

Wiltshire Council

Full Council

10 July 2018

Proposed Changes to the Constitution

Summary

The Standards Committee has responsibility for oversight of the Council's constitution.

This report sets out proposed changes to Part 3C of the Constitution - Delegation of Executive Functions - as recommended by the Standards Committee.

Proposal

It is recommended that:

That Full Council approve the proposed changes as detailed at Appendix 1 to the report.

Reason for Proposal

To ensure the council's constitution is up to date, clear and effective.

Dr Carlton Brand, Corporate Director (Communities, Resources and Digital)

Proposed Changes to the Constitution

Purpose of Report

1. This report asks Full Council to consider proposed changes to the Constitution as recommended by the Standards Committee on the following matter:

Part 3C of the Constitution – Delegation of Executive Functions (**Appendix 1**)

Background

2. The Standards Committee has responsibility for oversight of the Council's constitution. It has established a cross party working group, known as the Constitution Focus Group, to advise and assist the committee in carrying out this function.
3. The Focus Group met on 5 June 2018 to review several sections of the constitution. One of those reviews has led to a recommendation for a minor change to Part 3C of the Constitution
4. The relevant extract of the minutes of the Standards Committee can be found at **Appendix 2**.

Main Considerations

5. The Council operates a system of Portfolio Holders appointed by the Leader of the Council to assist Cabinet Members in their duties in developing policy, overseeing services, interacting with partners and other matters.
6. This system has been confirmed as positive and effective through Local Government Association Peer Reviews, and Independent Remuneration Panels have recommended significant special responsibility allowances for the positions.
7. At present, however, the position of Portfolio Holder is not defined within the Constitution, despite its significance. The Standards Committee therefore considered the insertion of wording in Part 3C of the Constitution to address this.
8. The wording confirms the position is appointed by the Leader, that those appointed cannot serve on Scrutiny Committees or their activities, and that they do not hold nor can be delegated any executive decision-making authority.

9. A suggestion was also made by some members regarding an upper limit on the number of Portfolio Holders.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk assessment

12. There are no significant risks arising from this report

Financial Implications

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

Legal Implications

14. The recommendations in this report are consistent with the relevant legislation, and there are no legal implications arising from this report

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Proposal

17. **That the Standards Committee recommends Council approve the changes to the Constitution as set out in Appendix 1 to this report.**

Ian Gibbons, Director, Legal and Democratic (and Monitoring Officer)

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Unpublished reports relied upon in the preparation of this report: None

Appendices

Appendix 1 – Proposed Changes to Part 3C of the Constitution

Appendix 2 – Extract of Minutes of the Standards Committee 20 June 2018

PART 3

RESPONSIBILITY FOR FUNCTIONS

SECTION C:

DELEGATION OF EXECUTIVE FUNCTIONS

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. This scheme of delegation records the arrangements made by the Leader or the Cabinet for the discharge of executive functions by:
 - The Cabinet as a whole;
 - a committee of the Cabinet;
 - an individual member of the Cabinet;
 - an Area Board;
 - an officer;
 - joint arrangements or;
 - another local authority.

Cabinet as a whole

3. In accordance with the terms of reference of Cabinet as set out at paragraph 3 of Part 3 of this Constitution, the Leader either directly or through Cabinet will carry out within the Council's Budget and Policy Framework all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under this Constitution.
4. Cabinet is defined at Article 7 of Part 2 of this Constitution. The procedure rules governing meetings of cabinet are set out at Part 7 of this Constitution.

A Committee of the Cabinet

5. The Leader may appoint a committee of the Cabinet for the discharge of executive functions.
6. To date the following cabinet committees have been appointed:
 - **None**

An individual member of the Cabinet

7. Cabinet members may exercise any executive functions within their allocated areas of responsibility, as set out in Appendix 2. The monitoring officer has delegated authority to amend Appendix 2 from time to time to reflect the decision of the Leader.
8. This does not include executive functions which are specifically reserved to the Council, the Leader and/or Cabinet, or officers.
9. In exercising delegated functions cabinet members must have regard to the Leader's Protocol for individual decision making, Protocol 5 of this Constitution, which promotes good practice and ensures transparency and consistency in the decision-making process.
10. Cabinet members may in consultation with the Leader refer matters to the Cabinet for decision if they consider that it is more appropriate to do so.
11. Where a Cabinet Member is unable to act because of absence, a conflict of interest or any other reason, the Leader may nominate another member of the Cabinet to exercise the function on their behalf.

Cabinet Portfolio Holders

12. The Leader may also appoint other councillors as 'Portfolio Holders' to assist Cabinet Members with the oversight, policy development and management of their areas of responsibilities.
13. Portfolio Holders are not members of the Cabinet, and cannot exercise or be delegated any executive functions.
14. As members of the administration involved in formulation of policy, Portfolio Holders cannot serve on Overview and Scrutiny Committees, Task Groups or Rapid Scrutiny Exercises unless called as witnesses.

Appendix 2

Minute Extract of Standards Committee 20 June 2018

Minute 27

A report was received from the Monitoring Officer detailing a proposed change to Part 3C of the Constitution, Delegation of Executive Functions, recommended by the Constitution Focus Group.

The change was in relation to the role of Portfolio Holders, councillors appointed by the Leader of the Council to assist Cabinet Members with their responsibilities but who did not hold any decision-making authority. The positions received a special responsibility allowance but had not to date been defined within the Constitution, and wording had been proposed to address this.

In discussion it was clarified there was no upper limit set on the number of Portfolio Holders at present, and some members considered that this should be clarified when it was before Full Council.

Resolved:

To recommend the changes detailed at Appendix 1 to the report for approval by Full Council.