

AGENDA

Meeting: Standards Committee
Place: Kennet Committee Room
Date: Wednesday 29 June 2016
Time: 2.00 pm

Please direct any enquiries on this Agenda to Kieran Elliott, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718504 or email kieran.elliott@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

Membership:

Cllr Julian Johnson (Chairman)	Cllr Sheila Parker
Cllr Paul Oatway (Vice Chairman)	Cllr Horace Prickett
Cllr Desna Allen	Cllr Jerry Wickham
Cllr Allison Bucknell	Mr Philip Gill MBE JP (Non-Voting)
Cllr Rosemary Brown	Mr Paul Neale (Non-Voting)
Cllr Trevor Carbin	Mr John Scragg (Non-Voting)
Cllr Terry Chivers	Miss Pam Turner (Non-Voting)
Cllr Howard Greenman	

Substitutes:

Cllr George Jeans	Cllr Alan MacRae
Cllr Mary Douglas	Cllr John Smale
Cllr Dennis Drewett	Cllr Magnus Macdonald
Cllr Ernie Clark	Cllr Bob Jones MBE
Cllr Pip Ridout	Cllr Ian Thorn
Cllr Glenis Ansell	

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AGENDA

Part 1

Items to be considered when the meeting is open to the public

1 **Apologies for Absence**

2 **Minutes** (*Pages 5 - 12*)

- a) To confirm the minutes of the meeting held on 27 April 2016.
- b) To receive the minutes of the Standards Review Sub-Committees held on 19 April and 15 June 2016.

3 **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

4 **Chairman's Announcements**

To receive any announcements through the Chair.

5 **Public Participation and Questions**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution. Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of the agenda no later than 5pm on Wednesday 22 June 2016 in order to be guaranteed of a response. The final deadline is 5pm on Friday 24 June 2016. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Code of Conduct** (*Pages 13 - 64*)

To consider the proposed revised Code of Conduct and Code of Conduct Guidance

7 **Recommendations of the Constitution Focus Group: Finance Regulations and Contract and Procurement Regulations** (*Pages 65 - 102*)

To consider proposed changes to Finance Regulations and Contract and Procurement Rules.

8 **Forward Plan** (*Pages 103 - 104*)

9 **Urgent Items**

To consider any items considered urgent by the Chairman.

Part II

Item(s) during consideration of which it is recommended that the public should be excluded because of the likelihood that exempt information would be disclosed

STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 27 APRIL 2016 AT THE KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Julian Johnson (Chairman), Cllr Paul Oatway (Vice Chairman),
Cllr Rosemary Brown, Cllr Trevor Carbin, Cllr Howard Greenman, Cllr Sheila Parker,
Cllr Jerry Wickham and Mr John Scragg

1 **Apologies**

Apologies were received from Councillors Desna Allen and Allison Bucknell, and from Mr Paul Neale, Miss Pam Turner and Mr Philip Gill MBE JP.

2 **Minutes**

The minutes of the meeting held on 16 September 2015 were presented for consideration. It was noted the proposed changes to the Code of Conduct in the constitution agreed at that meeting would be considered by Council on 10 May 2016, with a briefing for all councillors to be held on 4 May 2016, to include discussion of a possible alternative approach.

The minutes of the Standards Review Sub-Committee held on 18 February 2016 were also presented.

Resolved:

To APPROVE the minutes of the meeting held on 16 September 2015 and receive the minutes of the Review Sub-Committee held on 18 February 2016.

3 **Declarations of Interest**

There were no declarations of interest.

4 **Chairman's Announcements**

The Chairman noted the recent passing of Councillor Jeff Osborn, and the Committee paid tribute to his extensive work as a member of the Constitution Focus Group.

5 **Public Participation and Questions**

There were no statements or questions submitted.

6 **Status Report on Complaints**

The Monitoring Officer presented a report on the current status of Code of Conduct complaints, together with a summary of the number and outcome of complaints for every year since the new Standards Regime came into force on 26 June 2012. The report also included a description of the type of complaints received during the last two years.

The Committee were advised on the number of investigations that had been decided on assessment or review, and discussed trends in respect of reasons for complaints. They, noted the robust procedure for assessment of complaints which prevented trivial complaints from proceeding further.

In response to queries it was confirmed in the case of complaints referred to the police in relation to potential criminal offences under the statutory requirements for registration and disclosure of interests, officers were working to develop a protocol with the police to assist in the processing of such matters.

Resolved:

To note the update.

7 **Appointment of Co-Opted Non-Voting Members of the Standards Committee**

The Monitoring Officer presented a report recommending the Committee to recommend Council to confirm the appointment of the existing four co-opted non-voting members of the Committee, for the reasons as set out in the report. This would take the term of the existing members up to the May 2017 local elections.

It was also agreed that the number, role and arrangements for appointment of the non-voting co-opted members should be reviewed, with recommendations to be made at the Annual Meeting of Council in May 2017.

Resolved:

To recommend Council:

- 1) confirm the appointment of the four current co-opted non-voting members of the Standards Committee at its Annual General Meeting on 10 May 2016 for their remaining term of office until the unitary and parish elections in May 2017. The members are as follows:**

Mr Paul Neale

Miss Pam Turner

Mr John Scragg

Mr Philip Gill MBE JP

- 2) **That the Standards Committee review the role, number and arrangements for appointment of non-voting co-opted members to the Committee and make recommendations to the new council in the light of the review at its Annual General Meeting in May 2017.**

8 **Extension of Term of Appointment of Independent Persons**

The Monitoring Officer presented a report recommending that the Committee extend the term of appointment of the three Independent Persons until May 2017, for the reasons set out in the report.

The excellent work undertaken by the Independent Persons in fulfilling their statutory responsibilities was noted. It was therefore:

Resolved

To recommend Council to extend the term of appointment of the three current Independent Persons for a further year until the Annual General Meeting of the new Council in May 2017 and to note that a recruitment process will be undertaken in advance of that date to recommend appointments to these positions.

9 **Recommendations from the Constitution Focus Group**

The Monitoring Officer presented two reports on proposed changes to the constitution following a meeting of the Constitution Focus Group, in respect of Part 12 of the Constitution - Roles and Responsibilities of Councillors - and Part 4 - Council Rules of Procedure.

The changes in respect of Part 12 related to the corporate parenting responsibilities of all councillors, and included a Corporate Parenting Strategy, with revised terms of reference for the Panel. The changes had been proposed by the Corporate Parenting Panel following an Ofsted inspection, in order to strengthen the council's priorities and processes.

The Committee then discussed the proposals. A concern was raised about the inclusion of a strategy within the constitution, which was not the Council's normal practice and which would clutter up the constitution unnecessarily. However, it was considered that the intention of including it was to raise the profile and importance of the corporate parenting responsibilities for all councillors.

As the constitution is now contained and accessed electronically, and by specific section, it was also considered there was less direct impact of including these additional details in this instance.

The detail of the strategy was debated, and whether the proposed changes to the structure of Panel meetings was appropriate. Queries were also raised on

how often the strategy would need to be updated and thus necessitating amendment of the constitution, and it was confirmed that as the strategy, which was for 2016-2018, is a policy framework document, it would in any case need consideration and approval by council in 2018, and so there would be no significant additional work.

In respect of the changes to Part 4 of the Constitution, as detailed in the report it was explained that the proposed changes were intended to make it easier for members of the public to register questions at council and committees, and to facilitate fully informed debate and decision making on motions at full council.

Resolved:

To recommend Council to adopt the proposed changes to Part 12 and Part 4 of the Constitution.

10 **Forward Plan**

The Committee considered the Forward Work Programme as detailed in the agenda, noting further constitutional changes were being proposed in relation to Finance and Procurement Regulations, aiming for approval at the July meeting of Council.

Resolved:

To approve the forward plan.

11 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 2.55 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic & Members' Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

STANDARDS REVIEW SUB-COMMITTEE

MINUTES OF THE STANDARDS REVIEW SUB-COMMITTEE MEETING HELD ON 19 APRIL 2016 AT WILTON ROOM, 1ST FLOOR, COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, WILTSHIRE, BA14 8JN.

Present:

Cllr Desna Allen, Cllr Ernie Clark and Cllr George Jeans

Also Present:

Kieran Elliott (Senior Democratic Services Officer), Stuart Middleton (Independent Person) and Paul Taylor (Senior Solicitor, on behalf of the Monitoring Officer)

5 Election of Chairman

Resolved:

To elect Councillor Desna Allen as Chairman for this meeting only.

6 Declarations of Interest

There were no declarations

7 Exclusion of the Public

Resolved:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Item Numbers 4-5 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 1 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Paragraph 1 - information relating to an individual

8 Review of an Assessment Decision: Reference WC-ENQ00131

The Sub-Committee considered complaint WC-ENQ00131 from complainant Richard Wiltshire, a Melksham Town Councillor, against Councillor Jonathon Seed, Wiltshire Council.

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced. It was agreed the complaint related to the conduct of a member and that the member was in office at the time of the alleged offence and remained a member.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, response of the subject member, initial assessment and additional information submitted by the Complainant in their request for a review of the initial decision to take no further action.

The complaint related to a dispute between the complainant and subject member over comments made regarding the alleged potential sale of land in relation to a play area in the community area, with information submitted of private and public comments made by the subject member and the complainant on the issue.

Having reviewed the all evidence. including the supplementary information provided by the complainant, the Sub-Committee were satisfied with the reasoning of the Deputy Monitoring Officer. In particular, while information had been submitted in respect of a councillor not included within the complaint as having made comments in relation to the potential sale of the play area, even if this was the case it was felt the matter was clearly in the realm of a public political debate. As such, the comments of the subject member as part of that public political debate are afforded a high level of protection under the law, and the Sub-Committee agreed with the view of the Deputy Monitoring Officer the comments did not amount to a breach of the Code of Conduct.

Resolved:

To take no further action.

9 Review of an Assessment Decision: Reference WC-ENQ00132

The Sub-Committee considered complaint WC-ENQ00132 from complainant Richard Wiltshire, a Melksham Town Councillor, against Councillor John Thomson, Wiltshire Council.

The Chairman led the Sub-Committee through the local assessment criteria which detailed the initial tests that should be satisfied before assessment of a complaint was commenced. It was agreed the complaint related to the conduct

of a member and that the member was in office at the time of the alleged offence and remained a member.

In reaching its decision the Sub-Committee relied upon the original complaint and supporting information, response of the subject member, initial assessment and additional information submitted by the Complainant in their request for a review of the initial decision to take no further action.

The complaint related to a dispute between the complainant and subject member over comments made regarding the alleged potential sale of land in relation to a play area in the community area, with information submitted of private and public comments made by the subject member and the complainant on the issue.

Having reviewed the all evidence. including the supplementary information provided by the complainant, the Sub-Committee were satisfied with the reasoning of the Deputy Monitoring Officer. In particular, while information had been submitted in respect of a councillor not included within the complaint as having made comments in relation to the potential sale of the play area, even if this was the case it was felt the matter was clearly in the realm of a public political debate. As such, the comments of the subject member as part of that public political debate are afforded a high level of protection under the law, and the Sub-Committee agreed with the view of the Deputy Monitoring Officer the comments did not amount to a breach of the Code of Conduct.

Resolved:

To take no further action.

(Duration of meeting: 1400-1500)

The Officer who has produced these minutes is Kieran Elliott, of Democratic & Members' Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

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Wiltshire Council

Standards Committee

29 June 2016

Review of the Constitution: Part 13 – Code of Conduct

Purpose of Report

1. This report asks the Standards Committee to review its recommendations to the Council on the Code of Conduct in accordance with the decision of full Council on 10 May 2016.

Background

2. At its meeting on 16 September 2015 the Standards Committee recommended some changes to the Council's Code of Conduct in Part 13 of the Constitution. This followed a series of meetings where the Committee and its Constitution Focus Group considered the effectiveness of the current Code of Conduct in fulfilling the Council's duty to promote and maintain high standards of conduct. The report and minutes of the meeting of 16 September 2015, together with the recommended changes can be found at **Appendix 1**.
3. Following a Members' briefing meeting on the Code of Conduct on 4 May 2016, where a possible alternative approach to the recommended changes was discussed, Council at its meeting on 10 May 2016 resolved:

That consideration to changes to the Members Code of Conduct, contained in appendix 2, be deferred and to ask the Standards Committee to consider a possible alternative proposal requesting full guidance from the Monitoring Officer assisting Members to meet their Code of Conduct obligations, and that the Standards Committee be asked to bring their own recommendations on this matter to the next Council meeting.

4. The next meeting of Council is to be held on 12 July 2016.

Main Considerations

5. The Standards Committee is therefore asked to consider the provision of guidance to support Members in meeting their obligations under the existing Code of Conduct as an alternative to amending the Code itself. A copy of the proposed guidance is attached at **Appendix 2** to assist the Committee's consideration.
6. The draft guidance covers the following:
 - Principles of public life;

- Duty to promote and maintain high standards of conduct and explanation of specific provisions of the Code;
- Relevance of the Council's Behaviours Framework to the Code of Conduct;
- Use of social media;
- Registration and declaration of interests;
- Bias and predetermination;
- Code of Conduct Complaints Procedure;
- Criteria for assessment and review of complaints.

7. The proposed guidance would be reviewed regularly to ensure that it remains up to date and fit for purpose. It is envisaged that any changes to the guidance would be brought to the Standards Committee for approval.
8. Subject to approval of this approach by the Standards Committee and full Council the guidance would be made available to parish, town and city councils, particularly those which have adopted this Council's Code of Conduct.

Safeguarding

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 direct financial implications arising from this report.

Legal Implications

13. The recommendations in this report are consistent with the Council's obligations under the relevant legislation,

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.

Recommendation

16. **The Standards Committee is therefore asked to consider the use of draft guidance as set out in Appendix 2 to support Members in meeting their obligations under the Code of Conduct and to recommend adoption of this approach by full Council on 12 July 2016.**

Ian Gibbons, Associate Director, Legal and Governance and Monitoring Officer

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

Appendices:

Appendix 1a – Report and Minutes, Standards Committee 16 September 2015

Appendix 1b - Part 13 Tracked Changes, Code of Conduct

Appendix 2 - Proposed Guidance on the Code of Conduct

Background Papers:

Full reports (including appendices) for the meetings of Standards on [21 January 2015](#) (Review of the Effectiveness of the Code of Conduct for Members Update) and [16 September 2015](#) (Review of Part 13 of the Constitution: Code of Conduct), can be found online as linked above.

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Review of Part 13 of the Constitution: Code of Conduct for Members

Purpose of Report

1. To ask the Standards Committee to consider proposed changes to the Council's Code of Conduct for Members.

Background

2. Under the Localism Act 2011 councils were required to adopt a new Code of Conduct with effect from 1 July 2012 as part of their duty under section 27 of that Act to promote and maintain high standards of conduct. The code must broadly reflect the seven principles of conduct in public life set out in the Act: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
3. Wiltshire Council adopted a model Code of Conduct issued by the Department for Local Government and Communities (DCLG) with some variations.
4. The purpose of the Code of Conduct is to promote accountability, transparency and public confidence in local government. The code of conduct should be framed in a way that supports these objectives.
5. As principal authority Wiltshire Council deals with all Code of Conduct complaints for unitary, parish, town and city councillors in accordance with its agreed complaints procedure. A large proportion of Wiltshire's parish, town and city councils have adopted the same code of conduct as Wiltshire Council.
6. At its meeting on 21 January 2015 the Standards Committee received a report reviewing the effectiveness of the Council's Code of Conduct and highlighting a number of areas where a lack of specificity in the provisions of the Code is making it difficult to apply and enforce. Concerns were expressed that this has resulted in very few cases being referred for investigation and a potential risk of undermining public confidence in local democracy. The report also considered whether specific provision should be made in the Code for members to register gifts and hospitality received by them in their Register of Interests.
7. The Committee resolved:

That the Monitoring Officer:

1). Draft proposals to strengthen the Code of Conduct;

- 2). *Draft proposals for enabling the recording of gifts and hospitality at an appropriate level;*
 - 3). *Continue efforts to work with other authorities to lobby central Government to increase the level of sanctions available to councils, as soon as appropriate.*
8. A copy of the report and minutes of the meeting of 21 January 2015 is attached at **Appendix 1** by way of background.

Main Considerations

9. A copy of the proposed revisions to Wiltshire Council's Code is shown tracked as attached at **Appendix 2**. The proposed changes reflect the Committee's previous consideration and have regard to the content of codes of Conduct adopted by other authorities. They cover the following:
- a. Conduct
 - treating others with respect;
 - equality;
 - bullying and intimidation;
 - compromising the impartiality of officers;
 - confidentiality;
 - bringing a councillor's office or authority into disrepute;
 - b. Interests
 - registration of interests other than the statutory disclosable pecuniary interests;
 - registration of gifts and hospitality.
10. The Constitution Focus Group met to consider these potential changes on 2 September 2015. A copy of the minutes of the meeting summarising their views are included at **Appendix 3**.

Conduct

11. The proposed changes relating to conduct are relatively straightforward, setting out more explicitly what standards of conduct are expected of members when acting in their capacity as members or co-opted members. They are largely derived from the conduct provisions in the former statutory Code of Conduct and carry with them a substantial body of guidance to assist in their application. It should make the framing, assessment and determination of complaints clearer and more efficient in the interests of all concerned, not least the public interest in seeing that conduct matters are dealt with appropriately.

Interests

12. There has been an increasing number of complaints and challenges over the past year relating to members' declaration of interests where issues of apparent bias have been raised. These typically concern membership of other public bodies, community groups and political parties relating to the business under consideration.
13. Therefore, in order to address this situation and provide greater clarity and consistency in the interests of transparency it is proposed that the Code is amended to require members to include any of the following in their register of interests:
 - any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;
 - any body exercising functions of a public nature of which you are a member or in a position of general control or management;
 - any body directed to charitable purposes of which you are a member or in a position of general control or management;
 - any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.

Gifts and Hospitality

14. Under the proposed change in paragraph 18 of the draft revised Code members will be required to register any gift, benefit or hospitality with a value in excess of £ 50 which they have accepted as a member in their published Register of Interests.

Parish, Town and City Councils

15. It is proposed to inform Wiltshire Parish, Town and City Councils of any changes the Standards Committee is minded to recommend to full Council and invite them to review their own code of conduct in the light of these changes should they wish to do so.

Sanctions

16. The inadequacy of the sanctions available to local authorities in dealing with breaches of the code of conduct continues to be a significant source of concern for many authorities. It seems, however, that very little is being done nationally to address these concerns despite representations being made to Ministers on this issue. As far as we know the Local Government Association (LGA) is not taking up this issue with the Government.

17. The Committee on Standards in Public Life (CSPL) are keeping this on their radar but there is no indication as yet that any substantive action is to be taken. Members of the Committee may be interested to read the relevant part of the CSPL's Annual Report and Business Plan 2015-16 (see in particular paragraphs 63-71 on pages 22 -24) which may be found on the following link:

<https://www.gov.uk/government/publications/cspl-annual-report-2014-2015-and-business-plan-2015-2016>

Environmental Considerations

18. None.

Safeguarding Implications

19. No specific safeguarding issues arise from this report.

Public Health Implications

20. None

Equalities Implications

21. The proposed changes to the Code of Conduct provide for the inclusion of a specific obligation in relation to equalities legislation.

Procurement Implications

22. None

Risk Implications

23. There is a risk that the lack of a clear and effective code of conduct will undermine public confidence in local democracy and accountability.

Financial Considerations

24. None arising directly from this report.

Legal Implications

25. As outlined in the report. The council is obliged to discharge its statutory duty to promote and maintain high standards of conduct under section 27 Localism Act 2011, in particular by adopting a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity.

Recommendations

26. The Committee is asked to consider the proposed changes to the Code of Conduct as set out in Appendix 2 and recommend full Council to adopt any changes that are agreed.
27. Members are asked to note that Wiltshire Parish, Town and City Councils will be advised of any changes the Standards Committee is minded to recommend to full Council and invite them to review their own code of conduct in the light of these changes should they wish to do so.

Ian Gibbons, Associate Director, Legal and Governance and Monitoring Officer

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

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

Appendices:

Appendix 1 - Report on Effectiveness of the Code of Conduct and Minutes of Meeting
21 January 2015

Appendix 2 - Draft Revised Code of Conduct

Appendix 3 - Draft Minutes of the Constitution Focus Group 2 September 2015

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STANDARDS COMMITTEE

MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 16 SEPTEMBER 2015 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

Present:

Cllr Julian Johnson (Chairman), Cllr Paul Oatway (Vice Chairman), Cllr Desna Allen, Cllr Allison Bucknell, Cllr Rosemary Brown, Cllr Trevor Carbin, Cllr Sheila Parker, Cllr Jerry Wickham, Mr Philip Gill MBE JP, Mr John Scragg and Miss Pam Turner

Also Present:

Mrs Caroline Baynes (Independent Person), Cllr Tony Deane, Stuart Middleton (Independent Person) and Cllr Christopher Newbury

23 **Apologies**

Apologies were received from Mr Paul Neale and Councillors Terry Chivers and Howard Greenman.

24 **Minutes**

The minutes of the Standards Committee meeting held on 24 July 2015, and the Standards Review Sub-Committee meetings held on 8 July, 9 July and 24 August 2015 were presented for consideration.

Resolved:

To APPROVE and sign the minutes of the meeting held on 24 July 2015 as a true and correct record. And;

To receive the minutes of the Review Sub-Committee meetings held on 8 July, 9 July and 24 August 2015.

25 **Declarations of Interest**

There were no declarations.

26 Chairman's Announcements

Through the Chairman, the Committee endorsed the following announcement::

Nina Wilton, Head of Governance and Deputy Monitoring Officer left the council in August having decided she wishes to spend time pursuing her academic interests. Nina worked as Head of Governance from the creation of the unitary council in 2009 and previously worked for Wiltshire County Council in various roles from 2000. During this time Nina was involved in many aspects of the council's business ensuring that the council's governance arrangements are sound, including overseeing the implementation of the corporate complaints process, information legislation and the standards regime for councillors. Nina was closely involved in the work of the Standards Committee.

I am sure you will wish to join me in thanking Nina for her valuable contribution to the work of the Committee and to the Council and to wish her every success in the future.

27 Public Participation and Questions

There were no questions submitted.

A statement from Mr Francis Morland in relation to Minute no.29 was received under that item.

28 Status Report on Complaints

The Monitoring Officer presented an update on the status of Code of Conduct complaints received under the arrangements provided in the council's constitution, as well as a summary of the types of complaints that had been received, and how many had been dismissed, investigated, withdrawn or concluded due to alternate resolutions.

It was noted that the council was on course to receive significantly fewer complaints against unitary, town and parish councillors than the previous year, and it was stated a partial explanation was that a high number had been submitted from multiple individuals in relation to a single or a few incidents, which may have inflated the figures, although the number for the current year was still above the years preceding 2014.

Resolved:

To note the update.

29 **Review of Part 13 of the Constitution: Code of Conduct**

Public Participation

Councillors Christopher Newbury and Tony Deane and Mr Francis Morland addressed the Committee regarding the proposed potential Code of Conduct changes.

Background

The Chairman and the Monitoring Officer introduced a report on the review of Part 13 of the Constitution: Code of Conduct for Members. It was detailed that the new standards regime as required under the Localism Act 2011, including the current Code of Conduct, had been approved by Council on 26 June 2012. On 24 April 2014 and following more than 18 months of the new procedure and Code being in operation, the Committee received an update on the arrangements and operation since the beginning of the new regime and resolved:

To arrange a seminar as soon as possible for Members of the Committee and any other Wiltshire Councillors who wish to attend, together with the council's three Independent Persons and Mr Paul Hoey of Hoey Ainscough Associates Ltd. to review the operation and effectiveness of the standards regime and consider whether any changes to the current system are appropriate.

That seminar, open to all Members, was held on 23 July 2014. At the following meeting on 8 October 2014 the Committee received a further update and resolved:

To task the Monitoring Officer with investigating the effectiveness of the Code of Conduct Complaints Procedure by collecting and analysing evidence on complaints received by Wiltshire Council, and to examine the Codes and procedures at other local authorities, and to bring a set of recommendations on any proposed changes to the Committee at its meeting on 21 January 2015.

On 21 January 2015 the Committee received that report reviewing the effectiveness of the Council's Code of Conduct, determining that improvements could be made to address concerns as detailed in that report, and it was resolved:

That the Monitoring Officer: 1) Draft proposals to strengthen the Code of Conduct, 2) Draft proposals for enabling the recording of gifts and hospitality at an appropriate level, and 3) Continue efforts to work with other Authorities to lobby central government to increase the level of sanctions available to councils, as soon as appropriate.

Prior to the consideration by the Standards Committee the potential amendments to the Code had been assessed by the Constitution Focus Group at its meeting on 2 September 2015, with its comments included with the agenda papers.

General Debate

Before discussing the specific potential amendments referred on by the Constitution Focus Group for further debate and determination, the Committee discussed the present Code and complaints procedure and assessed whether they considered changes proposed to be necessary to improve its effectiveness, where points including the following were raised:

- Members discussed the previous standards regime which had been abolished by the Coalition government, and the stated intentions of the new regime which included a recommended 'light-touch' Code which after consideration Wiltshire Council had adopted. It was stated most authorities had since adopted variations of different levels of detail from that Code, and the Committee considered whether they felt the evidence in Wiltshire was that adoption of similar additional provisions, some of which had been included under previous Codes, would enhance the current regime as they had requested at the meeting on 21 January 2015.
- Dissatisfaction with the old standards regime was raised by some Members in relation to bureaucratic delays and perceived lack of fairness toward subject Members, as well as a perceived excess of trivial complaints being referred for investigation not being in the public interest.

It was debated whether the new procedure for processing complaints, as detailed in [Protocol 12 of the Constitution](#), was sufficient in preventing trivial, or vexatious complaints from proceeding to costly investigations not in the public interest, such that even were additional provisions in the Code utilized for trivial matters, they would not cause any significant burden on resources of officers or Members.

- The language of the potential amendments was considered, and if compared to the current Code they offered further clarity and definition of behaviours that should be regarded as unacceptable.
- It was discussed if the perception of councillors being appropriately held to account for unacceptable behaviour would be improved by the potential amendments, and if so if they would be actually effective in moderating inappropriate behaviour.

The Committee also received comments on the current procedure and Code from two of the council's Independent Persons.

Consideration of potential amendments

After general discussion on whether there would be a benefit to amending the Code, as detailed above, the Committee went through each potential amendment in turn as follows:

- *You must treat others with respect*

The Committee considered that as respect for other was fundamental to the role of being an elected representative, the specific provision requiring Members must treat others with respect should be included within the Code.

- *You must not:*(a) do anything which may cause your authority to breach the Equality Act 2010 or other relevant equality enactments. (b) bully or intimidate any person; (c) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of your authority.

In relation to point (a) above, the Committee determined that as it was already a legislative requirement to take account of relevant Equalities enactments, there was no further benefit to be obtained by including the requirement within the Code.

In relation to point (b) above, the Committee discussed if the provision on respect was sufficient to also cover allegations of bullying and intimidation, the definition of bullying in respect of complaints against councillors given the often robust nature of political debate and representative work, and at the conclusion of debate determined the provision should be included within the Code.

In relation to point (c) above, the Committee discussed the circumstances in which a Member might be regarded as compromising the impartiality of someone working for or on behalf of their authority, and if other provisions were sufficient to cover such behaviour, or if the inclusion might discourage Members from appropriate communications of their views and those of their electors to an officer. After debate, the Committee determined the provision should be included within the Code.

- *You must not:*

(a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:

(i) you have the consent of a person authorised to give it;

(ii) you are required by law to do so;

(iii) the disclosure is:

(aa) reasonable and in the public interest; and

(bb) made in good faith and in compliance with the reasonable requirements of your authority.

(b) prevent another person from gaining access to information to which that person is entitled by law.

The Committee discussed whether it was necessary to include the provisions on breach of confidentiality, and determined that they should be included within the Code.

- *You must not conduct yourself in a manner which may reasonably be regarded as bringing your office or authority into disrepute.*

The Committee determined that the wording of the potential amendment was overly vague and open to misuse and that including provisions on bullying, intimidation, financial impropriety and more sufficiently defined specific behaviours to regulate Members to not bring their office or authority into disrepute. They therefore did not recommend the provision be included within the Code.

- *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 interests which your authority has decided should be included in the register, including:*
 - (a) any body of which you are a Member or in a position of general control or management and to which you are appointed or nominated by the authority;*
 - (b) any body exercising functions of a public nature of which you are a Member or in a position of general control or management;*
 - (c) any body directed to charitable purposes of which you are a Member or in a position of general control or management;*
 - (d) any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of general control or management.*

The Committee discussed at length whether additional non-pecuniary interests should be required to be included on a Members' Register of Interests, taking account that the Localism Act 2011 had defined specific pecuniary interests and no interests as statutorily necessary to be declared, which had been approved by Council when adopting the new regime in 2012.

It was also noted, however, that the Act had allowed discretion to Authorities to include non-pecuniary interests they felt should be required to be registered. A debate arose regarding on whether the current simple encouragement of Members to declare relevant non-pecuniary interests was, after several years of operation, seen as adequate, and whether it

would protect Members and their authority if further interests were required to be included on a register of interests form.

Members debated whether simple membership of a charitable organisation should be required to be declared, and if this would be considered onerous in particular to any Town or Parish Councils that might consider adopting Wiltshire's Code.

Members also discussed how new interests not present when a Member first took office needed to be registered, and emphasised the requirements of paragraph 11 of the Code, to declare any relevant pecuniary or non-pecuniary private interest that related to their public duties, and strongly felt that even where an interest was included on their register of interests, a Member should publicly declare that interest at a meeting if relevant to the business to be determined to be open, transparent, and protect the Member and Authority from any allegations or challenges.

At the conclusion of debate the Committee determined that the provisions above should be included within the Code.

- *You must within 28 days of receipt, notify the monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a Member from any person or body other than the authority. The monitoring officer will record your notification on your register of interests*

The Committee, having determined at its 21 January 2015 meeting to reintroduce a requirement to register gifts and hospitality, accepted the proposed wording with the removal of the final sentence as an administrative detail not a Member Code of Conduct matter.

Following final consideration of the proposed changes, it was stated that although there would not be a full consultation, the proposed amendments would be circulated to all Town and Parish Councils in Wiltshire for their attention, should they wish to comment or consider adopting the proposed revised Code themselves.

Resolved:

To recommend at its meeting on 24 November 2015 that Council approve the amendments to the Code of Conduct for Members as detailed above and attached to these minutes.

Mr John Scragg left the meeting at 1505.

30 **Forward Plan**

The Forward Work Programme was presented for consideration

Resolved:

To approve the Forward Work Programme subject to the addition of items in relation to the Annual Letter on Complaints from the Local Government Ombudsman, and Review of the Council's Whistleblowing Policy.

31 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 4.15 pm)

The Officer who has produced these minutes is Kieran Elliott, of Democratic Services, direct line 01225 718504, e-mail kieran.elliott@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

Part 13

Wiltshire Council Code of Conduct

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

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

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

1. ~~4.~~—You must treat others with respect.
2. You must not:
 - (a) bully or intimidate any person;
 - (b) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of your authority.
3. You must not:
 - (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of your authority;
 - (b) prevent another person from gaining access to information to which that person is entitled by law.

6. 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.

7.2. 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.

8.3. 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.

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

10.5. 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.

11.6. 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.

12.7. 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. Members of Wiltshire Council will have regard to the Roles and Responsibilities of Wiltshire Councillors according to Appendix 1 and Wiltshire Council Behaviours Framework at Appendix 2.

Registering and declaring pecuniary and non-pecuniary interests

13.8. 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 as a husband or wife, or as if you were civil partners.

14.9. 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 interests which your authority has decided should be included in the register, including:

(a) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the authority;

(b) any body exercising functions of a public nature of which you are a member or in a position of general control or management;

(c) any body directed to charitable purposes of which you are a member or in a position of general control or management;

(d) any body one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or

in a position of general control or management.

15.9. If an interest has not been entered onto the authority's register you must disclose the interest to any meeting of authority 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.

16.4. Following any disclosure of an interest which is 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.

17.2. 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.

18. You must within 28 days of receipt, notify the monitoring officer in writing of any gift, benefit or hospitality with a value in excess of £50 which you have accepted as a member from any person or body other than the authority. The monitoring officer will record your notification on your register of interests

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Draft

Guidance on Wiltshire Council's Code of Conduct for Councillors

This guidance is intended to assist you in meeting your obligations under the Council's Code of Conduct.

You are encouraged to seek advice from the Monitoring Officer [contact details below] if you are unclear about any aspect of the Code or how it applies in your particular situation.

The statutory framework for standards in local government is contained in Part 7 of the Localism Act 2011, which can be found at:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

Principles of Public Life

The Council's Code of Conduct must, when viewed as a whole, be consistent with the following principles:

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 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 it.

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.

You should conduct yourself in accordance with these principles, which underpin the purpose and provisions of the Code of Conduct.

Duty to promote and maintain high standards of conduct

The Council has a duty under section 27 Localism Act 2011 to promote and maintain high standards of conduct by members and co-opted members of the Council. The Council's Code of Conduct therefore requires you to promote and support high standards of conduct when serving in your public post.

The obligations set out in paragraphs 1-7 of the Code of Conduct reflect the Principles of Public Life and the duty to promote and support high standards of conduct.

'Promoting and supporting high standards of conduct' also includes:

- Treating others with respect;

This is not intended to stand in the way of lively debate, which is a crucial part of the democratic process. Differences of opinion and the defence of those opinions through argument and public debate are an essential part of the cut and thrust of politics. However, conduct which involves an unreasonable or excessive attack on a person and their personal characteristics will amount to disrespect.

- Promoting equality by not discriminating unlawfully against any person on the grounds of their race, age, religion, gender, sexual orientation or disability;
- Not bullying or intimidating any person;

Bullying may be defined as offensive, intimidating, malicious, insulting or humiliating behaviour by an individual or group of individuals, based on abuse or misuse of power or authority, which attempts to undermine an individual or group. Conduct is unlikely to be considered as bullying when it is an isolated incident of a minor nature, or when the behaviour by both the complainant and the member contributed equally to the breakdown in relations.

An objective test is applied in determining whether conduct amounts to bullying or intimidation; in other words the conduct will be looked at through the eyes of a notional reasonable member of the public with knowledge of all the facts, and who looks at the conduct objectively.

- Not disclosing information given to you in confidence by anyone, or information acquired by you which you believe or ought reasonably to be aware, is of a confidential nature, except where:
 - you have the consent of a person authorised to give it;
 - you are required by law to do so;
 - the disclosure is made to a third party for the purpose of obtaining professional advice, provided that the third party agrees in writing not to disclose the

information to any other before the information is provided to them; or

- the disclosure is:

- reasonable and in the public interest; and

- made in good faith; and

- in compliance with the reasonable requirements of your Council.

- Not preventing or attempting to prevent another person from gaining access to information to which that person is entitled by law.

Behaviours Framework and Role and Responsibilities of Wiltshire Councillors

The Council's Code of Conduct requires you to have regard to the Council's Behaviours Framework and the Role and Responsibilities of Councillors in carrying out your duties as a councillor. These documents may be used to assist with the interpretation of the Code but do not themselves create obligations which are directly enforceable.

Use of Social Media

Social media is a useful tool for councillors, but unwise or inappropriate use can give rise to difficulties and lead to complaints under the Code of Conduct.

Guidance is attached at Appendix 1 to help you use social media effectively.

Registration and Declaration of Interests

Your registration of personal interests should be guided by your duty to act in conformity with the Principles of Public Life.

The rules on registering and declaring interests are intended to promote openness and transparency to give the public confidence that councillors are putting the public interest first and are not benefiting their own financial affairs from being a councillor.

You should consider your obligations in respect of registering and declaring interests within this context. As a general rule, if you are in any doubt about your situation you should register or declare an interest. This provides openness and transparency, protects the public interest, the local authority's decision and your own position.

Your register of interests is a public document available on the Council's web site and should contain sufficient details to ensure that the nature of your interest is clear to members of the public. In the case of an interest in land this should include a sufficient description of the land to enable it to be identified.

To ensure openness and transparency, in addition to the interests you are required to register by law you are strongly encouraged to include details of the following on your register of interests:

- Any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by the Council;
- Any body exercising functions of a public nature of which you are a member or in a position of general control or management;
- Any body directed to charitable purposes of which you are a member or in a position of general control or management;
- Any body one of whose principal purposes include the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management.
- Details of any gift, benefit or hospitality with a value in excess of £ 50 which you have accepted as a member from any person or body other than the Council.

The Department for Communities and Local Government (DCLG) has issued guidance on the registration and declaration of interests in September 2013 - ‘ **Openness and transparency on personal interests**’.

A copy of the guidance is attached at Appendix 2.

Bias and Predetermination

Decisions, particularly in regulatory matters such as planning and licensing, may be challenged and ruled unlawful on the ground of bias. The test is whether a fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the councillor was biased. In particular, under the Council’s Code of Conduct for Members, bias would occur if you placed yourself under a financial or other obligation to third parties that might seek to influence you in the performance of your official duties. The rules on registration and declaration of interests are intended to protect councillors against allegations of bias and predetermination.

The Localism Act 2011 has clarified the rules on predetermination. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgment fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

The Act makes it clear that a councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A councillor is not, for example, prevented from participating in discussion of an issue or voting on it if they have campaigned on the issue or made public statements about their approach to it.

The general position, however, remains that, whatever their views, councillors must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

Whether or not there is actual or apparent bias or predetermination is a question of fact to be considered in each case. Where this may be an issue for a councillor advice should be sought at an early stage and in any event before the decision concerned is made.

Complaints Procedure

The Council's arrangements for dealing with complaints under the Code of Conduct are set out in Protocol 12 of the Council's Constitution, which may be found at:

(insert link)

Local Assessment Criteria

Complaints under the Code are assessed or reviewed in accordance with the criteria attached at Appendix 3.

If you need advice on any of the above please contact:

[Contact details]

Wiltshire Council

Social media guidance for councillors.

Introduction

Social media is the term used for online tools, websites and interactive media that enable users to interact with each other by sharing information, opinions, knowledge and interests. This guidance covers social media issues over the internet and by email, smart phones, social networking sites, blogging, and tweeting.

Social media increases our access to audiences and improves the accessibility of our communication. It enables us to be more active in our relationships with citizens, partners and stakeholders and encourages people to be involved in local decision making, enabling better engagement and feedback, ultimately helping to improve the services we provide.

For the purposes of this guidance, the term 'social media' covers sites and applications including but not restricted to Facebook, Twitter, MySpace, Flickr, YouTube, LinkedIn, blogs, discussion forums, wikis and any sites which may emerge after the creation of this guidance. Wiltshire Council acknowledges social media as a useful tool however, clear guidelines are needed for the use of social media sites to ensure they are used effectively as part of a wider communications mix and that their use does not expose the council to security risks or breach the Data Protection Act.

Purpose

This guidance applies to councillors in respect of their personal use of social media. It sets out how to use social media, how to effectively manage social media usage and indicates how any risks or pitfalls can be minimised or mitigated. The following risks have been identified with social media use (this is not an exhaustive list):

- Virus or other malware (malicious software) infection from infected sites.
- Disclosure of confidential information.
- Social engineering attacks (also known as 'phishing').
- Discrimination, bullying, harassment or witch-hunting.
- Civil or criminal action relating to breaches of legislation.
- Breach of safeguarding through the use of images or personal details leading to the exploitation of vulnerable individuals.

- Breach of the Wiltshire Council Members Code of Conduct through inappropriate use.

In light of these risks, the use of social media sites should be regulated to ensure that such use does not damage the council's employees, partners and the people it serves. As such this guidance aims to ensure:

- Council information and computer systems/networks remain secure and are not compromised through the use of social media.
- Users operate within existing policies, guidelines and relevant legislation..

Councillors must ensure that they use social media sensibly and responsibly and that their use will not adversely affect the council or its business.

Responsibilities of Councillors

You are personally responsible for the content you publish on any form of social media, in the same way that you are responsible for letters or emails you send. Publishing or allowing to be published (in the form of a comment) an untrue statement about a person which is damaging to their reputation may incur a libel action.

Social media sites are in the public domain and it is important to ensure you are confident of the nature of the information you publish. Once published, content is almost impossible to control and may be manipulated without your consent, used in different contexts, or further distributed.

Make use of stringent privacy settings if you don't want your social media to be accessed by the press or public. Read the terms of service of any social media site accessed and make sure you understand their confidentiality/privacy settings.

Do not disclose personal details such as home addresses and telephone numbers. Ensure that you handle any personal or sensitive information in line with the council's Data Protection Policy Statement.

Safeguarding issues are paramount because social media sites are often misused by offenders. Everyone has a responsibility for protecting and safeguarding children and adults who may be vulnerable. If you have concerns that a child or adult is suffering or is likely to suffer from any form of maltreatment (whether financial, physical, sexual, emotional or neglect) this should be reported in the following ways:

- (a) if a child or vulnerable adult is in immediate danger or left alone, contact the police or call an ambulance on 999;
- (b) in all other cases involving children, referrals should be made to Wiltshire social

care services via the Council's 'Multi-Agency Safeguarding Hub'

(MASH) on 0300 456 0108 (or out of hours via the 'Emergency Duty Service' on 0845 607 0888);

(c) in all other cases involving adults, referrals should be made to the Council's customer advisers on 0300 456 0111 (or out of hours via the 'Emergency Duty Service'), e-mail customeradvisors@wiltshire.gov.uk.

Do not publish or report on meetings which are private or internal (where no members of the public are present or it is of a confidential nature) or are Part 2 reports (which contain confidential information or matters which are exempt under the provision of the Local Government (Access to Information) Act 1985).

Copyright laws still apply online. Placing images or text from a copyrighted source (e.g. extracts from publications or photos) without permission is likely to breach copyright. Avoid publishing anything you are unsure about or seek permission from the copyright holder in advance.

Don't send or post inappropriate, abusive, bullying, racist or defamatory messages to members of the public, other councillors or officers either in or outside the work environment.

The council will not promote councillors' social media accounts during the pre- election period.

In any biography, the account should state the views are those of the councillor in question and may not represent the views of the council.

Do not use the council's logo, or any other council related material on a personal account or website.

Social media must not be used for actions that would put councillors in breach of the Wiltshire Council Members Code of Conduct For example, don't publish on social media something you wouldn't say face to face, or at a public meeting.

Be aware of your own safety when placing information on the internet and do not publish information which could leave you vulnerable.

Anyone receiving threats, abuse or harassment via their use of social media should report it to their political group leader, Democratic Services and/or the police.

It is recommended that in the case of Facebook, councillors wishing to keep their personal life and role as a councillor separate create a Facebook page which members of the public can like rather than using their personal profiles.

Conduct

Councillors are reminded that in respect of social media, they are governed by the Wiltshire Council Members Code of Conduct and relevant law.

This guidance is not exhaustive and if you have any queries you should contact the monitoring officer.

Breaches of this guidance may amount to a breach of the Wiltshire Council Members Code of Conduct. Other violations of this guidance, such as breaching the Data Protection Act, could lead to fines being issued and possible criminal or civil action being taken against the council or the individual(s) involved.

The council reserves the right to request the removal of any content that is deemed to be in breach of the Wiltshire Council Members Code of Conduct.

Principles for using social media

You should follow these five guiding principles for any social media activities:

Be respectful – set the tone for online conversations by being polite, open and respectful. Use familiar language, be cordial, honest and professional at all times. Make sure that you respect people's confidentiality – do not disclose non-public information or the personal information of others.

Be credible and consistent – be accurate, fair, thorough and transparent. Encourage constructive criticism and deliberation. Make sure that what you say online is consistent with your other communications.

Be honest about who you are – it's important that any accounts or profiles that you set up are clearly and easily identifiable. Be clear about your own personal role.

Be responsive – make an effort to share what you know. Offer insights where appropriate and put people in touch with someone who can help if you can't. Respond to questions and comments in a timely manner.

Be confident – don't be scared of participating. Follow this advice and seek further guidance if you need it. If you're about to publish something that makes you even the slightest bit uncomfortable, pause to think about it. Feel confident in what you say before you say it – and say it as clearly as you can.

Guidance on capturing social media post

Posts made using third party sites such as Facebook or Twitter are not held or within the control of the council - posts can be deleted by site administrators without knowledge or consent of the council. In exceptional circumstances, copies of posts may be made and retained by the council, (e.g. as evidence of inappropriate posts) in line with relevant council procedures, (depending on the nature of the allegation). These copies will be held for a period dependent on the type of investigation they are subject to, (e.g. disciplinary, audit, criminal, etc).

Where inappropriate use is suspected, it is suggested that you should pro-actively attempt to capture any inappropriate posts (before they might be deleted). Copies should be made (press, 'alt+Prt Scrn,' and copy into MS Word) and reported to both the relevant authority within the council as well as following the social media sites own reporting procedures where appropriate. Please note that this is just one means of gathering evidence of inappropriate use; it does not preclude the gathering of other types of evidence, e.g. witness statements.

Relationship with other council information

This guidance should be read in conjunction with:

- Wiltshire Council Constitution Protocol 7 – Media Relations
- Information Security Social Media and Blogging Policy
- Information Security Policy
- Members Code of Conduct
- Data Protection Policy Statement
- Information Assurance Acceptable Usage Policy for email, internet and computer use



Department for
Communities and
Local Government

Openness and transparency on personal interests

A guide for councillors

September 2013 Department for Communities and Local Government

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September 2013

ISBN: 978-1-4098--3604-9

The Guide

This guide on personal interests gives basic practical information about how to be open and transparent about your personal interests. It is designed to help councillors, including parish councillors, now that new standards arrangements have been introduced by the Localism Act 2011¹.

Why are there new rules?

Parliament has abolished the Standards Board regime and all the rules under it. It has done this because that centrally-imposed, bureaucratic regime had become a vehicle for petty, malicious and politically-motivated complaints against councillors. Rather than creating a culture of trust and openness between councillors and those they represent, it was damaging, without justification, the public's confidence in local democratic governance.

The new standards arrangements that Parliament has put in place mean that it is largely for councils themselves to decide their own local rules. It is essential that there is confidence that councillors everywhere are putting the public interest first and are not benefiting their own financial affairs from being a councillor. Accordingly, within the new standards arrangements there are national rules about councillors' interests.²

Such rules, in one form or another, have existed for decades. The new rules are similar to the rules that were in place prior to the Standards Board regime. Those rules, originating in the Local Government Act 1972 and the Local Government and Housing Act 1989, involved local authority members registering their pecuniary interests in a publicly available register, and disclosing their interests and withdrawing from meetings in certain circumstances. Failure to comply with those rules was in certain circumstances a criminal offence, as is failure to comply in certain circumstances with the new rules.

Does this affect me?

Yes, if you are an elected, co-opted, or appointed member of:

- a district, unitary, metropolitan, county or London borough council
- a parish or town council
- a fire and rescue authority
- a transport or other joint authority
- a combined authority or an economic prosperity board
- the London Fire and Emergency Planning Authority
- the Broads Authority

¹ The Guide should not be taken as providing any definitive interpretation of the statutory requirements; those wishing to address such issues should seek their own legal advice.

² The national rules are in Chapter 7 of the Localism Act 2011 and in the secondary legislation made under the Act, particularly in The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (S.I. 2012/1464).

- a National Park authority
- the Greater London Authority
- the Common Council of the City of London
- the Council of the Isles of Scilly

How will there be openness and transparency about my personal interests?

The national rules require your council or authority to adopt a code of conduct for its members and to have a register of members' interests.

The national rules require your council's code of conduct to comply with the Seven Principles of Public Life, and to set out how, in conformity with the rules, you will have to disclose and register your pecuniary and your other interests. Within these rules it is for your council to decide what its code of conduct says. An illustrative text for such a code is available on the Department's web site.³

Your council's or authority's monitoring officer (or in the case of a parish council the monitoring officer of the district or borough council) must establish and maintain your council's register of members' interests. Within the requirements of the national rules it is for your council or authority to determine what is to be entered in its register of members' interests.

What personal interests should be entered in my council's or authority's register of members' interests?

Disclosable pecuniary interests, and any other of your personal interests which your council or authority, in particular through its code of conduct, has determined should be registered.

Any other of your personal interests which you have asked the monitoring officer, who is responsible for your council's or authority's register of members' interests, to enter in the register.

As explained in the following section, your registration of personal interests should be guided by your duty to act in conformity with the seven principles of public life. You should ensure that you register all personal interests that conformity with the seven principles requires. These interests will necessarily include your membership of any Trade Union.

What must I do about registering my personal interests?

Under your council's code of conduct you must act in conformity with the Seven Principles of Public Life. One of these is the principle of integrity – that 'Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in

³ <https://www.gov.uk/government/publications/illustrative-text-for-local-code-of-conduct--2>

order to gain financial or other material benefits for themselves, their family, or their friends. **They must declare and resolve any interests and relationships.**⁴.

Your registration of personal interests should be guided by this duty and you should give the monitoring officer who is responsible for your council's or authority's register of members' interests any information he or she requests in order to keep that register up to date and any other information which you consider should be entered in the register.

All sitting councillors need to register their declarable interests – both declarable pecuniary interests, and other interests that must be declared and registered as required by your authority's code, or your duty to act in conformity with the Seven Principles of Public Life, such as your membership of any Trade Union. Any suggestion that you should tell the monitoring officer about your pecuniary interests only in the immediate aftermath of your being elected is wholly incompatible with this duty, with which you must comply.

If you have a disclosable pecuniary interest which is not recorded in the register and which relates to any business that is or will be considered at a meeting where you are present, you must disclose⁵ this to the meeting and tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must tell the monitoring officer within 28 days of disclosing the interest. For this purpose a meeting includes any meeting of your council or authority, of its executive or any committee of the executive, and of any committee, sub-committee, joint committee or joint sub-committee of your authority.

If you have a disclosable pecuniary interest which is not shown in the register and relates to any business on which you are acting alone, you must, within 28 days of becoming aware of this, tell the monitoring officer about it, if you have not already done so, so that it can be added to the register. You must also stop dealing with the matter as soon as you become aware of having a disclosable pecuniary interest relating to the business.

When you are first elected, co-opted, or appointed a member to your council or authority, you must, within 28 days of becoming a member, tell the monitoring officer who is responsible for your council's or authority's register of members' interests about your disclosable pecuniary interests. If you are re-elected, re-co-opted, or reappointed a member, you need to tell the monitoring officer about only those disclosable pecuniary interests that are not already recorded in the register.

What are pecuniary interests?

A person's pecuniary interests are their business interests (for example their employment, trade, profession, contracts, or any company with which they are associated) and wider

⁴ <http://www.public-standards.gov.uk/about-us/what-we-do/the-seven-principles/>

⁵ If the interest is a sensitive interest you should disclose merely the fact that you have such a disclosable

pecuniary interest, rather than the interest. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

financial interests they might have (for example trust funds, investments, and assets including land and property).

Do I have any disclosable pecuniary interests?

You have a disclosable pecuniary interest if you, or your spouse or civil partner, have a pecuniary interest listed in the national rules (see annex). Interests or your spouse or civil partner, following the approach of the rules under the 1972 and 1989 Acts, are included to ensure that the public can have confidence that councillors are putting the public interest first and not benefiting the financial affairs of themselves or their spouse or civil partner from which the councillor would stand to gain. For this purpose your spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Does my spouse's or civil partner's name need to appear on the register of interests?

No. For the purposes of the register, an interest of your spouse or civil partner, which is listed in the national rules, is **your** disclosable pecuniary interest. Whilst the detailed format of the register of members' interests is for your council to decide, there is no requirement to differentiate your disclosable pecuniary interests between those which relate to you personally and those that relate to your spouse or civil partner.

Does my signature need to be published online? Won't this put me at risk of identity theft?

There is no legal requirement for the personal signatures of councillors to be published online.

Who can see the register of members' interests?

Except for parish councils, a council's or authority's register of members' interests must be available for inspection in the local area, and must be published on the council's or authority's website.

For parish councils, the monitoring officer who is responsible for the council's register of members' interests must arrange for the parish council's register of members' interests to be available for inspection in the district of borough, and must be published on the district or borough council's website.

Where the parish council has its own website, its register of members' interests must also be published on that website.

This is in line with the Government's policies of transparency and accountability, ensuring that the public have ready access to publicly available information.

Is there any scope for withholding information on the published register?

Copies of the register of members' interests which are available for inspection or published must not include details of a member's sensitive interest, other than stating that the member has an interest the details of which are withheld. A sensitive interest is one which the member and the monitoring officer, who is responsible for the register of members' interests, consider that disclosure of its details could lead to the member, or a person connected to the member, being subject to violence or intimidation.

When is information about my interests removed from my council's register of members' interests?

If you cease to have an interest, that interest can be removed from the register. If you cease to be a member of the authority, all of your interests can be removed from the register.

What does having a disclosable pecuniary interest stop me doing?

If you are present at a meeting of your council or authority, of its executive or any committee of the executive, or of any committee, sub-committee, joint committee, or joint sub-committee of your authority, and you have a disclosable pecuniary interest relating to any business that is or will be considered at the meeting, you must not:

- participate in any discussion of the business at the meeting, or if you become aware of your disclosable pecuniary interest during the meeting participate further in any discussion of the business, or
- participate in any vote or further vote taken on the matter at the meeting.

These prohibitions apply to any form of participation, including speaking as a member of the public.

In certain circumstances you can request a dispensation from these prohibitions.

Where these prohibitions apply, do I also have to leave the room?

Where your council's or authority's standing orders require this, you must leave the room. Even where there are no such standing orders, you must leave the room if you consider your continued presence is incompatible with your council's code of conduct or the Seven Principles of Public Life.

Do I need a dispensation to take part in the business of

setting council tax or a precept?

Any payment of, or liability to pay, council tax does not create a disclosable pecuniary interest as defined in the national rules; hence being a council tax payer does not mean that you need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support.

If you are a homeowner or tenant in the area of your council you will have registered, in accordance with the national rules, that beneficial interest in land. However, this disclosable pecuniary interest is not a disclosable pecuniary interest in the matter of setting the council tax or precept since decisions on the council tax or precept do not materially affect your interest in the land. For example, it does not materially affect the value of your home, your prospects of selling that home, or how you might use or enjoy that land.

Accordingly, you will not need a dispensation to take part in the business of setting the council tax or precept or local arrangements for council tax support, which is in any event a decision affecting the generality of the public in the area of your council, rather than you as an individual.

When and how can I apply for a dispensation?

The rules allow your council or authority in certain circumstances to grant a dispensation to permit a member to take part in the business of the authority even if the member has a disclosable pecuniary interest relating to that business. These circumstances are where the council or authority considers that:

- without the dispensation so great a proportion of the council or authority would be prohibited from participating in that business as to impede the council's or authority's transaction of that business,
- without the dispensation the representation of different political groups dealing with that business would be so upset as to alter the likely outcome of any vote,
- the granting of the dispensation is in the interests of people living in the council's or authority's area,
- without the dispensation each member of the council's executive would be prohibited from participating in the business, or
- it is otherwise appropriate to grant a dispensation.

If you would like your council or authority to grant you a dispensation, you must make a written request to the officer responsible for handling such requests in the case of your council or authority.

What happens if I don't follow the rules on disclosable pecuniary interests?

It is a criminal offence if, without a reasonable excuse, you fail to tell the monitoring officer about your disclosable pecuniary interests, either for inclusion on the register if you are a newly elected, co-opted or appointed member, or to update the register if you are re-elected or re-appointed, or when you become aware of a disclosable pecuniary interest which is not recorded in the register but which relates to any matter;

- that will be or is being considered at a meeting where you are present, or
- on which you are acting alone.

It is also a criminal offence to knowingly or recklessly provide false or misleading information, or to participate in the business of your authority where that business involves a disclosable pecuniary interest. It is also a criminal offence to continue working on a matter which can be discharged by a single member and in which you have a disclosable pecuniary interest.

If you are found guilty of such a criminal offence, you can be fined up to £5,000 and disqualified from holding office as a councillor for up to five years.

Where can I look at the national rules on pecuniary interests?

The national rules about pecuniary interests are set out in Chapter 7 of the Localism Act 2011, which is available on the internet here:

<http://www.legislation.gov.uk/ukpga/2011/20/part/1/chapter/7/enacted>

and in the secondary legislation made under the Act, in particular The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 which can be found here:

<http://www.legislation.gov.uk/uksi/2012/1464/contents/made>

Annex A

Description of Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your **disclosable pecuniary interests** under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

- Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.
- Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992. The relevant period is the 12 months ending on the day when you tell the monitoring officer about your disclosable pecuniary interests following your election or re-election, or when you became aware you had a disclosable pecuniary interest relating to a matter on which you were acting alone.
- Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority –
 - under which goods or services are to be provided or works are to be executed; and
 - which has not been fully discharged.
- Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.
- Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.
- Any tenancy where (to your knowledge) –
 - the landlord is your council or authority; and
 - the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

- Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where –
 - (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
 - (b) either –
 - the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

APPENDIX 3

STANDARDS COMPLAINTS ASSESSMENT CRITERIA

The Monitoring Officer will adopt the approach and apply the criteria set out below in the assessment of complaints under locally adopted Codes of Conduct for Members.

The Review Committee will use the same approach and criteria.

Relevance

1. It is likely that complaints will be received which do not relate to local codes of conduct for members. These might include complaints relating to the provision of services by local councils; matters relating to the local council as a corporate body; or matters which should be dealt with under a council's complaints procedure. They may be matters relating to council employees, other authorities or matters relating to a member's private life which do not fall within the remit of the Standards Committee. The Monitoring Officer will advise the complainant in such matters that they cannot proceed under local codes of conduct, but that the complainant should contact the clerk or chairman of the relevant council in order to bring a complaint under the appropriate complaints procedure.

Alternative resolution

2. Investigations are costly and time consuming. The Monitoring Officer will consider first of all whether an alternative means of resolving the complaint would be appropriate.

Initial Tests

3. Before the assessment of a complaint begins, the Monitoring Officer should be satisfied that:
 - a) The complaint is about the conduct of a member of a council within the area of Wiltshire Council;
 - b) That the member was a member at the time of the incident giving rise to the complaint;
 - c) That the member remains a member of the relevant council at the time of the complaint;
 - d) That the complainant has provided a copy of the Code of Conduct of the relevant council;
 - e) That the matters giving rise to the complaint would, if proven, be capable of breaching that Code.

If the complaint fails one or more of these tests it cannot be investigated and no further action will be taken.

Sufficiency of information

4. The complainant must provide sufficient information to enable the subject member and those responsible for assessing the complaint to understand the substance of the complaint. If insufficient information is provided, the Monitoring Officer will not normally proceed with assessment of the complaint.

If the complaint meets the criteria set out in 3. a-e above, and the complainant has provided sufficient information to enable the issues complained of to be understood, the Monitoring Officer will send a copy of the complaint to the subject member and ask for the subject member's comments. When these have been received, the Monitoring Person will assess the complaint, after consulting the Independent Person.

Seriousness of the Complaint

5. A complaint will not be referred for investigation if, on the available information, it appears to the Monitoring Officer (or Review Sub-Committee) to be trivial, vexatious, malicious, politically motivated or 'tit for tat'.

A complaint will not normally be referred for investigation if the subject member has offered an apology, a reasonable explanation of the issues, or if the Monitoring Officer takes the view that the complaint can reasonably be addressed by other means.

Bearing in mind the public interest in the efficient use of resources, referral for investigation is generally reserved for serious complaints where alternative options for resolution are not considered by the Monitoring Officer to be appropriate.

Length of Time Elapsed

6. A complaint will not be referred for investigation when it is made more than 20 working days from the date upon which the complainant became aware of the matter giving rise to the complaint.

Anonymous Complaints

Anonymous complaints will not be considered unless the Monitoring Officer is satisfied that there would otherwise be a serious risk to the complainant's personal safety, in which case the Monitoring Officer will decide how the complaint should be taken forward.

Multiple Complaints

7. A single event may give rise to similar complaints from a number of complainants. Where possible these complaints will be considered by the Monitoring Officer at the same time. Each complaint will, however, be considered separately. If an investigation is deemed to be appropriate the Monitoring Officer may determine that, in the interests of efficiency, only one complaint should go forward for investigation, with the other complainants being treated as potential witnesses in that investigation.

Confidentiality

8. All information regarding the complaint will remain confidential until determined otherwise by the Monitoring Officer or Hearing Sub-Committee.

Withdrawing Complaints

9. A complainant may ask to withdraw their complaint before it has been assessed. In deciding whether to agree the request the Monitoring Officer will consider:
 - (a) the complainant's reasons for withdrawal;
 - (b) whether the public interest in taking some action on the complaint outweighs the complainant's wish to withdraw it;
 - (c) whether action, such as an investigation, may be taken without the complainant's participation.

Wiltshire Council

Standards Committee

29 June 2016

Review of Constitution: Financial Regulations and Procurement and Contract Rules

Purpose of Report

1. The purpose of this report is to ask the Standards Committee to consider proposed changes to the Council's Financial Regulations and the procurement and Contract Rules and make recommendations to full council on 12 July 2016 on their adoption.

Background

2. The Constitution is reviewed regularly to ensure that it is fit for purpose. As part of this ongoing review senior officers are consulted to see if they consider any changes are needed.
3. The Associate Directors for Finance and Corporate Function, Procurement and Programme Office have requested a review of the Finance Regulations and Procurement and Contract Regulations in the Council's Constitution to secure better governance. Officers from both directorates have therefore been working alongside legal officers to review these Parts of the Constitution.
4. The approach has been to draft rules that are clear and simple to understand with a consistent layout that set out the core rules and standards that apply in these areas and more detailed, web-based manuals for staff on how the core rules and standards are to be met. The manuals can then be updated easily as required
5. The Constitution Focus Group met on 21 June and indicated support for the proposed changes, designed to update and simplify the presentation of the regulations and rules.

Main Considerations

6. The draft financial regulations and procurement and contract rules are attached as **Appendix 1 and Appendix 2**. In summary the key points for members to note are set out below.

Financial Regulations

- The regulations will be supported by an online toolkit called the Financial Manual;

- Adds Wiltshire Funding Scheme for Schools (A1.4) and Wiltshire Pension Fund Investments (A1.5) as they are under different regulations;
- Objectives added – financial sustainability and Best Value; reduce corporate risk and ensure sound and proper conduct of financial affairs (A2.1)
- Principles – duty for members and officers to abide by the highest standards of probity in dealing with financial affairs; taking reasonable action to provide for the security of assets and proper use of resources; ensuring awareness and compliance with financial governance arrangements (A3.1- 3.3);
- Maintains the principle that Corporate Directors in conjunction with the Chief Finance Officer (CFO) and Associate Directors are responsible for ensuring compliance with the regulations, manual and all other internal financial requirements by officers and others acting on behalf of the Council in their service areas;
- Full Council adopt and amend the budget and policy framework proposed by Cabinet (B.1);
- Cabinet- discharge executive functions in accordance with the policy and budgetary framework (B2.)
- References to ‘Chief Executive’ ‘ have been replaced by Corporate Directors;
- Responsibility for insurance, corporate risk, and strategic assessment and management of capital assets clarified (B.11.2; 23.1 and 25.1);
- Any unfunded spend (i.e. not within the council set budget), including unfunded grants require Full Council approval;
- Grant income (B12.1) - limits for approval of grants income – prior to signing of grant agreement:
 - up to £500k – Associate Director and CFO;
 - £500k to £1m Corporate Director in consultation with CFO;
 - £1m - £5m Cabinet unless urgent, in which case it is the Leader or Cabinet Member in consultation with the Scrutiny Chair. If not possible the Corporate Director in consultation with Cabinet Member and Scrutiny Chair;
 - over £5m - Cabinet.
 - detailed guidance to be provided in financial manual.
- Grant expenditure (B.12.2) - approval to an external body:
 - Up to £50,000 –Associate Director in consultation with Corporate Director and Cabinet Member;
 - £50,000 to £250,000 Cabinet Member in consultation with Corporate Director,CFO and the Corporate Procurement and Commissioning Board;
 - £250,000 to £1m and above - Cabinet;
 - detailed guidance to be provided in financial manual.

- Writing off debts (B13.1)
 - Up to £100,000 CFO in consultation with Corporate Director;
 - over £100,000 Cabinet Member in consultation with CFO.
 - detailed guidance to be provided in financial manual.

- Corporate Directors in association with CFO and Associate Directors to be responsible for ensuring their service areas comply with the regulations and report any failures to comply to CFO. (B17.)

Procurement and Contract Rules

- Require staff to seek advice from Legal Services and the Strategic Procurement Hub(SPH)(A.3.4);
- Commissioning Officers must comply with these Rules and the online Procurement Manual (A3.9);
- Added the Dynamic Purchasing System (see Definitions);
- Budget Manager responsible for ensuring the Council has funds and other resources to meet all obligations under a contract (A 3.8);
- Includes the Corporate Procurement and Commissioning Board and its role (B5 and Definitions);
- Procurement routes – electronic sourcing system to be used for all new contracts;
- A request for quote procedure may be used for spend below the relevant threshold (EU) – if SPH consider that quotes will not achieve best value they may recommend alternative route (B6.3);
- All reference to quotes and levels have been deleted;
- Use of SAP purchase orders required (B7.2);
- All model contracts to be reviewed annually (B7.5)
- All reference to frameworks, standstills etc. removed as now contained in the online manual.
- All contracts only to be signed by the following (and their nominees in accordance with their Scheme of Sub-Delegation)
 - Solicitor to the Council for all contracts or,
 - Associate Director for Corporate Office, Programme Office and Procurement (B9.5)

- Cabinet approval if:
 - key decision;
 - exceeds annual value of £1m or total contract value exceeds £4m;
 - involves the transfer of 50 or more employees or relates to a matter that is commercially, politically or strategically sensitive; (B9.6)

- Extensions to contracts – advice must be sought from SPH (C12);
- Variations – where EU threshold reached must be a new procurement (C13);
- All variations to be documented (C13.2);
- These rules do not apply to Partnerships or Grants that are approved under the relevant policies and procedures.
- To ensure compliance with these procurement and contracting rules the SPH will arrange a series of procurement training events for council officers to increase procurement awareness and capability.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk Implications

9. The implementation of the proposed financial regulations and contract and procurement rules will strengthen the council's arrangements for the management of corporate risk.

Financial Implications

10. There are no direct financial implications arising from report, but their implementation will strengthen the council's financial governance framework.

Legal Implications

11. The proposed new financial regulations and procurement rules fully reflect the council's obligations in law.

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

13. There are no environmental impacts arising from this report. Risk implications –

Recommendations:

14. To recommend proposed changes Finance Regulations and Contract and Procurement be adopted by Full Council at its meeting on 12 July, as

detailed in appendix 1 and appendix 2.

Ian Gibbons, Associate Director Law & Governance
**Robin Townsend, Associate Director Corporate Function, Procurement
and Programme Office**
Michael Hudson, Associate Director, Financial Services

21 June 2016

Appendix 1 – Draft Finance Regulations [Link to existing Finance regulations](#)

Appendix 2 – Draft Contract and Procurement Rules [Link to existing
Procurement rules](#)

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PART 9

FINANCIAL REGULATIONS

SECTION A: GENERAL

1. Introduction

- 1.1. These Financial Regulations (the “Regulations”) provide the framework for managing the council's financial affairs. Subject to paragraph 1.4 of Section A below, they apply to every Member and officer of the council and anyone acting on its behalf.
- 1.2. These Regulations are divided into Sections A and B:
 - 1.2.1. Section A (“General”) sets out the Objectives and Principles of these Regulations; and
 - 1.2.2. Section B (“Financial Regulations”) sets out the rules regarding the financial accountabilities and responsibilities of Full Council, Cabinet, relevant committees, the Corporate Directors, The Chief Finance Officer, the Monitoring Officer, all other Associate Directors, individual officers and anyone else acting on behalf of the Council.
- 1.3. These Regulations must be read in conjunction with the Financial Manual, an online toolkit which gives detailed financial procedures and guidance for their implementation. The Financial Manual will be updated from time to time and officers must always refer to the latest information as published on the Intranet.
- 1.4. The Wiltshire Funding Scheme for Schools sets out the financial governance arrangements applicable to schools, and these Regulations only apply to schools to the extent that the matters within it are not covered in that guidance.
- 1.5. A list of the definitions used in these Regulations is given at Appendix 1 to this Section A.

2. Objectives

- 2.1. The objectives of these Regulations are:
 - 2.1.1. to ensure financial sustainability and deliver Best Value;
 - 2.1.2. to manage and reduce the council's corporate risk;
 - 2.1.3. to ensure that the council's financial affairs are conducted in a sound and proper manner.

3. Principles

- 3.1. All Members and officers have a duty to abide by the highest standards of probity in dealing with the financial affairs of the council.
- 3.2. All Members and officers have a responsibility for taking reasonable action to provide for the security of council assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves Best Value.
- 3.3. Corporate Directors, together with the Chief Finance Officer and the relevant Associate Director, are responsible for ensuring that all officers in their service areas, or anyone else acting on behalf of their service areas, understand, have access to and fully comply with these Regulations, the Financial Manual and any other relevant internal regulatory documents that form part of the council's financial governance arrangements.

Appendix 1 Definitions

In these Regulations, the following words and phrases have the following meanings:

Annual Treasury Management Strategy	The Annual Treasury Management Strategy is required by legislation and sets the Council's Investment and Borrowing Strategy and statutory indicators of performance
Best Value	The optimum combination of whole life cost and benefits to meet the council's requirements, and includes consideration of social responsibility, equality, economic factors and sustainability
Budget	The annual allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and making decisions relating to the control of the council's borrowing requirement, the control of its capital expenditure and the setting of virement limits
Budgetary Framework	The Budgetary Framework sets out the council's financial policies and objectives. It is the financial control environment and helps promotes fiscal discipline, accountability and transparency
Business Plan	The council's corporate plan setting out its priorities and the actions it will take in partnership with communities and partners to deliver those priorities, as published from time to time.
Chief Finance Officer	The council's Section 151 Officer, being the Associate Director, Finance, whose responsibilities are described in paragraph 12.6 of Article 2 of the constitution.
Grant expenditure	Has the meaning given in Protocol 8 ("Wiltshire Council Partnership Protocol") of the constitution as updated from time to time.
Housing Revenue Account (HRA)	The Housing Revenue Account is a ring fenced account that covers the expenditure and income on the provision of social housing
Medium Term Financial Strategy / Plan (MTFS / MTFP)	The council's five-year rolling plan to provide Members with an indication of the potential size of the council's revenue budget over the next three years, anticipated resource levels and the impact of this on council activities.
Monitoring Officer	The council's officer, being the Associate Director Legal and Governance, who discharges the statutory responsibilities under section 5(1) Local Government and Housing Act 1989 as described in paragraph 12.3 of Article 2 of the constitution.
Policy Framework	The plans and strategies set out in Part 3 of the constitution, and which are developed and amended in

	accordance with the procedure set out at Part 6 of the constitution
Scheme of Cost Centre Management	All council expenditure is charged to cost centres and these are combined to give the financial reporting structures

SECTION B: FINANCIAL REGULATIONS

1. Full Council

1.1. Full Council is responsible for approving, adopting and amending the budget and policy framework proposed by Cabinet, as set out at Article 4 of Part 2 and Section B of Part 3 of this constitution. In terms of financial planning, the key elements are:

- the Business Plan;
- the general revenue budget;
- levels of council tax as well as certain fees and charges;
- the capital programme;
- Housing Revenue Account (HRA) budget, as well as rent and other service charge levels;
- The Annual Treasury Management Strategy.

Full Council will be advised by the Corporate Directors following consultation with the Chief Finance Officer and Monitoring Officer in accordance with their respective statutory duties in consideration of all matters above and the Budgetary Framework.

Full Council is responsible for the adoption of its budget and policy framework. The procedures, consultation process and referral requirements for developing and making variations to the budget and policy framework, call-in of decisions outside the budget or policy framework and making decisions (urgent or otherwise) outside the budget or policy framework are set out at Part 6 of this constitution.

1.2 Full Council is responsible for setting the level at which the Cabinet may reallocate budget funds from one service to another (virement) as set out in Section B of Part 3 and Part 6 of this constitution. The Cabinet is responsible for taking in-year decisions on resources and priorities in order to deliver the budget and policy framework within the financial limits set by Full Council.

1.3 Medium term planning involves a planning cycle in which Associate Directors update their own service plans, adding to the council's Medium Term Financial Strategy (MTFS) as each year passes, to ensure that the council is always preparing for events in advance.

2 Cabinet

2.2 Cabinet's responsibilities under the budgetary framework are set out at Section B of Part 3 of this constitution, including to:

- propose a policy and budget framework to Full Council for consideration and approval;
- discharge executive functions in accordance with the policy and budget framework as adopted by Full Council;
- ensure that individual Cabinet Members consult with relevant officers before taking decisions within their delegated authority in accordance with Protocol 5 of this constitution (Leader's Protocol on individual Cabinet Member Decision Making);
- take into account legal and financial issues and liabilities as well as other factors such as risk management, equalities, health, safeguarding or environmental issues that may arise from a decision.

3 Audit Committee, Overview and Scrutiny Management Committee, Select Committees and the Financial Planning Task Group

3.2 The financial responsibilities of the Audit Committee are set out at Section B of Part 3 of this constitution. The financial responsibilities of the Overview and Scrutiny Management Committee (incorporating Scrutiny Select Committees and the Financial Planning Task Group) are set out at Article 6 of Part 2 of this constitution. These committees are responsible for influencing and scrutinising Cabinet decisions before and after they have been implemented, and for holding the Cabinet to account.

3.3 The Audit Committee, Overview and Scrutiny Management Committee, Scrutiny Select Committees and the Financial Planning Task Group report to the Cabinet or the Full Council in relation to matters concerning:

- Financial and other internal control systems;
- Financial irregularities and losses;
- Internal and External Audit;
- Performance information, including performance indicators;
- Best Value Reviews of cross cutting services;
- Risk management

3.4 These committees have the right of access to information they consider necessary as set out in Part 5 of the constitution and can consult directly with internal and external auditors. The committees are responsible for reviewing the external auditor's reports and the annual audit letter and internal audit's annual report.

4 Corporate Directors

4.1 The Corporate Directors are responsible under the Budgetary Framework for:

- ensuring that Cabinet Members are advised of the financial implications of all proposals after consultation and agreement with the Chief Finance Officer;
- consulting with the Chief Finance Officer and seeking cabinet or council's approval as appropriate on any matter which materially affects the council's

finances, before any commitment is made;

- promoting and ensuring strict adherence by all officers in their area of responsibility to the financial management standards and practices set by themselves in consultation with the Chief Finance Officer.

5 Chief Finance Officer

5.1 The Chief Finance Officer has statutory duties in relation to the financial administration and stewardship of the council. These statutory duties cannot be overridden. The statutory duties arise from the following (as amended):

- Section 151 of the Local Government Act 1972;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Local Government Act 2003; and
- The Accounts and Audit Regulations 2015.

5.2 The Chartered Institute of Public Finance and Accounting (CIPFA) defines the role of the Chief Finance Officer as being:

- A key member of the leadership team, helping it to develop and implement strategy and to resource and deliver the council's strategic objectives sustainably and in the public interest;
- Actively involved in, and able to bring influence to bear on, all material business decisions to ensure immediate and longer term implications, opportunities and risks are fully considered, and are in alignment with the council's financial strategy; and
- To lead the promotion and delivery by the whole council of good financial management so that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively.

5.3 The Chief Finance Officer has the functions set out at Article 12.6 of Part 2 of this constitution, including.

- the proper administration of the authority's financial affairs;
- setting and monitoring compliance with financial management standards;
- advising on the corporate financial position and on the key financial controls necessary to secure sound financial management;
- providing financial information;
- preparing the revenue budget and capital programme;
- treasury management, borrowing, lending and leasing;
- banking arrangements;

The Chief Finance Officer is responsible for the following in consultation with the Associate Director for Corporate Function, Procurement and Programme Office and the Associate Director for People and Business:

- insurance arrangements for the council;
- risk management;
- strategic asset management and the council's Asset Register.

- 5.4 Section 114 of the Local Government Finance Act 1988 requires the Chief Finance Officer, in consultation with the Monitoring Officer, to report to the Full Council, Cabinet and external auditor if the council or one of its officers:
- has made, or is about to make, a decision which involves incurring unlawful expenditure;
 - has taken, or is about to take, an unlawful action which has resulted or would result in a loss or deficiency to the council;
 - is about to make an unlawful entry in the council's accounts.
- 5.5 Section 114 of the 1988 Act also requires:
- the Chief Finance Officer to nominate a properly qualified member of staff to deputise should he be unable to perform the duties under section 114 personally;
 - the council to provide the Chief Finance Officer with sufficient staff, accommodation and other resources (including legal advice where this is necessary) to carry out their duties under section 114.
- 5.6 The Local Government Act 2003 requires the Chief Finance Officer to report to Full Council at the time the budget is considered and council tax is set on the robustness of budget estimates and adequacy of proposed financial reserves (section 25 of the Local Government Act 2003). The Chief Finance Officer also has a key role to play in satisfying the statutory duty to keep the council's finances under review during the year and take action if there is evidence that financial pressures will result in a budget overspend or if there is a shortfall in income (section 28 of the Local Government Act 2003).

6 Monitoring Officer

- 6.1 The Monitoring Officer has the functions set out at Article 12.3 of Part 2 of this constitution.

7 Financial Planning and Budget Setting

- 7.1 The Corporate Directors with the support of the Chief Finance Officer and other Associate Directors are responsible for ensuring that a budget is prepared on an annual basis, and also that a longer term budget plan is prepared for consideration by the Cabinet, before submission by Cabinet to Full Council. Full Council may amend the annual budget or ask the Cabinet to reconsider it before approving it.
- 7.2 The Cabinet is responsible for issuing guidance on the general content of the budget in consultation with the Corporate Directors and the Chief Finance Officer as soon as possible following approval by the Full Council.
- 7.3 Cabinet and Corporate Directors will consider recommendations that affect future years and must also identify the impact on the MTFP and proposals to fund any potential increases to maintain within the forecast net expenditure.
- 7.4 It is the responsibility of the Overview and Scrutiny Management Committee to review the budget proposals and to assess risks in order to advise Cabinet and Full Council of any risks or matters needing further consideration.

- 7.5 It is the responsibility of the Corporate Directors in conjunction with Associate Directors to ensure that budget estimates reflecting agreed service plans are submitted to the Cabinet and that these estimates are prepared in line with guidance issued by the Cabinet. The Corporate Directors must also ensure that professional advice has been sought on all proposals, including consultation requirements with public, partners and/or employees and that this advice is followed before implementing recommendations.

8 Budget Management and Monitoring – Revenue, Capital and Housing Revenue Account (HRA)

- 8.1 The Chief Finance Officer is responsible for providing appropriate financial information to the Corporate Directors to enable budgets to be monitored effectively. The Chief Finance Officer must monitor expenditure against budget allocations. Any material variations shall be reported in accordance with the procedures set out in the Financial Manual.
- 8.2 It is the responsibility of Associate Directors, and under delegations, Heads of Services, to control income and expenditure within their service area and to monitor performance, taking account of financial information provided by the Chief Finance Officer. They shall report on variances within their own areas in accordance with the procedures set out in the Financial Manual. They must also take any action necessary to avoid exceeding their budget allocation and alert the Corporate Directors and Chief Finance Officer to any foreseen issues.
- 8.3 Any proposed unfunded schemes / decisions must be approved by Full Council before commencement. As such all decisions should identify how any costs will be fully funded. Advice on the deliverability of the proposals will be provided by the s151 Officer.
- 8.4 No expenditure shall be incurred on a purpose for which there is no provision in the approved estimates except where:
- (a) a supplementary estimate has been approved by the Cabinet,
- OR;
- (b) Corporate Directors, after consultation with the Chief Finance Officer, are satisfied that such expenditure is in the best interests of the council.
- AND;
- (c) an alternative source of funding has been identified.

9 Budget setting content to be reported to Full Council

- 9.1 The annual budget will be approved by Full Council and proposed by the Cabinet on the advice of the Chief Finance Officer in conjunction with the Corporate Directors. The proposed and agreed budget shall comply with statutory reporting requirements, including for example allocation to different services and projects, proposed taxation levels and contingency funds.

10 Year end balances and budget over/underspend

- 10.1 Corporate Directors, in consultation with the Chief Finance Officer are responsible for the treatment of year-end balances within guidelines approved by Full Council.
- 10.2 All Associate Directors should as a first point of principle ensure that any overspend arising from budgets within their control, can be met by compensatory under spending from budgets within their area of responsibility. Where this is not fully possible in year then the second point of principle is that the Corporate Directors in consultation with the Chief Finance Officer shall assess the scope and ways to fund from other budget changes / reductions.
- 10.3 Only where any overspends arise due to material unforeseen / emergency circumstances or there is no accepted budget reduction to fund an overspend, the third point of principle is that the overspend will be funded from reserves if there is sufficient reserves to do so, but then become the first call on service estimates in the following year along with the repayment of the reserves, unless there are exceptional circumstances. If this is the case, a report is required to be submitted and approved by Cabinet for alternative ways to fund any shortfall.
- 10.4 Underspends may only be carried forward subject to a report being submitted and approved by Corporate Directors and where required Cabinet detailing the nature of any underspend, and how it is to be utilised.

11 Asset and Treasury Management

- 11.1 The council will hold capital resources in the form of tangible fixed assets such as buildings, and financial capital ranging in fluidity from investments to cash holdings. The council has a fiduciary duty to ensure that these resources are effectively and efficiently managed.

11.2 Capital Assets

- 11.2.1 Corporate Directors in conjunction with the Associate Director - People and Business shall ensure that records and assets are properly maintained and securely held. They shall ensure that contingency plans for the security of assets and continuity of service are in place, in the event of a disaster or system failure.
- 11.2.2 Moveable assets shall not be disposed of except by sale on the authority of the Associate Director - People and Business. The sale shall normally be by public auction or competitive tender but where neither is appropriate the Associate Director shall adopt the best method to serve the interests of the council.
- 11.2.3 If the sale is to a Member or employee of the council (or their relative), prior written authority of the Head of Paid Service is required.
- 11.2.4 The existence of assets should be periodically verified, and procedures for the control of assets reviewed. Any loss of assets should immediately be reported to the Corporate Directors and Chief Finance Officer.

11.3 Treasury Management

- 11.3.1 The council has adopted CIPFA's revised Code of Practice for Treasury Management in local authorities, produced in November 2009.
- 11.3.2 Full Council is responsible for approving the Annual Treasury Management Strategy setting out the matters detailed in the revised Code of Practice for Treasury Management in local authorities.
- 11.3.3 The Annual Treasury Management Strategy is proposed to Full Council by the Cabinet. Full Council will receive reports on its treasury management policies, practices and activities, including as a minimum, an annual strategy and plan in advance of the year, regular reports on activities and an annual report after the accounts have been closed, in the form prescribed in the Treasury Management Policy Statement. These reports will be considered and recommended to Full Council by Cabinet.
- 11.3.4 Full Council has delegated responsibility for the implementation and monitoring of treasury management policies and practices to the Cabinet. Responsibility for the execution and administration of treasury management decisions has been delegated to the Chief Finance Officer who will act in accordance with the Treasury Management Policy Statement and CIPFA's standard of professional practice on treasury management.
- 11.3.5 Full Council has delegated to the Cabinet responsibility for ensuring scrutiny of the Annual Treasury Management Strategy and policies.
- 11.3.6 The Chief Finance Officer is responsible for reporting to the Cabinet on the activities of the treasury management operation for presentation annually by 30 July of the succeeding financial year.

12 Grants

12.1 Grant Income

- 12.1.1 Consideration of any grant acceptance must include the revenue and capital consequences to the council's in year and future years' budgets. This must ensure that any associated council contributions or costs arising as a result of securing the grant are funded. If such contributions or costs are unfunded then approval for acceptance of the grant is reserved to Full Council.
- 12.1.2 The financial limits for approval of grant income are dealt with in the Chief Finance Officer's scheme of sub delegation. The following delegation of authority applies to the approval of grant income prior to signature of the grant agreement:
 - (a) Up to £500,000 - joint approval by the relevant Associate Director(s) AND the Chief Finance Officer or nominees in consultation with the relevant Corporate Director;
 - (b) Over £500,000 and up to £1,000,000 - to Corporate Directors in consultation with the Chief Finance Officer and Monitoring Officer;

- (c) £1,000,000 plus – to Cabinet, unless it is evidenced to be urgent, in which case approval is required from the relevant Cabinet Member (or the Leader in their absence) in consultation with the relevant Scrutiny Chair. If this is not possible and real urgency can be demonstrated then in exceptional circumstances this can be delegated to the relevant Corporate Director in consultation with any Cabinet Member and Scrutiny Chair.

12.2 Grant Expenditure

12.2.1 The financial limits for approval of grant expenditure are dealt with in the Chief Finance Officer's scheme of sub delegation. The following delegation of authority applies to the approval of awarding grants to an external body:

- (a) Up to £50,000 - Associate Directors, after consultation with the relevant Corporate Director and Cabinet Member;
- (b) Above £50,000 and up to £250,000 – Cabinet Member(s) in consultation with Corporate Directors, Chief Finance Officer and the Corporate Procurement and Commissioning Board
- (c) Above £250,000 plus – Cabinet

13 Writing Off Debts

13.1 The financial limits for approval of writing off debts owed to the council are dealt with in accordance with the council's debt recovery policy and the Chief Finance Officer's scheme of sub delegation. The write off of any debts owed to the council requires the following approval before the debt can be written off:

- (a) Up to £100,000 - Chief Finance Officer or his or her nominee in consultation with the Corporate Directors;
- (b) Over £100,000 – Cabinet Member in consultation with the Chief Finance Officer and Corporate Directors

14 Taxation

14.1 The Chief Finance Officer is responsible for advising Corporate Directors on all taxation issues that affect the council in the light of relevant legislation and guidance issued by the appropriate bodies.

14.2 The Chief Finance Officer is responsible for maintaining the council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

15 Contract Regulations

- 15.1** All procurements undertaken and contracts made on behalf of the council shall be subject to the council's Procurement and Contract Rules set out in Part 11 of this constitution. The financial budget for the contract should be established prior to the procurement process and, where appropriate, advice on the financial provisions of contracts should be obtained from the Chief Finance Officer.

16 Control Framework

- 16.1** It is essential that robust, integrated systems are developed and maintained for identifying and evaluating all significant operational risks to the council. This shall include the proactive participation of all those associated with planning and the delivery of services.

17 Delegations

- 17.1** The day to day discharge of the Chief Finance Officer duties of proper financial administration is carried out under the Chief Finance Officer's scheme of sub delegation made in accordance with Section D2 of Part 3 of this constitution.
- 17.2** The Chief Finance Officer's nominee(s) are responsible for specifying financial systems, advising on their use and monitoring compliance. Specifying normally takes the form of the publication of the relevant part of the Financial Manual and issuing other instructions which lay down best practice for each financial system, and identifies responsibilities. The Financial Manual is published on the council's intranet site.
- 17.3** Corporate Directors, in association with the Chief Finance Officer and the relevant Associate Director, are responsible for ensuring that all officers in their service areas, or anyone else acting on behalf of their service areas, understand, have access to and fully comply with these Regulations, the Financial Manual and any other relevant internal regulatory documents that form part of the council's financial governance arrangements. A Corporate Director must report to the Chief Financial Officer if he or she becomes aware of a failure to comply with these Regulations.
- 17.4** All Members and officers have a responsibility for taking reasonable action to provide for the security of council assets under their control, and for ensuring that the use of these resources is legal, properly authorised, provides value for money and achieves Best Value. Officers are responsible for actively managing all the resources under their control so as to achieve policy and service objectives set by Members. This active management must include securing value for money, achieving Best Value, maximising resources and staying within the approved budget. All of this should be done within the financial control framework as set down in these Regulations, the Financial Manual and any other relevant internal regulatory documents that form part of the council's financial governance arrangements.
- 17.5** Under the Local Government Finance Act 1988, the Chief Finance Officer must report to the Monitoring Officer, Head of Paid Service and Cabinet Member whose portfolio includes resources, any breach of the council's financial rules which may jeopardise the sound financial management of the council.

18 Virements

- 18.1 Full Council, on the recommendation of the Cabinet, is responsible for setting limits for virement of expenditure between budget headings as set out in Section B of Part 3 of this constitution.
- 18.2 Corporate Directors are responsible for agreeing in-year virements within delegated limits, after consultation with the Chief Finance Officer where required and as necessary these will be reported to Cabinet in accordance with the requirements of the Scheme of Cost Centre Management.
- 18.2.1 The following delegation of authority applies to the approval of virements:
- (a) Up to £50,000 - Associate Directors, in consultation with relevant Corporate Director and Cabinet Member;
 - (b) Above £50,000 and up to £250,000 - Corporate Directors, in consultation with the Chief Finance Officer and Cabinet.
 - (c) Above £250,000 plus – Cabinet

The financial limits for virements are dealt with in the Chief Finance Officer's scheme of sub-delegation.

19 Systems

- 19.1 The Chief Finance Officer is responsible for the operation of the council's accounting systems, the form of accounts and the supporting financial records. Any changes made to the existing financial systems or the establishment of new systems must be approved by the Chief Finance Officer. However, Associate Directors are responsible for the proper operation of financial processes in their own service areas.
- 19.2 Any changes to agreed procedures by Associate Directors to meet their own specific service needs shall be agreed with the Chief Finance Officer.
- 19.3 Associate Directors shall ensure that officers in their areas receive relevant financial training that has been approved by the Chief Finance Officer.
- 19.4 Associate Directors must ensure that, where appropriate, computer and other systems are registered in accordance with data protection legislation. Associate Directors must ensure that officers in their areas are aware of their responsibilities in respect of information governance.

20 Audit requirements

- 20.1 The Accounts and Audit Regulations 2015 require every local authority to maintain an adequate and effective internal audit. The Chief Finance Officer is responsible for internal audit for which purpose he may inspect and audit all books of account, financial documents and all other records of the council, visit

any of the council's premises and obtain such explanations and take away such records for examination as may be considered necessary.

20.2 [INSERT NEW ARRANGEMENTS UNDER LOCAL AUDIT AND ACCOUNTABILITY ACT 2014]

20.3 The council may, from time to time, be subject to audit, inspection or investigation by external bodies such as HM Revenue and Customs, who have statutory rights of access.

20.4 The appointment process for External Audit shall be in accordance with the Local Audit and Accountability Act 2014

21 Preventing fraud and corruption

21.1 The Chief Finance Officer is responsible for the development and maintenance of the council's anti-fraud and anti-corruption policy and will ensure that it is published on the Intranet as updated from time to time.

21.2 The Chief Finance Officer is responsible for the development and maintenance of the council's anti money laundering policy and will ensure that it is published on the Intranet as updated from time to time.

21.3 Where it is suspected that money or property has been stolen or otherwise misappropriated, or that a financial irregularity has occurred, the relevant Director shall immediately report the matter to the Chief Finance Officer. Except in trivial cases, the Chief Finance Officer shall report the circumstances to Corporate Directors and the Monitoring Officer who shall take such action as they may think fit.

21.4 Officers shall provide to the Monitoring Officer full details of any gift or hospitality in accordance with the requirements of the Officers' Code of Conduct.

22 Risk Management

22.1 The Associate Director Corporate Function, Procurement and Programme Office is responsible for managing and maintaining the council's Risk Management Policy Statement and Strategy, reviewing its effectiveness, advising Corporate Directors, Associate Directors, Cabinet and promoting robust and effective effective risk management throughout the council.

23 Internal Control

23.1 Internal control refers to the systems of control devised by management to help ensure the council's objectives are achieved in a manner that promotes the economic, efficient and effective use of resources and that the council's assets and interests are safeguarded.

23.2 The Chief Finance Officer is responsible for advising on effective systems of internal financial control. These arrangements need to ensure compliance with all relevant legislation, guidance and best practice. They shall ensure that public funds are properly safeguarded and used economically, efficiently, and in accordance with the statutory and other authorities that govern their use.

23.3 It is the responsibility of Associate Directors to establish sound arrangements for planning, appraising, authorising and controlling their operations in order to achieve continuous improvement, economy, efficiency and effectiveness and for achieving their financial performance targets.

24 Insurance

24.1 As part of Risk Management, the Associate Director Corporate Function, Procurement and Programme Office and the Chief Finance Officer are responsible for ensuring that proper insurance exists where appropriate and that the council has sufficient funds to meet potential liabilities and costs.

Part 10

Procurement and Contract Rules

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Part 10

Procurement and Contract Rules

SECTION A

GENERAL

1. Introduction

- 1.1 These Procurement and Contract Rules (the “Rules”) are the standing orders which apply to the acquisition of all supplies, services and works by or on behalf of the council. This includes council controlled schools and where the council acts as lead commissioner on behalf of a third party using external funds.
- 1.2 These Rules apply to the whole lifecycle of the procurement process, from initial concept to the end of an asset’s useful life or the end of the contract liability period.
- 1.3 These Rules are divided into Sections A, B and C:
 - 1.3.1 Section A (“General”) sets out the Objects and Principles of these Rules;
 - 1.3.2 Section B (“Procurement Procedure”) sets out the rules for planning a Procurement and the procedure which must be followed for every Procurement up to signature of the relevant contract; and
 - 1.3.3 Section C (“Contract Maintenance, Monitoring and Administration”) sets out the rules for managing the relevant contract until termination or expiry together with other administration matters.
- 1.4 These Rules must be read in conjunction with the Procurement Manual, an online toolkit which gives detailed instructions and guidance in their implementation. The Procurement Manual will be updated from time to time and officers must always refer to the latest information as published on the Intranet.
- 1.5 These Rules do not apply to:
 - 1.5.1 contracts of employment; or,
 - 1.5.2 contracts that relate solely to the purchase or acquisition of land; or,
 - 1.5.3 contracts awarded by schools which are outside the control of the council such as academies and foundation schools, or
 - 1.5.4 Investment Manager contracts awarded by the Wiltshire Pension Fund Committee

1.6 Concession Contracts

1.6.1 For public works concession contracts, subsidised works and subsidised service contracts connected to subsidised works (i.e. contracts under which the contractor is given the right to exploit the works) the council will be obliged to ensure that the concessionaire complies with relevant EU Regulations. Further advice is given in the Procurement Manual and a senior officer in the Strategic Procurement Hub should be contacted for advice, who will also engage legal services and accountancy

1.7 Utilities

1.7.1 Procurement of utilities is covered by The Utilities Contract Regulations 2006. This includes postal services but excludes telecommunications. For further information on scope of the Utilities Contract Regulations 2006 please refer to the Procurement Manual. A senior officer in the Strategic Procurement Hub should be contacted for advice, who will also engage legal services and accountancy

1.8 A list of the definitions used in these Rules is given at Appendix 1 attached to this Section A.

2. Objects

- 2.1 These Rules have three objects:
 - 2.1.1 to deliver Best Value;
 - 2.1.2 to manage and reduce the council's corporate risk;
 - 2.1.3 to ensure accountability for all procurement decisions.

3. Principles

- 3.1 All Procurements must comply with these Rules, the Procurement Manual, the Wiltshire Council Financial Regulations and Financial Procedure Rules, English law and European law in force in England. All procurements must remain, within budget both in year and the Medium Term Financial Plan assumptions unless approved in line with the Financial Regulations.
- 3.2 Whether or not a Procurement is subject to the EU Regulations, it must be conducted in accordance with the basic EU Treaty Principles. In particular, this means all Procurements must be carried out in a fair, open and transparent way.
- 3.3 Any change to the relevant English or European law must be observed until these Rules are revised. If these Rules or the Procurement Manual conflict in any way with English law or European law in force in England then that legislation takes precedence.
- 3.4 The strategic advice of Legal Services and the Strategic Procurement Hub and accountancy must be sought during the earliest stages of planning any Procurement. See further Section B of these Rules.
- 3.5 When any employee of either the council or of a service provider may be affected by any transfer arrangement under a Procurement or re-Procurement, issues relating to the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) must be considered and the Wiltshire Pension Fund must be consulted at the planning stage of the Procurement. Recognised trades union consultation must be carried out in compliance with the Externalisation, Procurement and the Workforce Agreement published on the Intranet (or any document which replaces or supplements that agreement). See further the Procurement Manual.
- 3.6 All Procurements must comply with the Best Value processes set out in the Procurement Manual.
- 3.7 Each Associate Director shall:
 - 3.7.1 be responsible for all Procurements undertaken for his or her service area;
 - 3.7.2 ensure that Best Value is achieved in all Procurements for his or her service area;
 - 3.7.3 ensure that during the earliest stages of planning any Procurement for his or her service area:
 - 3.7.3.1 the strategic advice of Legal Services, Accountancy, Human Resources and the Strategic Procurement Hub is sought; and

- 3.7.3.2 where appropriate, TUPE is considered and the Wiltshire Pension Fund consulted,
 - 3.7.4 assess the ability to join up spending / contracts across other service areas to secure efficiencies and value for money
 - 3.7.5 implement and operate a Scheme of Sub-delegation for his or her service area;
 - 3.7.6 in conjunction with the Strategic Procurement Hub, Accountancy and Legal Services, ensure that training on these Rules and the Procurement Manual is provided to Budget Managers and Commissioning Officers in accordance with the Procurement Manual;
 - 3.7.7 ensure that all Procurements for his or her service area are conducted in a fair, open and transparent way;
 - 3.7.8 ensure that Budget Managers in his or her service area comply with the duties listed at rule 3.8 below;
 - 3.7.9 ensure that Commissioning Officers in his or her service area comply with the duties listed at rule 3.9 below.
- 3.8 Each Budget Manager shall for all Procurements within his or her remit:
- 3.8.1 ensure compliance with these Rules, the Procurement Manual, the Wiltshire Council Financial Regulations and Financial Procedure Rules and EU Regulations (where applicable);
 - 3.8.2 ensure that the Best Value processes set out in these Rules and the Procurement Manual are achieved;
 - 3.8.3 ensure that only standard documentation or documentation approved by Legal Services is used in accordance with rule 7 below;
 - 3.8.4 operate within an effective check and challenge system and in line with the Behaviours Framework;
 - 3.8.5 ensure that the requirements from the Strategic Procurement Hub to provide information and documentation for the Corporate Contracts Register set out in these Rules are complied with in a timely manner.
- 3.9 Commissioning Officers must comply with these Rules and the Procurement Manual.
- 3.10 Key Performance Indicators will be used to monitor the operation of these Rules in accordance with the Procurement Manual. Results will be reported to Corporate Directors and Associate Directors regularly.
- 3.11 A successful challenge made under the community right to challenge set out in Part 5 of the Localism Act 2011 will trigger the procurement processes set out in these Rules.
- 3.12 The council must comply with its obligations and duties in respect of State Aid in its commercial arrangements with third parties. The rules on State Aid are set out in the Procurement Manual.

Definitions

In these Rules, the following words and phrases have the following meanings:

Behaviours Framework	The council's set of core behaviours which define how officers are expected to carry out their roles
Best Value	The optimum combination of whole life cost and benefits to meet the council's requirements, and includes consideration of social responsibility, equality, economic factors and sustainability
Budget Manager	An officer with budgetary responsibility for the spend relating to a Procurement
Contractor	Provider contracted to furnish supplies or undertake works
Commissioning Officer	An officer with strategic responsibility for commissioning a service
Contract Management	The administration of a completed contract by council officers to include ensuring compliance with its terms and conditions and implementation of any required variation
Corporate Contracts Register	The central repository of (i) key contracts information and (ii) electronic copies of those contracts, which is maintained and owned by the Strategic Procurement Hub and annually monitored by Legal Services
Corporate Procurement and Commissioning Board	A duly constituted board whose purpose is to check, challenge and approve Tender Level Procurements. The Corporate Procurement and Commissioning Board will act as an "approval gateway" to ensure that Tender Level Procurements are: (i) robust in approach, (ii) legally compliant, (ii) strategically sound and (iv) competitively sourced
Dynamic Purchasing System	A completely electronic process for procuring commonly used goods or services generally available on the open market.
EU Regulations	Public Contracts Regulations 2006 , as amended by the Public Contracts (Amendment) Regulations 2009 for legacy contracts awarded under that regime, and the Public Contracts Regulations 2015 .
EU Threshold	A financial threshold for supplies, services or works above which the EU Regulations apply
Exemption	Has the meaning given in rule 16.3

Financial Regulations	The Financial Regulations set out in the council's constitution as updated from time to time, which provide financial controls around commitments including contracts
Framework Agreement	An agreement which allows the council to call-off from a supplier a range or pre-defined supplies or services. Each call-off constitutes a standalone contract made on the terms and conditions of the Framework Agreement
Grant	Has the meaning given in Protocol 8 ("Wiltshire Council Partnership Protocol") of the constitution as updated from time to time
Invitation to Tender (ITT)	An invitation to tender documents in the form required by these Rules
OJEU	The Official Journal of the European Union
Value Assessment	A detailed analysis of the route to Procurement and options for Procurement which is both legally compliant and offers Best Value, as set out in the Procurement Manual
Partnership	Has the meaning given in Protocol 8 ("Wiltshire Council Partnership Protocol") of the constitution as updated from time to time
Procurement	The acquisition on behalf of the council of supplies, services or works of any value or type to include the entire process from initial planning to the end of the contract liability period or the end of an item's useful life
Procurement Manual	The council's online Procurement Manual as updated by the Head of Strategic Procurement from time to time and published on the Intranet
Procurement Plan	The schedule demonstrating a minimum of 12 months' forward planning of Tender Level Procurements for each service area, to be created and maintained in accordance with the Procurement Manual
Purchase Order	An order detailing the products or services required by the council. Sending a Purchase Order to a supplier constitutes a legal offer by the council to buy products or services. Acceptance of a Purchase Order by a supplier usually forms a one-off contract between the council and the supplier, so no contract exists until the Purchase Order is accepted
Rules	These Procurement and Contract Rules
Scheme of Sub-delegation	Delegation by corporate and Associate Directors to officers in their service areas of the authority to exercise on their behalf powers delegated to them under Part 3B of the constitution as updated from time to time

Tender	A supplier's formal written offer made in competition to supply specified supplies or services or carry out specified work at a stated cost or rate, made in response to an Invitation to Tender
Tender Level Procurement	Expenditure which exceeds the EU Regulation thresholds at which an advert must be placed in the Official Journal of the European Union

SECTION B

PROCUREMENT PROCEDURE

4. Planning each Procurement

- 4.1 Save where an Exemption is granted under rule 14 below (can we move to end of para a first procedure is exemption), every Tender Level Procurement or complex or resource intensive procurement below tender level must be planned in accordance with these Rules and the Procurement Manual.
- 4.2 The Procurement Plan is the schedule demonstrating a minimum of 12 months' forward planning of such Procurements for each service area, to be created and maintained in accordance with the Procurement Manual.
- 4.3 Unless there is a clear corporate benefit of procurement, for example facilities management, each Associate Director will be responsible for the Procurement Plan for his or her service area.
- 4.4 Each Budget Manager must ensure that his or her Procurements are represented in the Procurement Plan as soon as reasonably practicable in order to ensure timely consideration of the Procurement procedure which must be followed. They must also agree with Accountancy, before a Procurement Plan is submitted, that the council has the funds and other resources available to meet all its obligations under any contract(s) that may result. This includes having sufficient non-pay budget provision in year and future years. The level of contracted work will then be driven by the ability to afford a contract as approved by accountancy. The award will also consider the value for money of the tenders and financial sustainability of the contract

5. Corporate Procurement and Commissioning Board governance and approval of Tender Level Procurements

- 5.1 The Corporate Procurement and Commissioning Board will regularly review procurement and commissioning governance and recommend changes which enhance performance and added value activities.
- 5.2 The general powers of the Corporate Procurement and Commissioning Board are:
 - 5.2.1 To scrutinise and challenge planned Tender Level and outcomes/outputs of the procurement;
 - 5.2.2 To consider and recommend Tender Level Procurement spend at the assessment phase;
 - 5.2.3 To monitor the value added by the check and challenge system.
- 5.3 The reporting relationships between service areas, the Corporate Procurement and Commissioning Board, the Strategic Procurement Hub, Accountancy and Legal Services are set out in the Procurement Manual.
- 5.4 Every Potential Tender Level Procurement will be subject to an independent Value assessment carried out in accordance with these Rules and the

Procurement Manual, unless exempted from this process by the Corporate Procurement and Commissioning Board.

- 5.5 Each assessment report will be led by an Officer of the Strategic Procurement Hub. The Officer will work in collaboration with the relevant Commissioning Officer(s), including Legal and Accountancy, during the assessment and throughout the Procurement.
- 5.6 The Corporate Procurement and Commissioning Board will consider each assessment in order to check, challenge and approve Tender level procurements. Approval will be required from the Corporate Procurement and Commissioning Board before Tender Level Procurements can progress.
- 5.7 All procurement related Cabinet Reports must be approved by the Corporate Procurement and Commissioning Board prior to submission.

6. Procurement Procedure

- 6.1 The procurement procedure to be taken is dependent on the estimated value of the supplies, services, or works to be provided. Full details of the processes and related information are given in the Procurement Manual.
- 6.2 The value of the contract is the total value of the contract over its full duration including any extensions. Where the contract term is indeterminate or indefinite the value will be 48 times the monthly cost. When estimating the total value of a contract over its term, including extensions, all elements of cost must be considered not just the invoice value to be paid for the supplies, services or works.
- 6.3 A Request for Quotes (RfQ) procedure may be used for spend below the threshold defined for supplies and services in the EU Regulations for advertising contracts in the Official Journal of the European Union. Strategic Procurement Hub Officers may consider that an RfQ is not the best route to manage procurements below that threshold and may, for example, recommend a tender or use of a Public Buying Organisation framework where it is appropriate to do so. For procurements above EU Regulation thresholds as detailed in the Procurement Manual, a compliant procedure must be followed.

7. Form of Contract and Tender Documentation

- 7.1 All Procurements, regardless of value, must either:
 - 7.1.1 use the council's appropriate unamended model contract available on the Intranet as updated from time to time; or
 - 7.1.2 be referred to Legal Services to review the proposed contract or produce a new contract as appropriate.
- 7.2 In addition to the requirements of rule 7.1 all Procurements must either:
 - 7.2.1 use the SAP Purchase Order procedure; or
 - 7.2.2 the Form of Agreement for low value one-off procurement of supplies and services; or
 - 7.2.3 use the council's unamended standard tender templates which are available on the Intranet as updated from time to time; or
 - 7.2.4 be referred to the Strategic Procurement Hub to review the proposed tender documentation in conjunction with Legal Services.

- 7.3 Legal Services shall in conjunction with the Strategic Procurement Hub keep current and formally review all model contracts at least annually.
- 7.4 Contract Managers must provide relevant information required and register contract details on the corporate Contracts Register
- 7.5 Legal Services shall in conjunction with the Strategic Procurement Hub review all standard tender templates at least annually.
- 7.6 Where there is an existing, appropriate authorised contractual arrangement this must be used unless a business case led by the relevant Officer in the Strategic Procurement Hub is properly approved.

8. Receiving And Opening Tenders

- 8.1 All tenders must be received and opened in accordance with the council's "Tender Receiving and Opening Procedures" These can be found in the Procurement Manual.

9. Awarding Contracts and Audit Trails

- 9.1 The results of any evaluation process must be recorded in writing by the Officer in the Strategic Procurement Hub responsible for leading the Procurement.
- 9.2 Any Officer awarding a contract must have sought confirmation from accountancy that the council has the funds available to meet all its financial obligations within the service AND under the contract prior to signature.
- 9.3 Commissioning Officers must be aware that the placing of any business with a third party constitutes a contractual commitment which must comply with these Rules. Placing an order off an approved contract may be undertaken by Officers with appropriate delegated budgets where those orders are placed against existing contracts based on pre-agreed terms and pricing. If any negotiations on price or changes to terms and conditions are required to place an order an Officer in the Strategic Procurement Hub must be contacted to determine how to proceed.
- 9.4 Unless the Contract involves a function reserved to Full Council, Cabinet or a Committee (see Part 3 Section B of this Constitution) and subject to rule 9.6 below, the authority to approve the award of contracts as a result of a procurement exercise is delegated to Associate Directors (and their nominees) in accordance with the Scheme of Delegation.
- 9.5 Subject to the authority to award contracts being granted as per paragraph 9.4 and 9.6 these contracts may only be executed under Seal as per Section 10 or be signed by the following (and their nominees in accordance with their Scheme of Sub-Delegation)
 - 9.5.1 Solicitor to the Council for all contracts or,
 - 9.5.2 Associate Director for Corporate Office, Programme Office and Procurement
- 9.6 Cabinet approval must be obtained for any contract (or programme) which:
 - 9.6.1 Involves a key decision under this Constitution (see Part 1 paragraph 9);

- 9.6.2 exceeds an annual value of £1 million or the total contract value exceeds £4million including any optional extension period;
- 9.6.3 involves the transfer of 50 or more employees in or out of the council; or
- 9.6.4 relates to a matter which is commercially, politically or strategically sensitive.

9.7 The legal requirements for issuing contract award notices must be followed.

10. Contracts to be executed under Seal

10.1 Where a contract either:

10.1.1 exceeds £1m in value; or

10.1.2 is considered to be of a strategically important or politically sensitive nature; or

10.1.3 where the extended limitation period of 12 years would be of value,

the contract must be executed under seal, unless advised otherwise by Legal Services.

SECTION C

CONTRACT MAINTENANCE, MONITORING AND ADMINISTRATION

11. General

- 11.1 Budget Managers, Commissioning Officers and those managing contracts shall observe the contract management, supplier management, vendor accreditation and registration processes set out in the Procurement Manual.

12. Extensions to Contracts or Framework Agreements

- 12.1 The duration of a contract or Framework Agreement may only be extended if provision for that extension has been included in the terms of the contract or Framework Agreement.
- 12.2 The duration of Tender Level Procurements awarded under the EU Regulations may only be extended if provision for that extension was identified in the original OJEU Notice.
- 12.3 An extension should not be made where it would have the effect of changing the fundamental nature of the original contract and in no circumstances should an extension be made to a contract that has the effect of increasing the contract to a value over the EU Thresholds in force at that time.
- 12.4 The advice of the lead Officer in the Strategic Procurement Hub and Legal must be sought in relation to any proposals to extend a contract, even if a contractual option exists to explore if best value is offered from that option. This advice must be sought in an appropriate time period that would allow a new procurement to be undertaken if the advice is that the contract should not be extended.
- 12.5 All extensions must be fully documented and the signatories of the formal extension documents shall be Legal services or the same officers at 9.4.1 through 9.4.3.
- 12.6 Where the value of an extension exceeds £100,000.01 written approval must be obtained following consideration of a written report. The report should be addressed to the Head of Strategic Procurement and will be considered by the following officers as well as the Cabinet Member for Procurement:
- 12.6.1 Corporate Director
 - 12.6.2 Head of Strategic Procurement (or nominee);
 - 12.6.3 Head of Legal Services (or nominee);
 - 12.6.4 Section 151 Officer.
- 12.7 Cabinet approval must be obtained for any extension where the decision falls under the criteria for a key decision under the Constitution.

13. Variations to Contracts

- 13.1 In any case where a variation means that the value of a contract would exceed the relevant EU Threshold, or where there is any material change to the contract, the contract must be treated as a new Procurement under these Rules.
- 13.2 All variations to contracts must be fully documented, whether they have a financial impact or not, and the signatories of the variation documents shall be Legal services or the same officers at 9.4.1 through 9.4.3. Nil value variations may be signed by the Senior Category Manager.
- 13.3 Any variation resulting in additional spend above the budgeted contract level will need approval in accordance with the Financial Regulations and must be funded before a decision to vary is taken.
- 13.4 Cabinet approval must be obtained for any variation where the decision falls under the criteria for a key decision under the Constitution.

14. Exceptions to these rules

- 14.1 These Rules apply to all supplies, services and works purchased by the council. However, subject to rule 14.2, a formal exemption to the requirements of one or more of these Rules may be considered where the Procurement in question is not subject to the EU Regulations or existing legislation i.e. for procurement where the RfQ procedure may be used. Guidance on the exemption process is in the Procurement Manual.
- 14.2 Formal exemptions cannot be used to remove the requirement:
 - 14.2.1 to use un-amended model contracts and standard tender templates, or to seek the advice of Legal Services and the Strategic Procurement Hub where the standard documentation must be amended, in accordance with rule 7 above;
 - 14.2.2 to seek the advice of Legal Services and the Strategic Procurement Hub for all Tender Level Procurements.
- 14.3 The Strategic Procurement Hub may grant formal exemptions which fulfil the following strict criteria ("Exemptions"):
 - 14.3.1 Works orders placed with utility companies, e.g. for re-routing cables or pipework. The term utilities does not include telecommunications.
 - 14.3.2 Genuine emergencies – Critical preventative or remedial work where there is a real and imminent risk to the safety of people or property arising from a hitherto unforeseen 'catastrophic' event or incident such as fire, bombing, flooding, major landslide etc. Any contract entered into by the council under this exemption must not be for a term of more than 6 months.
 - 14.3.3 Collaborative/Joint Purchasing – Where another authority/public body is acting as 'lead buyer' and provided that the person(s) awarding the contract can demonstrate the arrangements comply with the requirements of Best Value and other applicable legislation including, where relevant, the EU Procurement Directives. This includes any recognised wider public sector agreements including, for example, Crown Commercial Services or successor contracts, etc.

- 14.3.4 Sole source of supply - Where suitable supplies or service are genuinely only available from one supplier (e.g. if patent, copyright or other exclusive design rights exist). Similarly, for any highly specialised/niche services where, for all practical purposes, no realistic alternative source of supply exists. Exemption requests made on this basis will be tested by the Strategic Procurement Hub using sourcing tools.
- 14.3.5 Urgent situations not of the council's own making – The urgency must have been reasonably unforeseeable (e.g. existing supplier going into liquidation, urgently imposed statutory changes, etc.) and genuinely be a case of 'time is of the essence'. However, urgency arising through problems of the council's own making (whatever the cause and regardless of whether it involved previous delays or shortage of resources, etc.) shall not in itself justify exemption. Any contract entered into by the council under this exemption must not be for a term of more than 6 months. Where extensions of contracts are entered into without an Opportunity Assessment, the Strategic Procurement Hub will seek a temporary extension term in order to allow a full Opportunity Assessment to take place as soon as reasonably practicable. The avoidance of Opportunity Assessments will be exceptional.
- 14.3.6 Reasons of compatibility - If compatibility with existing supplies, equipment or services is essential and where they cannot be sourced from another supplier (e.g. spare parts/components for existing equipment) or where additional units are being purchased to match existing equipment and there is an overwhelming case for matching the existing items on the grounds of functionality, aesthetics, etc.

Extraordinary Exemptions

- 14.4 Any Exemption which does not fulfil the strict criteria of rule 14.3 will be an "Extraordinary Exemption".
- 14.5 Only the Head of Strategic Procurement in conjunction with the Solicitor to the Council (or nominee) may grant an Extraordinary Exemption.

Procedure for Exemptions and Extraordinary Exemptions

- 14.6 Exemption requests made for one of the reasons under rule 14.3 must be submitted to a Business Partner in the Strategic Procurement Hub. Wherever possible, completed Exemption Request Forms should be scanned and submitted by email.
- 14.7 An Exemption will be either:
- 14.7.1 approved by the Strategic Procurement Hub, registered and confirmed with the requesting Commissioning Officer;
 - 14.7.2 held pending a request for further information (where appropriate);
 - 14.7.3 rejected stating the reasons why; or
 - 14.7.4 referred to Cabinet for determination.
- 14.8 Extraordinary Exemption requests must be submitted to the Head of Strategic Procurement ("Extraordinary Exemption Request Form"). Extraordinary Exemption Request Forms must include a full business case and must be countersigned by the relevant Service Director. Wherever possible, completed

- Extraordinary Exemption Request Forms should be scanned and submitted by email.
- 14.9 An Extraordinary Exemption will be either:
- 14.9.1 approved by two of the following three designated officers:
 - 14.9.1.1 The Head of Procurement;
 - 14.9.1.2 The Solicitor to the Council (or nominee); and
 - 14.9.1.3 The Section 151 Officer, and registered and confirmed with the requesting Commissioning Officer;
 - 14.9.2 held pending a request for further information (where appropriate) and then dealt with in accordance with rules 14.9.1, 14.9.3 or 14.9.4;
 - 14.9.3 rejected stating the reasons why; or
 - 14.9.4 referred to Cabinet for determination, and in the event of Cabinet approval, registered and confirmed in accordance with rule 14.9.1.
- 14.10 Within 10 working days of an Extraordinary Exemption approval made under rule 16, details of the approval decision and the attendant business case will be:
- 14.10.1 notified to the relevant Cabinet Member; and
 - 14.10.2 published on the Intranet, and the approval decision will normally be made available to the public, except where the notification of approval states that this would not be appropriate for legal reasons.
- 14.11 Service Directors must ensure that the information submitted in all Exemption Request Forms and Extraordinary Exemption Request Forms for his or her service area is correct.
- 14.12 The procurement may proceed only after the notification of approval is received by the Commissioning Officer.
- 14.13 All Exemption requests which would contravene English law or European law in force in England will be rejected.
- 14.14 If the Exemption is approved, the application form will be endorsed and returned to the relevant Commissioning Officer who must enter the contract on to the Corporate Contracts Register in accordance with rule 7. A copy of the Exemption will be retained by the Strategic Procurement Hub.

14 Partnerships and Grants

These Rules do not apply to Partnerships and Grants that are approved under the relevant policies and procedures.

STANDARDS COMMITTEE FORWARD PLAN 2016

<u>Meeting Date</u>	<u>Items</u>	<u>Councillors Briefing</u>	<u>Council Date</u>
<u>28 September 2016</u>	Review of Whistleblowing Policy Report on Complaints Constitutional Changes - Protocol 4 Planning Code Code of Conduct Complaints Procedure	<u>13 October 2016</u>	<u>18 October 2016</u>
<u>Future Items</u>	Review of Co-opted members Code of Conduct Training (Parish Councils)		

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