

**Wiltshire Council**

**Full Council**

**21 July 2020**

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**Proposed Changes to the Constitution – Part 3B, Protocol 2 and Part 15**

**Summary**

This report sets out proposed changes to Part 3B (Policy Framework, Wiltshire Pension Fund Committee and Electoral Review Committee Terms of Reference), Part 15 (HR Code of Conduct) and Protocol 2 (Terms of Reference - Wiltshire Pension Fund Committee and Local Pension Board) of the Constitution.

**Proposals**

- 1) That Full Council approve the proposed changes to Part 3B of the Constitution as detailed in Appendix 2.**
- 2) That Full Council approve the proposed changes to Protocol 2 of the Constitution as detailed in Appendix 4.**
- 3) That Full Council approve the proposed changes to Part 15 of the Constitution as detailed in Appendix 6.**

**Reason for Proposals**

To ensure the council's constitution is up to date, clear and effective.

**Ian Gibbons, Monitoring Officer**

## Wiltshire Council

### Full Council

21 July 2020

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## Proposed Changes to the Constitution

### Purpose of Report

1. This report asks Full Council to consider recommendations of the Standards Committee or Staffing Policy Committee in relation to the following items:
  - Part 3B and Protocol 2 of the Constitution in relation to the Wiltshire Pension Fund Committee and Local Pension Board.
  - Part 3B of the Constitution in relation to the Policy Framework.
  - Part 15 of the Constitution in relation to the Human Resources Code of Conduct.
2. And to consider further proposed changes to the Constitution in relation to:
  - Part 3B of the Constitution in relation to the terms of reference of the Electoral Review Committee.

### Background

3. The Standards Committee has responsibility for oversight of the Council's Constitution. It has established a cross party working group, the Constitution Focus Group, to advise and assist in carrying out this function.
4. The Focus Group met on 14 June 2019, 15 January 2020 and 17 June 2020 to review sections of the Constitution, including the sections of Part 3B and Protocol 2 as detailed under paragraph 1 above. The notes of those meetings can be found at **Appendix 1a**.
5. The Standards Committee met on 7 July 2020 to consider the proposals from the Focus Group and resolved to recommend them to Full Council. The minutes of the meeting can be found at **Appendix 1b**.
6. The HR Code of Conduct, Part 15 of the Constitution, was considered by the Staffing Policy Committee at its meeting on 3 June 2020. The relevant section of the minutes of that meeting are included in **Appendix 1c**.
7. The Electoral Review Committee has responsibility for oversight of Electoral Reviews, Community Governance Reviews, Polling District and Polling Place Reviews and other electoral services matters.

### Main Considerations

Part 3B of the Constitution (Functions of the Council, Committees and Cabinet) and Protocol 2 of the Constitution – Wiltshire Pension Fund Committee and Local Pension Board

8. Paragraphs 2.7 and 7 of Part 3B of the Constitution set out the responsibilities of the Wiltshire Pension Fund Committee and Local Pension Board respectively. Full Terms

of Reference of the Local Pension Board are then set out in Protocol 2 of the Constitution.

9. The Wiltshire Pension Fund Committee and Local Pension Board members completed an effectiveness review in November 2018 co-ordinated by the Fund's Actuarial Consultants Hymans Robertson, following which recommendations were made in the way the Committee and Board should operate. These recommendations were considered by a focus group of key Pension Fund stakeholders in January 2019 at which key actions were agreed.
10. One of these actions was to review the existing terms of reference under the Constitution in respect of both the Wiltshire Pension Fund Committee and Local Pension Board to ensure that:
  - Each terms of reference remained relevant to the statutory purpose of its group;
  - All members had a clearer understanding of their roles and responsibilities relative to their group and those of the other group;
  - The terms of reference would be harmonised in purpose with the other group; and,
  - Where required, the terms of reference would be increased in scope, if it were silent in its content or loosened in its nature if it were found to be too prescriptive and impractical to execute in its nature.
11. The reasons for the sections becoming misaligned over the past few years has been due to the increased complexity of the Fund's investment strategy requiring the creation of the Investment Sub-Committee and new pensions legislation, notably the Public Services Pensions Act 2013 which initiated the introduction of the Local Pension Board in April 2015.
12. The Focus Group had considered the existing terms of reference, detailed in **Appendices 2 and 3**, had been lacking in content, clarity and functional execution in respect of certain procedures and that it was appropriate to recommend amendment to these paragraphs in relation to the overall operational effectiveness of the Administering Authority's Pension Fund.
13. The Standards Committee accepted the conclusion of the Focus Group and resolved to recommend the series of changes set out in **Appendix 2** (track changes) and **Appendix 4** (Protocol 2), a summary of which are highlighted below:

Part 3, Section 2.7 – Terms of Reference for the Wiltshire Pension Fund Committee

14. To create a Protocol 2A document which enhances the Terms of Reference paragraphs by either adding or amending them as described below;

**Additions**

- An introduction defining the formation of the Fund;
- An interpretations paragraph providing background guidance;
- A Duties of Committee paragraph concerning member conduct and registration of interests;
- A Duties of the Chairman paragraph providing clarity over the management of the Committee;

- Meetings paragraphs;
- Quorum paragraphs;
- Functions of the Committee paragraphs detailing the policy framework in which the Committee would operate; and
- Delegations paragraphs setting out its relationship with the Committee's Investment sub-Committee and officers supporting the Committee.

### **Amended**

- Paragraph 2.7.2 was amended and retitled into two paragraphs namely "Statement of purpose" and "Reporting" to enable distinction in these functional areas;
- Paragraph 2.7.1 was amended and retitled "Membership" and separated into two paragraphs within Protocol 2A; and
- Paragraph 2.7.3 was amended and retitled "Recruitment process and term lengths". It now comprises of 8 paragraphs within Protocol 2A covering.
  - i) Elected member representatives;
  - ii) Elected Employer representatives;
  - iii) Non-voting Employee representatives;
  - iv) Appointment of Chair, Vice Chair and substitute members; and
  - v) Notification of appointment.

### Part 3, Section 7, Protocol 2 – ToR for the Wiltshire Pension Fund, Local Pension Board

15. The key material amendments over and above a number of housekeeping changes designed to enhance the Board's Terms of Reference paragraphs are described below:
  - It is now called Protocol 2B;
  - Member Representatives, which covered "For the initial member representatives" paragraphs between 17 to 21 and "For subsequent member representatives" paragraphs between 22 to 24 have been merged and simplified into "For the member representatives" paragraphs between 17 to 22;
  - Employer Representatives, which covered "For the initial employer representatives" paragraphs between 25 to 34 and "For subsequent employer representatives" paragraphs between 35 to 37 have been merged and simplified into "For the employer representatives" paragraphs between 23 to 33;
  - The Appointment of Chair process between paragraphs have been altered to a less prescriptive timeframe and now cover paragraphs 36 to 42;
16. In all bullet points above the basis for change highlighted by the effectiveness review was to;
  - i) Reflect representation as an ongoing process now that the Board had been established;
  - ii) Make the appointment of members less prescriptive as finding candidates who could fulfil the criteria and were willing to perform the role had become an overly difficult challenge; and
  - iii) Ensure that the democratic process remained clear.

- Independent governance adviser – Paragraph 48 (now paragraph 44) was relaxed in that the Board should simply be able to use the adviser appointed by the Administering Authority for the benefit of the Committee. In practice, no conflict of interest is seen as being present, no appointment has ever been made and from a cost control viewpoint it would be an appointment which would be difficult to justify;
- Board Administration – Paragraph 67 (now paragraph 63), the issuance of meeting packs was reduced from 7 to 5 working days to be consistent with the timeframe of other Council meeting pack issuances;
- Public Access to Board meetings and Information – Paragraph 75 (now paragraph 70) was updated to reflect the restructure of officer appointments supporting the Board defining, by who may speak with the permission of the Chair;
- Budget – Paragraph 83 (now paragraph 78) has been updated with a fourth allowance d) other contractual arrangements, as approved by Committee as part of the annual budget; and
- Reporting – Paragraphs 90 to 93 (now paragraphs 85 to 88) have been reformatted to better reflect the actual reporting framework by which the Board communicates with both the Committee and publicly.

Part 3B of the Constitution (Functions of the Council, Committees and Cabinet) – Policy Framework

17. The Policy Framework is a list of key documents and policies which are required to be approved by Full Council, set out in Paragraph 1.1 and 1.2 of Part 3B. This is either because the policies are statutorily required, or by previous decision of Full Council.
18. As legislation and strategies change, the policy framework requires periodic review and updating. A review was therefore undertaken by the Corporate Governance Working Group.
19. 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.
20. The Focus Group and Standards were provided details of the review process. The Focus Group also requested the Carbon Reduction Strategy should be included as policy framework item in addition to other amendments, and Standards Committee then resolved to recommend that the relevant section of Part 3B of the constitution would read as below and set out in **Appendix 2**:

*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 Framework; 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*
- *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*
- *Housing Renewal Strategy; Housing Act 2004*
- *Youth Justice Plan; Crime and Disorder Act 1998*

*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*
- *Corporate Asset Investment Strategy and Corporate Property Strategy*
- *Treasury Management Policy*
- *Capital Investment Strategy*
- *Carbon Reduction Strategy*

Part 3B of the Constitution (Functions of the Council, Committees and Cabinet) – Electoral Review Committee

21. The Terms of Reference of the Electoral Review Committee are set out at Paragraph 2.10 of Part 3B of the Constitution. The Committee has responsibility for oversight of Electoral Reviews, Community Governance Reviews, Polling District and Polling Place Reviews and other Electoral Services matters, making recommendations to Full Council or decisions as appropriate.
22. As a result of the Electoral Review of Wiltshire Council new Divisions have been approved for the elections in May 2021. In many cases, the council's existing community areas therefore no longer align with the Divisions. It is therefore necessary to approve new arrangements for Area Boards which can be implemented following the elections.
23. Given the successful engagement process with Members, parishes and the public during the Electoral Review and Community Governance Review, as undertaken by the Electoral Review Committee, it is proposed to amend the Terms of Reference of the Committee to enable it to make recommendations to Full Council on an Area Board Boundary Review, as set out in **Appendix 2**.

Part 15 of the Constitution (HR Code of Conduct)

24. The HR Code of Conduct sets out minimum standards of behaviour for council employees, provides guidelines to help maintain and improve standards, and aims to protect the reputation of both employees and the council.
25. Changes to Part 15 included:
  - Replacing the behaviour framework with a new 'EPIC Values' document.
  - Including information about misconduct;
  - Including information about 'Mental health, drugs and alcohol issues';
  - Including information about 'if you experience poor behaviour';

- Including additional information about roles and responsibilities.
  - Reviewed and modernised the code of conduct principles, renamed these 'behaviour principles' and aligned them to values.
  - The principles have been updated through the amalgamation and simplification of the principles in the current code of conduct and the current behaviours framework as follows:
    - Current Code of Conduct principles: selflessness, honesty and integrity, objectivity, accountability, openness, personal judgement, respect for others, duty to uphold the law, stewardship and leadership.
    - New 'Behaviour principles': honesty and integrity, accountability and selflessness, openness, objectivity and respect, leadership, working together, doing your best.
26. A 'behaviour principles guidance document' has been written to sit alongside the policy to support these behaviour principles. This document includes examples of what each of these principles does and doesn't look like in the workplace, providing managers and staff with a clear single point of guidance on how all staff are expected to conduct themselves as a minimum within our organisation.
27. Key stakeholders including the recognised unions were consulted on the proposals before consideration by the Staffing Policy Committee.
28. The proposed revised Part 15 of the Constitution is set out at **Appendix 6**.

#### **Safeguarding Implications**

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

#### **Procurement Implications**

30. There are no procurement issues arising from this report

#### **Equalities Implications**

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

#### **Risk Assessment**

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

#### **Financial Implications**

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

#### **Public Health Implications**

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

#### **Environmental and Climate Change Implications**

35. There are no environmental or climate change impacts arising from this report.

#### **Workforce Implications**

36. There are no workforce implications arising from this report.

## **Legal Implications**

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

## **Proposals**

38. **That Full Council approve the proposed changes to Part 3B of the Constitution as detailed in Appendix 2.**
39. **That Full Council approve the proposed changes to Protocol 2 of the Constitution as detailed in Appendix 4.**
40. **That Full Council approve the proposed changes to Part 15 of the Constitution as detailed in Appendix 6.**

## **Ian Gibbons, Monitoring Officer**

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## **Appendices**

- Appendix 1a - Notes of the Constitution Focus Group:
- Appendix 1b - Minutes Extract of the Standards Committee 7 July 2020
- Appendix 1c - Minutes Extract of the Staffing Policy Committee 3 June 2020
- Appendix 2 - Proposed Part 3B
- Appendix 3 - Current Protocol 2
- Appendix 4 - Proposed Protocol 2
- Appendix 5 - Current Part 15
- Appendix 6 - Proposed Part 15

## **Background Papers**

- [Report 1 to the Standards Committee 7 July 2020 \(Pensions\)](#)
- [Report 2 to the Standards Committee 7 July 2020 \(Policy Framework\)](#)
- [Report to the Staffing Policy Committee 3 June 2020](#)