

Recommendations of the Constitution Focus Group

Purpose of Report

1. This report asks the Standards Committee to consider recommendations of the Constitution Focus Group on the following matters:
 - a) Part 4: Council Rules of Procedure - in relation to public disturbance, recorded votes, State of Wiltshire debate, and councillors' questions (Appendix 3)
 - b) Protocols 1-2: Briefing and Information for Local Councillors and Councillor-Officer Relations (Appendix 4)
 - c) Protocol 7: Media Protocol and associated Social Media Guidance for Councillors (Appendix 5)
 - d) Protocol 9: Monitoring Officer (Appendix 6)
 - e) Protocol 11: Governance Reporting Arrangements (Appendix 7)

2. The Standards Committee is also asked to note changes to the Constitution made and to be made by the Monitoring Officer under delegated powers as permitted under Article 15.3 of Part 2 of the Constitution, on the following matters:
 - f) Part 15: Officer Employment Procedure Rules, in relation to Changes to Statutory Dismissal Procedures for Heads of Paid Service, Monitoring Officers and s.151 Finance Officers
 - g) Part 2 Appendix 1: Updated Committee Schedule
 - h) Part 14: Members Allowances Scheme
 - i) New Protocol: Local Pension Board and Part 3: Responsibility for Functions and Scheme of Delegation
 - j) Part 7: Cabinet Procedure Rules

Background

3. The Standards Committee has responsibility for oversight of the Council's constitution. It has established a cross party working group, known as the Constitution Focus Group, to advise and assist the committee in carrying out this function.

4. The Focus Group met on 3 December 2014 and 8 January, 1 April and 11 June 2015, to review sections of the constitution as detailed in paragraph 1 and made a series of recommendations.

Main Considerations

5. The relevant minutes and resolutions of the Focus Group meetings listed in paragraph 4 can be found at Appendix 1.

Summary of proposed changes

(a) Part 4 - Council Rules of Procedure

6. The Constitution Focus Group considered a series of changes to Part 4 of the Constitution across the meetings listed in Paragraph 4.

Public Disturbances

7. The Focus Group considered and recommended further clarifications to the rules on public disturbance, in particular regarding the displaying of offensive materials and a requirement for a Chairman to consult with the Monitoring Officer or their designated representative before requiring someone causing a public disturbance to leave a meeting.

Recorded Voting

8. It was also recommended that in order to take advantage of the technology in the County Hall Council Chamber to provide a record of how Members voted in Council, without requiring the use of the technology for inconsequential matters, the rules on voting should be amended to be either recorded or by assent of a meeting, removing the option of a show of hands. It would therefore be at the Chairman's discretion when to utilize the technology, while retaining the right of Members to demand a Recorded Vote.

State of Wiltshire Debate

9. In consultation with Group Leaders, it was agreed to remove the sections in Part 4 in relation to the 'State of Wiltshire' debate, which had not taken place for several years and had been superseded by the development of the Business Plan and its consideration.

Councillors' Questions

10. The final section of Part 4 reviewed was in relation to the submission of and processing of Councillors' Questions for council meetings.
11. The review considered issues in relation to, whether the timescales for submission and rules regarding types of responses were appropriate, how questions were logged and total number of questions presented at meetings.
12. As detailed in Appendix 1 for the meetings 1 April and 11 June, the Focus Group determined to amend the Constitution to revise the procedure for submission and processing of councillor questions, with the key changes being:
 - I. Extending the deadline for submission of questions to council to receive guaranteed written responses, with the current deadline being retained with the option of verbal responses.
 - II. Amending the procedure for receipt of the questions at council meetings
 - III. Limiting the number of questions presented at any one meeting to 20 questions, with all other submitted questions guaranteed written responses within 5 working days of the meeting

13. A guidance note for councillors on the questions procedure can be found at Appendix 2.
14. The changes to Part 4 encompassing all these sections can be found at Appendix 3.

Recommendation

15. **That the Standards Committee recommend Council approve changes to Part 4 of the Constitution in relation to public disturbances, recorded voting, the 'State of Wiltshire' debate and Councillors' Questions, as shown in the attached tracked change document at Appendix 3.**

(b) Protocol 1: Briefing and Information for Local Councillors and Protocol 2: Councillor-Officer Relations

16. The Focus Group reviewed Protocol 1 to consider if the specification of councillors' roles and what information should be provided to them by officers was up to date.
17. A motion from Councillors Jon Hubbard and Stephen Oldrieve at Council on 27 February 2015 further requested Protocol 2 also be reviewed as a result of concerns regarding all councillors being kept up to date by officers, in particular in relation to issues relating to their own electoral divisions.
18. The Focus Group therefore resolved to recommend amendments to address such concerns following meetings on 8 January, 1 April and 11 June 2015.
19. It was also agreed that, in line with other local authorities and owing to the intrinsic connection between the pair, the two protocols should be integrated into a single Protocol.
20. The Focus Group also sought assurances and information from the Corporate Leadership Team on how they would ensure and encourage further officer compliance with obligations to keep councillors informed of relevant information, events and actions within their Divisions as detailed in the Protocol.

Recommendation:

21. **That the Standards Committee recommend Council approve changes to Protocols 1 and 2 of the Constitution, to include their integration into a single protocol and the renumbering of subsequent protocols, and Part 2 of the Constitution, as shown in the attached tracked change document at Appendix 4.**

(c) Protocol 7: Media Protocol, and Social Media Guidance for Councillors

22. The Focus Group reviewed Protocol 7 across the meetings on 3 December 2014 and 8 January, 1 April and 11 June 2015, considering changes in relation

to webcasting, personal websites for Members and Social Media Guidance for Councillors.

23. In addition to amending the Protocol to reflect the incorporation of rules on webcasting council meetings, clarification was sought and added on what situations would necessitate the cessation of a recording, and the procedure a Chairman should follow when determining that course of action.
24. Members considered it vital that guidance in relation to Social Media and personal websites did not in any way seek to restrict Members from being open and critical of the council if necessary in the course of their duties and responsibilities, and recommended the Social Media Guidance be considered as an associated document to the Protocol, and included on the website alongside it, for the assistance of Members on what the risks could be when operating such sites.

Recommendation:

25. **That the Standards Committee recommend Council approve changes to Protocol 7 of the Constitution as shown in the attached tracked change document at Appendix 5. And;**
26. **To adopt the 'Social Media Guidance for Councillors' and publish it alongside the Protocol for the benefit of councillors.**

(d) Protocol 9: Monitoring Officer

27. Protocol 9 was reviewed at the 8 January 2015 meeting of the Focus Group, where mostly minor changes and the inclusion of responsibility to maintain a Register of Interests for Members and Co-Opted Members, as well town and parish councils, were approved.

Recommendation:

28. **That the Standards Committee recommend Council approve changes to Protocol 9 of the Constitution as shown in the attached tracked change document at Appendix 6.**

(e) Protocol 11: Governance Reporting Arrangements

29. Protocol 11 was reviewed at the 8 January and 1 April 2015 meetings of the Focus Group, updating and revising the reporting arrangements of committees, and including newer bodies such as the Local Enterprise Partnership and Police and Crime Panel.

Recommendation:

30. **That the Standards Committee recommend Council approve changes to Protocol 11 of the Constitution as shown in the attached tracked change document at Appendix 7.**

Article 15.3 of Part 2 Changes

31. Under Article 15.3 of Part 2 of the Constitution the Monitoring Officer has the delegated authority to amend the constitution to reflect '*...the decisions of Full Council, changes in the law, to correct errors or clarify ambiguities, where to do so does not alter (but gives further effect to) the executive arrangements or the principles enshrined in the constitution*'.
32. Since the last meeting of the Standards Committee a number of changes to the Constitution have been or will be required under the principles in paragraph 31 above, and are summarised below.

(f) Part 15: Officer Employment Procedure Rules, in relation to Changes to Statutory Dismissal Procedures for Heads of Paid Service, Monitoring Officers and s.151 Finance Officers

33. On 11 May 2015 *the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015* came into force, having been made on 25 March 2015. These regulations introduced changes to statutory dismissal procedures for Heads of Paid Service, Monitoring Officers and S.151 Officers.
34. The Regulations remove the requirement to appoint a Designated Independent Person to investigate and make a binding recommendation on disciplinary action against the listed senior staff. Instead, they provide that the decision must be taken by full council who must consider any advice, views or recommendations from an independent panel, the conclusions of any investigation into the proposed dismissal, and any representations from the officer concerned.
35. Council must invite at least two independent persons (appointed under standards legislation) to be members of the panel, and invitations must be sent in accordance with the following order of priority:
 - I. an independent person who has been appointed by the council and who is a local government elector;
 - II. any other independent person who has been appointed by the council; and
 - III. an independent person who has been appointed by another council or councils.
36. The regulations will require changes to Part 15 of the Constitution - Officer Employment Procedure Rules - as well as contractual changes for affected officers. Discussions between the Local Government Association(LGA) and Department for Communities and Local Government (DCLG) are ongoing.
37. The regulations further require a report on the necessary amendments to the council's standing orders and the constitution to be incorporated by, and to be received by council, no later than the next ordinary meeting, 14 July 2015.

Recommendation

38. **That the Standards Committee note the intention under Article 15.3 of Part 2 of the Constitution for the Monitoring Officer to make necessary amendments in respect of Part 15 of the Constitution as summarised above.**

(g) Part 2.1: Committee Schedule

39. With the creation of new bodies such as the Joint Strategic Economic Committee (JSEC), Pension Board and others, the council's committee schedule had become out of date, and as such a revised version will need uploaded to reflect the current structure.

Recommendation

40. **That the Standards Committee note the intention under Article 15.3 of Part 2 of the Constitution for the Monitoring Officer to make necessary amendments in respect of Part 2.1 of the Constitution as summarised above.**

(h) Part 14: Members' Allowances Scheme

41. Full Council on 12 November 2013 adopted a series of changes to the Members' Allowances Scheme following a review and recommendations from the Independent Remuneration Panel, setting the level of Basic Allowance and Special Responsibility Allowances and other allowances.
42. Full Council further resolved that '*The Council adopts the annual pay award to council staff as the index by which annual adjustments are made to the basic allowance and the special responsibility allowances payable to individual councillors for the period up to 2016/17*'. Following the agreement of the staff pay award up to 2016/17 in December 2014, the Monitoring Officer has therefore updated the Members' Allowance Scheme accordingly.

Recommendation

43. **That the Standards Committee note the intention under Article 15.3 of Part 2 of the Constitution for the Monitoring Officer to make necessary amendments in respect of Part 14 of the Constitution as summarised above.**

(i) New Protocol: Local Pension Board and Part 3: Responsibility for Functions and Scheme of Delegation

44. Full Council on 27 February 2015 approved the creation of a local Pension Board in accordance with legislation, delegating final wording of the terms of reference of the new body to the Associate Director, Finance.
45. Owing to the length of the terms of reference, these have been included in a new Protocol. Subject to approval of the changes listed at paragraph 19

regarding the amalgamation of Protocols 1 and 2 into a single Protocol 1, this new Protocol could be placed as the new Protocol 2.

46. The Pension Board will also be listed under Part 3 of the Constitution with committees of the council and other bodies such as the Health and Wellbeing Board.

Recommendation

47. **That the Standards Committee note the intention under Article 15.3 of Part 2 of the Constitution for the Monitoring Officer to make necessary amendments in respect of Part 3 and the new Protocol of the Constitution as summarised above.**

(j) Part 7: Cabinet Procedure Rules

48. Following approval of Part 3 of the Constitution on 24 February 2015, Part 3C of the Constitution states that '*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*'.
49. Part 7 was not updated to reflect this change at the same time, and this has been revised to reflect the decision of Council in Part 3C to permit the Monitoring Officer to update the Constitution regarding changes of Cabinet Member responsibility, rather than requiring a report to Council when there is any change of Cabinet responsibility.

Recommendation

50. **That the Standards Committee note the intention under Article 15.3 of Part 2 of the Constitution for the Monitoring Officer to make necessary amendments in respect of Part 7 of the Constitution as summarised above.**

Safeguarding Implications

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

Equalities Impact of the Proposal

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

Risk assessment

53. There are no significant risks arising from this report

Financial Implications

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

Legal Implications

55. The recommendations in this report are consistent with the relevant legislation, and there are no legal implications arising from this report

Public Health Impact of the Proposals

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

Environmental Impact of the Proposals

57. There are no environmental impacts arising from this report.

Proposal

58. **That the Standards Committee recommends Council approve the changes to the Constitution as set out in paragraphs, 15, 21, 25, 26, 28 and 30 above. And;**
59. **That the Standards Committee note the intention of the Monitoring Officer to make changes to the Constitution under the delegated authority granted under Article 15.3 of Part 2 of the Constitution as set out in paragraphs 36, 38, 43, 47 and 50.**

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

Appendices

Appendix 1 - Minutes of the Constitution Focus Group (3 December 2014, 8 January, 1 April and 11 June 2015)

Appendix 2 - Procedure for Submission of Council Questions

Recommended Changes for Council Approval

Appendix 3 - Tracked Changes to Part 4 of the Constitution

Appendix 4 - Tracked Changes to Protocols 1 and 2 of the Constitution

Appendix 5 - Tracked Changes to Protocol 7 of the Constitution and Social Media Guidance for Councillors

Appendix 6 - Tracked Changes to Protocol 9 of the Constitution

Appendix 7 - Tracked Changes to Protocol 11 of the Constitution