

AGENDA

Meeting: Standards Committee

Place: [Access the online meeting here](#)

Date: Wednesday 7 October 2020

Time: 2.30 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 Derek Brown OBE	Cllr Paul Oatway QPM (Chairman)
Cllr Andrew Bryant	Cllr Fred Westmoreland
Cllr Ernie Clark	Cllr Stuart Wheeler
Cllr Peter Evans	Mr Richard Baxter
Cllr Peter Fuller	Mr Philip Gill MBE
Cllr Howard Greenman (Vice-Chairman)	Mr Michael Lockhart
Cllr Ruth Hopkinson	Miss Pam Turner (non-voting)
Cllr Bob Jones MBE	

Substitutes:

Cllr Richard Britton	Cllr Peter Hutton
Cllr Trevor Carbin	Cllr George Jeans
Cllr Sue Evans	Cllr Gordon King
Cllr Nick Fogg MBE	Cllr Brian Mathew
Cllr Jon Hubbard	Cllr Graham Wright
Cllr Chris Hurst	

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AGENDA

Part 1

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

1 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

2 **Minutes** (*Pages 5 - 8*)

To confirm the minutes of the meeting held on 7 July 2020.

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**

The Council welcomes contributions from members of the public.

[Guidance on public accessing the meeting](#)

Statements

If you would like to make a statement at this meeting on any item on this agenda, please submit a copy of the statement by 5pm on 30 September 2020. 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 this agenda no later than 5pm on 30 September 2020 in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on 2 October 2020. 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 **Status Report on Code of Conduct Complaints** (*Pages 9 - 14*)

To receive a report from the Monitoring Officer.

7 **Recommendations from the Constitution Focus Group**

To receive a report from the Monitoring Officer.

8 **Appointment of Independent Persons** (*Pages 15 - 18*)

9 **Date of the next meeting**

To confirm the date of the next meeting.

10 **Urgent Items**

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 7 JULY 2020 AT ONLINE MEETING.

Present:

Cllr Ernie Clark, Cllr Peter Evans, Cllr Peter Fuller, Cllr Howard Greenman (Vice-Chairman), Cllr Ruth Hopkinson, Cllr Paul Oatway QPM (Chairman), Cllr Fred Westmoreland, Cllr Stuart Wheeler, Cllr Sue Evans (Substitute) and Mr Philip Gill MBE

Also Present:

Cllr Richard Clewer and Cllr Jo Trigg

1 **Apologies**

An apology for absence was received from Councillor Derek Brown OBE. Councillor Brown was substituted by Councillor Sue Evans.

Owing to technical difficulties, apologies were also received from Richard Baxter, Michael Lockhart and Pam Turner.

Since the last meeting Councillor Jon Hubbard had been added as a Substitute Member.

2 **Minutes**

The minutes of the meeting held on 14 November 2019 were presented for consideration and it was,

Resolved:

To approve and sign the minutes as a true and correct record.

3 **Declarations of Interest**

There were no declarations.

4 **Chairman's Announcements**

There were no announcements.

5 **Public Participation**

There were no questions or statements submitted.

6 **Status Report on Code of Conduct Complaints and Covid-19 Update**

A report from the Monitoring Officer was received on the current status of Code of Conduct complaints.

It was noted that during the Covid-19 pandemic initially meetings could not be legally held and determination by Sub-Committees had been paused, but that following government regulation meetings had now been held, with more scheduled.

Additionally, it was noted that since 1 January 2020 the revised procedure for determining complaints under Protocol 11 had come into effect. The Committee noted the use of authority of the Monitoring Officer to resolve complaints without reference to the Sub-Committee.

Resolved:

To note the report from the Monitoring Officer.

7 **Constitutional Changes**

A report from the Monitoring Officer was received setting out proposed changes to the Constitution as recommended by the Constitution Focus Group.

The changes included updates to the Policy Framework following a review of its contents, and significant changes to the terms of reference to the Wiltshire Pension Fund Committee and Local Pension Board, to clarify their roles and responsibilities among other changes as detailed in the report.

The Committee accepted the recommendations of the Focus Group to amend Part 3B and Protocol 2 accordingly.

The Committee also noted that the Human Resources Code of Conduct had been considered by the Staffing Policy Committee, and as Part 15 of the Constitution would be recommended to Council.

Resolved:

To recommend Council approve the proposed changes to Part 3B and Protocol 2 of the Constitution.

8 **Local Government Association: Model Code of Conduct Consultation**

A report was received from the Monitoring Officer providing details of a consultation overseen by the Local Government Association (LGA). Following a report on Local Government Ethical Standards from the Committee on Standards in Public Life on 30 January 2019, which was received by the Committee on 1 May 2019, it had been recommended that that LGA create an updated model Code of Conduct. This was in advance of any legislative changes which were recommended by the same report.

The consultation would run from 8 June 2020 to 17 August 2020 and the Committee was asked if and how it wished to respond.

The Committee discussed the draft Model Code of Conduct. It was noted that the draft Code was more detailed than the existing Model Code, providing examples of behaviours which might be a breach, additional details on interests which should be registered and declared and other details which at present Wiltshire's Code did not contain, but were included in adopted guidance to its Code.

The Committee noted in particular the inclusion in the draft Code of sections relating to behaving with civility, and not bringing a council into disrepute. Some Members considered these reasonable additions, but others were concerned they were overly broad or proscriptive, or might enable trivial complaints. Members also debated the section on when the Code would apply, and if its description of when someone was deemed to be representing their council.

It was also confirmed in debate that it had been recommended by the Committee on Standards in Public Life that the imposition of sanctions for parish councils be a decision of the principal authority, however this would require changes to legislation and at present the principal authority could only recommend sanctions to the relevant parish council.

The Committee considered that the council should respond to the consultation, but wished to ensure political groups were made aware so that individual Members could respond directly if they wished.

At the conclusion of debate, it was,

Resolved:

To delegate preparation of a response to the LGA consultation to the Monitoring Officer in consultation with the Chairman, to include seeking the views of Group Leaders.

9 **Standards Assessment Sub-Committee**

In accordance with the terms of reference of the Assessment Sub-Committee, the Committee reappointed the following Members to the Sub-Committee:

Councillor Richard Britton
Councillor Ernie Clark
Councillor Ruth Hopkinson
Councillor Fred Westmoreland
Councillor Stuart Wheeler

The Committee noted and endorsed the election by the Sub-Committee of Councillor Hopkinson as Chairman and Councillor Clark as Vice-Chairman.

The Committee also confirmed that Councillor Wheeler would continue to be the representative to the Constitution Focus Group.

10 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.05 - 3.00 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services,
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Wiltshire Council

Standards Committee

7 October 2020

Code of Conduct Complaints - Status Report

Statutory Background

1. All local authorities are required, by s.28 Localism Act 2011, to adopt a code of conduct for their members. All such codes are required to cover the following:
 - The principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership
 - The registration and disclosure of pecuniary and other interests
2. Wiltshire Council, as a principal authority, is required to have in place arrangements for investigating and determining allegations that a member of the Council, or a member of a parish council within the council area, has failed to comply with the relevant Code of Conduct.

Council Structure and Procedures

3. Wiltshire Council's arrangements for considering complaints about alleged code of conduct breaches are now set out in Protocol 11 to the Constitution, the procedure having changed with effect from 1 January 2020.
4. On receipt of such a complaint the Monitoring Officer will consider the complaint and prepare a report for the Assessment Sub-Committee. The Monitoring Officer may at this point decide not to take any further action on a complaint where, on the available information, it appears to be trivial, vexatious, malicious, politically motivated or 'tit for tat', and it would not be in the public interest, including particularly the efficient use of resources, to proceed.
5. All valid code of conduct complaints are now determined by the Assessment Sub-Committee, following receipt of the report from the Monitoring Officer. The assessment sub-committee may conclude that no further action should be taken, it may refer the complaint for investigation or it may recommend that an alternative resolution be explored with the parties.
6. If the sub-committee determine that a formal investigation should be undertaken, an Investigating Officer is appointed by the Monitoring Officer. If the recommendation of the Investigating Officer is that there has been a substantial breach of the Code of Conduct, and that alternative resolution is not appropriate, then the Monitoring Officer, after consultation with the Independent Person, will refer the matter to a Standards Hearing Sub-Committee.
7. This committee will conduct a hearing into the complaint to determine whether there has been a breach of the Code and, if so, what sanctions, if any, should be applied to the Subject Member (the councillor who is the subject of the complaint). If the Subject Member is a member of a town or parish council, the Hearing Sub-Committee's decision regarding sanctions will be in the form of a recommendation to the relevant council. There is no right of review of the assessment carried out by the Assessment

Sub-Committee.

8. The Standards Committee has oversight of the operation of the procedures for dealing with Code of Conduct complaints as well as a general responsibility to promote and maintain high standards of conduct by elected and co-opted members and officers.

Effect of Covid-19 Pandemic

9. In line with other committees of the council, during the coronavirus situation meetings of the Standards Committee and Assessment sub-committees were delayed until safe arrangements for meetings were devised or alternative arrangements could be made. Following discussions with group leaders, planning chairs and the constitution focus group, a new constitutional protocol was adopted by the Monitoring Officer under delegated powers in May and committee meetings resumed. Since the last online Standards Committee meeting on 7 July there have been two online meetings of the Standards Assessment sub-committee.

Summary of complaints received

10. Between 30 June 2020 and 20 September 2020, the Monitoring Officer received 19 complaints under the Code of Conduct.
11. A summary of the number of cases received each month is attached at **Appendix 1**.
12. Of the 19 cases received 3 have been withdrawn and 5 have been put on short-term hold at the request of the complainant. 10 cases are pending.
13. Members may note that August had a higher number than normal. This relates to particular issue that has arisen in a particular Parish/Town Council which led to a higher than higher number of complaints that is normal.
14. Members should also note that out of a total of forty three complaints received between January and August fifteen have been resolved by being withdrawn/alternative resolution of by the new screening process under 4.6. This amounts to 34.8% of complaints resolved without the need for formal resolution. Of the fourteen complaints not on hold that were received between the end of June and 20 September 2020 three (21.4%) have been resolved without the need for formal resolution.

Determinations

- I. Matters determined by Monitoring Officer under Paragraph 4.6 (trivial, vexatious, malicious or politically motivated)

In the period since the last meeting 2 matters have been so determined by the Monitoring Officer or his representatives.

- II. Investigations

In the period since the last meeting, the Assessment sub-committee have determined that 5 investigations take place (2 from complaints received in April, 2 from those received in May and 1 from a complaint received in June).

- III. No Further Action

In the period since the last meeting, the Assessment sub-committee have determined that no further action be taken on 4 matters (2 from June and 2 from July).

IV. Mediation

One matter from June has been referred for mediation by the Assessment sub-committee.

Types of Complaint

15. The complaints received since June cover a number of issues. They all allege some form of inappropriate behaviour, such as failing to treat the complainant with respect, bullying or posting inappropriate remarks or material on social media.

Proposed increased Audit of Code of Conduct Complaints procedure

16. As a result of a review of the Code of Conduct Complaints Procedure by the Monitoring Officer in consultation with the chair, it is proposed that the chair in conjunction with the Monitoring undertake a regular random dip sampling of complaints received and actioned to ensure the level of quality and timeliness of the procedure is being maintained and the outcome of such random audit will be reported to the next available standards Committee

Proposal

17. The Committee are asked:
 - a. To note the current position on Code of Conduct Complaints
 - b. To consider whether there is any further or different information that they would wish to see in future updates
 - c. To note the additional monitoring of the Code of Conduct Complaints Procedure being developed

Ian Gibbons, Monitoring Officer

Report Author: Paul Barnett, Acting Team Leader, Public Law and Compliance

Appendix 1 – Summary of Complaints

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Appendix 1

Monthly Code of Conduct Cases 2020

	Cases received	Assessed by Assessment Sub Committee - Investigation	Assessed by Assessment Sub Committee - no further action	Alternative Resolution/complaint withdrawn	Pending assessment by Assessment Sub Committee (*assessed & decision notice being Finalised)	Other	Complaints Determined by MO under Paragraph 4.6
January	4	0	0	1	0	0	3
February	4	0	0	1	0	1	2
March	2	2	0	0	0	0	0
April	5	2	0	2	0	0	1
May	3	2	0	1	0	0	0
June	5	1	3	1	0	0	0
July	4	0	2	1	0	1 [^]	0
August	10	0	0		5	4 [^]	2
Sept	5	0	0	0	5	0	0

[^] = on hold at request of complainant

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Wiltshire Council

Standards Committee

7 October 2020

Recommendations of the Constitution Focus Group: Part 3B of the Constitution

Purpose of Report

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group in relation to Part 3B and Protocol 2 of the Constitution including:
 - Paragraphs 1.1 and 1.2 of Part 3B – Policy Framework
 - Paragraph 2.8 – Audit Committee

Background

2. The Standards Committee has responsibility for oversight of the Council's constitution. It has established a cross party working group, known as the Constitution Focus Group, to advise and assist in carrying out this function.
3. The Focus Group met on 15 January 2020 to review sections of the Constitution set out above, with the notes contained at **Appendix A**.
4. Following discussion at the last meeting of Full Council, further work has been undertaken as requested to ensure the terminology included in the proposed amendments is accurate and consistent with the relevant legislation.
5. The Focus Group met on 28 September 2020 to consider the sections, with the notes contained at **Appendix B**.
6. The Health and Wellbeing Board has also requested a change to its terms of reference to include additional members.

Main Considerations

Policy Framework

7. The Policy Framework is a list of key documents and policies which are required to be approved by Full Council. This is either because it is statutorily required, or by previous decision of Full Council.
8. As legislation and strategies change, the policy framework requires periodic review and updating. A review was therefore undertaken by the Corporate Governance Working Group.
9. The review identified a number of items which were no longer required to be approved by Full Council, or had been added to the required list, and a number of items were proposed to be removed as Full Council approval was not the most appropriate method for their review and approval.
10. The review approach taken was as follows:

Routes to updating the constitution

Six routes to achieving the aim of this work have been identified

- I. Validation of cited legislation and strategies in the constitution as current
- II. Addition of emerging legislation and strategies to the constitution
- III. Deletion of redundant legislation and strategies from the constitution
- IV. Removal of redundant legislation and strategies from the constitution through consultation with the Constitution Focus Group
- V. Existing or emerging strategies which have not yet been signed off as per the constitution which can either be removed from 3B or signed off correctly
- VI. Existing or emerging strategies which may make more sense for full council to sign off

Items to update by appropriate route

I. Validation of cited legislation and strategies in the constitution as current

- Emergency plans and civil contingency plans, as required by the Civil Contingencies Act 2004;
- Local Transport Plan, as required by the Transport Act 2000;
- Local development documents (including supplementary planning documents) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;
- Corporate Equality Plan, pursuant to the Public Sector Equality Duty under s149 of the Equality Act 2010;
- Homelessness Strategy, as required by the Homelessness Act 2002;
- Licensing Authority Policy Statement, as required by the Licensing Act 2003;
- Gambling Act Statement of Principles, as required by the Gambling Act 2005;
- Pay Policy Statement, as required by the Localism Act 2011;
- Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006.
- Corporate Parenting Policy for Looked After Children and Young People in Wiltshire;
- Business Plan

II. Addition of emerging legislation and strategies to the constitution as statutory plans (rather than under the non-statutory section)

- Air Quality Strategy, as required by the Environment Act 1995;
- Contaminated Land Strategy, as required by Part 2A Environmental Protection Act 1990;

III. Deletion of redundant legislation and strategies from the constitution

- Wiltshire Children and Young People's Plan, as required by the Apprenticeships, Skills, Children and Learning Act 2009;
- Joint Strategic Assessment of Crime and Policing, as required by the Crime and Disorder Act 1998;

- *Child Poverty Strategy, as required by the Child Poverty Act 2010;*

IV. Removal of redundant legislation and strategies from the constitution through consultation with the Constitution Focus Group

- *Adult Learning Plan*
- *Customer Access Strategy*
- *Young Carers' Strategy*
- *Adult Care Transformation*
- *Food Safety, Food Standards and Food Law Enforcement Service Plan, as required by the Food Standards Agency*
- *Housing Strategy*

V. Existing or emerging strategies which have not yet been signed off as per the constitution which can either be removed from 3B or signed off

- *Youth Justice Plan, as required by the Crime and Disorder Act 1998; The annual [Youth Justice Plan](#) has currently been signed off by the cabinet member and YOT Board not full council (suggest removal);*
- *Housing Renewal Strategy, as required by the Housing Act 2004; this strategy is currently under development (suggest retention);*
- *Corporate Asset Investment Strategy and Corporate Property Strategy; the equivalent of the [Corporate Asset Investment Strategy/ Corporate Property Strategy](#) was signed off by cabinet not full council (suggest removal)*

There is scope to remove these from part 3B or take the documents through full council for sign off.

VI. Existing or emerging strategies which may make more sense for full council to sign off

- *Treasury Management Policy*
- *Capital Investment Strategy*
- *Household Waste Management Strategy*

11. Following the completion of these six routes which was presented to the Focus Group, who also requested the Carbon Reduction Strategy should be included as policy framework item, Part 3B of the constitution would read as below:

*Adopting the following **statutory plans**, strategies and documents as part of the policy framework of the Council:*

- *Emergency plans and civil contingency plans; Civil Contingencies Act 2004*
- *Local Transport Plan; Transport Act 2000*
- *Local development documents (including supplementary planning documents) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;*
- *Corporate Equality Plan; Public Sector Equality Duty under s149 of the Equality Act 2010*

- *Homelessness Strategy; Homelessness Act 2002*
- *Housing Renewal Strategy; Housing Act 2004*
- *Licensing Authority Policy Statement; Licensing Act 2003*
- *Gambling Act Statement of Principles; Gambling Act 2005*
- *Pay Policy Statement; Localism Act 2011*
- *Enforcement Policy; Legislative and Regulatory Reform Act 2006*
- *Air Quality Strategy; Environment Act 1995*
- *Contaminated Land Strategy; Part 2A Environmental Protection Act 1990*

Adopting the following **non-statutory plans**, strategies and documents which also form part of the policy framework of the Council:

- *Corporate Parenting Policy*
- *Business Plan*
- *Treasury Management Policy*
- *Capital Investment Strategy*
- *Household Waste Management Strategy*
- *Climate Strategy (inc. Carbon Reduction)*

Health and Wellbeing Board

12. Under the Health and Social Care Act 2012, the Health and Wellbeing Board may appoint such additional persons to be members of the Board as it thinks appropriate, subject to approval by the local authority.
13. The Health and Wellbeing Board discussed at its meeting on 24 September 2020 that an additional member (a representative from Wiltshire Health and Care) be added to its membership as a non-voting member. It is proposed this member will be a non-voting member of the Board since Wiltshire Health and Care are a provider of community health services, rather than a commissioner.
14. The objective of this appointment is to include this key stakeholder in the discussions about health and wellbeing, in particular to help develop the Integrated Care System. In addition, it is proposed a representative from Dorset and Wiltshire Fire Service also be added as a non-voting member, the DWFS have been a long-standing attendee at the Health and Wellbeing Board and it is requested this position ratified to confirm the ability for the Fire Service to participate as a partner supporting public health.

Audit Committee

15. The Focus Group agreed to recommend that the name of the Audit Committee be amended to the Audit and Governance Committee, to better reflect its remit.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk Assessment

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

Financial Implications

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

Legal Implications

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

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Proposal

23. **To recommend Full Council approve the revisions to Part 3B of the Constitution as set out in Appendix C.**

Ian Gibbons, Director, Legal and Governance

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

Appendices

Appendix A – Constitution Focus Group notes –15 January 2020
Appendix B – Constitution Focus Group notes –28 September 2020
Appendix C – Proposed changes to Part 3B

Background Papers

[Part 3 of the Constitution](#)

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Constitution Focus Group

NOTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 15 JANUARY 2020 AT COUNCIL CHAMBER - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

Present:

Cllr Richard Clewer (Chairman), Cllr Richard Britton, Cllr Jon Hubbard and Cllr Graham Wright

1 **Apologies**

Apologies were received from Councillors Ian Thorn and Stuart Wheeler.

2 **Notes of the Previous Meeting**

The notes of the meeting held on 2 September 2019 were presented for consideration and it was,

Resolved:

To approve and sign the notes as a true and accurate record.

3 **Protocol 2 and Part 3B of the Constitution: Local Pension Board Terms of Reference and Responsibility for Functions (Wiltshire Pension Fund Committee Terms of Reference)**

Following its meeting on 14 June 2019 the Focus Group received updated proposed terms of reference for the Local Pension Board and the Wiltshire Pension Fund Committee.

The Focus Group examined each terms of reference and made a number of suggested amendments to the wording to improve clarity. Revisions were requested in relation to details around delegation to officers or requests made to the Board, references to registers of interest, appointment and confirmation of Chair of the Board, the role of the Investment Sub-Committee, speaking rights, annual reports, appointment of employer representatives and other minor changes.

At the conclusion of discussion, it was,

Resolved:

To receive updated terms of reference taking into account the comments of the Focus Group, at its next meeting.

4 **Part 3B Policy Framework**

The Focus Group received a report proposing a review of Part 3B of the Constitution in respect of the Policy Framework, a list of policies which required approval by Full Council. This included items required by statute to be approved by Full Council and discretionary items which at some point it had been determined should be approved by Full Council.

The list had been reviewed as a number of items were no longer required to be approved by Full Council or had been added to the required list, and it was proposed a number of policy framework items be removed as this was not the most appropriate method for their review and approval.

The Focus Group considered the list, with comments suggesting the Carbon Reduction Strategy should also be approved by Full Council, and discussion of how to develop reviewed policies alongside scrutiny. It was also confirmed that any such strategies required approval by Cabinet prior to confirmation by Full Council.

Resolved:

To request Standards recommend approval of the proposed amendments to Part 3B of the Constitution, and to encourage future reviews of policy framework items to require scrutiny involvement.

5 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.30 - 4.10 pm)

The Officer who has produced these notes 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

Constitution Focus Group

MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 28 SEPTEMBER 2020 AT ONLINE MEETING.

Present:

Cllr Richard Clewer (Chairman), Cllr Richard Britton, Cllr Jon Hubbard and Cllr Stuart Wheeler

18 **Apologies**

Cllrs Thorn, Rogers and Wright were not in attendance.

19 **Notes of the Previous Meeting**

Resolved:

To approve the notes of the previous meeting.

20 **Part 3B: Policy Framework**

The revised wording for policy framework items (Part 3 B of the Constitution) that required Full Council approval was discussed following a request from Council to confirm there would be no change to the requirement for it to determine certain planning documents. It was confirmed there was no change in this respect and the proposed wording had been amended to reflect this.

It was requested that reference to the Climate Change Strategy be amended to Climate Strategy as this was the current name for this document. This would be confirmed by officers prior to making this change.

It was discussed that the Youth Justice Plan and the Corporate Asset Investment Strategy and Corporate Property Strategy were currently adopted by Cabinet, and the proposals reflected this approach.

Resolved

To approve the revised wording in for Part 3B, subject to an amendment to the title 'Climate Strategy'.

21 **Audit Committee**

It was discussed that it was common practice for Audit Committees to include reference to 'Governance' in their name since it was a significant element of the Committee's remit. A request had been made to update the name of the committee in this way to accurately reflect its responsibilities, noting it would not change the Terms of Reference.

It was noted the request was for implementation in May 2020, however it was requested this be implemented as soon as possible.

Resolved:

To recommend to the Standards Committee a change in the name of the Audit Committee to Audit and Governance Committee noting that no changes are required to the existing Terms of Reference of the committee.

22 **Monitoring Officer Updates**

The Focus Group heard a verbal update on changes the Monitoring Officer planned to make to the Constitution under delegated powers.

Resolved:

To note intended updates to the Constitution by the Monitoring Officer:

a) Update references to Executive Officers, Chief Executive Officers throughout to reflect the new management structure.

b) Update the temporary Planning Committee Remote Procedure to confirm that members of the public can now attend to deliver their own statement.

c) Update references to the Consultation Strategy.

23 **Requests from Councillors and other matters**

The Focus Group considered a request to review the Media Guidance for councillors, it was agreed that a review by the Focus Group was not a current priority as it remained fit-for-purpose, however the guidance would be checked for accuracy.

Resolved:

To request that officers review the content of the guidance for any factual updates needed such as references to legislation.

24 **Urgent Items**

The Focus Group was updated that the Health and Wellbeing Board and the Corporate Parenting Panel wished to make changes to their membership and these would be reported to Full Council.

(Duration of meeting: 1.30 - 1.55 pm)

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**Wiltshire Council
Constitution
Part 3B
Responsibility for Functions**

PART 3

RESPONSIBILITY FOR FUNCTIONS

SECTION B: FUNCTIONS OF COUNCIL, COMMITTEES AND CABINET

1. The Council

The Council will be responsible for the following functions, which it will exercise only in Full Council meetings:

1.1 Adopting the following statutory plans, strategies and documents as part of the policy framework of the Council:

~~1.1.1 Wiltshire Children and Young People's Plan, as required by the Apprenticeships, Skills, Children and Learning Act 2009;~~

~~1.1.2 Joint Strategic Assessment of Crime and Policing, as required by the Crime and Disorder Act 1998;~~

~~1.1.3~~ 1.1.1 Emergency plans and civil contingency plans, as required by the Civil Contingencies Act 2004;

~~1.1.4~~ 1.1.2 Local Transport Plan, as required by the Transport Act 2000;

~~1.1.5~~ 1.1.3 Local development documents (including supplementary planning documents) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;

~~1.1.6 Youth Justice Plan, as required by the Crime and Disorder Act 1998;~~

~~1.1.7~~ 1.1.4 Corporate Equality Plan, pursuant to the Public Sector Equality Duty under s149 of the Equality Act 2010;

~~1.1.8~~ 1.1.5 Homelessness Strategy, as required by the Homelessness Act 2002;

~~1.1.9~~ 1.1.6 Housing Renewal Strategy, as required by the Housing Act 2004;

~~1.1.10~~ 1.1.7 Licensing Authority Policy Statement, as required by the Licensing Act 2003;

~~1.1.11~~ 1.1.8 Gambling Act Statement of Principles, as required by the Gambling Act 2005;

~~1.1.12~~ 1.1.9 Pay Policy Statement, as required by the Localism Act 2011;

~~1.1.13 Child Poverty Strategy, as required by the Child Poverty Act 2010;~~

1.1.10 Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006.

1.1.11 Air Quality Strategy, as required by the Environment Act 1995;

~~1.1.14~~ 1.1.12 Contaminated Land Strategy, as required by Part 2A of the Environmental Protection Act 1990

1.2 Adopting the following non-statutory plans, strategies and documents which also form part of the policy framework of the Council:

~~1.2.1 Adult Learning Plan;~~

~~1.2.2 Customer Access Strategy;~~

~~1.2.3 Young Carers' Strategy;~~

~~1.2.4 Adult Care Transformation;~~

~~1.2.5 Corporate Asset Investment Strategy and Corporate Property Strategy;~~

~~1.2.6~~1.2.1 Corporate Parenting Policy ~~for Looked After Children and Young People in Wiltshire;~~

~~1.2.7~~1.2.2 Business Plan;

~~1.2.8~~ Food Safety, Food Standards and Food Law Enforcement Service Plan, as required by the Food Standards Agency;

~~1.2.9~~ Housing Strategy;

~~1.2.10~~ Air Quality Strategy, as required by the Environment Act 1995;

~~1.2.11~~ Contaminated Land Strategy, as required by Part 2A Environmental Protection Act 1990;

~~1.2.12~~ Such other plans and strategies as the Council may include to form part of its policy framework.

1.2.3 Treasury Management Policy

1.2.4 Capital Investment Strategy

1.2.5 Household Waste Management Strategy

1.2.6 Climate Strategy (including Carbon Reduction)

Audit and Governance Committee

Composition

2.8.1 The size of the Audit and Governance Committee and appointments to it will be determined by Council. Appointments will be made having regard to rules on political proportionality.

2.8.2 The Audit and Governance Committee will exclude Members of the Cabinet. The Leader of the Council or the cabinet Member responsible for finance and governance is a non-voting Member of the Committee.

2.8.3 Substitute Members will be permitted in accordance with Part 4 of this Constitution.

Role and Function

2.8.4 The Audit and Governance Committee will be responsible for:

2.8.5 External Audit Activity:

- To receive and comment on the external audit plan;
- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;
- To comment on the scope and depth of external audit work and to ensure it gives value for money;
- To monitor the implementation of management actions arising from external audit work.

2.8.6 Internal Audit Activity:

- To approve the terms of reference and strategy for internal audit, and the annual internal audit plan and subsequent changes thereto;
- To monitor and review the effectiveness of internal audit to ensure compliance with statutory requirements;
- To consider the Head of Internal Audit's annual report and opinion, and a summary on internal audit activity and the level of assurance it provides on the Council's corporate governance arrangements;

- To consider specific internal audit reports as requested, and monitor the implementation of agreed management actions.

2.8.7 Regulatory Framework:

- To monitor and review the effective development and operation of corporate governance, risk and performance management and internal control, and to receive progress reports as required;
- To oversee the process for production of the annual governance statement (AGS), to review the supporting evidence including the arrangements for governance of partnership working, and to approve the draft AGS;
- To monitor the development and implementation of the Council's anti-fraud and corruption policy and strategy.

2.8.8 Financial Management and Accounts:

- To ensure the Council's arrangements for financial management are adequate and effective, and, together with its accounting policies, are regularly reviewed;
- To review and approve the annual statement of accounts;
- To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

Wiltshire Council

Standards Committee

7 October 2020

Appointment of Independent Persons

Purpose of Report

1. This report asks the Standards Committee to approve the process and timetable for the appointment of three Independent Persons to assist the Monitoring Officer with Code of Conduct Complaints in accordance with the Localism Act 2011.

Background

2. The Council is required under the Localism Act 2011 to appoint at least one Independent Person (IP) whose views must be sought and taken into account before the Council makes a decision on an allegation it has decided to investigate. The views of the IP may also be sought on other allegations, and by a member who is the subject of an allegation.
3. At its meeting on 10 July 2012 the Council appointed three IPs to fulfil their statutory role, as set out in the job specification attached at **Appendix 1**. The role involves:
 - advising and assisting the Council in discharging its duty to promote and maintain high standards of conduct by elected and co-opted members.
 - advising elected and co-opted members of Wiltshire Council and Parish, Town and City Councils in Wiltshire in connection with complaints made against them under their Code of Conduct.
 - advising the Monitoring Officer in connection with the initial assessment, review and hearing of member misconduct complaints in accordance with the Council's complaints procedure.
4. The three current IPs, Mr Stuart Middleton; Mrs Caroline Baynes and Mr Tony Drew have discharged their role in an exemplary manner. The IPs have been involved in hundreds of complaints and under the old procedures were consulted by the Monitoring Officer for initial assessments, and under the current procedure sit with each Assessment Sub-Committee to consider complaints..
5. Each IP has been appointed for the full council term of four years, and therefore will come to an end of their terms in May 2021. As IPs are also appointed to be consulted by those subject to complaints, it would be necessary for Full Council to appoint IPs at the first meeting following the election in May 2021.

Main Considerations

6. In appointing IPs, the Council is required by the Localism Act 2011 to advertise for a vacancy in a manner considered appropriate; applicants are to submit formal applications

for the position, and the appointment must be approved by a majority of members of the Council.

7. It is proposed that a selection panel, comprising the two members of the Standards Committee, including at least one of the Chairman or Vice-Chairman, and a Co-opted Member of the Standards Committee is convened by the Monitoring Officer to shortlist and interview candidates for the role following advertisement on the Council's web site and receipt of applications. If any current IPs are not seeking reappointment it may be appropriate that they be involved in the process, for instance assistance in drafting the role description and advert.
8. The Standards Committee will be advised of the successful candidates at a meeting in 2021 April with a view to recommending them for appointment by the Council in May.
9. The Localism Act 2011 requires that at least one IP is appointed. However, the Council decided that three IPs should be appointed to provide the necessary support to the Monitoring Officer, subject members, and ensure that there is sufficient cover overall to manage all the complaints that are received efficiently. These arrangements have worked very well and it is strongly recommended that the Council continues with the same number of IPs.

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk assessment

12. There are no significant risks arising from this report.

Financial Implications

13. The IPs each currently receive remuneration of £2,522 a year for carrying out their duties. This sum is adjusted in accordance with the annual pay award to council staff, as with Member allowance, and was set by Council in 2011/17 in accordance with the recommendation of the Independent Remuneration Panel.

Legal Implications

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

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

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

Recommendation

17. **The Standards Committee is therefore asked to authorise the Monitoring Officer, in consultation with the Chairman, to take all necessary steps to secure the appointment of three Independent Persons at the meeting of Full Council on following the election in May 2021.**

Ian Gibbons, Director of Legal and Governance

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