

Wiltshire Council

Standards Committee

20 June 2023

Recommendations from the Constitution Focus Group on Proposed Changes to the Constitution

Purpose of Report

1. This report asks the Standards Committee to consider proposed changes to the following sections of the Constitution:
 - Part 12 – Code of Conduct
 - Protocol 4 – Planning Code of Good Conduct
 - Protocol 12 – Wiltshire Police and Crime Panel Protocol
2. The Standards Committee is asked to make recommendations as it considers appropriate to Full Council.

Background

3. The Standards Committee has responsibility for oversight of the Council's constitution and making recommendations to Council.
4. The Standards Committee has established the Constitution Focus Group to review sections of the Constitution and present it with proposals to consider.
5. The Focus Group met on 3 May, 19 May, and 7 June 2023 to consider the above sections of the Constitution.

Main Considerations

Part 12

6. Following review by a working group and recommendation from the Committee, Full Council adopted a revised Code of Conduct, including within the constitutional text associated guidance, at its meeting on 18 October 2022.
7. The new Code has been in operation for approximately 6 months, and a number of practical considerations have arisen which the Focus Group has reviewed.
8. The Code is principally focused with setting out standards to which Members are to adhere, and guidance as to how to determine if behaviour rises to a level of a breach of those standards. However, it also includes various procedural requirements in the event of declaration of certain types of interest.
9. In particular, the adapted Local Government Association Code and guidance includes requirements to for Members to leave the room if a matter relating to an interest arises at a meeting. As membership of a town or parish council would be considered a disclosable interest under the new Code, this in effect requires a significant increase in

Members being required to leave a room, or a dispensation in order to remain, with a particular impact upon Area Boards. By their nature as area committees, the possibility of a local matter arising in which some or all of the Members are members of a local council is quite high.

10. Full Council adopted revised arrangements for the granting of dispensations in such a circumstance on 16 May 2023, in order to provide an expedited process given the increase in non-pecuniary interest dispensations that would be required.
11. The Focus Group reviewed the procedural aspects further, noting the focus of the working group on behavioural aspects. They concluded it would be reasonable to amend the Code and its guidance to enable Members to remain in the room when they had an interest which was not a disclosable pecuniary interest. This would obviate the need for a dispensation purely to resolve issues of quorum which would obstruct reasonable decision making processes.
12. They also considered that with over half the members of the council being members of city, town, or parish councils, and with dispensations being a necessity in order to transact business at Area Boards where such an interest would frequently arise, that it would be reasonable to set out a standing dispensation for Members with such an interest.
13. The result would be that dispensations could still be requested for other interests which would prevent voting participation if considered appropriate, but that there would no requirement to leave the room unless the Member considered this reasonable in the circumstances, and the level of dispensations required would be significantly reduced.
14. Since the meeting of Council on 16 May 2023 11 requests for dispensations have been requested under the Dispensations Policy, with 10 relating to membership of a city, town, or parish council.
15. The revisions, if adopted, would therefore retain the majority of the Code as recommended by Standards Committee and approved by Council, but would update its procedural requirements to be more efficient and effective. They seek to do this by:
 - Providing a general exemption for those with town and parish council membership from the requirement to seek a dispensation to remain in the room, participate, or vote on matters relating to that council.
 - Removing the requirement to leave the room for any category of interest other than Disclosable Pecuniary Interest – thus removing any impact on quoracy and reducing the need for many dispensation requests.
 - Including an updated flowchart within the body of the constitution to assist Members in understanding what to do in what circumstances.
 - Reiterating that voluntary declarations do not require further action, e.g., leaving the room.
 - Other general clarifications or updates for consistency.
16. The proposed revised Part 12 is set out in **Appendix A**.

Protocol 4

17. Protocol 4 provides rules and guidance to Members for involvement in planning matters and planning committees specifically.

18. The Focus Group reviewed the Protocol across a number of meetings and propose changes as set out in **Appendix B** including:

- Updates to align to the Code of Conduct, including subject to proposals to Part 12;
- Strengthening advice on informing local members of dates of committees;
- Updates relating to the procedure at planning committees, in the related procedure document linked from Protocol 4;
- Other general clarifications and updates.

19. The Focus Group noted that there had been a recent planning peer review which would be making recommendations in respect of the service area, which might lead to further need to review the protocol. It would therefore revisit to consider further changes later in the year. In particular, the Focus Group wished to undertake further work on proposals relating to Member requests for call-in, without holding up other changes.

Protocol 12

20. Protocol sets out the panel arrangements and procedure for the Wiltshire Police and Crime Panel, which is a joint committee with Swindon Borough Council.

21. The protocol has not been updated since 2014. The Chair of the Panel undertook a review of the arrangements with officers and other Panel members, and then attended a meeting of the Focus Group to discuss the changes.

22. The Focus Group noted that the Panel was required to agree to any changes to its arrangements, and that Wiltshire Council and Swindon Borough Council would also then need to agree any changes.

23. The Focus Group was satisfied with the revisions proposed by the Chair of the Panel, and content that Standards and Council should approve the changes subject to any changes the Panel might make at its meeting on 13 June 2023 or subsequently.

24. It was therefore recommended that the Committee support recommending approval of Protocol 12 to Council, in whatever form the Panel, as a distinct body of both authorities, considered appropriate.

25. Changes within the Protocol included:

General Changes

- The order has been changed to place the panel arrangements before the rules of procedure as it is the more strategic document.
- General updated for clarification, fewer sections to aid readability.

Panel Arrangements

- An overview of the powers of the Panel has been included.
- It is stated explicitly that the Panel is not responsible for scrutinising operational police matters.

- The documents have been updated to reflect that Swindon Borough Council has a fourth Panel member.
- The restriction in appointing members for a maximum of two four-year terms has been removed.
- Detail on the process for the appointment of members has been updated to reflect the Police and Crime Panels (Nominations, Appointments and Notifications) Regulations 2012.
- The measures to promote the Panel have been streamlined to remove the specific requirement to provide briefing notes and host a dedicated website – however, there is continued intention to provide greater briefing information and updated website material on hosted sites such as on the lead authority.
- There is a commitment to publish minutes and agendas on the host authority's (Wiltshire Council's) website.

Rules of Procedure

- There has been a greater focus on the procedures specific to the Police and Crime Panel. The procedure rules which apply to all of Wiltshire Council's committees have been referenced from Part 4 of Wiltshire Council's constitution allowing much of the existing text to be removed.
- Co-opted Panel members are now eligible to be Chair. Under the existing Protocol the Chair must be drawn from the councillors on the Panel.
- Public participation deadlines have been brought in line with those of Wiltshire Council's other committees, i.e., four working days to be guaranteed of a written response and two for a verbal response.
- The requirement to provide statements in writing has also been removed, as per Wiltshire Council's other committees.
- The document has been updated to reflect the Police and Crime Panels (Precepts and Chief Constable Appointments) Regulations 2012, including timelines and confirmation that the Panel is only able to veto the Commissioner's first precept proposal and nomination for Chief Constable.
- Guidance is included about the process for further scrutiny should the Panel exercise its vetoes.
- Clarification is provided that the Panel must make a recommendation about the appointment of the Deputy PCC, Chief Executive of the OPCC and Chief Financial Officer of the OPCC, as well as of the Chief Constable. The Panel only has a veto over the appointment of the Chief Constable.

26. Proposed and current versions of the Protocol are included at **Appendix C**.

Overview and Scrutiny Engagement

27. A representative from the Overview and Scrutiny Management Committee is appointed to the Constitution Focus Group.

Safeguarding Implications

28. There are no safeguarding implications.

Public Health Implications

29. There are no public health implications.

Procurement Implications

30. There are no procurement implications at present.

Equalities Impact of the Proposal

31. There are no equalities implications.

Environmental and Climate Change Considerations

32. There are no environmental or climate change implications.

Risks that may arise if the proposed decision is not taken

33. The Constitution would remain out of date or not as effective as it could be.

Risks that may arise if the proposed decision is taken

34. No risks have been identified.

Finance Implications

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

Legal Implications

36. There are no legal implications.

Workforce Implications

37. There are no workforce implications.

Conclusions

38. The Focus Group has engaged with officers and met on several occasions to propose changes to improve the effectiveness of the Constitution.

Proposal

39. To recommend Full Council approve changes to the following sections of the Constitution:

- Part 12 – Code of Conduct
- Protocol 4 – Planning Code of Good Practice
- Protocol 12 – Wiltshire Police and Crime Panel Protocol

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Appendices

Appendix A – Proposed Part 12 of the Constitution

Appendix B – Proposed Protocol 4 of the Constitution and Planning Committee Procedure

Appendix C1 – Proposed Protocol 12 of the Constitution

Appendix C2 – Current Protocol 12 of the Constitution

Background Papers

[Minutes of the meeting of Council on Tuesday 18 October 2022](#)