

**CABINET**

**Functions**

1. To be responsible for all "executive functions" which are not specifically the responsibility of any body or person under the Scheme of Delegation including but not limited to:
  - Proposing the Policy Framework and any changes to it
  - Proposing the Council's budget and any changes to it
  - Overseeing the implementation and delivery of services in line with the agreed Policy Framework and budget
  - Functions relating to health and safety at work discharged in the Council's capacity as employer
  - Appointing representatives on outside bodies which relate to "executive functions"
  - Proposing changes to the Council's constitution

**To be responsible for:**

- Preparation of supplementary planning guidance
- Designation of conservation areas of archaeological interest and nature reserves
- Article 4 Directions (removal of permitted development rights)
- Making compulsory purchase orders
- all housing functions (excluding land transfer)

2. To receive reports from the Overview/Scrutiny Panels on their findings of the Best Value service reviews undertaken.
3. To set and amend fees and charges relating to "executive functions".
4. In consultation with the Head of Financial Services to approve variations (capital or revenue) in the Council's budget not exceeding £100,000 for any one scheme or project (so long as it does not adversely affect the Council's financial position) or in the case of any civil or military emergency under the Civil Defence Acts without limit.
5. To take in year decisions on resource priorities
6. To authorise the institution of or defence of any legal proceedings relating to "executive functions" to the extent that such proceedings are not specifically delegated to claims under the Scheme of Delegations.
7. To consider all proposals from Area Committees requesting services and facilities provided by the Council in their respective areas and to implement such proposals so far as reasonably practicable.
8. To administer grants and rates relief for organisations operating across the district as a whole, plus Historic Building Grants.

Membership – 10 – to be drawn from the Administration

## AREA COMMITTEES

### Functions

1. To be responsible for the following "regulatory functions" in their respective areas which are not specifically the responsibility of any body or person under the Scheme of Delegation:-
  - Functions relating to town and country planning and development control. (including those specified in schedule 1(a) of LA Functions and Responsibilities Regulations 2000) and in Amendment Regulations 2001.
  - Non general policy functions relating to Registration including those specified in the above regulations.
  - Functions relating to health and safety at work to the extent that they are discharged otherwise than in the Council's capacity as an employer.
  - To create stop up divert and grant and protect rights of way in their respective areas.
  - Street naming and numbering
  - Powers relating to the Preservation of Trees and Protection of Hedgerows
  - Reclassification of roads used as public paths
  - Removal of material so deposited on the highway as to be a nuisance
  - The discharge of any function relating to the control of pollution in its Area (local choice function)
  - All noise and statutory nuisance matters in the Area (local choice function)
  - Any function relating to contaminated land (local choice function)
  - The management of air quality (local choice function)
  - The making of agreements for the execution of highway works (local choice function)
  - To make SSSI Diversion Orders
  - Serve notices of proposed action for obstruction
  - Designate footpaths as cycle tracks
  - To make closing orders with respect to take-away food shops
  - Functions relating to high hedges pursuant to Part 8 of the Anti-Social Behaviour Act 2003.
2. To obtain information under the Town and Country Planning Act as to interests in land (local choice function)
3. To obtain particulars of persons interested in land under the local government (miscellaneous provisions) Act 1976 (local choice function)
4. To appoint representatives on outside bodies operating only or principally in their respective areas which relate to "non-executive functions".
5. To develop a community strategy for their respective areas in accordance with the Council's Community Strategy.
6. To develop relationships and partnerships with stakeholders in their respective areas.
7. To identify consult on and consider issues relevant to their respective areas.
8. To hold Parish Forums in their respective areas to develop proposals for delivering information and make accessible to stakeholders in their respective areas. Such Forums shall either form part of a normal meeting or be held separately
9. To authorise the institution or defence of any legal proceedings relating to "non-executive functions" relevant to their respective areas subject to the senior legal officer being satisfied as to evidence to the extent that such proceedings are not specifically delegated officers.
10. To administer grants utilising funds allocated through the Area Grants Scheme and rate relief for organisations operating principally or solely within their area.

11. To be kept informed (through the relevant Managing Bodies) of the general operation of the Durrington Swimming Pool and Tisbury and District Sports Centre and make recommendations to the Cabinet on any policy/financial issues which arise.
12. Note \* In addition to the above, the City Area Committee can deal with all matters which are subject to a Special Charge under the Local Government Finance Act 1992, including any such services where the Council is the Trustee. It can also approve a supplementary estimate in respect of its own reserves.

Note \* The City Area currently operates through two Committees each comprising the 20 City Ward Members

- a. the City Area (Planning) Committee – deals with all Development Control and related enforcement issues, and the administration of the South Wilts Area Grants Scheme.
- b. the City Area (Community) Committee all other matters including those relating to a Special Charge (as above)

### **Membership**

1. Every Member of the Council representing a ward within the area of the Committee.
2. Parish Councillors representing Parishes within a particular Area and County Councillors representing divisions wholly or partly within in a particular area will be invited to attend and speak on all items in open business. Neither County nor Parish Councillors are entitled to vote on decisions which are the responsibility of the District Council (eg regulatory and financial matters) however they are allowed to vote on matters where the committee is acting in the role of a forum and when making representations/forwarding comments to others organisations etc.
3. Each committee is expected to co-opt people or representatives from local organisations to debate issues in which they have a particular interest.
4. Area Committees will not be politically balanced as they are Ward constituted.

## PLANNING / REGULATORY PANEL

### Functions

1. To consider matters including by way of referrals from Area Committees which
  - would in the opinion of the Head of Development Services result in a material departure from the Development Plan and/or Government Guidance. (development control matters)
  - Significantly affect parts of the District outside the Area concerned (development control matters)
  - Have District Wide significance (development control matters and general licensing policy other than that relating to the Licensing Act 2003 or any statutory extension modification amendment or re-enactment of it)
  - Any other regulatory matters which the Area Committees are unable to determine
2. Certain Electoral Matters including the Scale of Fees and Expenses for elections and parish polls e.g. The supervision of the parish electoral reviews and the formulation of recommendations.
3. To determine non staffing appeals, including those in respect of council tax benefit, taxi licensing, homeless cases and notices to end introductory tenancies (local choice function) through a sub committee consisting of four members

### Terms of Reference

#### 2. Chairman

To be elected from the Panel membership and whilst not prohibited in law should ideally not be held by a Cabinet member

#### 3. Membership

- 3.1 There will be 12 Panel members (4 when sitting in an Appeals Hearing capacity)

The Panel is politically balanced as it is not geographically constituted. However, where practicable membership should include representation from all four areas.

Composition to be determined once the Group strengths on the Council are known.

Whilst regulatory functions cannot be the responsibility of the Cabinet, there is nothing to preclude a member of the Cabinet from sitting on the Panel (except for the Cabinet Leader)

#### 4. Meetings

- 1.1 Meetings will be held on an ad hoc basis as and when business needs to be conducted or when an Appeal needs to be heard.

#### 5. Relationship with Others

- 5.1 As with the Area Committees, in respect of Development Control issues, relevant County and Parish Council representatives, together with objectors and supporters will have the opportunity to address the Panel within specified guidelines.

## STANDARDS COMMITTEE

### Functions of Standards Committee

#### Role and Function

The Standards Committee will have the following roles and functions:

- (a) promoting and maintaining high standards of conduct by councillors, co-opted members;
- (b) Assisting the councillors and co-opted members to observe the Members' Code of Conduct;
- (c) advising the Council on the adoption or revision of the Members' Code of Conduct;
- (d) monitoring the operation of the Members' Code of Conduct;
- (e) to propose and keep under review changes in members' allowances (to be satisfied the Independent Remuneration Panel has carried out its work properly)
- (f) advising, training or arranging to train councillors and co-opted members on matters relating to the Members' Code of Conduct;
- (g) granting dispensations to councillors and co-opted members from requirements relating to interests set out in the Members' Code of Conduct;
- (h) dealing with any reports from a case tribunal or interim case tribunal, and any report from the monitoring officer on any matter which is referred by an ethical standards officer to the monitoring officer.
- (i) the exercise of (a) to (g) above in relation to the parish councils wholly or mainly in its area and the members of those parish councils.
- (j) \*overview of internal and external audit;
- (k) \*Preliminary reports and investigations
- (l) \*overview of the whistle blowing policy;
- (m) \*overview of complaints handling and Ombudsman investigations;
- (n) make payments or provide other benefits in cases of maladministration etc; and
- (o) oversight of the constitution.
- (p) That subject to any views the Standards Board may later form on this matter, the details of allegations of breaches of the Code of Conduct by members shall not be made public until such a time as they have been dealt with by the Adjudication Panel for England and are being reported to the Standards Committee.
- (q) That the standards Committee be granted delegated authority to make any changes to the Rules that become necessary once they have been put into practice or if new guidance is issued by the Standards Board for England.  
\*As it affects ethical matters

#### Composition

- (a) **Membership**  
The Standards Committee will be composed of **7** persons: **three** councillors (other than the leader) and not more than one member of the Cabinet. Two Independent persons who are not and have not been for the preceding five years, a Councillor or an officer of the council or on any other body having a standards committee - to be appointed through a Council recruitment Panel following newspaper advert and have the support of the majority of the members of the Authority; **two** members of a parish council wholly or mainly in the Council's area (a parish member);
- (b) **Independent Members**  
The Independent members both form part of the quorum and will be entitled to vote at meetings.
- (c) **Parish Members**  
The Parish member will be entitled to vote and needs to be present when the Committee is dealing with Parish Council matters;

(d) **Chairing the Committee**

A member of the Cabinet may not chair the Committee – the chairman shall be drawn from one of the two independent persons on the committee.

(e) **Deputies**

Deputies shall be appointed for the parish representative and the three District Councillors

## OVERVIEW AND SCRUTINY COORDINATING COMMITTEE

### Terms of Reference

- (a) To approve the overview and scrutiny work programme, including the programme of any sub-committees, panels and working groups it appoints, to ensure that there is efficient use of the committee's and sub-committees' time, and that the potential for duplication of effort is minimised.
- (b) Where matters fall within the remit of more than one overview and scrutiny panel, to determine which of them will assume responsibility for any particular issue, and to resolve any issues of dispute between overview and scrutiny panel.
- (c) To receive requests from the Cabinet and/or the full Council for reports from overview and scrutiny panels and to allocate them if appropriate to one or more overview and scrutiny panels.
- (d) To put in place and maintain a system to ensure that referrals from overview and scrutiny panels to the Cabinet either by way of report or for reconsideration are managed efficiently and do not exceed any limits set out in this Constitution.
- (e) At the request of the Cabinet, to make decisions about the priority of referrals made in the event of reports to the Cabinet exceeding any limits in this Constitution, or if the volume of such reports creates difficulty for the management of executive business or jeopardises the efficient running of Council business.
- (f) To have the powers of an overview and scrutiny committee in relation to Cabinet decisions made but not implemented as set out in section 21(3) of the Local Government Act 2000, as do all other overview and scrutiny panels.
- (g) To oversee the implementation of the Scrutiny review recommendations
- (h) To keep under review the matters covered by the Scrutiny review
- (i) To review and amend the policy for officers involved in scrutiny and to oversee the necessary training;
- (j) To oversee the development for members and officers on all aspects of the scrutiny role.

### Additionally the Committee has the following responsibility in relation to health:

- (k) To consider requests for scrutiny reviews in relation to health matters when the request emanates from either an internal or external source.
- (l) To choose and prioritise topics for health scrutiny bearing in mind available resources and the work programme of the District Council Scrutiny Panels in terms of work load, and the County Council Health Scrutiny Committee in terms of preventing duplication (whether these suggestions come from the District or the County Council).
- (m) To Commission research, where appropriate, into areas relating to health of particular concern.
- (n) To establish task and finish working groups to look into health issues of particular concern when it considers such issues arise.
- (o) To decide the membership, timescale and scope of each task and finish health review.
- (p) To nominate two representatives to sit on the Wiltshire County Council Health Scrutiny Committee
- (q) To monitor the Health Scrutiny Work Programme in terms of the human and financial resources required.

Note: Any health scrutiny reviews must not impinge on the work of the Community and Housing Overview and Scrutiny Panel.

### Committee Membership

All councillors except members of the Cabinet may be members of the Overview and Scrutiny Coordinating Committee. However, no member may be involved in scrutinising a decision which he/she has been directly involved. It would also assist the operation of the overview and scrutiny process generally if its membership included the Chairmen of the various Overview and Scrutiny Panels.

12 Members constituted on a Politically balanced basis. Composition to be determined having regard to the Group strengths on the Council.

### **Health Scrutiny Group - Terms of Reference**

Upon the request of the Overview and Scrutiny Co-Ordinating Committee, to act as an advisory group to assist that committee in deciding whether or not to embark on individual scrutiny reviews. To bring any issues of importance to the attention of the Chair of the Overview and Scrutiny Co-Ordinating Committee.



## OVERVIEW/SCRUTINY PANELS

Four panels cover the following areas:

- (1) Resources**
- (2) Environment & Transport**
- (3) Community & Housing**
- (4) Planning & Economic Development**

1. **Terms of Reference** – (to apply within the respective work areas of the panels stated above)
  - 1.1 To scrutinise all policies, decisions and functions of all the parts of the Council and the implementation of such policies and decisions.

To scrutinise decisions which the Cabinet is planning to take (including those in the forward plan)

To scrutinise any Executive decisions taken by an Area Committee

To conduct Best Value Reviews and make recommendations to the Executive where appropriate

To assist the Cabinet in working up draft policies
  - 1.2 To monitor the development of and to make recommendations on all policies of the Council and the Budget to the Cabinet.

To review the performance of the Cabinet and the Authority's Senior Officers

To scrutinise officer decisions in so far as they are either

    - (a) Part of a review of service plans
    - (b) Part of the best value process
    - (c) Key delegated decisions having significant effects within the community or on interests outside of the Local Authority
  - 1.3 To require Cabinet Members, the Management Team and Service Managers to provide reports and information and to attend meetings to answer questions on such reports and information. In respect of Officers, the Panels will observe the following convention –
    1. Questions will be confined to matters of fact and explanation of policies and decisions
    2. Officers may explain –
      - a. What the policies are
      - b. Justification and objectives of policies
      - c. Extent to which objectives have been met
      - d. How administrative factors might have affected choice of measures and their implementation
    3. Officers may and should be asked to explain and justify advice given to the Cabinet and key decisions taken under delegation.
    4. Officers must avoid being drawn into the merits of policy alternatives and must remain politically impartial.

- 1.4 To review any decision exercising "executive functions" on the grounds that it is illegal, unlawful or that it is not in accordance with the Council's policy framework or the Council's Budget
- 1.5 To make representations and recommendations on matters which although not the Council's responsibility, affects the Authority or its inhabitants eg Health Care Provision
2. **Membership (no member of the Cabinet can sit on an Overview/Scrutiny Panel)**
  - 2.1 There will be 4 Overview/Scrutiny Panels each comprising up to 14 non-executive members appointed by the Council – Membership will be on a Council named basis as Political Balance Rules do not apply (but with individual panel members able to name their own substitutes for meetings they are unable to attend.).
  - 2.2 Non voting co-optees will be permitted.
3. **Sub-Committees / Working Groups**
  - 3.1 This is a matter for the Panels to decide. They may wish to draw on certain members to perform different functions eg policy review, service review and policy development.

## **RESOURCES OVERVIEW AND SCRUTINY PANEL**

### **Specific Terms of Reference**

To perform the overview and scrutiny role in relation to the following matters:

1. to assist the Cabinet in the development of the Council's annual budget and to review and scrutinise the Council's performance in relation to budgetary management;
2. to assist the Council in the development of a 3 year budget strategy;
3. to review the management of resources made available to the Council and to scrutinise its financial management, property and asset acquisition and disposal, and capital programme;
4. to assist the Cabinet in the development of a Council wide property and asset strategy;
5. to promote procedures which ensure proper custodianship of Council finances, making recommendations to the executive for best financial practice across the Council;
6. to review the operation of the Council's financial regulations making proposals to the Cabinet and/or Council for their development;
7. to receive reports from the district auditor, and the Council's internal auditor making suggestions for improvement in practice to Council and/or Cabinet as required as a result of those reports;
8. Human Resources
9. IT
10. Corporate Management including Best Value

## **ENVIRONMENT & TRANSPORT PANEL**

### **Specific Terms of Reference**

To perform the Overview and Scrutiny Role in relation to

1. Transportation
2. Environmental Strategy

## **COMMUNITY & HOUSING PANEL**

### **Specific Terms of reference**

To perform the Overview and Scrutiny Role in relation to:

1. Housing including the enabling role and management of Housing Stock
2. Community Safety
3. Social Inclusion
4. Young People
5. Equality and Diversity
6. Culture, Arts, Sport and Community Organisations
7. Public Amenities
8. Community Planning

## **PLANNING & ECONOMIC DEVELOPMENT PANEL**

### **Specific Terms of reference**

To perform the Overview and Scrutiny Role in relation to:

1. Planning policy (including Local Plan)
2. Economic Development
3. Tourism

## **TERMS OF REFERENCE FOR THE LICENSING COMMITTEE**

1. All licensing functions of the council with regard to the Licensing Act 2003 and Gambling Act 2005 including any statutory extension modification amendment or re- enactment and any regulations or orders made under them other than
  - The determination and publication of the council's local statement of licensing policy
  - The establishment of this or any other licensing committee.
2. To ensure that appropriate training is provided in time for new members to take up their appointments when the licensing committee starts work and appropriate refresher training for members as required.
3. To assist Council in its understanding of licensing issues generally and in connection with the determination and publication of the council's local statement of licensing policy from time to time.
4. To meet with licensing committees from the other districts in Wiltshire and where practicable with licensing committees from adjacent areas.
5. To ensure there is established adequate liaison between the council and the local Magistrates Court Committee and that each agency understands the other's role in licensing.
6. To establish a local forum and/or licensing business meetings to facilitate liaison and dissemination of views and information between the various agencies and the council and to work together in promoting the licensing objectives of the Licensing Act.
7. To adopt guidance documents drawn up from time to time by officers and to review them as required.
8. To authorise the institution or defence of any legal proceedings in relation to matters within the Committee's terms of reference.

### **Membership**

Membership of fifteen members with six members being drawn from the City Area Committee and three each from the other Area Committees. The Area Committees be authorised to determine their respective membership during the special meetings following the annual council meeting.

## **Audit Committee – Terms of Reference**

### **Corporate Governance**

1. Ensure that the Council's corporate governance arrangements are adequate and operating effectively in practice.
2. Considering the Council's Code of Corporate Governance and approving the annual review and statement. (Note 1)
3. Oversight of the Council's Constitutional arrangements and advising the Council of any changes that may be desirable. (Note 2)

### **Financial Management**

4. Ensuring that the financial management of the Council is adequate and effective.
5. Reviewing the Council's statement of accounts prior to approval by Full Council.

### **Internal Control**

6. Ensuring that the Council has a sound system of internal control that facilitates the effective exercise of the Council's functions including arrangements for the management of risk.
7. Ensure a review of the effectiveness of the Council's system of internal control is conducted at least annually in accordance with proper practices.
8. Receive the annual report on the internal control environment from Internal Audit.
9. Conduct an independent review of the draft Statement on Internal Control and supporting evidence and recommend approval.

### **Internal Audit**

10. Approving the terms of reference and strategy for Internal Audit.
11. Approving the strategic internal audit plan and consideration of the audit needs assessment and resources available.
12. Monitoring the performance of Internal Audit, to include receiving half yearly and end of year reports on progress in delivering the annual internal audit plan.
13. Receive summaries of reports issued by Internal Audit and monitor the implementation of recommendations.
14. For the chair of the audit committee to meet independently with the Chief Internal Auditor at least once a year and for internal audit to have the right of free access to the chair at any time.

### **External Audit**

15. Consider the appointment of the external auditor as far as Audit Commission rules permit and monitor quality and performance of audit.
16. Commenting on the external audit plans.
17. Considering any matter arising from the audit of the accounts, or other audit and inspection work
18. Receiving and considering the Audit Commission's annual audit and inspection letter and other external audit reports.
19. Monitoring the implementation of recommendations from external audit.

20. Review the arrangements made for cooperation between Internal Audit, external audit and other review bodies to ensure effective use of the total audit resource.
21. For the chair of the audit committee to meet independently with the external auditor at least once a year and for external audit to have the right of free access to the chair at any time.

Note 1

The Standards Committee will review the 'Standards of Conduct' section of the Local Code of Corporate Governance.

Note 2

The Standards Committee will retain responsibility for the overview of the Constitution "as it affects ethical matters".

Membership will comprise the Leader (or deputy), and Cabinet Member for Resources (both as non voting observers) and a representative who is interested and well placed to contribute from each of the four Overview and Scrutiny Panels (the respective panels be authorised to determine their respective membership during the special meetings following the annual council meeting) plus two qualified independent persons. The independent persons will hold the Chairman and Vice-Chairman positions respectively.

### **Appointments Sub-Committee**

The rules require that a Sub-Committee of Full Council will be responsible, whenever the situation requires, for appointing/dismissing the Head of Paid Service, Directors and the Section 151 Officer (Head of Financial Services). With respect to the Head of Paid Service, before the Sub-Committee makes an offer of appointment or issues a notice of dismissal,

- (1) it must have the approval of Full Council
- (2) it must not be contrary to any material or well founded objection received from the Leader of the Council.

With respect to Directors and the Section 151 Officer (2) only applies.

As regards the composition of the Sub-Committee, it must include at least one Member of the Cabinet.

The current composition is:

Council Chairman, Council Leader, and four other members one from each Group (to be nominated by the four Group Leaders on each occasion).

To continue this arrangement, the Council will have to agree a departure from the rules requiring political balance (thus it must be approved without dissent)