

# AGENDA SUPPLEMENT (1)

---

**Meeting:** Standards Committee  
**Place:** Council Chamber - Council Offices, Monkton Park, Chippenham,  
SN15 1ER  
**Date:** Wednesday 2 May 2012  
**Time:** 2.00 pm

---

The Agenda for the above meeting was published on 24 April 2012 and indicated that the reports detailed below would be to follow. These are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Pam Denton, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718371 or email [pam.denton@wiltshire.gov.uk](mailto:pam.denton@wiltshire.gov.uk)

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

---

7. Review of the Council's Overview and Scrutiny Arrangements (Pages 1 - 14)
  8. New Standards Framework (Pages 15 - 36)
- 

DATE OF PUBLICATION: 1 May 2012
---------------------------------



## WILTSHIRE COUNCIL

Standards Committee – 2 May 2012

Council – 15 May 2012

---

### Review of the Council's Overview and Scrutiny Arrangements

#### **Purpose of the Report**

1. To provide an update on the review of the Council's Overview and Scrutiny (OS) arrangements in the light of experience since the beginning of the new unitary Wiltshire Council and the publication of the Council's Business Plan 2011-15.
2. To seek approval to implement new arrangements resulting from the review.

#### **Background to the Review**

3. The Local Government Act 2000, and more recently the Localism Act 2011, requires local authorities to include an overview and scrutiny function as part of its governance structure with a primary role to hold the executive to public account for its policies, decisions and actions. The current overview and scrutiny arrangements were agreed for "day one" of the unitary Wiltshire Council following an analysis of the arrangements in place in the former councils, government and national best practice.
4. An interim review was held in January 2010 at the request of councillors with the major change being the creation of an over-arching OS Liaison Board which took on the management of the function and the co-ordination of business on an informal basis. The current structure is shown in Appendix A.
5. The current review commenced at the end of July 2011 following consideration of a discussion paper by the OS Liaison Board with the intention of undertaking wide-ranging consultation.

#### **Influencing Factors**

6. Executive/Scrutiny Relationships

It is important to recognise that whatever structure and supporting processes are put in place it is only as good as the willingness to make them work. At the heart of this is the relationship between the Council's Executive and OS function, including the nature of the personal contact between leading

individuals of the two. This is particularly important when scrutiny activities are chaired by opposition members.

7. Work to date suggests that in reshaping OS arrangements for the future this relationship should reflect the following core values:

- Mature and harmonious working relationships to provide for open and constructive challenge in the style of a critical friend.
- OS should be an integral part of decision-making in order to minimise delays and frustrations.
- OS should add value to decision-making and focus on the big, important matters to the Council and communities identified in the Business Plan.
- A “two-way street” for communication to enable OS to develop a complementary work programme to that of the Executive.
- Responsible behaviour and sound practices with OS reviews based on evidence (not anecdote or political bias) fairness, respect and courtesy.
- All members and officers should work together to ensure the efficient transaction of OS business.

8. At an operational level more work is needed to ensure that officers leading the Council’s major projects engage with non-executive councillors through OS, and see the benefits of doing so.

9. Budget and Policy Framework

The Constitution requires any report from the Executive on proposals relating to the budget and policy framework to contain details of the consultation undertaken with stakeholders and the relevant OS committee. It is consistent with this provision for Council to expect scrutiny to have been given a reasonable opportunity to undertake this work prior to submission for formal adoption.

10. Business Plan and Corporate Programme

The Council’s Business Plan sets a clear direction over its priorities and how these will be delivered. In addition, a new corporate leadership model has been implemented with a number of cross-cutting themes forming the focus of its work.

## 11. OS Work Programme

This needs to be relevant, balanced, proportionate, timely and outcome-focused. This will only be achieved by all parts of the organisation investing in getting it right – demonstrating collective ownership and operational discipline. There is a strong view that the OS work programme needs to include a higher proportion of policy development work (overview) so that non-executive councillors can genuinely contribute and influence decision-making. This can only happen where there is a joint commitment from the Executive and OS to work together and the core values set out in paragraph 7 are demonstrated. Get this right and improved commitment and attendance is likely to be seen.

## 12. Future Legislation

The Government is in the process of legislating extensively on public services, including health and social care, crime and disorder, housing and localism, all of which refer to the important role of OS in providing a check and balance on decision-makers on behalf of the public and service users. Structures and resources will need to be flexible enough to respond effectively to this changing environment.

## **ELT Considerations and Recommendations**

13. A working party was formed consisting of corporate and service directors. It met twice and reached the following conclusions:

- OS is a statutory function and a key component to good governance
- The function currently lacks a positive identity
- OS can suffer from poor behaviours
- OS should be evidence-based without political bias
- It is important to see OS as separate from political opposition and not controlled by the Executive (but also to recognise that these do form integral parts to effective decision-making)
- Policy development needs to feature more significantly in its work programme through invitation and support by the Executive much earlier in the process
- Further councillor development to improve knowledge and application

14. In particular, the Working Party felt that OS would be better placed focusing its efforts on cross-cutting topics and objectives i.e. the what's rather than the how's. This would show closer alignment with the priorities in the Business Plan and the focus of the new corporate leadership team. Its activities would

therefore shift to outcomes and add real value to supporting delivery of the Council's goals.

15. The Working Party favoured a single over-arching committee in order to concentrate non-executive councillor talent and manage and coordinate subordinate activities linked to cross-cutting themes and priorities. Overview task groups when supported by the Executive were seen as very effective and rewarding for non-executive councillors. However the current experience of an increasing reliance on rapid scrutiny exercises for what could be described as normal business had tended to support poor scrutiny practice.
16. The Working Party recognised that implementing improvements represented a major change programme and therefore agreed to stay in existence to offer high-level corporate support.
17. A summary of the outcome of these considerations were endorsed by the OS Liaison Board at its meeting on 22 November 2011.

### **Leading Member Input**

18. At an informal meeting of leading members it was stated that their preferred approach was to have a single, over-arching committee with the power to exercise full management and control of the OS function, including responsibility and co-ordination of all activities and resources. This would be the body that engages directly with the Executive over an effective OS work programme linked to the Council's priorities in the Business Plan.
19. The over-arching committee should be free to apply the most appropriate form of engagement to the activity to ensure a focused and efficient approach. However, provision has to be made for health scrutiny and places allocated for parent and church governor representatives on the committee scrutinising education matters. The preferred approach was to create standing sub-committees for these two services although it was emphasised that the sub-committees would not necessarily meet on a regular cycle and their activities would remain to be determined by the management committee. Overview of the Council's policies, annual scrutiny of budget proposals and subsequent monitoring along with performance monitoring was felt to also need highlighting in some form.
20. Leading members also acknowledged that non-executive elected councillors and the Cabinet regularly comment that the best work is done through single topic, time-limited task groups – an experience confirmed nationally, and therefore this should feature prominently as the preferred approach for review

of other Business Plan priorities. Wherever possible the Executive should engage at an early stage with OS, preferably during policy development.

### **CLT/Cabinet Liaison**

21. A progress report on the review was considered at CLT/Cabinet Liaison on 9 January.

### **Group Leaders'**

22. The same progress report was considered by Group Leaders on 11 January. The Chairman and Vice-Chairman of the OS Liaison Board attended and explained the background to the review and rationale for the initial proposals recommended by the OS Liaison Board. No strong consensus was formed to enable a clear recommendation to be made to Council and therefore further work was requested.

23. This outcome was reported to the OS Liaison Board on 24 January. A wide-ranging discussion took place in an attempt to find an acceptable way forward. Officers were asked to draw up a structure with outline terms of reference for a preferred model based on a new over-arching management committee and retaining 3 of the existing select committees as sub-committees and a separate body for budget scrutiny.

24. On 30 January Group Leaders were updated on the developing proposals and agreed to brief their members on the position reached. Further meetings were then held between leading members to refine the detail of the structure.

25. The OS Liaison Board on 27 March made a final recommendation to Group Leaders. In supporting the recommendation for wider comment Group Leaders made the following observations:

- that there will be a need to develop some of the working practices under the revised structure including the role of the Management Committee in agenda setting and the power to direct the sub-committees and task groups;
- it was important that OS added value to the work of the Council and therefore it should be concentrating on fewer topics with more in-depth consideration of matters particularly where these had been agreed as priorities with Cabinet.

## **Constitutional Implications**

26. As a consequence of the outcome of the above discussions a number of constitutional issues needed to be considered. The intention of the new structure now recommended in Appendix B is that the main committee should control and co-ordinate the OS function. It will do this by approving and aligning the work programmes of the sub committees and in turn the use of resources.
27. It will have an agenda setting role and will set the priorities of the scrutiny function. It will therefore no longer be necessary for the sub committees to meet on a fixed schedule of meetings but will meet as and when required by the work programme as set by the main committee.
28. The main committee will set the priorities after consultation with cabinet members and directors. This will ensure that the priorities will be informed by the work programme of the cabinet and the business plan of the council. The expectation is that OS will be more focused on policy development and where it can add value to the Council's work. Therefore it should be concentrating on fewer topics with more in-depth consideration of matters, particularly where these have been agreed as priorities with cabinet.
29. Based on this concept the core values in paragraph 7 should guide the working relationship that exists between OS and the executive and this will help inform the work right across the council.
30. These proposals should encourage member engagement in the scrutiny function and promote consistency in its operation.

## Overview and Scrutiny Management Committee

31. The Council will appoint the main committee and its membership at its annual meeting and will by convention authorise the committee itself to appoint its chairman and vice-chairman. The proposed terms of reference of the main committee are as set out in Appendix B.

## Appointment of Sub-Committees

32. The proposed structure envisages the appointment of 3 sub committees. Whilst formally the appointment of sub committees will be a matter for the committee itself, the council in approving the structure will set the framework within which these arrangements will operate. The proposed terms of reference for the sub committees are also set out at Appendix B.



33. It is assumed that the sub committees will be appointed on a politically proportional basis – unless all members of the management committee vote for an alternative model.
34. In order to give all members of the council the opportunity to become engaged with OS it is recommended that the council agrees that the committee should appoint members (and their substitutes) from the wider membership of the council rather than restricting the membership to those members of the main committee.

#### Sub-Committee Chairmen

35. It is proposed that the chairmen of the sub-committees should be members of the main committee. This will ensure clear accountability and effective communications between the committee and its sub-committees.

#### Task Groups

36. The power to appoint ad hoc task groups lies with the management committee as shown in Appendix B. Sub-committees may appoint task groups with the agreement of the management committee. However, the structure does envisage the appointment of one standing task group to review and scrutinise revenue and capital budgets. The committee will appoint a small team to comprise the task group from among its membership. The terms of reference for the Task Group are set out in Appendix B.

#### **Constitution Focus Group Views**

37. The Constitution Focus Group met on 19 April. All councillors had been invited to express views directly. Correspondence was received from a number of councillors but these related mainly to points of clarification. The Focus Group discussed the constitutional issues raised above and agreed with the proposed approach. In doing so it made the following points:
- Where a sub-committee appoints a chairman who is not a member of the main committee, the relevant group leader would be expected to amend their membership of the main committee to rectify this at the next available council meeting;
  - These arrangements should provide greater consistency of approach across the function, delivering a single work programme based on the council's priorities, and encourage increased councillor engagement;
  - The need for clear communications within the new structure to ensure focus and efficiency in delivery;

- Budget OS is to be undertaken by a standing task group to provide dedicated expertise from a leading small team although operating practices will need to be developed;
- The need to avoid this task group duplicating the work of the Audit Committee.

### **Next Steps**

38. The Standards Committee will consider these proposals and make their recommendations on the revised arrangements to Council on 15 May. The Monitoring Officer will also need to be authorised to make any consequential amendments to the Articles and Overview and Scrutiny Procedure Rules in the Constitution.

### **Transition to New Arrangements**

39. If Council agrees to adopt the new arrangements the current scrutiny select committees will cease to exist. It will be for the new management committee to determine the approach to any ongoing legacy business from the current arrangements.

### **Financial Implications**

40. It is intended that the revised arrangements will be supported within existing resources. Any proposed changes may necessitate a review of allowances for OS members.

### **Conclusion**

41. This paper is not an exhaustive list of all the issues or options/variations discussed during the review process. Everyone involved recognises that improvements are necessary and the proposals summarised in this report are as a consequence of comprehensive discussion. As mentioned previously, effective OS is not simply about structure and process, or indeed rights and wrongs, but more about the desire and culture of the organisation to operate openly. It is recognised that much more than a quick-fix structural change is needed.

42. As a statutory function and key component of the Council's goal of open and honest decision-making and of its governance framework, OS can, with the commitment of all concerned, be a more valuable and integral part of the organisation.

## **Recommendations**

43. The Standards Committee is asked to recommend Council to approve the outcome of this review as set out in the report and in particular, to agree:

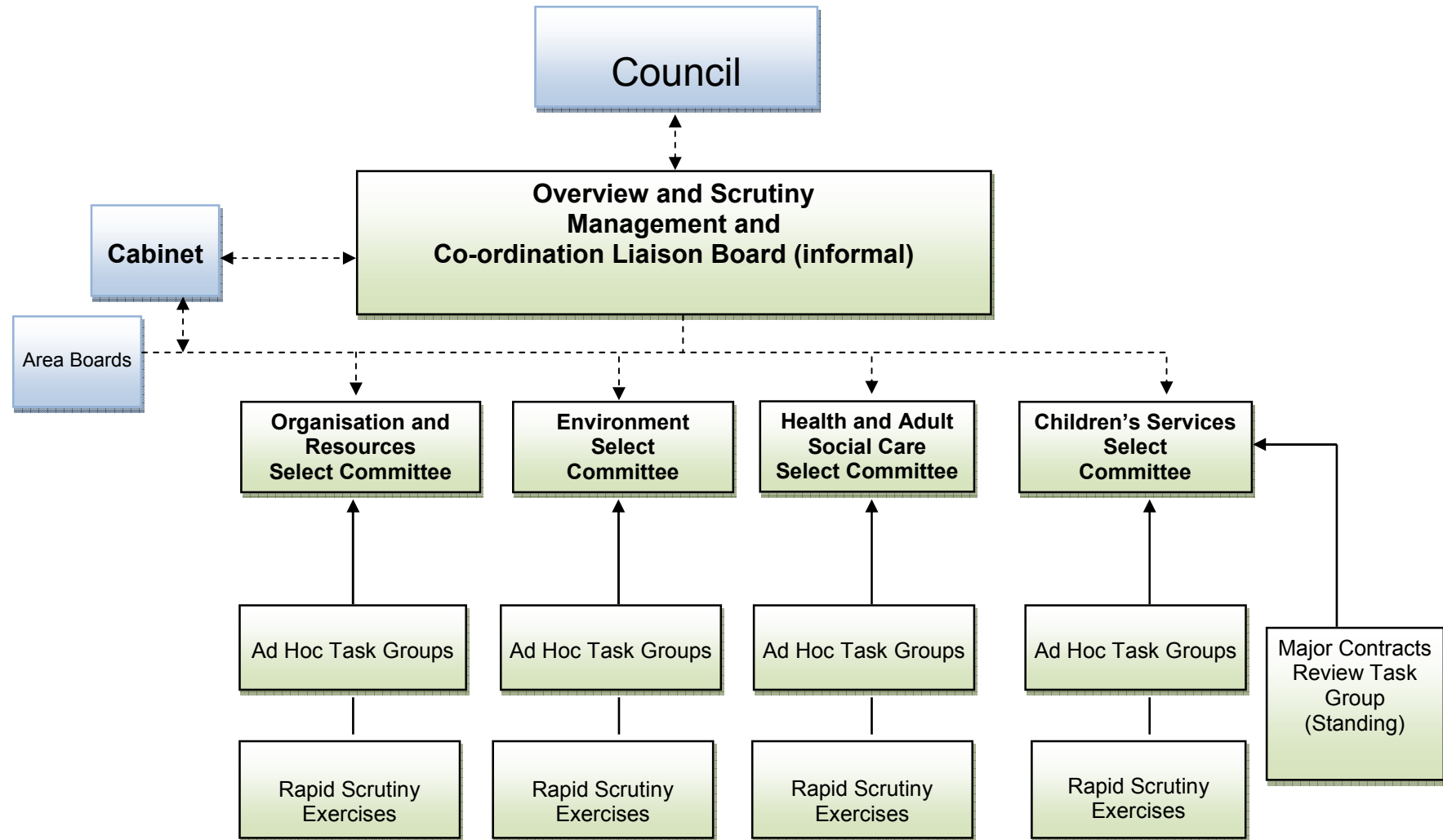
- (1) The core values set out in paragraph 7 above;
- (2) The structure and terms of reference of the revised overview and scrutiny arrangements set out Appendix B;
- (3) To authorise the Monitoring Officer to make any consequential constitutional amendments necessary to give effect to the revised arrangements;
- (4) To note the new Overview and Scrutiny Management Committee will be responsible for determining how ongoing legacy business from the current arrangements should be managed; and,
- (5) To note the intention to maintain the ELT working group to assist in implementing and developing these revised arrangements.

### **PAUL KELLY**

Scrutiny Manager (and Designated Scrutiny Officer)  
Law and Governance

Contact: [paul.kelly@wiltshire.gov.uk](mailto:paul.kelly@wiltshire.gov.uk)  
Tel. 01225 713049

This page is intentionally left blank



This page is intentionally left blank

**COUNCIL**

**OVERVIEW & SCRUTINY MANAGEMENT COMMITTEE**

- Overall management of the OS function in line with the articles and overview and scrutiny procedure rules set out in the Constitution (including call-in of Executive decisions and councillor requests for reviews)
- Co-ordination of the overall work programme (aligned to Council priorities)
- Lead the working relationship with the Executive (based on agreed core values)
- Establish sub-committees/task groups/appoint representatives to project boards and delegate responsibility as appropriate
- Assign dedicated OS resources (officer team and budget)
- Overview / policy development and scrutiny of policy framework and corporate/organisational matters
- Overview / policy development and scrutiny of Business Plan- annual review & periodic performance monitoring
- Membership should include the chairmen of any standing sub-committees

**CABINET**

**AUDIT COMMITTEE**

**AREA BOARDS**

**EVOLVING BODIES:  
HEALTH & WELL-BEING BOARD -  
POLICE AND CRIME PANELS**

**BUDGET OVERVIEW AND SCRUTINY TASK GROUP (Standing)**

- Review and scrutinise revenue and capital budgets
- Manage the arrangements for the annual overview of budget proposals
- Report periodically to the Management Committee as necessary
- Membership to be drawn from the Management Committee

Page 13

**HEALTH OVERVIEW & SCRUTINY SUB-COMMITTEE**

- Deliver the health and adult social care elements of the overall work programme (as directed by the Management Committee) in line with the articles and overview and scrutiny procedure rules set out in the Constitution including the statutory powers of Health Scrutiny
- Membership to include co-opted non-voting stakeholder representatives as appropriate
- Report and make recommendations to the Management Committee through its minutes
- Establish ad hoc task groups with the agreement of the Management Committee
- Meet as and when necessary (as opposed to a fixed schedule)

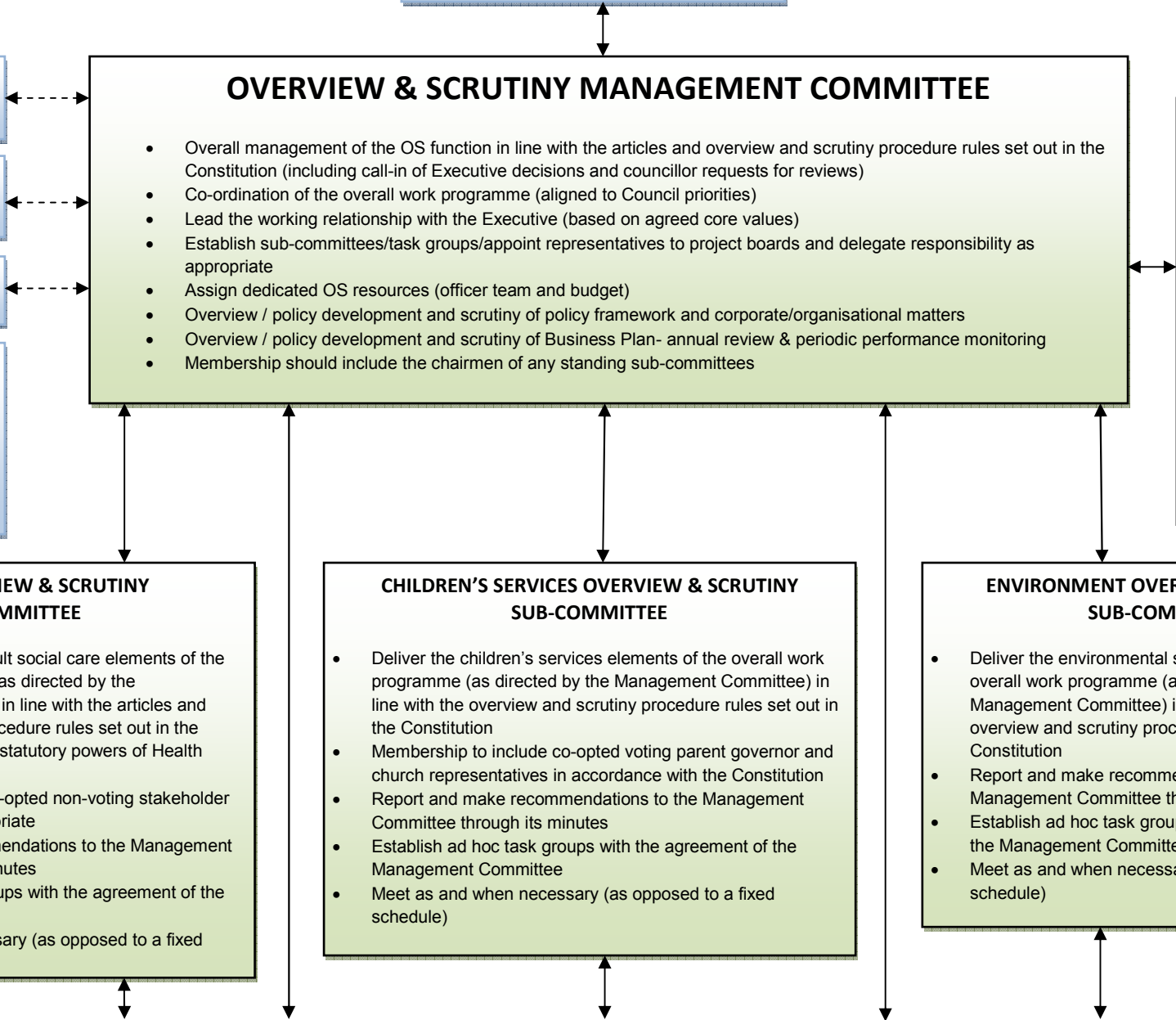
**CHILDREN'S SERVICES OVERVIEW & SCRUTINY SUB-COMMITTEE**

- Deliver the children's services elements of the overall work programme (as directed by the Management Committee) in line with the overview and scrutiny procedure rules set out in the Constitution
- Membership to include co-opted voting parent governor and church representatives in accordance with the Constitution
- Report and make recommendations to the Management Committee through its minutes
- Establish ad hoc task groups with the agreement of the Management Committee
- Meet as and when necessary (as opposed to a fixed schedule)

**ENVIRONMENT OVERVIEW & SCRUTINY SUB-COMMITTEE**

- Deliver the environmental services elements of the overall work programme (as directed by the Management Committee) in line with the articles and overview and scrutiny procedure rules set out in the Constitution
- Report and make recommendations to the Management Committee through its minutes
- Establish ad hoc task groups with the agreement of the Management Committee
- Meet as and when necessary (as opposed to a fixed schedule)

**OVERVIEW & SCRUTINY TASK GROUPS**



This page is intentionally left blank



**WILTSHIRE COUNCIL**

**AGENDA ITEM NO.**

**STANDARDS COMMITTEE**

**2 May 2012**

---

## **NEW STANDARDS FRAMEWORK**

### **Purpose of Report**

1. To ask the Committee to:
  - (a) consider an initial draft code of conduct.
  - (b) note the revisions to the documents set out in the appendices to this report, as agreed at its last meeting.

### **Background**

2. At its meeting on 18 April 2012 the Committee considered a template code of conduct produced by the Local Government Association (LGA) and an illustrative text for a code of conduct issued by the Department for Communities and Local Government (DCLG). Copies of these documents are attached at Appendix A and B for convenience.
3. The Standards Task and Finish Group were tasked with preparing a first draft code of conduct for Wiltshire Council having regard to these documents.

### **MAIN ISSUES FOR CONSIDERATION**

4. The Constitution Focus Group and the Standards Task and Finish Group have since met to discuss the form and content of a code of conduct. A draft code has been prepared on the basis of these discussions and is attached at Appendix C.
5. The Scrutiny Member Support in the Locality Task Group met on 26 April 2012 to consider the Standards Committee's proposed arrangements under the new standards framework and the content of a code of conduct. Their views and proposed changes to the arrangements for dealing with complaints will be reported to the meeting.

6. A copy of the draft documents reflecting the changes agreed by the Committee at its last meeting are attached for the Committee's information as follows:

(1) Arrangements for dealing with Code of Conduct Complaints - Appendix D

(2) Terms of reference for a new standards committee - Appendix E

[ No changes were made to the Job description and person specification for the independent person]

### **Recommendation**

7. To ask the Committee:

(1) To consider the draft code of conduct at Appendix C and, subject to any changes the Committee may wish to make, to recommend this to Council for initial consideration on 15 May 2012.

(2) To note the revised documents at Appendices D and E.

(3) To consider the views of the Member Support in the Locality Task Group to be reported at the meeting.

**IAN GIBBONS**

**SOLICITOR TO THE COUNCIL AND MONITORING OFFICER**

---

Report Author: Ian Gibbons

## Template Code of Conduct

As a member or co-opted member of *[X authority]* I have a responsibility to represent the community and work constructively with our staff and partner organisations to secure better social, economic and environmental outcomes for all.

In accordance with the Localism Act provisions, when acting in this capacity I am committed to behaving in a manner that is consistent with the following principles to achieve best value for our residents and maintain public confidence in this authority.

**SELFLESSNESS:** Holders of public office should act solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

**INTEGRITY:** Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might seek to influence them in the performance of their official duties.

**OBJECTIVITY:** In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

**ACCOUNTABILITY:** Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

**OPENNESS:** Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

**HONESTY:** Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

**LEADERSHIP:** Holders of public office should promote and support these principles by leadership and example.

The Act further provides for registration and disclosure of interests and in *[X authority]* this will be done as follows: *[to be completed by individual authorities]*

As a Member of [X authority], my conduct will in particular address the statutory principles of the code of conduct by:

- Championing the needs of residents – the whole community and in a special way my constituents, including those who did not vote for me - and putting their interests first.
- Dealing with representations or enquiries from residents, members of our communities and visitors fairly, appropriately and impartially.
- Not allowing other pressures, including the financial interests of myself or others connected to me, to deter me from pursuing constituents' casework, the interests of the [county][borough][Authority's area] or the good governance of the authority in a proper manner.
- Exercising independent judgement and not compromising my position by placing myself under obligations to outside individuals or organisations who might seek to influence the way I perform my duties as a member/co-opted member of this authority.
- Listening to the interests of all parties, including relevant advice from statutory and other professional officers, taking all relevant information into consideration, remaining objective and making decisions on merit.
- Being accountable for my decisions and co-operating when scrutinised internally and externally, including by local residents.
- Contributing to making this authority's decision-making processes as open and transparent as possible to enable residents to understand the reasoning behind those decisions and to be informed when holding me and other members to account but restricting access to information when the wider public interest or the law requires it
- Behaving in accordance with all our legal obligations, alongside any requirements contained within this authority's policies, protocols and procedures, including on the use of the Authority's resources.
- Valuing my colleagues and staff and engaging with them in an appropriate manner and one that underpins the mutual respect between us that is essential to good local government.
- Always treating people with respect, including the organisations and public I engage with and those I work alongside.
- Providing leadership through behaving in accordance with these principles when championing the interests of the community with other organisations as well as within this authority.

## **Illustrative text for code dealing with the conduct expected of members and co-opted members of the authority when acting in that capacity**

You are a member or co-opted member of the [name] council and hence you shall have regard to the following principles – selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

Accordingly, when acting in your capacity as a member or co-opted member -

You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

When carrying out your public duties you must make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit.

You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.

You must be as open as possible about your decisions and actions and the decisions and actions of your authority and should be prepared to give reasons for those decisions and actions.

You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out in the box below.

You must, when using or authorising the use by others of the resources of your authority, ensure that such resources are not used improperly for political purposes (including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

You must promote and support high standards of conduct when serving in your public post, in particular as characterised by the above requirements, by leadership and example.

### **Registering and declaring pecuniary and non-pecuniary interests**

You must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife, or as if you were civil partners.

In addition, you must, within 28 days of taking office as a member or co-opted member, notify your authority's monitoring officer of any disclosable pecuniary or non-pecuniary interest which your authority has decided should be included in the register.

If an interest has not been entered onto the authority's register, then the member must disclose the interest to any meeting of the authority at which they are present, where they have a disclosable interest in any matter being considered and where the matter is not a 'sensitive interest'.<sup>1</sup>

Following any disclosure of an interest not on the authority's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.

Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your authority places on your involvement in matters where you have a pecuniary or non pecuniary interest as defined by your authority.

---

<sup>1</sup> A 'sensitive interest' is described in the Localism Act 2011 as a member or co-opted member of an authority having an interest, and the nature of the interest being such that the member or co-opted member, and the authority's monitoring officer, consider that disclosure of the details of the interest could lead to the member or co-opted member, or a person connected with the member or co-opted member, being subject to violence or intimidation.

# Wiltshire Council

## Draft Code of Conduct

You are a member or co-opted member of [ ] Council and so you shall have regard to the following principles - **selflessness, integrity, objectivity, accountability, openness, honesty and leadership**.

Therefore, when acting in your capacity as a member or co-opted member:

1. You must set an example by promoting and demonstrating high standards of conduct, [having regard to the Role and Responsibilities of Wiltshire Councillors [Appendix 1] and Wiltshire Council's Behaviours Framework [Appendix 2] <sup>1</sup>
2. You must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate.
3. You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.
4. You must remain objective at all times, making decisions on merit, having regard to all relevant information, the interests of all parties, and any relevant advice from statutory and other professional officers.
5. You are accountable for your decisions to the public and you must co-operate fully with whatever scrutiny is appropriate to your office.
6. You must be as open as possible about your decisions and actions and the decisions and actions of your council, and should be prepared to give reasons for those decisions and actions.
7. You must not disclose confidential information unless this is required by the law or permitted by a person authorised to give consent.
8. You must declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties, and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out below.
9. You must, when using or authorising the use by others of the resources of your council, ensure that such resources are not used improperly for political purposes

---

<sup>1</sup> Wiltshire Councillors

(including party political purposes) and you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

10. You must value your colleagues and staff, engaging with them in a manner that underpins the mutual respect between you that is essential to good local government.
11. You must treat people with respect, including the organisations and public you serve or engage with and those whom you work alongside.
12. You must not bully or intimidate any person.
13. You must not do anything which may cause your council to breach any equality legislation.
14. You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

### **Registering and declaring pecuniary and non-pecuniary interests**

15. You must, within 28 days of taking office as a member or co-opted member, notify your council's monitoring officer of any disclosable pecuniary interest as defined by regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living as a husband or wife, or as if you were civil partners.
16. In addition, you must, within 28 days of taking office as a member or co-opted member, notify your council's monitoring officer of any disclosable pecuniary or non-pecuniary interests which your council has decided should be included in the register.
17. If an interest has not been entered onto the council's register you must disclose the interest to any meeting of the council at which you are present, where you have a disclosable interest in any matter being considered and where the matter is not a sensitive interest.
18. Following any disclosure of an interest which is not on the council's register or the subject of pending notification, you must notify the monitoring officer of the interest within 28 days beginning with the date of disclosure.
19. Unless dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function related to any matter in which you have a pecuniary interest as defined by regulations made by the Secretary of State. Additionally, you must observe the restrictions your council places on your involvement in matters where you have a pecuniary or non-pecuniary interest as defined by your council.





This page is intentionally left blank

# DRAFT

## Wiltshire Council

### Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

#### **1 Context**

- 1.1 These arrangements are made under Section 28 of the Localism Act 2011. They set out the process for dealing with a complaint that an elected or co-opted member of Wiltshire Council or of a parish, town or city council within its area has failed to comply with their Code of Conduct.
- 1.2 An overview of the complaints process is attached at Appendix A.
- 1.3 These arrangements are subject to the Council's Procedure for dealing with vexatious complaints.
- 1.4 The Monitoring Officer will determine as a preliminary issue whether a complaint relates to the Code of Conduct and is to be dealt with under these arrangements.
- 1.5 The Monitoring Officer will encourage complainants to explore whether the matter can be resolved without the need to submit a formal complaint under this process.

#### **2 Interpretation**

- 2.1 'Member' means a member or a co-opted member of Wiltshire Council, or of a parish, town or city council within its area, against whom a complaint has been made under the Code of Conduct.
- 2.2 'Council' means Wiltshire Council.
- 2.3 'Investigating Officer' means the person appointed by the Monitoring Officer to undertake an investigation of an allegation of misconduct by a Member.
- 2.4 'The Monitoring Officer' is a senior officer of the authority who has statutory responsibility for maintaining the register of members' interests and who is responsible for administering the arrangements for dealing with complaints of member misconduct. It includes any officer nominated by the Monitoring Officer to act on his or her behalf in that capacity.

- 2.5 'Independent Person' means a person appointed under Section 28(7) of the Localism Act:
- a. whose views must be sought and taken into account before a decision is made on an allegation of member misconduct under these arrangements;
  - b. who may be consulted by the Member about the complaint.
- 2.6 In order to avoid any conflict of interest two Independent Persons will be allocated to each complaint, one to advise and assist the Monitoring Officer and the Hearing Sub-Committee, and the other to be available for consultation by the Member.
- 2.7 'Parish Council' means a parish, town or city council within the area of Wiltshire Council.
- 2.8 'Code of Conduct' means the code of conduct for members which the Council and Parish Councils are required to adopt under Section 27 of the Localism Act 2011.
- 2.9 'Days' means working days.
- 2.10 'Parties' includes the Complainant, Member and the Investigating Officer.
- 2.11 The 'Hearing Sub-Committee' is a sub-committee of the Council's Standards Committee appointed to determine complaints of member misconduct under these arrangements.
- 2.12 The 'Review Sub-Committee' is a sub-committee of the Council's Standards Committee appointed to review a decision of the Monitoring Officer under sections 4 and 6 of these arrangements.
- 2.13 Where a complaint is made against a member of a Parish Council the Clerk to the Parish Council will be notified of the complaint and kept informed of the progress and outcome of the matter.
- 2.14 Documents will be deemed to have been received by the Parties on the seventh day after the date of posting.

### **3 Making a Complaint**

- 3.1 A complaint against a Member under the Code of Conduct must be made in writing on the Council's standard form (*available from the Council's web-site and offices*) and addressed to the Monitoring Officer [*address / e-mail*] within 12 weeks of the date on which the complainant became aware of the matter giving rise to the complaint.
- 3.2 The Monitoring Officer will acknowledge receipt of the complaint within 5 days of receiving it, and will send a copy to the Member.

- 3.3 The Member will be invited to submit a written response to the complaint within 10 days of the date on which it is sent to them.
- 3.4 The Member may seek advice and assistance in connection with the complaint from a friend or professional legal adviser, in confidence, and may at any time during the process consult the Independent Person designated for that purpose.

#### **4. Initial Assessment**

- 4.1 The Monitoring Officer will review the complaint within 5 days of receiving the Member's response and, after consultation with the Independent Person, will decide whether it merits formal investigation.
- 4.2 In reaching this decision the Monitoring Officer will have regard to the Standards Committee's assessment criteria.
- 4.3 The Monitoring Officer will inform the Parties of his or her decision and the reasons for it in writing.
- 4.4 The Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. This may involve mediation or other suitable action, including training or an apology by the Member.
- 4.5 Where the Member or the Council make a reasonable offer of local resolution, but the Complainant is not willing to accept that offer, the Monitoring Officer may take this into account in deciding whether the complaint merits formal investigation.
- 4.6 If the complaint identifies potential criminal conduct by any person, the Monitoring Officer may call in the Police or other regulatory agencies.
- 4.7 The Complainant or the Member may request a review of the Monitoring Officer's decision at the initial assessment stage.
- 4.8 A review will be determined by a Review Sub-Committee who may decide:
  - a. to take no further action on the complaint;
  - b. to refer the complaint to the Monitoring Officer for investigation or other suitable action, including mediation.

#### **5 Investigation**

- 5.1 If the Monitoring Officer decides that a complaint merits formal investigation, he/she will appoint an Investigating Officer within 2 days of the decision to investigate and inform the Parties of the appointment.

- 5.2 The Investigating Officer will investigate the complaint in accordance with guidelines produced by the Monitoring Officer and will send a copy of the investigation report to the Parties, in confidence, within 30 days of the notification of the Investigating Officer's appointment.
- 5.3 The Parties will be invited to submit any written comments on the report to the Monitoring Officer within 10 days of the date on which the report is sent to them.

## **6 Consideration of Investigating Officer's Report**

- 6.1 The Monitoring Officer will, as soon as reasonably practicable, review the Investigating Officer's report and any comments submitted by the Parties, in consultation with the Independent Person.
- 6.2 Where the Investigating Officer concludes that there is no evidence of a failure to comply with the Code of Conduct and the Monitoring Officer is satisfied that the Investigating Officer's report is sufficient, the Monitoring Officer will, after consultation with the Independent Person, inform the Parties that no further action is required.
- 6.3 If the Monitoring Officer is not satisfied that the investigation has been conducted properly, he/she may ask the Investigating Officer to reconsider his/her report and findings.
- 6.4 Where the Investigating Officer concludes that there is evidence of a failure to comply with the Code of Conduct the Monitoring Officer will, after consulting the Independent Person, either refer the matter for hearing before the Hearing Sub-Committee or seek an alternative resolution.
- 6.5 The Complainant may request a review of a decision by the Monitoring Officer, following consideration of the Investigating Officer's report, to dismiss the complaint.
- 6.6 A review will be determined by the Review Sub-Committee who may decide:
- a. to dismiss the complaint;
  - b. to refer the complaint for hearing by the Hearing Sub-Committee
  - c. To refer the complaint to the Monitoring Officer to seek alternative resolution.

## **7. Alternative Resolution**

- 7.1 Where the Monitoring Officer, in consultation with the Independent Person, considers that the matter can reasonably be resolved without the need for a hearing, he/she will consult with the Parties to seek to agree a fair resolution

which also helps to ensure higher standards of conduct for the future.

7.2 Alternative resolution may involve mediation and may include the Member accepting that their conduct was unacceptable and offering an apology, and/or other remedial action by the Council or the Parish Council as the case may be. If the Member complies with the suggested resolution, the Monitoring Officer will report the matter to the Standards Committee, and the relevant Parish Council where appropriate, for information, but will take no further action.

## **8. Hearing**

- 8.1 If the Monitoring Officer, after consultation with the Independent Person, considers that alternative resolution is not appropriate or, after exploring the possibility, concludes that it is unlikely to be achieved he/she will refer the matter to the Hearing Sub-Committee to conduct a local hearing to determine the complaint.
- 8.2 The Hearing Sub-Committee, supported by the Monitoring Officer, will conduct a pre-hearing review to identify the issues, areas of agreement and disagreement, and to give directions for the efficient conduct of the hearing. This may either be conducted in writing or by a meeting with the Parties.
- 8.3 The Monitoring Officer will notify the Parties in writing of the directions for the hearing.
- 8.4 The Sub-Committee may exclude the press and public from the hearing where it appears likely that confidential or exempt information will be disclosed and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.
- 8.5 At the hearing, the Investigating Officer will present their report, call such witnesses as they consider necessary and make representations to substantiate their conclusion that the Member has failed to comply with the Code of Conduct.
- 8.6 The Complainant will have the right to make a statement in support of their complaint.
- 8.7 The Members of the Hearing Sub-Committee and the Member may ask questions of the Investigating Officer and any witnesses called.
- 8.8 The Member will have an opportunity to give their evidence, to call witnesses and to make representations as to why they consider that they did not fail to comply with the Code of Conduct.
- 8.9 The Members of the Hearing Sub-Committee and the Investigating Officer will have the opportunity to ask questions of the Member and any witnesses called.

- 8.10 The Investigating Officer and the Member may each make a concluding statement.
- 8.11 The Members of the Hearing Sub-Committee will then withdraw, with the Independent Person, to consider the case, taking advice from the Independent Person and, where necessary, from the Monitoring Officer on law and procedure.
- 8.12 The Hearing Sub-Committee may conclude that the Member did not fail to comply with the Code of Conduct, and so dismiss the complaint.
- 8.13 If the Hearing Sub-Committee concludes that the Member did fail to comply with the Code of Conduct, the Chairman will inform the Parties of this finding and the Hearing Sub-Committee will then consider what action, if any, should be taken as a result of the breach.
- 8.14 The Investigating Officer and the Member will be invited to make representations on the question of sanctions.
- 8.15 The Hearing Sub-Committee will, after consulting the Independent Person, determine what action, if any, to take (or recommend in the case of a parish councillor) in respect of the matter.

## **9. Sanctions**

***These are to be determined by the Council. A suggested range of sanctions is included at Annex 1.***

***In the case of parish, town and city councils these will be in the form of recommendations from the Hearing Sub-Committee.***

## **10. Decision**

- 10.1 At the end of the hearing, the Chairman will announce the decision of the Hearing Sub-Committee in summary form.
- 10.2 The Monitoring Officer will send the Parties, and where appropriate the relevant Parish Council, a formal decision notice, which will be published on the Council's web-site and made available for public inspection.

## **11. Revision of these arrangements**

- 11.1 The Council may by resolution agree to amend these arrangements, and has delegated to the Monitoring Officer and the Hearing Sub-Committee the right to depart from these arrangements where they consider that it is expedient to do so in order to secure the effective and fair consideration of any matter.

## **12. Reviews**



- 12.1 Any request for a review must be made in writing to the Monitoring Officer within 5 days of the date of receipt his/her decision and must set out the grounds for the review.
- 12.2 A review request will be determined by the Review Sub-Committee, after consulting the Independent Person, within 14 days of receipt of the request.

### **13. Appeals**

- 13.1 There is no right of appeal for the Complainant or the Member against a decision of the Hearing Sub-Committee.

## **Annex 1**

### **Possible Sanctions**

1. The Council has delegated to the Hearing Sub-Committee such of its powers to take action in respect of individual members of the Council as may be necessary to promote and maintain high standards of conduct. The Hearing Sub-Committee may therefore impose (or, in the case of a parish, town or city councillor, recommend) one or more of the following sanctions:

#### **Removal from Committees, Sub-Committees, Cabinet and Outside Bodies**

- 1.1 Recommend to the Member's Group Leader (or in the case of ungrouped members, recommend to Council or to Committees) that the Member is removed from any or all Committees or Sub-Committees of the Council;
- 1.2 Recommend to the Leader of the Council that the Member is removed from the Cabinet, or removed from particular portfolio responsibilities;
- 1.3 Remove the Member from all outside appointments to which he/she has been appointed or nominated by the Council.

#### **Training**

- 1.4 Instruct the Monitoring Officer to arrange training for the Member.

#### **Report to Council**

- 1.5 Report its findings to Council.

#### **Publish**

- 1.6 Publish its findings in respect of the Member's conduct in such manner as the Standards Committee determines appropriate;

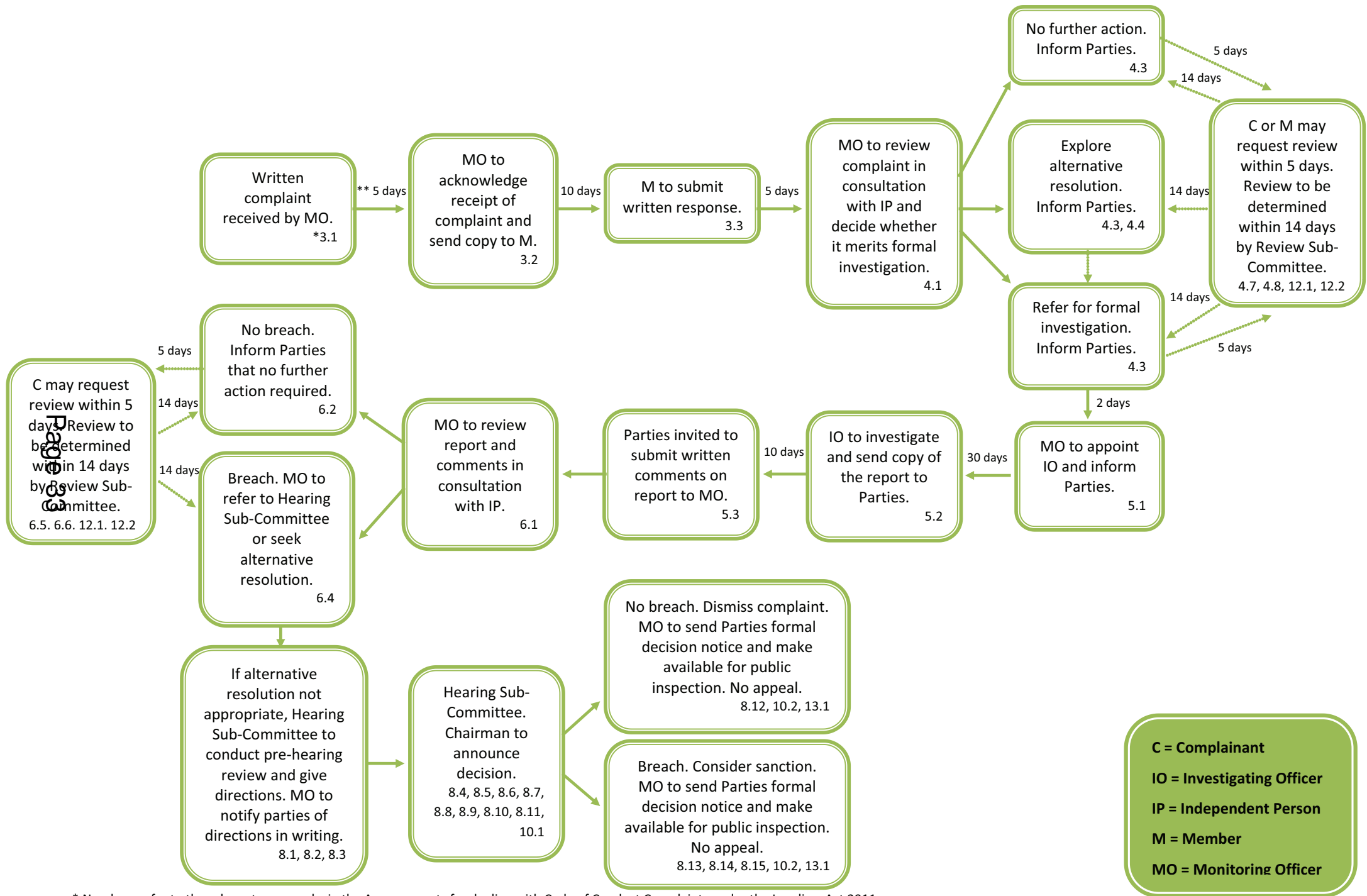
**Note:**

In the case of R v Broadland District Council ex parte Lashley the Court of Appeal recognised that it was within the Council's powers to take action that was calculated to facilitate and was conducive or incidental to, the council's functions (1) of maintaining its administration and internal workings in a state of efficiency and (2) of maintaining and furthering the welfare of its employees.

This may enable a Hearing Sub-Committee to impose restrictions on a member for the purpose of securing the efficient and effective discharge of the Council's functions. These might, for instance, include the withdrawal of certain facilities, such as a computer, e-mail and/or internet access, or exclusion from certain parts of the council's premises, provided that the measures do not interfere with the democratic process. However, this may not be used as a punitive measure nor, in particular, to justify the suspension or disqualification of a member.

Legal advice will need to be taken on the extent to which this potential option may be available in the particular circumstances of each case.

**Appendix A – Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011 – Overview**



**C = Complainant**  
**IO = Investigating Officer**  
**IP = Independent Person**  
**M = Member**  
**MO = Monitoring Officer**

\* Numbers refer to the relevant paragraphs in the Arrangements for dealing with Code of Conduct Complaints under the Localism Act 2011

\*\* Days refer to working days

This page is intentionally left blank

**STANDARDS COMMITTEE**  
**DRAFT TERMS OF REFERENCE**

**Composition**

1. This Committee will comprise 13 elected councillors, other than the Leader or any other member of the Cabinet, and up to 8 co-opted non-voting members, 50% of whom shall be serving town, parish or city councillors from within the Council's area who are not councillors or officers of the Council.
2. Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.
3. The term of office for co-opted non-voting members will normally be 4 years.
4. Co-opted non-voting members will be eligible for re-appointment for a second term.
5. Substitutes will be permitted in accordance with Part 4 of the Constitution.

**Role and Function**

6. The Standards Committee is responsible for:
  - promoting and maintaining high standards of conduct by elected and co-opted members and officers.
  - assisting the elected and co-opted members to observe the members' code of conduct.
  - advising the Council on the adoption or revision of the members' code of conduct and the arrangements for dealing with member complaints of misconduct which the Council is required to make under Section 28 of the Localism Act 2011.
  - 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.
  - advising, and, through the Member Development Group, arranging to train elected and co-opted members on matters relating to the members' code of conduct and ensuring that members are aware of the standards expected of them under the code
  - granting dispensations to elected and co-opted members from requirements relating to interests.
  - overseeing the operation of the Council's arrangements for dealing with misconduct complaints against members and co-opted members of Wiltshire Council, and parish, town and city councillors in Wiltshire.
  - overview of the whistle blowing policy.
  - overview of corporate complaints handling and Ombudsman investigations.

- reviewing the implementation of recommendations made by the Ombudsman.
  - oversight of the constitution.
7. The Standards Committee has the power to appoint such sub-committees as may from time to time be necessary for the efficient discharge of its functions. In particular, the Committee will appoint:
    - a. a Hearing Sub-Committee to determine member misconduct complaints under the Council's arrangements.
    - b. a Review Sub-Committee to determine requests for review under the Council's arrangements.
    - c. A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.
  8. In each case the Sub-Committee shall comprise 3 elected members from whom a chairman will be elected. The Sub-Committee may include 2 non-voting co-opted members of the Standards Committee, one of whom shall be a parish, town or city council representative where the complaint concerns a parish, town or city councillor.
  9. The above Sub-Committees are not subject to the requirements of political balance. The composition of any sub-committee will be determined by the Monitoring Officer in consultation with the Chairman of the Standards Committee on the basis of member availability, drawing from the membership of the Committee and their substitutes and seeking to ensure cross party representation as far as possible.
  10. Members of the Review Sub-Committee may not serve on the Hearing Sub-Committee for the same or a linked complaint.
  11. For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected members present.