

Wiltshire Council

Full Council

9 July 2019

Proposed Changes to the Constitution – Protocol 4

Summary

This report sets out proposed changes to Protocol 4 of the Constitution.

Proposal

That Full Council approve the proposed changes to Protocol 4 of the Constitution.

Reason for Proposal

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

Ian Gibbons, Director of Legal, Electoral and Registration Services (and Monitoring Officer)

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Purpose of Report

1. This report asks Full Council to consider recommendations of the Standards Committee in relation to the following:
 - Protocol 4 of the Constitution: Planning Code of Good Practice

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 in carrying out this function.
3. The Focus Group met on 5 September 2018, 24 May 2019 and 14 June 2019 to review sections of the constitution, including those as detailed in paragraph 1.
4. The Standards Committee considered those recommendations at its meeting on 26 June 2019.
5. The relevant minutes of the Standards Committee and Focus Group meetings can be found at **Appendix 1**.

Main Considerations

Protocol 4 of the Constitution

6. Following the final report of the Planning Committee Systems Task Group, the Overview and Scrutiny Management Committee resolved at its meeting on 5 June 2018 to endorse a series of recommendations relating to the operation of the council's planning committees and associated matters.
7. One of those recommendations was that the arrangements in place for site visits by the Southern Area Planning Committee should be adopted across all the planning committees. This arrangement was not consistent with the arrangements as set out in Protocol 4 of the Constitution, and the matter was referred to the Focus Group, with proposed wording to give effect to the recommendation agreed with the Chairman of the Planning Committee Systems Task Group and the Cabinet Member for Spatial Planning, Development Management and Property.
8. At its meeting on 5 September 2018 the Focus Group considered the proposal and were broadly content with the wording., However it was felt that sections of the main protocol needed revision and that, therefore, any change should await a wider review of the protocol as a whole to ensure it was comprehensive, consistent and cohesive.

9. The Focus Group therefore met on 24 May 2019 and 14 June 2019 to discuss a proposed revision of the Protocol. The Chairmen of all Area Planning Committees and the Strategic Planning Committee, and the Cabinet Member for Spatial Planning, Development Management and Property, were invited to attend the meeting to discuss any proposals.
10. The proposed changes include:
 - updates to reflect legislative and procedural changes;
 - enhancing guidance to support and assist members in discharging their planning responsibilities;
 - updating the site visit rules;
 - simplifying the public participation arrangements; and
 - providing greater emphasis on matters that must be considered when making determinations.
11. The Focus Group over its meetings asked for a series of changes including:
 - to provide greater clarity on the applicability of the Code in relation to member involvement in enforcement matters;
 - consistent referencing;
 - clarity in relation to what constituted a material interest and relevant non-pecuniary interests;
 - advice to be taken by members before participating in a personal capacity;
 - strengthening of sections on predetermination and bias, and how this related to meetings with parties to the development; and
 - highlighting that a refusal by a member to attend relevant planning training could render decisions of a committee open to potential successful legal challenge.
12. As a great deal of the Protocol has been retained but re-ordered, a schedule of the proposed changes is set out at **Appendix 2**. The protocol itself would be reformatted and renumbered in accordance with the Standards Committee's request for standardisation of presentation of the Constitution. The public speaking note would not form part of the main Protocol.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk Assessment

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

Financial Implications

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

Legal Implications

17. The recommendations in this report are consistent with the council's duties under relevant legislation.

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Proposal

20. **That Full Council approve the revisions to Protocol 4 of the Constitution.**

Ian Gibbons, Director, Legal, Electoral and Registration Services (and Monitoring Officer)

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Background Papers

None

Appendices

Appendix 1 – Minutes extracts of the Constitution Focus Group: 5 September 2018, 24 May 2019 and 14 June 2019 and Standards Committee on 26 June 2019.

Appendix 2 – Revised Protocol 4 – Schedule of changes