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# **PART 3**

## **RESPONSIBILITY FOR FUNCTIONS**

### **SECTION A: GENERAL**

#### **1. Introduction**

Part 3 of this Constitution deals with responsibility for functions and decision making.

#### **2. Definitions**

In this Part, the following words and phrases have the following meaning:

<b>Director</b>	includes Corporate Directors and Associate Directors, except where the context requires otherwise.
<b>Executive decision</b>	means a decision made or to be made by a decision maker in connection with the discharge of a function which is the responsibility of the executive of a local authority.
<b>Incidental decision</b>	means a decision which relates to the day to day running of a service or the implementation of a decision made by Council, Cabinet or a Committee.
<b>Proper Officer</b>	means the Associate Director, Corporate Function and Procurement, or such other officer as designated from time to time by the Head of Paid Service.
<b>Register</b>	means the register referred to in Part 3 Section D 1 Paragraph 1.6 and stored and maintained on the Council's intranet.
<b>Regulations</b>	means the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

**Comment [a1]:** Definition from The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

In this Part 3 reference to any legislation includes reference to any successor legislation.

#### **3. Principles**

1. Wiltshire Council has a leader and cabinet executive model and as a result reference should be made to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to determine whether a function is a council or an executive function.
2. Section B of this Part 3 sets out the functions specifically reserved to the Council, Cabinet or Committees in accordance with Section B of this Part 3.
3. The Corporate Directors, supported by the Associate Directors, shall have responsibility for the overall corporate management of the Council.

**Comment [a2]:** Local Government Act 2000 S9C

4. Where a function has not been specifically reserved in accordance with Principle 2 above, the Corporate Directors and the Associate Director within whose remit the matter falls are empowered to make decisions on behalf of the Council in accordance with Part 3 Section D 1 of the Constitution.
5. Directors may authorise officers to take decisions on their behalf provided a written scheme of sub delegation is recorded.
6. Directors may decide that any sub delegations they grant to officers within their team under their scheme of sub delegation may be subject to financial limitations. Whilst a Director may wish to consider using the signing and authorisation limits set for various officers under the Council's Budget and Policy Framework, they are not limited in this regard. The signing and authorisation limits set under the Budget and Policy Framework are financial management controls. A scheme of sub delegation is the delegation by a particular Director to other officers within that Director's team to make particular types of decision for and in the name of that Director and therefore such sub delegation can be given up to the maximum limits of the Director's own powers.
7. Decisions made under delegated powers should be recorded in accordance with Part 3 Section D 1 Paragraph 2.3 and 2.4.
8. Each Director must ensure that schemes of sub delegation for decision making for their service areas are in place. Directors are also responsible for ensuring valid instruments of appointment for any powers exercised by officers by virtue of any statutory appointments are in place. Directors must ensure that schemes of sub delegation and instruments of appointment are recorded on the Register.
9. Any decision taken by an officer on behalf of a Director shall remain the responsibility of the Director.
10. In making decisions officers will comply with requirements of this Constitution including but not limited to:
  - The Constitution (Part 2)
  - Access to Information Procedure Rules (Part 5),
  - Financial Regulations and Procedure Rules (Parts 9 and 10)
  - Procurement and Contract Rules (Part 11)
  - Leader's Protocol for Individual Decision Making by Cabinet Members (Protocol 5)
11. In deciding whether or not to exercise such delegated powers, officers should consider whether to consult the appropriate cabinet member(s) or committee chairman and have regard to their views. Officers shall always be entitled to refer matters for decision to the appropriate member body where they consider it expedient to do so.
12. These delegations should be interpreted widely to aid the smooth running of the organisation, the effective deployment of resources, the efficient delivery of services, and the achievement of the Council's goals.

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**Comment [a3]:** The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012



## **PART 3**

### **RESPONSIBILITY FOR FUNCTIONS**

#### **SECTION B: FUNCTIONS OF COUNCIL, COMMITTEES AND CABINET**

##### **1. The Council**

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

- 1.1 Adopting the following statutory plans, strategies and documents as part of the policy framework of the Council:
- Wiltshire Children and Young People's Plan, as required by the Apprenticeships, Skills, Children and Learning Act 2009;
  - ~~Crime and Disorder Reduction Strategy~~ [Joint Strategic Assessment of Crime and Policing](#), as required by the Crime and Disorder Act 1998;
  - Emergency plans and civil contingency plans, as required by the Civil Contingencies Act 2004;
  - Local Transport Plan, as required by the Transport Act 2000;
  - Local development documents ([including supplementary planning documents](#)) which together comprise the Local Development Framework, as required by Planning and Compulsory Purchase Act 2004;
  - ~~Wiltshire and Swindon Structure Plan, as required by the Planning and Compulsory Purchase Act 2004;~~
  - Youth Justice Plan, as required by the Crime and Disorder Act 1998;
  - Corporate Equality Plan, [pursuant to the Public Sector Equality Duty under s149 of the Equality Act 2010; as required by the Race Relations \(Amendment\) Act 2000, the Sex Discrimination Act 1975, the Equal Pay Act 1970 and the Disability Discrimination Act 1995;](#)
  - ~~Local Area Agreement within the Local Agreement for Wiltshire, as required by the Local Government and Public Involvement in Health Act 2007;~~
  - Homelessness Strategy, as required by the Homelessness Act 2002;
  - Housing Renewal Strategy, as required by the Housing Act 2004;
  - Licensing Authority Policy Statement, as required by the Licensing Act 2003;
  - ~~Gambling Act Statement of Principles, as required by the Gambling Act 2005;~~
  - ~~Pay Policy Statement, as required by the Localism Act 2011;~~
  - ~~Child Poverty Strategy, as required by the Child Poverty Act 2010;~~
  - ~~Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006.~~
  - ~~Wiltshire and Swindon Waste Local Plan, as required by the European Framework Directive on Waste 2006 and the Landfill Directive 1999.~~
- 1.2 Adopting the following non-statutory plans, strategies and documents which also form part of the policy framework of the Council:
- ~~Social Service Plan (reported through NHS Local Development Plans)~~
  - ~~Sustainable Community Strategy~~
  - Adult Learning Plan
  - ~~Library Plan~~
  - Customer Access Strategy
  - Young Carers' Strategy

**Comment [a4]:** Revoked by South West (Revocation) Order 2013.

- Adult Care Transformation
  - Corporate Asset Investment Strategy and Corporate Property Strategy
  - Corporate Parenting Policy for Looked After Children and Young People in Wiltshire
  - [Corporate Business Plan](#)
  - Food [Safety, Food Standards and Food](#) Law Enforcement Service Plan, as required by the Food Standards Agency
  - [Housing Strategy](#)
  - [Air Quality Strategy, as required by the Environment Act 1995](#)
  - [Contaminated Land Strategy, as required by Part 2A Environmental Protection Act 1990](#)
  - Such other plans and strategies as the Council may include to form part of its policy framework.
- 1.3 [Approving the budget, including:](#)
- [Allocating financial resources to different services and projects](#)
  - [Establishing contingency funds](#)
  - ~~[Agreeing the council tax base](#)~~
  - [Setting the council tax](#)
  - [Making decisions relating to the control of the Council's borrowing requirement](#)
  - ~~[Controlling capital expenditure](#)~~
  - [Setting virement limits](#)
  - [Annual Investment Strategy](#)
  - [Annual policy for making a Minimum Revenue Provision \(MRP\)](#)
- 1.4 Approving and amending the constitution.
- 1.5 Subject to the urgency procedure contained in the Access to Information Procedure Rules in Part 5 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the policy framework, or the budget, where the decision maker is minded to make it in a manner which would be contrary to the policy framework, or contrary to/or not wholly in accordance with the budget.
- 1.6 Appointing and removing the Leader of the Council from office.
- 1.7 Agreeing and/or amending the terms of reference for committees other than joint committees, deciding on their composition and making appointments to them.
- 1.8 Adopting a members' allowances scheme in accordance with the Local Authorities' (Members' Allowances) (England) Regulations 2003 following advice from an independent remuneration advisory panel comprising up to five non-elected members.
- 1.9 Confirming the appointment of the Head of Paid Service.
- 1.10 Appointing the returning officer and electoral registration officer.
- 1.11 Submitting proposals to the secretary of state under the Representation of the People Act 2000.

**Comment [a5]:** Michael Hudson has confirmed this is correct subject to the removal of the two functions which are the responsibility of Cabinet or their committees.

1.12 To carry out community governance reviews and put in place or make changes to local community governance and electoral arrangements in accordance with the Local Government and Public Involvement in Health Act 2007.

1.13 Making, amending, revoking, re-enacting or adopting bylaws and promoting, or opposing, the making of local legislation or personal bills.

1.14 Agreeing the cycle of Council meetings.

~~1.14~~ 1.15 Any function under a local act ~~other than a function specified or referred to in regulation two or schedule one of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.~~

~~1.15~~ 1.16 Making arrangements for questions on the discharge of the functions of the Police and Crime Panel and the fire authority to be put at Council meetings.

~~1.16~~ 1.17 Making appointments to the Police and Crime Panel in accordance with the relevant legislation and guidance.

~~1.17~~ 1.18

**Comment [a6]:** Amended for clarity. Regulations referred to at Part 3 Section A Paragraph 3.1.

**Comment [a7]:** Changes due to Police Act 1996 being repealed. 1.17 required under Police Reform and Social Responsibility Act 2011.

## 2. Committees

The Council will exercise the following functions by delegation of powers to the under-mentioned committees:

### 2.1 Strategic Planning Committee

#### Composition

The size of the committee and appointments to it will be determined by council. Appointments will be made having regard to rules on political proportionality. Substitutes will be permitted in accordance with Part 4 of this Constitution. Councillors shall not participate as members of the Strategic Planning Committee until they have received appropriate training in respect of their functions on the committee.

#### Role and Functions

The committee will exercise the following functions:

To make strategic planning decisions as follows:

- The implications of major developments outside of Wiltshire that could have an impact on local residents.
- To consider the following categories of applications for planning permission:
  - Large-scale major developments (defined by the Department for Communities and Local Government as those of 200 houses or more or 10,000 square metres of non-residential floor space) which, by their nature, (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance;
  - Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;



- Significant applications by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person (Regulation 3 applications);
- Applications which, if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
- Applications called in by a division-member that cross the boundary of two area committees;
- Any application where the Associate Director, Economic Development and Planning Services considers it inappropriate to exercise delegated powers having regard to the public representations received and consultee responses;
- Any application the Associate Director Economic Development and Planning Services has determined should be dealt with by the Strategic Planning Committee.
- Consider documents relating to the Local Development Framework and advise Cabinet where appropriate.

There shall be no referral up of applications to the Strategic Planning Committee from the area planning committees.

The Associate Director, Economic Development and Planning Services shall be responsible for determining whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee down of applications from Strategic Planning Committee to Area Planning Committees.

#### Public Participation

Details of the rules concerning public participation at the Strategic Planning Committee are documented in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

## **2.2 Area Planning Committee**

There shall be four area planning committees with the following composition and role and functions.

#### Composition

The size of the committees and appointments to them will be determined by Council. Appointment to each of the area planning committees will be politically proportional having regard to the wishes of group leaders, who would be asked to nominate wherever possible on a geographical basis.

Substitutes will be permitted in accordance with Part 4 of this Constitution from those eligible, selected wherever possible on a geographical basis.

Councillors shall not participate as members of the area planning committees until they have received appropriate training in respect of their functions on the committee.

#### Planning Role and Functions

To consider planning applications not within the remit of the Strategic Planning Committee and not delegated to officers except where the Associate Director,

Economic Development and Planning Services considers it inappropriate to exercise delegated powers having considered public representations and consultee responses.

To consider matters of local importance within the area such as:

- The designation and amendment of conservation areas;
- Village design statements and parish plans where Council approval is required for them to be considered as material considerations in dealing with planning applications;
- Consideration of planning applications called to an area committee by division members, with the exception of those that fail to be determined by the Strategic Planning Committee;

There shall be no referral up of applications from the area planning committees to the Strategic Planning Committee.

The Associate Director, Economic Development and Planning Services, after consultation with the relevant cabinet member, shall be responsible for determining whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee in accordance with the criteria set out above. Where requested to do so, the Associate Director, Economic Development and Planning Services shall be required to set out the reasons in writing.

**Comment [a8]:** Inserted for clarity.

#### Other Roles and Functions

Where an objection has been received and that objection has not been resolved by officers, to consider matters of local importance within the area such as:

- Registration of common land for town and village greens;
- Variation of rights of common;
- Determination of applications under the ~~Explosives Act 1875~~ Manufacture and Storage of Explosives Regulations 2005;
- Public rights of way, including modification of the definitive map and the regulation of the use of the highway.

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#### Scheme of Delegation

The scheme of delegation to the Associate Director, Economic Development and Planning Services is detailed in Part 3 Section D 3 of this Constitution.

#### Public Participation

Details of the rules concerning public participation at the Area Planning Committees are documented in the Planning Code of Good Practice for Members of Wiltshire Council (Protocol 4).

## **2.3 Licensing Committee**

#### Composition

The size of the committee and appointments to it will be determined by Council with a membership of between 10 and 15 councillors. Appointments will be made having regard to the rules on political proportionality.

Substitutes will be permitted in accordance with Part 4 of this Constitution

Councillors shall not participate as members of the Licensing Committee or any of its sub-committees [in relation to Licensing Act and Gambling Act matters](#) until they have received appropriate training in respect of their functions on the committee or sub-committees.

#### Role and Functions

Taxi, gambling, casino, gaming, entertainment, food, liquor and miscellaneous licensing.

To deal with all functions relating to licensing and registration as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 to include all of the Council's responsibilities under the Licensing Act 2003, the Gambling Act 2005 and the Council's responsibilities in respect of licensing under the Criminal Justice and Police Act 2001 and the Violent Crime Reduction Act 2006 any other associated matters and [anyall other similar](#) licensing and registration functions. ~~[carried out by the Public Protection Service that naturally fall within the jurisdiction of the committee where legislation permits.](#)~~

The Licensing Committee has the power to appoint such sub-committees as may from time to time be necessary to discharge [its](#) duties [including those](#) under the Licensing Act 2003 and the Gambling Act 2005.

Each sub-committee will comprise three members drawn from the Licensing Committee and appointed by the ~~[Proper Officer Associate Director Corporate Function and Procurement](#)~~ having regard to the following:

- Availability of councillors;
- Councillors selected are not the representative for the area in which the premises subject to the hearing or review is situated;
- Councillors do not have a personal or prejudicial interest in the matter to be determined;
- Cross-party representation on all sub-committees is achieved where at all possible.

#### Scheme of Delegation

Sub-committees will have full delegated powers to determine contested applications and adjudicate over the review of licences. These will be undertaken by way of licensing hearings and conducted in accordance with [relevant legislation. the Licensing Act \(Hearings\) Regulations 2005](#)

Delegations relevant to the Licensing Committee, licensing sub-committees and officers are detailed in Part 3 Section D4 of this Constitution.

## **2.4 Staffing Policy Committee**

#### Composition

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

Substitutes will be permitted in accordance with Part 4 of this Constitution.

#### Role and Function

To determine, monitor and review staffing policies and practices to secure the best use and development of the Council's staff, including the power to deal with all matters relating to staff terms and conditions.

The Staffing Policy Committee will establish the following sub-committees to deal with matters relating to the dismissal or disciplinary action against individual members of staff and staff grievances.

#### **2.4.1 Senior Officers' Employment Sub-Committee**

This sub-committee is authorised to dismiss and take disciplinary action against the officers categorised below in accordance with the officer employment procedure rules:

- The Head of Paid Service
- Statutory chief officers
- Non-statutory chief officers
- Deputy chief officers
- Assistants for political groups

For this purpose the sub-committee shall comprise at least three councillors, at least one of whom shall be a member of the Cabinet.

This sub-committee is also authorised to consider and respond to grievances raised by officers in the categories listed above under stage two to the Council's grievance procedure. For the determination of such grievances the sub-committee shall comprise at least three councillors. There is no requirement for any of those members to be a member of the Cabinet.

#### **2.4.2 Staffing Appeals Sub-Committee**

This sub-committee is authorised to hear appeals against dismissal or disciplinary action:

- By the Senior Officers' Employment Sub-Committee in relation to the senior officers specified above;
- By the Head of Paid Service in relation to other staff.

The Staffing Appeals Sub-Committee has power in the case of an appeal against a warning to:

- Dismiss the appeal;
- Allow the appeal;
- Allow the appeal and substitute a different warning (greater or lesser);
- Dismiss the employee.

The Staffing Appeals Sub-Committee has power in the case of an appeal against dismissal to:

- Dismiss the appeal;
- Dismiss the appeal but offer to re-engage the employee in the same or another post with effect from a date to be determined;
- Allow the appeal and reinstate;
- Allow the appeal and reinstate with a written or final written warning.

In the case of any appeal against dismissal or disciplinary action in respect of a senior officer as identified above, the Staffing Appeals Sub-Committee shall

comprise at least three councillors, at least one of whom shall be a member of the Cabinet.

No councillor who was involved in determining a matter which is the subject of an appeal will be appointed to the Staffing Appeals Sub-Committee.

### **2.4.3 Grievance Appeals Sub-Committee**

This sub-committee is authorised to hear appeals under stage two of the Council's grievance procedure.

The sub-committee shall comprise at least three councillors to hear an appeal. There is no requirement for any member to be a member of the Cabinet.

No councillor who was involved in determining a matter which is the subject of an appeal will be appointed to the Grievance Appeals Sub-Committee.

## **2.5 Standards Committee**

### Composition

This Committee will comprise 13 elected councillors, other than the Leader or any other member of the Cabinet, and up to 8 co-opted non-voting members, 50% of whom shall be serving town, parish or city councillors from within the Council's area who are not councillors or officers of the Council.

Appointments to the Committee will be made annually by the Council having regard to the rules on political proportionality.

The term of office for co-opted non-voting members will normally be 4 years.

Co-opted non-voting members will be eligible for re-appointment for a second term.

Substitutes will be permitted in accordance with Part 4 of the Constitution.

### Roles and Function

The Standards Committee is responsible for:

- promoting and maintaining high standards of conduct by elected and co-opted members and officers.
- assisting the elected and co-opted members to observe the members' code of conduct.
- advising the Council on the adoption or revision of the members' code of conduct and the arrangements for dealing with member complaints of misconduct which the Council is required to make under Section 28 of the Localism Act 2011.
- monitoring and advising the Council about the operation of its code of conduct in the light of best practice and any changes in the law.
- advising, and, through the Member Development Group, arranging to train elected and co-opted members on matters relating to the members' code of conduct and ensuring that members are aware of the standards expected of them under the code

- granting dispensations to elected and co-opted members from requirements relating to interests.
- overseeing the operation of the Council's arrangements for dealing with misconduct complaints against members and co-opted members of Wiltshire Council, and parish, town and city councillors in Wiltshire.
- overview of the whistle blowing policy.
- overview of corporate complaints handling and Ombudsman investigations.
- overview of corporate complaints handling and Ombudsman investigations.
- reviewing the implementation of recommendations made by the Ombudsman.
- oversight of the Constitution.

The Standards Committee has the power to appoint such sub-committees as may from time to time be necessary for the efficient discharge of its functions. In particular, the Committee will appoint:

- A Hearing Sub-Committee to determine member misconduct complaints under the Council's arrangements.
- A Review Sub-Committee to determine requests for review under the Council's arrangements.
- A Dispensation Sub-Committee to determine requests for dispensation from the requirements relating to interests.

In each case the Sub-Committee shall comprise 3 elected members from whom a chairman will be elected. The Sub-Committee may include 2 non-voting co-opted members of the Standards Committee, one of whom shall be a parish, town or city council representative where the complaint concerns a parish, town or city councillor.

The above Sub-Committees are not subject to the requirements of political balance but are subject to the requirement of a maximum of 2 elected members from any political group. The composition of any sub-committee will be determined by the Monitoring Officer in consultation with the Chairman of the Standards Committee on the basis of member availability, drawing from the membership of the Committee and their substitutes.

**Comment [a9]:** Amendment from Full Council 12 November 2013

Members of the Review Sub-Committee may not serve on the Hearing Sub-Committee for the same or a linked complaint.

For the avoidance of doubt decisions of the Sub-Committees will be made by a simple majority of the elected members present.

## 2.6 Officer Appointments Committee

This committee will comprise five councillors to include at least one member of Cabinet. It will be responsible for:

- Appointing the Head of Paid Service, subject to confirmation by the Council;
- Appointing Corporate Directors and Associate Directors, subject to the officer employment procedure rules as set out in Part 15 of this Constitution.

## 2.7 Wiltshire Pension Fund Committee

This committee will comprise five councillors from the authority and co-opted members as follows:

- Two voting members from Swindon Borough Council;
- **Two voting Employer Representatives**
- **Two** non-voting employee representatives, one representing Wiltshire Council employees, and one representing Swindon Borough Council employees.

It will exercise the functions of the Council as administering authority under the Local Government Superannuation Acts & Regulations and deal with all matters relating thereto. **The committee will publish meetings attendance records in an Annual Report.**

**The voting Employer Representatives will serve a four year fixed term from appointment. On expiry of the four year term, applications for the position will be sought (from the incumbent and the applicable employer bodies) and an appointment process will be undertaken by the committee should more than one application be received for the role.**

**Comment [M10]:** Updated to reflect changes made by the Pension Committee.

## 2.8 Audit Committee

### Composition

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

The Audit Committee will exclude members of the Cabinet. The Leader of the Council or the cabinet member responsible for finance and governance is a non-voting member of the Committee.

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

### Role and Function

The Audit Committee will be responsible for:

- Internal Audit Activity:
  - To approve the terms of reference and strategy for internal audit, and the annual internal audit plan;
  - To monitor and review the effectiveness of internal audit to ensure compliance with statutory requirements;
  - To consider the Head of Internal Audit's annual report and opinion, and a summary on internal audit activity and the level of assurance it provides on the Council's corporate governance arrangements;
  - To consider specific internal audit reports as requested, and monitor the implementation of agreed management actions.
- External Audit Activity:
  - To receive and comment on the external audit plan;

- To consider the external auditor's annual letter, relevant reports, and the report to those charged with governance;
- To comment on the scope and depth of external audit work and to ensure it gives value for money;
- To monitor the implementation of management actions arising from external audit work.
- Regulatory Framework:
  - To monitor and review the effective development and operation of corporate governance, risk management and internal control, and to receive progress reports as required;
  - To oversee the process for production of the annual governance statement (AGS), to review the supporting evidence, and to approve the draft AGS;
  - To monitor the development and implementation of the Council's anti-fraud and corruption policy and strategy.
- Financial Management and Accounts
  - To ensure the Council's arrangements for financial management are adequate and effective, and are regularly reviewed;
  - To review and approve the annual statement of accounts;
  - To consider the external auditor's report to those charged with governance on issues arising from the audit of the accounts.

## **2.9 Appeals Committee**

### Composition

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

An appeals panel will comprise three councillors, drawn by the Proper Officer from those members of the Appeals Committee who have received appropriate training.

At each meeting of the appeals panel, one of its members shall be elected to chair the appeals panel for the duration of that meeting.

### Function

An Appeals Panel is empowered to determine appeals against the following decisions of the authority:

- Education transport;
- Imposition of penalty points which would result in suspension for licensed hackney carriage, taxi and private hire vehicle operators, drivers and vehicles;
- Refusal of applications for discretionary rate relief and cases of exceptional hardship under the national non-domestic rating regulations, council tax and housing benefit regulations and Rates Relief Policies;
- Suspension, removal or exclusion of providers from the Council's Directory of Registered Early Years Providers;
- Any other function requiring an appeal to a member body not specifically reserved to another body in the Constitution, or by the law.



No councillor who was involved in determining a matter which is the subject of an appeal will be appointed to a panel hearing the appeal.

### 3. Cabinet

#### General

This section should be read in conjunction with the Cabinet Procedure Rules (Part 7).

The Leader either directly or through Cabinet will carry out within the Council's Policy and Budget Framework all of the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution.

Without limiting the scope of paragraph 3 above, Cabinet either directly or by delegating its powers as set out in Part 3 Section C of this Constitution has the following functions and responsibilities:

- Proposing the budget to Council, including the preparation of estimates and the amount of the proposed precept and any reconsideration or revision of those estimates;
- Agreeing the council tax base;
- Controlling capital expenditure;
- Proposing to Council new policies (or amendments to existing policies) which fall within the Policy Framework as defined in paragraph 1 of Part 3 of this Constitution;
- Adopting on behalf of Wiltshire Council any plans, policies or strategies which do not form part of the policy framework and are not the responsibility of any other part of the local authority;
- Implementing and delivering the agreed Budget and Policy Framework.

**Comment [M11]:** Moved from section 1.3 above on the advice of the Chief Finance Officer.

#### 3.1 Local Choice Options

In regard to local choice options, the following will be the responsibility of the Cabinet:

- Making arrangements pursuant to the School Standards and Framework Act 1998 for appeals against exclusion of pupils; admission appeals; and appeals by governing bodies;
- The appointment of any individual to any office other than an office in which he is employed by the authority to anybody other than the authority and to any committee or sub-committee of such a body and the revocation of any such appointment.

The Cabinet elects to delegate the following local choice options as follows:

- Associate Director, Economic Development and Planning Services - the obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land
- Solicitor to the Council - the obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976;

- Solicitor to the Council - the making of agreements for the execution of highways works.

### **3.2 Cabinet Members**

The Leader of the Council chairs meetings of the Cabinet and is the principal spokesman for the Council. The role of Leader within the Budget and Policy Framework set by the Council includes:

- Setting strategic direction;
- Ensuring the needs and aspirations of Wiltshire people are known;
- Management initiatives;
- Identifying priorities and setting targets;
- Setting priorities;
- Probity and financial monitoring and risk management;
- Communication policy;
- Monitoring performance of members of his or her Cabinet;
- Promoting the Council;
- Relationships with other political group leaders and the chairman of the Council.

The provisions above are without prejudice to the statutory duties of the Head of Paid Service, the Monitoring Officer and Solicitor to the Council, the Director of Children's Services, the Director of Adult Social Services, the Section 151 Officer, the designated Scrutiny Officer or other Council officers.

The Leader will appoint individual cabinet members as he or she thinks appropriate subject to reporting appointments to the first available meeting of the Council.

Individual cabinet members will have power within any scheme of delegation determined by the Leader in accordance with:

- Article seven of Part 2 (The Constitution)
- Part 3 Section C (Delegation of Executive Functions)
- Paragraphs two to ten of the Part 7 (Cabinet Procedure Rules).

In addition to the delegation of authority to individual members the Cabinet may choose to delegate functions further to an area board, joint arrangements, or an officer.

## **4. Area Boards**

### Role and functions of Area Boards

- 4.1 The purpose of area boards is to promote the development of stronger and more resilient communities across Wiltshire's community areas through:
- Efficient, transparent and accountable decision making;
  - Effective collaboration with public, voluntary and private sector partners locally to meet the aspirations of local people;
  - Shaping the delivery of local services;
  - Addressing local issues;
  - Building community leadership and local engagement.
- 4.2 Each area board will have the following functions in conjunction with their local area:

- To provide a focus for community leadership, local influence and delegated decision-making, through the democratic mandate of elected councillors;
- To influence the allocation of resources and delivery of public services in the community area in order to pursue local priorities and issues;
- To bring together key service providers and the local community into a coherent cycle, linked to budget and decision-making processes;
- To consider current conditions and future priorities through an annual state of the community area debate;
- To publish a local area assessment setting out the agreed priorities for action arising from the state of the community area debate;
- To determine budget priorities and spend within the revenue budget allocated by the Cabinet;
- To agree a framework for consultations carried out in the community area on behalf of the Council;
- To provide feedback on major statutory consultations on behalf of the community area;
- To allocate core funding for the operation of the community area partnership and project funding for identified community priorities;
- To develop participatory budgeting processes and to be instrumental in supporting and developing funding applications to external bodies and funding streams;
- To provide excellent two-way communications for the community area about public service provision and to the Council and Cabinet about the implementation and effectiveness of policies;
- To publish and maintain a forward plan of forthcoming agenda items to give councillors, the public, parishes and the media adequate notice of the issues that are to be considered;
- To consider issues referred to the area board by town and parish councils, partners and the public;
- To establish task and finish groups to examine specific issues.

#### Composition

- 4.3 The area boards are appointed by the Council under section 102 of the Local Government Act 1972 and are constituted as area committees within the meaning of Section 18 of the Local Government Act 2000 and regulations made under that section for the purpose of discharging functions delegated by the executive as set out below.
- 4.4 In the event of a councillor being elected following a by-election, Interim Associate Director Policy, Performance, Procurement, Democratic Services has delegated authority to appoint the councillor to the relevant area board and council will be asked to ratify the appointment at its next available meeting.
- 4.5 Area boards are established for the areas shown on the map at schedule one and named as set out in that schedule.
- 4.6 Pewsey and Tidworth are established as a single area committee with two sub-committees, each of which operate as an area board known as Pewsey Area Board and Tidworth Area Board respectively.

#### Membership and Representation

~~4.7 Each area boards will comprise the following membership shall comprise of :~~  
~~4.7 The elected unitary councillors representing the electoral divisions covered by the area board, as set out in schedule 1.~~

4.8 The following representatives will also participate in area boards:

- An elected representative from each town or parish council within the area covered by the area board as shown in schedule 1;
- Representatives from the following groups and organisations:
  - Local neighbourhood policing team (inspector with a sergeant as deputy);
  - ~~Wiltshire National Health Service~~ Clinical Commissioning Group;
  - Housing Association or housing officer;
  - Community Area Partnership and/or other groups representative of the local community;
  - ~~Community area young people's issues group~~;
  - Wiltshire Fire and Rescue Service;
  - Local Youth Network;
  - Campus Operation Group (or equivalent).
- Other participants from the local community including (but not limited to) any of the following groups: the military, users groups such as the Wiltshire and Swindon User Group, Wiltshire Involvement Network Healthwatch, partnership boards, minority ethnic groups, older people's groups, colleges, school councils, governors, local businesses, Chamber of Commerce, cultural organisations, Area of Outstanding Natural Beauty groups.

4.9 The chairman and vice-chairman of an area board will be appointed at the first meeting of an area board, which takes place after the annual meeting of the Council, by the unitary councillors on each area board, ~~except in an election year where after the first meeting of Full Council a special meeting of each area board will take place to appoint a chairman and a vice-chairman.~~

4.9.1 The outgoing chairman unless he or she is seeking re-election will preside over the election. If the chairman is seeking re-election, the vice-chairman will preside.

4.9.2 The person presiding will call for nominations for the position of chairman of the area board. A councillor's nomination must be seconded to be valid. A councillor shall not be nominated in his/her absence without their written consent.

4.9.3 In the event of only one valid nomination being received the person presiding will declare the nominated councillor elected.

4.9.4 In the case of two valid nominations the Chairman will ask for a show of hands from those councillors in favour of each councillor and declare the candidate receiving the majority of votes of the councillors present and voting, to be the winner.

4.9.5 In the case of an equality of votes for the two candidates, the person presiding may exercise his or her right to use a casting vote to determine the winner of the election and then declare the result.

4.9.6 In the case of three or more valid nominations being made, the person presiding will call for a show of hands for each of the candidates. The person

presiding will then announce the candidate with the least number of votes and that candidate will be eliminated (in the case of a tie for the least number of votes, the person presiding may exercise his or her right to use a casting vote to determine which candidate to be eliminated). A further vote shall be taken for the remaining candidates and after each vote the candidate with the least number of votes shall be eliminated until only two candidates remain and a final vote taken.

- 4.9.7 The newly elected Chairman of the Area Board shall then preside over the election of the Vice Chairman in the manner described above.
- 4.9.8 With the exception of an election year, the chairman and vice-chairman of an area board shall remain in post until their successors are appointed.
- 4.10 A member of Wiltshire Council's Cabinet will attend those area boards which do not have a Cabinet member as a standing member of the area board. Cabinet members attending the area board will not have voting rights. For the avoidance of doubt a Cabinet member is entitled to vote as a standing member of the area board in which their electoral division is located.
- 4.11 An Associate Director from Wiltshire Council will be assigned to an area board and Corporate Directors will attend as and when required. Their role is to advise and assist the area board.
- 4.12 No substitutes are permitted for unitary councillors on area boards.
- 4.13 The Pewsey and Tidworth Area Committee will appoint a named deputy for each of the three unitary councillors on the Pewsey Area Board and the Tidworth Area Board, drawn from the Tidworth Area Board and the Pewsey Area Board respectively.

#### Voting

- 4.14 Only the elected unitary councillors on the area board may vote on matters involving the discharge of executive functions within the scope of the delegation to area boards set out below.
- 4.15 Voting is by a majority of the voting members present. The chair of the area board has the casting vote.
- 4.16 Area boards will seek to reach decisions by consensus, where possible involving all participants. The area board may decide to test opinion by a show of hands before the unitary councillors make their decision.

#### Quorum

- 4.17 The quorum for each area board is one quarter of its total voting membership, subject to a minimum number of three voting members.

#### Delegation

- 4.18 Decisions involving the discharge of executive functions will be made by the local area board, provided the decision does not:
- Have a significant impact outside of the area concerned;
  - Have a significant impact on the overall resources of the Council;
  - Contradict any policy or service standard set by the Council;

- Involve the taking of regulatory or quasi-judicial decisions;
  - Relate to the exercise of functions in respect of any particular person, including any individual member of staff.
- 4.19 Area boards must operate within the Council's Budget and Policy Framework and in accordance with the requirements of this Constitution.
- 4.20 Each area board will receive delegated funding as determined from time to time by the Leader.
- 4.21 Area boards will allocate their delegated funds in accordance with any rules and guidance issued by the Leader.
- 4.22 For the avoidance of doubt the delegation arrangements for area boards will operate in conjunction with the scheme of delegation to Cabinet members and the Council's scheme of delegation to officers.
- 4.23 Area boards will be consulted on the development of strategic policies to make sure that local priorities and concerns are taken into account. The area boards will also be consulted where significant changes, reductions or closures of a service are planned in their area.
- 4.24 Any key decision or policy proposal of the Council that has, or is likely to have, a significant impact in the local area will be discussed with the area board.
- 4.25 Area boards must not be directly involved in deciding planning applications. However, they should be involved in the following in relation to their area:
- Consideration of the benefits of larger developments;
  - Pre-application discussions relating to major developments;
  - Consideration of planning briefs;
  - Development of Local Development Framework policies.

#### Procedure Rules and Guidance

- 4.26 Area boards will follow any procedure rules and guidance as issued from time to time by the Leader.

#### Access to Information

- 4.27 Area Boards are subject to the Access to Information Procedure Rules in Part 5 of this Constitution.

### **5. Wiltshire Police and Crime Panel**

#### Terms of Reference

- 5.1 To review and make a report or recommendation on the draft police and crime plan, or draft variation, given to the panel by the Police and Crime Commissioner.
- 5.2 To review, put questions to the Police and Crime Commissioner at a public meeting, and make a report or recommendation (as necessary) on the annual report.

- 5.3 To hold a confirmation hearing and review, make a report, and recommendation (as necessary) in respect of proposed senior appointments made by the Police and Crime Commissioner.
- 5.4 To review and make a report on the proposed appointment of the Chief Constable.
- 5.5 To review and make a report and recommendation (as necessary) on the proposed precept.
- 5.6 To review or scrutinise decisions made, or other action taken, by the Police and Crime Commissioner in connection with the discharge of the commissioner's functions.
- 5.7 To make reports or recommendations to the Police and Crime Commissioner with respect to the discharge of the commissioner's functions.
- 5.8 To support the effective exercise of the functions of the Police and Crime Commissioner.
- 5.9 To fulfil functions in relation to complaints about conduct matters, in accordance with the responsibilities accorded to the panel by the Police Reform and Social Responsibility Act 2011.
- 5.10 To appoint an Acting Police and Crime Commissioner if necessary.
- 5.11 To suspend the Police and Crime Commissioner if it appears to the Panel that the Commissioner has been charged in the United Kingdom or Isle of Man with an offence which carries a maximum term of imprisonment exceeding two years.

#### Procedure Rules and Panel Arrangements

- 5.12 The Police and Crime Panel Procedure Rules and Panel Arrangements are set out in Protocol [ ].

**Comment [a12]:** See new protocol

## **6. Health and Wellbeing Board**

### Composition

#### Voting members

- The Leader of the Council
- Wiltshire Council Cabinet representatives with responsibility for Children, Adults and Public Health
- 1 Member of the Opposition representative
- 4 representatives from the CCG
- 1 representative from Healthwatch
- 1 Police and Crime Commissioner (PCC)
- 1 NHS England representative

#### Non-voting members

- Wiltshire Council officers with statutory responsibility for Children, Adults and Public Health services
- Chief Officer / Chief Finance Officer of the Clinical Commissioning Group
- Acute Hospital Trusts representatives (Salisbury Hospital FT, Great Western Hospital FT and Bath RUH FT)
- 1 South West Ambulance Service (SWAS) representative
- 1 Avon and Wiltshire Mental Health Partnership (AWP) representative
- 1 Wiltshire Police Chief Constable representative
- ~~1 Member of the Opposition representative~~
- ~~1 Wessex Medical Committee representative~~
- Wiltshire Council portfolio holder for Adult Care and Public Health

In addition the NHS Commissioning Board must appoint a representative for the purposes of participating in the preparation of the Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy and will join the Board when it is considering these matters.

#### Voting

Voting is by a majority of the voting members present. The chair of the board has the casting vote. However, the board will seek to reach decisions by consensus, where possible involving all participants.

#### Roles and Functions

The statutory functions of the Health and Wellbeing Board contained within the Health and Social Care Act 2012 are:-

- to prepare Joint Strategic Needs Assessments (JSNAs) and Joint Health and Wellbeing Strategies (JHWSs), which is a duty of local authorities and clinical commissioning groups (CCGs).
- a duty to encourage integrated working between health and social care commissioners, including providing advice, assistance or other support to encourage arrangements under Section 75 of the National Health Service Act 2006 (i.e. lead commissioning, pooled budgets and/or integrated provision) in connection with the provision of health and social care services.
- a power to encourage close working between commissioners of health related services and the board itself.
- a power to encourage close working between commissioners of health-related services (such as housing and many other local government services) and commissioners of health and social care services

Full Council reserves the right to delegate any other additional functions under section 196(2) of the Health and Social Care Act 2012.

#### Access to Information

The Health and Well-Being Board is subject to the Access to Information Procedure Rules in Part 5 of this Constitution.





## PART 3 SECTION B

### SCHEDULE 1

#### AREA BOARDS: ELECTORAL DIVISION AND PARISH ALLOCATIONS

##### Amesbury Area Board

###### Electoral Divisions 6

Amesbury East ED	Figcheldean CP
Amesbury West ED	Great Wishford CP
Till & Wylve Valley ED	Idmiston CP
Durrington & Larkhill ED	Milston CP
Bulford, Allington & Figcheldean ED	Newton Tony CP
Bourne & Woodford Valley ED	Orcheston CP

###### Parishes

Allington CP	Shrewton CP
Amesbury CP	Stapleford CP
Berwick St. James CP	Steeple Langford CP
Bulford CP	Tilshead CP
Cholderton CP	Wilsford cum Lake CP
Durnford CP	Winterbourne CP
Durrington CP	Winterbourne Stoke CP
	Woodford CP
	Wylve CP

##### Bradford on Avon Area Board

###### Electoral Divisions 4

Holt & Staverton ED	Winsley CP
Winsley & Westwood ED	Monkton Farleigh CP
	Bradford-on-Avon CP

Bradford on Avon North ED

Holt CP

Bradford on Avon South ED

South Wraxall CP

Wingfield CP

**Parishes**

Westwood CP

Limpley Stoke CP

Staverton CP

**Calne Area Board**

**Electoral Divisions 5**

**Parishes**

Calne Rural ED

Calne without CP

Calne North ED

Bremhill CP

Calne Chilvester & Abberd ED

Hilmarton CP

Calne Central ED

Heddington CP

Calne South & Cherhill ED

Cherhill CP

Compton Bassett CP

Calne CP

**Chippenham Area Board**

**Electoral Divisions 10**

North Wraxall CP

By Brook ED

Chippenham CP

Chippenham Cepen Park & Derriads ED

Chippenham without CP

Chippenham Cepen Park & Redlands ED

Langley Burrell without CP

Chippenham Hardenhuish ED

Nettleton CP

Chippenham Monkton ED

Castle Combe CP

Chippenham Queens and Sheldon ED

Kington St. Michael CP

Chippenham Hardens and England ED

Kington Langley CP

Chippenham Lowdon and Rowden ED	Stanton St. Quintin CP
Chippenham Pewsham ED	Hullavington CP
Kington ED	Sutton Benger CP
	Seagry CP
<b>Parishes</b>	Yatton Keynell CP
Grittleton CP	Christian Malford CP
Biddestone CP	

### Corsham Area Board

<b>Electoral Divisions 4</b>	<b>Parishes</b>
Box and Colerne ED	Box CP
Corsham Pickwick ED	Colerne CP
Corsham without & Box Hill	Corsham CP
Corsham Town ED	Lacock CP

### Devizes Area Board

<b>Electoral Divisions 7</b>	Cheverell Parva
Bromham, Rowde and Potterne ED	Devizes CP
Devizes & Roundway South ED	Easterton CP
Devizes East ED	Erlestoke CP
Devizes North ED	Etchilhampton CP
Roundway ED	Market Lavington CP
The Lavingtons & Erlestoke ED	Marston CP
Urchfont & The Cannings ED	Potterne CP
	Roundway CP
<b>Parishes</b>	Rowde CP
All Cannings CP	Stert CP
Bishops Cannings CP	Urchfont CP
Bromham CP	West Lavington CP

Cheverell Magna

Worton CP

### Malmesbury Area Board

#### Electoral Divisions 4

Brinkworth ED

Malmesbury ED

Minety ED

Sherston ED

Great Somerford CP

Hankerton CP

Lea and Cleverton CP

Leigh CP

Little Somerford CP

Luckington CP

#### Parishes

Ashton Keynes CP

Brinkworth CP

Brokenborough CP

Charlton CP

Crudwell CP

Dauntsey CP

Easton Grey CP

Malmesbury CP

Minety CP

Norton CP

Oaksey CP

Sherston CP

Sopworth CP

St. Paul Malmesbury without CP

### Marlborough Area Board

#### Electoral Divisions 4

Aldboune & Ramsbury ED

Marlborough East ED

Marlborough West ED

West Selkley ED

East Kennett CP

Froxfield CP

Fyfield CP

Marlborough CP

Mildenhall CP

Ogbourne St. Andrew CP

#### Parishes

Aldboune CP

Avebury CP

Ogbourne St. George CP

Preshute CP

Ramsbury CP

Baydon CP

Berwick Bassett CP

Broad Hinton CP

Chilton Foliat CP

Savernake CP

West Overton CP

Winterbourne Bassett CP

Winterbourne Monkton CP

### Melksham Area Board

#### Electoral Divisions 6

Melksham Central ED

Melksham North ED

Melksham South ED

Melksham without North ED

Melksham without South ED

Summerham and Seend ED

#### Parishes

Atworth CP

Broughton Gifford CP

Bulkington CP

Great Hinton CP

Keevil CP

Melksham CP

Melksham without CP

Poulshot CP

Seend CP

Semington CP

Steeple Ashton CP

### Pewsey Area Board

#### Electoral Divisions 3

Pewsey Vale ED

Pewsey ED

Burbage & The Bedwyns ED

Patney CP

Pewsey CP

Rushall CP

Stanton St. Bernard CP

Upavon CP

#### Parishes

Alton CP

Beechingstoke CP

Wilcot CP

Wilsford CP

Woodborough CP

Charlton CP	Wootton Rivers CP
Chirton CP	Burbage CP*
Easton CP	Buttermere CP*
Huish CP	Grafton CP*
Manningford CP	Ham CP*
Marden CP	Great Bedwyn CP*
Milton Lilbourne CP	Little Bedwyn CP*
North Newnton CP	Shalbourne CP*

<b>Salisbury Area Board</b>
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**Electoral Divisions 8**

Salisbury Fisherton & Bemerton Village ED	Salisbury St Martin's & Cathedral ED
Salisbury Bemerton ED	Salisbury St Paul's ED
Salisbury Harnham ED	
Salisbury St Edmund & Milford ED	<b>Parish</b>
Salisbury St Francis & Stratford ED	Salisbury CP
Salisbury St Mark's & Bishopdown ED	(including part of Laverstock & Ford CP)

<b>South West Wiltshire Area Board</b>
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**Electoral Divisions 5**

	East Knoyle CP
Fovant & Chalke Valley ED	Ebbesborne Wake CP
Mere ED	Fonthill Bishop CP
Nadder & East Knoyle ED	Fonthill Gifford CP
Tisbury ED	Fovant CP
Wilton & Lower Wylde Valley ED	Hindon CP
	Kilmington CP
<b>Parishes</b>	Mere CP
Alvediston CP	Netherhampton CP

Ansty CP	Quidhampton CP
Barford St. Martin CP	Sedgehill and Semley CP
Berwick St. John CP	South Newton CP
Berwick St. Leonard CP	Stourton with Gasper CP
Bishopstone CP	Stratford Toney CP
Bower Chalke CP	Sutton Mandeville CP
Broad Chalke CP	Swallowcliffe CP
Burcombe without CP	Teffont CP
Chicklade CP	Tisbury CP
Chilmark CP	Tollard Royal CP
Compton Chamberlayne CP	West Knoyle CP
Dinton CP	West Tisbury CP
Donhead St. Andrew CP	Wilton CP
Donhead St. Mary CP	Zeals CP

### **Southern Wiltshire Area Board**

#### **Electoral Divisions 5**

Alderbury & Whiteparish ED	Downton CP
Downton & Ebble Valley ED	Firsdawn CP
Laverstock, Ford and Old Sarum ED	Grimstead CP
Redlynch & Landford ED	Landford CP
Winterslow ED	Laverstock and Ford CP
	Odstock CP

#### **Parishes**

Alderbury CP	Pitton and Farley CP
Britford CP	Redlynch CP
Clarendon Park CP	West Dean CP
Coombe Bissett CP	Whiteparish CP
	Winterslow CP

### **Tidworth Area Board**



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**Electoral Divisions: 3**

The Collingbournes & Netheravon ED  
Ludgershall & Perham Down ED  
Tidworth ED

Netheravon CP  
Tidcombe and Fosbury CP  
Tidworth CP

**Parishes**

Chute CP  
Chute Forest CP  
Ludgershall CP  
Collingbourne Ducis CP  
Collingbourne Kingston CP  
Enford CP  
Everliehg CP  
Fittleton CP

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**Trowbridge Area Board**

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**Electoral Divisions 9**

Hilperton ED  
Southwick ED  
Trowbridge Adcroft ED  
Trowbridge Central ED  
Trowbridge Drynham ED  
Trowbridge Grove ED  
Trowbridge Lambrok ED  
Trowbridge Park ED  
Trowbridge Paxcroft ED

**Parishes**

Hilperton CP  
North Bradley CP  
Southwick CP  
Trowbridge CP  
West Ashton CP

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**Warminster Area Board**

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**Electoral Divisions 5**

Waminster without ED  
Warminster Broadway ED  
Warminster Copheap and Wylye ED  
Warminster East ED  
Warminster West ED

Codford CP  
Corsley CP  
Heytesbury CP  
Homingsham CP  
Kingston Deverill CP  
Knook CP  
Longbridge Deverill CP  
Maiden Bradley with Yarnfield CP  
Norton Bavant CP  
Sherrington CP  
Stockton CP  
Sutton Veny CP  
Upton Lovell CP  
Upton Scudamore CP  
Warminster CP

**Parishes**

Bishopstrow CP  
Boyton CP  
Brixton Deverill CP  
Chapmanslade CP  
Chitterne CP

**Westbury Area Board****Electoral Divisions 4**

Ethandune ED  
Westbury East ED  
Westbury North ED  
Westbury West ED

**Parishes**

Bratton CP  
Coulston CP  
Dilton Marsh CP  
Edington CP  
Heywood CP  
Westbury CP

**Royal Wootton Bassett and Cricklade Area Board****Electoral Divisions 6**

Cricklade and Latton ED  
Lyneham ED

**Parishes**

Braydon CP  
Broad Town CP

Purton ED

Wootton Bassett East ED

Wootton Bassett North ED

Wootton Bassett South ED

Clyffe Pypard CP

Cricklade CP

Latton CP

Lydiard Millicent CP

Lydiard Tregoze CP

Lyneham and Bradenstoke CP

Marston Maisey CP

Purton CP

Tockenham CP

Royal Wootton Bassett CP

## PART 3 SECTION C

### DELEGATION OF EXECUTIVE FUNCTIONS

1. The Leader will decide how arrangements for the discharge of cabinet functions are to be exercised except insofar as they are already set out in the cabinet arrangements adopted by the Council.

This scheme of delegation records the arrangements made by the Leader or the Cabinet for the discharge of executive functions by:

- The Cabinet as a whole
- a committee of the Cabinet
- an individual member of the Cabinet
- an Area Board
- an officer
- joint arrangements or
- another local authority.

#### Cabinet as a whole

In accordance with the terms of reference of Cabinet as set out at paragraph 3 of Part 3 of this Constitution, the Leader either directly or through Cabinet will carry out within the Council's Budget and Policy Framework all of the local authority's functions which are not the responsibility of any other part of the local authority whether by law or under this Constitution.

Cabinet is defined at Article 7 of Part 2 of this Constitution. The procedure rules governing meetings of cabinet are set out at Part 7 of this Constitution.

#### A Committee of the Cabinet

The Leader may appoint a committee of the Cabinet for the discharge of executive functions.

To date the following cabinet committees have been appointed:

- **Cabinet (Capital Assets) Committee**  
Membership and terms of reference details as set out in Appendix 1
- **Cabinet (Business Rates Relief) Committee**  
Membership and terms of reference details as set out in Appendix 1
- **Cabinet Transformation Committee**  
Membership and terms of reference details as set out in Appendix 1

#### An individual member of the Cabinet

Cabinet members may exercise any executive functions within their allocated areas of responsibility, as set out in Appendix 2. [The monitoring officer has delegated authority to amend Appendix 2 from time to time to reflect the decision of the Leader.](#)

This does not include executive functions which are specifically reserved to the Council, the Leader and/or Cabinet, or officers.

In exercising delegated functions cabinet members must have regard to the Leader's Protocol for individual decision making, Protocol 5 of this Constitution which promotes good practice and ensures transparency and consistency in the decision making process.

Cabinet members may in consultation with the Leader refer matters to the Cabinet for decision if they consider that it is more appropriate to do so.

Where a Cabinet Member is unable to act because of absence, a conflict of interest or any other reason, the Leader may nominate another member of the Cabinet to exercise the function on their behalf.

#### An Area Board

This scheme of delegation records the arrangements made by the Leader for the discharge of executive functions by each of the 18 Area Boards constituted in accordance with paragraph 4 of Part 3 Section B of this Constitution

Area Boards may exercise the following executive functions within their geographical areas of responsibility subject to compliance with paragraph 4.17 – 4.24 of Part 3 Section B of this Constitution and specifically:

- The approval of applications from community and voluntary groups and town and parish councils for grant funding through the Area Boards grant scheme.
- The approval of applications for the disposal of non-strategic assets with a value below £250,000 provided that each application is supported by robust and appropriate business cases that benefit local communities in accordance with the council's Community Asset Transfer Policy.

#### Officers

The discharge of executive functions as delegated by the Leader having regard to the Scheme of Delegation to Officers as set out at Part 3 Section D of this Constitution.

#### Joint Arrangements

The discharge of executive functions under joint arrangements with one or more local authority as described at Article 12.2 of Part 2 of this constitution.

#### Another local authority

Cabinet may delegate cabinet functions to another local authority or the cabinet of another local authority in certain circumstances as described at Article 12.4 of Part 2 of this Constitution.

Those delegated to take decisions within this scheme of delegation must:

- act within the council's Budget and Policy Framework
- comply with the council's Constitution, including particularly its Financial Regulations and Procedure Rules (Part 9) and Procurement and Contract Rules (Part 10), and all relevant legislation, guidance and codes of practice
- follow the principles of decision making in Article 14.2 of Part 2 of this constitution.
- consider the implication of any council policy, initiative, strategy or procedure
- consider the staffing, financial, legal and environmental implications of any proposal
- consider the assessment of any risks associated with a proposal in accordance with the council's risk management strategy

This scheme may be varied at any time in accordance with paragraph 9 of the Cabinet Procedure Rules (Part 7).

## **Part 3 Section C**

### **Delegation of Executive Functions**

#### **Appendix 1**

##### **Cabinet Committees**

##### **Cabinet Capital Assets Committee**

###### Membership:

- Cllr Jane Scott OBE – Leader of the Council
- Cllr John Thomson – Cabinet Member for Highways and Streetscene and Broadband
- Cllr Fleur de Rhé-Philipe – Cabinet Member for Economy Skills and Transport
- Cllr Toby Sturgis – Cabinet Member for Strategic Planning, Development Management, Strategic Housing, Property and Waste
- Cllr R Tonge – Cabinet Member for Finance, Performance, Risk, Procurement and Welfare Reform

The Leader may nominate any of the remaining members of Cabinet as listed below to serve on the committee as a voting substitute:

Cllr Keith Humphries

Cllr Laura Mayes

Cllr Jonathon Seed

Cllr Stuart Wheeler

Other Cabinet members and non-executive members may attend meetings of the committee as relevant to the subject matter, but will not be entitled to vote.

Key strategic partners involved in the transformation programme, such as the Police and Crime Commissioner and the Clinical Commissioning Group, will be invited to nominate representatives to attend meetings of the Transformation committee in a non-voting capacity.

###### Quorum:

The Quorum is three members.

###### Purpose:

The Board will increase the political visibility of and accountability for the coordination and use of all capital assets. This will include and serve to develop a wide range of mechanisms for delivering the financial strategy, including partnership work.

Authority:

To discharge the executive functions of the council with regard to the management of capital assets.

Terms of Reference:

1. The Capital Assets Committee, in respect of all assets owned funded or occupied by Wiltshire Council, will be responsible for:

1.1 Developing the corporate strategy;

1.2 Delivering the council's business plan insofar as it relates to or requires the acquisition, management and disposal of capital assets;

1.3 Authorising the acquisition and disposal of real property assets by any means, including – but not restricted to – freehold property [\(this responsibility runs concurrently with the officer scheme of delegation\)](#); and

1.4 Preparing the council's capital programme for consideration by the cabinet and monitoring and ensuring the delivery of that programme,

Within the existing executive functions of the Cabinet and, for the avoidance of doubt, without rescinding any existing delegations.

2. In order to achieve this the Committee will

2.1 Receive and monitor reporting information from the Workplace Transformation Programme Board regarding the delivery of that programme;

2.2 Support the delivery of the economic development strategy, and take a strategic overview of the town 'vision' statements for Chippenham, Salisbury and Trowbridge;

2.3 Strategic overview of the council's policy on Section 106 funding and the use of the funds;

2.4 Work within the framework set by the council's financial strategy and Constitution;

2.5 Ensure enhanced visibility of all capital asset transactions and budget monitoring for capital spend by Wiltshire Council;



2.6 Advise the Cabinet as necessary on future capital projects and their impacts on the council's revenue budget; and

2.7 Investigate other mechanisms for the delivery and coordination of council capital assets.

Frequency of meetings:

Every two months, with authority to hold additional ad hoc formal meetings as merited.

**Cabinet (Transformation) Committee**

Membership

- Cllr Jane Scott OBE - Leader of the Council
- Cllr John Thomson - Deputy Leader and cabinet member for highways and streetscene and broadband
- Cllr Jonathon Seed - Cabinet member for communities, campuses, area boards, leisure, libraries and flooding
- Cllr Stuart Wheeler - Cabinet member for hubs, heritage and arts, governance (including information management), support services (HR, legal, ICT, business services, democratic services)
- Cllr Dick Tonge - Cabinet member for finance, performance, risk, procurement and welfare reform

The Leader may nominate any of the remaining members of cabinet as listed below to serve on the committee as a voting substitute:

- Cllr Keith Humphries
- Cllr Laura Mayes
- Cllr Toby Sturgis
- Cllr Fleur de Rhé-Philippe

Other cabinet and non-executive elected members may attend meetings of the committee as relevant to the subject matter, but will not be entitled to vote. Key strategic partners involved in the transformation programme, such as the Police and Crime Commissioner and the Clinical Commissioning Group, will be invited to nominate representatives to attend meetings of the Transformation Committee in a non-voting capacity.

Purpose

To discharge the executive functions of the council with regard to the implementation of the transformation programme.

The Transformation Committee will be responsible for all policy decisions relating to the implementation of the transformation programme, as agreed by the Leader.

The appointment of this committee will:

- increase political visibility, transparency and accountability in relation to the implementation of the transformation programme
- enhance the efficiency and effectiveness of the decision making process in this area
- facilitate increased partnership working with our strategic partners within the transformation programme.

The Cabinet Capital Assets Committee will be responsible for decisions that relate to the use of the Council's assets in relation to the delivery of the transformation programme.

### **Cabinet (Business Rates Relief) Committee**

#### Membership:

Any three members of the Cabinet appointed by the Proper Officer

#### Quorum:

The quorum is three members.

#### Purpose and Authority:

To determine applications for business rates relief where the rate relief applied for is in excess of £10,000 in accordance with the council's Hardship Rate Relief Application and Assessment Protocol.

Note: An Appeals Panel of the Appeals Committee will determine cases where an application has been rejected and an appeal by the ratepayer is lodged.

#### Frequency of meetings:

As and when required

## Part 3 Section C

### Delegation of Executive Functions

#### Individual members of Cabinet

#### Appendix 2

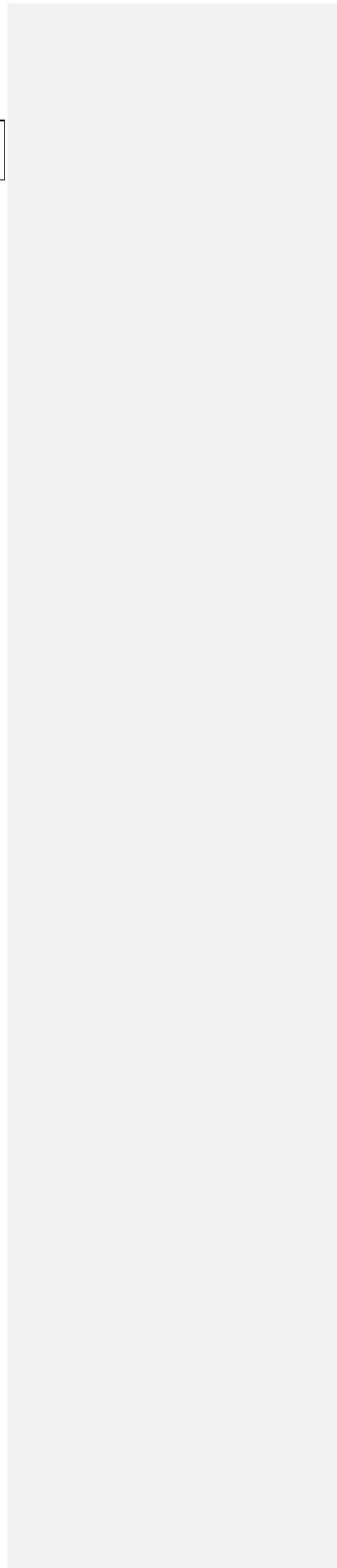
Cabinet Member	Responsibilities	Cabinet Member(s)
<p><b>Leader</b></p> <p><u><a href="#">Communications, Customer Care and Systems Thinking</a></u></p>	<ul style="list-style-type: none"> <li>○ <u><a href="#">Setting strategic direction</a></u></li> <li>○ <u><a href="#">Ensuring the needs and aspirations of Wiltshire people are known</a></u></li> <li>○ <u><a href="#">Management initiatives</a></u></li> <li>○ <u><a href="#">Identifying priorities and setting targets</a></u></li> <li>○ <u><a href="#">Setting priorities</a></u></li> <li>○ <u><a href="#">Communication policy</a></u></li> <li>○ <u><a href="#">Promoting the council</a></u></li> <li>○ <u><a href="#">Relationships with other political group leaders and the chairman of the council</a></u></li> <li>○ <u><a href="#">Business transformation (systems thinking/lean)</a></u></li> </ul> <p><u><a href="#">Customer care</a></u></p>	<p><u><a href="#">Cllr Jane Scott OBE</a></u> <u><a href="#">Bybrook</a></u></p> <p><u><a href="#">Correspondence address:</a></u> <u><a href="#">Leader of the Council</a></u> <u><a href="#">Wiltshire Council</a></u> <u><a href="#">Bythesea Road</a></u> <u><a href="#">Trowbridge</a></u> <u><a href="#">BA14 8JN</a></u></p>
<p><b>Deputy Leader</b></p> <p><b>Highways and Streetscene and Broadband</b></p>	<ul style="list-style-type: none"> <li>○ <u><a href="#">Highways maintenance and improvements</a></u></li> <li>○ <u><a href="#">Rights of way</a></u></li> <li>○ <u><a href="#">Public conveniences</a></u></li> <li>○ <u><a href="#">Grounds and open space management including allotments</a></u></li> <li>○ <u><a href="#">Cemeteries and markets</a></u></li> <li>○ <u><a href="#">Broadband</a></u></li> <li>○ <u><a href="#">Litter and cleansing</a></u></li> </ul>	<p><u><a href="#">Cllr John Thomson</a></u> <u><a href="#">Sherston</a></u> <u><a href="#">Correspondence address:</a></u> <u><a href="#">Wiltshire Council</a></u> <u><a href="#">Bythesea Road,</a></u> <u><a href="#">Trowbridge</a></u> <u><a href="#">BA11 8JN</a></u></p>

	<p><u>activities and environmental enforcement including abandoned vehicles, fly tipping etc</u></p> <ul style="list-style-type: none"> <li>○ <u>Traffic management including car parking, road safety and passenger transport</u></li> </ul>	
<b>Finance, Performance, Risk, Procurement and Welfare Reform</b>	<ul style="list-style-type: none"> <li>○ <u>Finance</u></li> <li>○ <u>Probity and financial management</u></li> <li>○ <u>Housing benefit</u></li> <li>○ <u>Welfare Reform</u></li> <li>○ <u>Council tax</u></li> <li>○ <u>Performance</u></li> <li>○ <u>Risk</u></li> <li>○ <u>Pensions</u></li> <li>○ <u>Audit</u></li> <li>○ <u>Procurement and commissioning</u></li> </ul>	<p><u>Cllr Richard (Dick) Tonge</u>  <u>Corsham Without and Box Hill</u>  <u>Correspondence address:</u>  <u>Wiltshire Council</u>  <u>Bythesea Road,</u>  <u>Trowbridge</u>  <u>BA11 8JN</u></p>
<b>Children's Services</b>	<ul style="list-style-type: none"> <li>○ <u>Performance of children's social services including child protection, fostering and adoption, children's homes and special educational needs</u></li> <li>○ <u>Relations with other organisations, especially the health service and voluntary organisations regarding children's services</u></li> <li>○ <u>Partnership with Wiltshire's school governors and headteachers on education matters including school performance and funding, curriculum, buildings and admissions</u></li> </ul> <p>Performance of the youth</p>	<p><u>Cllr Laura Mayes</u>  <u>Roundway</u>  <u>Correspondence address:</u>  <u>Wiltshire Council</u>  <u>Bythesea Road,</u>  <u>Trowbridge</u>  <u>BA11 8JN</u></p>

	<a href="#">development service and early years provision and youth justice</a>	
<b>Public Health, Protection Services, Adult Care and Housing (excluding strategic housing)</b>	<ul style="list-style-type: none"> <li>○ <a href="#">Performance of adult care services including services for people with learning disability, mental health problems or a physical impairment and for older people</a></li> <li>○ <a href="#">Relations with other organisations, especially the health service and voluntary organisations regarding social care services</a></li> <li>○ <a href="#">The Supporting People Programme</a></li> <li>○ <a href="#">Public health</a></li> <li>○ <a href="#">Community safety</a></li> <li>○ <a href="#">Environmental health</a></li> <li>○ <a href="#">Trading standards</a></li> <li>○ <a href="#">Licensing</a></li> <li>○ <a href="#">Emergency planning</a></li> <li>○ <a href="#">Housing</a></li> </ul>	<a href="#">Cllr Keith Humphries</a> <a href="#">Warminster Broadway</a> <a href="#">Correspondence address:</a> <a href="#">Wiltshire Council</a> <a href="#">Bythesea Road</a> <a href="#">Trowbridge</a> <a href="#">BA14 8JN</a>
<b>Economy Skills and Transport</b>	<ul style="list-style-type: none"> <li>○ <a href="#">Economic development</a></li> <li>○ <a href="#">Tourism</a></li> <li>○ <a href="#">Performance and strategy for transport including the Local Transport Plan and related strategies and policies</a></li> <li>○ <a href="#">Local Economic Partnership</a></li> </ul>	<a href="#">Cllr Fleur de Rhé-Philippe</a> <a href="#">Warminster Without</a> <a href="#">Correspondence address:</a> <a href="#">Wiltshire Council</a> <a href="#">Bythesea Road,</a> <a href="#">Trowbridge</a> <a href="#">BA11 8JN</a>
<b>Strategic Planning, Development Management, Strategic Housing, Property, Waste</b>	<ul style="list-style-type: none"> <li>○ <a href="#">Performance of waste management including collection, disposal and recycling and property management including county farms</a></li> <li>○ <a href="#">Performance of countryside</a></li> </ul>	<a href="#">Cllr Toby Sturgis</a> <a href="#">Brinkworth</a> <a href="#">Correspondence address:</a> <a href="#">Wiltshire Council</a> <a href="#">Bythesea Road</a> <a href="#">Trowbridge</a>

	<p><u>management and the provision of gypsy and traveller services</u></p> <ul style="list-style-type: none"> <li>○ <u>Climate change and carbon trading</u></li> <li>○ <u>Development management services including planning enforcement and conservation</u></li> <li>○ <u>Strategic Housing</u></li> <li>○ <u>Strategic planning including the Local Development Framework</u></li> <li>○ <u>Wiltshire and Swindon minerals and waste local plans</u></li> </ul>	<p><u>BA14 8JN</u></p>
<p><b>Hubs, Heritage &amp; Arts, Governance (including information management), Support Services (HR, legal, ICT, business services, democratic services)</b></p>	<ul style="list-style-type: none"> <li>○ <u>Cultural development including heritage, museums and arts</u></li> <li>○ <u>Governance including information management</u></li> <li>○ <u>Registration service and coroners</u></li> <li>○ <u>Human resources and organisational development</u></li> <li>○ <u>Equalities and diversity</u></li> <li>○ <u>Legal</u></li> <li>○ <u>ICT</u></li> <li>○ <u>Business Services</u></li> <li>○ <u>Democratic Services</u></li> <li>○ <u>Councillor development</u></li> </ul>	<p><u>Cllr Stuart Wheeler</u>  <u>Burbage and the Bedwyns</u>  <u>Correspondence address:</u>  <u>Wiltshire Council</u>  <u>Bythesea Road</u>  <u>Trowbridge</u>  <u>BA14 8JN</u></p>
<p><b>Communities, Campuses, Area Boards, Leisure, Libraries and Flooding</b></p>	<ul style="list-style-type: none"> <li>○ <u>Community development in local areas including area boards</u></li> <li>○ <u>Campus development</u></li> <li>○ <u>Leisure and sports</u></li> <li>○ <u>Libraries</u></li> <li><u>Flooding</u></li> </ul>	<p><u>Cllr Jonathon Seed</u>  <u>Summerham and Seed Division</u>  <u>Correspondence address:</u>  <u>Wiltshire Council</u>  <u>Bythesea Road</u></p>

		<u>Trowbridge</u> <u>BA14 8JN</u>
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## **PART 3 SECTION D** **SCHEME OF DELEGATION TO OFFICERS**

*This Section should be read in conjunction with the Principles set out in Part 3 Section A.*

### **D1. SCHEME OF DELEGATION**

1. Scheme of Delegation to Directors
2. Decision Making
3. Record Keeping
4. Emergency Powers
5. Solicitor to the Council

### **D2. SCHEME OF SUB DELEGATION**

### **D3. SCHEME OF DELEGATION SPECIFIC TO PLANNING**

### **D4. SCHEME OF DELEGATION SPECIFIC TO LICENSING**

### **SCHEDULE 1. INDEMNITY TO STAFF**



# SECTION D1

## SCHEME OF DELEGATION

### 1. Scheme of Delegation to Directors

- 1.1 This Scheme of Delegation authorises the Directors to exercise the functions of Wiltshire Council as set out in this document. It repeals and replaces all previous schemes of delegation.
- 1.2 This scheme is without prejudice to the exercise of the council's functions by the Council, the Cabinet, and the Council's Committees, Sub-Committees and Panels.
- 1.3 Full Council, its Committees and the Cabinet will make decisions on matters of significant policy. The Directors have express authority to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary and appropriate.
- 1.4 In relation to all delegated authority conferred on the Directors by this scheme, the Corporate Directors may allocate or re-allocate responsibility for exercising particular powers to any officer of the council in the interests of effective corporate management as he or she thinks fit.
- 1.5 Where a Director is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, another officer should be nominated by the Corporate Directors. This nomination should be formally recorded in writing.
- 1.6 The Monitoring Officer will maintain a central record of all delegations under this scheme and make this available for public inspection pursuant to section 100G Local Government Act 1972.
- 1.7 Without prejudice to the generality of the foregoing, the Directors shall have the power:
  - a. To take all lawful action consistent with overall council policy to deliver agreed strategy, plans and policy **and to comply with statutory obligations** within their areas of responsibility and within approved budget. This shall include, but not exhaustively:
    - Invitation and acceptance of tenders
    - Submission of bids for funding
    - Write-off of irrecoverable debts
    - Virement (within the budget framework)
    - Disposal and acquisition of assets
    - Service and placing of any necessary statutory or other notices (other than those expressly reserved to Full Council, Committee or Cabinet)

**Comment [a13]:** Clarification that directors are empowered to take action to ensure compliance with statutory obligations within their area of responsibility.

- After consultation with the Solicitor to the Council, authorising the institution, defence, settlement or participation in criminal or civil proceedings in relation to any legislation which they are responsible for monitoring, enforcing or otherwise implementing on behalf of the Council;
- b. To put in place management arrangements, which define the area of responsibility of all officers under their service area.
  - c. To determine staffing arrangements within approved budgets, subject to agreement on grading with the Head of Paid Service after consultation with the other Corporate Directors and conformance with Council policies and the Finance Regulations and Procedure Rules (Part 9).
  - d. To take all action to recruit, appoint, develop, manage and reward employees within approved Council policies and procedures (including operation of policies for voluntary severance, early retirement, redundancy and redeployment) and relevant conditions of service.
- 1.8 Any member of the Council may request that decisions taken by officers under delegated powers are scrutinised by the appropriate overview and scrutiny committee.
  - 1.9 For the avoidance of doubt anything which is not covered by this scheme, including the appointment of a proper officer for the purpose of any statutory function, will be determined by the Corporate Directors after consultation with the Monitoring Officer.
  - 1.10 The council has given a general indemnity to any officer acting in the purported discharge of any authority delegated to him for any action, costs, claim or liability incurred by him or her as set out in Schedule 1.

**Comment [M14]:** Members have wide discretion to request a decision of an officer to be scrutinised at overview and scrutiny committee. No time limits are set.

## 2. Decision Making

- 2.1 In exercising these delegated powers the officers concerned shall have broad discretion, subject to complying with paragraph 2.2 below, to use the most efficient and effective means available (including the deployment of staffing and other resources within their control and the procurement of other resources necessary) whether within or outside the Council.
- 2.2 In taking any decision, the officer concerned must be satisfied that the following issues have been properly considered and completed where appropriate. All of these issues should be considered at the earliest possible stage:
  - a. A key decision should be taken in accordance with the relevant requirements as set out in this Constitution (Parts 1 and 2) and The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012;

**Comment [a15]:** Inserted to refer to new legislation and to allow cross referencing.

- b. The views of the relevant Cabinet Member(s), Committee Chairman, Area Board(s) following the application of the consultation criteria set out in paragraph (c) below;
- c. Consideration of the Area Boards and delegated decision checklist for officers on the issue in deciding when and how to involve local councillors and Area Boards in decisions about local services;
- d. The implication of any Council policy, initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant Cabinet Members(s) or Committee Chairman from any affected portfolio and local members, where the issue relates to a specific area, should take place;
- e. Consultation in accordance with the Council's consultation strategy and the views emanating from that process;
- f. The range of available options;
- g. The staffing, financial and legal implications;
- h. The assessment of any associated risks in accordance with the Council's risk management strategy;
- i. The involvement of appropriate statutory officers and/or other Directors;
- j. The relevance of any regional or national guidance from other bodies;
- k. The Council's Constitution, including the Procurement and Contract Rules (Part 10) and the Financial Regulations and Procedure Rules (Part 9), all relevant guidance, legislation, codes of practice and protocols.

### 3. **Record Keeping**

3.1 In taking any Executive decision, the officer concerned must prepare a record of officer decision report setting out the following:

- a. A record of the decision including the date it was made;
- b. A record of reasons for the decision;
- c. Details of any alternative options considered and rejected by the officer when making the decision;
- d. A record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision;
- e. In respect of any declared conflict of interest, a note of dispensation

The record of officer decision must be made available, as soon as reasonably practicable, at the Council main hub offices and on its website unless it contains confidential information or exempt information as defined in the Regulations and set out in Part 5.

**Comment [M16]:** Inserted in accordance with new regulations.

3.2 In taking any Incidental decision, the officer concerned must consider whether a record of officer decision report is required having regard to guidance from the Monitoring Officer.

#### **4. Emergency Powers**

- 4.1 The Directors are empowered to take all necessary decisions in cases of emergency;
- 4.2 For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that there is a risk of damage to property, a threat to the health or well being of an individual or that the interests of the Council may be compromised.

#### **5. Solicitor to the Council**

- 5.1 The Solicitor to the Council is authorised:
  - a. To take any action to implement any decision taken by or on behalf of the Council, including the signature and service of statutory and other notices and any document;
  - b. To institute, defend, settle or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests;
  - c. To instruct counsel, solicitors and other experts in relation to legal proceedings, public inquiries, and other matters involving the Council;
  - d. To enter objections to any proposal affecting the county, the Council or the inhabitants of the county.

## SECTION D2 SCHEME OF SUB DELEGATION

1. The Directors may authorise officers in their service areas to exercise, on their behalf, powers delegated under this Part 3 and Part 3 Section D1 by way of a Scheme of Sub Delegation.
2. Any decision pursuant to a Scheme of Sub Delegation must be taken in the officer's name for and on behalf of the Director.
3. The Directors are responsible for recording all delegations under this part, in writing, in such form as the Monitoring Officer may prescribe.
4. The Directors shall be responsible for ensuring that their Schemes of Sub Delegation are valid and up to date in line with guidance from the Monitoring Officer.
5. All Schemes of Sub Delegation must be recorded on the Register maintained by the Monitoring Officer. The Directors shall send updated Schemes of Sub Delegation to the Monitoring Officer as he/she directs.
6. Any decision taken by an Officer under a Scheme of Sub Delegation must be made in accordance with paragraph 2 of Part 3 Section D1 and recorded in as required in paragraph 3 of Part 3 Section D1.

Comment [a17]: Inserted for clarity.

## **PART 3 SECTION D SCHEDULE 1 INDEMNITY TO STAFF**

Wiltshire Council will, subject to the exceptions set out below, indemnify its employees and former employees against claims made against them (including costs awarded and reasonable costs incurred) and will not itself make claims against them for any loss or damage (other than claims falling within the cover provided to its employees under any policy of insurance taken out by the Council or any motor vehicle insurance policy taken out by the employee) occasioned by any neglect, act, error or omission committed by them in pursuit of their duties as they may from time to time undertake in the course of their employment with the Council whilst acting within the scope of their authority which shall include when they are acting for other persons or other bodies with the Council's consent.

### *Exceptions*

- 1) The indemnity will not extend to loss or damage directly or indirectly caused by or arising from:
  - a. Fraud, dishonesty or a criminal offence on the part of the employee;
  - b. Any neglect, error or omission by the employee otherwise than in the course of his duties;
  - c. Liability in respect of losses certified by the district auditor as caused by wilful misconduct.
- 2) The indemnity will not apply if an employee, without the written authority of the Council, admits liability or negotiates or attempts to negotiate a settlement of any claim falling within the scope of this resolution, or where there is evidence that the employee had acted with reckless disregard for the consequences.
- 3) The indemnity is without prejudice to the right of the Council to take or institute disciplinary action against an employee in respect of any neglect, act, error or omission.

## Part 3 Section D3

### Scheme of Delegation Specific to Planning

1. The Associate Director, Economic Development and Planning Services (and any officers designated by that officer under a Scheme of Sub Delegation) is authorised to: -
  - determine any planning application and discharge conditions under delegated powers (including tree/hedgerow work applications);
  - deal with all enforcement matters (including deciding on the expediency of taking/not taking action and issuing enforcement notices, including listed building enforcement and urgent works notices and taking any further action, including prosecution and direct action in respect of any breach of control);
  - deal with all types of appeal and their format;
  - where an appeal has been lodged against a planning decision and Counsel advises that specific refusal reasons are unreasonable and/or likely to undermine or weaken the Council's case and time constraints prevent the matter being brought back to Committee, officers, in consultation with the Committee Chairman and Local Division Member are authorised to inform the appellant and the Planning Inspectorate that the Council will not seek to defend such reason(s) at appeal, provided any such action does not overturn the substantive decision of the Planning Committee;
  - make and confirm Tree Preservation Orders; Tree Replacement Notices and serve notices requiring action in relation to dangerous trees, and to initiate any associated direct action required to deal with dangerous trees; deciding whether to prosecute for breaches of the Planning Acts in relation to tree and hedgerow matters;
  - determining any applications made under the high hedges provisions of the anti-social behaviour legislation; including any necessary enforcement action;
  - deal with decisions, correspondence and consultations under relevant local government, social, planning, listed building, conservation, building and environmental and other legislation. This includes proposals to change legislation or national guidance and consultation by other planning authorities;
  - determine the requirements for, and amend when necessary the local validation list for planning applications;
  - make and confirm Article 4 directions restricting or removing permitted development rights;
  - nominate officers to represent the council on forums and working parties;
  - authorise officers to enter land and buildings in the course of their duties in accordance with the provisions of the Town & Country Planning Acts;
  - enter into, modify or discharge planning or legal agreements securing controls over development (e.g. Section 106 of the Town & Country Planning Act 1990);
  - make changes to conditions approved at Committee (in the light of changing circumstances between the meeting and the issue of the decision) provided this is in line with the principles of the Committee's decision. Any such

changes will be reported back to a subsequent Committee for members' information;

- annually recommend to the budget process all planning fees and charges
- refuse applications following a resolution to grant permission or consent if the required legal agreements are not completed by the applicant within the timeframe set out in the officer's report and present an information report for acceptance by the relevant Planning Committee on a quarterly basis ;
- institute and defend judicial reviews and statutory challenges in consultation with the Associate Director, Legal and Governance.
- Make and serve Building Preservation Notices.
- determine whether an application falls within the remit of Strategic Planning Committee or the relevant area planning committee, after consultation with the relevant cabinet member.

With the following exceptions:

- 1.1 Applications submitted by Wiltshire Council will not be dealt with under delegated powers where an objection has been received raising material planning considerations.
- 1.2 Reference to Committee by Wiltshire Council Division Member

Division Members can request in writing/email that a planning application within their Division proceed to determination by way of an Area Planning Committee. (Any request must be received within 21 days of the circulation of the weekly list of 'applications received' in which it appears, and set out the material planning consideration(s) which warrant the application going before committee). Officers will confirm what action is being taken following receipt of the request.

Where it has not been possible or appropriate to call an application in within this time, officers will accept call in requests in the following circumstances: -

1. An application has not been determined and it can still go to Committee and be determined within the target date.
2. The application is already going to go out of time (because of negotiations/amended plans etc.) and taking it to Committee will make no difference to performance.

Where neither of the above apply, and the Division Member thinks there is a strong case to delay the determination of the application and take it to committee, they can discuss the case with the relevant Area Development Manager who will then make an informed decision whether or not to exercise delegated powers.

- a. It is perfectly acceptable for members to nominate a substitute(s) to undertake their planning responsibilities, including application 'call in', if



they have a conflict of interest or during periods of absence such as holidays or illness.

- b. Applications for tree work, prior approvals, Certificates of Lawfulness; notifications and variations/discharge of legal agreements - where the latter would bring them in line with a planning decision already made by the Council, will not be eligible for call-in and will be dealt with under delegated powers.
- c. If private applications are made by
  - a member or their close relations;
  - a Director of the Council or their close relations; or
  - a planning officerand objections are received raising material planning considerations the application will be determined by a committee.

There will be occasions where it would be possible to deal with certain applications under delegated powers but where the Associate Director, Economic Development and Planning Services considers it inappropriate to do so, having considered any public representation and consultee responses. In these cases the applications will be determined by an appropriate planning committee.

1.3 The following applications shall be dealt with by the Strategic Planning Committee:

- Large-scale major developments which, by their nature (e.g. scale, location etc.) have wider strategic implications and raise issues of more than local importance. This will include applications of a similar nature by Wiltshire Council to develop any land of Wiltshire Council, or for development of any land by Wiltshire Council or by Wiltshire Council jointly with any other person which have similar implications or raise similar issues.
- Planning applications for mineral extraction or waste disposal, other than small scale works which are ancillary to an existing mineral working or waste disposal facility;
- Applications, which if approved, would represent a significant departure from the policies of the statutory development plan, where they are recommended for approval;
- Applications called in by a Division Member that cross the boundary of two Area Planning Committees;
- Any application that the Associate Director, Economic Development and Planning Services deems raises issues that should be considered by the Strategic Planning Committee.

Definitions

Planning application means any application submitted to the Council for determination and included within the Governments' PS1 and PS2 returns. (This is a

statistical questionnaire dealing with performance which local authorities have to submit regularly to the government and which divides planning application into distinct categories; householder, minor, major etc.)

'Large scale major development' means any application for 200 or more houses; residential development of 4ha or more or other development of more than 10,000 square metres or more than 2 ha, as defined by the Government in the PS1/2 return.

Householder development and the other descriptions of development referred to above shall have the meaning ascribed to them in the Government's PS1/2 return.

Enforcement notices includes all other formal notices under the Planning Acts used to investigate and remedy alleged breaches of planning control or improve the appearance of an area, including Breach of condition notices and Section 215 notices.

A private application is one which has no connection with a member or officer's council duties. For example, if an officer submitted a Regulation 3 application on behalf of Wiltshire Council it would not be a private application.

A close relation is defined as spouse, partner, sibling, parent or offspring.

## **PART 3 SECTION D4**

### **SCHEME OF DELEGATION** **SPECIFIC TO LICENSING**

#### **Licensing Act 2003: Table of Delegations of Licensing Functions**

<b><u>Matter to be dealt with</u></b>	<b><u>Full Committee</u></b>	<b><u>Sub-Committee</u></b>	<b><u>Officers</u></b>
Application for personal licence with unspent convictions		If a police Objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application.
Application for provisional statement		If a relevant representation Made	If no relevant representation made or if representation made and all parties subsequently agree on a revised application
Application to vary premises		If a relevant	If no relevant representation

licence/club registration certificate		representation Made	made or if representation made and all parties subsequently agree on a revised application
Application to vary designated personal licence holder		If a police Objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of a premises licence		If a police Objection	All other cases
Application for interim authorities		If a police Objection	All other cases
Application to review premises licence / club premises registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases

Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a representation to a temporary event notices		All cases	

**Gambling Act 2005: Table of Delegations of Licensing Functions**

<b><u>Matter to be dealt with</u></b>	<b><u>FULL COUNCIL</u></b>	<b><u>Licensing Committee or Sub-Committee</u></b>	<b><u>Officers</u></b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting – when appropriate	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	

Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Determination as to whether a person is an interested party			X
Determination as to whether representations are relevant			X
Determination as whether a representation is frivolous, vexatious or repetitive			X

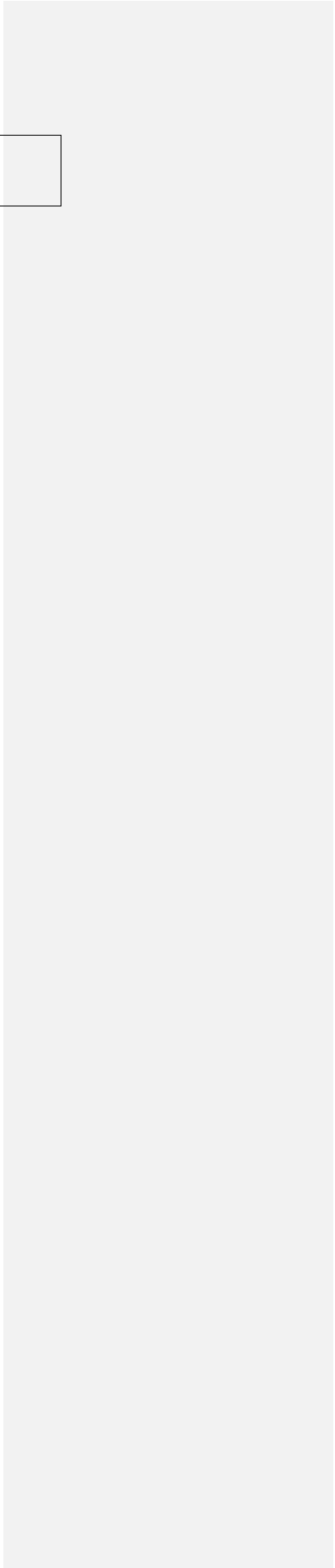
**Table of Delegated Functions (approved 1 December 2009)**

<b><u>Matter to be dealt with</u></b>	<b><u>Licensing Committee</u></b>	<b><u>Sub-Committee</u></b>	<b><u>Officers</u></b>
Schedule 3 Local Government (Miscellaneous Provisions) Act 1982 (as required by the sex establishments policy)	The Licensing Committee or Sub Committee will determine any application	The Licensing Committee or Sub Committee will determine any application	
Schedule 4 Local Government (Miscellaneous Provisions) Act 1982 (Consent street trading)	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	The Licensing Committee or Sub Committee will determine applications where refusal has been recommended by officers, and subsequent representations have been received from the applicant	In all other cases
Powers to grant licences and permits under the following legislation:  • Town Police Clauses Act 1847 as amended Sections 47, 57, 58, 60 and 79 of Local Government (Miscellaneous	For all these functions there is no role for the committee as there is a statutory right of appeal to the Magistrates' Court (except the imposition of penalty points under the licensing of hackney carriages, taxis and private hire operators, drivers and vehicles which will be dealt with by the appeals panel when sufficient points have been	For all these functions there is no role for the sub - committee as there is a statutory right of appeal to the Magistrates' Court (except the imposition of penalty points under the licensing of hackney carriages,	In all other cases



<p>Provisions) Act 1976 (Hackney carriages)</p> <ul style="list-style-type: none"> <li>• Section 13 – 17 Local Government (Miscellaneous Provisions) Act 1982 (acupuncture, tattooing, ear piercing and electrolysis)</li> <li>• Performing Animals (regulation) Act 1925</li> <li>• Zoo Licensing Act 1981</li> <li>• House to house collections Act 1939</li> <li>• Pet Animals Act 1951</li> <li>• Animal Boarding Establishments Act 1963</li> <li>• Riding Establishments Act 1964 and 1970 Breeding of Dogs Act 1973</li> <li>• Breeding and Sale of Dogs (Welfare) Act 1999</li> <li>• Dangerous Wild Animals Act 1976</li> <li>• Lotteries and Amusements Act 1976</li> <li>• Hypnotism Act 1952 (as amended) and Schedule 3 Local Government (Miscellaneous</li> </ul>	<p>accrued to warrant suspension of the licence).</p> <p>The Licensing Committee will determine any application made by an officer or member of the Council.</p>	<p>taxis and private hire operators, drivers and vehicles which will be dealt with by the appeals panel when sufficient points have been accrued to warrant suspension of the licence).</p>	
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Provisions) Act 1982			
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**Criminal Justice and Police Act 2001 and Violent Crime Reduction Act 2006**

**Table of Delegations of Licensing Functions**

<b><u>Matter To Be Dealt With</u></b>	<b><u>FULL COUNCIL</u></b>	<b><u>Licensing Committee or Sub-Committee</u></b>	<b><u>Officers (Service Director Public Protection Services)</u></b>
Making Designated Public Places Orders (DPPOs)		X	