APPENDIX A

WILTSHIRE COUNTY COUNCIL

IMPLEMENTATION EXECUTIVE
28 JANUARY 2009

DRAFT CONSTITUTION FOR WILTSHIRE COUNCIL

Executive Summary

To consider the draft revised constitution for Wiltshire Council with a view to making recommendations for its adoption by Council on 24 February 2009 in light of comments received from Members during the consultation process and the recommendations of the Focus Group on the Constitution.

Proposals

1. To approve the following recommendations of the Focus Group on the Constitution:

   (a) The Focus Group is satisfied that the draft revised constitution reflects the changes that are necessary to meet the requirements of the new council, recognising that Wiltshire Council will wish to review the effectiveness of the constitution in the light of experience during the first 12 -18 months of operation. The Focus Group recommends the IE to recommend Council to adopt the revised constitution on this basis.

   (b) The Implementation Executive's views are sought in relation to the comments received from Members on the chairmanship of the scrutiny committees and public participation arrangements at planning committees.

   (c) That officers prepare a concise, user friendly handbook on the constitution for Members and members of the public to be in place for the new council.

   (d) That officers be asked to develop a Protocol on Member / Officer Relations in line with best practice for approval by the Implementation Executive to be in place for the new Council.

   (e) That the Monitoring Officer is authorised to make such amendments as are necessary to give effect to decisions of the Implementation Executive, Council or its committees and to ensure that the constitution is clearly presented and legally fit for the purposes of the new Council,

   (f) That the Focus Group on the Constitution with its current membership is requested to continue to assist with any further developments in the constitution until June 2009.

2. That the schedule of meetings as detailed in Appendix 4 be approved.

IAN GIBBONS
HEAD OF LEGAL AND DEMOCRATIC SERVICES

WILTSHIRE COUNTY COUNCIL **AGENDA ITEM NO. 9**

IMPLEMENTATION EXECUTIVE
28 JANUARY 2009

DRAFT CONSTITUTION FOR WILTSHIRE COUNCIL

Purpose of Report

1. To consider the draft revised constitution for Wiltshire Council with a view to making recommendations for its adoption by Council on 24 February 2009 in light of comments received from Members and officers during the consultation process and the recommendations of the Focus Group on the Constitution.

2. A copy of the latest draft of the constitution will be circulated to members of the Implementation Executive and be available on the Council's web site for all other Members and the public. Amendments are shown as tracked changes to assist Members in identifying proposed changes.

Background

3. Wiltshire Council will come into effect on 1 April 2009 as a unitary authority with the functions of the four Wiltshire district councils transferring to it under the Wiltshire (Structural Change) Order 2008. As Wiltshire Council will be a continuing authority, the current Wiltshire County Council constitution has been used as the basis for the new constitution by updating it to reflect Wiltshire Council's additional functions and responsibilities and to ensure that it continues to meet statutory requirements and is fit for the purposes of the unitary council.

4. As previously reported to Members, the new constitution should:

- enable the Council to provide clear leadership to the community of Wiltshire in partnership with citizens, businesses and other organisations;
- support the active involvement of citizens in the process of local authority decision making;
- help councillors represent their constituents more effectively;
- enable decisions to be taken efficiently and effectively;
- create a powerful and effective means of holding decision-makers to public account;
- ensure that no-one will review or scrutinise a decision in which they were directly involved;
- ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions;

- provide a means of improving the delivery of services to the community;

- help the Council to focus on its strategic objectives.

5. A progress report was presented to the Implementation Executive (IE) on 29 October 2008. The IE noted the report and the timescales involved to produce a new constitution and established a cross-council Focus Group to assist with the progress of this work. The IE also suggested that consideration be given to the provision of a summarised version of the constitution for use by the public.

6. Members and officers of the five Councils have been consulted on the draft constitution. The Standards Committee, whose terms of reference include oversight of the Constitution, has received regular progress reports.

7. The Focus Group on the Constitution met on 10 December 2008 and 16 January 2009. Minutes of these meetings are attached as Appendices 1 and 2, respectively. The final recommendations of the Focus Group are set out in Appendix 2.

Main Considerations for the Council

8. Many parts of the constitution have not been significantly altered because these are required by legislation and statutory guidance e.g. Council Rules of Procedure, Code of Conduct for Members, Access to Information Rules and Employment Procedure Rules. Several areas have only required minimal updating ie to reflect the name of the new Council, its increased membership and changes to officer titles, roles and responsibilities to reflect the new leadership structure. Decisions already made by the IE have been incorporated into the draft constitution.

9. A copy of the Index to the Constitution is shown at Appendix 3 which summarises where changes have been made and the timescale involved where the process has not yet been completed.

10. Members will see that most of the Parts to the Constitution have been completed subject to any comments from the IE. However, there is ongoing developmental work in some areas, including Area Boards and Overview and Scrutiny. The arrangements in respect of these areas will be incorporated into the constitution once agreed.

Matters Already Agreed and Incorporated

Planning

11. At its meeting on 13 November 2008, the IE considered a report, 'Developing the Development Control Service' and agreed the committee structure for delivering the planning and development control service by way of a Strategic Planning Committee and four Area Planning Committees. The IE also approved an officer scheme of delegation in respect of the planning function.

New Executive Arrangements

12. The IE considered a report at its meeting on 13 November 2008 which

outlined the requirements of the Local Government and Housing Act 2007 in relation to new executive arrangements. The IE was asked to adopt new executive arrangements which would apply to Wiltshire Council from the third day after the June 2009 elections in accordance with the proposals contained in the Council's bid for unitary status as previously agreed by the Council.

13. At that meeting, Members adopted a new style leader and cabinet executive as the Council's executive arrangements effective from 7 June 2009 which included the appointment of a Leader by the Council for a term of office of four years.

Standards Committee

14. The Standards Committee has recommended revised terms of reference and composition of the Committee following consultation with Wiltshire town, parish and district councils and these have been incorporated into the draft constitution.

Audit Committee

15. At its meeting on 13 January 2009 the IE agreed to establish an Audit Committee to replace the existing Final Accounts and Audit Committee. The proposed size and terms of reference were agreed and incorporated into the draft constitution.

Matters to be Determined

Licensing Committee

16. A report on the proposed licensing arrangements and the establishment of a Licensing Committee and Licensing Sub-Committees is included at item 11 of this agenda. The IE's decision on this item will be reflected in the constitution.

Area Boards

17. A Handbook which includes a framework for the operation of Area Boards has been produced and is currently the subject of extensive consultation. The outcome of this consultation, together with the comments from the chairs of pilot Area Boards, the Scrutiny Task Group on Area Boards and the Council's partners will help shape how Area Boards will operate under Wiltshire Council. The draft Handbook will be presented to the IE in late April or May 2009.

18. Officers have had initial discussions with service providers and advisers about key points in the Handbook which will relate to the constitution. These relate mainly to delegated authority and the specific Unitary Councillor roles on membership and voting. The final draft of the handbook will differentiate between what is mandatory and what is discretionary or advisory. The outcome of this work will be reflected in the constitution.

Overview and Scrutiny Arrangements

19. The Joint Overview and Scrutiny Transition Board (JOSTB) was tasked with formulating proposals for overview and scrutiny arrangements in the new Council. The proposals are currently out for consultation and were considered by the IE at its meeting on 13 January. The IE supported the proposals, subject to the outcome of consultation and decision by the new Council. It is planned to complete this work and submit the arrangements for approval by the new council in June. The constitution will be amended accordingly.

Financial Regulations and Financial Procedure Rules

20. The draft Financial Regulations (setting out the overall framework for Wiltshire Council's financial culture) has now been reviewed by finance officers from the five Councils, looking at effectiveness, clarity and readability. Some minor changes have been made to reflect the latest changes in service design as the Shared Service Team responsibilities are clarified in detail. SAP trainers have also been involved in the review, so that training reflects the revised regulations. The draft will now be passed to the Chief Finance Officer Designate for his comments prior to being added to the Constitution.

21. The draft Financial Procedure Rules go into more detail and explain how the Financial Regulations should be put into practice. The draft is at the same stage as the draft Regulations, and throughout February and March will be reviewed against the quite detailed procedural changes being made as SAP and cash-receipting facilities provide opportunities for simpler and better ways of working. It is expected that the procedural rules will need further review later in 2009-10 to ensure they enable and control financial procedures in every part of the new authority.

    When approved, the Regulations and Procedure Rules will be easily accessible to all staff.

22. The overall aim of finance officers is to make the Financial Regulations and Financial Procedure Rules clear, concise and effective across the whole range of Wiltshire Council's financial activities and ensure consistency with the rest of the constitution.

Contract Regulations

23. Officers have continued to refine the draft Contract Regulations taking into account comments received from the Officers Working Group and other key officers and the trade unions via the Joint Consultative Committee.

24. The structure of the Contract Regulations has now been changed to separate out the Contract Regulations (or ‘rules’) from the Procurement Guidance (or interpretive guidance).

25. Once approved by the Council, key officers will be trained on the new Contract Regulations and Procurement Guidance.

Comments from Members

26. All Members had been sent a web link to access the initial draft constitution and asked to submit their comments to officers by 16 January 2009 to allow for them to be considered by the Focus Group and this meeting of the IE.

27. At the time of writing this report, the following comments had been received:

Chairmanship of Scrutiny Committees

28. A suggestion has been made that provision should be made in the constitution to ensure that Scrutiny Committees can only be chaired by a member of the opposition in accordance with best practice and the practice adopted by a number of authorities.

Comment:

29. The relevant section of the draft constitution which is taken from the existing WCC constitution places no such restriction and states that 'Chairs of Overview and Scrutiny Committees/Sub-Committees will be drawn from among the Councillors sitting on the Committee/Sub-Committee and subject to this requirement may appoint such a person as it considers appropriate as Chair'.

30. The Focus Group considered this comment and concluded that resolution of this matter was a political issue for debate.

The views of the IE are sought on this issue.

Public Participation – Planning Committees

31. *A suggestion that the rules should allow for members of the public to apply to make representations with less notice period than the present 2 working days. The Member states that as an alternative, to make provision for rules on public participation specific to planning to allow greater flexibility for the public. The Member also suggests that adequate publicity is given to any change in the rules governing public participation to ensure public awareness.*

32. The Focus Group considered that the arrangements to be put in place by Wiltshire Council should be no more restrictive than what members of the public enjoy at present, taking into account existing arrangements at the district councils. The Focus Group considered the system in operation at a number of the district councils where members of the public could register to speak on the day of the meeting or even just prior to the meeting worked quite satisfactorily and should therefore be continued. Members also commented that whatever arrangement is agreed, this should be applied to all area planning committees to ensure consistency.

33. The views of the IE are sought.

Schedule of Meetings

34. A schedule of meetings has been prepared based on the new decision making structure and proposed frequency of meetings as detailed in Appendix 4 and is presented to the IE for approval. Meetings to be held during the pre election period have been drawn up following consultation with the district councils.

Environmental Impact of the Proposal

35. None.

Equalities Impact of the Proposal

36. The new constitution will comply with the Council's obligations under equalities legislation and its Equality and Diversity Policy.

Financial Implications

37. Work on this project has been undertaken within existing resources. There will be a relatively minor cost in the printing of the constitution, although as far as possible the emphasis will be on providing electronic copies of the document. Training for Members on the constitution will form part of the induction process following the elections in 2009.

Legal Implications & Risk Assessment

38. The Council is required to have a constitution in place to ensure that the new unitary council is able to operate effectively and lawfully from 1 April 2009.

Proposals

1. To approve the following recommendations of the Focus Group on the Constitution:

    (a) The Focus Group is satisfied that the draft revised constitution reflects the changes that are necessary to meet the requirements of the new council, recognising that Wiltshire Council will wish to review the effectiveness of the constitution in the light of experience during the first 12 -18 months of operation. The Focus Group recommends the IE to recommend Council to adopt the revised constitution on this basis.

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(f) That the Focus Group on the Constitution with its current membership is requested to continue to assist with any further developments in the constitution until June 2009.

2. That the schedule of meetings as detailed in Appendix 4 be approved.

IAN GIBBONS
HEAD OF LEGAL AND DEMOCRATIC SERVICES

Report Author:

Yamina Rhouati
Principal Democratic Services Officer

Background Papers

None

***Appendices**

Appendix 1 - Minutes – Focus Group on the Constitution – 10 December 2008
Appendix 2 - Minutes – Focus Group on the Constitution – 16 January 2009
Appendix 3 - Index to the Constitution
Appendix 4 – Proposed Schedule of meetings

*The above appendices have not been reproduced in this Council agenda. They can be accessed on the following link or available on request from Democratic and Member Services:

http://194.72.162.210/documents/dscgi/ds.py/View/Collection-1607