

Wiltshire Council

Standards Committee

20 June 2018

Recommendations of the Constitution Focus Group

Purpose of Report

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group on Part 3 of the Constitution

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

Main Considerations

4. 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.
5. 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.
6. At present, however, the position of Portfolio Holder is not defined within the Constitution, despite its significance. The Focus Group therefore considered the insertion of wording in Part 3C of the Constitution to address this..
7. 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.
8. Wording has been agreed by email by the Focus Group members as detailed in Appendix 1.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk assessment

11. There are no significant risks arising from this report

Financial Implications

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

Legal Implications

13. 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

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

Environmental Impact of the Proposals

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

Proposal

16. **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)

Report Author: Kieran Elliott, Senior Democratic Services Officer, 01225 718504,
kieran.elliott@wiltshire.gov.uk

Unpublished reports relied upon in the preparation of this report: None

Appendices

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

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.