

Wiltshire Council

Full Council

16 May 2023

Proposed Changes to the Constitution

Summary

This report asks Full Council to consider recommendations of the Standards Committee on changes to the Constitution.

Proposals

That Council approve the following updated sections of the Constitution:

- **Part 1 – Summary and Contents**
- **Part 2 – Articles of the Constitution**
- **Part 3 – Responsibility for Functions and Schemes of Delegation**
- **Part 4 – Council Rules of Procedure**

Reason for Proposals

To ensure that the constitution remains up to date and effective.

Perry Holmes – Director, Legal & Governance (and Monitoring Officer)

Proposed Changes to the Constitution

Purpose of Report

1. This report asks the Council to consider proposed changes to the following sections of the Constitution:
 - Part 1 – Summary and Contents
 - Part 2 – Articles of the Constitution
 - Part 3 – Responsibility for Functions and Schemes of Delegation
 - Part 4 – Council Rules of Procedure
2. The changes have been recommended by the Standards Committee.

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 is currently undertaking a wholesale review of the Constitution. This will include reviewing sections which have not been amended since their adoption in 2010, as well as for completeness sections which have been reviewed more recently.
6. The Focus Group discussed the sections above to make recommendations on 26 September 2022, and 7 March, 4 April, 11 April 2023.
7. The Standards Committee discussed the changes and approved the recommendations with minor amendment at its meeting on 19 April 2023.

Main Considerations

8. The current Part 1 of the Constitution is titled as Summary and Explanation. In practice it only summarised limited sections of the wider constitution, and duplicated details set out elsewhere.
9. In reviewing Part 1, the Focus Group determined, and Standards agreed, that it would be more useful as an introductory section to list every Part of the Constitution, and in particular highlight the purpose of each section. This would better enable Members, Officers, and the Public, to have an understanding of what each contained.
10. The Part has therefore been entirely rewritten, with the only significant piece of information previously contained only within Part 1, relating to and defining key

decisions, moved into Part 2, which was considered a more appropriate placement for the information.

11. The revised Part 1 is set out in **Appendix A**.

Part 2

12. Part 2 sets out major rules and statutory responsibilities for the rest of the Constitution.

13. The Committee propose changes as set out in **Appendix B** including:

- Updating references relating to the business plan;
- General clarifications and changes in order to be consistent;
- Inclusion of Key Decision definitions;
- Further details relating to Overview and Scrutiny;
- Management structure and statutory post updates.

14. A tracked change and clean version of the proposed Part 2 is included.

Part 3

15. Part 3 includes details of the terms of reference for council committees, schemes of delegation, and other decision making processes.

16. The Committee propose changes as set out in **Appendix C** including:

- Adjustments to terms of reference of committees for clarity and consistency;
- Minor clarifications relating to schemes of delegation;
- Updates in relation to Area Boards procedure following completion of the Area Board handbook in 2022;
- A new section relating to indemnity, extending this to cover Members.

17. Specific changes are also proposed in relation to determining requests for dispensations relating to Member Interests.

18. Following approval of Part 12 of the Constitution on 18 October 2022 Members are required to seek dispensations relating to Other Registerable Interests and Non-Registerable Interests in order to remain in a meeting room, participate, or vote. This had a particular impact for Area Boards, where in some cases every or nearly every Member would not be able to remain in the room without a dispensation being granted, for example due to membership of local town or parish councils. A Dispensation Sub-Committee, as a formal Sub-Committee, could only meet to consider a dispensation request after 5 clear working days notice.

19. In order to expedite such requests, it is proposed that only requests for dispensations relating to Disclosable Pecuniary Interests remain for decision by a Dispensation Sub-Committee, as was already previously the case. Request for dispensation relating to Other Registerable Interests and Non-Registerable Interests would be determined by the Monitoring Officer.

20. A tracked change and clean version of the proposed Part 3 is included.

Part 4

21. Part 4 sets out rules of procedure for Full Council and most council committees.

22. The Focus Group propose changes as set out in **Appendix D** including:

- General clarifications and consistency updates;
- Guidance on notices of motion and council questions;
- Procedural clarifications on debate processes.

23. A tracked change and clean version of the proposed Part 4 is included.

Overview and Scrutiny Engagement

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

Safeguarding Implications

25. There are no safeguarding implications.

Public Health Implications

26. There are no public health implications.

Procurement Implications

27. There are no procurement implications at present.

Equalities Impact of the Proposal

28. There are no equalities implications.

Environmental and Climate Change Considerations

29. There are no environmental or climate change implications.

Risks that may arise if the proposed decision is not taken

30. 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

31. No risks have been identified.

Finance Implications

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

Legal Implications

33. There are no legal implications.

Workforce Implications

34. There are no workforce implications.

Conclusions

35. The Focus Group has engaged with officers and met on several occasions to propose minor and significant changes to ensure the Constitution continues to be effective. The Standards Committee has endorsed the proposals for adoption by Full Council.

36. Following approval by Council formatting, numbering or textural adjustments will be made as appropriate for publication of the final documents, without changing any substantive elements of the documents and in accordance with the delegations to the Monitoring Officer.

Proposal

37. That Council approve changes to the following sections of the Constitution:

- Part 1 – Summary and Contents
- Part 2 – Articles of the Constitution
- Part 3 – Responsibility for Functions and Schemes of Delegation
- Part 4 – Council Rules of Procedure

Perry Holmes - Director, Legal and Governance

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

Appendices

Appendix A1 – Proposed Part 1 of the Constitution

Appendix A2 – Previous Part 1 of the Constitution

Appendix B1 – Proposed Part 2 of the Constitution (tracked changes version)

Appendix B2 – Proposed Part 2 of the Constitution (clean version)

Appendix C1 – Proposed Part 3 of the Constitution (tracked changes version)

Appendix C2 – Proposed Part 3 of the Constitution (clean version)

Appendix D1 – Proposed Part 4 of the Constitution (tracked changes version)

Appendix D2 – Proposed Part 4 of the Constitution (clean version)

Background Papers

None