

Wiltshire Council

Council

12 November 2013

**Standards Committee Recommendations on
Changes to the Constitution**

Summary

1. This report asks council to consider recommendations of the council's standards committee on the following matters:
 - a. Amendments to the following protocols to the constitution:
 - Protocol 2 - Councillor/ Officer Relations
 - Protocol 3 - Guidance to Members on Outside Bodies
 - Protocol 4 - Planning Code of Good Practice
 - b. Registration and disclosure of additional interests and withdrawal from meetings where a councillor has a disclosable pecuniary interest.
 - c. Amendment of the standards committee's terms of reference to remove the requirement for political proportionality in relation to the standards hearing sub-committee, standards review sub-committee and the standards dispensation sub-committee.

Recommendations

2. **In relation to 1 a. above council is asked to approve the recommended changes to the above protocols as shown in the tracked documents appended to the minutes of 10 July 2013.**
3. **In relation to 1.b above:**
 - (1) Not to amend the Code of Conduct to impose a requirement to register additional interests over and above the statutory disclosable pecuniary interests, but to rely on the existing provisions of the Code, in particular, paragraph 6, and guidance from the DCLG 'Openness and transparency on personal interests' and to draw this guidance to the attention of parish, town and city councils.**
 - (2) To amend the Council's Constitution to require councillors with a disclosable pecuniary interest to withdraw from a meeting when business relating to their interest is being considered.**
 - (3) Not to make any changes to the Code of Conduct on gifts and hospitality on the basis that the existing provision is adequate.**

4. **In relation to 1. c. above 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.**

Reason for proposal

6. To ensure that the constitution is up to date and that the documents within it reflect the relevant legislation, in this case the Localism Act 2011.
7. To fulfil the council's duty to promote and maintain high standards of conduct among Wiltshire councillors.

Ian Gibbons

Associate Director, Legal and Governance and Monitoring Officer

Wiltshire Council

Council

12 November 2013

**Standards Committee Recommendations on
Changes to the Constitution**

Purpose of Report

1. The purpose of this report is to ask council to consider the Standards Committee's recommended changes to the constitution on the following:
 - a. Protocol 2 - Councillor/ Officer Relations
 - b. Protocol 3 - Guidance to Members on Outside Bodies
 - c. Protocol 4 - Planning Code of Good Practice
 - d. Withdrawal from meetings where a councillor has a disclosable pecuniary interest.
 - e. Amendment of the standards committee's terms of reference to remove the requirement for political proportionality in relation to the standards hearing sub-committee, standards review sub-committee and the standards dispensation sub-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 Focus Group on the Constitution, to advise and assist the committee in carrying out this function.
3. On 10 July 2013 the standards committee considered a number of recommended changes to the following protocols to the constitution:
 - Protocol 2 - Councillor/ Officer Relations
 - Protocol 3 - Guidance to Members on Outside Bodies
 - Protocol 4 - Planning Code of Good Practice
4. These changes were recommended by the Focus Group on the Constitution following detailed consideration at meetings on 24 January and 12 March 2013. The changes relate mainly to the introduction of the new standards regime and the new code of conduct adopted by the council in July 2012, although the opportunity has been taken to update other parts to reflect developments within the council. The Focus Group on the Constitution felt that their recommendations should be considered by the standards committee of the new council and were therefore deferred until the first meeting of the committee on 10 July.

5. Further recommendations were made by the standards committee on aspects of the new standards regime at the meeting on 10 July 2013 and its meeting on 9 October 2013 as summarised below.

Main Considerations for the Council

6. The relevant extract of the minutes of the standards committee's meeting on 10 July 2013 is attached as **Appendix 1** with the committee's recommended changes to the above protocols, shown tracked for ease of identification.

Recommendation

7. **Council is asked to approve the recommended changes to the above documents as shown.**
8. At the same meeting the standards committee considered a report on whether the council's code of conduct should be amended to provide for the registration and disclosure of additional interests in accordance with the council's power under the Localism Act 2011. Parish, town and city councils had been consulted on the issue and their responses were summarised in the covering report. The relevant extract from the minutes of the Standards Committee is attached at **Appendix 2** together with the report considered at that meeting on this issue.
9. Members were minded to adopt an advisory approach rather than a mandatory one which required amendment of the Code of Conduct. The Department for Communities and Local Government's (DCLG's) revised guide for councillors 'Openness and transparency on personal interests' in Appendix D to the report would assist with this and should be drawn to the attention of parish, town and city councils.
10. The committee went on to consider whether the council's constitution should be amended to include a requirement for councillors with a disclosable pecuniary interest to withdraw from a meeting when business relating to their interest is being considered to avoid any undue influence on the decision making process. Whilst it is fair to say that opinion was divided on this issue the committee was, overall, minded to support the introduction of such a requirement.
11. Finally, the committee considered whether the Code of Conduct should include more specific provision on gifts and hospitality, as suggested in one of the consultation responses. However, the committee felt that this was already covered sufficiently by the existing Code, at paragraph 2, 'you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.'

Recommendation

12. **The standards committee resolved to recommend council:**

(1) Not to amend the Code of Conduct to impose a requirement to register additional interests over and above the statutory

disclosable pecuniary interests, but to rely on the existing provisions of the Code, in particular, paragraph 6, and guidance from the DCLG 'Openness and transparency on personal interests' and to draw this guidance to the attention of parish, town and city councils.

- (2) To amend the Council's Constitution to require councillors with a disclosable pecuniary interest to withdraw from a meeting when business relating to their interest is being considered.**
- (3) Not to make any changes to the Code of Conduct on gifts and hospitality on the basis that the existing provision is adequate.**

13. At its meeting on 9 October 2013 the standards committee considered a report reviewing the effectiveness of the council's arrangements under the new standards regime. The relevant extract of minutes of the standards committee is attached at **Appendix 3** together with the report considered at that meeting.
14. The committee felt that it was too early to make a proper judgment on the effectiveness of the new standards arrangements as they needed more time to bed down. Further information was requested to seek to ascertain the public's view of the effectiveness of the arrangements in promoting high standards of conduct in local government in Wiltshire and on the position nationally.
15. 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 are no longer subject to political proportionality. This would open the membership of the sub-committees to more members, making it easier to appoint sub-committees for reviews and hearings within the timescales set down in the procedure. It would also help avoid any perception that the sub-committees are politically driven.
16. A copy of the existing terms of reference of the standards committee approved by council on 15 May 2012 is attached at **Appendix 4**. Paragraph 9 currently provides that the three sub-committees – the review sub-committee, hearing sub-committee and dispensation sub-committee must be politically balanced. It should be noted that to change the requirement for political balance requires a decision of council with no councillor voting against it.
17. **Recommendation**

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.

Environmental Impact of the Proposals

18. There is no environmental impact as a result of these proposals

Safeguarding Implications

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

Equalities Impact of the Proposal

20. There is no equalities impact arising from this report.

Risk assessment

21. There are no significant risks identified as a result of these recommendations.

Financial Implications

22. None identified directly as a result of this proposal.

Legal Implications

23. The recommendations in this report are consistent with the relevant legislation, in particular the Localism Act 2011.

Options Considered

24. As set out in the relevant papers to the standards committee.

Proposal

25. Council is, therefore, asked to consider the recommendations of the standards committee as set out in paragraphs 7, 12 and 16 above and decide accordingly.

Ian Gibbons

Associate Director Legal and Governance and Monitoring Officer

Report Author: Ian Gibbons

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

Appendices

Appendix 1 – Standards Committee minute 33 & Protocols

Appendix 2 – Standards Committee minute 34 and report

Appendix 3 – Standards Committee minute 45 and report

Appendix 4 – Terms of Reference of the Standards Committee