

## AGENDA

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**Meeting:** Standards Committee  
**Place:** Salisbury Room - County Hall, Trowbridge  
**Date:** Monday 20 January 2014  
**Time:** 2.00 pm

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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](mailto: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](http://www.wiltshire.gov.uk)

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### Membership:

Cllr Desna Allen	Cllr Howard Marshall
Cllr Allison Bucknell	Cllr John Noeken (Vice Chairman)
Cllr Trevor Carbin	Cllr Paul Oatway QPM
Cllr Terry Chivers	Cllr Horace Prickett
Cllr Howard Greenman	Cllr Ian Tomes
Cllr Julian Johnson (Chairman)	(1 Vacancy)

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### Substitutes:

Cllr Rosemary Brown	Cllr George Jeans
Cllr Chris Caswill	Cllr Simon Killane
Cllr Ernie Clark	Cllr Sheila Parker
Cllr Mary Douglas	Cllr Pip Ridout
Cllr Dennis Drewett	Cllr John Walsh
Cllr Russell Hawker	Cllr Roy While
Cllr Chris Hurst	

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### Non-Elected Non-Voting Members:

Mr Philip Gill MBE JP  
Mr Paul Neale  
Mr John Scragg  
Miss Pam Turner

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## Part 1

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

1 **Membership Changes**

To note any changes to membership of the Committee

2 **Apologies for Absence**

To receive any apologies or substitutions for the meeting.

3 **Minutes of the Previous Meeting** (*Pages 1 - 6*)

To confirm the minutes of the meeting held on 9 October 2013.

4 **Declarations of Interest**

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

5 **Chairman's Announcements**

To receive any announcements through the Chair.

6 **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 Monday 13 January 2014**. 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.

7 **Status Report on Complaints** (*Pages 7 - 8*)

The Monitoring Officer will report the current status of Complaints under the Code of Conduct at the meeting.

8 **Recommendations from the Constitution Focus Group** (Pages 9 - 26)

To consider the recommendations of the Constitution Focus Group regarding Part 5 of the Constitution - Access to Information Procedure Rules.

Attached are the Minutes from the Focus Group Meeting on 8 January 2014, the Report on the Changes to the Constitution and a Revised Part 5 with Tracked Changes.

9 **Forward Plan** (Pages 27 - 28)

To make any additions or comment to the Forward Work Plan.

10 **Urgent Items**

Any other items of business which, in the opinion of the Chairman, should be taken as a matter of urgency

**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*

None

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## STANDARDS COMMITTEE

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**DRAFT MINUTES OF THE STANDARDS COMMITTEE MEETING HELD ON 9 OCTOBER 2013 AT COUNCIL CHAMBER - COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM, SN15 1ER.**

**Present:**

Cllr Desna Allen, Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Howard Greenman, Cllr Russell Hawker (Substitute), Cllr Julian Johnson (Chairman), Cllr Howard Marshall, Cllr John Noeken (Vice Chairman), Cllr Paul Oatway, Cllr Ian Tomes and Cllr Christopher Williams

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**39 Apologies for Absence**

Apologies were received from Councillors Terry Chivers, Horace Prickett and Miss Pam Turner.

Councillor Chivers was substituted by Councillor Russell Hawker.

**40 Minutes**

The minutes of the meeting held on **10 July 2013** and the attached proposed constitutional changes were presented. It was,

**Resolved:**

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

**41 Declarations of Interest**

There were no declarations.

**42 Chairman's Announcements**

The Chair thanked officers for the training session on Standards Hearings, Reviews and Dispensation Sub-Committees for Members that had taken place at 1030 on 09 October 2013.

**43 Public Participation and Questions**

There were no questions or statements submitted.

#### 44 **Standards Hearing Sub-Committee**

The minutes of the meeting of the Standards Hearing Sub-Committee on 30 July 2013 as approved by the Sub-Committee on 03 September 2013, and the minutes of the Sub-Committee on 03 September 2013 (as attached) were presented.

It was,

#### **Resolved:**

**To accept the minutes of the Standards Hearing Sub-Committees on 30 July 2013 and 03 September 2013.**

#### 45 **Review of the Effectiveness of the Code of Conduct and Complaints Procedure**

The Localism Act 2011 introduced a new standards framework which came into effect on 1 July 2012. Wiltshire Council, as a principal authority, was required under the provisions of the new legislation to make a number of significant changes to its arrangements governing standards of member conduct. In July 2013 the Committee requested an update on the Code of Conduct and the Complaints procedure since its implementation.

The Monitoring Officer therefore presented a report and appendices reviewing the operation and effectiveness of the new arrangements from 1 July 2012 to date.

It was highlighted that there had been few complaints since the implementation of the new arrangements, and that to date there had been no complaint which had been referred for investigation which had been received since the new procedure had been put in place. The only investigations had related to complaints made under the old regime, but dealt with under the new arrangements.

Attention was drawn to suggestions for improvements to the operation of the current procedure from the Independent Persons who advised both subject members and the Monitoring Officer during the complaints procedure, including simplifying the communication of the process to prospective complainants, streamlining investigations, maximising the opportunity for alternative resolutions of complaints at an early stage, and other steps as detailed in the report. These would be followed up by the Monitoring Officer

Concerns were raised by some members in relation to comments from the Independent Persons that the absence of clear provision on the expected standards of behaviour of elected councillors in the Code of Conduct was resulting in cases being rejected that might otherwise have been put forward for investigation, with the risk of potentially undermining public confidence in the process.

The Committee noted the summary on the outcome of complaints received so far under the new regime but felt that it was too soon to give any proper assessment of the effectiveness of the council's code and arrangements and that more time was need to allow these to bed down.

The Committee also noted the trends drawn from other authorities in the country on the code of conduct and process for handling complaints. In order to assess the effectiveness of these arrangements some members felt that it was necessary to ascertain from the public the extent to which the arrangements were upholding high standards of conduct in local government and public confidence in local democracy. There was discussion on how this might be explored.

The issue of political proportionality on the sub-committees of the standards committee was raised and there was unanimous support for the current position to be reversed so that these were no longer subject to political proportionality. This would open the membership of the sub-committees to more members and help avoid any perception that the sub-committees are politically driven. However, this approach to membership could only be implemented if no Councillor voted against the proposal at full council.

At the conclusion of debate, it was,

**Resolved:**

- 1) To note the report from the Monitoring Officer**
- 2) To ask the Monitoring Officer to consider how to assess the effectiveness of the council's standards arrangements from the public's perspective, to obtain further information on the position nationally and to report back to the Committee.**
- 3) To recommend Council to amend the terms of reference of the Standards Committee to remove the requirement for political proportionality in relation to its sub-committees, but including a requirement of a maximum of two elected members from any political group on any sub-committee.**

**46 The Local Government Ombudsman's Annual Letter for the Year Ended 31 March 2013**

The Annual Review letter to the Council from the Local Government Ombudsman (LGO) providing a summary of statistics on the complaints made to the LGO regarding Wiltshire Council was presented., It was noted that there had been a total of 63 complaints, against an average of 36 for Unitary Authorities in general, although there was no comparison based on size, as Wiltshire was a large Unitary Authority.

It was noted with some disappointment that more detailed information would not be forthcoming from the LGO due to a change in their business processes

during the year. It was noted from the summary report accompanying the letter that complaints were made across a broad range of services, highlighting no major concerns with any particular service, and officers were providing good responses to the LGO on complaints.

**Resolved:**

**To note the Annual Review letter from the Local Government Ombudsman.**

**47 Status Report on Complaints Under the Code of Conduct**

The Monitoring Officer introduced the report, noting the total number of complaints since May 2012 as 42, and that since the implementation of the new standards regime in July 2012, no complaints had been referred for investigation except for cases that predated the new regime.

**Resolved:**

**To note the Status Report on Complaints under the Code of Conduct.**

**48 Update on Dispensations for Voting on the Council Tax and Budget**

The Monitoring Officer gave a verbal update on the latest position concerning the need for members to obtain a dispensation to vote on the budget or the setting of council tax. There had been no change to the law but revised guidance from the Department of Communities and Local Government (DCLG) now specifically states that dispensations are not required.

The Monitoring Officer clarified that the guidance did not have the force of law, although the issuing of that guidance did in his view lower the risk of any successful prosecution for breach of the rules on disclosable pecuniary interests. The Monitoring Officer advised that he would continue to consult with colleagues in other local authorities with a view to issuing advice to members in the near future.

**Resolved:**

**To note the update from the Monitoring Officer.**

**49 Forward Plan**

The proposed forward plan was noted, and the dates of additional future committees confirmed as 02 April 2014, 09 July 2014 and 08 October 2014.



50 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.00 pm)

The Officer who has produced these minutes is Kieran Elliott of Democratic Services,  
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## Code of Conduct Complaints - Status Report

## Complaints received and progressed under new arrangements

2012	Cases received	Cases open (cumulative)	Assessed investigation	Assessed no further action	Assessed alternative resolution/complaint withdrawn	Pending assessment	Cases closed	Appeals received
May	3	3	0	3	0	0	0	0
June	5	8	1	4	0	0	0	0
July	5	13	0	5	0	0	0	0
August	3	16	0	3	0	0	0	0
September	0	10	0	0	0	0	6	3 (not upheld)
October	4	13	0	4	0	0	1	1 (not upheld)
November	3	9	0	3	0	0	7	0
December	2	11	0	2	0	0	0	0
2013								
January	5	13	0	4	1*	0	3	4 (not upheld)
February	1	12	0	1	0	0	2	1 (not upheld)
March	1	4	0	1	0	0	9	0
April	2	6	0	1	1**	0	0	1 (not upheld)
May	2	5	0	1	1***	0	3	1 (refused)
June	0	4	0	0	0	0	1	0
July	3	3	0	1	2 (1** & 1****)	0	4	0
August	1	2	0	0	0	1	2	0
September	2	4	0	1	1 (not CoC)	0	0	0
October	1	5	0	0	1***	0	0	0
November	3	8	0	3	0	0	0	0
December	3	11	0	0	0	3	0	0
Totals	49	n/a	1	37	7	4	38	1 not upheld & 1 pending
								13

\*request by complainant for anonymity refused – complaint withdrawn

\*\* clarification not supplied within time limit

\*\*\*withdrawn following informal resolution prior to assessment

\*\*\*\* withdrawn by complainant

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## CONSTITUTION FOCUS GROUP

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### MINUTES OF THE CONSTITUTION FOCUS GROUP MEETING HELD ON 8 JANUARY 2014 AT KENNET ROOM - COUNTY HALL, TROWBRIDGE BA14 8JN.

#### Present:

Cllr Jon Hubbard, Cllr Julian Johnson, Mr Paul Neale, Cllr Helen Osborn, Cllr Jeff Osborn and Cllr Stuart Wheeler (Chair)

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#### 1 Apologies

Apologies were received from Councillor Ernie Clark and Miss Pam Turner.

#### 2 Minutes of the Previous Meeting

The minutes of the meeting held on 5 December 2013 were presented for approval. It was,

#### Resolved:

**To APPROVE the draft minutes as a correct record, subject to the addition of a bullet point under Minute 22 - Petition Scheme - to include mention of requests from some members for a report to include proposals for suggested thresholds for a revised petition scheme.**

#### 3 Declarations of Interest

There were no declarations of interest.

#### 4 Part 5: Access to Information Procedure Rules

The Monitoring Officer presented a report updating the Focus Group on additional revisions that had been made to Part 5 of the Constitution - Access to Information Procedure Rules - in response to the comments of the Focus Group at its meeting on 5 December 2013.

Details of the changes were provided, as summarised in the covering report.

The Focus Group discussed the proposed changes, where points including but not limited to the following were raised:

- Further clarification was sought on the use of 'working days' and 'calendar days' in relation to the time limits mentioned. The Monitoring

Officer explained the case law on this issue, which indicated that 'working days' should be used for shorter periods of notice e.g. 5 days and 'calendar' days for longer periods, such as the 28 days specified in this Part. In relation to other periods of time, unless prescribed, a judgment would need to be made as to an appropriate cut-off point after which calendar days are used; the Monitoring Officer suggested that 10 days might be a reasonable cut-off point for this purpose depending on the circumstances.

- Assurance was given by the Monitoring Officer that the provisions on the arrangements for a private meeting were sufficient to withstand legal challenge if applied correctly.
- It was confirmed that the definitions of confidential and exempt information within the section were defined by statute and could not be altered.
- It was agreed that the rights of group leaders and councillors generally to access to Part 2 papers should be clarified within the existing Councillor / Officer Relations Protocol.

At the conclusion of discussion, it was,

**Resolved:**

- (1) To recommend the Standards Committee to approve the proposed revisions to the Access to Information Procedure Rules in Part 5 of the Constitution, as set out in the Appendix to these minutes.**
- (2) To ask the Monitoring Officer to incorporate further guidance on the right of access of group leaders and councillors generally to Part 2 papers within the Councillor / Officer Relations Protocol for consideration by group leaders in the first instance before referral to full council for approval.**

**5 Part 4.1: Petition Scheme**

The Monitoring Officer presented a report proposing changes to Part 4.1 of the Constitution - Petitions - to reflect the repeal of the statutory requirements in relation to petition schemes. This was put forward as a starting point for consideration of the council's future arrangements for petitions.

The Focus Group's discussion included the following points:

- Whilst the requirement for two signatures was on the face of it favourable to the public, there needed to be a means of securing action, such as a council or area board debate, with appropriate trigger points. It was not sufficient to leave it entirely to the discretion of the council to determine what action to take in response to a petition.

- It was noted that under the previous statutory scheme, no petition to the council had reached the threshold necessary (£11,500) to trigger a debate at a full council meeting.
- , and there was debate as to whether the thresholds that had been in place were suitable for a rural county such as Wiltshire.
- It was felt that it was appropriate and desirable in the interests of public engagement and local democracy that there should be a suitable mechanism in place to trigger consideration of issues at Area Boards or the Council where sufficient public concern was demonstrated.
- The Focus Group discussed what a suitable threshold might be for these purposes, for example, 1% of Wiltshire's population to trigger a debate at full Council. The thresholds which had been in place were probably too high for a rural county. It was agreed that further work should be undertaken as to what thresholds to propose, including some research on the approach taken by other authorities.
- It was also noted that the former threshold of 2.5% of the population of the relevant community area necessary to secure a debate at Area Board was likely to be more achievable than the threshold for securing a debate at full council as it was generally easier to engage the public on a local issue rather than one across the whole county area.
- The proposed scheme should include e-petitions, subject to suitable safeguards with regards to security. The merits of restricting these to the council's own petition system or allowing other approved systems was also discussed.
- The scheme will need to specify any age restrictions that should apply.

After debate, it was,

**Resolved:**

**To ask the Monitoring Officer to present a report to the next meeting reflecting the views of the Focus Group as summarised above.**

**6 Part 3 - Scheme of Delegation Progress - Update**

The Monitoring Officer provided a verbal update on progress of the work being undertaken to revise Part 3 of the Constitution. The work involves re-ordering the scheme of delegation to provide greater clarity, ensuring that all statutory references are fully up to date, and reflecting the changes arising from the recent senior management restructure. This work is being done in conjunction with the review of the financial regulations and procedure rules. The Monitoring

Officer anticipated being in a position to submit a first draft at the Focus Group's meeting to be arranged in March 2014.

**Resolved:**

**To note the update.**

7 **Forward Work Plan**

The Focus Group agreed the Forward Plan, as attached to these minutes.

8 **Date of next meeting**

A date for the next meeting was discussed, to take place in mid to late March 2014.

9 **Urgent Items**

There were no urgent items.

(Duration of meeting: 2.00 - 3.15 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](mailto:kieran.elliott@wiltshire.gov.uk)

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## **UPDATE TO PART 5 OF THE CONSTITUTION**

### **Purpose**

1. The purpose of this report is to ask the Constitution Focus Group to consider a revised draft Part 5 of the Constitution (Access to Information Procedure Rules) reflecting the changes agreed at its last meeting and to recommend the Standards Committee accordingly.

### **Background**

2. Part 5 of the Constitution deals with the Access to Information Procedure Rules.
3. Following the meeting of the Constitution Focus Group on 5 December 2013, Part 5 has been further amended as shown in tracked changes at Annex 1.
4. Part 5 has been updated:
  - a. to make it clearer and easier to follow;
  - b. to remove references to the Director of Resources and clarify responsibility for roles previously carried out by the Director of Resources;
  - c. to take account of recent changes to legislation, in particular the introduction of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

(Reference to 'Regulations' in the comments boxes on Annex 1 relate to these Regulations).

### **Matters for Consideration**

5. To consider the further amendments to Part 5 of the Constitution.
6. The further changes can be summarised as follows:
  - a. A definition section has been inserted;
  - b. The paragraph numbers have been updated;
  - c. References to the Director of Resources have been changed to Proper Officer (which is defined);
  - d. Where reference is made to offices this is now defined as the council's hub offices at County Hall, Trowbridge, Monkton Park, Chippenham and

Bourne Hill, Salisbury;

- e. In relation to granting dispensations references to the Head of Paid Service have been changed to the Standards Dispensation Sub-Committee;
- f. Where appropriate references to the Overview and Scrutiny Committees have been changed to the Overview and Scrutiny Management Committee;
- g. References to 'clear days' have been changed to 'clear working days', except in paragraphs 5, 7, 23 and 24 which require 28 clear calendar days notice;
- h. A new section has been inserted for notice of private meetings (paragraphs 5 – 7);
- i. The requirement to make background papers available to the public has been extended from 4 years to 6 years to make it consistent with the requirement in relation to minutes in paragraph 11;
- j. A new paragraph 17 has been inserted to clarify when the discretion to exclude the public applies;
- k. Paragraph 31 has been updated to refer to the Chairman and Vice-Chairman of Full Council as required by the legislation;
- l. Paragraph 34 has been updated to reflect Full Council's resolution in November 2013 regarding the Leader's reporting of the use of the special urgency provisions;
- m. The reference to Head of Paid Service in paragraph 42 has been changed to Corporate Directors; and
- n. References to Cabinet in paragraph 49, 51,52 and 55 have been changed to the Leader.

### **Recommendation**

- 7. The Constitution Focus Group is, therefore, asked to consider the attached revised draft and recommend the Standards Committee to recommend Council to adopt the changes.

**IAN GIBBONS**

**ASSOCIATE DIRECTOR, LEGAL AND GOVERNANCE AND MONITORING OFFICER**

# Part 5

## Access to Information Procedure Rules

Wiltshire Council believes in public access to information in order to ensure that members of the public can exercise their rights to have a say about decisions and can understand what decisions have been taken and why. Although some information has to remain private, for example to respect personal privacy, commercial confidentiality or for legal reasons, the Council has adopted a presumption of openness that information will be available unless there is a substantial lawful reason why not.

This Part 5 reflects the current statutory requirements set out in Section 100 Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. These rules apply except where proceedings of the body concerned are governed by other specific legislation.

### Definitions

Cabinet means Cabinet or a committee of Cabinet.

Full Council means Full Council or a committee of Full Council, including sub-committees.

Offices means the Council's three hub offices at County Hall, Trowbridge, Monkton Park, Chippenham and Bourne Hill, Salisbury.

Private Meeting means a meeting, or part of a meeting during which the public are excluded by virtue of paragraphs 15 or 17 below.

Proper Officer means the Associate Director, Corporate Function and Procurement, or such other officer as designated from time to time by the Head of Paid Service.

Comment [a1]: Regulation 2 and 4(2)

### Scope

1. These rules apply to all meetings of ~~the Full Council or Cabinet and its standing committees, for example, overview committees, including Overview and scrutiny committees, area committees, area boards~~ Scrutiny Committee, Area Planning Committees, Area Boards, the Standards Committee, and public meetings of the Cabinet (together called meetings).

### Additional rights to information

2. These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### Rights to attend meetings

3. Members of the public may attend all meetings subject only to the exceptions in these rules.

### Notice of public meetings

4. The Council will give at least five clear working days' notice of any public meeting by posting details of the meeting at ~~its Offices~~ reception in County Hall, Trowbridge,

Part 5

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Wiltshire and on its website, or if a meeting is convened at less than five clear working days' notice, as soon as it is convened. ~~Where a meeting is held at a location other than County Hall, a notice of the meeting will also be posted at that venue.~~

**Comment [M2]:** Deleted as not required under legislation.

### Notice of private meetings

**Comment [a3]:** Regulation 5

5. The Council will give at least 28 clear calendar days' notice of its intention to hold a meeting in private by posting a notice at its Offices and on its website. The notice must include a statement of the reasons for the meeting to be held in private.
6. At least 5 clear working days before a private meeting the Council will post a further notice of its intention to hold a meeting in private at its Offices and on its website. The notice must include a statement of the reasons for the meeting to be held in private and details of any representations received about why the meeting should be open to the public and a statement of its responses to any such representations.
7. Where a meeting to be held in private is convened at less than 28 clear calendar days' notice the meeting may only be held in private with the agreement of:
  - the chairman of the Overview and Scrutiny Management Committee; or
  - if there is no such person or the chairman of the Overview and Scrutiny Management Committee is unable to act, the chairman of Full Council; or
  - where there is no chairman of either the Overview and Scrutiny Management Committee or of Full Council, the vice-chairman of Full Council.

As soon as reasonably practicable after agreement has been given under this paragraph, the Council must post at its Offices and on its website a notice setting out the reasons why the meeting is urgent and cannot be reasonable deferred.

### ~~(Local Government Act 1972 Section 100A(6))~~ Access to agenda and reports before the a public meeting

**Comment [a4]:** Regulation 7

8. The Council will make copies of the agenda and reports open to the public available for inspection at the designated oits Offices and on its website at least five clear working days before the public meeting. If an item is added to the agenda later, the revised agenda ~~(where reports are prepared after the summons has been sent out, the designated oProper Officer shall make each such report available to the public as soon as the report is completed and sent to councillors)~~ will be open to inspection from the time the item was added to the agenda. Where reports are prepared after the summons has been sent out, the Proper Officer shall make each such report available to the public as soon as the report is completed and sent to councillors.
9. If the Proper Officer thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with these rules, the meeting is likely not to be open to the public. Such reports will be marked "not for publication" (Local Government Act 1972 Section 100B(3)) and state that they contain confidential or exempt information as defined in paragraphs 16 or 18 below.

**Comment [M5]:** Regulation 7

**Comment [a6]:** Regulation 7(5).  
Replaces previous paragraph 14

### Supply of copies

10. The council will supply copies of:
  - any agenda and reports which are open to public inspection
  - any further statements or particulars necessary to indicate the nature of the items in the agenda and
  - if the Proper Officer ~~Director of Resources~~ thinks fit, copies of any other

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documents supplied to councillors in connection with an item to any person on payment of a charge for postage and any other costs and make a reasonable number of copies available at the public meeting (except in relation to any part of the meeting not open to the public).

**Comment [a7]:** Regulation 7(6)

### Access to minutes etc. after the meeting

11. The Council will make available copies of the following for six years after a meeting:
- the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Cabinet, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information
  - a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record
  - the agenda for the meeting and
  - reports relating to items when the meeting was open to the public. ~~(Local Government Act 1972 Section 100C).~~

### Background papers

12. The relevant Director will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:
- disclose any facts or matters on which the report or an important part of the report is based and
  - which have been relied on to a material extent in preparing the report
  - but does not include published works or those which disclose exempt or confidential information (as defined in paragraphs ~~11, 12 and 13~~ 16 and 18) and in respect of cabinet reports, the advice of a political assistant.

#### Public inspection of background papers

13. The Council will make available for public inspection at its Offices and on its website for ~~four six~~ years after the date of the meeting one copy of each of the documents on the list of background papers. ~~(Local Government Act 1972 Section 100D(2))~~

**Comment [M8]:** Regulation 15

**Comment [a9]:** 100D (2) LGA 1972 requires 4 years but changed to 6 years for consistency with para 11.

### Summary of public's rights to attend meetings

14. A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at ~~County Hall~~ the Offices.

### Exclusion of access by the public to meetings

#### Confidential information – requirement to exclude public

15. The public shall be excluded from meetings during an item of business whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.
16. Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by court order or under any enactment.

~~(Local Government Act 1972 Section 100A(2))~~

**Comment [M10]:** Regulation 2

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#### Exempt information – discretion to exclude public

17. The public may be excluded from meetings during an item of business whenever it is likely in view of the nature of the business to be transacted or the nature of the

### Part 5

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proceedings that exempt information would be disclosed.

**Comment [a11]:** S100A (4) LGA 1972

18. Exempt information means information falling within the following seven categories (subject to any condition):
- 18.1 information relating to any individual
  - 18.2 information which is likely to reveal the identity of an individual
  - 18.3 information relating to the financial or business affairs of any particular person (including the authority holding that information)
  - 18.4 information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority
  - 18.5 information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
  - 18.6 information which reveals that the authority proposes:
    - (a) to give under any enactment a notice by virtue of which requirements are imposed on a person, or
    - (b) to make an order or direction under any enactment.
  - 18.7 information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime ~~(paragraphs 13.1 – 13.7 Local Government Act 1972 Schedule 12A)~~

~~(a) information which is subject to any obligation of confidentiality~~

~~(b) information which relates in any way to matters concerning national security~~

~~(c) information presented to the Standards Committee, or to a sub-committee of the Standards Committee, set up to consider any matter under Regulations 13 or 16 to 20 of the Standards Committee (England) Regulations 2008, or referred under Section 58 (1) (c) of the Local Government Act 2000~~

~~(i)19. Information which falls into the above paragraphs 18.1 to 18.7 above that is not prevented from being exempt by virtue of the conditions shown is exempt information is only exempt if and so long as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.~~

~~(ii)20. Information is not exempt information if it relates to proposed development for which the local planning authority can grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.~~

~~(iii)21. Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.~~

### **Exclusion of access by the public to reports**

~~14. — If the director of resources thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with these rules, the meeting is likely not to be open to the public. Such reports will be marked "not for publication" together with the category of information likely to be disclosed. (Local Government Act 1972 Section 100B(2) and (5))~~

**Comment [a13]:** Replaced by new paragraph 9.

### **Application of rules to the Cabinet**

~~19-22. Paragraphs 244 - 552 apply to the Cabinet. If the Cabinet meets to take a key decision it must also comply with paragraphs 1 – 18 unless paragraphs 25, 26 and 27 (general exception) or paragraph 28 (special urgency) apply. A key decision is defined in Part 1 of this Constitution.~~

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239. If the Cabinet ~~or its Committees~~ meets to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 clear calendar days of the date according to the forward plan by which it is to be decided, then it must also comply with paragraphs 1 – 18 unless paragraphs 285, 296 and 3027 (general exceptions) or paragraph 3128 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief councillors / co-opted members.

### Procedure before taking key decisions

244. Subject to paragraphs 285, 296 and 3027 (general exception) and paragraph 3128 (special urgency), a key decision may not be taken unless:

- a notice (called here a forward plan) has been published in connection with the matter in question and made available by the public at its Other Council's offices and on its website;
- at least 1428 clear working-calendar days have elapsed since the publication of the forward plan; and
- where the decision is to be taken at a meeting of the Cabinet ~~or its Committees~~, notice of the meeting has been given in accordance with paragraph 4 (notice of public meetings).

Comment [M14]: Regulation 9(2)

Comment [M15]: Regulation 9(2)

### The forward plan

252. Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first day of the second month covered in the preceding plan.

263. The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision (as defined in Part 1 of this Constitution) to be taken by the Cabinet, ~~a Committee of the Cabinet~~, officers ~~area committees~~ or under joint arrangements in the course of the discharge of a cabinet function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

Comment [I16]: Definition in accordance with Regulation 8

- the matter in respect of which a decision is to be made;
- where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- the date on which, or the period within which, the decision will be taken;
- the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- the means by which any such consultation is proposed to be undertaken;
- the steps any person might take who wishes to make representations to the cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken ~~and~~;
- a list of the documents submitted to the decision taker for consideration in relation to the matter;
- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available.

- ~~that other documents relevant to the matter may be published at least 14 days before the start of the period covered. The directors submitted to the decision taker; and~~
- ~~the procedure for requesting details of those documents (if any) as they become available.~~

**Comment [M17]:** Regulation 9(1)

~~20. The director of resources will publish, once a year, a notice in at least one newspaper circulating in the area, stating:~~

- ~~• that key decisions are to be taken on behalf of the council~~
- ~~• that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis~~
- ~~• that the plan will contain details of the key decisions to be made for the four-month period following its publication~~
- ~~• that each plan will be available for inspection at reasonable hours free of charge at the council's head office~~
- ~~• that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions on the plan~~
- ~~• the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available~~
- ~~• that other documents may be submitted to decision takers~~
- ~~• the procedure for requesting details of documents (if any) as they become available and~~
- ~~the dates on each month in the following year on which each forward plan will be published and available to the public at the council's head office~~

**Comment [M18]:** Old paragraph 20 deleted as was required under Regulation 12 Local Authorities (Executive Arrangements) (Access to Information)(England) Regulations 2000. Now repealed.

~~21. Exempt information need not be included in a forward plan and confidential information cannot be included.~~

~~274. Where in relation to any matter where the public may be excluded from a public meeting under paragraphs 15 or 1741, 12 and 13, or documents relating to the decision need not be disclosed to the public, the forward plan must contain the particulars of the matter, but may not contain any confidential information, exempt information or particulars of the advice of a political adviser or assistant.~~

## General exception

- ~~285.~~ If a matter which is likely to be a key decision has not been included in the forward plan, then subject to paragraph ~~3128~~ (special urgency), the decision may still be taken if:
- the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
  - the ~~director of resources~~ **Proper Officer** has informed the chair of the ~~relevant~~ Overview and Scrutiny **Management** Committee, or if there is no such person, each member of that committee in writing, by notice, of the matter to which the decision is to be made;
  - the **Proper Officer** ~~director of resources~~ has made copies of that notice available to the public at the ~~Offices of the Council~~ and ~~on the Council's website~~; and
  - at least five clear **working** days have elapsed since the **Proper Officer** ~~director of resources~~ complied with the requirements of paragraph ~~285~~, bullet point

**Comment [M19]:** Regulation 10



three.

~~296.~~ ~~A soon as reasonably practicable after the Proper Officer has complied with the above they must make available at the offices of the Council Offices and on the Council's website a notice setting out the reasons why compliance with paragraph 2649 above is impracticable.~~

Comment [M20]: Regulation 10.

~~3027.~~ Where such a decision is taken collectively, it must be taken in public.

### Special urgency

~~3128.~~ If by virtue of the date by which a decision must be taken paragraph 285 (general exception) cannot be followed; then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of ~~the chair of the relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of each relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.~~

- ~~the chairman of the Overview and Scrutiny Management Committee; or~~
- ~~if there is no such person, or if the chairman of the Overview and Scrutiny Management Committee is unable to act, the chairman of Full Council; or~~
- ~~where there is no chairman of either the Overview and Scrutiny Management Committee or of Full Council, the vice-chairman of Full Council.~~

~~that the taking of the decision is urgent and cannot be reasonably deferred.~~

Comment [M21]: Regulation 11

### Reports to Council

~~3229.~~ If ~~the~~an Overview and Scrutiny Management Committee thinks that a key decision has been taken which was not:

- included in the forward plan; or
- the subject of the general exception procedure under paragraph 285; or
- the subject of an agreement ~~with the relevant overview and scrutiny committee chair, or the Chairman/Vice-Chairman of the Council~~ under paragraph 3128 (special urgency).

Comment [M22]: Regulation 11

~~t~~The Overview and Scrutiny Management Committee may require the Cabinet to submit a report to Full Council within such reasonable time as the ~~Overview and Scrutiny~~ Committee specifies.

The power to require a report rests with ~~the~~an Overview and Scrutiny Management Committee, but is also delegated to the ~~director of resources~~Proper Officer, who shall require such a report on behalf of the Committee when so requested by ~~(the~~ Chairman or any five members of the Committee). Alternatively the requirement may be raised by resolution passed at a meeting of the Overview and Scrutiny Management Committee.

### Cabinet's report to Full Council

~~339.~~ The Cabinet will prepare a report for submission to the next available meeting of Full Council. However, if the next meeting of the Council is within seven days of receipt of the written notice, or the resolution of ~~the~~an Overview and Scrutiny Management Committee, then the report may be submitted to the meeting after that. The report to Full Council will set out particulars of the decision, the individual or body making the decision, and, if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

### Quarterly rReports on special urgency decisions

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344. The Leader shall report any decision taken under paragraph 3128 (special urgency) to the next available meeting of Full Council. In any event the Leader will submit quarterly-an annual reports to Full Council on the Cabinet decisions taken under paragraph 3128 (special urgency) in the preceding three-twelve months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

### Record of decisions

352. After any meeting of the ~~cabinet~~Cabinet ~~or any of its committees~~Committees, whether held in public or private, the Proper Officer or their nominee ~~director of resources~~ or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include ~~a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.:~~

- a) A record of the decision including the date it was made;
- b) A record of the reasons for the decision;
- c) Details of any alternative options considered and rejected by the decision taker;
- d) A record of any conflict of interest relating to the matter decided which is declared by any member of the decision taker; and
- e) In respect of any declared conflict of interest, a note of any dispensation granted by the ~~Head of Paid Service~~ Standards Dispensation Sub-Committee.

In relation to decisions made by officers, the officer will produce a record of their decision in accordance with Part 3 of this Constitution as soon as reasonably practicable after the decision is made.

Comment [M23]: Regulation 12 and 13

### Cabinet meetings relating to matters which are not key decisions

363. The Cabinet will decide whether meetings relating to matters which are not key decisions will be held in public or private.

### Notice of private meetings of the Cabinet

374. Members of the Cabinet ~~or its committees~~Committees will be entitled to receive five clear working days' notice of a meeting to which they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

### Attendance at private meetings of the Cabinet

385. All members of the Cabinet will be served notice of all private meetings of Committees of the Cabinet, whether or not they are Members of that Committee.

396. All members of the Cabinet are entitled to attend a private meeting of any Committee of the Cabinet.

4037. Notice of private meetings of the Cabinet will be served on the chairs of the Overview and Scrutiny Committee and sub-committees, at the same time as notice is served on members of the Cabinet. Where the Overview and Scrutiny Committee does not have a chair, the notice will be served on all the members of that Committee.

4138. Where a matter under consideration at a private meeting of the Cabinet, is within the remit of the Overview and Scrutiny Committee/sub-committee, the chair of that Committee or in his/her absence the vice chair may attend that private meeting with the consent of the person presiding, and speak.

4239. The ~~Head of Paid service~~Corporate Directors, the Chief Finance Officer and the Monitoring Officer and their nominees are entitled to attend any meeting of the Cabinet. The Cabinet may not meet unless the ~~director of resources~~Proper Officer has been given reasonable notice that a meeting is to take place.

430. A private meeting may only take place in the presence of the Proper Officer ~~director of resources~~ or his/her nominee who are responsible for recording and publicising the

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decisions.

441. The provisions of paragraph 352 (record of decisions) will apply where meetings of the Cabinet are held in private.

## Decisions made by individual members of the Cabinet

### Reports intended to be taken into account

452. Where an individual member of the Cabinet receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least five clear working days after receipt of that report.

### Provision of copies of reports to Overview and Scrutiny Committees

463. On giving of such a report to an individual decision maker, the person who prepared the report will give a copy of it to the chair of an Overview and Scrutiny Committee as soon as reasonably practicable, and make it publicly available at the same time.

### Record of individual decision

474. As soon as reasonably practicable after an executive decision has been taken by an individual member of the ~~cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the director of resources to prepare, a Cabinet, a~~ written record of the decision, ~~a statement must be produced~~ which must include the following:
- a) record of the decision including the date it was made;
  - b) A record of the reasons for ~~it and~~ the decision;
  - ~~a)c)~~ Details of any alternative options considered and rejected by the member;
  - d) A record of any conflict of interest relating to the matter decided which is declared by any member of the Cabinet who is consulted by the member which relates to the decision; and
  - e) In respect of any declared conflict of interest, a note of any dispensation granted by the ~~Head of Paid Service Standards Dispensation Sub-Committee.~~
485. The provisions of paragraphs 11, 12 and 13 (access to minutes and background papers after meetings) will also apply to the making of decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information or advice from a political or mayor's assistant.

Comment [M24]: Regulation 13

## Overview and scrutiny committees' access to documents

### Rights to copies

496. Subject to paragraph 5148 (limit on rights) below, any member of an Overview and Scrutiny Committee (including its sub-committees) is entitled to copies of any document which is in the possession or control of the Cabinet Leader and which contains material relating to:
- any business transacted at a public or private meeting of the Cabinet; ~~or its committees~~ or
  - any decision taken by an individual member of the Cabinet; ~~or-~~
  - any executive decisions that have been made by an officer in accordance with Part 3 of this Constitution.

Comment [M25]: Regulation 13

Where a member of an Overview and Scrutiny Committee (including its sub-committees) requests a document which falls within the above the Cabinet Leader must

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provide that document as soon as reasonably practicable and in any case no later than 10 clear working days after the Cabinet Leader receives the request.

Comment [M26]: Regulation 17

5047. Subject to paragraph 5148, the chair of the Overview and Scrutiny Committee will be entitled to foresight of papers in relation to private decisions of the Cabinet before the decision is made.

#### Limit on rights

5148. A member of the Overview and Scrutiny Committee will not be entitled to:

- any document that is in draft form;
- any document or part of it that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise or any review contained in any programme of work of the Overview and Scrutiny Committees; or
- the advice of a political adviser.

Comment [M27]: Regulation 17

Where the Cabinet Leader determines that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document, or part of any such document, for the reasons set out above #the Leader must provide the Overview and Scrutiny Committee with a written statement setting out #their reasons for that decision.

Comment [M28]: Regulation 17

#### **Additional rights of access for councillors**

5249. ~~All councillors will be entitled to inspect any~~ Any document which is in the possession or under the control of the ~~Cabinet Leader or its Committees~~ and contains material relating to:

- ~~any business previously to be~~ any business previously to be transacted at a ~~private~~ public meeting;
- ~~any business transacted at a private~~ any business transacted at a private meeting;
- ~~any decision made by an individual member; or~~ any decision made by an individual member; or
- ~~an executive decision made by an officer~~ an executive decision made by an officer

must be available for inspection by any member councillor unless:

- it contains exempt information falling within paragraphs 183.1, 183.2, 183.3 (but only to the extent that the information relates to any terms proposed or to be proposed by or to the eCouncil in the course of negotiations for a contract), 183.4, 183.5, and 183.7 of the categories of exempt information; or
- it contains the advice of a political adviser.

539. In relation to public meetings, where a document is required to be available for inspection it must be available for at least 5 clear working days before the meeting except where the meeting is convened at shorter notice or an item is added to an agenda at shorter notice in which case the document must be available for inspection when the meeting is convened or the item is added to the agenda.

544. In relation to private meetings, decisions made by an individual member or executive decisions made by an officer, where a document is required to be available for inspection it must be available within 24 hours of the meeting concluding or where an executive decision is made by an individual member or an officer within 24 hours of the decision being made.

Comment [M29]: Regulation 16

#### Material relating to key decisions

552. All councillors will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the ~~Cabinet Leader~~ which relates

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to any key decision unless [the exceptions in](#) paragraph [5249](#) above apply.

**Nature of rights**

[563](#). These rights of councillors are additional to any other right he/she may have.

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Wiltshire Council

Standards Committee

20 January 2014

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## STANDARDS COMMITTEE FORWARD WORK PLAN

<u>Meeting Date and Time</u>	<u>Name of Report</u>	<u>Scope of Report</u>
2 April 2014	Status report on complaints	
2 April 2014	Proposed Constitutional Changes	Recommendations from the Constitution Focus Group
2 April 2014	Review of Whistleblowing Complaints Policy	
2 April 2014	Update on Review of the Effectiveness of Code of Conduct Complaints Procedure	
9 July 2014	Draft Annual Governance Statement 2012/13	

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