

## Wiltshire Council Constitution

### Summary of Main Changes Proposed

The page numbers referred to in this summary correspond with the pages of the revised draft of the constitution.

The revised draft of the constitution which reflects the recommended changes summarised below is available on the Council's website on the following link. Hard copies will be provided to the Chairman of the Council, Group Leaders and are available on request to other members of the Council.

<http://cms.wiltshire.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13101&path=0>

#### **Part 1 – Summary and Explanation** (from page 4)

Paragraph 9 – How Decisions are made (page 5)  
Amendments to definition of the key decision criteria to ensure consistency with the Financial Regulations and improve clarity.

#### **Part 2 – The Constitution** (from page 7)

Article 3.1 – Rights of members of the public (page 9)  
To include reference to the Council's Petition Scheme

Article 4.4 – Responsibility for functions (page 11)  
To include reference to the addition of a committee structure chart added as Schedule 1 to Part 2 (page 28)

Article 6 – Overview and Scrutiny (page 12)  
To incorporate changes agreed by the Overview and Scrutiny Liaison Board and the Focus Group

Article 10.2 ('composition' of Area Boards) (page 16)  
To include the Wiltshire Fire and Rescue Service as a standing member of Area Boards to ensure consistency with the membership listing under paragraph 4 of Part 3 of the constitution and distinguishing between standing member organisations and other groups. (The Focus Group suggested that the process for new organisations to apply to join an Area Board be included within the Area Board Handbook).

Article 11 – Area Committees – conflict of interests (page 17)  
To include at the request of the Focus Group reference to advice on dual hatted members on Area Boards and the Dispensation procedure.

Article 13 – Officers (from page 19)  
Updating corporate director titles following management restructuring. Inclusion of all statutory officers and their main functions, including the designated Scrutiny Officer which is the subject of a recommendation in the main report.

### **Part 3 – Responsibility for Functions** (from page 29)

Sections 1 & 2 – The Council (pages 29/30)

Distinguishing between statutory and non-statutory plans which form part of the council's policy framework and including legislative references in respect of statutory plans.

To provide for local community governance reviews and electoral arrangements in accordance with relevant legislation (page 31)

Section 2.3 – Licensing committee (page 33)

To widen the scope of the licensing committee to ensure it has the authority for all matters pertaining to licensing and registration.

Section 3 – Cabinet (page 39)

To provide more information on the main functions of Cabinet and provide consistency with other sections of the constitution

Section 4.8 – Area Boards – election of chairmen and vice-chairmen  
(pages 42/43)

Annual Council on 18 May 2010 agreed that chairmen and vice-chairmen of Area Boards be elected on the rising of the annual meeting of Council or during an adjournment of the annual meeting as appropriate. It was suggested that future consideration be given to these appointments being made at the first round of Area Board meetings.

The Focus Group agreed with the suggestion and has recommended a change to the effect that chairmen and vice-chairmen of Area Boards remain in post until their successors are appointed and that these appointments be made at the first round of meetings in the municipal year to enable the wider membership and the public to also be present. This approach was supported at a recent meeting of Area Board Chairmen.

Section 6 – Corporate Parenting Panel (page 45 – deleted section)

The Standards Committee considered that as this did not form part of the formal decision making structure of the Council, the section should be removed from this part of the constitution. It recommended that it is moved to Part 12 (Role and Responsibilities of Councillors) to supplement the existing reference to a Councillor acting as a 'Corporate Parent' (from page 227)

### **Part 3A – Scheme of delegation – Executive Functions** (from page 46)

This previously only documented the delegation of executive functions by the Leader to Cabinet Members. This has been expanded to include delegation of executive functions by the Leader to Cabinet, Cabinet Committees, Area Boards, officers, under joint arrangements or to another local authority as the law and constitution provides. This is the Leader's delegation and can be altered by the Leader at any time provided that details of the delegation arrangements are reported to Council in accordance with Part 7, Cabinet Procedure Rules.

### **Part 3B – Scheme of Delegation – Officers** (from page 56)

Including reference to the Area Boards and Delegated Decision checklist for officers on the issue of when and how to involve local councillors and Area Boards in decisions about local services (page 58). This stems from one of the outcomes of the Leader's review on Area Boards.

Schedule 1 to the Scheme (from page 60)

Updating titles and main responsibilities of corporate directors following the management restructuring exercise.

**Part 3C – Scheme of Delegation – Development Control** (from page 63)

This remains unchanged in view of Cabinet's decision to defer consideration of the outcome of the review of the Development Control Service pending proposed changes to the planning system as a result of the Decentralisation and Localism Bill.

**Part 3D – Scheme of Delegation – Licensing** (from page 65)

To include authority to make Designated Public Places Orders as previously approved by Council (13/07/10)

**Part 4 – Rules of Procedure – Council** (from page 71)

To include legislative references where appropriate.

To make provision for the cancellation of meetings in certain circumstances (page 74).

Public Participation at meetings (from page 75)

This has been changed to provide clarity over what is expected from members of the public wishing to participate at meetings by making statements, asking questions and presenting petitions and what they can expect from the Council. The deadline for submitting questions has been brought forward from two days to four clear working days (for a meeting on a Tuesday, deadline would be 5pm Tuesday of the preceding week) in line with the deadlines being proposed in respect of Councillors' questions (see below).

To include reference to the Petition Scheme approved by Council (18/05/10) (page 75) and attach the Scheme as a Schedule (from page 96)

The Standards Committee recommended as a proposed change that the category of persons who can submit a question or make a statement should be widened to be consistent with the categories referred to in the section on petitions. This has been reflected in the draft revised constitution.

Councillors' questions (from page 79)

This has also been changed to provide clarity over what is expected from members of the Council wishing to ask questions at meetings and what they can expect. The deadline for submitting questions has been brought forward from two days to four clear working days on the understanding that written responses would be circulated to Councillors two days before the meeting unless this is not possible due to exceptional circumstances (eg volume of questions received).

### Motions on Notice (from page 82)

This has been changed to provide more clarity over what is expected from Councillors wishing to submit such motions and how they are dealt with at the meeting. It also provides for motions relating to executive functions, which cannot be determined by Council, being referred to the Leader.

The deadline for submission of motions is 10 clear working days instead of the previous 14 days.

### Amendments to motions (from page 86)

As referred to in the main report, a number of Councillors have through their feedback via the questionnaire on the constitution expressed concern over what constitutes a valid amendment to a motion.

The Focus Group considered Councillors' concerns and has not recommended any change to this particular rule, which is taken from the Modular Constitution prescribed in statutory guidance. The Standards Committee acknowledged that it was more about the application of this rule rather than the wording of the rule itself. Accordingly, it has requested that consideration be given to the Monitoring Officer drawing up of a convention on the application of this rule acceptable to the Chairman of Council and Group Leaders.

### **Part 5 – Access to Information Procedure Rules** (from page 103)

To include legislative references where appropriate

### **Part 6 – Budget and Policy Framework** (from page 111)

This has been checked against relevant legal provisions and no changes are proposed.

### **Part 7 – Cabinet Procedure Rules** (from page 115)

No major changes.

### **Part 8 – Overview and Scrutiny Procedure Rules** (from page 119)

Changes recommended by the Overview and Scrutiny Management and Co-ordination Liaison Board and the Focus Group:

Paragraph 9 – Work Programme – reference to the Council's priorities in the Corporate Plan and the relationship with the Audit Committee and referencing to the Protocol on the Governance Reporting Arrangements.

Including reference to the designated Scrutiny Officer (as recommended) as the lead officer on scrutiny.

Paragraph 30 – Attendance by others and evidence gathering

Detailing the principles which would apply to how meetings are conducted when witnesses are called.

### **Part 9 – Financial Regulations** (from page 126)

### **Part 10 – Financial Procedure Rules** (from page 143)

These were previously revised and adopted by Council (18/05/10)

Minor change since adoption by Council at paragraph 105 of the Financial Regulations (page 142) in respect of work for third parties to ensure consistency with the revised Contract Regulations (Part 11)

**Part 11 – Contract Regulations** (from page 203)

The Regulations have been revised to take into account revisions in EU procurement thresholds and other directives and to provide greater clarity to the reader over their responsibilities to comply with them. The Regulations were considered in detail by the Focus Group on 20 September and 8 October 2010. Changes recommended by the Focus Group have been incorporated.

**Part 12 – Role and Responsibilities of Councillors (previously ‘Members Job Description’** (from page 227)

Paragraph 3 – minor change to refer to the Members’ Allowances Scheme rather than quoting the current amount of basic allowance payable.

The Standards Committee has recommended renaming this Part ‘Role and Responsibilities of Councillors’ and suggested that consideration be given to reviewing this Part in any subsequent review of the constitution to better reflect the role and responsibilities of Councillors.

Section 6 of Part 3 (Responsibility for Functions) in respect of the Corporate Parenting Panel has been moved to Part 12 to supplement the existing reference to a Councillor acting as a ‘Corporate Parent’ within that Part recognising that the Panel did not form part of the formal decision making structure of the Council. These changes have been reflected in the draft revised constitution.

**Part 13 – Code of Conduct for Members** (from page 232)

Unchanged

**Part 14 – Members’ Allowances Scheme** (from page 241)

This reflects the Scheme previously approved by Council (10/11/09) following consideration of a report of the Independent Remuneration Panel.

**Part 15 – Officer Employment Procedure Rules** (from page 250)

Unchanged

**Part 16 – Officers’ Code of Conduct** (from page 254)

A revised Code was previously adopted by Council (13/07/10). Since Council adoption, a change has been made to make reference to the Council’s Policy on Politically Restricted Posts, as recently approved by the Staffing Policy Committee (page 256).

**Part 17 – Management Structure** (page 264)

This has been updated following the senior management restructuring exercise.

**Protocols**

### **Protocol 1 – Briefing and Information for Local Councillors**

(from page 265)

This has been changed to provide more clarity but keeping within the spirit of the original document. Reference has been made to the Area Boards and Delegated Decision checklist as mentioned under Part 3B above

### **Protocol 2 – Councillor/Officer Relations** (from page 269)

This was completely revised as part of the last review of the constitution.

A recommendation from the Member Support in the Locality Task Group related to the need to include a protocol stipulating that Councillors can expect an initial response from Cabinet Members and Portfolio Holders within two days and a substantive response within seven days.

The view of Cabinet members is that realistically, the suggested protocol could not be kept to all of the time. They have therefore recommended a broader protocol to the effect that in respect of member enquiries from other members, every effort should be made to provide a prompt response wherever possible with this being applied to all Councillors and not just Cabinet members.

The stance taken by the majority of members of the Focus Group is as follows:

#### *'Response from Cabinet members to other members of the Council*

*A response will, unless there are exceptional circumstances be acknowledged within two working days of receipt. A substantive response will be provided within ten working days of receipt. If that is not possible an explanation will be given as to the reason for the delay, what action is being taken, and when a response will be sent'.*

As referred to in the main report, the Standards Committee considered the recommendation from the Task Group, the views of Cabinet Members and the Focus Group. The view of the Standards Committee is that whilst it would be useful to include an appropriate timescale for responses, this was a matter for Councillors to determine and this is reflected in the recommendations to Council.

Should Council agree to include provision for a timescale for responses as suggested, this could be reflected in Part 12 - Members' Job Description which is being recommended should be renamed 'Role and Responsibilities of Councillors' (as referred to above under Part 12).

This Protocol included as an appendix the document 'One Council One Culture - What Will We Be Like?' Whilst this was relevant for the inception of the new Council, it is now being reviewed as part of the 'Shaping the Future' Programme. For this reason, the Standards Committee has recommended that it is deleted from the constitution. The outcome of work on 'Shaping the Future' could if appropriate replace it as part of a subsequent review of the constitution.

### **Protocol 3 – Guidance to Councillors Appointed to Outside Bodies (New)**

(from page 278)

This is a new Protocol details of which are referred to in the main report.

**Protocol 4 – Planning Code of Good Practice for Members of Wiltshire Council** (from page 301)

This remains unchanged in view of Cabinet's decision to defer consideration of the outcome of the review of the Development Control Service pending proposed changes to the planning system as a result of the Decentralisation and Localism Bill.

**Protocol 5 – Leader's Protocol for Individual Decision Making by Cabinet Members** (from page 309)

Unchanged

**Protocol 6 – Complaints Procedure** (from page 311)

This has been updated. The main change is the inclusion of the timescales involved.

**Protocol 7 – Media Relations** (This is not available for the reasons explained below)

Apart from a few very minor amendments, it had not been proposed to change this Protocol. However, as referred to in the main report, the Protocol is currently being redrafted to take into account comments from the Focus Group recognising that further changes may be required as a result of a revised Code of Practice on Local Authority Publicity, which is currently out for consultation. The intention is to present a revised Protocol ( on an interim basis pending the outcome of the review of the Code of Practice on Local Authority Publicity) for initial consideration by Group Leaders before presentation to Council if this can be achieved within the time available.

**Protocol 8 – Partnership (New)** (from page 319)

This is a new Protocol details of which are referred to in the main report.

**Protocol 9 – Monitoring Officer** (from page 335)

Unchanged

**Protocol 10 – Code of Corporate Governance** (from page 337)

Unchanged

**Protocol 11 - Governance Reporting Arrangements (New)** (from page 340)

This is a new Protocol as referred to in the main report.

**Protocol 12 – Procedure for Determination of Referred Complaints by the Standards Committee** (from page 343)

Unchanged

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