2 where the decision taker is an individual, ~~his/her~~their name and title, if any, and where the decision taker is a body, its name and details of membership;

~~46.2.3~~17.2.3 the date on which, or the period within which, the decision will be taken;

~~46.2.4~~17.2.4 the identity of the principal groups whom the decision taker proposes to consult before taking the decision;

~~46.2.5~~17.2.5 the means by which any such consultation is proposed to be undertaken;

~~46.2.6~~17.2.6 the steps any person might take who wishes to make representations to the cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken;

~~46.2.7~~17.2.7 a list of the documents submitted to the decision taker for consideration in relation to the matter;

~~46.2.8~~17.2.8 the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan are available;

~~46.2.9~~17.2.9 that other documents relevant to the matter may be submitted to the decision taker; and

~~46.2.10~~17.2.10 the procedure for requesting details of those documents (if any) as they become available.

~~16.3~~17.3 Where in relation to any matter where the public may be excluded from a public meeting under ~~paragraphs 14.1 or 14.3~~ Paragraph 14, or where documents relating to the decision need not be disclosed to the public, the forward plan must contain the particulars of the matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.

Commented [EK13]: Internal reference, relates to 4(2) and 20(3) of 2012 regs
This para encompasses 9(3) of the regs

~~17.18.~~ General exception

~~17.4~~18.1 If a matter which is likely to be a ~~key~~Key decision has not been included in the forward plan, then subject to paragraph 19.1 (special urgency), the decision may still be taken if:

~~17.4.1~~18.1.1 the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;

~~17.4.2~~18.1.2 the Proper Officer has informed the ~~chair~~Chairman of the Overview and Scrutiny Management Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;

~~17.4.3~~18.1.3 the Proper Officer has made copies of that notice available to the public at the Offices and on the Council's website; and

~~17.4.4~~18.1.4 at least five clear working days have elapsed since the Proper Officer complied with the requirements of paragraph 18.1.3.

~~17.2~~18.2 As soon as reasonably practicable after the Proper Officer has complied with the above they must make available at the Offices and on the Council's website a notice setting out the reasons why compliance with ~~17.16.2.2~~ above is impracticable.

~~17.3~~18.3 Where such a decision under paragraph 18.1 is taken collectively, it must be taken in public subject to the requirements of paragraph 14.

~~18.19.~~ Special urgency

~~18.4~~19.1 If, by virtue of the date by which a decision must be taken, paragraph 18.1 to 18.3 (general exception) cannot be followed then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of;

~~18.4.1~~19.1.1 the ~~chairman~~Chairman of the Overview and Scrutiny Management Committee; or

~~18.4.2~~19.1.2 if there is no such person, or if the ~~chairman~~Chairman of the Overview and Scrutiny Management Committee is unable to act, the ~~chairman~~Chairman of Full Council; or

~~18.4.3~~19.1.3 where there is no ~~chairman~~Chairman of either the Overview and Scrutiny Management Committee or of Full Council, the ~~vice~~Vice-chairman of Full Council.

that the taking of the decision is urgent and cannot be reasonably deferred.

19.20. Reports to Council

~~19.4~~20.1 If the Overview and Scrutiny Management Committee thinks that a ~~key~~Key decision has been taken which was not:

~~19.1.4~~20.1.1 included in the forward plan; or

~~19.1.2~~20.1.2 the subject of the general exception procedure under paragraph 18.1 to 18.3; or

~~19.1.3~~20.1.3 the subject of an agreement under paragraph 19.1 (special urgency).

the Overview and Scrutiny Management Committee may require the Cabinet to submit a report to Full Council within such reasonable time as the Committee specifies.

~~19.2~~20.2 The power to require a report rests with the Overview and Scrutiny Management Committee, but is also delegated to the Proper Officer, who shall require such a report on behalf of the Committee when so requested by the Chairman or any five members of the Committee. Alternatively, the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Committee.

Cabinet's report to Full Council

~~20.3~~ Where a report is required under Para 20.1, ~~the~~ Cabinet will prepare a report for submission to the next available meeting of Full Council.

~~20.4~~ However, if the next meeting of the Council is within seven days of receipt of the written notice, or ~~the a~~ resolution of the Overview and Scrutiny Management Committee, then the report may be submitted to the meeting after that.

~~19.3~~20.5 The report to Full Council will set out particulars of the decision, the individual or body making the decision, and, if the ~~Leader~~Cabinet is of the opinion that it was not a ~~key~~Key decision, the reasons for that opinion.

Commented [EK14]: Wording used in regs is Executive not specific to Leader

Reports on special urgency decisions

~~19.4~~20.6 The Leader shall report any decision taken under paragraph 19.1 (special urgency) to the next available meeting of Full Council. In any event the Leader will ~~submit an annual report~~report annually to Full Council on the ~~Cabinet decisions taken~~ under paragraph 19.1 (special urgency) in the preceding twelve months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken. if any.

Commented [EK15]: The number is usually 0 - it is reported and minuted, but not necessarily requiring a written report in that circumstance

20.21. Record of decisions

~~20.4~~21.1 After any meeting of the Cabinet, whether held in public or private, the Proper Officer or their nominee or, where no officer was present, the person presiding at the

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meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include:

~~20.1.4~~21.1.1 A record of the decision including the date it was made;

~~20.1.2~~21.1.2 A record of the reasons for the decision;

~~20.1.3~~21.1.3 Details of any alternative options considered and rejected by the decision taker;

~~20.1.4~~21.1.4 A record of any conflict of interest relating to the matter decided which is declared by any member of the decision taker; and

~~20.1.5~~21.1.5 In respect of any declared conflict of interest, a note of any dispensation granted by the Standards Dispensation Sub-Committee or Monitoring Officer.

~~20.2~~21.2 In relation to decisions made by officers, the officer will produce a record of their decision in accordance with Part 3 of this Constitution as soon as reasonably practicable after the decision is made.

~~24.22.~~ **Cabinet meetings relating to matters which are not Kkey decisions**

~~24.4~~22.1 The Cabinet will decide whether meetings relating to matters which are not Kkey decisions will be held in public or private.

~~22.23.~~ **Notice of private meetings of the Cabinet**

~~22.4~~23.1 Members of the Cabinet will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

~~23.24.~~ **Attendance at private meetings of the Cabinet**

~~23.4~~24.1 All members of the Cabinet will be served notice of all private meetings of Committees of the Cabinet, whether or not they are Members of that Committee.

~~23.2~~24.2 All members of the Cabinet are entitled to attend a private meeting of any Committee of the Cabinet.

~~24.3~~ Notice of private meetings of the Cabinet will be served on the ~~chairs~~Chairs of the Overview and Scrutiny Management Committee and any other sub-committees Overview and Scrutiny Select Committee, at the same time as notice is served on members of the Cabinet. Where ~~the a~~ Overview and Scrutiny Committee does not have a Chairman, the notice will be served on all the members of that Committee.

~~23.3~~24.4 Where a matter under consideration at a private meeting of the Cabinet is within the remit of the Overview and Scrutiny Management Committee or any other Scrutiny Select/sub-committee Committee, the chairChairman of that Committee or in ~~his/her~~ their absence the ~~vice~~Vice-Chairman may attend that private meeting with the

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consent of the person presiding, and speak.

~~23.4~~24.5 The ~~Executive Directors~~Chief Executive, Corporate Directors, the Chief Finance Officer and ~~Directors and~~ the Monitoring Officer and their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the Proper Officer has been given reasonable notice that a meeting is to take place.

~~23.5~~24.6 A private meeting may only take place in the presence of the Proper Officer or ~~his/her~~their nominee who ~~will be~~ responsible for recording and ~~publicising~~publicizingpublicizing the decisions.

~~23.6~~24.7 The provisions of 21.1 to 21.2 will apply where meetings of the Cabinet are held in private.

24.25. Decisions made by individual members of the Cabinet

Reports intended to be taken into account

~~24.4~~25.1 Where an individual member of the Cabinet receives a report which ~~he/she~~they intends to take into account in making any ~~key~~Key decision, then ~~he/she~~they will not make the decision until at least five clear working days after receipt of that report.

Provision of copies of reports to Overview and Scrutiny Committees

~~24.2~~25.2 On giving of such a report to an individual decision maker, the person who prepared the report will ~~give a copy of it~~provide a copy to the ~~chair~~Chairman of ~~an the~~relevant Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

Record of individual decision

~~24.3~~25.3 As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet, a written record of the decision must be produced which must include the following:

~~24.3.1~~25.3.1 record of the decision including the date it was made;

~~24.3.2~~25.3.2 A record of the reasons for the decision;

~~24.3.3~~25.3.3 Details of any alternative options considered and rejected by the member;

~~24.3.4~~25.3.4 A record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet who is consulted by the member which relates to the decision; and

~~24.3.5~~25.3.5 In respect of any declared conflict of interest, a note of any dispensation granted by the Standards Dispensation Sub-Committee or

Commented [EK16]: Protocol 5 makes this the process for non-key decisions too, which is nearly all of them

Monitoring Officer.

~~24.4~~25.4 The provisions of paragraphs 11.1 to 12.2 (access to minutes and background papers after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

~~25.26.~~ Access to documents for Overview and Scrutiny Committees

Rights to copies

~~25.4~~26.1 Subject to paragraph 26.4 to 26.5 (limit on rights) below, any member of an Overview and Scrutiny Committee (including its sub-committees) is entitled to copies of any document which is in the possession or control of the ~~Leader~~the Cabinet and which contains material relating to:

Commented [EK17]: Regs say 'of the executive of that authority'

- ~~25.1.4~~26.1.1 any business transacted at a public or private meeting of the Cabinet;
- or
- ~~25.1.2~~26.1.2 any decision taken by an individual member of the Cabinet; or
- ~~25.1.3~~26.1.3 any executive decisions that have been made by an officer in accordance with Part 3D of this Constitution.

~~25.2~~26.2 Where a member of an Overview and Scrutiny Committee (including its sub-committees) requests a document which falls within the above, the ~~Leader~~Cabinet must provide that document as soon as reasonably practicable and in any case no later than ten clear working days after the ~~Leader~~Cabinet receives the request.

~~25.3~~26.3 Subject to paragraph 26.4 to 26.5, the ~~chair~~Chairman of ~~the~~any Overview and Scrutiny Committee will be entitled to foresight of papers in relation to private decisions of the Cabinet before the decision is made.

Limit on rights

~~25.4~~26.4 A member of ~~the~~any Overview and Scrutiny Committee will not be entitled to:

- ~~25.4.4~~26.4.1 any document that is in draft form;
- ~~25.4.2~~26.4.2 any document or part of it that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise or any review contained in any programme of work of the Overview and Scrutiny Committees; or
- ~~25.4.3~~26.4.3 the advice of a political adviser [or assistant].

~~25.5~~26.5 Where the ~~Leader~~Cabinet determines that a member of ~~the~~any Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out above the ~~Leader~~Cabinet must provide the Overview and Scrutiny Committee with a written statement setting out their reasons for

that decision.

26-27. Additional rights of access for Members

~~26-4~~27.1 Any document which is in the possession or under the control of the Leader and contains material relating to:

~~26-1-4~~27.1.1 any business to be transacted at a public meeting;

~~26-1-2~~27.1.2 any business transacted at a private meeting;

~~26-1-3~~27.1.3 any decision made by an individual member; or

~~26-1-4~~27.1.4 an executive decision made by an officer

~~26-2~~27.2 must be available for inspection by any Member unless:

~~26-2-4~~27.2.1 it contains **confidential information, or** exempt information falling within paragraphs 14.4.1, 14.4.2, 14.4.3 (but only to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract), 14.4.4, 14.4.5, and 14.4.7 of the categories of exempt information; or

~~26-2-2~~27.2.2 it contains the advice of a political adviser.

27.3 Guidance to Members on requesting access to exempt information is provided at Schedule 1 of Protocol 1 of the Constitution.

~~26-3~~27.4 In relation to public meetings, where a document is required to be available for inspection it must be available for at least five clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.

~~26-4~~27.5 In relation to private meetings, decisions made by an individual member, or executive decisions made by an officer, where a document is required to be available for inspection it must be available within 24 hours of the meeting concluding or, where an executive decision is made by an individual member or an officer, within 24 hours of the decision being made.

Material relating to key-Key decisions

~~26-5~~27.6 All Members will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the **Leader-Executive** which relates to any **key-Key** decision unless the exceptions in paragraph 27.1 to 27.2 above apply.

27-28. Nature of rights

~~27-4~~28.1 These rights of Members are additional to any other right **he/shethey** may have.

**Wiltshire Council
Constitution
Part 7
Cabinet Procedure Rules**

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PART 7

CABINET PROCEDURE RULES

Who may make Cabinet decisions?

1. The Leader will decide how arrangements for the discharge of cabinet functions are to be exercised, except insofar as they are already set out in the Cabinet arrangements adopted by the Council.
2. **As set out in Part 3C (Delegation of Executive Functions),** Arrangements for the discharge of Cabinet functions may provide for cabinet functions to be discharged by:
 - 1.1 Wiltshire Council's Cabinet as a whole
 - 1.2 a committee of the Cabinet
 - 1.3 an individual member of the Cabinet
 - 1.4 an officer
 - 1.5 an Area Board
 - 1.6 joint arrangements or
 - 1.7 another local authority.

Delegation by the Leader

3. In accordance with Article 7 of Part 2 of this Constitution the Leader will decide who is to discharge cabinet functions.
4. **At the first available meeting of the Full Council, t**The Leader will **present to the council** provide a written record of delegations **made by him/her they have made** for inclusion in the council's scheme of delegation at Part 3C to this constitution. The document **presented by the Leader** will contain the following information about Cabinet functions **in relation to the coming year**:
 - 4.1 the **names, addresses** and electoral divisions of the people appointed to the Cabinet by the Leader;
 - 4.2 the extent of any authority delegated to Cabinet Members individually, including **any** details of the limitation on their authority;
 - 4.3 the terms of reference **and constitution** of such Cabinet committees as the Leader appoints and the **names of** Cabinet **M**embers appointed to them;
 - 4.4 the nature and extent of any delegation of Cabinet functions to area committees, any other authority or any joint arrangements and **the names of** those Cabinet Members appointed to any joint committee for the coming year; and
 - 4.5** the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

5. **The record will be updated by the Monitoring Officer from time to time to reflect the appointments by, and allocation of responsibilities from, the Leader.**

Commented [KE1]: Per Part 3C this may be updated from time to time, so does not need to wait for Full council

Commented [EK2]: Unnecessary, and addresses might be restricted as a sensitive interest

Commented [EK3]: Process laid out in Part 3C

Sub-delegation of Cabinet functions

6. Where the Cabinet, a committee of the Cabinet or an individual member of the Cabinet is responsible for any Cabinet function, they may delegate further to an area committee, joint arrangements or an officer.
7. Unless the Council directs otherwise, if the Leader delegates functions to the Cabinet, then the Cabinet may delegate further to a committee of the Cabinet or to an officer.
8. Unless the Leader directs otherwise, a committee of the cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
9. Even where Cabinet functions have been delegated, that does not prevent the discharge of delegated functions by the person or body who delegated them.

The Council's scheme of delegation and cabinet functions

10. Subject to Paragraph 11 below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. ~~It will contain the details required in Part 3 of this Constitution.~~
11. The Leader may amend the scheme of delegation relating to ~~C~~cabinet functions at any time during the year.
12. To do so, the Leader must give written notice to the ~~P~~proper ~~O~~fficer and to the person, body or committee concerned.
13. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Cabinet as a whole.
14. The Proper Officer will ~~present a~~ report to the next ordinary meeting of ~~the council~~ Full Council setting out the changes made by the Leader.
15. Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when ~~he/she has served on it as its chair~~ the decision is provided to the chair of that committee.

Commented [EK4]: redundant

Conflicts of interest

16. Where the Leader has a conflict of interest ~~in any matter~~ this shall be dealt with as set out in the Council's Code of Conduct for Members in Part 12 of this Constitution.
17. If every Member of the Cabinet has a conflict of interest this shall be dealt with as set out in the council's Code of conduct for Members in Part 12 of this constitution.
18. If the exercise of a cabinet function has been delegated to a committee of the cabinet, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the council's Code of Conduct for Members in Part 12 of this constitution.

Location and frequency of Cabinet meetings

~~19.~~ The Cabinet will ~~meet schedule at least 11 meetings at least 11 times~~ per year at times to be agreed by the Leader.

~~17-20.~~ The Cabinet shall meet at the Council's main offices, or another location to be agreed by the Leader.

Public and private meetings of the Cabinet

~~21.~~ The access to information rules in Part 5 of this constitution set out the requirements covering public and private meetings ~~of Cabinet and any Cabinet Committees~~.

~~18-22.~~ Other than the legal requirements, consideration should also be given to any principles of decision-making set out in Article 13 of Part 2 of this constitution.

Public and Member participation at Cabinet meetings

~~23.~~ ~~The C~~eabinet welcomes questions or statements from members of the public.

~~24.~~ ~~However, the s~~Specific arrangements for public and Member participation at Cabinet or Cabinet Committee meetings are a matter for determination by the Leader.

~~25.~~ ~~and will as such be kept under review.~~ The Leader will keep arrangements under review.

Quorum

~~19-26.~~ The quorum for a meeting of the ~~C~~eabinet, or a committee of it, shall be one quarter of the total number of members of the ~~C~~eabinet (including the Leader), or three including the Leader, whichever is the larger, unless otherwise specified in a Cabinet committee term of reference.

Procedure for cabinet decision making

~~20-27.~~ Cabinet decisions which have been delegated to the Cabinet as a whole will be taken at a meeting convened in accordance with the access to information rules in Part 5 of the Constitution.

~~21-28.~~ Where Cabinet decisions are delegated to a committee of the Cabinet, the rules applying to cabinet decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

Conduct of Cabinet meetings

~~22-29.~~ The Leader will preside at any meeting of the Cabinet or its committees at which ~~he/she/they is-are~~ present, or may appoint another person to do so.

~~23-30.~~ If the Leader is absent and has not appointed another person to preside in ~~his/hers/their~~ place, a person appointed to do so by those present shall preside.

Commented [EK5]: To ensure sufficient meetings are scheduled as normal, such as monthly, but not to require meetings where there is insufficient business to transact

Commented [EK6]: Shareholder group says Quorum is 2.

~~24-31.~~ Details of who may attend Cabinet meetings are set out in the access to information rules in Part 5 of this Constitution. It is a matter for the Cabinet to determine if these rules should be widened, for example to enable members of the public to attend meetings that would otherwise be private.

~~25-32.~~ Members of the Council who are not Cabinet Members may attend meetings of the Cabinet and may speak with the consent of the Leader. Chairs of ~~the Standards Committee and the scrutiny~~ committees will be invited to attend the Cabinet to present ~~their~~ reports or provide updates as appropriate.

Business of Cabinet meetings

~~26-33.~~ At each ordinary meeting of the ~~C~~abinet the following business will be conducted:

30.1 consideration of the minutes of the last meeting

30.2 declarations of interest, if any

30.3 matters referred to the Cabinet (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained ~~at in the overview and scrutiny procedure rules set out in Part 8 of this constitution or the budget and policy framework procedure rules set out in Part 6 of this constitution~~ Part 6 and Part 8 of the Constitution (Budget and Policy Framework, and Overview and Scrutiny Procedure Rules).

30.4 matters that ~~individual the Leader cabinet members~~ determines shall be brought before Cabinet following ~~consultation with advisory panels~~ any necessary or appropriate consultations

30.5 consideration of any reports from overview and scrutiny committees where appropriate, and

30.6 Other matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the access to information procedure rules set out in Part 5 of this Constitution.

Consultation

~~34.~~ All reports to the Cabinet from any Member of the Cabinet or an officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant overview and scrutiny committees, and the outcome of that consultation.

~~27-35.~~ Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

~~28-36.~~ Reports must state that consultation has been carried out in accordance with the council's consultation guidance or explain the reason for any divergence from that guidance.

Commented [EK7]: In case something other than an advisory panel

Setting Cabinet agendas

~~29-37.~~ The Leader will decide upon the schedule for the meetings of the Cabinet. ~~He/she/They~~ may put on the agenda of any Cabinet meeting any matter which ~~he/she/they~~ wishes, whether or not authority has been delegated to the Cabinet, a committee of it or any member or officer in respect of that matter. The Proper Officer will comply with the Leader's requests in this respect.

~~a. Any member of the cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the cabinet for consideration. If he/she makes such a request the Proper Officer will comply.~~

~~30-38.~~ The Proper Officer will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant Overview and Scrutiny Committee, or the Full Council, has resolved that an item be considered ~~or re-considered~~ by the Cabinet. However, there may be only up to two such items on any one agenda.

Commented [KE8]: Eg following a call-in being upheld

~~39.~~ The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the ~~director of resources~~ Proper Officer to call such a meeting in pursuance of their statutory duties.

~~40.~~ In other circumstances, where any two of the Head of Paid Service, ~~Chief Financial Officer~~ S.151 Officer and ~~M~~onitoring ~~O~~fficer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting.

~~34-41.~~ -If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the ~~person(s)~~ those listed above entitled to include an item on the agenda may also require that a meeting be convened by the Proper Officer at which the matter will be considered.

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**Wiltshire Council
Constitution
Part 8
Overview and Scrutiny
Procedure Rules**

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PART 8

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Numbers of and arrangements for Overview and Scrutiny Committees

- 1.1 Full Council will appoint such numbers of Overview and Scrutiny Committees in accordance with Article 6(4) of Part 2 of this Constitution.
- 1.2 The Terms of Reference and arrangements of the Overview and Scrutiny Committees are also set out in Article 6 of Part 2 of this Constitution.

2. Limitations on Membership of Overview and Scrutiny Committees

- 2.1 No member of the Cabinet may be appointed as a member of an Overview and Scrutiny Committee, Task Group, Rapid Scrutiny Exercise, or other scrutiny activity.
- 2.2 As members of the Executive administration supporting the Cabinet in formulating and developing policy, Paragraph 2.1 shall also apply to Portfolio Holders as defined at Article 7(9) of Part 2 of the Constitution.
- 2.3 No Member may take part in scrutinising a decision in which they have been directly involved.

3. Co-Optees

- 3.1 All Overview and Scrutiny Committees shall be entitled to appoint non-voting Co-Optees subject to ratification by Full Council.
- 3.2 They may also select key partners or stakeholders as informal non-voting members of their committee.

Education representatives

- 3.3 The Overview and Scrutiny Committee dealing with education matters shall additionally include in its membership the following voting representatives:
 - 3.3.1 One Church of England diocese representative
 - 3.3.2 One Roman Catholic diocese representative
 - 3.3.3 Three Parent Governor representatives from local authority maintained schools
- 3.4 The representatives above may participate fully in any matter but may only vote where the relevant committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet, such as any scrutiny of the council in its role as a local education authority.

4. Chairmen of Overview and Scrutiny Committees

- 4.1 Each Overview and Scrutiny Committee will be responsible for electing its Chairman at their first meeting following the annual meeting of Full Council. The Overview and Scrutiny Committees shall use the same procedure as that used to elect Chairmen of Area Boards as set out at Paragraphs 4.9-4.15 of Part 3B of the Constitution

4.2 Chairmen and Vice-Chairmen must be drawn from the voting members of a committee.

5. Role of Overview and Scrutiny Committees

Scrutiny Role

5.1 The Overview and Scrutiny Committees may:

5.1.1 Review and scrutinise the decisions made by, and the performance of, the cabinet and officers both in relation to individual decisions and over time;

5.1.2 Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;

5.1.3 Question members of the Cabinet and first and second tier officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

5.1.4 Make recommendations to the Cabinet and/or Full Council arising from the outcome of the scrutiny process;

5.1.5 For the avoidance of doubt, the scrutiny role does not extend to individual regulatory decisions such as development control and licensing, although reviews of general regulatory policy and service performance can be undertaken if felt necessary or invited to do so;

5.1.6 Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant overview and scrutiny body and local people about their activities and performance.

Policy review and development role

5.2 The Overview and Scrutiny Committees may:

5.2.1 assist Full Council and the Cabinet in the development of the council's budget and policy framework by in-depth analysis of policy issues;

5.2.2 hold enquiries, conduct research, undertake consultation and encourage community participation in the development options;

5.2.3 liaise with other external organisations operating in the County to ensure that the interests of local people are enhanced by collaborative working;

5.2.4 In relation to the development of the council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference as set out in Article 6 of this Constitution.

5.2.5 Access such documents and receive notice of such meetings as set out in Part 5 of the Constitution, Access to Information Procedure Rules.

6. Meetings

Frequency

6.1 The frequency and timing of meetings should reflect the demands placed on the committees from the overall work programme agreed by the Overview and Scrutiny Management Committee ("The Management Committee").

- 6.2 However, there shall be at least six ordinary meetings of each Overview and Scrutiny Committee scheduled each year.
- 6.3 Additional meetings may be scheduled from time to time where considered appropriate by the Proper Officer.
- 6.4 An extraordinary Overview and Scrutiny Committee meeting may also be called by:
 - 6.4.1 the Chairman of the relevant Overview and Scrutiny Committee;
 - 6.4.2 any three members of that committee
- 6.5 The Proper Officer, if they consider it necessary or appropriate. The notice for any extraordinary meeting must specify the business proposed to be transacted at the meeting, with no consideration of previous minutes or reports from Committees.

Quorum

- 6.6 The quorum for a meeting of an Overview and Scrutiny Committee shall be one quarter of the number of voting members of that committee, subject to a minimum of three.
- 6.7 Non-voting Members shall count towards that quorum, subject to a minimum of two voting members being present.

Agenda Items

- 6.8 Overview and Scrutiny Committees shall consider the following business:
 - 6.8.1 Minutes of the last meeting
 - 6.8.2 Declarations of interest
 - 6.8.3 Chairman's Announcements
 - 6.8.4 Consideration of any matter referred to the Committee for a review in relation to call in of a decision
 - 6.8.5 Responses of the Cabinet to reports of the Overview and Scrutiny Committee
 - 6.8.6 The Forward Work Plan for the committee; and
 - 6.8.7 Such business otherwise set out on the agenda for the meeting.

Work Programme

- 6.9 The Management Committee will be responsible for approving the overall work programme in order to ensure the most effective allocation of resources across all the Overview and Scrutiny Committees.
- 6.10 The Management Committee will work co-operatively with all other Overview and Scrutiny Committees, also known as Select Committees, and with all political groups, in preparing its overall work programme.
- 6.11 The Management Committee will be mindful of the council's priorities set out in the Business Plan and the benefit of establishing an effective working relationship with the Cabinet, also known as the Executive, and the Audit & Governance Committee in setting its work programme. It will also have regard to Protocol 10 of the Constitution, Governance Reporting Arrangements.

- 6.12 The Management Committee and other Overview and Scrutiny Committees may also liaise as appropriate with the Cabinet, Chief Executive, Corporate Directors, and Directors, as part of determining the work programme.

Reference of matters to overview and scrutiny committee

Referrals by an Individual Member

- 6.13 Any Member of the Council may inform the Designated Scrutiny Officer that they wish to refer to an Overview and Scrutiny Committee any matter which is relevant to the functions of that committee and is not an excluded matter (insert legislative reference).
- 6.14 Following such notice, the item will be listed on the agenda at the next ordinary meeting of the appropriate committee as a referred matter. The Member referring the matter will be invited to attend the meeting and set out what Overview and Scrutiny activity or action they consider would be appropriate. The Committee will then determine what if any action should be taken in response to the discussion. If the Committee considers that no further work or action is appropriate the matter should not be debated further, and they will provide reasons to the requesting Member.

Referrals by Area Boards or through Member Call for Action

- 6.15 The Management Committee shall include on its agenda any referral from a Member Call for Action or an Area Board which has followed the proper processes set out at sections 7 and 8 below.

Referrals by Full Council or Cabinet

- 6.16 The Management Committee shall also respond, as soon as its work programme permits, to referrals from Full Council and, if it considers it appropriate, the Cabinet, to review particular areas of council activity.
- 6.17 Where it does so, the Management Committee shall report its findings and any recommendations back to Full Council and/or Cabinet.

7. Member Call for Action (MCfA)

- 7.1 MCfA is a process that enables Members to deal with issues of concern in their local communities. When concerns arise – either as a result of information from individuals, community groups, or the Member's own observations – they are able to trigger a response from service providers and ensure the concerns are dealt with. What makes the MCfA different from a more general request for scrutiny is the focus of the MCfA is on neighbourhood or locality issues, and specifically the quality of public service provision at a local level.
- 7.2 Any Member may submit a MCfA using the appropriate form available from the Designated Scrutiny Officer. The MCfA is intended to be a process of last resort and therefore a Member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Cabinet Member and Director.
- 7.3 In the first instance the relevant Area Board will consider the MCfA and will then be placed on the agenda of the Overview and Scrutiny Management Committee should the Member remain dissatisfied.

7.4 It is for the Overview and Scrutiny Management Committee to determine how it wishes to respond to the MCfA and in the case of refusal to undertake a review then reasons must be provided.

8. Area Boards

8.1 The Overview and Scrutiny Management Committee will consider referrals from Area Boards on issues which have been the subject of local review and are multi-boundary, or have budget, policy or contractual implications for the council which have first been debated at an Area Board.

8.2 The Overview and Scrutiny Management Committee will have full discretion in how it wishes to respond to such referrals. This does not preclude Overview and Scrutiny initiating its own review of a local issue, however in general reviews will focus on broader strategic and policy matters.

9. Scrutiny of crime and disorder reduction partnerships

9.1 The Overview and Scrutiny Management Committee will be the responsible committee for scrutiny of performance of the partnerships under the provisions of the Police and Criminal Justice Act 2006.

10. Reports from Overview and Scrutiny Committees

10.1 Once recommendations have been formed on a matter, an Overview and Scrutiny Committee may submit a formal report for consideration as appropriate by:

15.1.1 the Cabinet as a whole, or

15.1.2 a Cabinet Member, if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework or

15.1.3 to Full Council if the recommendation would require a departure from or a change to the agreed budget and policy framework,.

10.2 If an Overview and Scrutiny Committee cannot agree on one single final report to the Full Council or Cabinet as appropriate, minority report(s) may be prepared and submitted for consideration by Full Council or Cabinet alongside the majority report.

10.3 Full Council, Cabinet, or a Cabinet Member, shall consider a report submitted by an Overview and Scrutiny Committee within two months (or next available meeting in the case of Full Council) of it being submitted.

10.4 Where an Overview and Scrutiny Committee submits a report for consideration by the Cabinet in relation to a matter where the Leader has delegated decision-making power to another individual member of the Cabinet, the report will be submitted to them for consideration. The Member with delegated decision-making power must consider the report and respond in writing to the relevant Overview and Scrutiny committee within two months of receiving it. The Cabinet Member will also attend a future meeting of the relevant Overview and Scrutiny Committee to present their response.

11. Members and officers giving account

11.1 Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. A standing

invitation exists for Cabinet Members and officers to attend Overview and Scrutiny Committees to give account for any decision, action, or proposed action.

- 11.2 As well as reviewing documentation Overview and Scrutiny Committees may require any Cabinet Member, the Chief Executive, Corporate Director, or Director to attend a meeting to explain any decision or answer questions about a matter within their remit, including proposed actions.
- 11.3 Where an Overview and Scrutiny committee makes a resolution requiring the attendance of any Cabinet Member or Officer detailed above at a meeting, it is the duty of those persons to attend. This requirement extends to Task Groups and Rapid Scrutiny Exercises established by an Overview and Scrutiny Committee.
- 11.4 Where any Cabinet Member or officer is required to attend an Overview and Scrutiny body, the Designated Scrutiny Officer shall inform the Member or officer in writing giving at least 10 working days' notice.
- 11.5 The notice will state the nature of the topic on which they are required to give an account and whether any written evidence needs to be produced for the meeting. Sufficient notice should be given to allow reasonable time to produce the written evidence.
- 11.6 The Chairman of the relevant Overview and Scrutiny Committee shall determine the reasonableness of the notice to produce any written evidence if this is disputed, or whether it is appropriate for another Member or Officer of equivalent or greater seniority to attend in place of the requested person(s), or rearrange the attendance date.

12. Attendance by others and evidence gathering

- 12.1 Overview and Scrutiny Committees may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.
- 12.2 They may appoint advisers to assist them in this process and ask witnesses to attend to address them on any matter under consideration and may pay a reasonable fee and expenses for doing so subject to agreement of the Designated Scrutiny Officer in consultation with the Chairman of the relevant committee and the Management Committee that it is reasonable and proportionate.
- 12.3 They may invite any person to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders. Members and officers in other parts of the public sector
- 12.4 Where witnesses have been called then the meeting should be conducted in accordance with the following principles:
 - 12.4.1 The investigation be conducted fairly and all Members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;
 - 12.4.2 Those assisting the committee by giving evidence to be treated with respect and courtesy;
 - 12.4.3 The investigation be conducted to maximise the efficiency of the investigation or analysis; and

12.4.4 The committee to make its report and findings public, subject to the requirements of confidentiality and exempt information provisions.

13. Call-in

Purpose of Call-in

13.1 Call-in should only be used in exceptional circumstances. This is where members of the Overview and Scrutiny Management Committee are provided evidence which suggests that a decision maker as set out in Paragraph 18.2 did not take a decision in accordance with the principles of decision making as set out in Article 13(2) of Part 2 and Paragraph 2.2 of Part 3D(1) of the Constitution.

Which decisions can be called in

13.2 When an Executive decision is made by:

13.2.1 the Cabinet

13.2.2 an individual Member of the Cabinet

13.2.3 a committee of the Cabinet

13.2.4 an officer with delegated authority from the Cabinet in respect of a Key decision

13.2.5 an area committee, when making a decision with delegated authority from the Cabinet

13.2.6 or under joint arrangements

13.3 the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the normally within three days of being made. The Chairman of the Management Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

Notice of Decision

13.4 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless in the decision is called in to the Management Committee.

13.5 During that five clear working day period, the Designated Scrutiny Officer shall call in a decision to the Management Committee where a request is received from any ten non-executive members of the council, setting forth the grounds by which they believe the decision has not been taken in accordance with the principles of decision making.

13.6 If a request is received by the requisite number of Members setting forth the grounds for their request, the Designated Scrutiny Officer shall then notify the decision-maker of the call-in.

13.7 If there is an ordinary Management Committee meeting scheduled within that period, the call-in may be considered at that meeting, if the Chairman of the Management Committee agrees there is sufficient notice to consider the call-in

appropriately. Otherwise, the Proper Officer will then call an extraordinary meeting of the Management Committee in consultation with the Designated Scrutiny Officer, and the Chairman of the Management Committee, within seven working days of the call-in.

Committee procedure to consider call-in request

- 13.8 The Designated Scrutiny Officer shall prepare a report for the Management Committee, listing the reasons those requesting call-in consider the decision does not accord with the principles of decision-making, and any other relevant facts or details.
- 13.9 A representative from those submitting the call-in request will be invited to present their request in full. This may be followed by officers and Members involved in the decision as appropriate, or contributions by other non-committee Members. All parties may be questioned for further detail by Members of the Management Committee.
- 13.10 Following final summation from the lead representative of those requesting call-in and then the decision maker, the Committee will debate whether to confirm the request.

Committee decision on call-in

- 13.11 If the Management Committee resolves that they have concerns the decision was not carried out fully in accordance with the principles of decision making then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns.
- 13.12 Alternatively, they may refer the matter to Full Council for consideration. In that circumstance the Proper Officer in consultation with the Chairman of Council will determine whether to call an extraordinary meeting.
- 13.13 Matters should only be referred to Full Council if the Management Committee considers that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- 13.14 If referred to the decision-maker that person or body shall then reconsider the decision within a further seven working days, amending the decision or not, before adopting a final decision. The decision-maker must set out the reasons for their decision with reference to the reasoning and resolution of the Management Committee.
- 13.15 If, following a call in, the Management Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further seven clear working day period, whichever is the earlier.

Committee referral to Full Council

- 13.16 If the matter was referred to Full Council and it considers that the principles of decision making were followed and/or that the decision was made in accordance with the policy framework and the budget, then no further action is necessary and the decision will be effective in accordance with the provisions below.

- 13.17 Where Full Council considers that the decision was contrary to the policy framework or contrary to or not wholly in accordance with the budget, or otherwise not in accordance with the principles of decision making, it will refer the decision back to the decision-making person or body, together with its views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The decision-maker must set out the reasons for their decision with reference to the reasoning and resolution of Full Council.
- 13.18 Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider the decision within seven working days of the Full Council decision.
- 13.19 Where the decision was made by an individual Member of Cabinet or officer taking a Key decision delegated from Cabinet, the individual will reconsider the decision within seven working days of the Full Council decision, using the procedure for individual decisions as set out in Protocol 5 of the Constitution or for an officer in accordance with the Scheme of Delegation, Part 3D of the Constitution.
- 13.20 If Full Council does not meet to consider a referral, or if it does but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the Full Council meeting

14. Call-in and urgency

- 14.1 The call-in procedure set out above shall not apply where the decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests.
- 14.2 The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.
- 14.3 The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required.
- 14.4 In the absence of both, the Proper Officer's consent shall be required following consultation with the Monitoring Officer.
- 14.5 Any such urgent decisions taken shall be reported at the next available meeting of Full Council together with the reasons for the urgency, and also reported annually..
- 14.6 The call-in procedure shall also not apply where a decision maker has responded to an existing call-in request and reconsidered their decision accordingly.

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Wiltshire Council Constitution

Part 8

Overview and Scrutiny Procedure Rules

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Commented [KE1]: Items will be re-ordered based on other changes in the document, once it is approved

PART 8

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. Numbers of and arrangements for Overview and Scrutiny Committees

- 1.1 ~~The Full~~ Council will appoint such numbers of Overview and Scrutiny Committees in accordance with Article 6(4) of Part 2 of this Constitution.
- 1.2 The Terms of Reference and arrangements of the Overview and Scrutiny Committees are as also set out in Article 6 of Part 2 of this Constitution.

2. Limitations on Membership of Overview and Scrutiny Committees

- 2.1 ~~No member of the Cabinet may be appointed as a member of an Overview and Scrutiny Committee, Task Group, Rapid Scrutiny Exercise, or other scrutiny activity.~~
- 2.2 ~~As members of the Executive administration supporting the Cabinet in formulating and developing policy, Paragraph 2.1 shall also apply to Portfolio Holders as defined at Article 7(9) of Part 2 of the Constitution.~~
- ~~2.2.3~~ No Member may take part in scrutinise ~~scrutinising~~ a decision in which ~~he/she has they have~~ been directly involved.

Commented [EK2]: Adapted from Part 3C relating to Portfolio Holders for greater clarity

3. Co-Optees

- 3.1 ~~The All~~ Overview and Scrutiny Committees shall be entitled to appoint ~~people as~~ non-voting Co-Optees subject to ratification by Full Council.

- ~~3.1.2~~ They may also select key partners or stakeholders as informal non-voting members of their committee.

Education representatives

- ~~3.2.3~~ The Overview and Scrutiny Committee dealing with education matters shall additionally include in its membership the following voting representatives:

- ~~3.2.3.1~~ One Church of England diocese representative
- ~~3.2.3.2~~ One Roman Catholic diocese representative
- ~~3.2.3.3~~ Three Parent Governor representatives from local authority maintained schools

- ~~3.3.4~~ The representatives above may participate fully in any matter but may only vote where the relevant committee's functions relate wholly or in part to any education functions which are the responsibility of the Cabinet, such as any scrutiny of the council in its role as a local education authority. The Overview and Scrutiny Committee in this paragraph is an Overview and Scrutiny Committee of a local education authority, where the committee's functions relate wholly or in part to any education functions which are the responsibility of the authority's cabinet. If the Overview and Scrutiny Committee deals with other matters, these representatives shall not vote on those other matters, though they may stay in the meeting and speak.

Commented [PH3]: Also...

Paragraph 7 of Schedule A1, of the Local Government Act 2000 makes provision for overview and scrutiny committees to have church representatives. The Council must have a Church of England co-opted member on its overview and scrutiny committee whose functions relate wholly or partly to education if the Council maintains one or more Church of England Schools. Similarly, the Council must have a Roman Catholic representative on its Overview and Scrutiny Committee if the same conditions apply in relation to Roman Catholic Schools.

4. Role of Overview and Scrutiny Committees

Scrutiny Role

4.1 The Overview and Scrutiny Committees may:

- 4.1.1 Review and scrutinise the decisions made by, and the performance of, the cabinet and officers both in relation to individual decisions and over time;
- 4.1.2 Review and scrutinise the performance of the council in relation to its policy objectives, performance targets and/or particular service areas;
- 4.1.3 Question members of the Cabinet and first and second tier officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- 4.1.4 Make recommendations to the Cabinet and/or Full Council arising from the outcome of the scrutiny process;
- 4.1.5 For the avoidance of doubt, the scrutiny role does not extend to individual regulatory decisions such as development control and licensing, although reviews of general regulatory policy and service performance can be undertaken if felt necessary or invited to do so;
- 4.1.6 Review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant overview and scrutiny body and local people about their activities and performance.

Policy review and development role

4.2 The Overview and Scrutiny Committees may:

- 4.2.1 assist Full Council and the Cabinet in the development of the council's budget and policy framework by in-depth analysis of policy issues;
- 4.2.2 hold enquiries, conduct research, undertake consultation and encourage community participation in the development options;
- 4.2.3 liaise with other external organisations operating in the County to ensure that the interests of local people are enhanced by collaborative working;
- 4.2.4 In relation to the development of the council's approach to other matters not forming part of its policy and budget framework, Overview and Scrutiny Committees may make proposals to the Cabinet for developments in so far as they relate to matters within their terms of reference as set out in Article 6 of this Constitution.
- 4.2.5 Access such documents and receive notice of such meetings as set out in Part 5 of the Constitution, Access to Information Procedure Rules.

4.5. Meetings of the Overview and Scrutiny Committees

Frequency

- 5.1 The frequency and timing of meetings should reflect the demands placed on the committees from the overall work programme agreed by the Overview and Scrutiny Management Committee ("The Management Committee").

Commented [EK4]: Unchanged apart from 4.2.5 - rest is just moved from further down

Commented [EK5]: To emphasise access rights of scrutiny members as set out in Part 5

Commented [EK6]: Moved from below

~~5.2 However, there shall be at least six ordinary meetings of each of the Overview and Scrutiny Committees scheduled in the Council's diary in each year.~~

~~5.3 In addition, additional extraordinary meetings may be called scheduled from time to time as and when appropriate where considered appropriate by the Proper Officer.~~

~~5.4 An extraordinary Overview and Scrutiny Committee meeting may also be called by:~~

~~5.4.1 the chair Chairman of the relevant Overview and Scrutiny Committee;~~

~~5.4.2 by any two three members of that committee~~

~~4.1.1 or by the Director of Legal and Governance Proper Officer, if he/she/they considers it necessary or appropriate.~~

~~4.25.5 However, the frequency and timing of meetings should reflect the demands placed on the committees from the overall work programme agreed by the management committee. The notice for any extraordinary meeting must specify the business proposed to be transacted at the meeting, with no consideration of previous minutes or reports from Committees.~~

Quorum

~~5.6 The quorum for a meeting of an Overview and Scrutiny Committee shall be one quarter of the whole number of voting members of that committee, subject to a minimum of three.~~

~~4.35.7 Non-voting Members shall count towards that quorum, subject to a minimum of two voting members being present.~~

Agenda Items

~~5.8 Overview and Scrutiny Committees shall consider the following business:~~

~~5.8.1 Minutes of the last meeting~~

~~5.8.2 Declarations of interest~~

~~5.8.3 Chairman's Announcements~~

~~5.8.4 Consideration of any matter referred to the Committee for a review in relation to call in of a decision~~

~~5.8.5 Responses of the Cabinet to reports of the Overview and Scrutiny Committee~~

~~5.8.6 The Forward Work Plan for the committee; and~~

~~5.8.7 Such business otherwise set out on the agenda for the meeting.~~

5.6 Chairmen of Overview and Scrutiny Committees

~~5.4 Each Overview and Scrutiny Committee will be responsible for electing its Chairman at their first meeting following the annual meeting of Full Council. Chairs of Overview and Scrutiny Committees will be drawn from among the Members sitting on the committee, and subject to this requirement the committee may appoint such a person as it considers appropriate as chair.~~

Commented [EK7]: To reflect that when this was first written the committee sizes were smaller, at 11 and 13 as opposed to 13 and 15

Commented [EK8]: This mirrors wording for the calling of extraordinary meetings in Part 4 (Full Council only) - simply meaning the meeting must be called for a purpose and agenda must include details of the items of business.

Commented [EK9]: That is, you could in theory have two voting members and one non-voting member as a minimum quorum.

Commented [EK10]: Moved from end of section as more relevant here
Added announcements and forward work programme renamed as agenda items rather than procedure

Commented [EK11]: Move to after Section 3

Commented [EK12]: "Will" rather than "may" to make stronger

6.1 ~~The Overview and Scrutiny Committees shall use the same procedure as that used to elect Chairmen of Area Boards as set out at Paragraphs 4.9-4.15 of Part 3B of the Constitution~~

6.2 ~~Chairmen and Vice-Chairmen must be drawn from the voting members of a Committee.~~

6-7. Work Programme

7.1 ~~The Overview and Scrutiny Management Committee will be responsible for setting approving the overall work programme in order to ensure the most effective allocation of resources across all the Overview and Scrutiny Committees.~~

7.2 ~~The Management Committee will work co-operatively with all other Overview and Scrutiny Committees, also known as Select Committees, and with all political groups, in preparing its overall work programme, and in doing so it shall take into account wishes of members on that committee who are not members of the largest political group on the council.~~

7.3 ~~However, the committee~~The Management Committee will be mindful of the council's priorities set out in the ~~Council's~~ Business Plan and the benefit of establishing an effective working relationship with the Cabinet, ~~also known as the Executive,~~ and ~~Council's the~~ Audit & Governance Committee ~~in setting its work programme.~~ The Overview and Scrutiny Management Committee ~~It will also will~~ have regard to the Protocol ~~10 of the Constitution on~~ Governance Reporting Arrangements.

6-7.4 ~~The Management Committee and other Overview and Scrutiny Committees may also liaise on as appropriate with the Cabinet, Chief Executive, Corporate Directors, and Directors, as part of determining its~~the work programme.

7-8. Referral of Agenda items

Referrals by an Individual Member

8.1 ~~Any member of an Overview and Scrutiny Committee shall be entitled to give notice to the designated scrutiny officer that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of the committee. On receipt of such a request the designated scrutiny officer will ensure that it is included on the next available agenda, subject to agreement by the Overview and Scrutiny Management Committee. Any Member of the Council may inform the Designated Scrutiny Officer that they wish to refer to an Overview and Scrutiny Committee any matter which is relevant to the functions of that committee and is not an excluded matter (insert legislative reference).~~

7-8.2 ~~Following such notice, the item will be listed on the agenda at the next ordinary meeting of the appropriate committee as a referred matter. The Member referring the matter will be invited to attend the meeting and set out what Overview and Scrutiny activity or action they consider would be appropriate. The Committee will then determine what if any action should be taken in response to the discussion. If the Committee considers that no further work or action is appropriate the matter should not be debated further, and they will provide reasons to the requesting Member.~~

7.2 ~~The leader of the opposition may on up to four occasions per year require the designated scrutiny officer to include an item on the agenda of the Overview and~~

Commented [EK13]: To formalise the procedures currently used already.

Referencing in this way reduces duplication - covers off details like must be present unless providing written consent to be elected chair in absence, how to break ties etc.

Commented [EK14]: Move above to section about meetings as a subheading, under title 'Reference of matters to overview and scrutiny committee'

Commented [EK15]: LGA 2000 enables any member to 'refer' a matter'

Commented [MJ16R15]: Reference to refer any matter which is not an "excluded matter".

(5) In subsection (1)(c) "excluded matter" means any matter which is—

(a) a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters), or

(b) a matter of any description specified in an order made by the Secretary of State for the purposes of this section.

Commented [HP17R15]: The Overview and Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2012:

Excluded matters

3. Subject to article 4, the descriptions of matters specified as excluded matters for the purposes of section 9FC of the Local Government Act 2000 are—

(a) any matter relating to a planning decision;

(b) any matter relating to a licensing decision;

(c) any matter relating to a person in respect of which that person has a right of recourse to a review or right of appeal conferred by or under any enactment;

(d) any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a meeting of the overview and scrutiny committee or at a meeting of a sub-committee of that committee.

Commented [EK18]: This means any member has a process to refer a matter of concern to the relevant committee

LGA Act 2000

(2) For the purposes of subsection (1), provision enables a person to refer a matter to a committee or sub-committee if it enables him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee or sub-committee.

Inclusion in the agenda could be read to be under another item, but a more ordinary use of words would be that it means as an agenda item

~~Scrutiny Management Committee for consideration. The designated scrutiny officer shall inform the chair of the Overview and Scrutiny Management Committee of the request at the earliest opportunity, and make arrangements for the matter to be included on the agenda at the next available meeting of the Overview and Scrutiny Management Committee.~~

Commented [EK19]: Unnecessary, given procedure for any member to refer a matter

~~7.3 Any Five Members of the Council may give written notice to the Designated Scrutiny Officer that they wish an item to be included on the agenda of the Overview and Scrutiny Management Committee. If the designated scrutiny officer receives such a notification, then he/she will include the item on the first available agenda of the Overview and Scrutiny Management Committee for consideration by the committee.~~

Commented [EK20]: Revisions make unnecessary as any member may refer a matter

Referrals by Area Boards or through Member Call for Action

~~7.48.3 The Overview and Scrutiny Management Committee shall include on its agenda any referral from an Area Board and/or formal Member Call for Action which has followed the proper processes set out at sections xx and xy below.~~

Commented [KE21]: Insert for final version, once approved, once all sections in their proper place

Referrals by Full Council or Cabinet

~~8.4 The Overview and Scrutiny Management Committee shall also respond, as soon as its work programme permits, to requests-referrals from the-Full Council and, if it considers it appropriate, the Cabinet, to review particular areas of council activity.~~

~~7.58.5 -Where it does so, the Overview and Scrutiny Management Committee shall report its findings and any recommendations back to the-Full Council and/or Cabinet.~~

8-9. Member Call for Action (MCfA)

~~9.1 MCfA is a process that enables Members to deal with issues of concern in their local communities. When concerns arise — either as a result of information from individuals, community groups, or the Member's own observations — they are able to trigger a response from service providers and ensure the concerns are dealt with. What makes the MCfA different from a more general request for scrutiny is the focus of the MCfA is on neighbourhood or locality issues, and specifically the quality of public service provision at a local level.~~

~~8-49.2 Any elected member/Member may submit a MCfA using the appropriate form-available from the Designated Scrutiny Officer. The MCfA is intended to be a process of last resort and therefore a member-Member must demonstrate that reasonable steps have been taken to resolve the matter including a response from the relevant Cabinet Member and Director.~~

~~8-29.3 In the first instance the relevant Area Board will consider the MCfA and will then be placed on the agenda of the Overview and Scrutiny Management Committee should the Mmember remain dissatisfied.~~

~~8-39.4 It is for the Overview and Scrutiny Management Committee to determine how it wishes to respond to the MCfA and in the case of refusal to undertake a review then reasons must be provided. (Further guidance on the operation of MCfA is available on the intranet and from the designated scrutiny officer.)~~

Commented [EK22]: Redundant

9-10. Area Boards

Part 8

Last Updated ~~4 February 2014~~21 May 2024

~~10.1~~ The Overview and Scrutiny Management Committee will consider referrals from Area Boards on issues which have been the subject of local review ~~or and~~ are multi-boundary, or have budget, policy or contractual implications for the council which have first been debated at an ~~area~~ Area board.

~~9-10.2~~ The Overview and Scrutiny Management Committee will have full discretion in how it wishes to respond to such referrals. ~~Further information on local challenge referrals is contained in the area boards' handbook.~~ This does not preclude overview and scrutiny initiating its own review of a local issue, however in general reviews will focus on broader strategic and policy matters.

~~10-11.~~ Scrutiny of crime and disorder reduction partnerships

~~10-11.1~~ The Overview and Scrutiny Management Committee will ~~facilitate~~ be the responsible committee for scrutiny of performance of the partnerships under the provisions of the Police and Criminal Justice Act 2006.

~~11-12.~~ Reports from Overview and Scrutiny Committees

~~12.1~~ Once recommendations have been formed on a matter, ~~the an~~ Overview and Scrutiny Committee ~~will may~~ submit a formal report for consideration as appropriate by:

~~15.1.1~~ the cabinet ~~Cabinet as a whole, or~~

~~or cabinet~~ 15.1.2 a Cabinet member ~~Member~~, (if the proposals relate to an executive function and are consistent with the existing budgetary and policy framework); ~~or~~

~~or 15.1.3~~ to the council ~~Full Council as appropriate~~ (if the recommendation would require a departure from or a change to the agreed budget and policy framework); ~~.~~

~~11-12.2~~ If an Overview and Scrutiny Committee cannot agree on one single final report to the ~~council~~ Full Council or ~~cabinet~~ Cabinet as appropriate, ~~one~~ minority report(s) may be prepared and submitted for consideration by ~~the~~ Full Council or Cabinet ~~with alongside~~ the majority report.

~~11-12.3~~ ~~The~~ Full Council, ~~or~~ Cabinet, ~~or a Cabinet Member~~, shall consider ~~the a~~ report ~~of submitted by the an~~ Overview and Scrutiny Committee within two months (or next available meeting in the case of Full Council) of it being submitted.

~~11-12.4~~ Where ~~the an~~ Overview and Scrutiny Committee submits a report for consideration by the ~~cabinet~~ Cabinet in relation to a matter where the Leader has delegated decision-making power to another individual member of the Cabinet, the report will be submitted to him/her/them for consideration. The ~~member~~ Member with delegated decision-making power must consider the report and respond in writing to the ~~Overview and Scrutiny Management Committee~~ the relevant Overview and Scrutiny committee within two months of receiving it. The Cabinet Member will also attend a future meeting of the relevant Overview and Scrutiny Committee to present their response.

~~12.~~ Rights of Overview and Scrutiny Committee members to documents

~~12.1~~ ~~In addition to their rights as Members, members performing overview and scrutiny duties have the additional right to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 5 of this Constitution.~~

Commented [EK23]: 19Local authority scrutiny of crime and disorder matters

(1) Every local authority shall ensure that it has a committee (the "crime and disorder committee") with power—
(a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
(b) to make reports or recommendations to the local authority with respect to the discharge of those functions.
"The responsible authorities" means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.

~~12.2~~12.5 Nothing in this paragraph prevents more detailed liaison between the cabinet and Overview and Scrutiny Committees as appropriate depending on the particular matter under consideration.

Commented [EK24]: Reference included elsewhere

13. Members and officers giving account

13.1 Overview and Scrutiny Committees may scrutinise and review decisions made or actions taken in connection with the discharge of any council functions. A standing invitation exists for Cabinet Members and officers to attend Overview and Scrutiny Committees to give account for any decision, action, or proposed action.

Commented [EK25]: Moved from below, and added officers - sets out the more collegial expectations and practice at Wiltshire

~~13.1~~13.2 As well as reviewing documentation Overview and Scrutiny Committees they may require any ~~cabinet~~ Cabinet member ~~Member, the Head of Paid Service or any Director~~ the Chief Executive, Corporate Director, or Director to attend a meeting to explain ~~in relation to any decision or answer questions about a matter within their remit, including proposed actions.~~

Commented [EK26]: The LG Act 2000 says:
(8) An overview and scrutiny committee of a local authority or a sub-committee of such a committee—
(a) may require members of the executive, and officers of the authority, to attend before it to answer questions,

Not just about decisions

~~13.2~~13.3 Where ~~a specific request has been made~~ Where an Overview and Scrutiny committee makes a resolution requiring the attendance of any Cabinet Member or Officer detailed above at a meeting, it is the duty of those persons to attend if so required. This requirement extends to Task Groups and Rapid Scrutiny Exercises established by an Overview and Scrutiny Committee. ~~In addition, a standing invitation exists for cabinet members to attend Overview and Scrutiny Committees.~~

Commented [EK27]: At present the requirement says it is to explain decisions, but the statute is broader.

It also says the 'committee' may require it. A resolution, to indicate formal view of the committee

13.4 Where any Cabinet Member or officer is required to attend an Overview and Scrutiny body ~~under this provision~~, the Designated Scrutiny Officer shall inform the Member or officer in writing giving at least 10 working days' notice.

~~13.3~~13.5 The notice will state the nature of the topic on which ~~he/she~~ they are is required to give an account and whether any written evidence needs to be produced for the meeting. Sufficient notice should be given to allow reasonable time to produce the written evidence.

~~13.4~~13.6 The Chairman of the relevant Overview and Scrutiny Committee shall determine the reasonableness of the notice to produce any written evidence if this is disputed, or whether it is appropriate for another Member or Officer of equivalent or greater seniority to attend in place of the requested person(s), or rearrange the attendance date.

Commented [EK28]: To clarify attending is a requirement not to be disputed, but if more time is needed for material to be produced the Chairman will determine if they accept that explanation.

Commented [EK29]: To provide flexibility - people on holiday etc - but ensure senior people still attend

14. Attendance by others and evidence gathering

14.1 Overview and Scrutiny Committees may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations.

14.2 They may appoint advisers to assist them in this process and ask witnesses to attend to address them on any matter under consideration and may pay a reasonable fee and expenses for doing so subject to agreement of the Designated Scrutiny Officer in consultation with the Chairman of the relevant committee and the Management Committee that it is reasonable and proportionate.

Commented [EK30]: Simply to clarify the procedural step to agree payment of expenses or fee for such advisers/witnesses

~~14.1~~14.3 They may invite any person to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders ~~and~~ members ~~Members~~ and officers in other parts of the public sector ~~and shall invite such people to attend.~~

~~14.2~~14.4 Where witnesses have been called then the meeting should be conducted in accordance with the following principles:

~~14.2.1~~14.4.1 The investigation be conducted fairly and all ~~members~~Members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;

~~14.2.2~~14.4.2 Those assisting the committee by giving evidence to be treated with respect and courtesy;

~~14.2.3~~14.4.3 The investigation be conducted ~~so as~~ to maximise the efficiency of the investigation or analysis; and

~~14.2.4~~14.4.4 The committee to make its report and findings public, subject to the requirements of confidentiality and exempt information provisions.

15. Call-in

Purpose of Call-in

15.1 Call-in should only be used in exceptional circumstances. This is where members of the Overview and Scrutiny Management Committee have are provided evidence which suggests that a decision maker as set out in Paragraph 18.2 the Cabinet did not take the a decision in accordance with the principles of decision making in the Constitution as set out in Article 13(2) of Part 2 and Paragraph 2.2 of Part 3D(1) of the Constitution.

Commented [EK31]: Eg. Can be a delegated decision

Which decisions can be called -in

15.2 When an Executive decision is made by:

Commented [EK32]: Includes ABs below, but this is just when using the executive authority

15.2.1 -the Cabinet

15.2.2 -an individual Member of the Cabinet

15.2.3 a committee of the Cabinet

15.2.4 ~~or a Key decision is made by~~ an officer with delegated authority from the Cabinet in respect of a Key decision

15.2.5 ~~or~~ an area committee, when making a decision with delegated authority from the Cabinet

15.2.6 or under joint arrangements

~~;~~ the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the normally within ~~two~~three days of being made. The ~~chair~~Chairman of the ~~Overview and Scrutiny~~ Management Committee will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.

Commented [KE33]: Suggested due to turnaround for Cabinet meetings

Call-in runs from the day of publication of the decision, so making this three instead of two would not reduce call-in time.

Notice of Decision

~~14.3~~15.3 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of five clear working days after the publication of the decision, unless the Overview and Scrutiny Management Committee objects to it and calls it in in the decision is called in to the Management Committee.

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15.4 During that five clear working day period, the ~~designated~~ Designated scrutiny ~~officer~~ Officer shall call in a decision for scrutiny by the management committee to the Management Committee where if so requested a request is ~~by~~ received from any ten non-executive members of the council, setting forth the grounds by which they believe the decision has not been taken in accordance with the principles of decision making. ~~---~~

15.5 If a request is received by the requisite number of Members and setting forth the grounds for their request, the Designated Scrutiny Officer and shall then notify the decision-maker of the call-in.

15.6 If there is an ordinary Management Committee meeting scheduled within that period, the call-in may be considered at that meeting, if the Chairman of the Management Committee agrees there is sufficient notice to consider the call-in appropriately. ~~He/she shall~~ Otherwise, the Proper Officer will then call an extraordinary meeting of the Management Committee on such date as he/she may determine in consultation with the Designated Scrutiny Officer, where possible after consultation with and the chair Chairman of the Management Committee, and in any case within five seven working days of the decision to call-in.

Committee procedure to consider call-in request

15.7 The Designated Scrutiny Officer shall prepare a report for the Management Committee, listing the reasons those requesting call-in consider the decision does not accord with the principles of decision-making, and any other relevant facts or details.

15.8 A representative from those submitting the call-in request will be invited to present their request in full. This may be followed by officers and Members involved in the decision as appropriate, or contributions by other non-committee Members. All parties may be questioned for further detail by Members of the Management Committee.

15.9 Following final summation from the lead representative of those requesting call-in and then the decision maker, the Committee will debate whether to confirm the request.

Committee decision on call-in

15.10 If, the having considered the decision, the Overview and Scrutiny Management Committee is still concerned about it, resolves that they have concerns the decision was not carried out fully in accordance with the principles of decision making then it may refer it back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns, ~~of,~~

15.11 Alternatively, they may refer the matter to Full Council for consideration. In that circumstance the Proper Officer in consultation with the Chairman of Council will determine whether to call an extraordinary meeting.

15.12 Matters should only be referred to Full Council if the Management Committee considers that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.

Commented [EK34]: That is, ensuring they have included at least one grounds - not that the Designated Scrutiny Officer will assess whether that ground is reasonable, which will be for committee to assess

Commented [EK35]: To ensure agendas for the extraordinary meeting are able to be published in line with legal requirements of 5 clear working days, with some time to arrange the meeting before publication

Commented [EK36]: So if there is a scheduled meeting in a week and a day when the call-in comes in, the call-in could go to that not an extraordinary meeting, but if comes in with only 2 days to the meeting the Chairman may say no, and an extraordinary meeting is arranged to give appropriate time to prepare

Commented [EK37]: Presently nothing about whether requesters get to speak, who responds etc

Commented [EK38]: So that whatever questioning and contributions have taken place, the lead requester and then the decision maker will have final say before debate

Commented [EK39]: S21(3)(b) LGA 2000 provides for a scrutiny committee to be able to arrange for its function to be exercised by the authority, ie Council

Guidance is that clear timescales should be set out in the constitution for the debate to avoid decisions being unnecessarily delayed.

So if a meeting is coming up it may go to that, but if a delay would cause significant issues and a meeting is not scheduled for some time, an extraordinary meeting may be necessary

Commented [KE40]: To give proper officer authority to determine if referral to next meeting or an extraordinary meeting, depending on impact of a delay - eg if a delay of 1-2 months would be problematic or harmful

Commented [KE41]: Add that they do not have to do so even then? A referral would pause the decision potentially for months, or see extraordinary meetings of full council to determine the matter.

Commented [EK42]: This is from guidance from the then Department for Environment, Transport, and the Regions, and still in effect.

Current procedure mentions the same restriction, but further down.

~~44.4~~15.13 If referred to the decision-maker ~~they that person or body~~ shall then reconsider the decision within a further five-seven working days, amending the decision or not, before adopting a final decision. The decision-maker must set out the reasons for their decision with reference to the reasoning and resolution of the Management Committee.

Commented [EK43]: As above, to enable compliance with regular committee publication requirements

Commented [EK44]: To ensure any concerns are addressed even if not agreed with

15.14 If, following ~~an objection to the decision~~ a call in, the ~~Overview and Scrutiny~~ Management Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Overview and Scrutiny meeting, or the expiry of that further five-seven clear working day period, whichever is the earlier.

Committee referral to Full Council

15.15 If the matter was referred to Full Council and ~~the council does not object to a decision which has been made~~ it considers that the principles of decision making were followed and/or that the decision was made in accordance with the policy framework and the budget, then no further action is necessary and the decision will be effective in accordance with the provisions below.

~~15.16 The council will refer any decision to which it objects~~ Where Full Council considers that the decision was contrary to the policy framework or contrary to or not wholly in accordance with the budget, or otherwise not in accordance with the principles of decision making, it will refer the decision back to the decision-making person or body, together with ~~the council's views~~ its views on the decision. That decision-making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. The decision-maker must set out the reasons for their decision with reference to the reasoning and resolution of Full Council.

Commented [EK45]: To ensure any concerns are addressed even if not agreed with

15.17 Where the decision was taken by the Cabinet as a whole or a committee of it, a meeting will be convened to reconsider the decision within five-seven working days of the Full Council request decision.

~~44.5~~15.18 Where the decision was made by an individual Member of Cabinet or officer taking a Key decision delegated from Cabinet, the individual will reconsider the decision within five-seven working days of the Full Council request decision, using the procedure for individual decisions as set out in Protocol 5 of the Constitution or for an officer in accordance with the Scheme of Delegation, Part 3D of the Constitution. ~~The Council cannot make decisions in respect of a Cabinet decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget.~~

Commented [EK46]: An intention period, then confirmation

Commented [EK47]: Point covered here now made further up

~~44.6~~15.19 If ~~the council~~ Full Council does not meet to consider a referral, or if it does, but does not refer the decision back to the decision-making body or person, the decision will become effective on the date of the ~~council~~ Full Council meeting ~~or expiry of the period in which the council meeting should have been held, whichever is the earlier.~~

Commented [EK48]: Per 15.11 a referral will be taken to full council on a scheduled meeting, or as an extraordinary one. So no set expiry period, it will always take effect from the meeting of full council, but that may for example be 1 week or 3 months etc

~~14.7~~ Where a cabinet decision has been taken by an area committee then the right of call in shall extend to any other area committee which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny Management Committee for consideration in accordance with these provisions.

Commented [EK49]: This implies an area committee (the smallest is 4 members) can call in a decision made by another area board. It also is not practical in any case, since it says a decision not implemented, which would be within 5 days of the decision, but another AB would not be able to meet in that time unless already scheduled to be within it.

~~14.8 An area committee may request the designated scrutiny officer to call in the decision only if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call in shall apply as if the call in had been exercised by members of the Overview and Scrutiny Management Committee.~~

15-16. Call-in and urgency

~~15-4~~16.1 The call-in procedure set out above shall not apply where the decision being taken ~~by Cabinet~~ is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the council's or the public's interests.

Commented [EK50]: As above can include Cabinet Member decisions

~~15-2~~16.2 The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.

~~15-3~~16.3 The Chairman of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair~~man~~, the ~~vice chair's~~Vice-Chairman's consent shall be required.

~~15-4~~16.4 In the absence of both, the ~~head of paid service or his/her nominee's~~Proper Officer's consent shall be required following consultation with the Monitoring Officer. ~~Decisions taken as a matter of urgency must be reported to the next available meeting of the council, together with the reasons for urgency.~~

~~16.5 submitted~~Any such urgent decisions taken ~~-shall be reported at the next available meeting of Full Council together with the reasons for the urgency, and also reported annually.~~The operation of the provisions relating to call in and urgency shall be monitored annually, and a report submitted to council with proposals for review if necessary.

~~15-5~~16.6 The call-in procedure shall also not apply where a decision maker has responded to an existing call-in request and reconsidered their decision accordingly.

Commented [EK51]: To be clear that a decision to proceed after a call-in is not itself call-in able.

16. Procedure at Overview and Scrutiny Committee meetings

~~16.1 Overview and Scrutiny Committees shall consider the following business:~~

~~16.1.1 Minutes of the last meeting~~

~~16.1.2 Declarations of interest~~

~~16.1.3 Consideration of any matter referred to the Committee for a review in relation to call in of a decision~~

~~16.1.4 Responses of the cabinet to reports of the Overview and Scrutiny Committee and~~

~~16.1.5 The business otherwise set out on the agenda for the meeting.~~

Commented [EK52]: Move to info about meetings

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Wiltshire Council

Standards Committee

18 April 2024

Annual Update to Council

Purpose of Report

1. To request that the Standards Committee delegate authority to the Director, Legal and Governance, in consultation with the Chairman, to prepare an annual update of the activity of the Standards Committee and the Standards Sub-Committees, for consideration by Full Council on 21 May 2024.

Background

2. The Standards Committee's responsibilities as set out at Paragraph 2.5.7 of Part 3B of the Constitution include, but is not limited to:
 - promoting and maintaining high standards of conduct by elected and co-opted Members and officers;
 - monitoring and advising the Council about the operation of its code of conduct in the light of best practice and any changes in the law;
 - granting dispensations to elected and co-opted Members from requirements relating to interests;
 - overseeing the operation of the Council's arrangements for dealing with Code of Conduct complaints against Members and Co-opted Members of Wiltshire Council, and Members of City, Town, and Parish councils;
 - overview of corporate complaints handling and Ombudsman investigations;
 - oversight of the Council's constitution and making recommendations to Council.
3. The Committee has established the Constitution Focus Group to review sections of the Constitution and present it with proposals to consider, and has or may convene the Assessment Sub-Committee, Hearing Sub-Committee, and Dispensation Sub-Committee, in order to carry out its role.

Main Considerations

4. In accordance with the Constitution Full Council has established many committees to be responsible for the discharge or oversight of many of the council's non-executive functions
5. Examples of these committees include planning and licensing committees, Audit & Governance, and the Standards Committee.
6. In order to highlight the functions of and work of various committees which otherwise may work in relative isolation from other aspects of the council, it is proposed that an annual update be prepared of the operations of various committees, including Standards Committee, for consideration by Full Council at its annual meeting on 21 May 2024.

7. It is proposed this would be a short update taken on an annual basis similar to the annual report on Overview and Scrutiny. This would briefly set out the role and purpose of the committee, its level of activity, issues which had been discussed or investigated, as well as significant developments relevant to the remit of the committee, for example changes to legislation.
8. As there remains five weeks of the municipal year at the time of the writing of this report, it is proposed that the Director, Legal and Governance, be given delegated authority to prepare the annual update, after consultation from the Chairman.

Safeguarding Implications

9. There are no safeguarding implications arising from this report.

Public Health Implications

10. There are no public health implications arising from this report.

Procurement Implications

11. There are no procurement implications arising from this report.

Equalities Impact of the Proposal

12. There are no equalities implications arising from this report.

Environmental and Climate Change Considerations

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

Risks that may arise if the proposed decision is not taken

14. No risks have been identified arising from this report.

Risks that may arise if the proposed decision is taken

15. No risks have been identified arising from this report.

Finance Implications

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

Legal Implications

17. There are no legal implications arising from this report.

Workforce Implications

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

Conclusions

19. Providing annual updates to Full Council on committee activity will highlight the role of council committees and sub-committees and draw attention to any significant developments or issues within the remit of the committee.

Proposal

20. To delegate authority to the Director, Legal and Governance, after consultation with the Chairman, to prepare an annual update to Full Council.

Perry Holmes - Director, Legal and Governance

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

Appendices

None

Background Papers

None

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